

**PROPOSAL ON ISSUES RELATING TO EVIDENCE, PUBLIC NOTICE
AND EXPLANATION OF THE DETERMINATIONS UNDER
ARTICLES 6 AND 12 OF THE ADA**

Communication from Norway

The following communication, dated 29 June 2005, is being circulated at the request of the Delegation of Norway.

The submitting delegation has requested that this paper, which was submitted to the Rules Negotiating Group as an informal document (JOB(05)/132), also be circulated as a formal document.

1. Background

1. The "Friends of Anti-dumping Negotiations" (FANs), in document TN/RL/W/29, identified certain issues relating to Articles 6 and 12 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as "the Anti-dumping Agreement" or "the ADA"), and suggested that there is a need to clarify and improve these provisions to ensure that investigating authorities actively seek accurate, relevant and representative data and information, as well as giving interested parties full opportunity to present their facts and views during the course of an investigation.

2. References to the need for further clarifications and improvements in respect of evidence and explanations of the determinations under Articles 6 and 12 can also be found in a number of other submissions.¹

3. This document presents a number of specific proposals for clarification and improvement of Articles 6 and 12. The proposals contained in this document do not represent final positions in respect of the provisions referred to below, nor do they represent the total extent of proposals that we may wish to present in the future. In particular we would foresee that proposals relating to other Articles of the ADA might result in the need for consequential amendments to Article 12. We thus reserve the right to present further additions and/or modifications in the course of the negotiations.

2. Overview

4. The proposals in this document relate in particular to Articles 6.1, 6.2, 6.4, 6.9, 6.13, 12.1, 12.2 and Annex I of the ADA. In particular, Norway proposes

¹ See e.g. Canada in TN/RL/W/47, JOB(04)/149 and TN/RL/GEN/21. See also the United States in TN/RL/W/130, TN/RL/GEN/25 and JOB(04)/155.

- To clarify and improve these provisions to ensure that investigating authorities fulfil their duty under Article 6 to actively seek accurate, relevant and representative evidence, and to conduct the investigation in an objective and unbiased manner;
- To clarify and improve these provisions to ensure that interested parties are given full opportunity to present their facts and views during the course of an investigation, by strengthening their rights under Article 6 to defend their interests and by improving the notices under Article 12;
- To strengthen the transparency of anti-dumping investigations, including providing greater and more timely access to the "file" or "record" for interested parties;
- To make explicit the requirement for reasoned and adequate explanations for all determinations, to be set out in any disclosure and in all notices under Article 12; and
- Additional requirements for specific information that must be set out in the public notices at each step.

5. For ease of reference, the Annex to this document sets out how the proposed amendments to the Anti-dumping Agreement may be presented as legal text.

3. Proposals to ensure that the authorities fulfil their duty under Article 6 to actively seek accurate, relevant and representative evidence, and to give interested parties full and timely opportunity to present their facts and views during the course of an investigation.

6. Article 6, as currently written, emphasizes the rights of interested parties to present their facts and views, and also implicitly requires that the authorities fulfil their duty to actively seek accurate, relevant and representative evidence. We thus propose to set out more clearly in Article 6.1 this overarching responsibility of the authorities. This element, together with the general requirement to conduct an investigation in an objective and unbiased manner, has been stressed by panels, lastly the panel in "*Mexico – Rice*", which stated:

"... an investigating authority required to conduct an investigation in an objective and unbiased manner has to play an active role in the search of the information it requires in order to make its determination."²

7. Article 6.2 provides that "all interested parties shall have a full opportunity for the defence of their interests". In practical terms it is necessary for investigating authorities to take certain affirmative steps to ensure that this is effectively the case, particularly for small and medium sized companies.

8. The duty to ensure that all interested parties become aware of the investigation, and thus can effectively defend their interests, lies squarely upon the investigating authorities. They must make best efforts to reach out to all exporters, not just those identified in the initial complaint of the domestic producers, and cannot assume that the government of the exporting Member or other interested parties will do this task for them.³

² Panel Report in "*Mexico – Definitive Anti-dumping Measures on Beef and Rice*" ("*Mexico – Rice*"), WT/DS295/R, at paragraph 7.185. See also the Appellate Body in *US – Wheat Gluten* at para. 53.

³ This has been set out in detail in the Panel report in *Mexico – Rice*, see *inter alia* paras. 7.192 and 7.199.

