

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

MDF/9

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Special Distribution

Group of Experts on Trade in Counterfeit Goods

MEETING OF 3 APRIL 1985

Note by the Secretariat

Acting Chairman: Mr. M.G. Mathur (Secretariat)

1. The Group held its second meeting on 3 April 1985.

Chairmanship

2. It was noted that the informal consultations that had been held had not yet led to an understanding on the question of chairmanship and that they should therefore continue. The Group agreed that an understanding on this matter should be reached at any early date with a view to electing a chairman at the Group's next meeting. In the meantime, the work of the Group would continue to be co-ordinated by Mr. M.G. Mathur (secretariat).

Observers

3. The Group noted that the International Monetary Fund (IMF) had indicated an interest in following the work of the Group. The Group considered this in the light of its decision concerning observers from international organizations at its last meeting (MDF/8, paragraph 7), and agreed to invite the IMF to attend meetings of the Group in an observer capacity.

Examination of documentation before the Group

4. The Group initiated its examination of the documentation before it, as required by its mandate (L/5758). In addition to the secretariat documentation consolidating available background information (MDF/W/19), the Group had before it a paper received from the delegation of India (MDF/W/25). The Group also had before it a draft note by the secretariat on its meeting of 11 March 1985 (MDF/W/27).

5. The Group agreed that, after any general statements, it would take up in turn the eight headings listed on pages 2 and 3 of MDF/W/19, on the understanding that these should not be regarded as a rigid framework and that, if there were questions which needed to be looked at and which did not fall conveniently under any of these headings, they would also be taken up.

General statements

6. Some members, noting that counterfeiting involved the infringement of legitimate intellectual property rights, said that in their countries trade in counterfeit goods was not presently perceived as giving rise to problems that were not being adequately dealt with under existing arrangements. In

this regard they referred to the national legal provisions in their countries for the protection of intellectual property, including the sanctions available; one of these members referred to the authority residing in his country's customs administration to prohibit imports of goods infringing trademarks, copyrights and patents. To them, counterfeiting was essentially an intellectual property issue; whatever action might be taken at the international level should be in the field of intellectual property and using the tools of intellectual property law. Action should aim at dealing with the problem at its source - the point of production. Action of this sort in the GATT would represent a wasteful duplication of efforts already underway elsewhere. Moreover, in their view, the Paris Convention, in particular its Articles 9, 10 and 10ter, already provided for action both at the border and at the point of production. However, if the present international rules were not considered adequate, the appropriate course would be to initiate action to strengthen them in the existing international framework for dealing with such questions, namely WIPO.

7. Some other members said that the increasing magnitude of trade in counterfeit goods and the growing problems being caused to industry and consumers in their countries were a clear indication, in their view, that present national and international legal arrangements were not adequate. There was need for a multi-disciplinary approach to this problem involving trade and intellectual property issues. The need for international rules to forestall the danger that action to enforce intellectual property rights might give rise to non-tariff barriers to legitimate trade was one major reason why GATT involvement was vital; this was not an aspect that could be dealt with in WIPO. Problems of this nature that might result from unilateral action against trade in counterfeit goods would be more difficult to resolve since they would have to be dealt with bilaterally. One of these members stressed that, in his view, the danger of new non-tariff barriers was not a hypothetical but an imminent one. In this context, he referred to recent unilateral steps to tighten legislation in one major country and regulations under consideration in a group of countries. Other countries might follow these examples. He understood that the experts from the country and group of countries that he had referred to would be willing to make available to the Group information on these matters.

8. The observer from the Customs Co-operation Council made a statement concerning the work underway in that body on the rôle of customs in combating piracy and counterfeiting in international trade. The text of his statement can be found annexed to this note. Copies of the study carried out by the CCC on this matter were made available to members.

9. Some members said that they would find it helpful if the secretariat were to prepare and make available supplementary information elucidating three points already touched upon in MDF/W/19: the possible non-tariff barriers that could result from actions taken to restrict imports of counterfeit goods; the tests and guidelines adopted by the judicial and, where relevant, customs authorities in determining whether goods were counterfeit; and the law adopted in different countries governing parallel imports. Some other members agreed that these were points that should be clarified in the course of the Group's work if some members felt a need for such clarification. They were, however, of the view that this would be most appropriately be done by the experts in the Group itself while

examining the relevant portions of MDF/W/19. Following further discussion, the Group agreed that, after its examination of document MDF/W/19, it would see what further exploration of these points should be undertaken by the Group and what additional information members of the Group would be able to provide on them, without ruling out the provision of further factual information by the secretariat.

