

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

MTN/NTM/W/36/Rev.1  
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## Multilateral Trade Negotiations

### Group "Non-Tariff Measures"

#### Sub-Group "Customs Matters"

## CONSULAR FORMALITIES AND FEES

### Revision

1. At its May 1975 meeting the Sub-Group invited the "countries which felt it necessary to retain consular formalities to explain in detail the justification for their continued existence and possible problems associated with their abolition. This would enable possible solutions to be sought within the MTN context" (MTN/NTM/4, paragraph 9).

At its October 1975 meeting the Sub-Group reiterated its wish that countries who had not yet done so be invited to explain in detail the justification for the continued existence of consular formalities and fees in their countries and possible problems associated with their abolition (MTN/NTM/7, paragraph 10). The Sub-Group also requested the secretariat to prepare a list, on the basis of available information and after verification with importing countries, of existing consular formalities and fees as well as a list of countries who during the last few years, have abolished such formalities and fees (MTN/NTM/7, paragraph 12).

2. Following this request the secretariat issued GATT/AIR/1225 inviting communications on this subject and wrote to the delegations of the countries which according to the documents MTN/3B/2 or 5<sup>1</sup> and MTN/NTM/W/22<sup>2</sup> had been mentioned as still maintaining consular formalities and/or fees. These countries are: Argentina, Bolivia, Chile, Colombia, Dominican Republic, Ecuador, Greece, Guatemala, Haiti, Honduras, Iran, Iraq, Korea, Mexico, Nicaragua, Panama, Peru, Philippines, Tunisia, Turkey and Uruguay.

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<sup>1</sup>Notification numbers: 178 Egypt; 180 Argentina; 183 Bolivia; 184 Brazil; 191 Chile; 196 Dominican Republic; 203 Haiti; 205 Honduras; 215 Nicaragua; 217, 219 Peru; 221 Philippines; 228 Turkey; 231 Uruguay; 650 Argentina; 686 Mexico; 694 Peru; 728 Uruguay.

<sup>2</sup>Paragraph 24, pages 11, 12.

3. Four other countries, i.e. Bahrain, Kuwait, Qatar and Yemen, which were also singled out<sup>1</sup> for maintaining consular formalities and fees, were not approached by the secretariat, as they are not participating in the multilateral trade negotiations.

4. At the March 1976 meeting of the Sub-Group, the secretariat was requested to keep MTN/NTM/W/36 up to date and the wish was reiterated that countries which had not yet done so be invited to give in writing the reasons for the continued existence of consular formalities and fees in their countries and possible problems associated with their abolition (MTN/NTM/13, paragraph 17).

5. As of 15 June 1976 replies to the original invitation referred to in paragraph 2 above or to the subsequent reminder in paragraph 4, have been received from the following countries: Colombia, Iran, Korea, Mexico, Peru, Spain and Uruguay. The following is an account of the situation as described in these replies.

6. Maintenance of consular formalities and fees

Colombia: The Government of Colombia considers it advisable to maintain in force these formalities and fees for the reasons described below:

As regards the formalities and fees which relate to imports and exports, Article VIII of the General Agreement provides that all fees and charges of whatever character (other than import and export duties) imposed by contracting parties shall be limited in amount to the approximate cost of services rendered and shall not represent an indirect protection to domestic products. Paragraphs 1, 2 and 4 of the said Article imply clearly that consular invoices and fees may continue to be required if they are consistent with the two criteria mentioned above.

In the case of Colombia these criteria (cost of services and absence of indirect protection) are satisfied, for these fees and charges represent a minute percentage and do not constitute a means of indirect protection for domestic products.

- So long as the draft Interpretative Note relating to Article VIII of the General Agreement as prepared by the Sub-Group "Customs Matters" is still in the draft stage, the contracting parties are not required to furnish evidence in justification of their consular formalities under Articles XX and XXI of the General Agreement.

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<sup>1</sup>Notification numbers: 182.1 Bahrain; 211 Kuwait; 221.1 Qatar; 231.1 Yemen (MTN/3B/2).

- Having acceded provisionally to the General Agreement, Colombia may continue to apply the consular formalities, for the Declaration of Provisional Accession states expressly that Part II of the General Agreement, which contains Article VIII, will be applied to the fullest extent not inconsistent with Colombian legislation.
- In addition, wishing to speed up certain consular formalities and to eliminate certain related charges, the Colombian Government has promulgated, since its provisional accession to the General Agreement, Act No. 2 of 1976 providing for the abolition of fees for the consular legalization of documents of merchant ships calling at Colombian ports, and also dispensing with the legalization itself, which is henceforth no longer required. In addition, the fees for the consular endorsement of bills of lading, airway bills and letters of rectification have been abolished. Under these same legislative provisions consular fees continue to be based on the f.o.b. value of goods and not on the c.i.f. value, as is stated in document MTN/NTM/W/22/Rev.1.

