

WORLD TRADE ORGANIZATION

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Committee on Agriculture
Special Session

NEGOTIATIONS ON AGRICULTURE FIRST DRAFT OF MODALITIES FOR THE FURTHER COMMITMENTS

Introduction

1. Under the programme adopted by the Special Session of the Committee on Agriculture on 26 March 2002, the Chairman is required to prepare the first draft of modalities for further commitments for circulation in advance of the Special Session to be held on 24-28 February 2003 (TN/AG/1 refers). In accordance with this requirement, the Chairman submits herewith this first draft on his own responsibility.

2. The draft is based on the work carried out during the series of formal and informal Special Sessions of the Committee on Agriculture and related intersessional and technical consultations conducted in accordance with the mandate provided by Ministers at Doha and the programme thereunder as adopted by the Special Session on Agriculture on 26 March 2002. Paragraphs 13 and 14 of the Doha Ministerial Declaration provide (WT/MIN(01)/DEC/1 refers):

"13. We recognize the work already undertaken in the negotiations initiated in early 2000 under Article 20 of the Agreement on Agriculture, including the large number of negotiating proposals submitted on behalf of a total of 121 Members. We recall the long-term objective referred to in the Agreement to establish a fair and market-oriented trading system through a programme of fundamental reform encompassing strengthened rules and specific commitments on support and protection in order to correct and prevent restrictions and distortions in world agricultural markets. We reconfirm our commitment to this programme. Building on the work carried out to date and without prejudging the outcome of the negotiations we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. We agree that special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the Schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development. We take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture.

"14. Modalities for the further commitments, including provisions for special and differential treatment, shall be established no later than 31 March 2003. Participants shall submit their comprehensive draft Schedules based on these modalities no later than the date of the Fifth Session of the Ministerial Conference. The negotiations, including with respect to rules and disciplines and related legal texts, shall be concluded as part and at the date of conclusion of the negotiating agenda as a whole."

3. This draft should also be seen against the background of the Chairman's recent references to the difficulty participants have so far had in building bridges between widely divergent positions and to the consequent lack of guidance on approaches to solutions. It therefore represents no more than a first attempt to identify possible paths to solutions. It does not claim to be agreed in whole or in any part and is without prejudice to the positions of participants.

4. Square brackets are used in a number of places for a variety of purposes, such as to put forward figures for indicative purposes, to suggest alternatives, or possible formulations. Where text is not in square brackets, this does not convey any degree of acceptance. In a few areas, the text has not been fully elaborated and any resulting unevenness may need to be ironed out. Based on the third sentence of paragraph 14 of the Doha Ministerial Declaration, not all of the elements of the draft and its attachments may need to be finalised in detail by 31 March 2003, bearing in mind that negotiations will continue well beyond that date. Further consultations on these matters will be arranged.

5. It is the Chairman's earnest hope that this first draft will stimulate further and immediate, meaningful and serious negotiations between participants, so as to enable an improved second draft to be prepared in March.

General Provisions and Terms

6. Unless otherwise specified below, the following general provisions and terms shall apply:

(a) *Product coverage*

The product coverage as specified in Annex 1 of the Agreement on Agriculture shall apply (hereafter referred to as "agricultural products").

(b) *"Year"*

"Year" in relation to the specific commitments of a Member refers to the calendar year, financial or marketing year specified in the Schedule relating to that Member.

(c) *"Commitment"*

The term "commitment" includes concessions.

(d) *Starting-point of reduction commitments*

The starting-point for the first instalment of the reduction commitments in all areas shall be the beginning of year 1 of the respective implementation periods. Subsequent reductions shall be made at the beginning of each of the following implementation years.