9. It is generally recognized that small and medium sized companies of the exporting country may have serious difficulties in defending their interests in an anti-dumping investigation. Language skills and administrative resources to defend their interests are often non-existent, and they often do not have the resources to employ necessary legal assistance. Furthermore, questionnaires are normally in the language of the importing Member and may in many cases not be understood by the exporters. Article 6.13 provides that "authorities shall take due account of the difficulties experienced by interested parties, in particular small companies, in supplying information requested, and shall provide any assistance practicable".

10. Norway holds the view that the issues referred to above, namely the numerous resource constraints that respondents are confronted with should be discussed, in order to provide a basis for the elaboration of further improvements of the relevant Article 6 provisions. In particular, there is a need to make the current Article 6.13 provision more operational to ensure that small and medium sized companies understand their rights, fully comprehend the information requirements of the questionnaires, receive operational guidance in filling out the questionnaires and in providing the information requested, as well as understanding the consequences of not providing the information requested.

11. Article 6.1 contains the general obligation of the authorities to set out in detail the information they require from the interested parties. The duty to explain to the respondents exactly what information is required is not further defined in Article 6, albeit Annex II (6) provides to the interested party an opportunity to correct and explain the information submitted. We therefore suggest providing guidance to authorities on how to fulfil their obligation to set out in detail the information they require at all stages, while at the same time aiding respondents to provide accurate, required information in the questionnaire responses.

12. There is also a need to strengthen the provisions of Annex I to the ADA, to ensure that all verifications are preceded by a notice to the exporter concerned of the exact nature of information that the authorities wish to verify. Currently some Members do not provide such notices, leaving the exporters or producers in the dark as to the need for verification and/or the information to be verified.

13. Article 6.4 provides that interested parties shall have the opportunity to see all information that is relevant to the presentation of their cases. Currently access to "the file" is hampered in certain Members by the fact that an overview in the form of a listing of the contents in the "file" is lacking, such that an interested party may not know what is actually in "the file." Furthermore, it should be required that all information collected during the course of the investigation, whether it is used or not, be listed and contained in the case file. The authorities should be required to keep an updated index of all information that is part of "the file", including an index of all information withheld because of a justified need to preserve confidentiality

14. In its submission TN/RL/GEN/13 the United States has raised a number of issues which we believe merit further discussion. In particular the U.S. addresses the issue that interested parties should not only have access to the information authorities use, but additionally, to information the authorities do not use. We would furthermore point to the fact that the issue of access to the file or record is relevant and important for all parties affected by an investigation. This pertains in particular to the need of producers and exporters not directly involved in a particular investigation to have access to information which will have a bearing on their interests. Norway would welcome views on how to elaborate on further proposals to cater to the situations described above.

15. Lastly, Norway would highlight that Members vary greatly with respect to the extent of access they grant to the record, or file, in antidumping investigations. Overall, greater transparency is needed to ensure that interested parties have access to all relevant information so that they may defend their interests fully. Because of the considerable differences between the various systems, and

because parties often do not have adequate access to information, we propose that Members initiate a discussion on how the ADA might be improved to ensure more uniform and transparent access to information.

16. Specifically, the situation would be considerably improved from the point of view of enhancing due process, if the ADA were to require that interested parties have access to all information and evidence, including confidential information, throughout an investigation.

17. The confidential information is very often of crucial importance to an investigation and interested parties must, therefore, be able to access this information if they are to defend their interests adequately. Consequently, allowing access to confidential information - subject to protection requirements - is essential to balance the competing, but equally legitimate interests, of the parties that submitted the information and the rights of due process of other parties in the investigation. To implement such a requirement, Members would need to have in place adequate systems for protecting confidential information that is on the record.

18. Norway would therefore welcome Members views on this particular aspect of the issue of "access to the file or record".

19. To improve the situation we propose the following amendments:

- Set out more clearly in Article 6.1 the overarching responsibility of authorities to actively seek accurate, relevant and representative evidence, and to conduct the investigation in an objective and unbiased manner.
- Extend the time period in Article 6.1.1. for replying to questionnaires to 45 days.
- Provide in Article 6.1 that authorities shall make best efforts to identify all foreign exporters or producers.
- Provide in Article 6.6 that the authorities shall set out in detail the information they require at all stages and assist the respondents in providing accurate, required information.
- Amend Article 6.13 to include a requirement that authorities respond in a timely manner to all requests for clarifications of the questionnaire, and provide assistance in identifying the information that is needed.
- Further, provide that authorities shall, without delay, upon receipt of responses to the questionnaires, request clarifications or additional information, where needed for the investigation. The authorities shall engage in a process with the exporters and producers to ensure that the companies fully understand the information required and are given ample opportunity to provide it. If evidence or information is not accepted, the supplying company shall be informed forthwith of the reasons therefore, and shall have an opportunity to provide further evidence or information or explanations within a reasonable period.
- Clarify, strengthen and make mandatory the provision in paragraph 7 of Annex I regarding pre-verification notices.
- Require that investigating authorities keep an updated index of all information that is part of "the file" or "record", including an index of all information withheld because of a justified need to preserve confidentiality.

