

**OBSERVATIONS AND COMMENTS BY VENEZUELA ON DOCUMENT TN/RL/W/78
SUBMITTED BY THE UNITED STATES CONCERNING PROHIBITED SUBSIDIES
AND OTHER SUBJECTS UNDER THE WTO AGREEMENT ON
SUBSIDIES AND COUNTERVAILING MEASURES**

The following communication, dated 9 May 2003, has been received from the Permanent Mission of Venezuela.

The content of this paper does not prejudge Venezuela's final position on any aspect of the subjects to which it refers, nor does it cover all the comments, observations and questions that could be raised during this and future stages of the negotiations on this matter and other related topics. A more complete and detailed contribution could be submitted by Venezuela at a later stage.

First of all, the United States contribution in document TN/RL/W/78 is much appreciated. The Venezuelan delegation considers that the Agreement on Subsidies and Countervailing Measures contains provisions that merit clarification and improvement.

Concerning natural resource and energy pricing, we take this opportunity to address some questions, requests for clarification and a preliminary comment to the United States. Some of the questions, which will be circulated in writing, are the following:

1. A more detailed explanation of the terms "dual pricing" and "fair market value", as used in the United States document, would be appreciated, particularly insofar as they relate to the provisions of the relevant WTO Agreements, and the Agreement on Subsidies and Countervailing Measures in particular.
2. It would be appreciated if the United States could elaborate on and clarify the analogy it establishes between government provision of natural resources at lower than international market prices and provision of a cash grant to purchase such resources at lower prices.
3. The United States proposal appears to be aimed at deepening and expanding the scope of the SCM Agreement's rules, particularly in relation to so-called prohibited subsidies. The Venezuelan delegation considers that this proposal could go beyond the mandate given by the Ministers in paragraph 28 of the Doha Declaration.
 - 3.1 In this connection, how and to what extent does the United States consider that this proposal, particularly as regards natural resource and energy pricing, clarifies and improves the existing provisions of the SCM Agreement?
 - 3.2 Is the United States seeking to modify ASCM provisions?
 - 3.3 If so, what specific provisions of the ASCM could be affected?

4. In its proposal, the United States affirms that " ... it must ... be accepted that preferential natural resource pricing has been and, if not addressed, will continue to be a source of considerable trade distortion and friction". In this connection, we would appreciate learning from the United States delegation whether it has any type of information, data or studies that demonstrate the distorting effects on the international market of the practice of dual pricing to which it refers.

5. If a general subsidy is provided by a governmental authority within its jurisdiction, without discrimination, and without any objective eligibility criteria being applied, i.e. without any requirement relating to a specific branch of the domestic industry, so that all domestic and foreign companies are eligible for the subsidy at national level, regardless of whether their production is directed to domestic consumption or export:

5.1 Would the United States consider this practice to constitute a prohibited subsidy? Or an actionable subsidy? Why?

5.2 If so, would this not affect the structure and fundamental concepts of the ASMC, particularly the concept of prohibited subsidy?

As regards compliance with the requirement of transparency, in the form of notifications of various matters that may be agreed in the ASMC, such as the provision of equity capital, we would comment that the preparation of notifications is already an arduous task requiring a trained and dedicated staff and using up typically scarce human and economic resources and time in WTO Members, as in the case of Venezuela. Irrespective of the new substantive rules that might be agreed in the future, it would appear to be desirable to weigh up the benefits of these rules in relation to the cost that new obligations might impose on some Members. In that case, consideration should be given to incorporating the development dimension and the principle of special and differential treatment, including conditions of flexibility for the presentation of any new notification requirements, including technical cooperation, extended time-limits and incentives for the submission of full notifications by Members.
