

PROPOSAL ON PRELIMINARY DETERMINATIONS

Paper from Brazil

The following communication, dated 2 March 2006, is being circulated at the request of the Delegation of Brazil.

The submitting delegation has requested that this paper, which was submitted to the Rules Negotiating Group as an informal document (JOB(06)/41), also be circulated as a formal document.

I. INTRODUCTION

1. Brazil welcomes the discussion at the Negotiating Group on Rules (NGR) meeting in February 2006 on the Mexican contribution on price undertakings (TN/RL/GEN/76). Brazil shares the view that disciplines under Article 8 of the Anti-Dumping Agreement (ADA) should be improved (TN/RL/GEN/2). It has also been the Brazilian view that the use of price undertakings would be improved if preliminary determinations become mandatory.

2. Moreover, such a modification would have the effect of enhancing transparency and predictability in anti-dumping proceedings.

II. PROPOSED TEXTUAL AMENDMENT

3. Brazil proposes amending Article 7 of the ADA as follows:

Article 7
Preliminary Determinations and Provisional Measures

(...)

7.6 Investigating authorities shall make preliminary determinations of dumping and consequent injury to a domestic industry in all investigations, regardless provisional measures are applied or not. Preliminary determinations shall be made no sooner than 60 days and no later than 240 days from the date of initiation of the investigation. Any extension of the 30-day period given to exporters or foreign producers to answer to the questionnaires shall be equally reflected in both limits of the above-mentioned period. The investigating authorities shall, before a final determination is made, give interested parties a reasonable period of time after the issuance of the public notice provided for in Article 12.2 to submit any comments or complementary information. The preliminary determination shall take place at least 60 days before the disclosure provided for in paragraph 9 of Article 6.