4. Disclosure

20. Article 6.9 currently provides that

"The authorities shall, before a final determination is made, inform all interested parties of the essential facts under consideration which form the basis for the decision whether to apply definitive measures. Such disclosure should take place in sufficient time for the parties to defend their interests."

Disclosure under Article 6.9 is currently not subject to any explicit procedural requirements in respect of timing or content. There can also be more than one disclosure, which is implicit in the requirement of disclosure after verification visits as set out in Article 6.7. This can also occur as a result of the obligation of the investigating authorities to set out forthwith the reason for not accepting any information or evidence in paragraph 6 of Annex II.

21. While, for obvious reasons, there is a need for interested parties to be informed of all the facts under consideration that will form the basis for the decision, to be able to contest and correct that information, there is also a need for them to be informed of the assessment by the authorities of those facts, the methodologies the authorities will apply and the legal interpretations the authorities will base themselves on. Consequently, we believe that there is a need to strengthen the requirements for the disclosure preceding a decision where provisional or definitive duties are imposed.

22. We have noted with interest the suggestion made by the United States in TN/RL/GEN/25. While we are opposed to any requirement to take a provisional measure, we are equally in favour of the element of that paper emphasising that interested parties should, during the course of an investigation, be informed and be allowed to comment on all essential matters of fact and law that will play an essential role in any determination made by the authorities. This is a vital component of procedural fairness. We would therefore invite Members to further the discussion on how the Agreement could be improved by giving specific input to elements mentioned above.

5. Proposal to make explicit the requirement for reasoned and adequate explanations for all determinations, to be set out in any disclosure and in all notices under Article 12.

23. Any decision to impose a definitive anti-dumping measure must take into account the comments received in response to a provisional measure (if such a measure has been taken), and must also include an explanation of any changes made in the facts relied on, basis for determination or other methodological changes or analyses.⁴

24. There is a distinction between a legal duty to explain a determination and the authorities' discretion in fact finding. Under the ADA, the authorities must establish the facts properly and evaluate them in an unbiased and objective manner.

25. Panels show great deference to the authorities in respect of fact finding. Panels cannot, and do not, undertake "de novo" reviews of the facts in an anti-dumping case. Rather, as also set out in Article 17.6(i) of the ADA, panels determine "whether the authorities' establishment of the facts was proper and whether their evaluation was unbiased and objective". Such a requirement, however,

⁴ See *Guatemala—Definitive Anti-Dumping Measures on Grey Portland Cement from Mexico*, WT/DS156R at paras. 8.226-230 17 Nov. 2000 (disclosure of essential facts underlying preliminary determination insufficient under Art. 6.9 where basis for final determination differed from preliminary determination and mere access to file not sufficient disclosure of essential facts because Art. 6.9 intends to make access to essential facts easy—parties should not have to sort through all facts to find essential facts).

presumes that the authorities have taken significant efforts to establish all the relevant facts. This implies that a detailed investigation must be conducted.

26. The factual basis for analysing whether the authorities' evaluation was unbiased and objective is the public notice, and where relevant, the accompanying report, that is published by the authorities under Article 12.2. The current requirement that the findings and conclusions reached on all issues of fact and law be set out "in sufficient detail" should be clarified to give the necessary guidance.

27. Panels and the Appellate body have struggled with what "sufficient detail" requires, and have adopted a test that is very similar to that employed under the Agreement on Safeguards, i.e. to require that there be in the published report or notice a reasoned and adequate explanation of the determinations of the authorities on all pertinent issues of fact and law.⁵

28. To provide better guidance to authorities as to what is required under Article 12.2, and to assist interested parties in understanding the basis for the determinations, we propose to make explicit the requirement of a reasoned and adequate explanation of all determinations (findings and conclusions) reached on all issues of fact and law relied upon by the authorities in the investigation.⁶ This will codify the interpretation of current Article 12.2 that has been applied by Panels and the Appellate Body. Consistent with the proposal above regarding required disclosures, such a requirement should also be applicable to all disclosures required under Article 6.9.

