

**OECD MEGASCIENCE FORUM  
WORKING GROUP on REMOVING OBSTACLES  
to INTERNATIONAL CO-OPERATION**

**REPORT of the SUB-GROUP on LEGISLATIVE and  
ADMINISTRATIVE BARRIERS  
to MEGASCIENCE CO-OPERATION**

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# OECD MEGASCIENCE FORUM

## Report of the Sub-Group on Legislative and Administrative Barriers to Megascience Co-operation

### SECTION I INTRODUCTION

#### 1) The Issues

In a number of scientific fields, experimental research is becoming increasingly concentrated at a small number of very large facilities. As a result, numerous scientists travel abroad to conduct research, often bringing scientific equipment as well. This phenomenon is not new; indeed, science has traditionally been performed through collaboration, often across national borders. The increasing importance of “megascience”, besides providing unprecedented opportunities for cutting-edge research, amplifies obstacles that arise from the trans-national nature of collaborative work. One issue is the necessity of obtaining access to a national or international facility. This is of particular concern for researchers from countries that have not contributed to the construction or operation of the facility<sup>1</sup>. But access itself is not sufficient. In addition, it is necessary to confront the difficulties of getting to the facility, of living abroad, and of transferring equipment. This can involve complexities and delays in obtaining authorizations, visas, residence and work permits, customs clearances and other administrative requirements. In this regard, Professor Burton Richter, Director of the Stanford Linear Accelerator Center expressed his concerns forcefully to the Sub-Group: "*The problems detailed in the attachment to this letter [a reply to the sub-group's questionnaire] impact the cost of conducting research. Every dollar spent to address administrative barriers comes out of the dollars available to conduct the research and it is for this reason that I consider these problems to be extremely important to the laboratory.*"

Although these concerns are shared by all scientists, the nature of co-operation at the very large facilities involves some unique aspects, the most characteristic being its duration. It is not uncommon that the conduct of an experiment at a large facility extends over a several years. It may involve some hundred researchers who will divide their time between the facility and their home laboratory, or who will spend long periods at the facility, accompanied by their families. Also, the experimental equipment, usually very elaborate and costly (although of little or no commercial value) is transported from the participating laboratories to the facility, modified and transformed, and possibly discarded after use, or re-utilized for another

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<sup>1</sup> This issue is the subject of a study by the OECD Megascience Forum Sub-Group on Access to Large-Scale Research Facilities.

project. These conditions create challenges for administrative officers who must ensure compliance with relevant regulations without impeding the progress of the research.

It is this set of obstacles, with aspects specific to megascience, that is the subject of the activity of the Sub-Group on Legislative and Administrative Barriers to Megascience Co-operation.

An essential feature of the issues studied by the Sub-Group is that all the important aspects of the problems are in the purview of governments. That is, governments enact and enforce rules to control access to their national territories and to regulate the transfer of goods across their borders. But they also prioritize, fund and manage the bulk of basic scientific research that is carried out at large facilities. In theory, the inter-governmental harmonization of these functions is feasible but, in practice, this is rarely straightforward because governmental rules and regulations reflect a multiplicity of priorities. In addition to advancing scientific research, these priorities include employment, technological development, education, national security, public safety, environmental safety, health and many others. Harmonization becomes even more complicated when it involves several national governments. National regulatory authorities are in charge of applying the rules relevant to these situations and, although they do not deliberately create obstacles, have to enforce existing rules which cannot always be adapted (or interpreted) in a way that is optimal for scientific research.

The goal of the Sub-Group on Legislative and Administrative Barriers to Megascience Co-operation is to identify obstacles, and to suggest ways of overcoming them. Fortunately, this work is being carried out in a generally favorable political context. Following the end of the Cold War, and given the increasing globalisation of international economic activity, there is a trend towards liberalization of international exchanges of people, ideas and goods. Through its activities and recommendations, the Sub-Group hopes to ease the burden on scientists and facility administrators, in a way that is compatible with the national interests of all participating countries, and raises the awareness of the regulatory authorities to science, and particularly megascience, needs.

## **2) Background**

Numerous administrative and legislative obstacles are known to scientists and administrators who are involved with international co-operative programs at megascience facilities. Laboratory managers have learned, by experience, to solve certain problems and to live with others, without necessarily calling them to the attention of higher-level authorities. Thus, government officials are often unaware of the existence of obstacles which could often be overcome by adaptation of the regulations and of the ways they are enforced.

Already in 1983-85, following the G7 summit at Versailles (1982), a working

group took up the study of some of these problems<sup>2</sup>. Specifically, it focused on high-energy physics and thermonuclear fusion, but the conclusions addressed the totality of questions relating to international scientific co-operation. It was paralleled by a meeting, in September 1984, of the Science Ministers of the Council of Europe on the same theme, but with more attention given to the matter of researchers' mobility<sup>3</sup>. However, no coordinated action resulted from these high-level discussions, and the field was left open to individual national decision-making.

Since the Versailles Summit, the situation has improved on a number of ways: the end of the Cold War and the formation of large regional groupings (such as the European Union) have allowed some unification of regulations, and relaxation of constraints on internal exchanges. Within the EU, for instance, customs fees have been abolished (but national taxes such as VAT have not been harmonized), and the freedom of circulation and residence for EU citizens is almost complete.

The International Council of Scientific Unions (ICSU) addressed itself, from 1958, to the same problems, with special attention to the freedom of attendance at international scientific meetings, without regard to political, racial, religious, or other considerations. It adopted a number of resolutions on political non-discrimination, on the free circulation of scientists, on their freedom to pursue science, and on the freedom of movement of scientific materials, the latter in accordance with the 1950 UNESCO Florence Agreement (described in Section III) and its follow-up. A handbook<sup>4</sup>, published in 1993, contains relevant statements on the free circulation of scientists, and recommendations for organizers of scientific meetings, under the auspices of ICSU, to ensure free and open attendance.

A preliminary list of the problems encountered in large facilities was drafted by national delegations and presented in June 1996 to the Megascience Forum, in order to explore the scope of the working group's activities:

A) Problems related to the mobility of research personnel

- Status of personnel assigned to a facility (scientific, technical, administrative, and service personnel): problems of visas, work permits, salary scales, social security coverage, tax status, nature of contracts, job security, etc.
- Temporary stay of scientific and technical personnel (for example, those assigned to an experiment): visas, temporary work permits, conditions of secondment or leave of absence (for academics, arrangements at their home institutions, sabbaticals), reimbursement for expenses associated

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<sup>2</sup> Annual Report to the Working Group on Technology, Growth and Employment: Summit Working Group on Controlled Thermonuclear Fusion. (DOE, Washington, April 1985)

<sup>3</sup> Final Communiqué [I (84) 56] and resolutions (Council of Europe, Strasbourg, Sept. 1984)

<sup>4</sup> Universality of Science, Handbook of ICSU's Standing Committee on Freedom in the Conduct of Science (ICSU, Paris, 1994).

with displacement, medical insurance, working space, etc.

- Living conditions: receiving of families, housing, education, work permit for a spouse, cultural adaptation.

#### B) Equipment transfers

- Customs regulations, uses and limits of temporary imports, bonds, value-added tax etc.
- Tax-free imports.

#### C) Generic issues

- Other tax problems : funds transfers of grants or subsidies, banking fees.
- Intellectual and commercial property rights, access to results and data.

### **3) Workplan and Activities of the Sub-Group**

The Workplan for the Sub-Group was approved by the Megascience Forum in June 1996. Eighteen Megascience Forum member delegations decided to participate in the work.

