

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Special Distribution

## DRAFT REPORT OF WORKING PARTY 1 ON THE INTERNATIONAL CHAMBER OF COMMERCE RESOLUTIONS

(N.B. A separate report will be issued regarding the draft  
Convention on Samples and Commercial Advertising Material)

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### I. Membership and Terms of Reference

#### Membership

Chairman: Mr. R. Ashford (United Kingdom)

Brazil  
France  
Germany  
Greece

India  
Italy  
Netherlands  
New Zealand

Pakistan  
Sweden  
United Kingdom  
United States

Terms of Reference.

- (a) To examine the draft Convention for the Purpose of facilitating the Importation of Commercial Samples and Advertising Materials, in the light of the comments received since the Sixth Session and to recommend the text of a convention which could be opened for signature by governments;
- (b) To examine the draft Recommendations on Documentary Requirements for the Importation of Goods and on Consular Formalities, in the light of comments received since the Sixth Session, and to recommend what action might be taken by the CONTRACTING PARTIES;
- (c) To consider the Resolution submitted by the Chamber on Valuation and on Nationality of Manufactured Goods in the light of the discussion at meetings of the CONTRACTING PARTIES; to invite the representatives of the Chamber to give an explanation in support of these Resolutions and to recommend to the CONTRACTING PARTIES what action should be taken; and
- (d) To consider the Resolution, submitted by the Chamber, on Formalities connected with Quantitative Restrictions and on the Sanctity of Contracts and to recommend to the CONTRACTING PARTIES what action should be taken.

General Report

In accordance with its terms of reference, the Working Party has examined the various questions which were referred to it, in consultation with representatives of the International Chamber of Commerce. A delegation from the ICC visited Geneva for this purpose and was invited to attend certain meetings of the Working Party to make statements on the subject matter of the Resolutions. The delegation comprised:

M. Dreyfus	M. Bideau
M. Fel Bue	M. Barton
M. Grosse	

Two representatives of the European Customs Union Study Group, M. Roux and Mr. Edmond-Smith, also attended certain meetings of the Working Party.

During the course of its numerous meetings the Working Party made a full examination of all matters referred to it, and as a result the Working Party now submits to the CONTRACTING PARTIES:

- (1) The text of a Convention on Samples and Commercial Advertising Material, with the recommendation that the text be finally approved, and that the Convention be opened for signature at a suitable date.

This subject is dealt with in a separate report.

- (ii) A code of standard practices in relation to Documentary Requirements for the Importation of Goods;
- (iii) A code of standard practices relating to Consular Formalities;
- (iv) A resolution regarding the application of import and export licensing restrictions in the case of existing contracts.

The Working Party recommends the CONTRACTING PARTIES to adopt this resolution and the two codes of standard practices at the present Session.

- (v) Proposals for intersessional studies on Valuation and Nationality of Imported Goods, with a view to further consideration of these subjects at a later Session of the CONTRACTING PARTIES.

Detailed comments on these subjects appear in Parts II to VI of this Report.

## II. Documentary Requirements for the Importation of Goods

1. The first Draft Recommendations on Documentary Requirements, based on the relative Lisbon resolution of the ICC, were prepared during the Sixth Session of the CONTRACTING PARTIES, and were then submitted to Governments for their comments. These comments were limited, on the whole, to expressions of approval.

2. The Working Party examined a proposal that the proposed standards should be converted into an international convention. The majority view was, however, that the most practical course would be to recommend the adoption of a Code of Standard Practices on this subject. The Standard Practices for Documentary Requirements for the Importation of Goods which appear as Annex A to this Report, are accordingly submitted.

3. These Recommendations differ little from the Sixth Session draft, except as regards Standard 2. The earlier text invited governments to attempt to establish a standard combined form designed to take the place of the following separate documents which might be required; viz, commercial invoice, consular invoice, certificate of origin.

Upon further study, and after consultation with the ICC, it appeared clear to the Working Party that, until customs regulations are uniform throughout the world, there can be no standard form capable of covering the different requirements of governments. If separate documents were to be combined in one form, this would mean in practice that different forms would have to be produced for each country. Moreover, the Working Party felt that in any amalgamation of documents, the essential commercial invoice was the most likely to suffer changes.