Iran:

At present commercial documents are not subject to consular procedure unless, in special cases, where legalization of the documents may be required by the customs authorities. The special cases, requiring legalization of commercial documents, are instances when correctness of the contents of the documents, such as prices shown therein are doubtful or there are such indications that due to special arrangements between the supplier and the purchaser, the documents presented to the customs authorities appear to be at variance with the supplier's books.

Mexico:

The appropriate Mexican authorities state that the formalities applied in customs matters are flexible and should not be abolished, in the light of the following considerations:

(a) The principal object mentioned in our Customs Code in requiring the endorsement of the commercial invoice is that of verifying the authenticity of the particulars stated in the invoice, mainly as regards the value of shipments and consequently the price of the merchandise, inasmuch as these particulars form the basis for determining the amount of the duties applicable.

(b) The procedure laid down by the Customs Code regarding this formality is relatively simple, if it is borne in mind that, even though a specific model for the commercial invoice is given, it is permissible for the exporter to prepare this invoice (who may use his own model), subject only to the proviso that the invoice must contain all the particulars mentioned in the model, and by contrast with other countries there is no requirement to use a consular invoice, the form of which is sold exclusively by the consular representatives of those countries.

(c) It is to the advantage both of the exporter and of the importer that the consular representatives should spot, at the outset, any omissions, errors or irregularities in the invoices presented for endorsement.

(d) Letters rectifying the invoices, declarations regarding missing packages and certificates of endorsement of invoices that have gone astray after having been duly endorsed or issued by the consular representatives save the importer the risk of having to pay heavy fines.

(e) In addition to these advantages, there is the speed with which the formality of the consular endorsement is carried out and the facility offered to exporters for obtaining the endorsement not only in a consular office other than that established in the consular district in which they operate, but also in another country in cases where for some other reason they are unable to fulfil this requirement.

(f) It is considered that, apart from the supposed inconvenience for the exporter and/or importer of having to pay the prescribed endorsement fee - which is relatively modest - there are no other arguments that can be cited as fundamental reasons for dispensing with this requirement. In addition, the consular fee is charged in conformity with the fiscal principle that whoever receives a service must pay a sum corresponding to that service, and the amount of the fee is generally fixed in terms of the cost of service.

(g) The relevant regulations are contained in a statutory instrument enacted by the Congress of Mexico, and any amendment of those provisions would involve most cumbersome and complex legislative procedures.

(h) The existing requirements for the consular endorsement of commercial invoices are necessary in order that the Department of Finance and Public Credit may be able to carry out its administrative (itemized) control of imports, through the Mexican Treasury.

(i) Another very important operation is that of checking the commercial values stated in invoices in relation to the price structure, for the purpose of determining and, where appropriate, preventing unfair business practices.

(j) Conclusion. By reason of all the considerations mentioned above it is not considered that this requirement hampers or interferes with international trade.

Uruguay: Uruguay has drawn attention to the full explanation of the reduction in the consular charges which was put into effect in the course of 1975 and which appears in the Inventory of Non-Tariff Measures (MTN/3B/2, No. 231, pages 1-9). With regard to the justification of the maintenance of the formalities and fees, the delegation of Uruguay has replied that its authorities had not yet responded to the Sub-Group's invitation.

7. Abolition of formalities and fees:

Korea: has abolished its consular invoice system as of 1 May 1967.

Peru: has abolished its consular invoice system as of 1 January 1975.

Spain: has abolished its consular formalities and fees as of 1 September 1967.

8. Although no replies have been received from other countries concerned, the secretariat has gathered the following information concerning abolition from available sources:

Algeria: (see former Inventory Notification 177).

Brazil: (see former Inventory Notification 184): legalization fees abolished, on a reciprocity basis, by Article 56 of Law No. 5025 of 1965.

Italy: (see former Inventory Notification 207): abolition of fees.

Turkey: consular formalities and fees and certificates of origin abolished in 1974 (oral statement at the March 1976 meeting of the Sub-Group).

Uruguay: (World Trade - Bulletin: Vol. XXIX, No. 13, 31 March 1975):

"The Consulate General of Uruguay in New York has advised us, according to Decree 123/975, that consular invoices are abolished, effective with steamers sailing after 22 March 1975. The commercial invoice replaces the consular invoice and consular fees will be paid in Uruguay. For all shipments, regardless of value of mode of transportation, four (4) commercial invoices, showing the country of origin, together with bills of lading, must be presented by the steamship company to the Consulate for legalization. The bill of lading and/or the airway bill charges still apply and must

be paid to the Consulate. Certificates of origin are no longer necessary, and consular fees need not be shown on the commercial invoice. In the case of air shipments, shippers should follow the prior procedure; i.e., the airway bill and the commercial invoice are presented to the Consulate by the shipper or broker and the airway bill fee is paid to the Consulate. All other charges for documents as shown in our Summary dated September 1974, still apply and are payable at the Consulate. We repeat, the Consulate no longer has authority to legalize consular invoices, so outstanding letters of credit calling for same should be amended."