From the preliminary list shown above, issues related to personnel mobility and equipment transfer were retained, with the exclusion of those strictly related to living conditions. These latter issues (housing, schooling, etc. ) were deemed to lie outside the Sub-Group's mandate. In practice, they are best dealt with through good contacts and relations with local authorities. In addition, the Sub-Group decided that it was inappropriate to address management problems of facilities (budget, site selection, organization and structure, etc.).

To better understand the present situation, the Sub-Group conducted a survey of facility managers and national delegations. The goal was to advance beyond the anecdotal impressions prevailing in scientific circles, and to learn about solutions and "good practices". Questions were asked about problems encountered with co-operation at large facilities, although a number of these issues are of general interest to the scientific establishment. Facility managers were asked to describe typical cases encountered, both on equipment transfers and on foreign personnel mobility, whether the problem could be solved or bypassed, and whether it caused damage to scientific programs. For equipment transfers, an inquiry was made about the type, origin, ownership, purpose, and expected duration of the transfer. For personnel, questions were asked regarding citizenship, status (including family members), duration of visit, and employment type. The detailed text of the questionnaire and the list of facilities which have responded can be found in Appendix 2.

The rate of response to the questionnaire from facility managers was satisfactory: 30 replies were received, i.e., about 50%. In addition, the

consultants conducted a special case study of the issues concerning France. Based on the replies and the case study, a second, much shorter questionnaire was drawn up, with specific examples from the survey (see Appendix 3). This questionnaire was addressed only to national delegates to the Sub-Group. Some interesting, although less numerous, replies were received. In addition, direct discussions took place with high-level officials, in the French ministries for the case studies of France, in the European Commission, and in the World Customs Organization (WCO) - an intergovernmental body that deals with international customs regulations.

#### **4) General Findings and Conclusions**

Based on the surveys, analyses and discussions, it appears that there are two principal areas where progress is needed and feasible, both regarding mobility of personnel, and transfers of scientific equipment.

- Regulations are complex, and are not always optimized for the purposes of conducting research at large facilities. Nonetheless, many of the problems stem from inadequate compliance with the regulations, or from lack of awareness of the rules and how to comply with them. Therefore, more information, and better communication are needed. This applies to scientists who seek to engage in megascience research, facility administrators, and national and local regulatory authorities. There is significant potential for coordinated action, on national and international levels, to compile relevant, accurate and timely information. The Internet is the optimum medium for such work. Regulators, administrators, and scientists could provide valuable input to any information-gathering and dissemination effort.
- Adaptation and modification of regulations is possible, but must be proposed with care, because the issues involved affect national sovereignty, security, social policy, and economic competitiveness. The identification of “best practices” could be useful to participating countries for learning about strategies and procedures that have proved to be effective in facilitating the flow of people and goods. However, there is no single, universal solution. National delegations to the OECD Megascience Forum are the natural intermediaries between the scientific community and regulatory agencies of the governments they represent. As such, they can coordinate the involvement of the relevant agencies. International or regional organizations, such as the WCO, with responsibilities in the harmonization of regulations, can also be helpful.

The Sub-Group did not attempt to formulate specific recommendations for changes in statutes or regulations, since such changes are in the purview of individual governments. Moreover, the Sub-Group has examined the issues from the point of view of optimizing the administration and conduct of

scientific projects, whereas laws and regulations in areas such as visas and customs reflect a need to promote many diverse national priorities in addition to the advancement of science. It has, however, been possible to identify recommended actions based in part on “good practices” of some of the Member countries. These actions are presented in each of the two sections dealing with the mobility of personnel and with the transfer of equipment.

## SECTION II

### MOBILITY OF SCIENTIFIC PERSONNEL

#### 1) Results of the Survey

The questionnaire was aimed at obtaining information on difficulties encountered in the admission of foreign scientists, on how such cases were resolved, and the lessons learned.

About 30 replies were received from facilities (a response rate of just over 50%). Only five replies did not identify any problems. Twenty four responses identified visa, residence or working permit problems with visitors (short term staying, a few days to a few months) or with staff seconded or hired abroad. Other concerns included taxes, medical insurance, family status (especially a working permit for a spouse/companion), housing, and even drivers' licenses.

Facility managers reported the most difficulties in countries where immigration is a sensitive matter and has traditionally been subject to limitations. On the other hand, institutes that do not report problems are typically under international statute (CERN, EISCAT, EMBL, ESO <sup>5</sup> and others) and can make use, to some extent, of diplomatic privileges.

- Nationality problems

Often-cited were difficulties encountered in obtaining in time visas for scientists from Russia or China. Similar problems occur with "third country nationals", i.e. those holding a residence permit in one country and needing to travel to another. The required "multiple entry" visa is not easily obtainable.

Access to classified facilities is submitted to various restrictions. Additional difficulties arise when open (unclassified) facilities are co-located with closed (classified) facilities.

- Status of the visitor

Obtaining a working permit is closely related to the type of visa granted. Often, the visitor is considered in the same category as a student, without a right to get local income (except for limited grants) and without a possibility of extension beyond the initial period (usually one to three years).

A change of employment status, even within the original institute, is either forbidden or subject to a new visa application, to be made from abroad. Another issue is the duration of a temporary position, restricted in some

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<sup>5</sup> CERN: European Organization for Nuclear Research, EISCAT: European Incoherent Scatter Scientific Association, EMBL: European Molecular Biology Laboratory, ESO: European Southern Observatory

countries to one or two years. Not all these limitations are well suited to collaborations at large-scale facilities, which extend over longer periods, typically five years, with a need for multiple re-entries.

- Information and communication

In many cases, the difficulties could have been avoided with better information. Visitors and their hosts often ignored (or were unaware of) the administrative regulations, or under-estimated the time needed to process the applications for visas and permits. The immigration officials sometimes have difficulty in assigning a visa category and are not always aware of the requirements of scientific research, since the category of scientific worker is not specifically recognized in all countries' regulations. In a number of countries, the category of professor or exchange visitor is used, but does not reflect accurately enough the needs for collaborations at large instruments, where the duration for stays is much longer than typical academic visits.

The survey confirmed the existence of delays and financial problems. Even if solutions were finally found, they required significant amounts of effort, and the visitors felt they were harassed. It is not known if any scientific projects were abandoned because of fear of administrative problems. The degree of actual harm done to scientific endeavors cannot always be precisely documented, but it probably scales with the size of the project. Furthermore, the steady accumulation of experience by administrative officers in overcoming barriers works best for steady-state operations of large facilities over extended periods of time. Thus, in the future, there is a real danger that a complex, expensive project could be very seriously damaged by a relatively minor administrative obstacle during the set-up or construction phase, when there is not sufficient time to accumulate experience in solving the particular problem.

## **2) A Case Study: France**

We examined problems with visas and residence permits that have arisen in France in the past few years, and the steps that were taken to resolve them.

In 1994, the texts in force aimed at a tighter control of immigration, through a strict and complex set of regulations. This led to numerous difficulties in the admission of scientists coming to France for extended stays (more than three months). French scientists resented these difficulties as an obstacle to the normal development of scientific co-operation, and voiced their opinions to the government, with strong support from the Academy of Sciences.

An active role was played by the "Fondation Nationale Alfred Kastler" (named after a French Nobel laureate in Physics), an association created by the Academy of Sciences and sponsored by ministries and research agencies. In addition to discussions with authorities at the national and local level, the

Fondation undertook to collect and distribute information: a highly useful guide to formalities is available on the Internet (<http://www.CNRS.FR/FNAK>), in French and in English.

The Government response was the drafting of a "circulaire" (memorandum), issued by the Minister of Interior and by the Minister of Social Affairs, addressed to local regulatory agencies and to French consulates abroad, requiring them to apply, within existing texts, a simplified procedure for dealing with scientists and academics planning a temporary stay in France for research and study.