Market Access

Tariffs

7. Tariffs, except in-quota tariffs, shall be reduced by a simple average for all agricultural products subject to a minimum reduction per tariff line. The base for the reductions shall be the final bound tariffs as specified in the Schedules of Members. Except as provided in paragraph 14 below, the tariff reductions shall be implemented in equal annual instalments over a period of [five] years, applying the following formula:

- (i) For all agricultural tariffs greater than [90 per cent *ad valorem*] the simple average reduction rate shall be [60] per cent subject to a minimum cut of [45] per cent per tariff line.
- (ii) For all agricultural tariffs lower than or equal to [90 per cent *ad valorem*] and greater than [15 per cent *ad valorem*] the simple average reduction rate shall be [50] per cent subject to a minimum cut of [35] per cent per tariff line.
- (iii) For all agricultural tariffs lower than or equal to [15 per cent *ad valorem*] the simple average reduction rate shall be [40] per cent subject to a minimum cut of [25] per cent per tariff line.

In applying this formula, where the tariff on a processed product is higher than the tariff for the product in its primary form, the tariff reduction for the processed product shall be higher than that for the product in its primary form.

8. Where participants apply non-*ad valorem* tariffs, the allocation of any tariff item in categories (ii) and (iii) above shall be based on tariff equivalents to be calculated by the participant concerned in a transparent manner, using representative average [1999-2001] external reference prices or data. Full details of the method and data used for these calculations shall be included in the tables of supporting material for the draft Schedules and shall be subject to multilateral review.

Special and Differential Treatment

9. In implementing their market access commitments, developed country Members should take fully into account the particular needs and conditions of developing country Members by providing for greater improvement of opportunities and terms of access for agricultural products of particular interest to these Members, including the fullest liberalization of trade in tropical products, whether in primary or in processed form, and for products of particular importance to the diversification of production from the growing of illicit narcotic crops, or crops whose non-edible or non-drinkable products, while being lawful, are recognized [by WHO] as being harmful for human health.

10. Developing countries shall have the flexibility to declare up to [] agricultural products at the [6-digit] HS level as being strategic products with respect to food security, rural development and/or livelihood security concerns and designate these products with the symbol "SP" in Section I-B of Part I of their Schedules (hereafter referred to as "SP products"). For all agricultural products other than SP products, the reduction commitments of developing countries shall be implemented applying the following formula:

- (i) For all agricultural tariffs greater than [120 per cent *ad valorem*] the simple average reduction rate shall be [40] per cent subject to a minimum cut of [30] per cent per tariff line.
- (ii) For all agricultural tariffs lower than or equal to [120 per cent *ad valorem*] and greater than [20 per cent *ad valorem*] the simple average reduction rate shall be [33] per cent subject to a minimum cut of [23] per cent per tariff line.
- (iii) For all agricultural tariffs lower than or equal to [20 per cent *ad valorem*] the simple average reduction rate shall be [27] per cent subject to a minimum cut of [17] per cent per tariff line.

11. Where participants apply non-*ad valorem* tariffs, the provisions of paragraph 8 above apply.

12. The simple average reduction rate for all SP products shall be [10] per cent subject to a minimum cut of [5] per cent per tariff line [, except for SP products for which a developing country opts to have access to the special safeguard provisions under paragraph 24 below].

13. In all cases, the base for the reductions shall be the final bound tariffs as specified in the Schedules of Members. The reduction commitments shall be implemented in equal annual instalments over a period of [ten] years.

Preferential Schemes

14. In implementing their tariff reduction commitments, participants undertake to maintain, to the extent possible, the nominal margins and other terms and conditions of tariff preferences they accord to their developing trading partners. As an exception to the modality under paragraph 7 above, tariff reductions affecting long-standing preferences in respect of products which are of vital export importance for developing country beneficiaries of such schemes may be implemented in equal annual instalments over a period of [eight] instead of [five] years by the preference-granting participants concerned. The products concerned shall account for at least [25] per cent of the total merchandise exports of any beneficiary concerned on average of the most recent three years for which data are available. Interested beneficiaries shall notify the Committee on Agriculture, Special Session accordingly and submit the relevant statistics. In addition, any in-quota duties for these products shall be eliminated.

Tariff Quotas

Tariff Quota Volume

15. Final bound tariff quota quantities or values as specified in Members' Schedules (hereafter referred to as "tariff quota volume") which are equivalent to less than [10] per cent of "current" domestic consumption of the product concerned shall be expanded to that level. However, for up to one-quarter of the total number of tariff quotas concerned a Member may opt for binding the tariff quota volume at a level equivalent to [8] per cent of that consumption, provided that the volumes for a corresponding number of tariff quotas concerned are expanded to [12] per cent.

