

GENERAL AGREEMENT ON TARIFFS AND TRADE

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CONSULAR FORMALITIES

Report of the Panel of Experts on Consular Formalities

1. The Panel of Experts, convened by the Executive Secretary, met in Geneva from 12 to 16 March 1962. Mr. S. Cederbalk was nominated Chairman. The names of the experts and the observers are appended.
2. The terms of reference of the Panel were: "in the light of the Recommendation of the CONTRACTING PARTIES of 7 November 1952, to make a survey of existing consular formalities and, in the light of the experience of those contracting parties which have already taken steps to abolish such formalities, to recommend ways and means of ensuring their simplification and elimination".
3. The Panel of Experts noted with regret that the countries normally applying consular formalities did not find it possible to nominate experts to serve on the Panel.
4. The members of the Panel, following the decision of the Council, invited an observer from the International Chamber of Commerce to co-operate with the Panel of Experts.
5. The Panel of Experts reviewed the documentation which had been prepared in connexion with earlier consideration of this problem in the GATT and examined the present situation concerning consular formalities. The contracting parties which regularly require consular formalities are listed in Annex A and those which exceptionally have recourse to consular formalities in special circumstances in Annex B. These lists also show the relevant details. In drawing up these lists the experts and the representative of the ICC used the best information available to them but in most cases they were not able to confirm this information with the countries concerned.
6. The consular formalities listed in Annex A are given in a simplified form for easier appreciation of the present situation, but this presentation does not depict in full the difficulties caused by all of these consular requirements. Additional requirements are listed in remarks to Annex A.
7. The principles involved in the Recommendation on Consular Formalities of 1952, as amended in 1957, are addressed in particular to contracting parties to GATT but apply equally to the whole business world. A brief reference has therefore been made in Annex C to consular formalities required by a number of countries which are not contracting parties to GATT.

8. The Panel of Experts noted with satisfaction that some important trading nations which regularly used to require consular formalities had suppressed entirely this requirement since the Recommendation on Consular Formalities was adopted in 1952. These measures fulfilled the most urgent wish of the traders in this connexion by allowing goods to be exported without consular intervention. In this respect reference should be made to Argentina, Chile, Cuba and the United States which had removed their consular requirements.

9. The Panel of Experts also noted with satisfaction that relaxations had been put into effect by certain of those countries which only applied consular restrictions in special circumstances. France and Sweden now each have only one requirement in an exceptional case.

10. The Panel considered the experience of countries which had removed consular formalities. The experts from France and the United States stressed that the removal of these formalities had stimulated and facilitated commercial relations. They pointed out in particular that customs authorities are well enough equipped to ascertain the correctness of information without having to rely on consular formalities, so that the suppression of this requirement had not caused any difficulties to their administrations.

11. Attention was drawn to the reasons given by Argentina and Cuba¹ for the removal of consular requirements. In the Decrees of both countries by which the consular requirements were removed the idea was expressed that if world trade was conducted without consular formalities this would be in the interest of the final consumer. Both countries also stressed in their Decrees the fact that the removal of consular requirements would also permit a rationalization of their customs administration.

12. It was noted with regret, however, that eight contracting parties continue normally to require consular action prior to the importation of goods into their countries. It was also noted that in all these instances the main aim of the trading community had not been achieved, namely the freeing of exporters from consular intervention. The eight countries involved are Brazil, the Dominican Republic, Haiti, Nicaragua, Peru, Portugal, Turkey and Uruguay.

13. Five of these eight countries require imports to be accompanied by consular invoice forms and levy fees; these countries are the Dominican Republic, Haiti, Nicaragua, Peru and Uruguay.

14. Two countries accept commercial documents as a basis for consular action, but they also require these documents to be legalized by the Consulate and the payment of fees. The countries in question are Brazil and Turkey. Insofar as Turkey is concerned, it should be noted, however, that not all imports are subject to consular requirements.

¹See document L/1704.

15. The eighth country requiring consular formalities regularly is Portugal. It is to be noted, however, that Portugal only levies nominal fees.

16. The question was raised whether the levying of substantial consular fees by the importing country was in conformity with the obligations of Article VIII of GATT since the rates exceeded the costs of the services rendered and were not the equivalent of an internal charge. It was noted, however, that Article VIII being in Part II of GATT involved obligations only within the arrangements for provisional application of the Agreement.