Both actions led to some improvement in the enforcement of regulations, without changing them. Still, in the view of many members of the scientific community, some regulations needed to be amended to address cases that remained unresolved.

This case study was based on the situation in France in May 1997. Since then, political changes have occurred and the government is re-examining its immigration policy. A new immigration law adopted by the Parliament in April 1998 devotes special attention to the case of students, academics and scientists: a special category of visas and residence permits is being created for scientists and their families. The processing of applications will be simplified, embodying into the law the measures of the 1994 "circulaire".

### **3) Further Case Studies**

The French study allowed us to identify some difficult cases, which were submitted to members of the sub group in a second questionnaire (Appendix 3):

- a visiting professor wishing to extend a stay in a facility.
- a postdoctoral researcher who is resident in (but not citizen of) one country, planning to work, under contract, at a facility in another country.

The questions were aimed at showing what would be the problems, if any, and how they would be solved, in each of the surveyed countries.

Canada, Finland, France, Germany, Japan, the Netherlands, and the United States replied to this questionnaire and sent comments about the cases discussed and information about their visa policies. The matter was also discussed with the European Commission.

- Information

All replies stressed the importance of providing prior information for travelers. Most countries provide such information, usually in the form of brochures and now often through the Internet. However, in most cases, the information is intended for immigrants and, sometimes, students. The

Internet sites<sup>6</sup> are operated by governments through ministries of foreign affairs, immigration bureaux and education co-operation agencies. They are rather exhaustive and it proved difficult to find the information needed for the cases we examined. At present, there is only one site directed explicitly towards scientists, the French FNAK site quoted above.

In a different sector, APEC (Asian Pacific Economic Co-operation), a regional intergovernmental organization, has created a "businessman's travel guide" with visa information, supplied by the relevant agencies in APEC member countries (See Appendix 4).

- Entrance formalities in some OECD countries

In the EU countries, formalities are very simple for travel inside the Union: nationals of the EU have a right of free circulation and establishment, subject, however, to obtaining work contracts, and conformity to local laws. Similar rules apply also to the EEA countries (EU + Switzerland, Norway, Iceland, Liechtenstein). The formalities are even simpler among the Nordic countries. Nationals from outside Europe, when they have been granted a residence permit in one country, can travel freely within the EU. Canada insists on reciprocity, and pays attention (as do France, Germany and Japan) to possible competition of foreigners in the labor market. In Japan, the complex path to follow can be shortened by the issuance, in advance, of a "certificate of eligibility", delivered with the help of the receiving institution. In the United States, J1 visas apply to visitors under an exchange program, and this covers most scientific visitors.

The visitor may have some difficulties in finding, by himself, the appropriate category to apply for. When specific categories do not exist, or if the case does not look simple, the officers in charge of delivering entrance documents are prone to consider scientists planning a temporary stay, in the same category as immigrants, intending to settle permanently. When such confusion occurs, it can sometimes be resolved by the action of the "corresponding officer" if the receiving scientific institution has created such an office. In the United States, this responsible officer is expected to negotiate the formalities for visiting scientists with regulatory authorities and is better equipped to deal with such a case than the visitor left to himself. As shown above, in France, such contacts between universities and regulatory agencies are officially recommended.

- Sources of income and work permits

An important factor, in most countries, is in the origin of the visitor's income. If it is drawn from external sources (salary from the home institution, as for sabbatical leaves, or grants from international bodies) the visitor does not need a working permit, since he/she does not compete on

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<sup>6</sup> Examples are: [www.usia.gov](http://www.usia.gov) (USA), [www.mofa.go.jp](http://www.mofa.go.jp) (Japan), [www.dfait-maeci.gc.ca](http://www.dfait-maeci.gc.ca) (Canada), [www.citizens.eu.int](http://www.citizens.eu.int) (EU), [www.cimo.fi](http://www.cimo.fi) (Finland), [www.france.diplomatie.fr](http://www.france.diplomatie.fr) (France, in addition to the Kastler site), [www.apecsec.org.sg](http://www.apecsec.org.sg) (APEC), etc.

the local labor market. On the other hand, if resources are drawn from local sources, then the visitor is subject to the local labor regulations, needs a work permit, meaning, at the very least, a longer time to process the application.

The problem presented in case 1 (change of status of the individual during his/her stay) is, in a number of countries (France, Germany, Japan, etc.), a source of difficulties, connected with labor regulations. A working permit and a new residence permit must be applied for. In France and Germany, it is required that the new application should be made from abroad, which may be the source of considerable trouble, when this regulation is enforced. The relevant terminology varies in different countries, particularly regarding the definition of stipends, grants, scholarships, (“bourses”, in French, “stipendium”, in German, etc. ), which in some cases apply only to students, in other to researchers within some specific definition. The difference in terms is important, because it involves the need for a working permit, income tax status, health care, etc.

- Duration of scientific visits

Short term visits, usually less than one year, can often be arranged without difficulties (except for visitors from “sensitive countries” where all formalities must be initiated well in advance). However, scientists participating in megascience projects may need visas and other permits for a much longer time, corresponding to the duration of the experiment they are involved in. In most countries, these documents are granted for periods usually limited to one year with the possibility of renewal. An extension to five years or more can be difficult, since immigration authorities may question whether a stay of such length deserves to be classified as temporary. These problems can be overcome however: as an example of a “good practice” in this area, in the case of the United States, the relevant regulatory agency (USIA<sup>7</sup>) recognized that the ITER<sup>8</sup> megascience project required longer than usual stays for participating scientists, and so extended stays were arranged for international ITER secondees. In general, anticipating obstacles, and discussing them with authorities while projects are still in the planning phase, appears to be a useful way to deal with administrative and legislative barriers.

When a long stay is fragmented into periods of a few months, it may be difficult to obtain documents valid for the full stay, without having to re-apply each time. Immigration authorities are often suspicious, when a non-national repeatedly applies for a new residence permit, as in the second case discussed in the survey. Long stays may also have serious effect on the tax status of an individual.

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<sup>7</sup> United States Information Agency

<sup>8</sup> International Thermonuclear Experiment Reactor

#### 4) Findings and Conclusions

1. **Finding:** In France, the foundation "Fondation National Alfred Kastler" has created an comprehensive Internet site dedicated to providing practical information for visiting scientists about visas and other formalities. It has proved to be a very effective means to facilitate scientific exchanges. Similarly, APEC (Asia Pacific Economic Co-operation), an intergovernmental organization, has created a site for businessmen visiting its member countries. These sites are specifically designed to be easily comprehensible and to address the most often-encountered and vexing problems, supplementing existing official sites that are operated and maintained by regulatory agencies.

**Conclusion:** OECD governments could consider sponsoring, encouraging and supporting similar actions to supplement official sources of information about visas and related subjects. Actual implementation could be carried out by other government agencies, international scientific organizations or independent foundations. The Megascience Forum can play a role in promoting and facilitating the implementation of integrated sites that could become a "one-stop shop" for scientists who are involved in multinational research efforts.

2. **Finding:** In the United States, "responsible officers" in scientific facilities are in charge of presenting, to immigration bureaux, J-visa applications for their visitors. The existence of such a direct link between scientific managers and government officials has been shown to be fruitful in speeding up and facilitating the issuance of these documents, and in avoiding and resolving problems for scientists and their families.

**Conclusion:** To facilitate the work of regulatory agencies, to address the specific needs of researchers, and to lessen the amount of paperwork, governments should consider establishing (or strengthening) the links between officers in regulatory agencies, and personnel in major scientific institutions who are in charge of dealing with visas and other documents needed by scientific visitors.

