

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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## Multilateral Trade Negotiations

Group "Non-Tariff Measures"

Sub-Group "Customs Matters"

### IMPORT DOCUMENTATION REQUIREMENTS

1. At its May meeting, the Sub-Group "Customs Matters" agreed that members should submit to the secretariat in writing by 15 September 1975 lists of what they considered to be excessive in other countries' information requirements, explaining and identifying their specific difficulties. The Sub-Group would then hold discussions at its next meeting on the basis of a secretariat paper which would give a synopsis of the complaints and comments received". (MTN/NTM/4, paragraph 8 and GATT/AIR/1188.)
2. Seven communications have been received by the secretariat.
  - Australia
  - Canada
  - Czechoslovakia
  - Finland on behalf of the Nordic Countries
  - Japan
  - Romania
  - United States

Because of the small number of replies, and the difference of emphasis of these replies, it is difficult to present an entirely satisfactory synopsis of the complaints and comments received. Nevertheless the secretariat has tried to put together all the information received along the following lines:

- A. General comments
- B. Specific complaints against documents
- C. Customs Cooperation Council's list of particulars required by customs authorities for formalities on the importation of goods
- D. Other excessive requirements
- E. Consular formalities and fees

A. General comments

3. Japan has said that for smooth developments of international trade, it is desirable to simplify import documentation to the extent possible. In its view, it is contrary to the cause of simplification of import documentation to demand the submission of customs invoices separately.

B. Specific complaints against documents

(a) National complaints

4. The Nordic countries have notified into the NTB Inventory those specific cases, where information requirements are considered to be excessive.

5. As regards specific documents, the commercial invoice should, in their view be accepted for any customs purposes, and no special customs invoice should be used or demanded. In those cases, where special customs invoices would still be needed after the MTN, they should be harmonized, and as a first step be based on the ECE layout key.

6. The commercial invoice should be accepted by the importing country. The following information should not, however, be demanded: signature, specification of the contents of each package, number of letter of credit, name of vessel, name of shipping or air transport company, partial or total delivery, statistical number of importing country, certificate of correctness. Reference is made to the Nordic proposal in this respect in document MTN/3B/11, Annex A. The Nordic countries reserve the right to notify additional points to the above list at a later stage.

7. Canada has complained against Brazil that advance indication of shipping weights is required prior to issuance of an import licence for products such as phone equipment and auto parts. This requires exporters to pack completely goods before applying for an import licence, with resulting costly inventory accumulation and delays in filling orders.

8. Canada has also submitted the following complaints with regard to United States information requirements.

9. (a) Additional requirements for some products. In addition to information requested on the Special Customs Invoice Form 5515, there are several products for which additional information is required. Most of these additional requirements are for tariff classification purposes. While it is recognized that some of this information may be necessary for proper classification of certain products, this should be examined to determine their necessity.

10. (b) Foreign and export value. Goods imported into the United States are valued for duty purposes under either section 402 or 402(A) of the Tariff Act of 1930. The first basis of valuation under 402A is the higher of the foreign or export value and covers only goods included on the "Final List". Section 402 introduced by the Customs Simplification Act of 1956 eliminated foreign value as a basis for valuation for products not on the "Final List". To enable United States Customs to establish a foreign value, the exporter is required to submit information regarding sales of his product in his domestic market. However, United States Customs insist that information on domestic sales be supplied for goods valued under Section 402.

11. (c) Importer's number. As a large percentage of sales to the United States are on a duty-paid delivery basis, a United States Customs Broker acting with power of attorney from the exporter is usually shown as importer of record. However, the ultimate consignee must also be identified on the customs documents by means of his importer's number which is obtained through formal application to the United States Customs. This additional requirement may act as trade impediment; many potential customers in the United States may not want to become involved in the customs administrative procedures.

12. (d) F.o.b./c.i.f. statistical reporting programme. All exporters to the United States are required to estimate and report the value, f.o.b. border point of export, of merchandise regardless of the terms of sales. Therefore, exporters cannot quote only c.i.f. or f.o.b. prices with freight to the national border for inclusion on the invoice. This requirement relates solely to the gathering and reporting of statistical information and is not related to information necessary for value for duty calculations.

13. Romania

As regards the excessive import documentary requirements of some developed countries, the Romanian party recalls the notifications made in this respect within the framework of the Inventory of Non-Tariff Barriers, in particular notifications No. 208 - certificates of origin requested by Italy in case of doubt - and No. 229 - Special United States Invoice Form 5515.