16. In calculating domestic consumption participants shall use, where applicable, the same definitions and method applied when establishing the Uruguay Round base levels. "Current" domestic consumption means the average consumption of the period 1999-2001 or of the most recent three-years period for which data are available. Full details of the method and data used for the calculations of domestic consumption for the products concerned shall be included in the tables of supporting material for the draft Schedules and shall be subject to multilateral review.

17. The expansion of tariff quota volumes shall be implemented in equal instalments over a period of [five] years. The starting-point for implementing the expansion of tariff quotas shall be the beginning of year 1 of the implementation period. Additional market access opportunities provided by the expansion of tariff quotas shall be on an MFN basis.

Special and Differential Treatment

18. Developing countries shall not be required to expand tariff quota volumes for SP products. For other agricultural products, final bound tariff quota volumes as specified in Members' Schedules which are equivalent to less than [6.6] per cent of "current" domestic consumption of the product concerned shall be expanded to that level. However, for up to one-quarter of the total number of tariff quotas concerned a Member may opt for binding the tariff quota volume at a level equivalent to [5] per cent of that consumption, provided that the volumes for a corresponding number of tariff quotas concerned are expanded to [8] per cent.

19. The modalities in paragraphs 16 and 17 above apply, except that the commitments by developing countries shall be implemented over a period of [ten] years.

In-quota Tariffs

20. There shall be no requirement to reduce in-quota tariffs, except that in-quota duty free access shall be provided for tropical products, whether in primary or in processed form, and for products of particular importance to the diversification of production from the growing of illicit narcotic crops, or crops whose non-edible or non-drinkable products, while being lawful, are recognized [by WHO] as being harmful for human health.

Special and Differential Treatment

21. Developing countries shall not be required to reduce in-quota tariffs.

Tariff Quota Administration

22. The administration of tariff quotas shall be subject to disciplines as outlined for further consideration in Attachment 1 to this document.

Special Safeguard Provisions

Article 5 of the Agreement on Agriculture

23. The provisions of Article 5 of the Agreement on Agriculture shall cease to apply for developed countries [at the end of the implementation period for the further tariff reductions] [[two] years after the end of the implementation period for the further tariff reductions].

Special and Differential Treatment

24. For SP products [subject to tariff reductions in accordance with paragraph 10 above], developing countries shall have the flexibility to apply a special safeguard mechanism to be based on the provisions of Article 5 of the Agreement on Agriculture. This right shall be reserved by designating in their Schedules with the symbol "SSM" the products concerned. Only products designated in this way in the Schedule, as well as items already currently covered and designated with the symbol "SSG", shall be eligible for measures under Article 5.

25. Participants undertake to review the provisions of Article 5 of the Agreement on Agriculture with a view to ensuring that these provisions are operationally effective and enable developing countries to effectively take account of their development needs, including food security, rural development and livelihood security concerns. This review shall take into account the various proposals on possible safeguard mechanisms submitted by developing countries in the negotiations under the Doha Development Agenda and shall be completed no later than [].

State Trading Import Enterprises

26. State trading import enterprises shall be subject to disciplines as outlined for further consideration in Attachment 2 to this document.

Other Market Access Issues

27. Participants will further consider the non-trade concerns and other market access issues identified in paragraph 28 of document TN/AG/6 dated 18 December 2002 and the extent to which these issues should be taken into account in the modalities to be established and/or subsequent work.

Export Competition

Export Subsidies

28. The basis for the further commitments on export subsidies shall be the final bound budgetary outlay and quantity commitment levels as specified in Members' Schedules.