3. **Finding:** Among foreign visitors, scientists have some specific needs, specially when working at large (megascience) instruments:
  - they are staff members of a scientific institution (university, national or multinational laboratory);
  - their visit is part of a scientific co-operation between their home institution and a laboratory abroad;
  - their research is sponsored by governmental or intergovernmental agencies;
  - they are either seconded, and paid, by their institution, or invited by the foreign laboratory and may be under a limited contract with it;
  - their stay abroad is temporary. However, and specially in the case of megascience projects, it may extend over a number of years, in which

- case the researchers may wish to be accompanied by their families;
- they may be called on, in the performance of their duties, to travel frequently to a number of countries including, but not limited to, their home country.

**Conclusion:** In the course of their regular processes of reviewing, evaluating and updating regulations and procedures in areas such as visas and labor regulations, Member governments are encouraged to examine whether the needs of scientists who are involved in megascience projects are being accommodated. This examination could include consideration of the special needs of specific international projects that are being contemplated for the years to come.

## SECTION III

### TRANSFERS OF SCIENTIFIC EQUIPMENT

#### 1) Introduction

Many of the megascience facility administrators who responded to the Sub-Group's first survey indicated that they often encounter significant difficulties, delays and expenses when arranging for the international transfer of scientific equipment. These obstacles exist despite the fact that governments actively support international scientific co-operation. The persistent presence of obstacles can be linked to the complexity of customs and tax regulations (which affect all international transfers, both scientific and non-scientific) and, more importantly, to the unique characteristics of megascience research. Revisions and additions to the regulations at national, regional and global levels, have, over the years, tracked the evolving needs and characteristics of scientific research but the two processes do not always march in step.

Scientific equipment for megascience co-operation that is shipped across national borders as part of inter-governmental or inter-laboratory agreements is often large, unique, special-purpose and custom-made. It may be manufactured by laboratory personnel, although it (or some of its components) may also be produced by a private company under a contract. In general, the equipment cannot be used for anything other than its intended application for a specific research project. The durations of the experiments are often longer than five years, sometimes longer than ten years. Although the duration of the project may be finite, the equipment itself may be re-usable, provided that it is suitably modified after the termination of the original project. This, in turn, may involve additional international transfers of the equipment (or its parts), often to countries of origin as well as other countries. Furthermore, scientific equipment may be re-configured, incorporated into a new apparatus, amalgamated with other pieces of equipment (that are owned by other laboratories from around the world), destroyed (intentionally or not), used up, launched into space, or otherwise subject to the kind of unpredictable evolution that is a defining characteristic of the scientific enterprise.

A special problem has to do with importing apparatus on very short notice. This may be necessary in order to observe a sudden, unanticipated event (e.g., a supernova or a volcanic eruption) or to rapidly repair or replace a large piece of apparatus that has malfunctioned at a critical time.

The above characteristics of equipment that is used in international megascience co-operation, pose unique problems for facility administrators who are responsible for making the transfer arrangements. Through long experience, many of these administrators have developed special knowledge, skills and procedures to deal with customs rules and authorities.

## 2) Results of the Survey

The questionnaire survey was conducted to obtain specific information about difficulties administrative officers have encountered in the transferring scientific equipment for international megascience cooperation. About 20 replies were received from national facilities, and 9 from international facilities (a response rate of over 50 %).

The principal questions concerned the importation (on behalf of a facility) of scientific instruments necessary for both the operation of the main equipment and for experiments carried out using the main equipment. Within the framework of international collaborations, equipment is most often brought over by invited researchers or users, and is ultimately returned to its country of origin. Five respondents stated simply that there are no problems. One answered that no barriers were noticeable at the national level, but problems sometimes arise because the appropriate procedures are not followed by users.

Nevertheless numerous instances of excessive customs duties, VAT, delays and complications were described. The problems concern the transfer of whole experimental assemblies, components, consumable and software. Sometimes situations become more complex when the imported equipment consists of components of larger assemblies, or ones that must be re-exported with modifications. In some cases, particularly in the United States, customs brokers are used. They can facilitate complicated and time-consuming procedures, saving time but at a considerable cost. Despite the existence of several international conventions to facilitate and harmonize the temporary importation of scientific equipment, there are no universal rules governing important duties and taxes for scientific equipment.

For international organizations governed by the international agreements (such as CERN) special favorable regulations (exemption from bond payments, and duty free permanent import) apply.

Problems with equipment transfers to non-OECD countries (Russia, China, India, Chile, etc.) were raised in several responses. Exchanges of equipment with Russia and to a lesser extent, China, and former Soviet Bloc countries, are the most frequently mentioned. These problems are often caused by ill-defined policies in those countries, excessive import taxes, and lack of a duty-free importation mechanism.

The survey showed that the preferred method for the international transfer of equipment for megascience co-operation has been the **temporary importation** mechanism which, because the equipment is meant to be returned after a scientific experiment is completed, is, in general, exempt from customs and fiscal duties. This mechanism allows the ownership of the equipment to remain that of a resident or an establishment abroad during the time it is in the country of importation. The limited duration of temporary importation - generally 1 year (renewable) - was cited as an obstacle by many respondents.

There appears to be a need for making this duration equal to the duration of actual collaborative projects, which may require five or more years for completion.

### **3) Regulations Relevant to the International Transfer of Scientific Equipment**

To study legislative barriers and possible best practices, a case study exercise was conducted of practices and regulations in different countries concerning the importation of scientific equipment, mainly focusing on temporary importation. In parallel to the exercises by the member delegations, the OECD Secretariat contacted the World Customs Organization (WCO) in order to explore the possibility of new initiatives at an international level.

#### **1. International Instruments**

In 1952, the international agreement on the importation of educational, scientific and cultural materials (Florence Agreement), sponsored by the UNESCO, came into force. It provided for customs and duty-free importation of scientific instruments or apparatus intended exclusively for educational purposes or pure scientific research. Later, the provisions of this agreement were found to be insufficient, and the mechanism of **temporary importation** of scientific equipment was introduced under the terms of new conventions.

There are three major international conventions on temporary importation of scientific equipment: the International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention), 1973; the Customs Convention on the Temporary Importation of Scientific Equipment (Brussels Convention), 1968; the Convention on Temporary Admission (Istanbul Convention), 1990. Two of them govern a wide range of international transfers, and only a small part of each agreement makes reference to scientific activities. Some of the large OECD countries are not signatory nations of these conventions. Further details on the relevant provisions of each convention are given in Appendix 5.

As for the duration of the temporary importation, the Istanbul Convention defines it as at least twelve months, with customs authorities able to grant a longer period and/or extension.

In many cases of temporary importation, customs authorities require posting a bond in order to guarantee the re-exportation of the goods temporarily imported. Nevertheless, according to the Istanbul Convention, in view of the condition that goods are imported by approved institutions, Contracting Parties are not allowed to require a security but may ask for a written undertaking to re-export. However the Contracting Parties are allowed to enter reservations against this provision. The Brussels Convention recommends that customs authorities require security, but be satisfied with a written undertaking to re-export.

The ATA Carnet system was created to simplify customs provisions on the temporary duty-free admission of many kinds of equipment and material by introducing a special document (the carnet) which can replace both national customs documents and a security deposit (The Istanbul Convention, 1990, Customs Convention on the ATA Carnet for the Temporary Admission of Goods, 1961). This system is implemented via the international network of Chambers of Commerce. The ATA Carnet requires the payment of a fee for issuance which is not reimbursed, whereas a bond is reimbursed on the re-exportation of the equipment. The Carnet is valid for one year and requires the payment of fees in the same amount for a renewal. The renewal is not automatic.