10. A member recalled the suggestion made at the previous meeting of the Group that the Group should also take into account relevant points in documents produced by UNCTAD on restrictive business practices (MDF/8, paragraph 24).

I. What is meant by trade in counterfeit goods; what is the nature of the problem to be addressed

11. There was a broadly shared view that, at least initially, the work of the Group should be directed to questions relating to trade in goods bearing unauthorized representations of legally protected trademarks. Among the points made in this connection were those referred to in paragraphs 19 and 20 of MDF/W/19, in particular that determination of infringement was generally easier in trademark cases than in cases involving other forms of intellectual property, and that trademark rights, unlike most other forms of intellectual property, were not inherently time-limited.

12. A member recalled the suggestion he had made for the preparation of a history of how the problem of counterfeit goods had been dealt with internationally over at least the last two or three decades, including concrete examples involving internationally known cases of infringement. Such a paper would help better understand the nature of the problem before the Group (MDF/8, paragraph 24).

13. Many members said that it would be helpful if the Group could be informed of concrete examples of internationally traded counterfeit goods. Some members were of the view that the Group needed to know more in practical terms of the nature and magnitude of the problem. Some members said that they would be willing to cooperate in the provision of information. A member said that some international industrial and commercial bodies might be prepared to mount an exhibition of concrete examples: perhaps time could be allotted for this at a coming meeting of the Group. The acting Chairman suggested that this idea be left open for further consideration and members might wish to consider how it could be further pursued.

14. Some members considered that the problems that the Group needed to address were as summarized in paragraph 28 of MDF/W/19. A member noted that points (a) and (b) of paragraph 28 were couched in the form of questions and also drew attention to the last sentence of that paragraph.

15. Some members, referring to the last sentence of paragraph 27 of MDF/W/19, asked whether members from the countries concerned could provide details of the unilateral action taken or planned. The member from the Commission of the European Communities said that certain proposals had been made by the Commission; they were being examined by the European Parliament and the Economic and Social Committee but had not yet been taken up by the Council of the European Communities. Since at this stage these

were only proposals which represented only Commission views and which might be modified as discussion in the Community developed, it would not be appropriate to discuss them in detail in the Group. He could, however, give a broad outline of thinking in regard to the various headings in MDF/W/19. He hoped that work in this Group would develop rapidly enough for it to generate inputs into the Community's consideration of the Commission's proposal. He suggested that the Group might find it more useful to learn about the practical experience of countries which already had national systems in force for combating imports of counterfeit goods.

16. Referring to paragraph 24 of MDF/W/19, a member said that experience in his country had shown that not only finished products could be counterfeit but also components in otherwise genuine finished products.

II. What is the size and significance of trade in counterfeit goods

17. A member drew attention to the experience summarized in MDF/W/19, Annex I, paragraphs 9-10 and 12-15.

18. The acting Chairman noted that some members had indicated (see paragraph 13 above) that something could be done to demonstrate the range of practical issues arising. Any member so wishing could come back to this heading in the light of whatever further information, exhibition, etc. might be made available.

III. Existing international law dealing with trade in counterfeit goods

19. Some members drew attention to the explanation concerning Article 9 of the Paris Convention in the WIPO Guide to the Application of the Convention, as reproduced in paragraph 44 of MDF/W/19. This pointed out that, although paragraphs (1), (2), (3) and (5) of the Article were couched in apparently mandatory language, the effect of paragraph (6) was that these earlier paragraphs of the Article represented a mere invitation to member States to adopt legislation accordingly and did not create any obligation, not even a moral one, to do so. Article 9(6) thus made ineffective the strong language in the earlier parts of the Article. Article 10ter(1) also contained some strong language, but this had not proved sufficient to deal with the problem of trade in counterfeit goods. The provisions of the Paris Convention were useful, but these provisions and the administrative mechanisms in the Convention were not in themselves sufficient to undermine the economic incentives for trading in counterfeit goods and to deal with the problems caused to legitimate trade. The enforcement provisions of the Paris Convention were such that in the event that a member State did not enact legislation to implement a provision, for example Article 10ter(1), there was little that another member State could do. It was not a question of whether one forum was more appropriate than another, but rather that complementary actions could be taken in each forum, including GATT, WIPO and the CCC, to deal with the problem. In the view of these members, GATT had an important rôle to play in providing for stronger and more effective action against counterfeit goods in the trade field. The provisions on notification, conciliation, dispute settlement and transparency found in many GATT agreements meant that GATT was able to provide mechanisms that could complement action by national authorities and in other international fora to deal with the problem.