29. For a set of agricultural products representing at least [50] per cent of the aggregate final bound level of budgetary outlays for all products subject to export subsidy commitments, final bound levels of budgetary outlays and quantities as specified in Members' Schedules shall be reduced over [five years ($n = 5$)] using the following formulae with the constant factor c equal to [0.3] (Attachment 3 to this document provides an illustration of the operation of these formulae):

$$(1) B_j = B_{j-1} - c \cdot B_{j-1} \text{ with } j = 1, \dots, n$$

$$(2) Q_j = Q_{j-1} - c \cdot Q_{j-1} \text{ with } j = 1, \dots, n$$

with

B = budgetary outlays Q = quantities c = constant factor j = implementation year
and B_0 and Q_0 being the base levels, respectively.

30. At the beginning of [year 6], budgetary outlays and quantities shall be reduced to zero.

31. For the remaining products, final bound levels of budgetary outlays and quantities as specified in Members' Schedules should be reduced over [nine years ($n = 9$)] using the formulae (1) and (2) above. However, for these products the constant factor c shall equal [0.25]. At the beginning of [year 10], budgetary outlays and quantities for these products shall be reduced to zero.

Special and Differential Treatment

32. For a set of agricultural products representing at least [50] per cent of the aggregate final bound level of budgetary outlays for all products subject to export subsidy commitments, final bound levels of budgetary outlays and quantities as specified in developing country Members' Schedules shall be reduced over [ten years ($n = 10$)] using the formulae (1) and (2) above, with the constant factor c equal to [0.25]. At the beginning of [year 11], budgetary outlays and quantities shall be reduced to zero.

33. For the remaining products, final bound levels of budgetary outlays and quantities as specified in developing country Members' Schedules should be reduced over [twelve years ($n = 12$)] using the formulae (1) and (2) above. However, for these products the constant factor c shall equal [0.2]. At the beginning of [year 13], budgetary outlays and quantities for these products shall be reduced to zero.

34. The exemptions for developing countries under Article 9.4 for the transport and marketing subsidies set out in Article 9.1(d) and (e) of the Agreement on Agriculture shall be maintained for the time of the implementation period of the further export subsidy commitments to be undertaken by developing countries.

Export Credits

35. Export credits and export credit guarantees and insurance programmes shall be subject to disciplines as outlined for further consideration in Attachment 4 to this document.

Food Aid

36. International food aid shall be subject to disciplines as outlined for further consideration in Attachment 5 to this document.

State Trading Export Enterprises

37. State trading export enterprises shall be subject to disciplines as outlined for further consideration in Attachment 6 to this document.

Export Restrictions and Taxes

38. Except as provided for in paragraph 2(a) and 2(b) of Article XI and Articles XX and XXI of GATT 1994, the institution of new export prohibitions, restrictions or taxes on foodstuffs shall be prohibited.

Special and Differential Treatment

39. For developing countries, the disciplines of Article 12 of the Agreement on Agriculture and the relevant provisions of GATT 1994 [and of other relevant WTO agreements] shall continue to apply.

Domestic Support

Annex 2 of the Agreement on Agriculture (Green Box)

40. The provisions of Annex 2 of the Agreement on Agriculture shall be maintained, subject to possible amendments as outlined for further consideration in Attachment 7 to this document.

Special and Differential Treatment

41. Possible amendments of Annex 2 of the Agreement on Agriculture are outlined for further consideration in Attachment 8 to this document.

Article 6.2 of the Agreement on Agriculture

42. The provisions of Article 6.2 of the Agreement on Agriculture shall be maintained and enhanced as outlined for further consideration in Attachment 9 to this document.

Article 6.5 of the Agreement on Agriculture (Blue Box)

43. Direct payments under production-limiting programmes provided in accordance with the provisions of Article 6.5 of the Agreement on Agriculture (Blue Box payments) [shall be capped at the average level notified for the implementation years [1999-2001] and bound at that level in Members' Schedules. These payments shall be reduced by [50] per cent. The reductions shall be implemented in equal annual instalments over a period of [five] years.] [shall be included in a Member's calculation of the Current Total Aggregate Measurement of Support (AMS)].

Special and Differential Treatment

44. For developing countries users of such direct payments, the commitment shall be implemented in equal annual instalments over a period of [ten] years, with the rate of reduction being [33] per cent.

