

COMMUNICATION FROM THE DOMINICAN REPUBLIC

The following communication, dated 3 August 2005, is being circulated at the request of the delegation of the Dominican Republic.

**PROPOSAL BY THE DOMINICAN REPUBLIC ON REINFORCING THE
ETHICAL CONDUCT OF STAFF AND THE INTEGRITY
OF CUSTOMS ADMINISTRATIONS**

I. INTRODUCTION

1. The strengthening of the integrity of customs administrations through the introduction of legal rules and regulations governing the conduct of officials and employees helps to uphold best practices while contributing to the enforcement of domestic laws and procedures in the countries concerned and ensuring strict compliance with international commitments.
2. Efforts to improve and clarify the relevant aspects of Articles V, VIII and X of the GATT have drawn attention to the issue of the conduct of public servants in customs administrations.
3. Violations and inappropriate conduct act as further barriers to international trade that stand in the way of goods transit traffic; they amount to "additional invisible charges", aggravated by the lack of transparency in applying the laws and procedures in force in the different countries.
4. These bad customs practices have an impact on investment, fiscal revenue, business competitiveness, and economic activity, undermining judicial systems and respect for the law and human rights. This, in its turn, has a direct effect on trade and custom practices by impeding goods traffic, increasing the cost of transactions and complicating the international environment.

II. INTERNATIONAL CONTEXT

5. In past decades, the subject of the conduct of customs officials was not discussed in international meetings. More recently, however, it has been recognized that these problems are threatening the efficiency of customs services and the general well-being of society. Accordingly, the various international institutions have committed themselves to eliminating such practices.

6. For more than decade, a strategy has been developing to promote rules of conduct for public officials in customs administrations. Below is a list of some of the more important steps that have marked this process:

1. *Arusha Declaration (WCO-1993).*
2. *Global Forum I on Fighting Corruption (initiative of the United States Government, meeting held in Washington D.C. in 1999).*
3. *Global Forum II on Fighting Corruption (organized by the Government of the Netherlands in the Hague, 2001).*
4. *Development of the WCO Integrity Self-Assessment Guide.*
5. *Preparation of a Model Code of Conduct for customs officers (WCO).*
6. *Revised Arusha Declaration (WCO-2003).*
7. *Preparation of an Integrity Development Guide for customs administrations (WCO).*
8. *Development of a WCO Integrity Action Plan (updated in 2003/2004).*
9. *Global Forum III on Fighting Corruption (held in Seoul, Korea, from 29 to 31 May 2003).*
10. *Global Forum IV on Fighting Corruption (held in Brazil in June 2005).*

7. There are other documents on the subject prepared, *inter alia*, by the World Bank, the Inter-American Development Bank (IDB), the Organization for Economic Cooperation and Development (OECD), and the Organization of American States (OAS), which shed considerable light on the rationale underlying this proposal.

III. PROPOSED MEASURES

8. The introduction of the WTO rules to reinforce the ethical conduct of public servants in customs administrations is fitting, and entirely in keeping with the mandate to improve and supplement Articles V, VIII and X of the GATT 1994.

9. We propose measures for adoption at the domestic level in the Member countries, subject to the establishment by the WTO of general obligations that would help ensure that national legislations introduce procedures to enforce these rules. These measures are as follows:

- (a) Establishment of a code of conduct in the customs services, spelling out the rights and obligations of the public servants;
- (b) Introduction of computerized systems to reduce (or eliminate) the discretion exercised by officials and employees with respect to basic customs decisions;
- (c) Establishment of a system of penalties, to be directly incorporated in the country's customs legislation. Offences by customs officials should be considered as criminal acts;
- (d) Technical assistance to create and build up the country's national capacity to prevent and control customs offences;
- (e) Establishment of coordination and control mechanisms between customs administrations and the organizations involved in devising ethics policies in customs services.

IV. BENEFITS OF IMPLEMENTATION

10. Customs administrations throughout the world have been playing a fundamental role in protecting the vital interests of the national community and the State while implementing government policies to achieve national development objectives.

11. With an efficient and productive customs administration, it is possible to achieve pre-determined policy objectives in respect to revenue collection, trade facilitation, trade statistics, protection of society, and the environment.

12. However, customs administrations represent the public institutions most inclined to engage in practices that stray from the rules of ethics. An administrative monopoly with the power of discretion, which receives individual demands from enterprises in a work environment that sometimes lacks any precise definition of the rights and duties of users, in the absence of proper control procedures and systems, can spontaneously generate such unacceptable practices.

13. The financial benefits of eliminating such barriers would be enormous for the State and enterprises alike, particularly small- and medium-enterprises in the developing countries, whose alternatives and opportunities are scarce in this world of unlawful customs practices.

14. Thus, goods transit traffic would be able to flow more smoothly in a healthier environment. Duties and charges must be in line with the quality of the customs service offered. As unethical customs practices are abolished, the transparent application of laws and regulations becomes both a necessity and consequence of the process.

15. Ultimately, this proposal is intended as a contribution to improving the trade environment and the implementation of provisions aimed at reducing transaction costs and combatting the negative symptoms that could be reflected in the trading system.

16. A transparent environment can only be fully operative if we eliminate the secret and unlawful arrangements and the established procedures that distort market competition.

V. COSTS

17. These ideas, which are particularly relevant in the modern world, are entirely in tune with the basic interests of the current trade facilitation negotiations aimed at improving and supplementing Articles V, VIII and X of the GATT 1994.

18. In some countries, where implementation of these measures is already sufficiently advanced, these proposals would not generate high costs.

19. However, drawing up a code of conduct, professionalizing customs services, introducing efficient managerial systems, and amending the relevant legislation governing the conduct of officials and employees could require working time, specialized human resources for training, and possibly additional resources to implement programmes for the improvement of operational procedures in the customs administration.

VI. SPECIAL AND DIFFERENTIAL TREATMENT

20. Bearing in mind that certain countries are sufficiently advanced in the implementation of these measures, whose purpose is to clarify and supplement Articles V, VIII and X of the GATT 1994, while others are facing difficulties of various kinds in applying them, we think that the

developing countries should be granted sufficient time and other flexibilities for the implementation of any rules that result from these negotiations.

VII. ASSISTANCE AND CAPACITY-BUILDING DURING THE IMPLEMENTATION OF THE RESULTS

21. Members, in particular the developing countries, must identify their difficulties, requirements, and priorities by conducting a self-assessment if they are to effectively implement the programme of measures needed to strengthen the integrity and best practices of their customs administrations.

22. In view of the need for technical assistance and capacity-building support, we must work in a practical manner to help Members to implement the measures put forward in this proposal.