20. Another reason why these members considered that GATT had an essential rôle to play was the concern that action against trade in counterfeit goods

could give rise to barriers to legitimate trade. Only GATT could draw up and administer the necessary rules to safeguard against this.

21. Some members said that in their view the problem of counterfeit goods fell within the competence of WIPO. In regard to the Paris Convention, Articles 2 and 3 relating to the assimilation principle (MDF/W/19, paragraph 41(i)) were of particular importance. Paragraphs (1) to (5) of Article 9 regarding seizure and prohibition of importation were very positive provisions. The provisions of paragraph (6) of that Article should not be interpreted restrictively; they did not mean that no measures should be taken against imports of counterfeit goods, but rather that the actions and remedies would be those available to nationals under national law. These actions and remedies could include such powerful sanctions as imprisonment, fines, etc. Moreover, Articles 9, 10 and 10ter should be read together and, in this regard, the mandatory nature of the obligation in Article 10ter(1) noted. These members indicated that they would welcome from WIPO explanations and clarifications on these provisions and also on the practical experience with them. It was difficult to assess the adequacy of present international mechanisms except on the basis of concrete examples. They further noted that, as stated in MDF/W/25, if it were established that further provisions were required, the appropriate course would be to initiate action in the WIPO, the organization which administered the Convention and constituted the existing framework for dealing with problems of this nature.

22. Regarding some of the points made by some delegations on the effectiveness of present international law as reflected in paragraph 54 of MDF/W/19, some of these members noted that the fact that not all countries were members of the Paris Convention and not all national laws were in harmony with obligations in that Convention was not a reason for preferring action in GATT to that in WIPO: the same observations could be made about the GATT. The point was also made that the continued existence of a problem of trade in counterfeit goods did not prove the inadequacy of present international or national laws, in much the same way as the fact that smuggling still took place did not prove necessarily that existing laws against smuggling were inadequate.

23. Some members reserved the right to come back to legal and institutional questions until such time as WIPO would be able to give a detailed opinion on matters relating to it. They said that the present situation whereby WIPO had nominated a staff member to follow the discussions without taking an active rôle did not correspond to the intention of the CONTRACTING PARTIES when they had adopted the mandate of the Expert Group inviting the Director General of WIPO to nominate an expert to participate in the discussions. Some other members said that the Group had a time-limit in its mandate and that it should proceed with its work in order to meet this time-limit. While any information from WIPO would be interesting, the progress of the Group's work should not be dependant on decisions taken in another framework.

24. The staff member from WIPO recalled the correspondence between the Director General of WIPO and the Director-General of GATT, including the invitation extended to the Director General of WIPO to nominate an expert to participate in the Group. That invitation would be referred by the Director General of WIPO to the Governing Bodies of WIPO, and in the meantime, he had, with the agreement of the Director-General of GATT,

designated a staff member of WIPO to follow, without an active rôle, the discussions in the Group (MDF/8, paragraph 5). That staff member had noted the interest shown by certain experts in the Group in receiving from WIPO information on the relevant provisions of the Paris Convention for the Protection of Industrial Property and stated that he would bring this to the attention of the Director General of WIPO.

25. The acting Chairman noted that if, without changing the character of the understanding on which the staff member from WIPO was attending the Group and after any consultations with his superiors, he would be able to provide any clarifications on any point of factual information, this would be welcomed by the Group.

26. The observer from the Customs Cooperation Council said that the CCC in its study had looked at the existing provisions of the Paris Convention and had come to the conclusion that, for the purposes of enforcement, the present provisions were not adequate. The study had concluded that Article 9 did not oblige member States to provide for seizure of infringing goods in domestic legislation. The study had also concluded that the necessary international mechanisms for enforcement in terms of police work, intelligence gathering, surveillance etc., were not provided for in present WIPO Conventions. This was why the study had suggested the preparation of an international instrument to this effect. He said that, even if it was felt that national legislation was adequate, there would still be need for such an instrument.

