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TRANSPORT AND COMMUNICATIONS COMMISSION

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Item 3 on the provisional agenda

BARRIERS TO THE INTERNATIONAL TRANSPORT OF GOODS

Note by the Secretariat

The President of the International Chamber of Commerce submitted by letter dated 20 October 1947 to the Secretary-General of the United Nations for consideration by the Economic and Social Council a report on barriers to the international transport of goods drawn up by a Committee of experts of the International Chamber of Commerce, and approved in June 1947 by the Montreux Congress of this organization. The President of the International Chamber of Commerce also requested that the subject be placed on the provisional agenda of the Transport and Communications Commission (document E/C.2/59).

At its second session (Geneva, 12-20 April 1948) the Transport and Communications Commission considered the report of the International Chamber of Commerce, and adopted a resolution requesting the Economic and Social Council to

"instruct the Secretary-General to study in conjunction with the Executive Secretary of the Interim Commission for the International Trade Organization, the respective competence of the various international bodies concerned with this problem, and to report at the next session of the Transport and Communications Commission on the aspects which might usefully be considered by the Commission."

Having considered the report of the Transport and Communications Commission, the Economic and Social Council adopted at its seventh session (Geneva, 19 July - 29 August 1948) the following resolution:

"The Economic and Social Council

Instructs the Secretary-General to study, in conjunction with the Executive Secretary of the Interim Commission for the

International Trade Organization, the respective competence of the

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various international bodies concerned with the problem of barriers to the international transport of goods, and to report at the next session of the Transport and Communications Commission on the aspects which might usefully be considered at the earliest opportunity by the Commission."

In implementation of the resolution of the Economic and Social Council, the Secretary-General of the United Nations, in conjunction with the Executive Secretary of the Interim Commission for the International Trade Organization, studied the report of the International Chamber of Commerce (ICC) and more particularly the twelve recommendations considered by the ICC to be of primary importance and which constitute the first part of their report (document E/C.2/59).

It is the purpose of this Note:

- to suggest which of the problems raised by the ICC should be considered by the bodies dealing with transport and which come within the province of the International Trade Organization, or of other bodies;
- to list in respect of each ICC recommendation, the competent international body or bodies and indicate the extent to which each is concerned;
- to suggest, in the light of the foregoing, the aspects of the problem which might usefully be considered by the Transport and Communications Commission.

I

DISTINCTION BETWEEN TRANSPORT, TRADE AND OTHER DIFFICULTIES

The twelve recommendations submitted in the first part of the ICC report, together with those contained in this report, may be divided into the following categories, dealing respectively with:

1. the number of documents required in the International transport of goods, as meeting the main needs of trade and transport (Recommendations 1 and 4);
2. the documents required by the Customs (for fiscal or statistical purposes) and the consular and customs formalities (Recommendations 2, 3, 5, 6, 7, 8, 9, 12); the public health formalities (paragraph 4 of the report);
3. the regulations for measurement of shipping tonnage (Recommendation 10);
4. matters of a wider scope, such as commodity allocations, priorities, export and import licenses, quotas, exchange controls (Recommendation 11 and first paragraph of the Preamble).

/The main

The main complaints and the main recommendations, however, are those which bear on the number of documents required, and on consular and customs formalities.

1. Number of documents required in the international transport of goods, as meeting the main needs of trade and transport

The aim of these documents is twofold. They must first protect the buyer, seller and carrier in international trade insofar as they determine ownership and right of payment. They must also give governments information on which customs duties may be assessed and on which national statistics can be based. The question must therefore be dealt with from both points of view: efficiency of transport operation and adequate protection for all parties (consignees, consignors, as well as banking, transportation and auxiliary agencies) interested in international transport on the one hand, and compliance with the legitimate governmental requirements, on the other hand.

It must also be mentioned that the subject of transport documents is in some cases governed by international conventions belonging to the transport field (e.g. the Berne Convention for the transport of merchandise, for rail transport in Europe; the Warsaw Convention, for air transport). The ICAO Standards and Recommended Practices for the Facilitation of International Air Transport, which are to be submitted to the International Civil Aviation Organization (ICAO) Council this year (1949), will after approval become an annex to the Convention on International Civil Aviation. They contain some provisions concerning documents. Again, the United Nations Economic Commission for Europe is studying at present the question of documents for international road transport in respect of Europe. The Sub-committee on road transport of the Economic Commission for Europe set up a working party dealing with legal questions which endeavours to achieve the adoption of a uniform road transport contract and of an international way-bill.