(b) United States Customs Invoice Form 5515

14. Australia: Examination of difficulties experienced by Australian exporters and their agents in other countries in relation to information requirements in customs documents which could be regarded as excessive has revealed that the principal problem of this sort occurs with the United States Customs Form 5515. While the United States customs authorities have published a set of instructions for the preparation of the invoice, there are some requests for information for which the reason is not evident and the requirements for which could be considered "excessive". These occur in Sections IV and V of the form and are as follows (the number of the question referred to in the form appears in brackets):

- Section IV - (2) Manufacturer's numbers or symbols  
 (3) Importer's number or symbols  
 (6) Current unit price: this information would have only two uses -
- (i) for application of "foreign value" criterion (infrequently used)
  - (ii) for prima facie evidence of dumping (see comments on Section V, Item 9) (on the other hand, no instruction is given on the amount to be shown if the goods are neither sold nor offered for sale for home consumption - a fairly frequent event, in Australian experience).

Section V - The use of questions in this Section in general would appear unnecessary. In most cases the question asked demands "yes" for an answer and a simpler form would, in our opinion, be a series of statements saying what is to be shown.

Question 3 appears to be superfluous, having already been asked in Item 1.

Item 9 appears to be unreasonable, in that the invoice is used to provide prima facie evidence of dumping. Australian experience is that little notice can be taken of the home consumption price shown on the invoice as evidence of the "normal value" for dumping purposes, particularly in applying the GATT Anti-Dumping Code. It does seem unreasonable to require the invoicer to supply dumping information for all transactions, when anti-dumping action is applied to very few commodities.

15. Canada: Question 8 relates to cost for "assists" (e.g. dies, tooling, blue-prints, financial assistance, etc...) not included in the invoice price. The exporter must identify by whom and on what basis "assists" have been supplied. A copy of a commercial invoice showing the value of assists must be attached to Form 5515 if invoiced separately. If the exporter is not the manufacturer of the goods, it is often impossible for him to know whether their production involved assists. Even if the exporter is the manufacturer, it is very difficult (i) to determine what constitutes an assist and (ii) to place any meaningful value on the same. United States authorities have not defined what constitutes an assist. Errors, resulting from confused situations often lead to fraud and penalty actions.

16. Question 9 relates to the United States anti-dumping laws as they affect the selling price of each and every item described on the invoice. An exporter must make a declaration that any difference between the declared domestic and export prices "would not result in sales at less than fair value within the meaning of United States anti-dumping laws". In effect, this question amounts to an anti-dumping survey on every product exported to the United States. This raises a question of whether such a practice conforms with the letter and spirit of Article 5 of the Agreement on Implementation of Article VI of the GATT and places exporters in the position of having to decide a complicated question of United States law, i.e. whether or not sales are occurring at "less than fair value".

17. Japan: Among customs invoices of various countries, the special customs invoice (Form 5515) of the United States, imposes, in Japan's view, the heaviest burden to importers and exporters in terms of its complexities and its wide ranging information required to be stated.

18. More specifically, importers or exporters are required to state the domestic prices of the exporting countries. The information thus acquired could be utilized not only for the proper purpose of customs valuation but also for the purpose of anti-dumping investigations.

19. In this connexion, the following requirements and provisions of the invoice constitute, in Japan's view, serious distortive elements of trade;

- (a) Requirement that both domestic and export prices be stated.
- (b) Provision that in case the domestic price is higher than the export price, it is regarded and labelled as "an indication of possible sales at less than fair value".
- (c) Requirement that the reason of the difference between the domestic and the export price should be shown in either of the following ways:
  - (i) in declaring that the differential is "the result of conditions of sale which would not result in sales less than fair value within the meaning of the United States Anti-Dumping Laws", or, (ii) in attaching a note of an explanation of the differences.
- (d) Provision that "in his discretion the appraiser may nonetheless require submission of the information called for" under (c)(ii) above.

C. Customs Cooperation Council's required by customs authorities for formalities on the importation of goods

20. For Czechoslovakia, the information and data required by the uniform import declaration contained in the above list are considered by Czechoslovakia as sufficient and adequate. Other information requirements are considered as excessive and undesirable.

21. The United States considers the following requirements to be unnecessary for customs administration and as such burdensome to the movement of trade.

(a) Particulars relating to persons who participate in the operation

1. Status of seller - Grower, supplier, manufacturer, etc. - Importer may have no source of knowledge for this requirement. (Australia).
2. (4)\* User of the goods - Importer may have no source of knowledge for this requirement. - (Belgium, Luxembourg and United Kingdom - for temporary importations).

(b) Particulars relating to the transport of the goods

3. (12)\* Place of Introduction - If other than port of entry, this requirement would appear to be unnecessary. - (Austria, Finland, Ireland, Korea, United Kingdom)
4. (16)\* Place of destination - Importer may have no source of knowledge for this requirement. - (Australia, Austria, Brazil, Costa Rica, France, Panama, Peru, Philippines, United Kingdom, Zambia)
5. (17)\* Transport for own account or for account of other persons. - This requirement is a nuisance - (Belgium, France, Luxembourg)
6. Name of captain of carrier - Importer may have no source of knowledge for this requirement. - (Dominican Republic)

(c) Particulars relating to the goods

7. Legal weight - Importer may be confused by the meaning of this requirement. - (Chile, Guatemala, Haiti, Mexico)
8. Uses of Commodity - Importer may have no source of knowledge for this requirement. - (Philippines)

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\* The numbers in parentheses refer to the requirement as it is listed in CCC document 18.909. Items without these numbers do not appear in the CCC document.