4. In view of the above reasons the Working Party considered that there should be no attempt to draw up a standard governmentally designed form, but that it was better that governments should specify their requirements - after taking into account the other standards contained in the text - and allow traders the option of submitting the required information either in separate documents or in a combined form. In order that the CONTRACTING PARTIES may keep this matter under review, the Working Party suggests that governments be asked to report not later than 1 August 1954, what steps they have taken to bring their practice into conformity with the recommendations.

### III. Consular Formalities

1. The first Draft Recommendations on Consular Formalities, based on the relative resolution of the IOC were also drafted at the Sixth Session and then submitted to governments for their comments. With few exceptions the comments were strongly in favour of the recommendations: two countries even proposed that they should be converted into an international convention.

2. As in the case of Documentary Requirements, the Working Party's view was that the most practical course would be for the CONTRACTING PARTIES to adopt a recommendation calling for the abolition of consular formalities on the grounds that they constitute an unjustified impediment to trade.

3. The text of the recommendations proposed by the Working Party appears in Annex A to this report.

The main recommendation is that the CONTRACTING PARTIES should urge upon governments the progressive abolition of consular formalities and in order to ensure that this process shall not be unduly prolonged, that governments should be requested to proceed to abolish such formalities at the earliest possible date and, in any case, not later than 31 December 1956. This limit was fixed in recognition of the administrative difficulties which an immediate demand for abolition would present to some countries; it was felt by the Working Party that five years would be sufficient time in which to achieve the desired aim.

4. As the first step in this process, the recommendation calls for the progressive reduction of consular fees, which constitute an irritating and expensive obstacle to trade and may have protective effects over and above that of customs duties.

This fundamental requirement is followed by a set of rules which governments should follow in the interim period. The rules proposed by the Working Party differ in several respects from those contained in the Sixth Session draft. The most important changes are the introduction of a \$100 exemption limit for consular invoicing formalities and provision for certification by alternative authorities in cases where there is no consular representative in the exporting country.

5. The Working Party also recommends that the CONTRACTING PARTIES should request governments to report not later than 1 September of each year what steps they have taken towards the abolition of consular formalities.

#### IV. Valuation of Goods for Customs Purposes.

1. The ICC Resolution on this subject drew attention to the urgent need for simplification and international standardization of methods of establishing the value of goods for customs purposes. It stated that, pending international standardization, the ICC relied on four principles laid down by its Quebec Congress in 1949. These were to the effect that systems of valuation should not be used as a method of increasing protection; that primary consideration should be given to the price shown on commercial invoices when determining the dutiable value of goods; that regulations should state clearly and fully the basis of dutiable value, with adequate publicity; and that internal duties or taxes from which exported goods were exempted should not be included in the dutiable value.

2. The ICC resolution welcomed the initiative taken by the European Customs Union Study Group in drawing up an international definition of value for customs purposes but made certain criticisms of the definition, particularly that it did not explicitly provide the actual commercial invoice price as the normal basis of value, that it adopted a c.i.f. basis, including cost of packing, took undue account of relations between buyers and sellers and was not clear regarding patents and registered trade marks. The ICC accordingly suggested that the CONTRACTING PARTIES to GATT might investigate the possibility of drawing up a standard definition for world-wide application on the basis of the Brussels definition revised in accordance with these criticisms.

3. The representative of the European Customs Union Study Group made a statement to the Working Party in which he explained that since the ICC resolution was passed at Lisbon there had been detailed discussions between representatives of the Chamber and of the Study Group as a result of which a very considerable measure of agreement had been reached. Part of the criticism had in fact been due to mis-appreciation of the fact that Brussels definition was a basic legal definition and not a detailed code for application by customs authorities. The Study Group representative emphasized the essential component parts of any valuation provision, namely, a constitutional background (such as Article VII of GATT), a law framed against the constitutional background (such as the Brussels definition of value) and, thirdly, working rules framed against the legal background. Finally, of course, such rules have to be applied to particular importations. The Study Group representative said that whilst the Brussels definition was claimed to give effect to every provision in Article VII of GATT, it was not claimed to be the only definition which could be devised under that Article or that it was necessarily appropriate for all countries.

4. As a result of the discussions between the Study Group and the ICC only one major issue was outstanding, namely that of the maximum use of the commercial invoice price, which was of course not a question of definition but of application and which could not be settled until after the Brussels Convention on Valuation had come into force. The Study Group representative

gave an explanation of some of the reasons why the commercial invoice price as such could not be established as a definition.<sup>1</sup>

5. The Working Party considered that questions arising out of the Brussels definition of value could more profitably be studied after the definition had been in force for a certain time. Nevertheless, it is felt that much might be gained from a review of the steps taken by the CONTRACTING PARTIES to give effect to the principles of valuation under Article VII. The Working Party recommends that governments should be asked to submit such reports not later than 1 June 1953.