Furthermore, the ICC report advocates not only the abolition of superfluous documents and requirements, but also a standardization of the documents needed. It makes in this respect detailed proposals, which in the case of the commercial invoice, are as specific as to suggest the size of the form, and the possible headings.* The only persons competent to deal with such proposals are transport experts (with the possible assistance of lawyers and transport users) together with customs experts, the latter being asked to state their requirements for the purpose of assessing customs duties and obtaining the necessary statistical data.

* See Annex I.

Finally, the ICC report (Section 1a) suggests, in passing, the setting up of a negotiable air consignment note. This question undoubtedly comes within the scope of ICAO. As a matter of fact, a Sub-committee of the ICAO Legal Committee, which is studying the revision of the Convention for the unification of certain rules relating to international carriage by air (Warsaw, 1929), expressed in 1948 "the opinion that it is both possible and desirable to insert in the Convention provision for negotiability" of consignment notes.

2. Documents required by the customs; consular and customs formalities; public health formalities

As this second category of documents is required mainly for customs and statistical purposes, the question of whether they should or should not be maintained lies mainly with the customs officials, i.e. comes within the purview of the future International Trade Organization. Transport experts ought, however, to be invited to take part in the discussions so that they may explain their difficulties and help to solve them.

It may be pointed out that:

- consular invoices and certificates of origin (Recommendation 2 of the ICC report) are dealt with under Articles 12 and 11 respectively of the International Convention relating to the simplification of Customs Formalities (Geneva, 1923);

- consular visas and visa fees (Recommendation 3 of the ICC report) are dealt with under Articles 11 (8) and 12 of the 1923 Convention.

- formalities necessary for obtaining "the visa of a consulate or other authority" (Recommendation 3 of the ICC report) are referred to under 10 in the Annex to Article 14. This same article and its annex deal also with customs formalities and fines (Recommendations 12 and 6 of the ICC Report).

The complaint contained in the ICC report that the provisions of the 1923 Convention, which is still in force, are not observed, does not seem to meet the point. Some of the provisions of this Convention (in particular the Annex to Article 14) are in the form of mere recommendations. Furthermore, it may well be that the practices contrary to these recommendations are adopted by countries not parties to that Convention. For these reasons, a solution of the problem cannot be found in a simple request that the provisions of the 1923 Convention be obeyed.

The necessary measures to deal with this problem, whether by revision of the Convention or otherwise, are likely to be undertaken by the International Trade Organization when constituted. The question of formalities connected with importation and exportation is covered by the provisions of Article 36 of the Havana Charter.

The 1923 Convention refers also to the Manifest (paragraph 17 of the Annex to Article 14) although not with respect to the specific difficulty mentioned in the ICC report (Recommendation 4). It seems that the customs requirements with regard to the Manifest come within the scope of the International Trade Organization although the Manifest must be considered as a transport document.

It may be added that the ICAO Standards and Recommended Practices for the Facilitation of International Air Transport, already mentioned, contain provisions concerning the documents required by the customs, the consular and customs formalities, the public health formalities. The Sub-committee on Road Transport of the Economic Commission for Europe has set up a working party on customs formalities composed of officials from both transport and customs fields and which is preparing a draft for a customs convention on touring and road traffic. It is therefore essential that the Organizations dealing with transport be associated in the study of these problems.

Finally, the ICC report merely mentions (on page 5, paragraph 4 of document E/C.2/59) public health formalities. It does not set forth particular complaints or recommendations in this respect. These formalities appear to come under the scope of the World Health Organization.

3. Regulations for Measurement of Shipping Tonnage

The measurement of shipping tonnage is a question that was studied by the League of Nations, which prepared draft regulations (1939). A "Convention for a Uniform System of Tonnage Measurement of Ships" was signed at Oslo on 26 June 1947 (i.e. after the adoption of the report by the ICC Montreux Congress). The question will presumably be taken over by the Inter-governmental Maritime Consultative Organization (IMCO). It is therefore a purely transport matter, and very different by nature from the other subjects raised in the ICC report.

4. Matters of a Wider Scope

The ICC report makes reference, in its first paragraph, to commodity allocations, priorities, export and import licenses and quotas. No specific recommendations are put forward in this respect, except with regard to the fixation of a sufficient duration of validity for import and export licenses (Recommendation 11). It appears, therefore that the ICC does not request that these subjects, with the above-mentioned exception, be dealt with as barriers to international transport. In any case, the proper body to take such matters into consideration will be the International Trade Organization. It may be pointed out that the 1923 Convention under Article 3, contains provisions regarding import and export licenses. They do not, however, apply to the difficulty mentioned in the ICC report.