Amber Box

45. The final bound Total AMS shall be reduced by [60] per cent in equal annual instalments over a period of [five] years.

46. Article 6.3 of the Agreement on Agriculture shall be amended so as to ensure that the AMS for individual products shall not exceed the respective levels of such support provided on average of the years [1999-2001].

Special and Differential Treatment

47. For developing countries, the final bound Total AMS shall be reduced by [40] per cent in equal annual instalments over a period of [ten] years.

Other matters

Inflation

48. Scheduled Total AMS commitments may be expressed in national currency, a foreign currency or a basket of currencies. In case a foreign currency or a basket of currencies is used and the final bound Total AMS in a Member's Schedule is expressed in national currency (or another foreign currency) and a participant wants to avail itself of this option, the final bound Total AMS shall be converted using the average exchange rate(s) as reported by the IMF for the year at issue.

49. The provisions of Article 18.4 shall be maintained.

Article 6.4 of the Agreement on Agriculture (de minimis)

50. The *de minimis* level of 5 per cent under subparagraph (a) of Article 6.4 of the Agreement on Agriculture shall be reduced annually by [0.5] percentage point over a period of [five] years.

Special and Differential Treatment

51. The *de minimis* level of 10 per cent under subparagraph (b) of Article 6.4 of the Agreement on Agriculture shall be maintained.

52. [Developing countries shall have the flexibility to credit any negative product-specific support to the non-product-specific *de minimis* support.]

Least-developed Countries

53. In addition to the special and differential treatment provisions above, least-developed countries shall not be required to undertake reduction commitments. [However, they are encouraged to consider making commitments commensurate with their development needs on a voluntary basis.]

54. Developed countries should provide duty- and quota-free access to their markets for all imports from least-developed countries.

Others

Recently Acceded Members

55. [Members that have recently acceded to the WTO shall have the flexibility to begin the implementation of the further commitments regarding tariffs, tariff quotas, export subsidies and trade-

distorting domestic support [two] years following the expiry of the full implementation of their accession commitments under the Agreement on Agriculture. The respective implementation periods shall be adjusted accordingly.]

Others

56. Participants will further consider the possible introduction of additional forms of flexibility for certain groupings (e.g. SIDS, vulnerable developing countries, transition economies) which have made specific proposals to this effect (TN/AG/6 refers).

Final Note

57. In accordance with the agreed work programme, this draft will be revised in the light of the further negotiations at the Special Session of the Committee on Agriculture to be held on 24-28 February 2003. The revised draft will be circulated to participants before the Special Session to be held on 25-31 March 2003 on which occasion, in accordance with paragraph 14 of the Doha Ministerial Declaration, the modalities for the further commitments, including provisions for special and differential treatment, are to be established.

Attachment 1

Tariff Quota Administration

Draft for further consideration of possible disciplines regarding tariff quota administration

1. Tariff concessions in Part I of a Member's Schedule which are limited to specified quantities or values of a product or products ("tariff quota commitments") shall be administered in conformity with the provisions of this Article and, subject to these provisions, in accordance with other relevant WTO provisions, including those of the Agreement on Import Licensing Procedures.
2. Tariff quota commitments shall be administered in a manner which ensures that the market access opportunities represented by such commitments are made fully and effectively available. To this end the following general requirements shall be complied with:
 - (a) Tariff quota commitments shall be administered in a transparent and predictable manner and, to maximum practicable extent, in the same way as other tariff concessions.
 - (b) Domestic purchasing requirements or other measures having the same effect shall not be imposed, directly or indirectly, on or in connection with importation of tariff quota products.
 - (c) Except as specifically described in Schedules, no seasonal restrictions shall be imposed on imports under tariff quotas.
 - (d) A tariff quota commitment shall not be administered in a manner which precludes the importation of any product within the tariff description of the commitment, or which restricts importation of such products in processed form or for sale to final consumers.
 - (e) Methods of tariff quota administration shall not be employed which result in the attribution to importers of commercially non-viable allotments.
 - (f) Only imports of tariff quota products from mfn suppliers shall be credited as imports against tariff quota commitments.
 - (g) Export or re-export requirements shall not be imposed in connection with the importation of tariff quota products.
 - (h) An importer shall be treated no less favourably than another on the basis of degree of foreign affiliation or ownership.
 - (i) No charges, deposits or other financial requirements shall be imposed, directly or indirectly, on or in connection with the administration of tariff quota commitments or with importation of tariff quota products other than as permitted under the GATT 1994.
3. The following specific requirements shall apply to the methods of tariff quota administration referred to hereunder ("year" in this context refers to the calendar, marketing or other annual basis to which the commitment relates as specified in a Member's Schedule):