6. Proposed additional precise requirements for information that must be set out in the public notices at each step.

29. The FANs have presented a number of proposed modifications to other Articles of the ADA that entail consequential amendments to Article 12. Additionally Canada, in TN/RL/GEN/21, made a number of important proposals to clarify and improve Article 12. We would refer to the attached Annex and the draft text relating to Article 12 for an illustration of proposals that have already been introduced into the negotiations. We would point out that the proposals summarized in Article 12 of

⁵ The "reasoned and adequate" language has been used, in particular, in examining claims concerning sunset reviews under Article 11.3. The Appellate Body stated that a determination under that provision is WTO-consistent if it "rests upon a sufficient factual basis to allow [the authorities] to draw reasoned and adequate conclusions". (See *US – OCTG Sunset Reviews*, para 322. See also *US – Corrosion Resistant Steel*, paras. 54 and 55). The Panel in *US – OCTG Sunset Reviews* concluded that the US determination "can not be a determination supported by reasoned and adequate conclusions based on the facts before an investigating authority." (para 7.93, see also para. 7.95). The panel in *US - OCTG AD Measures* reached a similar conclusion (panel report, para.7.80; see also para. 7.74. Similar language has been employed by Panels reviewing injury determinations (see inter alia *Mexico – Corn Syrup* at para. 7.132; *EC – Bed Linen (Article 21.5 – India)* and *US – Softwood Lumber VI*).). In *Mexico – Rice*, the panel indicated that an authority is entitled to "draw[] certain inferences" from the facts, "provided it offers a *well reasoned explanation*."

In *US – DRAMS Countervailing Duties*, circulated 27 June 2005 (not yet adopted), the Appellate Body examined the meaning of Articles 12.2, 19.1 and 22.5 of the *SCM Agreement* regarding the investigating authorities duty to provide a "reasoned and adequate explanation" in the "published determination" as to how the facts support the factual findings; how the factual findings support the determinations made; and why the authorities "chose to discount" alternative explanations of the facts (para. 186). The Appellate Body's reasoning focused on the authorities' duty to provide a "*determination*" that is "*based*" on evidence, as well as the duty to provide "*reasons*" for the decision, and the "*basis*" for the determination. This ruling has potential significance for the authorities' duty to explain under the *Anti-Dumping Agreement* because the language that the Appellate Body relied upon also appears in Articles 2,3, 6.5 and 12.2.2 of the *Anti-Dumping Agreement*. In particular, the public notice requirements in Article 22.5 of the *SCM Agreement* and Article 12.2.2 of the *Anti-Dumping Agreement* are almost identical. This suggests that the ordinary meaning of these provisions requires a similar "reasoned and adequate explanation" in the published determination

⁶ The FANs already made a similar proposal in respect of injury determinations (see proposal no. 6 in JOB(04)/183, TN/RL/GEN/28).

the Annex do not represent final or prioritized positions, nor do they represent the total extent of proposals that may be presented in the future.

ANNEX

Summary of proposed changes to current text of ADA

(For ease of reference we reproduce below the current text of the relevant Articles of the AD Agreement, with the proposed changes included. Additions are underlined, while deletions are presented with ~~strikethroughs~~.)

Article 6 - Evidence

6.1 Authorities shall conduct an investigation in an objective and unbiased manner. Authorities shall actively seek all evidence necessary for the good conduct of the investigation. All interested parties in an anti-dumping investigation shall be given notice⁷ of the information which the authorities require and ample opportunity to present in writing all evidence which ~~they~~ the authorities consider relevant in respect of the investigation in question.

6.1.1 Exporters or foreign producers receiving questionnaires used in an anti-dumping investigation shall be given at least ~~30~~ 45 days for reply.⁸ Due consideration should be given to any request for an extension of the ~~30~~ 45-day period and, upon cause shown, such an extension should be granted whenever practicable.

.....

6.4 The authorities shall ~~whenever practicable~~ provide timely opportunities for all interested parties to see all information that is not confidential as defined in paragraph 5, and that is before the authorities in an anti-dumping investigation, and to prepare presentations on the basis of this information. Authorities shall make available to all interested parties an updated list of all such information contained in the file or the record of an anti-dumping investigation, including a list of all information withheld because of confidentiality.

New 6.5.2. (changing current 6.5.1) The authorities shall require interested parties providing confidential information to furnish a public version of the document containing the confidential information. The public version of the document will be identical to the version containing the confidential information except that the confidential information will be redacted and replaced with a non-confidential summary thereof. These summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. In exceptional circumstances, such parties may indicate that such information is not susceptible to summary. In such exceptional circumstances, a statement of the reasons why summarization is not possible must be provided.