9. (26)\* Financial or commercial system applicable to the goods - exchange control. This requirement is a nuisance - (Algeria, Bangladesh, Brazil, Burma, Chile, Colombia, Congo, Dahomey, Ecuador, Ethiopia, France, Gabon, Ghana, Greece, India, Indonesia, Iran, Iraq, Israel, Ivory Coast, Kenya, Korea, Nicaragua, Peru, El Salvador, Senegal, Spain, Switzerland, Tanzania, Togo, Uganda, Uruguay, Zaire)
10. (27)\* Type of storage - This requirement is unnecessary for customs clearance and as such is a nuisance and hindrance to trade - (Finland)
11. (28)\* Date of entry into warehouse - This requirement is unnecessary for customs clearance and as such is a nuisance and hindrance to trade - (Finland)
12. Information required for the operation of licensing systems applicable to goods such as import permit number-import control. This requirement is a nuisance - (Algeria, Bangladesh, Brazil, Burma, Chile, Colombia, Congo, Ecuador, Ghana, Greece, India, Indonesia, Iran, Kenya, Korea, Mauritius, Nigeria, Peru, Portugal, Senegal, Tanzania, Togo, Trinidad and Tobago, Turkey, Zaire)
- (d) Particulars relating to the value of the goods
13. (36)\* Rates by which the value is adjusted - Importer may not know the specifics of the financial system needed for this requirement - (Cameroon, France, Israel)
14. (39)\* Value appraised by Customs - If different than customs value (No.29, CCC document 18.909, this requirement would appear to be unnecessary - (Korea - entered by Customs)
15. Value and Origin Clauses which must be included on the invoice used for customs purposes. These specifically worded clauses are unnecessary for customs clearance and as such are a nuisance and hindrance to trade - (Australia, Barbados, Canada, New Zealand, Nigeria, South Africa, Zambia)

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(e) Particulars with a view to the settlement of import duties and taxes

16. (43)\* Deferred payment - Bank control - This requirement is a nuisance - (Algeria, Belgium, Canada, Chile, Congo, Dahomey, Denmark, Ecuador, France, Gabon, Ghana, Greece, India, Indonesia, Iran, Israel, Italy, Ivory Coast, Luxembourg, Nicaragua, Nigeria, El Salvador, Senegal, Sweden, Togo, Zaire)
17. (44)\* Deposits - This requirement is a nuisance - (Algeria, Argentina, Austria, Belgium, Canada, Chile, Colombia, France, Greece, Indonesia, Iran, Ireland, Israel, Japan, Korea, Luxembourg, New Zealand, Philippines, Portugal, El Salvador, Sweden, Switzerland, Turkey, United Kingdom, Uruguay)
18. (45)\* Types of duties and taxes - Importer may be confused by the meaning of this requirement - (France, Japan, Sweden)
19. (46)\* Clearance procedure - Importer may be confused by the meaning of this requirement - (Spain, Sweden)

(f) Particulars with a view to the granting of preferential treatment

20. (50)\* Statement of destination - Importer may have no source of knowledge for this requirement, unless it is specifically related to the granting of preferential treatment - (New Zealand, Canada)

(g) Particulars of an exclusively statistical nature

No excessive requirements to list.

(h) Particulars relating to authentication of the declaration

21. (59)\* Application to be present during the examination - This requirement is not necessary for customs clearance and as such is a nuisance to trade - (Sweden)
22. (62)\* Form of payment - This requirement is not necessary for customs clearance and as such is a nuisance to trade - (Spain, Venezuela)
23. (63)\* Advice of sale of foreign exchange - This requirement is a nuisance - (Iran)

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\* The numbers in parentheses refer to the requirement as it is listed in CCC document 18.909. Items without these numbers do not appear in the CCC document.

D. Other excessive requirements

22. For the United States the following are not information requirements but are related requirements that are unduly burdensome to trade.

