

**TEXT FOR THE AFRICAN GROUP PROPOSALS ON DISPUTE SETTLEMENT
UNDERSTANDING NEGOTIATIONS**

Communication from Côte d'Ivoire

The following communication, dated 4 March 2008, has been received from the delegation of Côte d'Ivoire on behalf of the African Group.

I. THIRD PARTIES

Article 10 should be amended by adding the following to paragraph 2:

1. Any Member may participate as a third party before a panel by notifying its interest to do so to the DSB and shall have an opportunity to be heard by the panel and make written submissions to the panel. These submissions shall also be given to the parties to the dispute and shall be reflected in the report.

Article 10 should be further amended by replacing paragraph 3 with the following:

3. Without prejudice to the provisions of paragraph 2 of Article 18, third parties shall receive all the documentation relating to the dispute from the parties and other third parties. Third parties shall have a right to attend the proceedings and to be availed of the opportunity to put written and oral questions to the parties and other third parties during the proceedings.

Article 17.4 should be amended by replacing it with the following:

4. Only parties to the dispute, not third parties may appeal a panel report. Any Member that wishes to participate as a third party may notify its intention to the DSB and the Appellate Body. Third parties shall have a right to attend the proceedings and have an opportunity to be heard and to make written submissions to the Appellate Body. Their submissions shall also be given to the parties to the dispute and shall be reflected in the Appellate Body report.

II. UNSOLICITED SUBMISSION TO PANELS AND THE APPELLATE BODY

Article 13 should be amended by adding the following as paragraph 3:

3. In exercising the right to seek information and technical advice, the panel shall not accept or consider information or technical advice provided by any individual or body from whom the panel has not sought it.

Article 17.4 should be amended by adding the following as the last sentence:

The Appellate Body shall consider only the submissions of parties and third parties, and shall not accept or consider any submission beyond those submitted by the parties and the third parties.

III. EFFECTIVE ENFORCEMENT OF RECOMMENDATIONS AND RULINGS

Article 22.6 should be amended by renaming the current provision as paragraph (a) and adding the following paragraphs (b) and (c):

(b) Where it is demonstrated that the suspension of concessions or other obligations would have negative consequences on the economy of a Member that is developing or least-developed country, the DSB may, upon request, authorise a Member or a group of Members to suspend concessions on behalf of the affected Member. The following principles and procedures shall apply to such requests:

(i) Before making such a request, the developing or least-developed country Member shall refer the matter to arbitration for determination of the level of nullification and impairment, which shall be done taking into account the legitimate expectations of the developing or least-developed country Member. The arbitration shall further take into account the effects of the suspension of concessions upon the economy of the developing country.

(ii) The arbitration shall consider whether the suspension of concessions or other obligations in other sectors by the developing or least-developed country Member would be appropriate to effectively encourage the withdrawal of the measure found to be inconsistent with a covered Agreement, taking into account possible effects on that developing or least-developed country Member.

(iii) Where the DSB grants authorisation to a Member or a group of Members to suspend concessions or other obligations under paragraph 7, the level of suspension for each Member authorized shall be limited to securing full compensation for the injury to the developing or least-developed country Member concerned, the protection of its development interests, and the timely and effective implementation of the recommendations and rulings.

(c) Where the case is one brought by a developing or least-developed country Member against a developed-country Member and the situation described in paragraph 2 occurs, and in order to promote the timely and effective implementation of recommendations and rulings, the DSB, upon request, shall grant authorization to the developing or least-developed country Member and any other Members to suspend concessions or other obligations within 30 days.

IV. FUND ON DISPUTE SETTLEMENT

A new Article 28 should be introduced in the following terms:

Article 28

WTO Fund on Dispute Settlement

1. There shall be established a fund on dispute settlement to facilitate the effective utilisation by developing and least-developed country Members of this Understanding in the settlement of disputes arising from the covered agreements.

2. The fund established under paragraph 1 of this Article shall be financed from the regular WTO budget. To ensure its adequacy, the fund may additionally be funded from extra-budgetary sources, which may include voluntary contributions from Members.

3. Disbursements under the fund shall be made in accordance with criteria to be adopted by the DSB and communicated to Members.

4. The General Council shall review annually the adequacy and utilization of the fund with a view to improving its effectiveness and in this regard may adopt appropriate measures and amendments to this Understanding.