The current text of 6.5.2 will remain the same, but the paragraph will be renumbered as 6.5.3.

⁷ New footnote to be inserted: Authorities shall make best efforts to identify the exporters and/or producers concerned, including through, inter alia, checking customs declarations, through requests to industry associations in the exporting Member, through industry publications in the exporting Member and any other means reasonably available to them.

⁸ Existing footnote no. 15: As a general rule, the time-limit for exporters shall be counted from the date of receipt of the questionnaire, which for this purpose shall be deemed to have been received one week from the date on which it was sent to the respondent or transmitted to the appropriate diplomatic representative of the exporting Member or, in the case of a separate customs territory Member of the WTO, an official representative of the exporting territory.

6.6 ~~Except in circumstances provided for in paragraph 8, t~~ The authorities shall during the course of an investigation satisfy themselves as to the accuracy of all the information supplied by interested parties⁹ upon which their findings are based. Without delay after receipt of responses to the questionnaires, the authorities shall set out in writing any requests for clarifications or additional requirements for information from the interested party concerned. If evidence or information is not accepted, the supplying party shall be informed forthwith of the reasons therefore, and shall have the opportunity to provide further evidence or information or explanations within a reasonable period.

.....

6.13 The authorities shall take due account of any difficulties experienced by interested parties, in particular small companies, in supplying information requested, and shall provide any assistance practicable. In particular the authorities shall respond in a timely manner to questions for clarifications of the questionnaire, and provide assistance in identifying the information that is needed.

.....

Article 12 -- Public Notice and Explanation of Determinations

12.1 When the authorities are satisfied that there is sufficient evidence to justify the initiation of an anti-dumping investigation pursuant to Article 5, the Member or Members the products of which are subject to such investigation and other interested parties known to the investigating authorities to have an interest therein shall be notified and a public notice shall be given.

(Explanatory note: The particular elements of the provisions are non-exhaustive and may be adjusted and expanded on the basis of input from Members).

12.1.1 A public notice of the initiation of an investigation shall contain, or otherwise make available through a separate report¹⁰, adequate information on the following:

- (i) a description of the product under investigation to which the initiation applies, including its tariff classification for customs purposes, the name of the exporting country or countries involved, and the names of the known exporters and foreign producers of the product under investigation;¹¹
- (ii) the date of initiation of the investigation;
- (iii) the names of all individual domestic producers of the like product who support the application, and the volume and value of each such producer's domestic production of the like product;¹²
- (iii) the basis on which dumping is alleged in the application;

⁹ Deletions suggested by FAN's in TN/RL/W/93, page 4 (proposal no. 3.2 in TN/RL/GEN/20). The word "all" is not explicitly mentioned in the original proposal but emphasizes the point made in the explanation to the proposal that all the information, including "facts available" should be verified.

¹⁰ Existing footnote no. 23: Where authorities provide information and explanations under the provisions of this Article in a separate report, they shall ensure that such report is readily available to the public.

¹¹ Changes suggested by Canada in TN/RL/GEN/21 and JOB(04)/149.

¹² Consequential amendment to the proposal by FAN's in JOB(04)/152, proposal 1-3 that amends Article 5.2(i). We are aware that the issue of confidentiality might be relevant in this respect.

- (iv) a summary of the factors on which the allegation of injury and the existence of causal link is based;
- (v) the address to which representations by interested parties should be directed;
- (vi) the time-limits allowed to interested parties for making their views known, and any other information relevant to the continuation of the investigation including next steps and related time-frames¹³.
- (vii) whether the authorities may consider limiting their examination in accordance with paragraph 10 of Article 6, and any procedures in that respect.¹⁴

12.2 Public notice shall be given of any preliminary or final determination, whether affirmative or negative, of any decision to accept an undertaking pursuant to Article 8, of the termination of such an undertaking, and of the termination of a definitive anti-dumping duty. Each such notice shall set forth, or otherwise make available through a separate report, in sufficient detail the findings and conclusions reached on all issues of fact and law considered material by the investigating authorities. The authorities shall provide a reasoned and adequate explanation for all findings and conclusions made, including an explanation of how each relevant factor has been evaluated. All such notices and reports shall be forwarded to the Member or Members the products of which are subject to such determination or undertaking and to other interested parties known to have an interest therein.

(Explanatory note: The particular elements of the provisions are non-exhaustive and may be adjusted and expanded on the basis of input from Members).

