CERTIFICATES OF ORIGIN, MARKS OF ORIGIN AND CONSULAR FORMALITIES

Draft Report of the Working Party on Trade and Customs Regulations

The Working Party on Trade and Customs Regulations has examined the questions referred to it relating to certificates of origin, marks of origin and consular formalities. The Working Party's report and suggestions on these questions are set out in the following sections.

Points for decision

Certificates of Origin: paragraph 3, amendment of CONTRACTING PARTIES' Recommendations

Marks of Origin: paragraph 5, retention on the agenda for the Twelfth Session

Consular Formalities: paragraph 9, $
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 visa'ing of certificates of origin."

3. The Working Party agreed that the present paragraph 2 should be reworded, 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 offices 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, "bureau 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 (L/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. To limit the number of possible marking requirements it was, however, thought possible to recommend that if a product is marked in English or French with "made in ..." or "fabriqué en ..." and the name of the country, this should be considered a satisfactory marking. The use of the language of the importing country should not be compulsory.

11. The use of commonly accepted 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 not be required on containers

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 this obligation, 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, if introduced by the words "in principle", would permit such exceptions. 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.

16. To deal with both problems the Working Party thought an acceptable recommendation would be:

"In principle, no marking should be required on the package when the mark is readily apparent on the goods themselves at all stages of their exchange in commerce."

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 (e.g. photographic films) 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 considerations. 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 - including samples - found a certain appeal among members of the Working Party. Exemptions for products based on a specified minimum weight was thought to be unacceptable. 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 Chairman 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 was not practicable at the time of importation, 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 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
- Ceylon
- France
- Greece
- Indonesia
- Sweden
- United States of America

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

- Brazil
- Chile
- Cuba
- Dominican Republic
- Haiti
- Nicaragua
- Peru
- Turkey
- Uruguay

6. Details concerning the requirements of the countries enumerated in paragraph 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 have not 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 countries listed in paragraphs 4 and 5, their reasons for maintaining the consular requirements with a view to finding a solution which would help them to overcome the obstacles to comply with the Recommendation. Although the replies received did not give a full picture of the reasons for which the governments wish to maintain consular formalities, two main reasons became clear. The first is the need felt by various governments to ensure, through consular certification, an effective control, especially of the declaration concerning the origin of the product and the declared import value. The second reason lies in fiscal considerations.

9. ..........
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 customs formalities in their countries and mainly the possibility of suppressing customs 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 customs formalities

<table>
<thead>
<tr>
<th>Country</th>
<th>Document required</th>
<th>Products affected</th>
<th>Intention</th>
<th>Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belgium</td>
<td>Visa on certificates of origin</td>
<td>Gloves of textile material originating in Hong Kong</td>
<td>It cannot be indicated when this temporary measure can be abolished</td>
<td>For certification: Under B.Frs.10,000.-- .......B.Frs.30.-- Above B.Frs.10,000.-- .......B.Frs.80.--</td>
</tr>
<tr>
<td>Ceylon</td>
<td>Consular visa on commercial invoice</td>
<td>Transhipped preferential goods not covered by a through bill of lading</td>
<td>Arrangements pending to abolish this requirement by the end of 1956</td>
<td>Free</td>
</tr>
<tr>
<td>France</td>
<td>Visa on a certificate of origin or on the manifest</td>
<td>Limited number of products imported from the few countries which do not grant reciprocity.</td>
<td>Arrangements pending to abolish this requirement by the end of 1956</td>
<td>Per certification - Charges varying according to the country and type of certification from Fr. Frs.500.-- to Fr.12,500.--</td>
</tr>
</tbody>
</table>
Greece

Document required: Consular visa on certificates of origin
Products affected: Transhipped 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 which is in the interest of a special trade and which gives the traders the possibility to import their products at customs offices otherwise not authorized to deal with such imports
Fees: 0.4 per cent of the import value.

Sweden

Document required: Consular visa on inspection certificates
Products affected: Live animals and trees, shrubs and plants
Intention: The problem is being studied and the possibility of eliminating the requirements is being considered
Fees: For each certification, 4 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

Documents required: Consular invoices
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 $1,000 f.o.b. factory US $8.00
For each additional US $500 ... US $2.00
Furthermore specific charges up to US $8.00 are collected for additional copies of invoices, certificates of origin, bills of lading etc. 50 per cent reductions for imports on the Lloyds Brasiliero has been suppressed by a law of 13 July 1955.

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 1c for bills of lading, additional copies of commercial invoices US $5.

Fees are levied at the Consulate.

Cuba

Document required: Consular invoices

Intention: The problem of consular formalities is being studied in connexion with the pending tariff reform

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 vised 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 vised by the Consulate are recognized.
Intention: A replacement of the existing system would only be possible if the declared import value of products could 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 manifests covering whole shiploads, in which case the fee might be US $20.
Fees are levied at the Consulate.

**Turkey**

Document required: Consular visa on commercial invoice
Special provisions: The visa is only required for imports for which lower contractual rates 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

Documents required: Consular invoice

Intention: No statement

Fees:

- 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 Consulates.

---

1 Not confirmed.