/As to the

As to the exchange controls also mentioned by the ICC report in the same place and in the same way, they come within the scope of the International Bank for Reconstruction and Development and of the International Monetary Fund.

II

INTERNATIONAL BODIES CONCERNED

A. Transport problems and trade problems

The difficulties mentioned by the ICC and falling in the first category mentioned above are mainly transport problems and secondarily customs problems. These difficulties are the subject of recommendations

- 1 - reduction of the number of documents required in the international transport of goods;

and

- 4 - abolition of the transit manifest.

As for the difficulties falling in the second category, they are mainly customs problems and secondarily transport problems. These difficulties are the subject of recommendations

- 2 - abolition of consular invoices and certificates of origin as separate documents;
- 3 - abolition of consular visas for commercial invoices as well as for manifests; abolition of commercial association certificates for invoices;
- 5 - elimination of the requirement by some governments that certain forms be filled out for aiding them in the compilation of export and import statistics;
- 6 - abolition of governmental regulations which require the shipper to attempt to classify his goods under specific sections of customs tariff laws of the importing country;
- 7 - the shipper to be exempt from furnishing indications of value other than those appearing in his contract;
- 8 - simplification of regulations regarding weights and measures in documents;
- 9 - abolition of the obligations to place marks of origin on packaging used solely for carriage;
- 12 - simplification of all customs formalities.

The international bodies concerned with the two first categories of difficulties are:

(a) For Transportation

The Inter-governmental Maritime Consultative Organization (IMCO) which, when established, will provide for the consideration of "any matters concerning shipping that may be referred to it by any organ or specialized agency of the United Nations".

/The International

The International Civil Aviation Organization (ICAO) which, in pursuance of articles 10, 13, 14, 16, 22, 23, 24 of the Convention on International Civil Aviation, is preparing Standards and Recommended Practices for the Facilitation of International Air Transport and is in charge of the revision of the Warsaw Convention.

Furthermore, the following bodies, established on a regional basis and with more limited functions, might be added:

The Inland Transport Committee of the Economic Commission for Europe which is at present studying the questions of documents and of customs formalities for international road transport in respect of Europe.

The Central Office for International Railway Transport, set up under the Berne Conventions, and whose activity is confined to Europe.

The Central Commission for the Navigation of the Rhine, whose duty it is inter alia - as provided in its basic instrument - to examine all complaints to which the applications of the regulations in force may give rise. Both the Revised Convention for Navigation on the Rhine (Mannheim, 1868) and the Draft Revised Convention proposed in 1936 contain provisions concerning customs questions.

In addition to these inter-governmental organizations, it would appear appropriate to consult those non-governmental organizations which represent the transport operators and which are directly concerned with such questions as transport documents and customs formalities.

(b) For Customs, consular and statistical formalities

The International Trade Organization (ITO), when it comes into being.

The International Chamber of Commerce, which has submitted the report and which represents trade interests as a whole, is concerned with the transport aspect as well as with the question of the customs regulations as such.

B. Problems of a special nature

As for the problems of a special nature raised by the ICC - adoption of standardized regulations for measurement of shipping tonnage (Recommendation 10) and the setting up of a negotiable air consignment note (mentioned on page 6 paragraph 5 of document E/C.2/59) - they come within the scope of the IMCO and ICAO, respectively.

III

ASPECTS OF THE PROBLEM WHICH MIGHT USEFULLY BE CONSIDERED BY THE
TRANSPORT AND COMMUNICATIONS COMMISSION

In the light of the considerations previously set out, it appears that the division of responsibilities between the inter-governmental bodies primarily concerned should be as follows:

/1. The Transport

1. The Transport and Communications Commission might usefully consider recommendations of the International Chamber of Commerce No. 1 (reduction of the number of documents required in the international transport goods) and No. 4 (abolition of the transit manifest). These questions are mainly transport questions and they concern more than one sphere of transport.

2. The examination of the ICC recommendations Nos. 2, 3, 5, 6, 7, 8, 9, 11 and 12 falls within the competence of the International Trade Organization (ITO).

3. The World Health Organization (WHO) might deal with the public health formalities.

Measurement of shipping tonnage (ICC Recommendation No. 10) and the establishment of a negotiable air consignment note, come, as already suggested, within the scope of IMCO and ICAO, respectively.

