

COMMUNICATION FROM UGANDA AND THE UNITED STATES

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

CONSULARIZATION

Proposal by Uganda and the United States

I. PROPOSAL

X *Prohibition of requiring consular transactions, including consularization-related fees and charges, in connection with the importation of goods.*

II. IMPROVEMENT AND CLARIFICATION

1. GATT Article VIII states that "contracting parties recognize the need for reducing the number and diversity of fees and charges". However, there are no binding prohibitions in the GATT Article VIII on the use of specific fees and charges. The proposal would bring clarification and improvement to GATT Article VIII through the explicit prohibition of an outdated and unnecessary practice that presents a market access barrier.

III. EXPERIENCE

2. For purposes of this proposal, a "consular transaction" (also sometimes referred to as "consularization" or "legalization") means requirements that goods intended for export must first be submitted to the supervision or certification by the consul of the importing Member in the territory of the exporting Member, for the purpose of obtaining consular invoices or consular visas for commercial invoices, manifests, shippers' export declarations, or consul "verification" of other elements of customs documentation required in connection with importation such as valuation or origin.

3. Whatever positive administrative purpose that may have once been served by such a requirement for consularization has been long overtaken by the speed of today's trading environment as well as modern administrative techniques for verification that border requirements are being met. Consularization requirements, including related fees, have been shown to have an inordinate impact on exporters from developing-country Members – particularly least-developed Members and the

landlocked. For small- and medium-sized enterprises from all Members, consularization requirements can present a barrier to market access.

4. Notably, in 1952 the GATT Contracting Parties recommended the abolition of consular invoices and consular visas, a recommendation that was subsequently reaffirmed on several occasions. This represents recognition that consularization generally is a duplication of function that is subsequently carried out within the importing country – where the necessary expertise for such function resides, rather than with a consular officer.

IV. COSTS

5. The proposed commitment would result in the elimination of a bureaucratic function, and therefore result in costs savings to traders and administrators alike.

V. SPECIAL AND DIFFERENTIAL TREATMENT

6. Many Members have already phased out consularization requirements for imported goods. Examination could take place on whether appropriate transition mechanisms would be necessary for addressing particular individual need associated with an existing consularization requirement. However, given the importance attached by least-developed, landlocked countries to the elimination of such requirements, every effort should be made to ensure immediate elimination by developed and developing-country Members alike.

VI. TECHNICAL ASSISTANCE AND CAPACITY BUILDING

7. It is not apparent whether implementation of the proposal would require technical assistance, but such an assessment should be made.

VII. PROPOSED NEXT STEPS IN NEGOTIATIONS

X Members assess the effect of such a proposal and work together to refine a specific description capturing "consularization" or "legalization".

X Members exchange experiences on the implementation and technical assistance, and develop a path by which every Member can ultimately achieve full implementation of the proposed commitment, also taking into account, as appropriate, the work of International Organizations such as the World Bank and WCO.
