

GENERAL AGREEMENT ON TARIFFS AND TRADE

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CONTRACTING PARTIES
Eleventh Session

CERTIFICATES OF ORIGIN, MARKS OF ORIGIN AND CONSULAR FORMALITIES

Report of the Working Party on Trade and Customs Regulations

1. The Working Party on Trade and Customs Regulations had examined the questions referred to it. The Working Party's report and suggestions on these questions relating to certificates of origin, marks of origin and consular formalities are set out in the following sections.
2. In order to afford parties interested in the question of marks of origin an opportunity to study the systems in force in the various countries, the Working Party recommends the derestriction at the close of the session of the information collected from governments and distributed in L/478 and addenda and in the secretariat note L/556. For the same reasons the Working Party recommends derestriction at the close of the session of the extracts from laws, regulations etc., relating to anti-dumping and counter-vailing duties, L/479 and addenda.

Points for decision

Certificates of Origin: (page 2)	paragraph 3, amendment of CONTRACTING PARTIES' Recommendations
Marks of Origin: (page 4)	paragraph 5, retention on the agenda for the Twelfth Session
Consular Formalities: (page 9)	paragraph 12, maintenance of the Recommendation of 1952; reports by contracting parties involved and review at the Twelfth Session
Page 1, paragraph 2:	Derestriction of documents

CERTIFICATES OF ORIGIN

1. The Working Party examined the proposal of the International Chamber of Commerce to amend the second paragraph of the Recommendation on Certificates of Origin, adopted by the CONTRACTING PARTIES on 23 October 1953 (Basic Instruments and Selected Documents, Second Supplement, page 57) which reads as follows:

"As large a number of competent bodies as possible should be authorized to issue certificates of origin, in order to minimize the time taken by traders in obtaining certificates."

2. The resolution adopted by the Chamber at its Congress in 1955 suggests that this paragraph is unsatisfactory in its present form for two reasons, namely: the multiplication of issuing offices might lower the value of the certificates issued, and exporters should themselves be able to prepare the certificates subject to visa by a competent authority. The Chamber, therefore, suggests that the paragraph might be amended to read:

"Governments should ensure that a sufficient number of authorized and genuinely competent offices is available to trade for the issuance and/or vising of certificates of origin."

3. The Working Party agreed that the present paragraph 2 should be re-worded, although some members disagreed with the reasons given by the Chamber for the proposed changes. The United Kingdom delegation suggested that the revised paragraph should not be worded so as to impose on governments an obligation to ensure the opening of offices by semi-official bodies for this purpose. One delegation, while approving the amendment submitted by the International Chamber of Commerce and expressing agreement with the general sense of the United Kingdom proposal, was unable to accept the precise wording of that proposal. The following wording based on the proposal by the United Kingdom delegation, and which it is understood has been favourably received by the International Chamber, is recommended by the majority of the Working Party to replace the existing paragraph 2:

In order to avoid delay to traders, governments should authorize a sufficient number of competent officers and bodies to issue certificates of origin and/or to visa certificates issued by traders.

4. The Working Party would draw attention to the fact that some members would have preferred to use in the English text the word "offices" instead of "offices and bodies", since it is the increase in the number of offices which is in the interest of trade and, not the number of institutions authorized to issue certificates. Other members thought that the French word "bureaux" would not be a satisfactory term since it might not be appropriate, for example, to the chambers of commerce. It was, therefore, agreed that the term should read; in English, "offices and bodies" and, in French, "bureaux et organismes".

5. In accepting the revised wording the Working Party agreed that care should be exercised by the governments concerned to ensure that the offices and bodies selected are competent to perform their functions in this field.

6. The full text of the Recommendation, as amended, would read as follows:

- "(a) Certificates of origin should be required only in cases where they are strictly indispensable.
- (b) In order to avoid delay to traders, governments should authorize a sufficient number of competent offices and bodies to issue certificates of origin and/or to visa certificates issued by traders.
- (c) Differences between the goods accompanied by a certificate of origin and the description in the certificate should not lead to a refusal to allow importation when the differences are due to minor clerical errors such as mistakes in the numbering of sacks, etc.
- (d) When, for any sufficient reason, an importer is unable to produce a certificate of origin at the time of importation, the customs authorities should grant the period of grace necessary to obtain this document, subject to such conditions as they may judge necessary to guarantee the charges which may eventually be payable. Upon the certificate being subsequently produced, the charges which may have been deposited, or the amount paid in excess, should be refunded at the earliest possible moment."

MARKS OF ORIGIN

1. The Working Party examined the proposals submitted by the International Chamber of Commerce (I/430) outlining a number of guiding principles for consideration as a basis for an international arrangement regarding marks of origin.

