

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED: /3
W.7/3
2 October 1952

Special distribution

WORKING PARTY ON THE INTERNATIONAL CHAMBER OF COMMERCE RESOLUTIONS

DRAFT RECOMMENDATIONS ON CONSULAR FORMALITIES (PREAMBLE)

SIXTH SESSION DRAFT

"The Contracting Parties urge the abolition of consular invoices and of consular visas for commercial invoices, certificates of origin, manifests, etc.

Should, however, certain governments find it impossible, for reasons genuinely connected with their customs regulations, to dispense with these documents and visas, the Contracting Parties recommend that the following rules be observed by the consular authorities in the country of exportation."

COMMENT ON THE PREAMBLE

AUSTRIA

There are no objections to the present text of the recommendations in principle. The question should be studied whether binding recommendations should be laid down.

CZECHOSLOVAKIA

In the same way we agree with the recommendation concerning consular formalities and aiming particularly at a general elimination of consular invoices and at the lowering of fees for the verification of various consular documents required by some countries for imports. These consular formalities and fees are very often a real obstacle in the way of mutual exchange of goods and are even misused for discriminatory policies.

FINLAND

The Finnish Government is in favour of accepting the Draft Recommendations,
(continued)

DRAFT RECOMMENDATIONS ON CONSULAR FORMALITIES (PREAMBLE) (Contd.)

FRANCE

The French Government is in general agreement with the Draft Recommendations prepared by the Working Party.

If, for various reasons, it proved impossible to reach an agreement as to the complete abolition of consular visas, it might be possible to agree that a consular visa be replaced by visas issued by the Customs authorities of the exporting country.

The advantage of this procedure would be that expense and delay in the issuing of documents would be avoided. It would also mean that the Customs authorities would be afforded a certain guarantee in that merchants, when importing goods, would thus be practically compelled to submit an invoice corresponding to the export customs declaration.

GERMANY

Paragraph 2 should be worded as follows:
"However so long as certain governments find it impossible, for reasons genuinely connected with their customs regulations, to dispense with these documents and visas, etc., etc.,"

The substitution of the words "so long as" for the word "should" logically results from the objective laid down in the first paragraph as regards the abolition of consular invoices, consular visas for commercial invoices, etc., etc. This modification would also explicitly remind the Contracting Parties that they should endeavour to achieve this objective.

GREECE

The Greek Government is quite favourable to the reduction of cases in which consular visas are necessary, and to the principle of imposing no or at least minimum consular fees in cases where a consular visa is absolutely required.

Draft Recommendations

On this particular point, the Greek Government does not rely on the efficacy of recommendations and would favour formal obligations imposed on governments by means of conventions.

Generally, there is no case in which the consular visa is required in Greece for customs or commercial documents. In exceptional circumstances and by way of reprisals, such visas are required in the case of goods shipped from countries which impose such formalities.

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DRAFT RECOMMENDATIONS ON CONSULAR FORMALITIES (PREAMBLE) (Contd.)

GREECE (Contd.)

Therefore, we fully agree with the six points in the draft recommendations.

HAITI

The Haitian Government does not propose to abolish consular invoices.

ITALY

The Italian Government agrees in principle to the substance and wording of the recommendations, but would wish to add the following observations:

in certain cases consular visas may provide an effective check on the activities of unscrupulous exporters;

JAPAN

In favour.

NORWAY

The Norwegian Government has no objection to the present state of the drafts and, in principle, is strongly in favour of such recommendations.

SWEDEN

In principle, the Swedish Government strongly supports the greatest possible simplification of consular formalities.

UNITED KINGDOM

1. As was made clear at the Sixth Session of the Contracting Parties, the United Kingdom consider that the recommendations regarding consular formalities should be strengthened. It has, for a long time, been the view of the United Kingdom - and it is constantly reinforced by the commercial community - that the formalities imposed by most of the countries which require consular invoices or visas are a serious burden to traders and a hindrance to international trade which is not justified by the possible usefulness to the governments concerned of the certification of information. Acceptance by all contracting parties of the recommendations put forward by the Working Party regarding the rules to be observed in those cases where consular invoices and visas are retained would go only a little way towards the removal of the sources of complaint by traders. Indeed, the recommendations amount to little more than an amplification of the provisions

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DRAFT RECOMMENDATIONS ON CONSULAR FORMALITIES (PREAMBLE) (Contd.)

UNITED KINGDOM (Contd.)

of Article VIII of the General Agreement. The United Kingdom, therefore, considers that the Contracting Parties should go to the root of the matter and not merely urge the abolition of these documents but formally agree to abolish them within a definite period.

2. The introduction to the draft recommendations in the Working Party's Report draws attention briefly to the objectionable feature of the system of consular formalities. Instances could be quoted from many countries of regulations requiring fees out of proportion to the cost of the services rendered and, in effect, constituting an extra tax on the importation of goods; of time-wasting procedures and of excessive fines and extra charges for mistakes made in good faith. In some cases the complexity of the regulations appears to be increasing rather than decreasing, e.g. by requirements for the registration of exporters at Consulates, for the addition of new certificates and declarations, to be visaed by Consuls.