## 2. Regional Accords

Regional accords, such as those of the European Community, have gone further beyond the standards set by the above international conventions. The Community Customs Code (Regulation EEC no 29/13/92°, as well the implementing provisions of 1993) allow duty-free circulation of goods within the European Union. Legislation in the European Community has thus facilitated equipment transfers, the costs of which are now limited to shipping, insurance and VAT.

Since 1983 there is a possibility for duty-free and VAT-free transfers between European countries and a third party for imported equipment (scientific and medical). Nevertheless this can be a limited option as the concept of scientific equipment is defined in a very restrictive manner by authorities.

The EU Customs Code provides for partial or total duty-free temporary importation of non-Community goods intended for re-export, if the goods do not undergo any modification. The customs authorities must determine the exact time when goods must be re-exported. The maximum period for scientific equipment is defined as 12 months, with an extension of the period where exceptional circumstances so warrant. In many cases, extension up to 24 months is approved without major difficulties. The 24 month period is relatively favorable compared to the international standard of one year, nevertheless it is still not long enough considering the duration of typical megascience projects.

## 3. National Regulations

A number of countries have enacted regulations favorable to scientific activities. The Sub-Group has received responses from Finland, Germany, Japan, the Netherlands, and the United States. Complementary information received in response to a Sub-Group questionnaire allowed us to point to the following elements.

Japan: The Customs Tariff Law ( article 17) allows authorities to waive customs duty if the article is re-exported within one year. The Director General of Customs may require a security to be deposited, equivalent to the

amount of duty. Alternatively an ATA Carnet acquired in an exporting country can be used. The Director General can authorize the extension of the period of one year only when there is an imperative reason. There is also the mechanism of unlimited-time duty-free importation by academic institutions in the law (Article 15). This scheme can only be applied for those institutions which are already listed in the government ordinance, and articles for scientific research which are newly invented or considered difficult to be produced in Japan.

USA: The Harmonized Tariff Schedule of the United States (HTSUS) provides for the temporary transfers of equipment (Subchapter 13 of Chapter 98). The provisions are granted to persons. A non-governmental organization must post a bond (generally the amount is 200 % of the duty which otherwise would be paid, depending on the nature of the goods, the country of origin, and the importer). Government agencies may import equipment on a temporary basis without posting a bond. The duration is one year, with two one-year extensions allowed. In addition, several provisions of the HTSUS provide for duty-free entry to certain types of importers for an unlimited period of time, depending upon the nature of the importer (non-profit institution, foreign government). This scheme can only be applied to certain instruments and apparatus which are listed in the HTSUS. It is thus difficult to apply this scheme to unprecedented equipment. Imports from a limited number of countries are banned by Executive Order.

#### **4) A Case Study: Temporary Transfer of Scientific Equipment between France and the USA**

The problems were examined in more detail for the specific case of a two-year transfer of equipment from France to the US in the course of a co-operative research project involving governmental laboratories in the two countries. The French laboratory had to transfer equipment (a calorimeter, detector and electronic assemblies) required for the duration of experiments using a particle accelerator built and owned by the American laboratory. The time duration of the experiment was expected to be longer than one year, but could not be defined exactly at the time of transfer. In this case, the US regulations required that a shipping agent post a bond. American shipping agents consistently declined to advance the required bond, estimated at 1,000,000 francs (for equipment with a value of 4,000,000 francs), the amount being excessive from their point of view. In practice, they used the ATA Carnet.

In this case it is possible that the communication between the US and French research institutes and their respective authorities was not optimally achieved. For future cooperation, it is desirable that the concerned parties start contacts with customs offices at an earlier stage, to work to fit the planned megascience related activity into the regulatory structure wherever possible, or to consider modifications to that structure, if appropriate.

Transfers in the reverse direction are much simpler and less costly. The French administration allows governmental research institutes duty-free temporary importation of scientific equipment. In this case no bond is required. This can be implemented through personal contacts between administrative officers of the research institutes and the customs authorities. The duration is normally two years, but it can be extended for as long as five years on a case-by-case basis.

## **5) Findings and Conclusions**

The Sub-Group examined obstacles to the transfer of scientific equipment for international megascience co-operation. Based on the discussions in the Sub-Group, and the responses by facility managers to the surveys, the three principal issues listed below were identified. Improvements in these areas are feasible, and could be achieved through individual or collective action by interested countries. In each case, if future actions are undertaken, the Sub-Group recommends the following steps:

- i. Detailed examination of the problem, including the relevant statutes and regulations, with active participation by a significant number of national representatives;
- ii. Arranging for the involvement of experts (including legal and regulatory experts) leading to an analysis of the rationale for the limitations under current regulations, including factors unrelated to scientific research;
- iii. Identification of possible modifications to be made, based on voluntary participation of the countries involved.
- iv. If appropriate, internationally coordinated actions can be undertaken, with the potential assistance of the WCO. The revision of international conventions offers a unique opportunity for constructive change.

A series of international conventions signed by most OECD countries have been negotiated during the past 50 years with a view towards harmonizing and permitting greater flexibility with respect to customs regulations. One of these - the Kyoto Convention of 1973 - is currently being updated. The WCO, which serves as a venue for international discussions and negotiations, has encouraged the Megascience Forum Sub-Group to provide them with input regarding desirable changes in those conventions.

### **1. Temporary admission regulations may in themselves be a source of problems for some co-operative efforts.**

Because existing regulations and practices in most countries exempt scientific equipment imported on a temporary basis from customs duty, temporary admission (including the ATA Carnet) is a frequently-used mechanism for transferring equipment for megascience research. However, the following obstacles are encountered:

**The duration of temporary admission**, generally one year and renewable, is too short for many experiments and for some scientific co-operation programs. This means that time-consuming and frequent administrative applications have to be made to extend the admission periods, with no certainty that extensions will be granted. Therefore it would be desirable to extend the duration to the actual length of the programs, and to further facilitate the process of obtaining extensions, recognizing, however, that there may be strong opposition within the regulatory community to extending the meaning of “temporary” to cover increasingly long times.

**A security deposit** is often required to guarantee the return of the equipment. Such security is not always refunded if time limits are not extended in a timely manner. The magnitude of the deposit can be a disincentive to co-operation. The ATA Carnet is often used to reduce some of these constraints, but it is not refundable and is costly. It is not flexible in terms of the duration, as it is renewable on a yearly basis with additional new payment of the fee. Therefore it would be desirable to explore possible measures to lower the security deposits, or even eliminate them.

### **2. Permanent duty-free importation could become a more useful and widely-used mechanism for international scientific exchanges.**

As specified in the 1950 Florence Agreement, permanent duty-free importation is admitted in several countries. Nevertheless the Sub-Group’s survey showed that this type of transfer is not widely practiced for megascience co-operation. The reasons for this remained to be examined, but they probably include the fact that it is sometimes necessary to re-export equipment when it is acquired by a national facility for co-operation involving extensive division of responsibility among the international partners, and that this cannot always be foreseen in advance. The rules governing permanent importation would have to be carefully analyzed and perhaps modified to account for this contingency, as well as all instances where equipment is modified during the course of research.

### **3. Administrative procedures and contacts are key factors in facilitating scientific cooperation.**

The Sub-Group's survey and deliberations have shown that, in most cases, knowledgeable and experienced administrative officers at major facilities can overcome the barriers that stand in the way of needed equipment transfers. Thus, close collaboration between those administrative officers and regulatory officers, and mutual reliance, are essential. These existing contacts need to be taken into consideration and exploited even during the early stages of planning of new megascience projects. Experience has shown that many problems arise because consultations between scientific and regulatory authorities are deferred to late stages in the implementation of co-operative plans.