2. In making this submission it was the hope of the Chamber that the CONTRACTING PARTIES would agree on a Recommendation leading to a simplification of national marking requirements, a more uniform application of existing provisions, and the abolition of regulations which constitute disguised protectionism.

3. The Working Party considered that there would be great advantage if those marking requirements which have protective effects and which are a great burden to international trade could be eliminated. At present, exporters shipping to a number of countries find it necessary to provide various lines of production depending on the marking requirements in the country to which the goods are to be exported.

4. It was stressed that any such recommendation would have to be considered as an elaboration of the principles laid down in Article IX and in other articles of GATT, and would have to be worded in such a way as to make clear that it does not prevent the application of more liberal regulations.

5. The members of the Working Party, on the other hand, were of the opinion that a number of questions required further study and clarification and, therefore, it was considered advisable not to draft a recommendation at this session. However, the Working Party agreed that the International Chamber of Commerce should be advised of the results of its studies and should be requested to clarify certain points. Therefore, the Working Party recommends that this question should be referred to the Twelfth Session for further study in the hope that it will then be possible to reach agreement on the text of a recommendation.

6. However, the Working Party gave careful consideration to the following proposals by the Chamber and arrived tentatively at the following conclusions:

Countries should permit products presented at the frontier without the required mark to be marked under customs supervision and at the expense of the interested party

7. Members of the Working Party drew attention to the fact that Article IX of GATT satisfactorily deals with this problem. On the other hand, they acknowledged that, in spite of the provisions of paragraph 2 of Article IX to the effect that "whenever it is administratively practicable to do so, the contracting parties should permit required marks of origin to be affixed at the time of importation", importers in many instances are not permitted to attach the mark at importation. Some members stressed that their governments require that certain products arriving at the place of importation have to have the required mark affixed to them; they considered it necessary to maintain this system, and they are therefore not in favour of a recommendation which would weaken such a requirement by allowing the importer the option of adding the mark at importation.

8. On the other hand, no member was opposed to permitting, in exceptional instances, the marking of goods prior to release from customs. The Working Party therefore felt that if a recommendation on this subject should be considered necessary, going beyond paragraph 2 of Article IX, it could be proposed that:

countries should make provision that in exceptional cases the application of a mark of origin should be permitted under customs supervision in the importing country.

Countries should agree on a simplification of required marks of origin

9. The advantage which an agreement on the nature of the mark would have for international trade has been generally acknowledged. In so far as the wording of the mark is concerned, it was stressed by some members that the application of the name of the country of origin only would not be sufficient to indicate the origin of the product and they therefore thought that a term such as "made in ..." should be added to the name of the country. It was pointed out that a recommendation in this connexion would have to be worded in a way which does not exclude the acceptance of simpler marks such as the word "Foreign" or the name of the country of origin.

10. The idea of obliging governments to recognize a single language or agreed symbols was not considered as being practicable at the present time. The Working Party considered that the use of the language of the importing country should not be compulsory if the mark is expressed in another language which is generally understood in the importing country. It was, however, of the opinion that it might be possible to limit the number of languages by recommending that the name of the country should be accepted either in English or French, at the option of the importing country, with a term such as "made in ..." or "fabriqué en ...", as appropriate.

11. The acceptance of commonly understood initials for a country to replace a lengthy name, such as, for example UK, USA, should not be excluded.

12. Concerning the way in which a mark is attached on the product, the Working Party did not feel that an enumeration of the possible processes of attaching a mark, as proposed by the Chamber of Commerce (printing, stamping, weaving, etc.), should be included in a recommendation. In other respects the members of the Working Party were in favour of a recommendation that accepts any type of mark affixed in a way which ensures its visibility at the time of purchase by the consumer.

Marking requirements going beyond an indication of the country of origin should be limited

13. The Working Party considered that the question of additional marking requirements, such as an obligation to add the name of the producer or the place of origin or the formula of the product, should not be brought within the scope of any recommendation dealing with the problem of marks of origin. The point was stressed that requirements going beyond the obligation to indicate origin would not be consistent with the provisions of Article III, if the same requirements did not apply to domestic producers of like products.

Marking should in principle not be required on containers of marked articles

14. The Working Party was generally in favour of the idea that no marks of origin should be required on containers, etc. of properly marked products, regardless of whether they are designed to be sold with the product or are to be used for transport purposes only.

15. It was, however, stressed that there may be exceptions to such a recommendation for example in cases where the commonly acknowledged type of packing is customarily marked such as margarine boxes containing margarine packets, etc. It was thought that a recommendation would permit such exceptions, if introduced by the words "in Principle" as proposed by the Chamber.