17. The Dominican Republic, Nicaragua and Peru levy the consular fees at importation. It was generally recognized that such a system is preferable to any system under which the fees are levied at the Consulate in the exporting country. Nevertheless the view was expressed by the Panel that a system under which the fees are levied on importation is still not an entirely satisfactory solution, if exporters are obliged to prepare special documents for shipment and to contact the relevant Consulate.

18. In this connexion it was noted that in the GATT Recommendation on Consular Formalities it was suggested that the removal of such formalities be facilitated by the shifting of the levying of consular fees from the Consulate in the exporting country to the importing country. It was also noted that the removal of the consular formalities by Argentina and Chile was preceded by such a step.

19. The Panel of Experts felt that the countries which already levied consular fees on importation or were intending to do so instead of levying fees in the country of exportation should also consider the main part of the Recommendation, namely the suspension of those consular formalities which require the exporter to present commercial or special documents at Consulates in the exporting country.

20. In conclusion the Panel of Experts wish to re-emphasize that it would be a major contribution to international trade if consular intervention in the country of exportation could be eliminated. The preparation of consular invoices which have to be submitted to the Consulate for legalization and the payment of fees are not the only obstacles to export trade which this system imposes. Rejections of consular invoices for trifling irregularities, heavy fines for corrections and charges for presentation of documents after a specified time before the ship sails all play their part. Moreover, where the Consul is not available at the port of shipment, further delays are caused, particularly when the hours during which he is available to legalize these documents are limited. The Panel was informed that as a result of such delays cargoes have missed ships.

21. Taking these considerations into account the Panel of Experts suggests that the CONTRACTING PARTIES make the following Recommendation:

Considering that the CONTRACTING PARTIES recommended ten years ago the removal of consular formalities;

Considering furthermore that a number of contracting parties have successfully removed their consular requirements;

Considering also that some contracting parties still continue to require consular formalities; and

Stressing that the abolition of consular formalities would make a substantial contribution to the reduction of trade barriers,

The CONTRACTING PARTIES

Recommend to contracting parties still maintaining consular requirements to remove them in conformity with the Recommendation of 1952, as amended in 1957.

22. The Panel of Experts also suggests to the CONTRACTING PARTIES that, taking into account the provisions of Article VIII(2) and the Recommendation of 1952/1957, it would be helpful if contracting parties still regularly requiring consular formalities should be invited to report to the next session of the CONTRACTING PARTIES:

- (a) the reason for maintaining these requirements, and
- (b) their future policy on this matter.

ANNEX A

List of Contracting Parties Regularly Requiring Consular Formalities

Country	Type and number of documents to be presented at Consulate ¹				Fixed fees to be paid for forms and/or legalization ³	Percentage fees calculated on the value	
	Consular invoice	Commercial invoice	Bill of lading	Certificate of origin		At Consulate	At Importation
BRAZIL	-	4 ^{*2}	5 [*]	-	-	0.44% ⁴	-
DOMINICAN REPUBLIC	6	3 [*]	5 [*]	-	Yes	-	3% fob
HAITI	7	7	8 [*]	-	-	2% fob	-
NICARAGUA	8	4	3 [*]	-	Yes	-	7% fob
PERU	4	1	5 [*]	-	Yes	-	8% fob
PORTUGAL	3 ⁵	3	-	Yes ⁶	Yes	-	-
TURKEY	-	3 ²	-	3 ^{* 7}	-	0.3% ⁴	-
URUGUAY	4	4	4 [*]	-	Yes	0.1% to 5% ^{4 & 8}	-

¹The consular action consists in issuing consular invoices (if required) and/or legalizing those of the commercial documents which are marked with an asterisk(*).

²The commercial document has to be certified by a national chamber of commerce.

³These fees vary up to about US\$20 payable in the currency of the exporting country.

⁴Percentage equivalent of charges levied in currency of exporting country as applied to larger quantities.

⁵The consular invoice is called "declaration of cargo".

⁶Only for goods not shipped directly.

⁷There are exemptions from the legalization formalities and fees for goods of a class or kind specified by regulation. All goods under a hundred lira are exempted.

⁸Depending on exchange rate.