IV. GATT provisions bearing on trade in counterfeit goods

27. A member, referring to paragraph 57 of MDF/W/19, said that the Group should look in the course of its work at how the principle of national treatment as spelt out in Article III:4 of the General Agreement should apply. Another member said that he understood this to mean that the criteria for determining whether a good was counterfeit should be the same for imported and domestically produced goods; he agreed with this. The former member said that he had in mind, in addition to the criteria for determining infringement, the mechanisms for how alleged counterfeit goods were treated at the border and domestically. Another member wondered whether, in order to ensure application of the national treatment concept, provision should be made for each intellectual property owner to pursue through the judicial authorities his intellectual property rights in the same way as a national of the country concerned and have the possibility of obtaining as a result of a judicial ruling, and only as the result of such a ruling, an order preventing the commercialization of a product deemed counterfeit, both internally and at the frontier. For this, it would be necessary that the judicial possibilities be available and operational in each member State of any eventual arrangement.

28. Some members said that they had no problems with the summary of the relevant GATT provisions in paragraphs 56-67 of MDF/W/19.

V. What are the types of measures and procedures embodied in national legislation aimed at dealing with trade in counterfeit goods?

29. A member, referring to paragraphs 85 and 86 of MDF/W/19, said that there was considerable variety between countries in the forms of recourse available in national legislation to trademark owners affected by imports

of counterfeit goods; customs had a rôle to play in only a limited number of countries; often the ability of trademark owners to obtain injunctions was limited or non-existent; and frequently discovery procedures necessary to obtain information to pursue trademark rights were difficult. She added that a review of national laws being drawn up in her country for the purpose of compiling an inventory of trade barriers related to intellectual property as required by recent legislation (see MDF/W/30) had shown that penalties against trademark counterfeiting were insufficient in many countries, including some which were significant sources of counterfeit goods. For these reasons, national laws to deal with trade in counterfeit goods were often ineffective.

30. A member, referring to paragraphs 79-81 of MDF/W/19, recalled his suggestion for the collection of additional information on national laws regarding parallel imports (paragraph 9 above). This matter was of importance because the existence of such imports might make more difficult the detection of counterfeit goods and also because the extent to which national law gave trademark owners rights vis-à-vis parallel imports varied from country to country. Another member said that in her country parallel imports had not given rise to problems for customs in identifying imports of counterfeit goods.

31. In response to a suggestion from a member that there was a danger that giving customs officials at the border authority to seize imports of counterfeit goods ran the risk of leading to non-tariff barriers to legitimate trade, a member outlined the practices in his country concerning action by the customs against imports of counterfeit goods. A trademark owner could register his trademark with the customs service. A document illustrating the trademark was provided to customs and a comparison made between that trademark and that on goods entering the country. The decision on whether an infringement was involved was relatively easy to make. If customs believed at that point that the imported goods were counterfeit, they were seized and notice was given to the importer and trademark owner. The trademark owner then had the opportunity to discuss the matter with the importer with a view to settling it privately. If he was unsuccessful in this, the goods were taken before the courts and forfeited to the government. This system, in his view, protected the trademark owner and importer satisfactorily and gave little discretionary authority to customs. Another member said that in his country customs only acted against imports of counterfeit goods on the basis of a court order. A further member said that, in his country, customs presently had no rôle in implementing intellectual property law.

32. Responding to a view that priority attention should be given to repressing counterfeiting at the point of production and thereby removing the economic incentive for such activity, some members said that action at all levels and points was required - in the country of production, at the frontier when traded internationally and in the country of consumption. In this regard, a member referred to recent legislation in her own country to increase penalties against the trafficking of counterfeit goods (see MDF/W/30).

33. A member suggested that the Group might consider collecting from individual members information on how intellectual property rights were enforced in their countries in relation to internationally traded goods, both by customs and other authorities, and on their views concerning the effectiveness of the methods employed. This would supplement the information already available in the CCC study.

34. The observer from the Customs Cooperation Council said that studies in the CCC had shown that, in dealing with counterfeit goods, customs could only be expected to act in cooperation with owners of intellectual property rights or their agents; customs could not be expected to act on its own initiative. This was why one approach under examination in the CCC was the development of model legislation which would lay out the formalities by which owners of intellectual property rights could seek the assistance of customs. Referring to the risk of non-tariff barriers, he was of the view that such a risk was more likely if action was taken unilaterally; to avoid this, formalities should be harmonized at the international level. As regards parallel imports, he was of the view that problems in this connection could be overcome through appropriate collaboration between intellectual property owners and customs and also perhaps through the use of improved data processing methods.

35. The acting Chairman noted that from the discussion it appeared that there were three main practices in countries concerning the rôle of customs in dealing with goods involving infringement of trademarks: in some countries customs officers had the authority to seize suspect goods and determine whether an infringement was involved; in some other countries, customs could only act on the basis of an order from a court of law, which had the responsibility of determining whether an infringement had taken place; and in still others, customs could detain goods for a limited period to give the trademark owner the opportunity to pursue his rights in a court.