16. Another problem raised in this connexion was that it would not be possible to conform to such a recommendation when the type of packing makes it impossible for the consumer to open it without damaging the goods; for example, goods which, because of their nature, are normally sold in sealed containers.

Exemption for articles which normally cannot be marked

17. The Working Party was in favour of a recommendation that marks on the containers or packing should be considered adequate if the goods consist of liquids, gas, or other products that cannot be marked.

18. The Working Party was also in favour of a recommendation in the sense of the Chamber's proposal -- in substance covered by paragraph 3 of Article IX that:

Articles which cannot normally be marked, owing to their small size, fragility or composition, or owing to the heavy costs involved, should be exempt from marking provided that the consumer is protected by the necessary indication appearing on the label, frame, or packing accompanying the goods.

Exemption for spare parts

19. The proposal by the Chamber that component parts should be free from marking requirements gave rise to various interpretations. The products envisaged could, for example, be spare parts for imported machinery, as well as for assembling. The proposal seemed to some members of the Working Party to be too broad and to need clarification by the Chamber concerning the basic intention.

Exemptions for goods bearing trade marks, etc.

20. The Working Party was not in favour of a recommendation inviting governments to be satisfied with trade marks or similar indications regarding the origin of goods. It was considered that such a recommendation could not

be implemented without instructions being issued to the customs officers. Instructions to give adequate control would need to be so extensive as to be virtually impossible to compile.

Exemptions for products of little value

21. The idea of exempting products of little value found a certain appeal among members of the Working Party. Exemptions for products based on a specified weight were thought to be unworkable. However, a recommendation on the following lines was considered possible:

The mark of origin should not be required in the case of consignments of a value less than a maximum to be determined by each country according to the product, it being understood that countries should not indicate a value lower than that provided for by existing legislation.

Exemptions for non-commercial imports

22. The Chamber's proposal, namely to free products obviously imported for the personal use of the importer was supported by a majority of the Working Party. The point was stressed that if such a recommendation should be adopted, it should be worded in a way as to include all imports normally enumerated in that context in the customs laws of the various countries, such as imports in consequence of inheritances, trousseaux, etc.

Exemptions for goods in transit, in bond and for objets d'art

23. The Chamber's proposal to free from marking requirements goods in transit, goods placed in bond, and articles which are obviously objets d'art, found general approval. One member of the Working Party indicated that for two products (wine and canned fish) his government requires marks of origin even if these products are only to be placed in bond or are in transit.

Penalties should be limited to nominal fines

24. The Chamber proposed that "except in the case of obvious fraud or second offences, the penalties imposed (confiscation, fines, special taxes) should be replaced by a small nominal fine". The Working Party was not in favour of this proposal which was considered to be less liberal than the provisions of paragraph 4 of Article IX.

The re-exportation of products which cannot be marked under customs supervision should be permitted without penalty

25. The Working Party was in favour of the proposal by the Chamber that if the addition of the mark at the time of importation was not practicable, the re-exportation of the product should be permitted without penalty.

Adequate notice should be given of changes in marking requirements

26. Although members of the Working Party recognized that the proposal concerning the entry into force or notification of marking requirements did not go beyond the general obligations laid down in Article X of GATT, they were in favour of recalling these obligations (especially in connexion with

the marking obligation, it is necessary that traders are given reasonably long notice before new provisions enter into force) by adopting a recommendation on the lines suggested by the Chamber, to read:

When a government introduces a system of marking or makes it compulsory for a new product and such measures may create difficulties for the traders and manufacturers concerned, reasonable notice should be given before the new provisions enter into force and there should be adequate publicity for the new regulations.

CONSULAR FORMALITIES

1. The Working Party reviewed the progress that has been made by contracting parties towards the abolition of consular formalities in accordance with the Recommendation of 7 November 1952 (BISD, 1st Supplement, page 25).
2. The Working Party noted with satisfaction that a number of countries have removed, and some others have relaxed, their requirements for consular formalities since the Recommendation was adopted. The Government of the United States, which removed the general requirement, should be mentioned in this connexion. The United Kingdom has removed its few requirements and France has limited the obligation to present consular visas to a few countries which do not grant reciprocity and to a small number of products.
3. The Working Party also noted with satisfaction that France and Ceylon have promised the full suppression of their fees and consular requirements in the near future, if possible before the end of 1956.
4. The following seven contracting parties still require consular formalities in a few exceptional circumstances:

Belgium	Indonesia
Ceylon	Sweden
France	United States
Greece	of America

5. There are a number of countries, especially in Latin America, which still have a general requirement of consular formalities, namely:

Brazil	Nicaragua
Chile	Peru
Cuba	Turkey
Dominican Republic	Uruguay
Haiti	

6. Details concerning the requirements of the countries enumerated in paragraphs 4 and 5 have been reviewed by a sub-group, the report of which is annexed.

