

**COMMUNICATION FROM THE UNITED STATES**

The following communication, dated 18 March 2005, from the Delegation of the United States, is being circulated in advance of the Negotiating Group meeting of 22-24 March.

**RELEASE OF GOODS**

**I. PROPOSAL**

*X Maintain a system by which goods may be released from the custody of customs before final payment of duties or resolution of customs matters (such as classification or customs valuation), utilizing as necessary a guarantee as a surety, bond, or deposit.*

**II. IMPROVEMENT AND CLARIFICATION**

1. This proposal would bring about one of the most significant improvements to Article VIII of GATT 1994, providing for greater efficiency that can benefit both the trade as well as customs administrations. Strengthened commitments aimed at enhancing the efficient release of goods are at the core of these negotiations, given the demands of today's just-in-time global economic environment.

2. Delays in receiving goods due to customs clearance are a significant matter of concern for any company – particularly a small enterprise operating under the demands of a today's just-in-time economic environment. At the same time, from the perspective of a customs administration, as long as payment of duties can be guaranteed, the physical custody of goods is unnecessary, and can be merely obstructive and impose an unnecessary burden on managing inventory while issues related to classification and valuation remain unresolved.

3. There is precedent for such a WTO commitment, although in a more narrow context. Under Article 13 of the Customs Valuation Agreement, Members are to make provision for goods release in the event of delays in the final determination of customs value.

**III. EXPERIENCE**

4. A number of Members use guarantees such as a bond, deposit, or surety which allow for goods to be released even while certain issues may be pending. The United States has a release system in place for the physical release of goods independent of the collection of duties and the fixing of value, classification, and, in certain circumstances, admissibility matters. Under such a system, upon the arrival of goods an importer may file an entry and release form, which applies for the release of goods from customs custody, and is required to have surety or guarantee for the payment of duties. The surety will be obligated pending the resolution of admissibility, tariff classification, and value

issues, and the surety is the instrument that customs holds as a guarantee of compliance with customs laws – rather than maintaining physical custody of the goods.

#### **IV. COSTS**

5. Transition costs will vary between Members, and further exploration is needed to assess individual situations. There may be a need to establish a legal framework for such a system, along with the possible need for redirecting administrative resources. Each situation will likely not be a matter of significant financial expenditure.

#### **V. SPECIAL AND DIFFERENTIAL TREATMENT**

6. Diagnostic tools should be utilized to assess the unique situation of each individual Member regarding implementation of the proposed commitment. Such an undertaking can identify needs and priorities, and lead to appropriate and workable transition periods combined with assistance targeted at individual situations. The United States looks forward to working with Members during the negotiations to obtain more specific assessments of individual Members' situation related to this proposal.

#### **VI. TECHNICAL ASSISTANCE AND CAPACITY BUILDING**

7. The United States has experience in providing assistance toward the establishment of a release system consistent with the proposal, and is interested in obtaining further information from others, including International Organizations, that may have experience in providing assistance related to establishing release systems consistent with this proposal.

#### **VII. PROPOSED NEXT STEPS IN THE NEGOTIATIONS**

- X *Members work together to refine elements of commitments related to maintaining a system that provides for release of goods prior to final payment of duties or resolution of other legal matters.*
  - X *Drawing upon as appropriate the work of International Organizations, Members undertake country-specific diagnostics regarding implementation of the proposal. Results would include an assessment of possible tasks, time line, and resources necessary for each particular Member to achieve effective implementation..*
  - X *Members exchange experiences on implementation and technical assistance, and develop a path by which every Member can ultimately achieve full implementation of the proposed commitment.*
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