The principal complaints and recommendations of the ICC are undoubtedly those which concern the two categories of barriers mentioned above which come within the purview of the Transport and Communications Commission or the ITO. Clearly, it will be in order for these organizations, when considering the matters with which they are primarily concerned, to arrange for the other organizations secondarily interested to participate in the discussions so that no important aspect may be overlooked.

As it appears from this survey that the ICC Recommendations No. 1 (reduction of the number of documents required in the international transport of goods) and No. 4 (abolition of the transit manifest) might be considered in the first instance by the Transport and Communications Commission, relevant extracts from the ICC report in which this matter has been raised are reproduced in Annex I.

Furthermore, in connection with the subject discussed in this document, the Transport and Communications Commission may be interested in two resolutions adopted on 8 June 1948 by the Council of the ICC. These resolutions, on "Barriers to the international transport of goods" and on "Maritime trade barriers" respectively, are reproduced in Annex II.

ANNEX I

EXTRACTS FROM THE REPORT OF THE INTERNATIONAL CHAMBER OF COMMERCE ON BARRIERS TO THE INTERNATIONAL TRANSPORT OF GOODS

RECOMMENDATIONS

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1. - Reduction of the number of documents required in the international transport of goods.

At the most, three main documents should be sufficient for legitimate governmental requirements and for the main needs of trade and transport:

- (a) - transport document (bill of lading, consignment note);
- (b) - commercial invoice in standardized form;
- (c) - packing list, when necessary. (It obviously serves no useful purpose in goods in bulk, like grain.)

For sea and air transport, the manifest should be added to the above documents.

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4. - Abolition of the transit manifest by those countries requiring it.

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REPORT

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While admittedly some of the present documents and data are necessary requirements in connection with customary commercial, banking and shipping practices and for reasonable fiscal and statistical purposes many of the most irksome are entirely superfluous and result from government requirements. These latter, without any uniformity whatever, are frequently extremely complex in character and are often imposed and administered without consideration of the vexatious inconveniences and expenses which they place upon exporters, importers, shippers and transportation agencies in all countries. Many of the regulations and requirements involving stamps and fees seem to have as their chief, if not only, purpose the acquiring of revenue for the administrations concerned.

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Current required documents. While the following list does not by any means include all the documents currently required in international shipments, it suggests the more usual ones: Pro-forma invoice; import /license;

license; packing list; export license; export declaration; shipping permit; dock receipt; bill of lading; commercial invoice; certificate of origin; consular invoice form; special customs invoice form; insurance certificate (or policy); letter of credit and bank draft; manifest.

In addition to the above-mentioned documents, governments frequently require the filling out of special forms in connection with export and import shipments and there are also unmentioned banking and other forms. Imports particularly are surrounded with such a multitude of documentary work and administrative requirements as to make it virtually impossible in many countries for importers to clear shipments through the customs without the specialized services of customs brokers.

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INDISPENSABLE DOCUMENTS*

The buyer, seller and transporter in international trade must be protected by documents which, according to law, will determine ownership and right of payment, and governments require information on which customs duties may be assessed and on which national statistics can be based.

1. - We believe these necessary purposes can be served by three main documents:

(a) - TRANSPORT DOCUMENT

(b) - COMMERCIAL INVOICE containing the mentions in the appended model;

(c) - PACKING LIST (when necessary), the usual detailed form.

In air and sea transport the MANIFEST, drawn up by the carrier, should be added to the above documents which are drawn up by the shipper.

As far as possible, these documents should be standardized and designed to provide all data required by governments, consignees, consignors and banking transportation and auxiliary agencies. Sufficient copies of these documents should be prepared to meet the reasonable requirements of all agencies concerned.

(a) - Transport document

This is the basic document of carriage. In sea carriage the bill of lading is negotiable. The possibility of setting up a negotiable air consignment note should be examined; in certain cases, such a document would avoid delays due to present day formalities and documents required for air carriage which deprive this means of transport of the speed which is its principal advantage.

(b) - Commercial invoice

The commercial invoice serves important purposes in international shipments. A standardized form of the commercial invoice should be

* In the following statement the numbers correspond to those in the recommendations.

designed to include all essential data, not appearing on the packing list, which are required by consignors, consignees, governments and other agencies concerned with the shipment. Data on the packing list should be designed to supplement those on the commercial invoice and both of these documents should be stapled together where information contained on both of them is required by a governmental or private agency.

