

RULES actual situation of the negotiations

1. The Negotiating Process

- In December 2008, the Chair of the Negotiating Group on Rules issued new draft texts on anti-dumping and on horizontal subsidies as well as a specific roadmap on fisheries subsidies. To amend the draft texts, the Chair has adopted a bottom-up approach and provided draft legal language only in those areas where he considers that some degree of convergence appears to exist.
- Members met in February March and April 2009 for in-depth discussions on the new drafts and on the roadmap of fisheries subsidies; and, engaged in a topic-specific review of the Chair's draft text in May, July, September and October 2009. The Negotiating Group on Rules is to convene the week following the Ministerial Conference, from 7 to 11 December to continue to review anti-dumping and subsidies and countervailing texts as well as the fisheries subsidies roadmap.

2. Anti-Dumping

- Chair adopted a three-tier approach during the meetings. In each session, Members have had to express their opinion on selected (i) non-bracketed issues, i.e., language proposed by the Chair; (ii) bracketed issues, i.e., issues for which the Chair was unable to propose language because of limited convergence in the positions of Members; and, (iii) unaddressed issues, issues for which proposals were made but that the Chair did not reflect in his draft text. Between May and October 2009, the Negotiating on Rules reviewed (i) the Chair's text up to Article 9 and discussed the following (ii) bracketed issues: special and differential treatment / technical assistance, third country dumping, exclusion of producers who are themselves importers or who are related to importers, material retardation, product under consideration and information requests – affiliated parties; and, (iii) unaddressed issues: definition of domestic industry for perishable, seasonal agricultural products, de minimis margins, negligible imports and standing.

Substantive issues

- Egypt considers that the proposed amendments which constitute a departure from the basic concepts and principles embodied in the current version of the Anti-Dumping Agreement should be carefully considered. Members should retain the right to effectively defend their domestic industries against the effects of injurious dumping. It is anti-dumping practices and not anti-dumping measures that are injurious. A domestic industry found to be suffering injury as a result of dumped imports should retain the right to seek the imposition of the appropriate anti-dumping measures.

Procedural matters

- Over two third of the amendments contained in the draft consolidated text will result in greater obligations for investigating authorities. While Egypt is of the opinion that the existing provisions of the Anti-Dumping Agreement should be improved and clarified to ensure that anti-dumping investigations are conducted in a fair and objective manner, the anti-dumping instrument should remain effective. If the new procedural requirements set forth in the new draft were to be imposed on all Members, these would result in a significant increase in the cost of investigations and, it would be very difficult – if not impossible – for developing and least-developed country Members to conduct anti-dumping investigations in line with their obligations under the Anti-Dumping Agreement.

3. Horizontal subsidies

Substantive issues

- The Chair also adopted a three-tier approach for plenary discussions on horizontal subsidies. Between June and October 2009, the Negotiating on Rules reviewed (i) the Chair's proposed language on footnote 6 and Articles 1, 2, 14.1 and 14.2 and discussed the following (ii) bracketed issues: export credits – successor undertakings, export credit – market benchmarks and export competitiveness; and, (iii)

unaddressed issues: verification system of duty rebate schemes and definition of inputs consumed under ASCM and withdrawal of a subsidy.

- Egypt considers that some of the some clarifications that are proposed – for example, the guidelines concerning the attribution of benefits to particular time periods – are beneficial since they will lead to more predictability.
- Other elements, including proposed amendments to Article 14, will have to be discussed in great detail to ensure that they do not limit the policy space of Members in the management of their resources. These negotiations should serve to clarify and improve the SCM Agreement. They should not result in the imposition of new substantive obligations, which are absent from the existing SCM Agreement, on Members.

4. AD/CVD Transposition

- After Members indicated their willingness to begin work on possible transposition of elements contained in the current version of the Anti-Dumping Agreement in the Agreement on Subsidies and Countervailing Measures (SCM) in June 2009, in September and October 2009, Members signaled their initial reactions on the differences highlighted in the document prepared by the WTO Secretariat.
- Noting the substantive differences between some of the provisions of the Anti-Dumping and SCM Agreements, Egypt indicated that it could consider the transposition of non-substantive elements. As regards the transposition of amendments agreed to with respect to the Anti-Dumping Agreement into the SCM Agreement, Egypt considers that discussions will have to take place on a provision-by-provision basis.

5. Fisheries subsidies

- Given the limited progress achieved since the circulation of the draft Annex VIII to the SCM Agreement concerning fisheries subsidies, the Chair presented a specific roadmap to Members in December 2008. The Chair considers that the membership should agree on common principles and concepts before discussing the wording of the rules that will prohibit or limit the use of fisheries subsidies that contribute to overcapacity and over-fishing. Between March and October 2009, Members replied to the questions set forth in the roadmap concerning: prohibition, general exceptions, special and differential treatment, general discipline / actionability, fisheries management conditionalities transparency and dispute settlement.
- As regards the substance of the negotiations, Egypt favours a broad and wide-ranging prohibition with limited and conditional exceptions, primarily for developing and least-developed country Members.

Results of the meetings of senior officials

- During last week the Chair provided an overview to the senior officials on the evolution of the negotiations, the state of play, and the process he envisioned going forward. On anti-dumping and countervailing duties he observed that there had been no further convergence on the big political issues over the past year, and that participants would not negotiate compromises until the overall direction of the Round became clearer. On fisheries subsidies, the Chair envisioned completing the roadmap discussions in December, beginning the consideration of alternative proposals by participants, and considering various issues such as specificity. On Regional Trade Agreements, the Chair proposed to consult the Chair of the Committee on Regional Trade Agreements (CRTA) to see the extent to which the work of the CRTA, specifically a work program on topics suggested by members, could feed further discussions in the Negotiating Group. The Chair plans to advance the Group's work by holding a series of technical meetings in December.