7. The information received in this connexion shows that many countries will not have conformed with the Recommendation of 1952 to suppress all consular formalities before the end of 1956 and to reduce the consular fees during the interim period.

8. The Working Party discussed with the representatives of some of the countries listed in paragraphs 4 and 5 their reasons for maintaining consular requirements; the discussions were directed to finding a solution which would help these countries to overcome the obstacles to compliance with the Recommendation. Although the replies received do not give a full picture of the reasons why the governments wished to maintain consular formalities, two main reasons become clear. Firstly, the various governments take the

view that consular certification provides a measure of control, especially of the export declaration concerning the origin of the product and its value. Secondly, some governments maintain these formalities for fiscal reasons.

9. The Working Party came to the conclusion that it was important to continue full support for the principles expressed in the 1952 Recommendation. It therefore suggested that the Recommendation should be maintained. The Working Party thought on the other hand, that it would be preferable not to replace the date at which the contracting parties have under this Recommendation been invited to conform with it, but to provide that the matter should be kept under urgent review.

10. In this connexion the Working Party felt that countries which still maintain consular formalities might have the possibility of replacing the requirement of consular invoices, which are the source of many inconveniences to traders, by the requirement of adding a consular visa to the commercial invoice. That such solution could be considered to be a step in the right direction is indicated by the fact that some countries already do so, and that Brazil, in connexion with its tariff reform, is considering such a change.

11. Countries requiring consular visas to control e.g. the health of imported animals, plants, etc., should consider carefully whether in the context of the Recommendation for complete abolition of consular invoices and visas the addition of visas to documents given by those best acquainted with the facts serves any useful purpose.

12. Due to the fact that it must be borne in mind that the object of the Recommendation is to complete the abolition of all consular formalities, and noting that some countries still maintaining substantial consular requirements have expressed their willingness to examine whether the formalities can be reduced during the period preceding their complete abolition, the Working Party suggests that the CONTRACTING PARTIES adopt the following decision:

- (a) The Recommendation of 1952 concerning the suppression of consular formalities shall be maintained.
- (b) Measures for the abolition or reduction of consular formalities should be examined urgently with a view to introducing these measures at the earliest possible date.
- (c) All contracting parties applying consular formalities shall report to the secretariat as soon as any further progress in this matter has been achieved, or at least yearly.
- (d) The matter shall be reviewed again at their Twelfth Session.

ANNEX

PRESENT STATUS OF CONSULAR REQUIREMENTS

Report of the Sub-Group to the Working Party on
Trade and Customs

The Sub-Group has examined, with the help of the available representatives of the governments concerned, the situation concerning consular formalities in their countries and mainly the possibility of suppressing consular formalities and consular visas. The present note summarizes the information grouping the countries into two categories - those which exceptionally require customs formalities and those which regularly require such formalities.

1. Contracting parties which exceptionally require consular formalities

Belgium

Document required: Visa on certificates of origin
Products affected: Gloves of textile material originating in Hong Kong
Intention: It cannot be indicated when this temporary measure can be abolished
Fees: Per certification
Up to B.Frs.10,000.- B.Frs.30.-
Above B.Frs.10,000.- B.Frs.80.-

Ceylon

Document required: Consular visa on commercial invoice
Products affected: Trans-shipped preferential goods not covered by a through bill of lading
Intention: Arrangements pending to abolish this requirement by the end of 1956
Fees: Free

France

Document required: Visa on a certificate of origin or on the manifest
Products affected: Limited number of products imported from the few countries which do not grant reciprocity
Intention: Arrangements pending to abolish this requirement by the end of 1956
Fees: Per certification - Charges varying according to the country and type of certification from Fr. Frs.500.- to Fr.12,500.-

Greece

Document required: Consular visa on certificates of origin
Products affected: Trans-shipped goods which are claimed at lower contractual rates
Intention: No statement
Fees: Per certification - US \$2.44

Indonesia

Document required: Consular invoices
Products affected: Goods imported from Singapore
Intention: Indonesia would like to maintain this requirement
Fees: 0.4 per cent of the import value.

