

WORLD TRADE ORGANIZATION

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Negotiating Group on Rules

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ADDITIONAL PROPOSAL ON TRANSPARENCY UNDER ARTICLE 12 OF THE ADA¹

Paper from Hong Kong, China

The following communication, dated 16 November 2005, is being circulated at the request of the Delegation of Hong Kong, China.

The submitting delegation has requested that this paper, which was submitted to the Rules Negotiating Group as an informal document (JOB(05)/286), also be circulated as a formal document.

Hong Kong, China welcomes the submission by the Delegation of Norway entitled “Proposal on Issues Relating to Evidence, Public Notice and Explanation of the Determinations under Articles 6 and 12 of the ADA” (TN/RL/GEN/49), and its subsequent paper entitled “Further Proposal on Issues Relating to Article 6 of the ADA” (TN/RL/GEN/49/Add.1). Hong Kong, China shares the belief that transparency and due process are highly important in ensuring proper conduct of anti-dumping investigations. Hong Kong, China believes the draft texts in the Norwegian papers provide a good basis for Members to work on meaningful improvements on transparency and due process under Articles 6 and 12.

In respect of Article 12, Hong Kong, China welcomes the improvements suggested by Norway, and believe that the list of information to be specified in the public notices of initiation, preliminary and final determinations can be reviewed and further developed in the course of the negotiations. Apart from those improvements, Hong Kong, China believes the Group could also look into one important issue that is not currently addressed in Article 12, namely, the need for transparency of anti-dumping measures that are currently in force within the importing Member. Hong Kong, China believes that an all-rounded improvement of Article 12 should also address this important aspect.

In this regard, Hong Kong, China believes that the importing Member should be required to maintain a public register of all the definitive anti-dumping measures currently in force in that Member, and setting out relevant details of the measures in question. Such a register would provide a useful overview of all the anti-dumping measures currently in force in an importing Member, and enhance transparency to the general public of the use of anti-dumping measures in the importing Member, in furtherance of the objectives of good governance and public accountability.

¹ The proposal contained in this document does not represent a final position and may be subject to further addition and/or modification in the course of the negotiations. Other provisions of the Anti-dumping Agreement that may be affected by the proposal may be examined in the later stages of the negotiations when Members have a more comprehensive picture of the amended Agreement.

Textual Proposal

Add a new paragraph 4 to Article 12:

"12.4 The authorities shall maintain a public register of all definitive anti-dumping measures currently in force in that Member. The register shall contain the following information in respect of each of the anti-dumping measures in question:

- (i) the date of imposition of the anti-dumping measure and subsequent review(s)²;
- (ii) the subject product (including its tariff classification for customs purposes);
- (iii) the size³ of the domestic industry;
- (iv) the total volume or value of the production of the like product⁴ by the domestic industry, and the share of the domestic consumption of the like product, for the most recent calendar or financial year;
- (v) the exporting country or countries concerned;
- (vi) in respect of each exporting country concerned, the range (i.e. the highest and lowest) of individual anti-dumping duty currently in force and the applicable duty for "all other" exporters under paragraph 4 of Article 9⁵;
- (vii) the total volume or value of import of the subject product⁶ from each exporting country concerned, and the share of the domestic consumption of the like product in the importing Member, for the most recent calendar or financial year."

The public register may be maintained on a public website of the government of the importing Member. Alternatively, the register shall be made available for inspection by members of the public, and its full contents shall be published in a public notice at least once a year.

Consequential amendment to Article 12.3:

"12.3 The provisions of paragraphs 1 and 2 of this Article shall apply mutatis mutandis to the initiation and completion of reviews pursuant to Article 11 and to decisions under Article 10 to apply duties retroactively."

² where the measure is subject to ongoing review, the type of review and the date of initiation; if the measure is terminated during the reporting period, the date of termination.

³ i.e. the actual or estimated number of producers and employees at the time of initiation, or more recent figures if available. Information should be based on identified official or other independent sources. If such sources are not available, information may be based on best estimates.

⁴ or the narrowest category of product including the like product, for which statistics are kept.

⁵ (i) for members operating a minimum price system, information to be provided refers to the relevant dumping margins established at the time of the original investigation, or those established at the most recent review involving an adjustment of normal value;

(ii) where less duty applies, information to be provided refers to the reduced rate of anti-dumping duty;

(iii) where duty is suspended, the date and duration of suspension should be given.

⁶ or the narrowest category of product including the subject product, for which statistics are kept.