

**DECISION 2007/8
ADOPTED BY THE MANAGEMENT BOARD
ON 19 NOVEMBER 2007**

*Revised Rules for Support in WTO Dispute Settlement Proceedings through
External Legal Counsel*

The Management Board of the Advisory Centre on WTO Law ("the ACWL"),

Noting that Annex IV of the Agreement Establishing the Advisory Centre on WTO Law (the "Agreement") contemplates the contracting of external legal counsel when two Members of the ACWL or least developed countries seek support in the same dispute settlement proceeding, and that Regulation 53.2 of the Financial Regulations of the ACWL provides that the Management Board shall establish separate rules for the contracting of external legal services,

Having regard to the fact that the Management Board established rules for the contracting of external legal services in its Decision ACWL/MB/D/2004/4 adopted on 26 March 2004 pursuant to which the Executive Director has established a Roster of External Legal Counsel; and

Noting that the ACWL now has practical experience with the subcontracting of external legal counsel and that it is appropriate for the Management Board to update the applicable rules to reflect this experience,

Decides to adopt the following rules for the contracting of external legal counsel:

1. The Executive Director shall maintain a Roster of External Legal Counsel ("Roster") listing law firms and individual lawyers that:
 - (a) have assisted a Member of the WTO in presenting its case as a complainant or respondent in a WTO dispute settlement proceeding within the past seven years; and
 - (b) agree to provide their services to developing country Members of the ACWL and least developed countries on the terms and conditions set out in the Model Contract in the Annex to this Decision.

The Roster shall be posted on the ACWL website and updated as required.

2. When the staff of the ACWL cannot provide support to a Member of the ACWL or a least developed country in a WTO dispute settlement proceeding due to a conflict of interest,

the Member or least developed country may request that that support be provided through any of the law firms or individual lawyers listed on the Roster.

3. The request shall be submitted to the Executive Director in writing by a person authorised to act for the Member or least developed country in matters relating to the WTO. The request shall indicate:

- (a) the name of the law firm or individual lawyer selected from the Roster of External Legal Counsel; and
- (b) which of the services listed in the Annex to the Decision of the Management Board entitled "Billing Policy and Time Budget" (ACWL/MB/D/2007/7) the selected law firm or individual lawyer should perform.

4. Immediately upon receipt of the request, the Executive Director shall offer the selected law firm or individual lawyer a service contract with the terms and conditions set out in the Model Contract in the Annex to this Decision.

5. Annex IV of the Agreement stipulates that the hourly fees charged by the ACWL shall be increased by 20 per cent whenever the contracting of external legal counsel becomes necessary. According to the "Decision on Currency Conversion" adopted by the General Assembly on 25 April 2002, the ACWL's fees are to be charged in Swiss francs. The Member or least developed country that has requested external legal counsel shall accordingly be charged the following fees:

CATEGORY	HOURLY FEE (CHF)
A	389
B	292
C	194
Least developed countries	48

6. Any difference between the fees paid by the ACWL to the external counsel and the fees charged by the ACWL to the Member or least developed country shall be borne by the ACWL.

7. The Member or least developed country that requested the ACWL to contract external legal counsel shall be charged by the ACWL the number of hours charged by the external legal counsel. If two or more co-complainants in the same dispute settlement proceeding request support through the same external counsel, the ACWL shall charge each of them the total number of hours charged by the external legal counsel divided by the number of Members or least developed countries that have made the joint request.

8. ANNEX: MODEL CONTRACT

Reference: ACWL 200.../...

Geneva, Date

Dear Sir/Madam,

[A Member of]/ [A least developed country (LDC) entitled to the services of] the Advisory Centre on WTO Law (ACWL), has requested the ACWL to provide it with legal support in the WTO dispute settlement proceeding on [name of the case]. The staff of the ACWL is already advising another party to this proceeding, [other Member/other LDC], and would, therefore, face a conflict of interest if it were to provide the requested support. In such cases, the ACWL provides support through an external counsel selected from the ACWL's Roster of External Counsel, on which [you are]/[your firm is] listed.

[Member/LDC] has selected [you]/[your firm] as external counsel during the [panel/Appellate Body/DSU Article 21.3(c)/DSU Article 21.5/Article 22.6] phase of the above-mentioned WTO dispute settlement proceeding. In accordance with the ACWL's rules for the contracting of external legal counsel, the ACWL offers [you]/[your firm] a contract to provide to [Member/LDC] the legal services listed in the Annex to this letter (the "Annex").

This offer is subject to the following terms and conditions:

- (a) [You have]/[At least one of the lawyers assigned by your firm to this case and to the representation of [Member/LDC] in the proceedings has]] assisted a WTO Member as a complainant or respondent in a WTO dispute settlement proceeding within the past seven years.
- (b) The ACWL shall pay [you]/[your firm] CHF389 per hour, which is equal to the highest fee that the ACWL may charge to its Members. This fee includes all expenses associated with the rendering of the legal services, including all travel, telephone, messenger and delivery services, reproduction and related expenses.
- (c) The number of hours [you charge /your firm charges] for the performance of each of the services listed in the Annex shall not exceed the number of hours allocated in the Annex to that service, which is equal to the maximum number of hours that the ACWL would be entitled to charge for that service in accordance with the billing policy adopted by the ACWL's Management Board (Decision ACWL/MB/D/2007/7 entitled "Billing Policy and Time Budget").
- (d) The ACWL shall pay [you/your firm] for your services within 30 days of the receipt of:
 - (i) An invoice indicating the dates on which each of the services listed in the Annex was performed; the name of the lawyers who performed them; and the number of hours it took to perform each service or the

number of hours allocated to that service in the Annex, whichever is lower.

- (ii) A written confirmation by a person authorised to act on behalf of [Member/LDC] in matters relating to the WTO that all services listed in the invoice were performed to the satisfaction of [Member/LDC] on the dates listed on the invoice.

[It is understood that the above terms and conditions may not permit [you/your firm] to charge your usual hourly rates and all the hours actually spent on the case and that the acceptance of this contract may therefore entail the need to work, in part, on a *pro bono* basis.]

If this offer is acceptable to [you/your firm], please return a signed copy of this letter to me before [ten days after the date of this offer].

Yours sincerely,

Frieder Roessler
Executive Director

AGREED TO AND ACCEPTED:

Name: _____

Date: _____