(a) Special documents required for customs purposes

- (1) Certificates of Origin required for all foreign goods above some minimum value - This requirement is unnecessary for customs clearance and as such is a nuisance and hindrance to trade - (Cuba, Dahomey, Ecuador, Egypt, Greece, Ivory Coast, Korea, Malawi, Mauritius, Nigeria, Philippines, Senegal, Spain, Togo, Tunisia, Turkey)
- (2) Certificates of Insurance - This requirement is unnecessary for customs clearance and as such is a nuisance and hindrance to trade - (Bolivia, Ecuador, Korea)
- (3) Letter of Correction - In the case of documentation error to be completed and sent to importing country's customs authorities before shipment containing inaccurate documentation arrives at port of importation. This requirement is unnecessary for customs clearance and as such is a nuisance and hindrance to trade - (Argentina, Bolivia, Colombia, Dominican Republic, Ecuador, Guatemala, Korea, Mexico, Nicaragua, Panama, Peru, Philippines, El Salvador, Turkey)
- (4) Corrected Invoice - In case of error, to be completed and sent to importing country's customs authorities before shipment containing inaccurate information arrives at port of importation. This requirement is unnecessary for customs clearance and as such is a nuisance and hindrance to trade - (Argentina, Bolivia, Colombia, Dominican Republic, Ecuador, Guatemala, Korea, Mexico, Nicaragua, Panama, Peru, Philippines, El Salvador, Turkey)
- (5) Documents relating to Exchange Control - These requirements are unnecessary for customs clearance and as such are a nuisance and hindrance to trade.  
(Chile - Supplies Certificate form for shipments in Chilean foreign exchange.  
Colombia - Import registration certificate.  
Ecuador - Bank exchange authorization.  
Ethiopia - Exchange payment licenses.  
Ghana - Social Security Clearance Certificate.  
Indonesia - Fiscal Certificate.

Kenya - Clean Report of Findings.  
Peru - Foreign exchange authorization.  
El Salvador - Central bank exchange authorization.  
Tanzania - Clean Report on Findings.  
Zaire - Attestation of Verification Certificate (required for shipments financed with Zaire foreign exchange.))

(b) Other related requirements

- (1) Excessive number of copies required of documents used for customs purposes - This requirement is unnecessary and as such is a nuisance and hindrance to trade - (Bolivia, 6 copies; Brazil, 5 copies; Dominican Republic, 5 copies; Ecuador, 6 copies; Guatemala 5 copies; Haiti, 6 copies; Honduras, 5-9 copies; El Salvador, 7 copies)
- (2) No Import License Tolerances - In no case may the quantity or value exceed that stated on invoice - Shipments should be allowed import tolerances of at least 2-3 per cent - (Colombia, India)

E. Consular Formalities and fees

23. The Nordic countries have stated that as far as consular formalities are concerned, they create considerable costs and difficulties for exporters to those countries, which still apply such measures. Therefore the Nordic countries stress the desirability of their abolishment, supporting as a suitable way of solving this problem the interpretative note to Article VIII of the GATT, proposed by the United States, as described in Appendix 3 of document MTN/NTM/W/7.

24. For the United States the following consular requirements including certification by Chamber of Commerce in exporting country are not information requirements but are related requirements that are unduly burdensome to trade:

- (1) Consular invoices required for all goods above some minimum value - This unnecessary requirement results in the loss of time and money to both the exporter and importer. As such it is a great hindrance to trade - (Colombia, Dominican Republic, Ecuador, Haiti, Honduras, Mexico, Panama, Peru, Philippines, Turkey, Uruguay)

- (2) Consular legalization of invoices used for customs purposes - This unnecessary requirement results in the loss of time and money to both the exporter and the importer. As such it is a great hindrance to trade - (Argentina, Bolivia, Colombia, Dominican Republic, Ecuador, Egypt, Greece, Guatemala, Haiti, Honduras, Iran, Iraq, Korea, Mexico, Nicaragua (even though regulations state that legalization is not necessary), Panama, Peru, Philippines, Tunisia, Turkey, Uruguay)
- (3) Consular Fees - This unnecessary requirement is costly (in particular cases, extremely costly) to both the exporter and the importer. As such it is a great hindrance to trade. - (Argentina, 1.5 per cent of invoice value; Bolivia, \$10 per invoice set; Colombia, 1 per cent of c.i.f. value; Dominican Republic, 3 per cent of invoice value; Ecuador, \$5-\$20, or \$2 per \$1,000 value; Egypt, \$16; Iran, \$2-\$10; Iraq, \$0.28-\$1.40; Haiti, 2 per cent of f.o.b. value; Honduras, 8 per cent of f.a.s. value; Korea, \$1-\$5; Mexico, \$8-\$40; Nicaragua, 7 per cent f.o.b. value; Panama, \$5; Peru, 8 per cent of c.i.f. value; Philippines, \$5-\$30; Tunisia, \$2-\$5; Turkey, \$4; Uruguay, .001 per cent of f.o.b. value plus 12 per cent f.o.b. invoice charge)
- (4) Chamber of Commerce certification of invoices used for customs purposes - This unnecessary requirement results in the loss of time for both the exporter and the importer. As such it is a hindrance to trade - (Bolivia, Brazil, Ecuador, Ethiopia, Greece, Iran, Iraq, Peru, Tunisia, Turkey)