## **Representatives to the Sub-Group on Administrative and Legislative Barriers**

<b><u>Country</u></b>	<b><u>Name</u></b>
Australia	Dr. Ken Pettifer
Canada	Dr. Pardeep Ahluwalia
Finland	Mr. Matti Lähdeoja Mrs. Mirja Arajärvi Mr. Reijio Laukkanen
France	Mr. Jacques Sevin (Chair) Mr. Albert Prevos Mr. Jean Cases M. Philippe de la Saussay Mrs. Françoise Rabain
Germany	Dr. Arno Freytag Mrs. Elke Albrecht
Greece	Mrs. Athina Lazou
Israel	Dr. Michael Wolff
Japan	Mr. Osami Niihori Mr. Masashi Kajiyama
Korea	Dr. Cha-Dong Kim
Mexico	Dr. Efrain Aceves-Piña
Netherlands	Dr. Jan Van de Donk
Poland	Dr. Urszula Wajcen
Portugal	Prof. Maria Eduarda Gonçalves
Russia	Mr. Vladimir Sushkov
Switzerland	Mr. Michel Gottret
United Kingdom	Dr. Peter Lee Dr. George Stirling
United States	Dr. Michael Roberts Ms. Lise Howe
European Commission	Dr. Peter Kind

## **International Large-Scale Facilities**

Anglo Australian Telescope/Anglo-Australian Observatory (AAT)  
Isaac Newton Group Telescopes  
Joint Institute for Very Long Baseline Interferometry in Europe (JIVE)  
Institut Laue Langevin (ILL)  
European Laboratory for Particle Physics (CERN)  
European Synchrotron Radiation Facility (ESRF)  
European Incoherent Scatter Scientific Association (EISCAT)  
Instituto de Astrofisica de Canarias (IAS/IAC)  
Joint European Torus (JET)  
European Molecular Biology Laboratory (EMBL)

## **National Large-Scale Facilities**

Australia	Australia Telescope National Facility
Canada	TRI-University Meson Facility (TRIUMF) Saskatchewan Accelerator Laboratory
France	Grand Accélérateur National d'Ions Lourds (GANIL) Laboratoire pour l'Utilisation du Rayonnement E-M (LURE) Laboratoire Léon-Brillouin (LLB)
Germany	Deutsches Elektronen-Synchrotron (DESY) Berliner Elektronenspeicherring (BESSY) Hahn-Meitner-Institut Berlin GmbH (HMI)
Japan	Super Photon Ring 8 GeV. (Spring-8) KEK B-factory Free Electron Laser for Infrared Experiments (FELIX)
United States	Stanford Linear Accelerator Center (SLAC) National Institute of Standards and Technology (NIST) General Atomics(DIII-D Facility) National Optical Astronomy Observatories (NOAO) The Gemini 8-Meter Telescopes Project (Gemini) International Thermonuclear Experimental Reactor (ITER), San Diego Joint Work Site National Center for Atmospheric Research (NCAR)

## **The OECD Megascience Forum**

### **Working Group on Removing Obstacles to International Megascience Co-operation**

#### **Sub-Group on Administrative and Legislative Barriers**

#### **REQUEST FOR INFORMATION - QUESTIONNAIRE**

#### **INTERNATIONAL MEGASCIENCE FACILITIES**

The OECD Megascience Forum is an inter-governmental organisation whose goal is to allow its 28 member countries to take full advantage of opportunities for international co-operation on large science projects and programmes. In January 1996, the Forum created a Working Group on Removing Obstacles to International Megascience Co-operation. This group established a Sub-Group on Administrative and Legislative Barriers (another Sub-Group is addressing the issue of access to large-scale research facilities). The Sub-Group will make practical, specific recommendations, including those that could provide a basis for model statutory and regulatory language, aimed at removing the barriers that (often inadvertently) inhibit effective international scientific collaboration. The Working Group will forward these recommendations to the Megascience Forum for consideration by the OECD and subsequent consideration by governments interested in megascience co-operation. The Sub-Group's formal work plan is attached.

While our efforts focus on large-scale scientific projects, we believe that the barriers are similar to those encountered in international collaboration on smaller projects; therefore, the Sub-Group's recommendations should enhance international scientific co-operation at all scales.

To obtain baseline material for this effort, we are asking the administrative authorities at selected international megascience facilities to supply information on the problems that they have encountered in the course of setting up and conducting research. (In addition to this distribution to international scientific authorities, a similar questionnaire was sent to the governing bodies of national facilities, who were asked to provide information on the special problems that they have encountered).

For the purposes of this request for information, the term *facility* designates any large installation of scientific instruments whose primary purpose is to advance basic scientific knowledge, with results published in the open literature. Information is being sought concerning two types of

problems that are particularly relevant to large-scale scientific projects: the transfer of equipment (customs, taxes, etc.) and the international mobility of personnel (visas, residence and working permits, taxes, etc.). While the problems facing large-scale projects extend beyond these topics, the Working Group considers it appropriate and practical to begin with a principle focus on these two areas. The Working Group is only interested in difficulties that result from national laws and regulations; problems such as schooling, housing, and cultural adaptation are not the subject of this study if they can be resolved at the local level.

The information provided will be held in the confidence of the Sub-Group. However, following analysis, aggregate information which does not allow for the identification of specific facilities may be used in the Sub-Group's reports and publications. Specific information will not be published without the consent of the contributor.

## **REQUEST**

The questionnaire has three parts, corresponding to three classes of problems: transfer of technical equipment, mobility and status of personnel, and other problems. In each part, typical examples (up to three cases) relevant to large-scale projects should be described according to the criteria specified below. Very specific details (names, dates, etc.) are not required in most cases, since the goal is to develop recommendations for revising laws and/or administrative procedures by interested governments. Thus, the most useful information would refer to instances of persistent, typical and harmful problems, ones that form a pattern of interference with scientific inquiry associated with large-scale scientific projects, rather than unique, particular events.

## **QUESTIONNAIRE**

### **I) Transfer of Technical Equipment**

Please specify up to three cases of administrative and/or legislative barriers at the national level, and please provide the following information:

#### **1. The Problem**

- a) Summarise briefly the specific problem encountered, for example: administrative complexity and/or delays, excessive tax rates, import and re-export permits.

#### **2. Background**

- a) Identify the facility, the operator, and the governing body.

- b) Nature of the equipment (complete assembly or component) and its use (for example: part of a facility, scientific instrument, experimental sample).
- c) The specific origin and destination of the equipment.
- d) Ownership (for example: the facility, a member national agency, a university, a team of experimenters).
- e) Type of transfer and duration (temporary or fixed-term import, loan, donation, etc.).
- f) Was the item intended for modification at the facility? Was it destroyed or consumed (accidentally or deliberately)?

### 3. Consequences and Suggestions for Resolution

- a) Did the problem do significant harm to the scientific effort? If so, please describe.
- b) Was the problem resolved, and could this have been accomplished more efficiently? If special rules were applied because of the scientific nature of the equipment, please provide the statute or regulation.
- c) Please supply any other pertinent information, and comments.

## II) Mobility and Status of Personnel

### 1. The Problem

- a) Summarise briefly the specific problem encountered, for example: visa, residence permit, working permit, work contract, tax problem, medical insurance.
- b) Did the problem apply only to the individual, or to his/her family as well?

### 2. Background

- a) Information about the facility (as in I.2.a above).
- b) Citizenship and status of the individual (for example: student, full time researcher from a foreign institution, employee of the facility) and, if appropriate, of family members.
- c) Who is the employer? .
- d) Type and duration of the entry visa and/or the working and residence permits.
- e) Are there any institutional or inter-governmental reciprocity agreements between the researcher's home country and the country where the facility is located?