It is believed that a commercial invoice form, size not more than eleven inches in width, which will fit into a standard typewriter, will be large enough to accommodate the necessary data for most shipments of various kinds of products. The sheet can be any length to meet special needs. The important point to observe is that the commercial invoice includes at least all essential data as indicated on the proposed standard form. Such data should be located in approximately the same positions on all invoices.

The printed headings of these commercial invoices should be printed in French, English, and Spanish, and filled up in one of these three languages. A shipper cannot be expected to know the language of all the countries with which he does business sufficiently well to be able to fill in correctly in the language of the importing countries documents the headings of which are solely that language. This naturally gives rise to mistakes and consequently to fines often extremely heavy.

The customs declaration, done by the shipper or his agent in the language of the importing country would provide control officials of such country knowing only their own language with all the necessary indications.

(c) - Packing list

The usual packing list form is filled out with care by the seller as information which it contains is generally essential in preparing other documents. Data on the packing list supplement those on the commercial invoice, so that both of these documents could be stapled together before being submitted to these governmental or private agencies which require information contained on both of them.

Manifest

Manifests indicating the contents of their cargoes are now drawn up by maritime and air carriers.

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4. Transit manifest. Certain countries require all ships calling at any of their ports to produce, on opening their hatches, a transit manifest, even if only a small part of their cargo is disembarked. This manifest must be drawn up in great detail for the entire cargo and must be visaed by the Consul, and this entails payment of fees on goods which are not disembarked. The ICC considers that no justification can be given for such a requirement which should be abolished as a mere declaration appears sufficient in such

/a case.

a case. Moreover, Annex to Article 14, paragraph 17 of the 1923 Convention states: "It is desirable that the payment of import duties should not be required in the case of goods which, although they are shown on the manifest, are not actually introduced into the country, provided that sufficient evidence of the fact is furnished either by the carrier or by the captain within a time-limit fixed by the Customs authorities."

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MODEL OF COMMERCIAL INVOICE*

JOHN DOE INC.

SOLD TO _____	INVOICE _____	Date _____
or		
CONSIGNEE TO _____	CUSTOMER ORDER _____	_____
_____	CONFIRMATION _____	_____
SHIP TO _____	EXPORT LICENSE _____	_____
(place of destination) _____	IMPORT LICENSE _____	_____
NOTIFY _____	INSURANCE _____	_____
MEANS OF CARRIAGE USED _____	COUNTRY OF ORIGIN _____	_____
CARRIER _____	GROSS WEIGHT _____	(kilos)
FLAG _____	TOTAL NUMBER OF PACKAGES _____	_____
	TERMS OF SALE _____	_____
PORT OF EXPORTATION _____	TERMS OF PAYMENT _____	_____
PORT OF TRANSSHIPMENT _____		
PORT OF DISCHARGE _____		
PORT OF ENTRY _____		
B/L No. _____		

PACKAGES		WEIGHT-KILOS			QUANTITY AND NATURE OF THE GOODS	UNIT • TOTAL	
No. and kind	MARKS	NET	LEGAL	GROSS		PRICE	PRICE

* Headings to be in French, English and Spanish.

ANNEX II

RESOLUTIONS ADOPTED BY THE COUNCIL OF THE
INTERNATIONAL CHAMBER OF COMMERCE ON 8 JUNE 1948

A. Barriers to the international transport of goods

The Council of the ICC:

1. Again recommends that an Inter-Governmental Conference should be called to secure the removal of barriers to the international transport of goods similar to the Conference which has already dealt with passports and visas;
2. calls attention to the need for removing irksome restrictive and uneconomic Consular and Customs practices as applied to shipping companies in the clearance of vessels or otherwise, and requests that this aspect of the problem receive equal attention with that affecting shippers of goods.

B. Maritime trade barriers

The Council:

- recalling the resolutions adopted by the ICC on the subject of Maritime Trade Barriers at its Congresses, particularly those held in London (1921), Rome (1923), Stockholm (1927), Amsterdam (1929), Vienna (1933), Montreux (1947);
 - having received a report from its Sea Transport Committee in regard to cases of flag discrimination and other maritime trade barriers outstanding at the present time;
1. re-affirms the established principles of the ICC on this matter as laid down by resolutions of its successive Congresses;
 2. calls attention to the danger, similar to that arising after the first World War, of a general extension of flag discrimination and governmental restrictions on maritime transportation, if current instances of these evils are not arrested in the early stages;
 3. calls for immediate and vigorous action by Governments to secure the prompt removal of all acts of discrimination based on the flag of the vessel;
 4. asks the Bureau of the Committee on Sea Transport to study and follow up this subject in detail and to report to the Committee.