- (a) In the case of tariff-only methods of administration and methods not requiring import licences as a condition of importation: access opportunities shall be made available from the beginning of the year concerned and timely advance public notice shall be given of any suspension of the opportunity to import at the in-quota rate of tariff.
- (b) In the case of methods of administration under which import licences are a requirement:
 - (i) The total quantity or value of a tariff quota shall be allocated to importers sufficiently in advance of the year to which they relate so as to enable imports to be effected from the beginning of that year and to facilitate imports from developing countries and distant suppliers.
 - (ii) No restrictions shall be applied with respect to retail distributors and other end-users applying for and being allotted shares of tariff quotas. Nor shall conditions or formalities be imposed which would prevent any importer from utilising fully the share which has been allocated to it within the period of validity of the corresponding import licence.
 - (iii) Tariff quota licences shall be valid for a period of [eight] months and shall not be transferable without the concurrence of the administering authority.
 - (iv) The quantity or value of any tariff quota commitment which remains unused following the expiry of the period of validity of the licences initially issued in connection with that tariff quota shall be reallocated in time to enable importation before the end of the year concerned.
- (c) In the case of allocation of tariff quota shares to supplying countries: where an allocated country-specific share remains unused or is consistently under-utilised, such unused or under-utilised share shall be re-allocated to non-traditional suppliers.

4. The provisions of this Article shall apply to tariff quota commitments that are administered by or through state trading enterprises.

5. In addition to the requirements of Article X:1 of GATT 1994 relating to publication, Members administering tariff quota commitments shall establish Internet Web-sites on which all relevant information relating to their administration of tariff quota commitments can be accessed, including information regarding administrative requirements and procedures, the business and E-mail addresses of importers to whom tariff quota shares have been attributed, and current tariff quota fill rates. Developing country Members shall have the option of establishing centralised enquiry points instead of Web sites.

6. Special and differential treatment: developed country Members shall accord special and differential treatment to products from developing country Members in connection with the allocation of expanded access under existing or new tariff quotas resulting from the negotiations under the Doha Development Agenda. For the purposes of Article XIII of GATT 1994, where a tariff quota has been allocated in full or in part among developing country suppliers the individual country allocations shall be as specified in the Schedule of the Member concerned; and any re-allocation of shortfalls shall be made among the developing country suppliers concerned. Developed country Members shall, on request, provide to the maximum extent possible advisory and marketing assistance in order to facilitate imports from developing countries under tariff quotas.

Attachment 2

State Trading Import Enterprises

Draft for further consideration of possible provisions for a new Article 4.3 of the Agreement on Agriculture

3. (a) Members shall ensure that state trading import enterprises are operated in conformity with the provisions of this Article and, subject to these provisions, in accordance with Article XVII and other relevant provisions of GATT 1994, this Agreement and other WTO agreements. For the purposes of this Article, state trading import enterprises shall include any governmental or non-governmental enterprise, including a marketing board, which has been granted or which enjoys de facto as a result of its governmental or quasi governmental status, exclusive or special rights, privileges or advantages, including any statutory or constitutional powers, in the exercise of which or by virtue of which such state trading import enterprises (hereinafter referred to as "governmental import enterprises") influence through their purchases and sales the level, direction or prices of exports.
- (b) Members shall ensure that governmental import enterprises are not operated in such a way as to nullify or impair the benefits of market access concessions and of the commitments relating to non-tariff measures under Article 4.2 of this Agreement.
- (c) Any Member which establishes or maintains a governmental import enterprise shall notify relevant information on the operations of that enterprise in accordance with a format and at intervals to be established by the Committee on Agriculture.
- (d) The disciplines regarding governmental import enterprises shall not unduly impede developing countries in the pursuit of their legitimate food and livelihood security and rural development objectives. The notification requirements to be established under sub-paragraph (c) above shall provide for appropriate special and differential treatment for developing countries.