12.2.1 A public notice of the imposition of provisional measures shall set forth, or otherwise make available through a separate report, sufficiently detailed explanations for the preliminary determinations on dumping and injury and shall refer to the matters of fact and law which have led to arguments being accepted or rejected. Such a notice or report shall, due regard being paid to the requirement for the protection of confidential information, contain in particular:

- (i) ~~the names of the suppliers, or when this is impracticable, the supplying countries involved~~ the name of the exporting country or countries involved, and the names of the known exporters and foreign producers of the product under investigation;¹⁵
- (ii) a description of the product under investigation, including its tariff classification ~~which is sufficient~~ for customs purposes;
- (iii) the margins of dumping established and a full explanation of the reasons for the methodology used in the establishment and comparison of the export price and the normal value under Article 2, including information regarding normal values (including whether normal values were based on sales in the home market, sales to a third market or constructed normal value), export prices, and - if appropriate - any adjustments made¹⁶;

¹³ Similar changes have been suggested by Canada in TN/RL/GEN/21 and JOB(04)/149.

¹⁴ Consequential amendment to the proposals in respect of limited examinations, see TN/RL/W/181.

¹⁵ Similar changes suggested by Canada in TN/RL/GEN/21 and JOB(04)/149.

¹⁶ Similar changes suggested by Canada in TN/RL/GEN/21 and JOB(04)/149.

- (iv) considerations relevant to¹⁷ the injury determination as set out in Article 3, and the facts upon which it is based;
- (v) the main reasons leading to the determination;
- (vi) the periods for data collection for the dumping and injury analysis, and an explanation of the rationale for the selection of such periods;¹⁸
- (vii) the names of all known domestic producers of the like product, and the volume and value of each such producer's domestic production of the like product, identifying which producers support the application to initiate an investigation , and, if relevant, information regarding any exclusion of producers for the purposes of defining the total domestic production industry;¹⁹
- (viii) the right of exporters to offer price undertakings as well as information regarding the applicable rules and procedures to be followed in requesting consideration of price undertakings, including any procedural deadlines;²⁰
- (ix) the considerations which led to the use of a limited examination according to paragraph 10 of Article 6, the procedure used to select the producers or exporters included , and an explanation of the choice of companies or products;²¹
- (x) information concerning the verification of information used by the authorities, if undertaken;²² and
- (xi) information relevant to the continuation of the investigation, including next steps in the process, and related time frames, and information concerning contact to whom representations by interested parties should be directed²³.

12.2.2 A public notice of conclusion or suspension of an investigation in the case of an affirmative determination providing for the imposition of a definitive duty or the acceptance of a price undertaking shall contain, or otherwise make available through a separate report, all relevant information on the matters of fact and law and reasons which have led to the imposition of final measures or the acceptance of a price undertaking, due regard being paid to the requirement for the protection of confidential information. In particular, the notice or report shall contain the information described in subparagraph 2.1, as well as the reasons for the acceptance or rejection of relevant arguments or claims made by the exporters, the

¹⁷ Consequential amendment to the proposals in respect of injury determinations, (see JOB(04)/183, TN/RL/GEN/28) to give effect to the changes proposed to Article 3.

¹⁸ Consequential amendment to give effect to the changes proposed to Article 2.4. (This suggestion in modified form has been advanced by Canada in Job(04)/149 and TN/RL/GEN/21.)

¹⁹ Consequential amendment to give effect to the changes proposed to Article 4.1, and to the changes proposed for Article 5.2(i) (in JOB(04)/152) and Article 12.1.1(iii). (This suggestion in modified form has been advanced by Canada in Job(04)/149.)

²⁰ Consequential amendment to the proposal by FAN's cf. TN/RL/W/118 (fourth element), incorporated into Article 8.2. (This suggestion in modified form has been advanced by Canada in Job(04)/149.)

²¹ We refer to the proposals on limited examinations in TN/RL/W/181.

²² Changes suggested by Canada in TN/RL/GEN/21 and JOB(04)/149.

²³ Changes suggested by Canada in TN/RL/GEN/21 and JOB(04)/149.

~~producers of the exporting Member and importers²⁴, and the basis for any decision made under subparagraph 10.2 of Article 6.²⁵~~

²⁴ We note that FANs have elaborated proposals relating to lesser duty and public interest and that specific provisions concerning these issues would be reflected in the provisions. Of Article 12.2.2.

²⁵ This provision has been moved to Article 12.2.1 (ix) as amended.