REMARKS TO ANNEX A

BRAZIL	<p>The commercial invoice must be prepared in Portuguese.</p> <p>Formalities must be completed not later than thirty days after the sailing date.</p>
DOMINICAN REPUBLIC	<p>The consular invoice is usually required in Spanish. United Kingdom sources say that English is also permitted. Corrections are only accepted in Spanish (fee \$5.50¹).</p> <p>Formalities must be completed not later than forty-eight hours before sailing time.</p>
HAITI	<p>The consular invoice must be prepared in French or English. Corrections are accepted only in French.</p> <p>Formalities must be completed twenty-four hours before sailing time.</p> <p>\$6¹ is charged if a correction is made to the consular invoice.</p> <p>In addition a stamp duty of \$1.10 is also payable on both the consular invoice and the bill of lading.</p>
NICARAGUA	<p>The consular invoice must be in Spanish.</p> <p>There is no time limit for the completion of formalities.</p> <p>\$2.50¹ is charged if a correction is made to the consular invoice.</p> <p>Import licences have to be presented at the Consulate.</p>
PERU	<p>The consular invoice must be in Spanish and asks for much additional information (including the tariff number) not usually given in a commercial invoice.</p> <p>Formalities must be completed seventy-two hours before sailing time.</p>
URUGUAY	<p>Formalities must be completed twenty-four hours before sailing time.</p> <p>There is a complicated system of special exchange rates for the calculation of consular charges which increases them considerably.</p> <p>\$22¹ is charged if a letter of correction is required.</p>

¹Equivalent of charges levied in the currency of the exporting country.

ANNEX B

Contracting Parties which Require Consular
Formalities only in Special Circumstances

BELGIUM

Document required: Consular visa on certificate of origin.
Products affected: Textile products from Hong Kong.

FRANCE

Document required: Consular visa on certificate of origin.
Products affected: All products originating in Hong Kong.

GREECE

Document required: Consular visa on certificate of origin.
Products affected: Goods trans-shipped through a country for which higher duty rates are applied claiming the lower rates to which goods from the country of origin are entitled.

INDONESIA

Document required: Consular invoice.
Products affected: Goods imported from Singapore.

SWEDEN

Document required: Consular visa on inspection certificate.
Products affected: Live bees.

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 animals and birds.
(3) Certain animal by-products.

ANNEX C

List of Consular Requirements Existing in Non-Contracting Parties

Country	Type and number of documents to be presented at consulate ¹				Fixed fees to be paid for forms and/or legalization ³	Percentage fees calculated on value		Remarks
	Consular Invoice	Commercial Invoice	Bill of Lading	Certificate of Origin		At Consulate	At Importation	
BOLIVIA	-	5* ²	1*	-	Yes	-	-	Special fee of 1% collected on transport cost
COLOMBIA	4	2	2	-	Yes	-	1% fob) Import licence required
ECUADOR	6	4 ²	3	-	Yes	0.25% ⁴ fob	9.5% fob	
GUATEMALA	3	5	5	-	Yes	-	6% cif	
HONDURAS	5	5	5*	-	Yes	8% fob	-	
IRAN	-	6* ²	-	5*	Yes	-	-	
SOUTH KOREA	4	4 ²	-	3	Yes	-	-	
LIBERIA	5	-	-	2	Yes	1.5% cif	-	
LIBYA	-	-	-	2*	Yes	-	-	
MEXICO	4	-	-	-	Yes	-	-	
PANAMA	5	4	4*	-	Yes	-	5% fob	
PARAGUAY	4	4 ²	4	-	Yes	-	5% fob	
PHILIPPINES	5	5	-	-	Yes	-	-	
EL SALVADOR	-	8*	4	-	-	-	-	
SAUDI ARABIA	-	1 ²	-	-	-	-	-	
SYRIA	-	2* ²	-	-	-	0.25% ⁴	-	
VENEZUELA	8	2 ²	1	-	-	-	-	
VIETNAM	-	4 ²	-	4	Yes	-	-	

¹The consular action consists in issuing consular invoices (if required) and/or legalizing those of the commercial documents which are marked with an asterisk (*).

²The commercial document has to be certified by a national chamber of commerce.

³These fees vary up to about US\$10.- payable in the currency of the exporting country.

⁴Percentage equivalent of charges levied in currency of exporting country, as applied to larger quantities.

APPENDIX

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