

**REVISED RULES TEXT BEFORE HORIZONTAL  
PROCESS BEGINS**

Communication from ASEAN

The following communication, dated 10 March 2008, is being circulated at the request of the Delegation of Indonesia, on behalf of ASEAN WTO Members.<sup>1</sup>

1. We seek a revised rules text – one that could be a good basis for negotiations. The revised rules text should be within Members' negotiating range, reflects the reality of the negotiations, and adheres closely to the DDA mandate.

2. In the Hong Kong Ministerial Declaration, the Chairman of the Negotiating Group on Rules is mandated "to prepare, early enough to assure a timely outcome within the context of the 2006 end date for the Doha Development Agenda and taking account of progress in other areas of the negotiations, consolidated texts of the AD and SCM Agreements that shall be the basis for the final stage of the negotiations".<sup>2</sup>

3. The Chairman issued the draft text on 30 November 2007 (TN/RL/W/213) and we are appreciative of the early release. Plurilateral and open-ended consultations are currently underway and the co-sponsors of this communication are committed to engaging constructively in these consultations. The Negotiating Group has heard reactions of members and know what the most controversial issues are in the various areas of the Rules negotiations, namely anti-dumping, horizontal subsidies, and fisheries subsidies. In the case of anti-dumping and fisheries subsidies, the Chairman and the Membership have also received some textual amendments and specific substantive comments, some of which have received wide support from the Negotiating Group.

4. In the particular case of anti-dumping, about 20 developed and developing Members<sup>3</sup> have so far expressed that the draft text lacks balance, due primarily to the inclusion of text legalising the practice of "zeroing". These same members and others further proposed alternative text<sup>4</sup> to the Chair's

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<sup>1</sup> The Association of Southeast Asian Nations consists of Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Viet Nam. Lao PDR is acceding to the WTO.

<sup>2</sup> Paragraph 11 of Annex D of Hong Kong Ministerial Declaration (WT/MIN(05)/DEC).

<sup>3</sup> Statement on "Zeroing" in the Anti-dumping Negotiations (TN/RL/W/214/Rev.3, 7 December 2007), Statement of Brazil; Chile; China; Colombia; Costa Rica; Hong Kong, China; India; Indonesia; Israel; Japan; Korea, Rep. of; Mexico; Norway; Pakistan; Singapore; South Africa; Switzerland; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Thailand; and Viet Nam.

<sup>4</sup> Prohibition of Zeroing (TN/RL/W/215, 31 January 2008), Statement of Brazil; Chile; China; Colombia; Costa Rica; Hong Kong, China; India; Indonesia; Israel; Japan; Korea, Rep. of; Mexico;

proposed language on the issue of "zeroing". On the issue of lesser duty rule, we remain perplexed over the removal of the "desirability" language on the lesser duty rule in the existing AD Agreement and seek for the reinstatement of all removed language relating to this.

5. The TNC Chair has highlighted at the informal TNC meeting on 31 January 2008<sup>5</sup> that we are in the "the last lap and it is now time to start the sprint towards establishing modalities" and "it would be important, at the same time, to give all necessary comfort to the membership that other areas which are being negotiated are also moving forward, in line with the Single Undertaking". We support the assessment of the TNC Chairman.

6. In view of the mandate given to the Chairman of the Negotiating Group on Rules, **we require a revised draft text that reflects the reality of the negotiations in the Negotiating Group and that is in line with the mandate of paragraph 28 of the DDA. To give all necessary comfort to the membership, the revised text should be issued before the horizontal process begins.**

7. To this end, we would also request the Chair, in consultation with the TNC Chairman, to provide a clear work schedule to intensify and complete the consultations on all Rules issues and allow for time for the revised text to be prepared and issued before the commencement of the horizontal process. This work schedule should also include guidelines on the submission of proposed textual amendments to the draft text by the Members to facilitate better consideration. Close adherence to such a work schedule would prevent any possible delay on the issuance of a balanced revised text that could serve as the basis for final negotiations.

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Norway; Pakistan; Singapore; South Africa; Switzerland; Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Thailand; and Viet Nam.

<sup>5</sup> JOB(08)/2, 31 January 2008.