#### VI. Nationality of Manufactured Goods

1. The International Chamber of Commerce resolution recommended the adoption by the CONTRACTING PARTIES of a common definition of nationality of manufactured goods. Consideration of the ICC proposal revealed that, while some of the members of the Working Party did not feel that any useful purpose would be served by attempting to draft a uniform definition at this stage, and that in any case any such attempt would be fruitless, the majority felt that a further study of the matter would be worthwhile. They considered that the widespread use of discriminatory restrictions, and the application, or non-application, of most-favoured-nation treatment in tariff matters lent great importance to the practical administration of methods for determining the nationality of imported goods.

2. In the first place, it was felt that more detailed knowledge of the principles underlying national legislation and of the implementation of these principles was required and that an inquiry might be instituted to ascertain what are the various existing national requirements. Such an inquiry was the only profitable starting point for any attempt to elicit common principles, and thence to attempt to draw up a satisfactory common definition.

3. To enable the CONTRACTING PARTIES to consider the problem, the Working Party recommends that contracting parties should submit not later than 30 April 1953 a statement of their present principles and practices, and that the secretariat should make a preliminary survey of this information. The secretariat's survey should be based on the following lines and the CONTRACTING PARTIES should accordingly endeavour to furnish their statement in a corresponding form.

#### REPORT ON THE NATIONALITY OF GOODS

1. Purposes for which origin is required to be established in various countries at present, e.g.
  - (a) Admission at differential rates of duty;
  - (b) Admission under quantitative restrictions;
  - (c) Trade statistics;
  - (d) Merchandise marks;
  - (e) Other reasons.

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<sup>1</sup> Mr. Edmond-Smith's statement was circulated as W.7/3.

2. Definition of origin:

- (a) Natural produce;
- (b) Goods manufactured in one country from national raw materials;
- (c) Goods manufactured in one country from imported raw materials;
- (d) Goods manufactured in more than one country.

3. Treatment of goods which have passed through one or more countries on the way to the country of importation as regards:

- (a) Admission at differential rates of duty;
- (b) Admission under quantitative restrictions;
- (c) Trade statistics;
- (d) Merchandise marks;
- (e) Other reasons.

4. Proof of origin:

- (a) Form of certificates or other proof;
- (b) Issuance of certificates;
- (c) Verification of facts by customs authorities of the importing country.

5. Conclusions as to international action called for in the light of the review of the subject.

4. The secretariat should keep in touch with the European Customs Union Study Group in order to be informed of any concurrent studies by that organization.

5. The International Chamber of Commerce should also be invited to initiate a similar inquiry of their members with a view to obtaining a more precise statement of any difficulties met by business men due to the absence of a ~~common~~ definition of nationality of goods.

VI. Formalities connected with Quantitative Restrictions

1. The main feature of this resolution was criticism of Article 3 of the Torquay Standard Practices, which it sought to strengthen so as to require governments to take account, to a much greater extent, of bona fide orders made before the announcement of trade restrictions. Subsequent to the Lisbon Congress in 1951 various countries intensified their import restrictions and the ICC reviewed the original resolution and submitted a further one entitled "Sanctity of Contracts".

2. The International Chamber of Commerce's proposals were examined in the light of Article 3 of the Torquay Standard Practices and also of recommendations made to Member Governments by the OEEC on the same problem. The Working

Party was fully aware of the difficulties caused to traders by the action of governments in imposing or intensifying restrictions. Even when all these difficulties are borne in mind, however, the Working Party consider t that it is impossible to draw up hard and fast rules for observance by governments finding themselves confronted with a situation requiring drastic action. A very important consideration is that the efficacy of measures taken to remedy a dangerous situation might be seriously reduced by any automatic grant of licences to traders producing evidence of prior contracts. Moreover, the possibility of fraudulent claims cannot be excluded.

