

WORLD TRADE ORGANIZATION

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Negotiating Group on Trade Facilitation

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COMMUNICATION FROM CANADA

The following communication, dated 10 March 2008, is being circulated at the request of the Delegation of Canada.

CUSTOMS COOPERATION

Taking account of recent discussions and other submissions related to cooperation between customs and other authorities on trade facilitation and customs compliance, Canada would like to submit the following textual language for consideration by the Negotiating Group.

Textual Proposal

Recognizing that a Member may have to address cases where it has reason to doubt the truth or accuracy of information provided by traders in support of the declared value of imported goods;

Recognizing the importance of protecting commercially confidential information in safeguarding the commercial interests of traders;

Members may seek assistance from other Members in accordance with the following requirements:

1. A Member shall seek to obtain and review the relevant and necessary documentation from the importer respecting the declared value of goods and shall conduct a verification before it requests assistance from another Member.
2. If the Member has reasonable grounds to doubt the truth or accuracy of the supporting documentation referred to in paragraph 1, it may request assistance from the exporting Member on mutually agreed terms consistent with the requirements of this proposal.
3. A Member shall not require an original or copy of export declarations issued by the authorities of the exporting Member as a requirement for importation.
4. Each Member shall notify to the WTO a contact point for making a request pursuant to paragraph 2.
5. Where a Member requests information from the exporting Member respecting the declared value of goods being imported, the requesting Member shall protect commercially confidential information. For greater certainty, the protection of commercially confidential information means the

treatment required by Article 10 of the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, 1994*.

6. The requesting Member shall provide the requested Member with a written summary of the request, including:

- (a) the matter at issue and reasons for the request;
- (b) the specific information, including documents, requested;
- (c) the purposes for which the Member requires the information;
- (d) a confirmation that the requesting Member conducted the verification required by paragraph 1;
- (e) an explanation of why the requesting Member still has doubts respecting the truth or accuracy of information provided by the importer after conducting the verification required by paragraph 1;
- (f) the identity of the official making the request;
- (g) the names and addresses of the persons to whom the request relates, if known; and
- (h) the applicable legal provisions in the domestic law, including provisions relating to confidentiality, of the requesting Member.

7. The requested Member should offer cooperation and assistance, consistent with its domestic law and procedures:

- (a) if the requested Member is satisfied with the verification referred to in paragraph 1;
- (b) if the requested Member is satisfied that the required confidentiality of the information will be maintained; and
- (c) only to the extent that the information is available.

8. Such exchange of information shall not require a requested Member to:

- (a) modify the format of their import or export declarations or their procedures;
- (b) require documents other than those filed with the declaration of the goods;
- (c) initiate inquiries to obtain the information;
- (d) modify the period of retention of such information;
- (e) introduce paper documentation where electronic format has already been introduced;
or
- (f) translate into any language the information or documents.

9. Subject to paragraph 11, the requesting Member shall use the information solely for the purposes stated in the request, unless the requested Member agrees otherwise in writing. The requesting Member shall be subject to any restrictions imposed by the Member providing the information.
 10. The requesting Member shall provide the information only to its customs administration. In the case that the requesting Member is required by its domestic law to share the information with a governmental agency other than its customs administration or in a judicial or quasi-judicial proceeding, the requesting Member shall inform the requested Member.
 11. A requested Member may postpone or refuse providing information if the provision of such information would interfere with an ongoing investigation, prosecution or proceeding.
 12. A requested Member shall respond in writing to a request made pursuant to this proposal.
 13. The request for information shall not be made later than [two years] after the importation or exportation of the goods.
 14. A Member shall not make more than [X] requests for information and documents from another Member in a calendar year.
 15. If a requesting Member does not treat information received from another Member in accordance with the requirements of this proposal, the requested Member may refuse any further requests for assistance pursuant to this proposal.
 16. Nothing in this proposal shall be construed to prevent a Member from entering into a bilateral arrangement respecting sharing of customs information. [In the case of an inconsistency between a provision of such an agreement and this proposal, that agreement shall prevail to the extent of the inconsistency].
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