# WORLD TRADE ORGANIZATION

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**Negotiating Group on Rules** Original: English


## AMENDMENT TO ARTICLES 27.2 AND 27.4 OF ASCM IN RELATION TO DEVELOPING COUNTRIES COVERED UNDER ANNEX VII


Communication from the Plurinational State of Bolivia, Egypt, Honduras, India and Sri Lanka


Revision

The following communication, dated 7 March 2011, is being circulated at the request of the Delegations of the Plurinational State of Bolivia, Egypt, Honduras, India and Sri Lanka.

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1. In accordance with the provision of Article 27.2(a) of the Agreement on Subsidies and Countervailing Measures (ASCM), the prohibition of paragraph 1(a) of Article 3 does not apply to developing country Members referred to in Annex VII of ASCM. Annex VII contains the list of developing country Members that are not subject to the provisions of Article 3.1(a) under two parts *i.e.* (a) Least-developed countries designated as such by the UN and (b) Developing countries viz. Bolivia, Cameroon, Congo, Cote d'Ivoire, Dominican Republic, Egypt, Ghana, Guatemala, Guyana, Honduras[1], India, Indonesia, Kenya, Morocco, Nicaragua, Nigeria, Pakistan, Philippines, Senegal, Sri Lanka and Zimbabwe.

2. Subparagraph (b) of Annex VII states that each of the above developing countries, which are the Members of the WTO, shall be subject to the provisions which are applicable to other developing Members according to paragraph 2(b) of Article 27 when GNP per capita has reached US$1,000 per annum.

3. Article 27.2(b) of ASCM states that the prohibition of Article 3.1(a) shall not apply to other developing country Members for a period of 8 years from the date of entry into force of the WTO Agreement, subject to compliance with the provisions in Article 27.4.

4. The text of Article 27.2(b) lacks clarity as regards its application to those developing countries who graduate out of Annex VII when their GNP per capita has reached US$1,000 per annum. The language and conditions prescribed under paragraph 2(b) is in the context of a particular point of time *i.e.*, the entry into force of the WTO Agreement. It is obvious that the said condition cannot be applied to those developing country Members who join paragraph 2(b) at a subsequent point of time after graduating out of Annex VII. Further as per Article 27.4, any developing country Member referred to in paragraph 2(b) shall phase out its export subsidies within the 8-year period,

[1] Honduras has been included in this list pursuant to the General Council Decision on Implementation-related issues and concerns, paragraph 6.1 (as contained in document WT/L/384) and the rectification and the process-verbal of rectification (as contained in documents WT/Let/366 and WT/Let/371).

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preferably in a progressive manner. Article 27.4 also envisages, *inter-alia*, that if a developing country Member deems it necessary to apply such subsidies beyond the 8-year period, it shall not later than one year before the expiry of this period enter into consultation with the Committee, which will determine whether an extension of this period is justified, after examining all the relevant economic, financial and development needs of the developing country Member in question. The provisions of Article 27.2 and 27.4 need to be read harmoniously in respect of developing countries graduating out of Annex VII. Therefore, it needs to be clarified that (i) the developing countries graduating out of Annex VII when their GNP per capita has reached US$1,000 per annum, shall have a period of 8 years from the year of graduating out of Annex VII to phase out their export subsidies covered under Article 3.1(a) and (ii) such developing country Members will also be subject to similar conditions as in paragraph 4 of Article 27.

**Textual Amendment**

5. We therefore propose the following two textual amendments through footnotes to Article 27.2(b) and Article 27.4:

**(i) Footnote to Article 27.2(b)**

**Footnote (x):**

***"In the case of developing country Members included in Annex VII, the 8-year period shall commence from the year in which they graduate out of Annex VII."***

**(ii) Footnote to Article 27.4**

27.4 Any developing country Member referred to in paragraph 2(b)**(y)** shall phase out its export subsidies within the eight-year period, preferably in a progressive manner....

**Footnote (y):**

***"This will also include developing country Members who may graduate out of Annex VII."***

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