

**CONDUCT OF ON-THE-SPOT INVESTIGATIONS
(ADA ANNEX I AND ASCM ANNEX VI)**

Communication from the United States

The following communication, dated 20 April 2006, is being circulated at the request of the Delegation of the United States.

The submitting delegation has requested that this paper, which was submitted to the Rules Negotiating Group as an informal document (JOB(06)/115), also be circulated as a formal document.

The United States raised in earlier papers the need for clarifications and improvements to Annex I of the Anti-Dumping Agreement (ADA) and Annex VI of the Agreement on Subsidies and Countervailing Measures (ASCM) with respect to on-the-spot investigations (commonly known as "verifications").¹ While the Agreements currently provide some guidance as to when and how Members are to conduct verifications, the United States believes the Agreements ought to be improved to provide greater clarity on this important topic.

The purpose of this proposal is to improve the guidance in ADA Annex I and ASCM Annex VI in order to: 1) provide firms with adequate notice for preparation ahead of verification, and 2) provide interested parties with a clear and timely understanding of the factual findings of the verification. To address these issues, the United States suggests the following amendments:

Proposed Text

[Annex I.9 – ADA] [Annex VI.9 – ASCM]

9. To afford the firms adequate opportunity to prepare for on-the-spot investigations, the investigating authorities shall provide each firm at least 30 days advance notice of the dates on which the authorities intend to conduct any on-the spot investigation of the information provided by that firm. Further, 10 days prior to each on-the-spot investigation, the investigating authorities shall provide to the firm a document that sets forth the topics the firm should be prepared to address during the on-the-spot investigation, and describes the types of supporting documentation that shall be made available for review.

¹ See, *Investigatory Procedures Under the Anti-dumping and Subsidies Agreements*, (page 3, Issue 4), TN/RL/W/35 (3 December 2002) and *Conduct of Verifications (ADA Article 6.7 & Annex I and ASCM Article 12.6 & Annex VI)*, TN/RL/GEN/15 (15 September 2004). The United States described its own verification practice to the Working Group on Implementation of the WTO Committee on Anti-Dumping Practices in *Article 6.7 – Conduct of Verification*, G/ADP/AHG/W/152 (14 October 2003).

[Annex I.10 – ADA] [Annex VI.10 – ASCM]

10. Subject to the requirement to protect confidential information, the investigating authorities shall disclose in the form of a written report their factual findings resulting from the on-the-spot investigation. In addition to the factual findings, the report shall describe the methods and procedures followed in carrying out the on-the-spot investigation. The report shall be made available to all interested parties in sufficient time for the parties to defend their interests, subject to the requirement to protect confidential information.