Attachment 3

Illustration of the Operation of the Export Subsidy Reduction Formula

1. In accordance with paragraph 29, the following formulae are to be applied for the reduction of export subsidies:

$$(1) B_j = B_{j-1} - c \cdot B_{j-1} \text{ with } j = 1, \dots, n$$

$$(2) Q_j = Q_{j-1} - c \cdot Q_{j-1} \text{ with } j = 1, \dots, n$$

with

B = budgetary outlays Q = quantities c = constant factor j = implementation year
and B₀ and Q₀ being the base levels, respectively.

2. The following table illustrates the operation of these formulae. Column 1 refers to the base level and the implementation years. Column 2 provides the path of reductions expressed, for each implementation year, as a percentage of the base level of budgetary outlays (formula (1)) or quantities (formula (2)) for the product concerned if the constant factor c equals 0.15. Columns 3 to 6 provide the corresponding paths for alternative values of the constant factor c.

Export subsidy reduction formula
(Base level = 100 per cent of final bound level of budgetary outlays/quantities)

	Constant Factor c				
	0.15	0.2	0.25	0.3	0.35
Base level	100	100	100	100	100
Year	"Current" bound level in per cent of base level				
1	85.0	80.0	75.0	70.0	65.0
2	72.3	64.0	56.3	49.0	42.3
3	61.5	51.2	42.2	34.3	27.5
4	52.3	41.0	31.6	24.0	17.9
5	44.5	32.8	23.7	16.8	11.6
6	37.8	26.2	17.8	11.8	7.6
7	32.1	21.0	13.4	8.3	4.9
8	27.3	16.8	10.1	5.8	3.2
9	23.2	13.4	7.6	4.1	2.1
10	19.7	10.7	5.7	2.9	1.4
11	16.7	8.6	4.3	2.0	0.9
12	14.2	6.9	3.2	1.4	0.6

3. For example, if the constant factor c equals 0.3 (Column 5), then at the beginning of implementation year 1, the bound level of budgetary outlays will have to be reduced to 70 per cent of the final bound level of budgetary outlays (formula (1)). At the beginning of implementation year 2, the bound level of budgetary outlays will have to be reduced to 49 per cent of the final bound level of budgetary outlays, at the beginning of implementation year 3 to 34.3 per cent and so forth. If the constant factor c equals 0.2, the corresponding percentages are 80 per cent, 64 per cent, 51.2 per cent and so forth.

4. The application of formula (2) in a practical case could look as follows: If the final bound quantity for product x equals 500 tonnes (base level Q_0) and a constant factor of 0.3 is chosen, the calculation using formula (2) above yields the following results for the bound levels for the first three years of implementation ("current" bound levels Q_1 , Q_2 and Q_3):

Base level $Q_0 = 500$ tonnes		"current" bound level in year 1, ..., 3	
Year		in tonnes	in per cent of base level (Column 5 of table above)
1	$Q_1 = Q_0 - c \cdot Q_0 = 500 - 0.3 \cdot 500 =$	350	70.0
2	$Q_2 = Q_1 - c \cdot Q_1 = 350 - 0.3 \cdot 350 =$	245	49.0
3	$Q_3 = Q_2 - c \cdot Q_2 = 245 - 0.3 \cdot 245 =$	171.5	34.3

and so forth.

Attachment 4

Export Credits

Draft for further consideration of a possible new Article 9 bis or 10 bis of the Agreement of Agriculture on Governmental Support for Export Financing

General

1. Subject to the provisions of this Article, Members shall not, directly or indirectly, provide support or enable support to be provided for or in connection with the financing of exports of agricultural products or the credit and other risks associated therewith otherwise than on market related terms and conditions. [Each Member accordingly undertakes not to provide export financing support otherwise than in conformity with this Article.] [Each Member accordingly undertakes not to provide export financing support otherwise than in conformity with this Article and with the commitments as specified in that Member's Schedule.]