The I.C.C. fully supports the proposed recommendations, while regretting that they could not take the form of a binding convention, but would like to see the opening recommendation in favour of the abolition of consular invoices and of consular visas expressed in even stronger terms. This might perhaps be done by adding a clause at the end of the opening sentence of the recommendations to the effect that such invoices and visas are in the opinion of the Contracting Parties totally unnecessary except in very special circumstances.

The introductory part of the second paragraph is rendered somewhat obscure by the reference to "these documents and visas". These words should be replaced by "such consular invoices and visas".

DRAFT RECOMMENDATIONS ON CONSULAR FORMALITIES (Rule 1)

SIXTH SESSION DRAFT

- "1. the consular fee should be a small fixed charge not proportionate to the value of the goods".

GERMANY

Add the following:

"Consular invoices, certificates of origin, manifests, etc., relating to consignments of goods not exceeding U.S. \$10.00 (or the equivalent in foreign currency) in value should be exempt from fees charged for consular visas".

In view of the fact that consular fees for the certification of documents relating to consignments of small importance are often out of proportion to the value of such consignments, it would be necessary to lay down a maximum value if the exemption from consular fees were to be granted.

HAITI

Consular fees charged by the Haitian Consulates are as follows:

\$2. - per invoice when f.o.b. value does not exceed \$200. - and 1 per cent when value exceeds \$200.

\$20.- and \$25.- for the manifest visa.

\$2.- for the bill of lading visa.

UNITED STATES

As a further recommendation the United States suggests that shipments below a reasonable minimum value should be exempted from consular formalities.

Many countries now set a minimum value below which shipments do not require consular documents. This practice reflects their recognition that the movement of shipments of small value should not be hampered by the full documentary requirements and that whatever revenues may be derived from the legalization of documents is scarcely worth the administrative effort involved. The purpose of the suggestion for the insertion of an additional recommendation on this point is to encourage countries which do not now waive consular requirements for shipments below certain values to adopt the practice already followed by the majority of countries.

DRAFT RECOMMENDATIONS ON CONSULAR FORMALITIES (Rule 2)

SIXTH SESSION DRAFT

"2. the consular fee should be payable by the exporter and in the currency of the exporting country".

AUSTRALIA

Australia suggests inclusion of a recommendation to cover the case of an exporter who is called upon to obtain a consular visa for exports to a country which does not have consular representation in the country of export.

We suggest adding a recommendation in the following tenor -

"Where a country has no consular representative in the country of export and a consular visa is ordinarily required, an appropriate endorsement by a chamber of Commerce or by a government authority in the country of export should be accepted in lieu of the consular visa."

GERMANY

After the word "exporter" add the following: "or by the shipping or forwarding agent".

In practice, it is often the shipping or forwarding agent who is requested by the exporter to take care of formalities relating to exportation. This addendum would be necessary to ensure that the shipping and forwarding agents are also recognised by consular authorities.

HAITI

Consular fees may be paid to the country of exportation, may be settled in the currency of the country of exportation provided the consul effects conversion on the basis of the rate corresponding with the value in dollars.

INTERNATIONAL CHAMBER OF COMMERCE

It is suggested to delete the words "by the exporter and" in Rule 2.

DRAFT RECOMMENDATIONS ON CONSULAR FORMALITIES (Rule 3)

SIXTH SESSION DRAFT

"3. no additional charges should be imposed for mistakes made in good faith by the exporter in drawing up the documents, and within reasonable limits corrections should be permitted."

GERMANY

After the word "exporter"
add the following:
"or by the shipping or forwarding
agent".

Same observation as on Point 2

At the end of paragraph 3 add the
following words:

", without requesting that
altogether new documents be
submitted;"

In case mistakes are made in
good faith, corrections of the
documents already submitted
should be permitted in order to
avoid undue formalities.

HAITI

In cases of bona fide mistakes on the part of the shipper in the documents, corrections may be made by the importer on Haitian territory under existing customs legislation.

ITALY

The expressions "in good faith" and "within reasonable limits" are rather vague and consequently reduce the effectiveness of paragraph 3;

PHILIPPINES

Law and regulations of the Philippine Government require the charging of a fee for the certification of consular invoices. As a corrected consular invoice would require another certification, a nominal fee is charged therefor. It is suggested, therefore, that paragraph 3 be amended to read as follows:

"no additional charges or only nominal fees, if any, should be imposed for mistakes made in good faith by the exporter in drawing up the documents, and within reasonable limits corrections should be permitted;"

With respect to item 3 concerning corrections, it was the understanding of the United States member of the Working Party that the members were

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DRAFT RECOMMENDATIONS ON CONSULAR FORMALITIES (Rule 3) (Contd.)

