

**DRAFTING PROPOSAL ON ISSUES RELATING TO ARTICLE III.4 ("SPECIAL AND
DIFFERENTIAL TREATMENT OF DEVELOPING COUNTRY MEMBERS")
OF THE FISHERIES SUBSIDIES ANNEX TO THE SCM AGREEMENT
AS PROPOSED BY THE CHAIR IN TN/RL/W/213**

Communication from the ACP and SVEs Groups

The following communication, dated 16 May 2008, is being circulated at the request of the ACP and SVEs Groups.

A. INTRODUCTION

1. This communication focuses on Article III.4 of the Chair's Text (TN/RL/W/213) which forms part of the Special and Differential Treatment for developing countries as set out by Article III. This document seeks to initiate a debate within the Negotiating Group on ways to enhance the concepts contained in Article III.4.¹

2. Article III.4 currently reads as follows:

"Members shall give due regard to the needs of developing country Members in complying with the requirements of this Annex, including the conditions and criteria set forth in this Article and in Article V, and shall establish mechanisms for, and facilitate, the provision of technical assistance in this regard, bilaterally and/or through the appropriate international organizations."

3. In our understanding, Article III.4 is concerned with two specific and inter-related issues: the needs of developing country Members in complying with the requirements of the Fisheries Subsidies Annex to the SCM Agreement; and the provision of technical assistance to developing country Members.

B. RATIONALE FOR STRENGTHENING ARTICLE III.4

4. The sponsors of this communication are of the view that the current language of Article III.4 is a good starting point for discussion but must be strengthened with a view to creating a more effective and operational structure for the provision of technical assistance to those developing countries that would require it. This is principally for two reasons. First, it remains unclear what exactly the ramifications of having to "give due regard to the needs of developing country Members"

¹ This communication does not prejudice the position of individual Members, and is without prejudice to any other proposals submitted by the sponsors of this document.

will be in practice. Second, the conditions under which technical assistance will be provided to developing country Members are not spelled out, rendering this obligation rather vague.

5. Against this backdrop, the sponsors of this communication propose to strengthen the current language of Article III.4 in a way that makes the obligations set forth in Article III.4 more effective and operational. To this end, the provision must state more precisely: (a) the need for effective and timely assistance to be provided to developing country Members in complying with the requirements of the Annex on Fisheries Subsidies to the SCM Agreement; and (b) how technical assistance is to be provided to developing country Members.

C. PROPOSED MODIFICATION OF ARTICLE III.4

6. In line with the above considerations, it is suggested to modify Article III.4 as follows:

III.4.1 "Members recognize that developing country Members, especially least-developed countries and small, vulnerable economies, will face serious challenges in complying with the requirements of this Annex, in particular as regards the conditions and criteria set forth in this Article and in Articles V ("Fisheries Management") and VI ("Notifications and Surveillance")."

III.4.2 Members recognize that the ability of developing country Members, especially least-developed countries and small, vulnerable economies, to adopt, implement and sustain measures necessary for complying with the requirements of this Annex may depend on the effective and timely provision of technical assistance by Members to developing country Members in accordance with their demands and needs. Members recognize that developing country Members will have different implementation needs and capacities and to this end, developing countries which indicate a need for technical assistance shall be provided with such assistance through bilateral processes, through new and/or existing WTO technical assistance and support mechanisms and through other mechanisms of relevant international and regional organisations.

III.4.3 The Committee on Subsidies and Countervailing Measures shall establish a Sub-Committee dealing exclusively with issues related to technical assistance and support programs under this Annex, specifically as regards fisheries management systems and measures related thereto. The Sub-Committee shall coordinate the requests from developing country Members for technical assistance and support programs and shall review the effectiveness of the technical assistance provided to developing country Members.² The Sub-Committee shall periodically report its findings to the Committee on Subsidies and Countervailing Measures and the Committee on Trade and Development.³

² The Sub-Committee, in consultation with the developing Member concerned, shall identify any additional needs of that Member for technical assistance and every effort shall be made to ensure that appropriate technical assistance is provided to that Member. The role of the Sub-Committee shall not be to determine the validity of a developing country's request for technical assistance.

³ Future discussion would be required on the procedures to be followed if a developing country member does not receive the requested technical assistance.

D. CONCLUSIONS

The co-sponsors of this document remain available to clarify any of the issues raised in the current proposal.
