

**PRELIMINARY ANSWERS OF CUBA AND VENEZUELA
TO THE QUESTIONS PROVIDED BY EGYPT
REGARDING DOCUMENT TN/RL/W/41**

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

First of all, we would like to thank Egypt's questions and its constructive engagement, which have been very useful to provide a better understanding on the proposal contained in document TN/RL/W/41, and for its further development.

Q1. How is the development dimension to be evaluated? Could it be considered that any subsidies with a view of promoting research and development, regional growth disadvantaged regions and environmental restructuring are aimed at promoting development?.

Reply

As it was mentioned in document TN/RL/W/70 dated 18 March 2003, in general, we consider that the Multilateral Trading System MTS should keep different kind of rules, disciplines, and standards for developing and less developed Members. The need on the establishment of such a criterion on the assessment will depend on the nature of the rules, disciplines and standards on non-actionable subsidies that could be agreed for the benefit of developing and less developed Members during the negotiations.

Regarding the second part of the question, in general it is our view that any subsidy applied by with a view of promoting research and development, regional growth for disadvantaged regions and environmental restructuring, is aimed at promoting development, if those subsidies are applied by a developing country. In any case, the proposal contained in document TN/RL/W/41 is about the definition of some legitimate development goals, some of which Article 8 of the SCM Agreement lacks, such as regional growth, technology research and development funding, production diversification and development. In principle, and without prejudice of other relevant rules and obligations, measures taken by developing members under those legitimate development goals should be considered as non-actionable subsidies.

Q2. The use of non-actionable subsidies proved in the past relatively limited given the stringent criteria laid down in article 8 of the SCM agreement. Which criteria could be adopted to allow the effective use of the category of non-actionable subsidies?.

Reply

There are some criteria that could be considered in order to allow the effective use of non-actionable subsidies. We agree with Egypt that one of the reasons why any measure taken under Article 8 were never notified, are the “stringent” criteria which made it difficult its application, including the high level of the thresholds or benchmarks indicated in each category of Article 8.

Thus, to lower such benchmarks and to modify its design for the benefit of developing countries, could be an alternative to be consider for its future effective application. On the other hand, the proposal in TN/RL/W/41 is mostly about the inclusion of new categories of non actionable subsidies upon which many developing members are interested, measures taken by developing members with a view of achieving legitimate developing goals, such as production diversification.

In this regard, other kind of alternatives could be explored, such as perhaps the creation of an indicative list of some specific of non-actionable measures to be identified by interested members, as a new annex to SCM Agreement.