Sweden

Document required: Consular visa on inspection certificates
Products affected: Live animals and certain plants
Intention: The problem is being studied and the possibility of eliminating the requirements is being considered
Fees: For each certification, 5 Swedish crowns

United States

Document required: Consular visa on certain declarations
Products affected: 1) for anti-smuggling purposes - alcoholic liquors imported by vessels under 500 metric tons.
2) wild mammals and birds
3) certain animal by-products
Intention: 1) and 2) considered of non-commercial significance,
3) will be suppressed in the near future
Fees: No fees are levied

2. Contracting parties which - but a few minor exceptions - require consular formalities for all shipments

Brazil

Document required: Consular invoices

Intention: It is considered that in connexion with the tariff reform the requirement of a consular invoice can be replaced by a consular visa. Assurance has been given that the consular fees would not be increased

Fees: Invoices up to US \$1000 f.o.b. factory US \$ 8.00
For each additional US \$500 US \$ 2.00
Fees are levied at the Consulate

Chile

Document required: Consular visa on commercial invoice and on bill of lading

Intention: Under study at the present time

Fees: Invoices of a value over US \$50 ... 2.5% of f.o.b.value
Invoices of a value less than US \$50 ... 1% of f.o.b.value
less than US \$15 ... free
Charges varying from US \$5 to 10 for bills of lading, additional copies of commercial invoices US \$5.
Fees are levied at the Consulate

Cuba

Document required: Consular invoices

Intention: Cuba is not in a position at this stage to contemplate the possibility of abolishing consular formalities, although it is at present engaged in the study of a revision of the customs tariff and all matters related to import regulations

Fees: Consular invoices on merchandise imported from countries enjoying m.f.n. treatment ... 2% f.o.b. steamer value
from other countries ... 5% f.o.b. steamer value
In addition on any legalized document:
Cuba Stamp Tax ... US \$0.25
Rubber Stamp ... US \$0.25
Fees are levied at the Consulate

Dominican Republic

Document required: Consular invoices

Intention: At the present time the revenue received for the certification is regarded as being essential to the budget. A complete reorganization of the Customs administration is being considered and it is possible that the present requirement for consular formalities may be revised. No indication can be given as to when this might take place.

Fees: Invoices 3% of the f.o.b. value plus charges varying from US \$0.25 to 7 for certain documents

A nominal charge is made for the consular forms

Special fees levied at Consulates, 3% tax levied at importation with customs duties

Haiti

Document required: Consular invoices

Intention: No statement

Fees: Invoice 1% of the f.o.b. value; minimum US \$2.00
Fees are levied at the Consulate

Nicaragua

Document required: Consular invoices, consular visa

Special provisions: Consular invoices are required only on imports by sea or by mail. For imports by air, commercial invoices visaed by the Consulate are recognized.

Intention: During 1957 consular invoices might be replaced by consular visas on commercial invoices. Relaxations under consideration.

Fees: Invoice..... 5% of f.o.b. value
Shipments to Neptune Co. 3% of f.o.b. value
A nominal charge is made for the consular forms.
Fees are levied at the Consulate

Peru

Document required: Consular invoices; consular visa

Special provisions: All imports of a value less than US \$100 are free from consular formalities

Consular invoices are required only on imports by sea or by mail. For imports by air, commercial invoices endorsed by the Chamber of Commerce and visaed by the Consulate are recognized.

Intention: The replacement of the existing system will only be possible when the declared import value of products can be efficiently controlled in another way.

Fees: Per certification - US \$1.00 or 2.00 depending on the case

Higher fees are levied exceptionally only on bills of lading covering half or more of a shipload, in which case the fee might be US \$20.
These fixed fees are levied at the Consulate

Turkey

Document required: Consular visa on certificates of origin

Special provisions: The visa is only required for imports for which contractual duties are provided. It is made available within twenty-four hours.

Intention: The replacement of the existing fees by a tax which does not depend on the value of the imported product is under consideration.

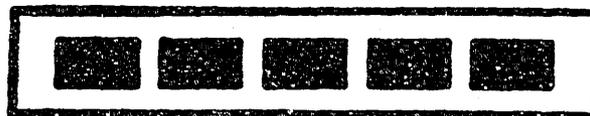
Fees: Over US \$3,600 0.3% of f.a.s. value
Under US \$3,600 0.5% of f.a.s. value
Fees are levied at the Consulate

Uruguay

Document required: Consular invoice

Intention: No statement

Fees¹: Consular invoice basic fee US \$10.50
plus f.o.b. value multiplied by 1.90 pesos x
0.001 x US \$2.10 (consular rate)
plus rates varying from US \$0.75 to 21 for
special certification.
Fees are levied at the Consulate



¹ Not confirmed.