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Negotiating Group on Rules

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FOURTH CONTRIBUTION TO THE DISCUSSION OF THE NEGOTIATING GROUP ON RULES ON ANTI-DUMPING MEASURES

Paper by Brazil; Chile; Colombia; Costa Rica; Hong Kong, China; Israel; Korea; Japan;
Mexico; Norway; Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu;
Singapore; Switzerland; Thailand and Turkey

The following communication, dated 23 January 2003, has been received from the delegations of Brazil; Colombia; Costa Rica; Hong Kong, China; Israel; Korea; Japan; Mexico; Norway; Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Singapore; Switzerland; Thailand and Turkey

This is a fourth contribution to the discussion of the Negotiating Group on Rules on anti-dumping measures. As we recall, the first paper is contained in document TN/RL/W/6, the second paper in document TN/RL/W/10 and the third paper in document TN/RL/W/29.

Further contributions may be made for future sessions of the Negotiating Group. As such, this paper does not necessarily represent the full view of every co-sponsor. Likewise, we continue to encourage other Members to contribute with their points of view.

This paper indicates an additional issue that we seek to clarify and improve.

SPECIAL AND DIFFERENTIAL TREATMENT FOR DEVELOPING COUNTRY MEMBERS

Article 15 of the Agreement on Anti-Dumping states that "It is recognized that special regard must be given by developed country Members to the special situation of developing country Members when considering the application of anti-dumping measures under this Agreement. Possibilities of constructive remedies provided for by this Agreement shall be explored before applying anti-dumping duties where they would affect the essential interests of developing country Members".

Although the cited provision has a mandatory nature, its terms are too generic, leaving serious lacunae that must be addressed properly. It would be, therefore, necessary to develop them, in order to make the provision fully operational. With a view to operationalizing Article 15, one could, for instance, elaborate on the idea of "special regard" and "constructive remedies", contained in the Agreement. Provisions could be developed both as for the exemplification of ways to give "special regard" and constructive remedies that should be explored by the authorities of the developed country and as regards the procedures to be followed in each situation.

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Shouldn't the Agreement include specific provisions that will give developing country members meaningful and effective S&D treatment?
