
Negotiating Group on Rules

**SUMMARY REPORT OF THE MEETING
HELD ON 30 MAY AND 3 JUNE 2005**

Note by the Secretariat

1. The Negotiating Group on Rules ("the Group") held a formal meeting on 30 May and 3 June 2005.

A. ADOPTION OF THE AGENDA

2. The Group adopted the following agenda:

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B.	ANTI-DUMPING ("AD").....	1
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	- Date of the Group's next meeting	
	- Statement regarding the future of the negotiations	

B. ANTI-DUMPING ("AD")

3. The Group discussed a paper entitled "**Issues Related to Article 6.10, including 'Limited Examination', and Article 9.4 'All Others' Rate'**" (TN/RL/W/181) and sponsored by 10 Participants. The paper sought to clarify and improve key parameters pertaining to Articles 6 and 9 of the AD Agreement ("ADA"). On Article 6.10, the main focus was the criterion of "representativity". In this context, a specific threshold of two-thirds of the imports was proposed when dealing with limited examinations. In addition, since many of the parameters in a limited examination should be case-specific, transparency provisions where authorities explain why they did not apply the general rule were also suggested. The paper also contained elements pertaining to the consultation mechanism in Article 6.10.2, and to the issue of the all others' rate.

4. One Participant supported the transparency, due process, and equity principles that governed the proposals and emphasised the need to utilize procedures consistent with these principles in selecting respondents. The consideration of proposals and comments from all interested parties, respondents and petitioners alike, would aid in selecting the appropriate respondents, and it would be a positive step to require administrating authorities to explain the decisions made in selecting the respondents. Concern was however expressed about the application of a two-thirds representativity test in the case of statistically valid random sampling. It was observed that in random sampling situations the sampling fraction or sampling rate could be very small (e.g., 2~5 per cent), and requiring sampling fractions of two-thirds or more would nullify completely the resource-savings benefit of sampling. Extensive coverage of the population was thus a costly substitute for good cross-

sectional representation, which normally could be achieved with moderately sized, and sometimes even small-sized, random samples. The paper also failed to distinguish between cooperating and non-cooperating exporters, which could invite non-cooperation. Furthermore; it was queried why the amendments proposed were limited to the selection of the producers or exporters although Article 6.10 also concerned importers and types of products involved.

5. The sponsors explained that under the current ADA there are two different methodologies pertaining to limited examinations, limitation to a reasonable number of interested parties or products by using samples which would be statistically valid, or to the largest percentage of the volume of the exports that could reasonably be investigated. The proposal for a two-thirds threshold would apply only to the latter methodology. Regarding the first methodology, the proposal's footnote 5 proposed that the authorities explain how their sample is statistically valid.

C. SUBSIDIES AND COUNTERVAILING MEASURES ("SCM"), INCLUDING FISHERIES
SUBSIDIES

6. No issues were raised under this agenda item.

D. OTHER BUSINESS

7. The next meeting of the Group will be held on 11-15 July 2005. The deadline for any informal elaborated proposals for consideration in the informal mode at that meeting will be Thursday, 30 June 2005, close of business.

8. One Participant made a statement regarding the future of the Rules negotiations in the areas of AD and SCM including fisheries subsidies. It indicated that while the Group had a good process, the number and complexity of the issues raised had slowed progress compared to that achieved in other Groups. Whether the Group was lagging behind depended upon expectations for Hong Kong, but it was clear that at some point a draft text would be required. There was in any event a need to get political guidance from Ministers at Hong Kong, and to define the level of ambition; a procedural outcome or a mere checklist of issues would not suffice. The Group needed to start talking now about goals for Hong Kong as it would determine how the Group organized its work in the second semester. The July report to the Trade Negotiations Committee was therefore crucial, and must be based on inputs from Members. The need for informal discussion in this regard before the next meeting of the Group in July was stressed.

9. Participants generally supported acceleration and intensification of efforts in the Group. A number of Participants considered that there was a need to begin text-based negotiations after Hong Kong, and that therefore a draft text was required before the Ministerial meeting, although one of these Participants observed that the author of such a text need not be prejudged. To this end, all Participants should now be submitting the building blocks in the form of text-based proposals. Caution was however expressed about rushing into drafting a text based on a few minority positions, which in turn could result in polarisation. It was submitted that the need to draft the text should arise only after exploring areas where progress should be made and where convergence could lie. It was also observed that while the July Report to the Trade Negotiations Committee could be on the Chairman's own responsibility, it must be sufficiently detailed to give a sense of the road ahead.

10. One Participant suggested that the Secretariat update the compendium of proposals prepared in 2003 (TN/RL/W/143). This would help identify areas where there had been proposals advocating changes to the current language in the ADA, areas where translating prescriptive proposals into legal text could be needed, and areas where certain Participants had identified problems within the current ADA, but few or no proposals had been submitted to date. Although some Participants saw merit in this suggestion, others expressed concern that it would consume time and effort, send wrong signals

about the degree of maturity of certain proposals, divert attention and not take into consideration any last-minute proposals.

11. The Chairman considered it important to have a collective reflection on July, Hong Kong and the end of the Round. He noted however that no single format or model fit all areas of negotiations, and that the technical complexity of the AD negotiations distinguished them from some others. He further observed that Participants must negotiate among themselves, not with the Chairman. Any Chairman's text would not be pulled out of the air, but had to be constructed on the basis of building blocks provided by Participants. He called for a sense of pragmatism and warned that drafting a text without receiving clear signals from Participants about their ambitions and the nature of the product sought could lead to deadlock. In response to the suggestion of some Participants (see para. 8, above), the Chairman indicated his intention to consult with delegations regarding the road to Hong Kong and beyond.