### 3. Consequences and Suggestions for Resolution

- a) Did the problem do significant harm to the scientific work? If so, please describe.
- b) Was the problem resolved, and could this have been accomplished more efficiently? If special rules were applied based on the scientific nature of the work, please provide the statute or regulation.
- c) Please supply any other pertinent information, and comments.

### III) Other Issues

The Sub-Group's work program enumerates other typical problems that are due to regulations that are not well-adapted to the conduct of large-scale scientific research. If such difficulties have been encountered repeatedly, and have produced consequences that were comparable to those specified above, please describe them using a format similar to the one given above. If possible, please provide suggested actions and recommendations for consideration by the Megascience Forum as an inter-governmental organisation.

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The members of the Megascience Forum Working Group greatly appreciate the co-operation of persons responding to this request for information. In the event that more information or clarification is needed, one of the following persons may be contacted:

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### **Guidance Note for Sub-Group Members**

This document was prepared by the Megascience Forum Secretariat, in consultation with the Chairman and the Task Group members, based on the consultants' further examination of the results of the questionnaire survey and their case studies in France. It is intended to serve as a guidance note, when each Sub-Group member conducts studies on regulations and practices in each country. Naturally, the rules and regulations, and difficulties are different from country to country. Therefore modifications and additions to the proposed cases are welcome.

Our studies to date brought up the following as principles to facilitate compliance with the rules, which should expedite the formalities necessary for international cooperation: reciprocal knowledge of relevant rules and regulations between the parties involved in both countries; direct contacts between the representatives of the regulatory authorities and the administrators of scientific institutions. Such general principles have been found to help solve the problems relevant to both visas/working permits for scientists, and the temporary transportation of scientific equipment, which are dealt with in this note.

#### **Visas/Working permits for Scientists**

When scientists visit megascience facilities in a foreign country over a period longer than about three months for scientific research cooperation, in many cases they are requested to apply for appropriate visas. When they are employed by scientific institutes which have a legal status in this foreign country, they are requested to acquire working permits as well. In such cases, no fundamental obstacles were reported in the responses to our questionnaire survey, although difficulties in acquiring sufficient information, complexity in the application of relevant rules and regulations have sometimes caused unintended difficulties. In this regard, the MSF delegates are invited to examine the current practice in their countries applied in the following hypothetical cases.

[Cases]

1. a) Professor X, from country A has a six month sabbatical leave from University U and is invited to spend this leave in the national megascience facility F in your country (B), while her salary is still being paid by the University U. Are there any problems found at this stage?
  - b) During her stay, facility F proposes that Prof. X should extend her stay for three more years and she is offered a temporary staff position at F for this duration. Prof. X accepts, with the agreement of University U. Then, she will get her salary from F and no longer from U. She decides to be accompanied by her family (her spouse and two children under 16). Does this change of status create any problems, (except those related to housing and schooling)?
  
2. a) Postgraduate researcher Y, from country C, has a temporary appointment at University U in country A, where he holds a resident permit. He is offered a

two-year contract at G, an international research facility in your country B. He will be accompanied by his unmarried partner. Are there any difficulties found?

- b) Will Y be able to travel outside country B? Can he then return to A, either for short stays during his appointment at G or for returning to his formerly affiliated University U? (for this question, suppose your country is either A or B)

These two cases are among the most difficult ones to solve, judging by the information gathered from the replies to the questionnaire. Delegates would be able to adapt questions to the practices in respective countries, and introduce variants from their experiences.

[Questions in general]

- Are special arrangements to facilitate administrative procedures for scientists existing or planned? If there are such arrangements, what are their legal status and contents? Cf. “circulaire” in France.
- Does a category of “Scientists Visa” exist in your country, or are there any visa categories which scientists may find useful to apply for?
- Are there regular contacts between administrators of scientific facilities and local regulatory authorities?
- Are there mechanisms for assisting foreign scientists in their application and acquisition of visas and/or working permits, for example, by providing relevant information in a consolidated form? Cf. Alfred Kastler Foundation in France, which has an Internet site (<http://www.cnrs.fr/fnak>).
- Are there special regulations which make acquisitions of visas/working permits more difficult between specific countries?
- Does the status of receiving facilities (university/public research institute/private research institute) make a difference to the formalities?

### **Temporary Importation of Scientific Equipment**

Under the Customs Convention on the Temporary Importation of Scientific Equipment (1968), the contracting parties of the convention are required to grant and facilitate the temporary admissions free of import duties and taxes, of scientific equipment. In this regard, the MSF delegates are invited to examine the current practice in their countries applied in the following hypothetical case.

[Case]

Laboratory X in country A co-operates with Laboratory Y in your country (B) on a research program which necessitates the temporary transfer of special equipment (e.g. particle detector) from A to B.

The framework of the project is defined by a memorandum of understanding (MOU) between the two laboratories. A financial agreement specifies the laboratories' respective contribution. Whereas the co-operation of the scientific programme is able to be defined in terms of duration (e.g. 3 years), it is however difficult to define the length of time necessary to carry out experiments using the equipment imported from country A at the initiation of the project. In this case, what is a suitable administrative framework to facilitate temporary transfers of equipment from A to B at a minimal cost?

One of the great difficulties encountered in the responses to our questionnaire is the time duration allowed for the temporary importation by the customs administration of the country B, which is normally only one year. In some countries, the posting of a bond, pending return of the equipment to the country of origin is required. The transport company is very reluctant to bear the cost of posting the bond, which is usually very expensive. Laboratories may have recourse to the "carnet ATA", via its Chamber of Commerce instead. But it requires the payment of a non-refundable fee, which only covers a period of 1 year, with no guarantee of extension.

[Questions regarding conditions when "temporary importation" is applied]

- 1) How has the criteria been defined for goods to qualify for temporary importation?
- 2) Is there distinction in treatments between governmental organization and non-governmental organization?
- 3) Origin of the equipment --Are there specific problems with specific countries?
- 4) Is a posting of bond necessary to ensure the imported equipment's return to its place of origin? Is it costly? Is there an alternative guarantee, such as a "carnet ATA"?
- 5) Are there cases where the duration of temporary importation is not questioned? Is the extension of the duration really problematic?

[Questions in general]

- Are all these required regulations and procedures known by both scientists and administrative officers in the scientific laboratory, and the local regulatory officers? How are they made known? Can the situation be improved?
- Are there regional agreements or agreements with specific countries to facilitate such temporary importation?

## **Appendix 4**

### **Excerpts from the Internet site concerning administrative formalities.**

Fondation Nationale Alfred Kastler

<http://www.cnrs.fr/fnak/somminva.html>

APEC Business Travel Handbook

<http://www.apecsec.org.sg/travbook/japan1.html>

a) **The Florence Agreement** (The Agreement on the Implementation of Educational, Scientific and Cultural Materials)

In 1950, under the aegis of UNESCO, the Florence Agreement was adopted to facilitate the importation of educational, scientific and cultural materials. The Contracting States undertake not to apply Customs duties on the importation of the materials listed in the Annexes to the Agreement, which include scientific instruments or apparatus intended exclusively for educational purposes or pure scientific research. Such instruments or apparatus must be consigned to approved scientific or educational institutions and used under the control and responsibility of these institutions. A further condition is that instruments or apparatus of equivalent scientific value are not manufactured in the country of importation.

b) **The Brussels Convention** (Customs Convention on the Temporary Importation of Scientific Equipment)

In the early 1960s it was noted that, with the passage of time, the provisions of the Florence Agreement were no longer sufficient to accommodate the needs of intensified international co-operation in research. Several specific topics were highlighted:

- temporary importation,
- going beyond the concept of "pure" research,
- extension to machinery, instrument accessories, spare parts and certain tools used

In June 1968 in Brussels, still under the aegis of UNESCO, a new international instrument providing for the temporary admission of scientific equipment free of import duties and taxes, was created. This convention gives a broader definition of scientific equipment by placing greater emphasis on the criterion of use for scientific purposes. Scientific equipment has therefore been defined as : instruments, apparatus, machines and accessories therefore used for the purpose of scientific research or education, which covers spare parts, tools designed for maintenance, checking, gauging or repair.

