GENERAL AGREEMENT ON TARIFFS AND TRADE

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Twelfth Session

CONSULAR FORMALITIES

Statement by the delegation of Brazil

The following statement dated 24 October 1957 has been transmitted by the delegation of Brazil:

The problem of consular formalities, including customs clearance procedures, is being studied in connexion with the reform of the customs law which is not directly linked to the tariff reform, and the Brazilian delegation is confident that the requirement of consular invoices will be abolished in the very near future. The suppression of all consular formalities was also under consideration, but would pose difficult problems for the Brazilian administration, which needs a very effective form of control over imports, especially import prices.

The Brazilian delegation gave an assurance that consular fees would not be increased but could not accept any obligation to suppress them (Annex - Brazilian Tariff Reform - Report of the Sub-Group to the Working Party, L/581, p.14).

The report served as a basis for one of the considerands of the respective Working Group at the time it proposed to the CONTRACTING PARTIES the Decision of 17 November 1956 (S. No.5, p.34). The considerandum has been drafted as follows:

The Brazilian Government is conducting a review of its customs procedures, including consular formalities, which it is confident will bring them into conformity with the provisions of the General Agreement and also, as far as possible, with the recommendations of the CONTRACTING PARTIES and in particular is taking steps to discontinue the requirements for the presentation of consular invoices ("d" 10, L/581, p.4).

During the period in which the Eleventh Session of the CONTRACTING PARTIES took place, the provisions on the matter in force at the time were those contained in the Regulation enacted with Decree No. 22,717, of 16 May 1933, which established the rules for the organization of consular invoices.

The Brazilian Delegation to the Eleventh Session offered guarantees as to the abolishment of the requirement of presentation of consular invoice, in the very near future (Annex to doc. L/581, page 14, Eleventh Session, English text), but has not accepted, however, any commitment for suppressing collection of consular fees.

In fact, Law No.3,244, of 14 August 1957, which deals with the Reform of the Customs Tariff, contained, as Article 38 and its paragraphs, the following wording:

> "Article 38 - From 1 January 1958 on, the consular invoice will be abolished, and to the commercial invoice will be applied the regulation approved by Decree No.22,717, of 16 May 1933, whenever applicable.
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> Para. 1 - The commercial invoice will contain the indications to be determined by regulation, and will be visaed by the consular authority, upon payment of the fees provided for in the above mentioned decree and upon presentation of the certificate of licence issued by the External Trade Bureau of the Bank of Brazil, or, in the case foreseen im Article 55, of evidence of exchange coverage issued by the Exchange Bureau of the Bank of Brazil.
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> Para. 2 - Exception made to cases foreseen in law or regulation, the consular visa constitutes essential condition for customs clearance; the non-compliance with this requirement will result in a penalty in the form of payment of a fine equivalent to 20% (twenty per cent) of the value of the merchandise, with no bearing on other penalties provided for by law; but this consular invoice will not imply, however, the approval of data concerning the nature, quantity and price of the merchandise, contained in the commercial invoice.
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> Para. 3 - Besides the information indispensable to customs clearance, the note of importation must contain other indications for statistical purposes, or be accompanied by a special form for the same purpose, in the manner established by regulation."

At this time, adequate studies are being conducted by a joint commission of the Ministry of Foreign Affairs and the Ministry of Finance, for implementing the respective regulation within the smallest possible period.

This is, at this moment, the position of Brazil, and it must be emphasized that Brazil, within the limit of its possibilities, tried to comply with the recommendations of the CONTRACTING PARTIES, by suppressing the requirement of presentation of consular invoices. As to the payment of fees and to the consular visa, these continue to be required by the new Tariff Law. Besides, the Chamber of International Trade itself (doc.L/631) recognizes the difficulties involved in a sudden abolishment of all consular formalities.