V. Is there a need for provisions and procedures directed specifically towards dealing with counterfeit goods which are imported as opposed to goods which are produced or sold in the country? What special provisions and procedures might be involved?

36. Some members said that, to be effective, action against imports of counterfeit goods had to take place before the goods were released from customs and subdivided into smaller consignments for domestic circulation. Subsequent action might enable the importer to be prosecuted but would be unlikely to prevent most of the goods from being marketed. Action at source - the point of production - was, of course, the preferred route, but this was not always possible. It depended on national laws in the country of production and also on the trademark owner determining the source of goods, which was often difficult.

37. A member said that, while he understood the desire to intervene against counterfeit goods at the border, such intervention should only be on the basis of a court ruling - not on the basis of mere suspicion or denunciation. Otherwise, there was a considerable risk of generating non-tariff barriers to legitimate trade. If the aim was to eliminate the economic incentive for the production and marketing of counterfeit goods and to protect the interests of the intellectual property owner, this could be done through the award of damages even after the goods have entered into domestic circulation. It was true that such a course would not necessarily be so effective in protecting consumer interests; this was something that would have to be dealt with separately. However, once a court order was given to customs, this could involve the seizure of further consignments of the counterfeit good concerned, and thus to that extent work directly to protect the consumer.

VII. Why do some governments consider present possibilities for action inadequate and feel the need for additional multilateral action in this area?

VIII. What other considerations relevant to this matter, e.g. the need to ensure that new obstacles to legitimate trade or scope for unjustified discrimination are not created, would need to be taken into account in any action in the GATT framework?

38. The acting Chairman noted that all the headings were inter-related and that there had already been discussion of points of relevance to these two headings. No further points were made on these matters.

Further work

39. Some members said that the discussion had shown that there was a need for the Group to consider in greater detail the implications of different types of action at the border - for example in the context of avoiding non-tariff barriers. Some other members were of the view that there were a number of issues that needed to be further examined first - the magnitude and nature of the problem and the appropriate forum for tackling it.

40. With regard to the three points on which some members had sought further information (paragraph 9 above), the acting Chairman suggested, in the light of the discussion, that individual experts might attempt to provide at or before the next meeting what further information they could on these issues.

41. After some discussion, the Group agreed that the secretariat would issue an airgram calling its next meeting on 24-25 April but that consultations would be held to deal with any problems in connection with the date of the next meeting resulting from the GATT programme of meetings. The Group noted that all issues before the Group remained open for discussion and agreed at its next meeting to pursue its discussion of the eight points and to take up any other points not adequately dealt with under those headings.

ANNEX

Statement by observer from the Customs Co-operation Council

1. The Customs Co-operation Council, CCC, is an inter-governmental organization with a membership of ninety-six countries, including most developing countries in Africa and Asia, a number of Eastern European countries, Japan, the United States and all the member States of the EEC.
2. In terms of international trade the CCC has two main objectives. The first is to ensure a smooth flow of international trade by promoting worldwide simplification and harmonization of customs formalities. The second is to protect the social and economic interests of States by promoting co-operation and mutual administrative assistance among customs administrations in combating customs offences.
3. The CCC operates by committees which report to the Council, the general assembly of the organization. Delegates on the committees are experts from customs administrations of member countries while Council delegates are the heads of customs administrations. The CCC is, therefore, a worldwide forum for customs officials. However, representatives of other international organizations, both governmental and non-governmental, participate fully in its activities as observers.
4. From this short introduction, it should be apparent that the CCC is among the international organizations which could play a very important rôle in combating piracy and counterfeiting in international trade. It has the organizational set-up necessary for establishing international co-operation in dealing with the problem. Its Enforcement Committee is responsible for examining problems relating to customs law enforcement and for studying means of establishing mutual administrative assistance in dealing with customs offences, while its Permanent Technical Committee, PTC, has the responsibility of ensuring that formalities for implementing national legislation do not constitute obstacles to international trade. The CCC already has a number of international instruments on customs enforcement which could serve as models for instruments to establish co-operation in enforcing intellectual property law if the Council instruments are not themselves appropriate or adequate for the purpose.
5. Recently, the CCC carried out a study to ascertain the rôle of the Customs in implementing intellectual property law. According to the study, copies of which are available in the GATT secretariat, piracy and counterfeiting are a threat to the entire economy of countries and not only to a few, private, commercial interests as was often thought. Piracy and counterfeiting are evils to contend with in the international trade of both developing and developed countries. Like drugs, pirate and counterfeit products may have grave consequences on the health, safety and security of nations. Finally, piracy and counterfeiting transgress the whole range of customs requirements regarding restrictions and prohibitions, origin of goods, tariff classification, value, duties and taxes and statistical data.
6. The study examined the relevant intellectual property international instruments with a view to identifying the enforcement measures they assigned to law enforcement authorities, and to the Customs in particular. It concluded that seizure of infringing goods was the only customs enforcement measure provided for. Furthermore, seizure was not mandatory,

