

**THE STATEMENT OF HONG KONG, CHINA ON *NEGLIGIBLE IMPORTS*
AND *DE MINIMIS MARGINS* FOR THE INFORMAL OPEN-ENDED MEETING
OF THE NEGOTIATING GROUP ON RULES ON 15 FEBRUARY 2008**

Communication from Hong Kong, China

The following communication, dated 21 February 2008, is being circulated at the request of the Delegation of Hong Kong, China.

We welcome the opportunities today to address the issues not covered in the draft Anti-dumping (AD) text of the Chair. As mentioned in Hong Kong, China's statement at the meeting in December last year, we are very concerned that certain issues, which have been raised and discussed intensively in the proposal stage of the negotiations, have not been addressed in the Chair text. In particular, we highlighted at the time negligible imports and de minimis dumping margins; and today Hong Kong, China would like to speak on the two issues and elaborate.

To big exporters and producers which take a significant share of the market and which set prices, these thresholds are not a matter of concern. But for small exporters like Hong Kong, China, these thresholds matter and indeed make a huge difference - the difference between whether small exporters are allowed to continue to compete in or driven out of the market concerned.

No matter how much Members clarify and improve the due process and the procedural safeguards of AD investigations, the plain, and painful, fact remains that for small exporters, AD investigation is always a catch 22 situation - most often it is whether to spend a million dollars to engage foreign lawyers to defend their few million dollars worth export market! And this is not an academic question for Hong Kong, China, for almost all the AD investigations Hong Kong, China was subject to in the past few years, the same difficult situation recurred and troubled our exporters.

Letting go small exporters will not compromise the effectiveness of AD measures. On the contrary, investigations can become more focused, and more focused on the imports that have a real and substantial impact, but not immaterial or marginal effect, on the domestic market.

We have suggested an improvement for negligible imports that the denominator of the triggering threshold should be changed to "*total domestic consumption of the like product and the product under investigation in the importing county*". This consumption share or market share, in our view, is a far more reasonable and representative basis for determination of negligibility; since import share, the present indicator, fails to take into account domestic production, and hence tells only part of the whole story of the market. Detailed drafting proposal has been set out in the joint submission of Hong Kong, China and other Members in TN/RL/GEN/31/Rev.1.

If for any reason a change in the denominator is not possible, Hong Kong, China is prepared to consider an increase in the existing percentage threshold with comparable effect.

By the same token, the denominator of the cumulation threshold in Article 5.8 should be changed in tandem.

Separately, we support also the earlier proposal of Chinese Taipei in TN/RL/GEN/68 (and further explained in TN/RL/W/199) that the cumulation threshold should be clarified and applied in such a way that when negligible imports of Members, cumulatively, account for more than the 7 per cent of the market share, those of which in ascending order of their respective shares and which account for the first 7 per cent should continue to be exempted. This will serve to give meaning to the cumulation clause in all cases, and avoid the undesirable all-or-nothing scenario as well as the unfair situation that the smallest among the small will be deprived of the exemption that they deserve most.

For similar reasons, we would also like to see an increase in the percentage threshold for the de minimis margins of dumping, so that AD measures will not be taken in those cases which are only justified on a thin margin of need and reason. But in the interest of time, we will not repeat what Hong Kong, China and other Members have said and suggested in TN/RL/GEN/30/Rev.1.

We would like to request that the above issues be satisfactorily addressed in the negotiations and in any revised texts to be issued.

Thank you.