3. Nevertheless, in the light of the above considerations the Working Party agreed that bona fide cases deserved the fullest consideration, whenever possible, in order to avoid undue hardship. They therefore suggest that the CONTRACTING PARTIES should adopt the following recommendation as a supplement to Article 3 of the Torquay Standard Practices:

The CONTRACTING PARTIES recommend to governments imposing or intensifying import or export restrictions that they should endeavour to authorize, to the fullest extent permitted by the exigencies of their economic and financial position, the importation or exportation of goods covered by firm and legitimate contracts which are proved to their satisfaction to have been concluded in the course of normal business before the announcement of new or intensified import or export restrictions. They should give prompt consideration to all individual cases; special consideration should be given to transactions involving perishable or seasonal commodities.

ANNEX A

Standard Practices for Documentary Requirements for the  
Importation of Goods

1. Documents Required

Facts relating to imported goods which are required for customs or other governmental purposes should, to the greatest possible extent, be ascertained from the commercial documents relating to the transaction in question. In principle the following commercial documents should suffice to meet governmental requirements:

- (i) transport document (bill of lading, consignment note);
- (ii) commercial invoice, accompanied where necessary by a packing list.

The specification of these documents does not mean that documents such as manifests, customs entry or declaration forms or import licences can be dispensed with. It is also to be understood that in certain circumstances the production of other documents such as certificates of origin, consular invoices, freight or insurance papers, sanitary certificates etc. may be required."

2. Combined Invoice Form

Where governments require two or more of the following documents:

- (i) commercial invoice
- (ii) consular invoice
- (iii) certificate of origin

they should alternatively accept at the trader's option, either separate documents or a combined form taking their place, provided the combined form incorporates all the information normally contained in the separate document.

3. Copies of Documents

Governments should keep down to a strict minimum the number of copies of documents required. As far as possible any government-issued forms should be supplied to traders free of charge or at approximate cost.

4. Collection of Statistical Information

Where statistical information is required by governments, it should as far as possible be taken from the customs and other documents normally submitted by the exporter or importer for customs purposes. The exporter should not be required to fill in statistical forms for the government of

the importing country and the importer should not be required to provide statistical information for the country of export. In other words, the government of the exporting country should get its data from the exporter and the government of the importing country from the importer.

5. Tariff Classification of Goods

It should not be obligatory for the exporter or shipper to classify his goods according to the customs tariff of the country of import. Such classification should be done by the importer, if required, subject of course to review by customs authorities.

6. Weights and Measures

While governmental authorities should be free to require their import and export documents to be made out in terms of the weights and measures in force in their territory, commercial documents expressed in terms of the weights and measures of the country of exportation, or in terms of any weights or measures used internationally in the trade concerned should be accepted in support of import documents. Similarly, export invoices expressed in terms of the weights and measures of the importing country or in terms of any weights or measures used internationally in the trade concerned should be accepted in support of export documents.

ANNEX B

Standard Practices for Consular Formalities

The CONTRACTING PARTIES urge the abolition of consular invoices and of consular visas for commercial invoices, certificates of origin, manifests, etc.

The CONTRACTING PARTIES consider that the abolition should be completed at the earliest possible date and, in any case, not later than 31 December 1956.

Pending the total abolition of consular invoices and consular visas, governments should reduce progressively the incidence of consular fees.

Pending the abolition of consular invoices and consular visas, in accordance with the foregoing recommendations, the CONTRACTING PARTIES recommend that the following rules be observed by the consular authorities in the country of exportation:

1. Consular fee should not be proportionate to the value of the goods.
2. Consular invoices and consular visas should not be required for consignments of goods of an invoice value not exceeding U.S. \$100 (or the equivalent in other currencies).
3. Any consular fee should be payable by the exporter and in the currency of the exporting country.
4. Where a country has no consular representative in the country of export and a consular invoice or consular visa is ordinarily required, an appropriate endorsement by the consular representative of another country, by a Chamber of Commerce, or by the customs authorities or any other governmental authority in the country of export should be accepted in lieu of the consular invoice or consular visa.
5. No charge (except 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 to the original documents should be permitted.
6. When forms are issued by governments, they should be supplied to traders free of charge or at approximate cost.
7. Not more than five copies of each document should be required.
8. Delays in dealing with documents and charges for overtime should be reduced to a minimum.

9. If a time limit is laid down for submission of documents to the consular authorities, days on which the Consulate is not open for business should not be taken into account.
10. No penalties or additional charges should be applied when invoices or other documents are presented for consular legalization before the date of importation, but not later than ten calendar days after exportation.