and since details regarding how and by whom it was to be effected were left to national legislation, national law and practice regarding seizure were bound to differ from country to country. It was apparent that the instruments could not be used as a basis for customs enforcement of intellectual property law at national or international level.

7. According to the study, the Customs had competence in implementing intellectual property law in only a few countries. Where the Customs had competence, its rôle was confined largely to seizing suspect or infringing goods. For the Customs to intervene, the owner of the intellectual property in question had to fulfil certain administrative formalities, such as registration of his trademark with the Customs. In countries in which Customs had no competence in this field, Customs intervention was possible only if the importation of infringing goods involved also a breach of Customs law. The study concluded that for any customs service to carry out meaningful and effective work in this field there ought to be adequate enabling legislation and willingness on the part of the customs administration to give priority to the fight against piracy and counterfeiting.

8. The study also briefly examined the existing customs enforcement instruments of the CCC with a view to determining whether they could be used as a basis for establishing international co-operation in enforcing intellectual property law. The preliminary finding was that the present instruments were neither adequate nor entirely suitable for the purposes of intellectual property law since they were designed for dealing with customs offences, and did not provide for co-operation between the Customs and other organizations especially those representing industry. The study, therefore, proposed the consideration, eventually, of a multilateral instrument which would take into account all the aspects relating to customs enforcement of intellectual property law.

9. In view of the foregoing conclusions the study made the following recommendations:

- (a) As a first step to promote co-operation between CCC member countries, customs enforcement of intellectual property law should be a permanent item on the work programme of the Enforcement Committee so that the Committee could continue to exchange information and views about developments in this field.
- (b) On a longer-term basis, the Council could consider whether to adopt an appropriate international instrument in this field.
- (c) To assist countries which wish to give their customs services competence in this field, the CCC could develop model enabling legislation and model guidelines on the administrative formalities with which owners of intellectual property would have to comply in order to obtain the assistance of their customs services.

10. At its Third Session in February 1985, the Enforcement Committee examined the study and, particularly, the recommendations concerning enforcement, i.e. (a) and (b) above, and reached the following conclusions:

- Customs enforcement of intellectual property law would be a permanent item on the Committee's work programme so that the

Committee could continue to exchange views about developments in this field.

- The CCC Secretariat should now propose practical means of assisting administrations which already have competence in this field.
- The Secretariat should continue to maintain contacts with the international organizations which are concerned with this question, and to co-ordinate the activities of the Enforcement Committee and of the Permanent Technical Committee which was responsible for the administration aspects of the question.
- The Secretariat should further analyze the Enforcement instruments of the Council with a view to determining the extent to which they could be used for purposes of piracy and counterfeiting pending further consideration of a new instrument.

11. The Permanent Technical Committee had not been able to examine the study at its last sessions, in November 1984, as the study had only been recently published. At its 1985 Spring sessions, the Committee is expected to examine the study and, particularly, the recommendation to develop model enabling legislation and guidelines. If the Committee accepts the recommendation, the next stage would be the preparation of the model legislation and guidelines. For this purpose, the laws and practice of member countries whose customs services already have competence in this field would have to be studied. Examples of such laws are the copyright and trademark legislations of the United States and the proposed EEC Council Regulation to lay down measures to discourage the release for free circulation of counterfeit goods.

12. PTC could also consider the possibility of carrying out detailed studies on certain customs clearance procedures, e.g. special checking of documents, examination of goods of a special nature, such as computer software, etc., and preparing guidelines for use by customs services.

13. It is apparent that the objective of the examination of the problems of piracy and counterfeit by the CCC is to enhance the rôle of customs services and to promote co-operation among customs administrations and between the customs and owners of intellectual property in this field. The work of the CCC is also expected to result in simple and harmonized customs formalities in this field. The efforts of the CCC are, therefore, directed at the implementation aspects of intellectual property law which are of relevance to the customs. The CCC would, of course, support any measures which might be taken in GATT to discourage trade in pirate and counterfeit goods.