

Negotiating Group on Rules

WORKING DOCUMENT FROM THE CHAIRMAN

In November 2007 I issued a first draft of comprehensive texts in the Rules area which I explained were technical papers that were bracketed in their entirety. Moreover, I indicated that they were not submitted for approval, whether in whole or in part. To the contrary, I stated that their intended role was to serve as a basis for intensive, technical and focussed discussion, and that they represented the first step in a new phase of negotiations in the Group. It was evident when they were circulated, and it remains evident today, that these texts were the beginning of the negotiating process, not its culmination.

Since November, the Group has held intensive discussions on the basis of the draft texts. We have now completed our first reading of all of the issues contained in the texts, and, at the request of various delegations, we have reverted to certain proposals advanced by delegations but not reflected in those texts.

There are sharply conflicting views on most of the issues reflected in the texts. On any given issue, some delegations consider that the text goes too far (or in the wrong direction altogether), others that it doesn't go far enough, others that the basic thrust is correct but that technical adjustments are required. In addition, some delegations are unhappy that issues they consider important are not addressed in these texts. In the area of fisheries subsidies, we are still wrestling with conceptual issues relating to the major building blocks of the disciplines and how they fit together. In short, many delegations consider, for different and sometimes contradictory reasons, that my draft texts do not reflect a satisfactory balance in the Rules negotiations.

Given this state of affairs, some delegations have requested that I issue revised texts at the earliest possible moment. Although it remains my firm intention to revise these texts, I do not yet have a sufficient basis to do so. While I appreciate the constructive dialogue that has taken place in the Group, I have received no hints on possible middle ground approaches nor suggestions for possible compromises or trade-offs. I have therefore chosen -as an interim step forward- to table this working document, which takes the form of three annexes relating to anti-dumping, horizontal subsidies and fisheries subsidies. While these three annexes differ somewhat in form, due to the particularities of the different areas of our negotiations, they all seek to convey in detail the full spectrum and intensity of the reactions to my first draft texts and, to the extent possible, to identify the many suggested changes put forward by delegations.

Annex A relates to anti-dumping. In the first column, and in response to repeated calls from some delegations to reflect *all* views and proposals, I consolidated *all* text-based proposals submitted to the Group up to the date of circulation of my texts, as well as one new proposal, on Article 15, which had not until recently been the subject of significant text-based proposals. This consolidation is lengthy because I did not consider that it would be appropriate for me to pick and choose among proposals in this context. The second column shows the Chairman's text itself. The third column summarizes delegations' reactions to the Chairman's text, including a detailed description of positions advanced by delegations, with specific references to any positions submitted in the form of texts.

Annex B relates to horizontal subsidies. Because in this area fewer proposals were tabled and therefore fewer changes proposed in the Chairman's text, I have not reproduced the entire SCM Agreement here, nor have I sought to produce a consolidation. Rather, the first column shows those portions of the Chairman's text where significant changes to the existing Agreement were proposed. The second column summarizes delegations' reactions to the Chairman's text, including a detailed description of any positions submitted in the form of texts. I have also referred specifically to any pre-Chairman's text proposals not reflected in the Chairman's text with respect to which delegations have sought further discussion and consideration.

Annex C relates to fisheries subsidies. As there is no existing WTO text on fisheries subsidies and therefore no agreed structure on the basis of which I could construct a consolidation, I have in the first column sought to identify the core issues in the negotiations and included under each issue the relevant language proposed by delegations, listed chronologically in the order submitted. Because new comprehensive proposals have been made since my text was circulated, and in order to ensure that the full range of views are reflected, I have included in the first column *all* proposals submitted to the Group, whether made before or after my text was circulated. The second column contains my text, and the third column summarizes delegations' reactions to the Chairman's text.

It should be clear to all from this working document that the first draft Chairman's texts do not prejudice the results of these negotiations. To the contrary, it is evident that *all proposals and issues remain on the table*, that there are very serious concerns on the part of many if not all delegations about the first drafts, and that their revision will be necessary. As we steadily move from these first draft Chairman's texts (which were intended to provoke discussion on the broad parameters of possible outcomes to the negotiations) to draft final texts (which by nature will have to describe a gradually emerging consensus) we will need to find compromises and balance. With that objective in mind I will continue our consultations.