PHILIPPINES (Contd.)

unanimously agreed that this item would not preclude the consular authorities of a signatory government from imposing a reasonable charge for visasing a replacement invoice required to be furnished because of a substantial defect in the original invoice discovered in the country of destination. It is suggested that, in accord with this interpretation, the language of item 3 be revised as follows:

"3. No charge in addition to a regular consular fee for any required replacement document should be imposed for mistakes made in good faith by the exporter in drawing up the document, and within reasonable limits corrections should be permitted;"

DRAFT RECOMMENDATIONS ON CONSULAR FORMALITIES (Rule 4)

SIXTH SESSION DRAFT

"4. no charge or only a nominal charge should be made for supplying the forms to be filled in."

HAITI

Consular invoice forms are issued against payment of a moderate tax.

For instance, American shippers pay \$0.15 duty per batch of five copies, \$1.30 for ten batches and \$8.50 for 100 batches. If forms were to be issued free of charge to American exporters, the expenditure incurred by the Haitian Government, on the basis of information obtained from the Haitian Consulate in New York, would amount to \$800 per year for an approximate amount of 24,000 batches of five forms.

ITALY

It is not clear which "forms" are referred to in paragraph 4. However, explanations could be given on this point when the draft recommendations are further examined.

DRAFT RECOMMENDATIONS ON CONSULAR FORMALITIES (Rule 5)

SIXTH SESSION DRAFT

"5. not more than five copies should be required of each document."

CZECHOSLOVAKIA

We recommend that the rule contained in recommendation No. 5 be further restricted so that no more than three copies of a consular invoice would be required.

HAITI

The number of copies required by Haitian legislation on the consular service is :

For consular invoices:	5 copies plus one original
For consular bills of lading:	5 copies plus three originals.

DRAFT RECOMMENDATIONS ON CONSULAR FORMALITIES (Rule 6)

SIXTH SESSION DRAFT

"6. delays in dealing with documents and charges for overtime should be reduced to a minimum."

GERMANY

At the end of the text of these draft recommendations add the following sentence:

"If a time limit is laid down for submission of documents to the consular authorities, Sundays and holidays should not be taken into account".

Such a provision would certainly facilitate international trade.

DRAFT RECOMMENDATIONS ON CONSULAR FORMALITIES (ADDITIONAL RECOMMENDATIONS)

SUGGESTED ADDITIONAL RECOMMENDATIONS

INDIA

To the rules which are proposed to be prescribed for being observed by the consular authorities in the country of exportation, the following rules may be added:

- (i) In case an assurance regarding the issue of an import licence is required as a condition of consular legalisation of shipping documents in the country of exportation, a reliable communication giving the number of import licence should be deemed as sufficient;
- (ii) Where time limits are laid down for the presentation of the documents through the consular offices, due account should be taken of the incidence of public holidays.

UNITED STATES

The United States suggests an additional recommendation that: "No penalties or additional charges should be applied when invoices are presented for consular legalization up to at least ten days after the departure of the carrier or the date of arrival of the carrier at destination, whichever is earlier."

Exporters are frequently unnecessarily pressed by the requirements of many governments that consular invoices must be presented for legalization at least 24 hours, and sometimes even 48 hours, before the sailing or departure of the carrier. Especially when the shipment consists of goods from various places within the exporting country and assembled at the port, it is often not possible to know in advance precisely what may be deliverable to the carrier in time. Standard practice that would allow invoices to be presented for consular legalization within a reasonable specified period after departure of the carrier would not only be a recognition of the practical needs of exporters, it would also reduce the need for the later filing of corrections, with attendant trouble for both shipper and consul.

INTERNATIONAL CHAMBER OF COMMERCE

The following additional rules are proposed:

- a) additional documents such as certificates of origin should not be required.

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DRAFT RECOMMENDATIONS ON CONSULAR FORMALITIES (ADDITIONAL RECOMMENDATIONS)
(Contd.)

SUGGESTED ADDITIONAL RECOMMENDATIONS

INTERNATIONAL CHAMBER OF COMMERCE (Contd.)

(The point of this rule is that where consular documents and visas are required, these are by their nature substitutes for other documents and particularly for certificates of origin. A consular invoice should not for instance have to be accompanied by copies of the commercial invoice and separate certificates of origin.)

- b) if an assurance regarding the issue of an import licence is required as a condition of consular legalization of shipping documents in the country of exportation, a reliable communication giving the number of the import licence should suffice.
- c) each Contracting State should make arrangements by which consignments of cargo destined to its territory and not exceeding an f.o.b. value specified by that State will be free of governmental documentary requirements, such as consular invoices, certificates of origin, and visas, and will be exempt from related consular fees.

(This recommendation is taken from Annex 9 to the Convention on International Civil Aviation.)

- d) where time-limits are laid down for the presentation of documents to the consular offices, due account should be taken of the incidence of public holidays.