The approved institutions were defined as public or private, on condition that they had an essentially non-profit character and were approved by the authorities of the importing countries. The guarantees required in exchange for the waiver of duties and taxes were made more flexible, and the contracting parties were encouraged to be content with a written undertaking whenever possible. Re-exporting time limits were deemed to be difficult to define a priori, but a period of six months was thought to be sufficient, with the option of an extension. Contracting parties should waive import prohibitions and restrictions, including quantitative restrictions and exchange control regulations, but these may be suspended.

c) **The A.T.A. Convention** (Customs Convention on the ATA Carnet for the Temporary Admission of Goods)

In December 1961 in Brussels, within the framework of the Customs Co-operation Council, a customs convention was established to create the ATA carnet for the temporary duty-free admission of goods.

The goal was to simplify customs provisions on the temporary duty-free admission of many kinds of equipment and material by creating a special document (the carnet) which would replace national customs documents, and by replacing the filing of the security guarantee of importation duties to a forwarding agent, using procedures implemented via the international network of Chambers of Commerce. This process requires the payment of a non-refundable fee (via the Chamber of Commerce). The time duration allowed is only one year.

d) **The Kyoto Convention** (International Convention on the Simplification and Harmonization of Customs Procedures)

In May 1973 an important new step was taken in the field of temporary admission in the form of an international convention signed in Kyoto. This general convention, like that for the ATA carnet, concerned the simplification and harmonization of customs procedures. It attempts to establish "recommended standards and practices" in the form of annexes, and invites the contracting parties to comply with these provisions in the framework of their national legislation.

Annex E-5 provides standards and recommended practices concerning temporary admission subject to re-exportation in an unmodified state, which are applicable to scientific equipment (as defined in the Brussels Convention). It was left to national legislation to enumerate the cases in which temporary admission may be granted and to lay down the requirements must be met. The duration of temporary admission is not specified.

Annex E-6 sets up a framework based on the same principles concerning temporary admission for processing or upgrading. This concerns equipment that has to be converted, worked on, or repaired prior to being re-exported.

Finally, this convention sets up a Permanent Technical Committee reporting to the Customs Co-operation Council which is responsible for monitoring matters likely to be the subject of review or further study.

e) **The Istanbul Convention** (Convention on Temporary Admission)

A new convention to terminate and replace all existing conventions concerning temporary admission was established in June 1990 in Istanbul. It arose from the multiplicity and scattered nature of international conventions on temporary

admission. This convention was launched with the objective of pursuing (along the lines followed by the Kyoto Convention) the trend of simplification and harmonization of customs procedures, and the adoption of a single international instrument that would combine the contents of all existing conventions.

Annex B-5 relates to goods imported for educational, scientific or cultural purposes, giving a fairly broad definition of the goods accepted as belonging to the domain of scientific research: "models, instruments, apparatus, machines and their accessories used for scientific research purposes". "Replacement parts" are also included. This specific annex sets the re-exportation period at a minimum of twelve months.

# Administrative Procedures for Foreign Researchers

Français

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[New] The "visa préfectoral de retour" has recently been cancelled, or almost cancelled. News are coming soon on this site.
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## WHO CAN USE THIS INFORMATION?

The information relayed here is designed for the benefit of post-doctoral foreign scientists of all disciplines and nationalities, who plan to come to France to work at a University or research

**institution**, as well as for their prospective French hosts.

[Picture]

For students who hope to travel in France, the procedures are somewhat different, as students require different papers to scientists and other workers. For help in planning a student trip, see the guide "Je vais en France", edited by CNOUS (Centre National des Oeuvres Universitaires et Scolaires, 6 rue Jean Calvin, 75005 Paris, Fax : [33] 43 37 44 78). This booklet is also available in the French Embassies and Consulates abroad (Cultural Department), or at the Universities in France (CIO or Foreign Secretariat).

## WHY MAKE THIS INFORMATION AVAILABLE?

The Foundation provides this information in order to help **foreign scientists** both before their departure, in manoeuvring the difficulties that arise in **planning a stay in France**, and following arrival, in getting them settled in preparation for the achievement of all the objectives of their trip. The following information deals with the administrative procedures that must be respected in order to obtain the government papers required, such as visas, etc. Other aspects of travel and stay in France, including information about housing and insurance, as well as that for daily life, such as how to open temporary accounts in French banks and where to find child-care, will be presented afterwards.

[ [Homepage](#) | [Description](#) | [Guests](#) | [Hosts](#) | [Questionnaire](#) ]  
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## JAPAN

### ***Business Visa Requirements***

Business persons from Australia; the People's Republic of China; Hong Kong, China; Indonesia; Republic of Korea; Malaysia (recommended); Papua New Guinea; Republic of the Philippines; Chinese Taipei; and Thailand require visas.

Business persons from the following economies are granted visa-free entry under visa-waiver arrangements for 15 days or 90 days: Brunei Darussalam, Canada, Chile, Mexico, New Zealand, Singapore and the United States.

### ***Documentation Required***

- Passport
- Visa application form
- Introductory or sponsorship letters (not always required)
- Business or trading license (not always required)
- 2 passport photographs
- Return/onward air ticket or letter of guarantee in lieu thereof
- Material showing that the business visitor can defray all expenses during his or her stay in Japan without engaging in management of a business or remunerative activities
- Material showing the activities of the visitor during his or her stay in Japan
- Other supporting documentation as and when required

### ***Method of Lodgement***

Applicants are normally required to lodge the visa application personally. A formal interview is not usually necessary.

### ***Processing Time***

2 to 7 working days

### ***Multiple Entry Visas***

Multiple entry visas are available automatically for business persons from Australia; Republic of Korea; Hong Kong, China (British passport and Hong Kong Special Administrative Region passport holders); Chinese Taipei; and Malaysia.

Multiple entry visas are considered on application for business persons from the People's Republic of China; Hong Kong, China (holders of Certificate of Identity); Indonesia; Papua New Guinea; the Republic of the Philippines; and Thailand.

***Validity/Extension***

Multiple entry visas are valid for 1 year or 3 years. Permitted length of each stay is 15 days or 90 days.

Business persons from Mexico are permitted an extension of 90 days, and businesspersons from other economies are granted extensions under exceptional circumstances.

Business persons may apply for extension of their authorized period of stay at the Regional Immigration Bureau no later than the date of expiry of the authorized period of stay. Documents should verify the necessity of the extension in terms of unforeseen circumstances arising after entry. Extensions are generally granted in a week if their applications are approved.

***Cost of Visa Application***

A single entry visa costs about J¥3,000, and a multiple entry visa about J¥6,000. For the exact amount in local currency, travelers should inquire at a Japanese mission.

Fees are waived for persons from Australia, Republic of Korea, Malaysia and Republic of Philippines on reciprocity. Fees for persons from Hong Kong, China (British passport holders) are reduced on reciprocity.

***Regulations relating to accompanying dependants***

Dependants of business persons from Brunei Darussalam, Canada, Chile, Mexico, New Zealand, Singapore and the United States enter Japan under the visa-waiver arrangement.

Dependants of business persons from other economies are permitted to accompany the business person only if they hold a separate valid visa.