Forms and providers of export financing support subject to discipline

2. Export financing support that is subject to the provisions of this Article includes:
- (a) direct financing support, comprising direct credits/financing, refinancing, and interest rate support;
 - (b) risk cover, comprising export credit insurance or reinsurance and export credit guarantees;
 - (c) government-to-government credit agreements covering the imports of agricultural products exclusively from the creditor country under which some or all of the risk is undertaken by the government of the exporting country;
 - (d) any other form of governmental support, direct or indirect, including deferred invoicing and foreign exchange risk hedging.

3. The provisions of this Article shall be applicable to export financing support provided by or on behalf of: government departments, agencies, or statutory bodies, at both the national and sub-national levels; any financial institution or entity engaged in export financing in which there is governmental participation by way of equity, provision of loans or underwriting of losses; any governmental or non-governmental enterprise, including a marketing board, which has been granted or enjoys de facto exclusive or special rights, privileges or financing advantages, including statutory or constitutional powers, in the exercise of which or by virtue of which support for or in connection with the financing of exports is provided; and any bank or other private financial, credit insurance or guarantee institution which acts on behalf of or at the direction of governments or their agencies.

Terms and conditions

4. Export financing support which is provided in conformity with the following terms and conditions shall be deemed to comply with paragraph 1 above:
- (a) **Maximum repayment term:** the maximum repayment term of a supported export credit shall not exceed the period beginning at the starting point of credit and ending on the contractual date of the final payment. The "starting point of a credit" shall be no later than the weighted mean date or actual date of the arrival of the goods in the

recipient country for a contract under which shipments are made in any consecutive six-month period. The following maximum repayment terms shall be respected:

- (i) for breeding cattle: [] months for contracts up to and including []; and [] months for contracts exceeding [];
 - (ii) for agricultural vegetable reproduction material: [] months;
 - (iii) for exports of agricultural products to developing countries, as specified in paragraph 9(a) below: [.. months];
 - (iv) for exports of basic foodstuffs to least-developed and for net food-importing developing countries as listed in document G/AG/5/Rev.5, as specified in paragraph 10(a) below;
 - (v) for all other products and destinations: [six months/180 days].
- (b) Cash payments: a minimum cash payment shall be required to be paid, by or on behalf of the importer, at or before the starting point of the supported credit, representing not less than [15] per cent of the total amount of the contract/shipment value but excluding interest as defined in sub-paragraph (c) below. Cash payments shall not be financed.
- (c) Payment of interest: in the case of direct financing support, "interest" excludes premiums and other charges for insuring or guaranteeing supplier or financial credits, banking fees or commissions relating to the export credit, and withholding taxes imposed by the importing country. Interest shall be payable. Where the repayment term exceeds 180 days, interest shall be payable not less frequently than every six months, with the first payment to be made no later than six months after the starting point of export financing.
- (d) Minimum interest rates: interest rates in respect of direct financing support shall not be below the actual cost of borrowing for the funds so employed (including the cost of funds if capital was borrowed on international capital markets in order to obtain funds of the same maturity), plus an appropriate risk-based spread reflective of prevailing market conditions: provided however that, for repayment terms of twenty-four months or longer, Members shall use Commercial Interest Reference Rates (CIRRs) as published by the OECD, plus an appropriate risk-based spread reflective of prevailing market conditions.
- (e) Repayment of principal: the principal sum (transaction value minus cash payment) of an export credit shall be repayable in equal, regular six-monthly instalments starting not later than six months after the starting point of the credit.
- (f) Premiums in respect of coverage of risks under export credit insurance, reinsurance and export credit guarantees: premiums shall be charged, shall be risk-based and shall be adequate to cover long term operating costs and losses. Premium shall be expressed in percentages of the outstanding principal value of the credit, shall be payable in full at the date of issuance of cover and shall not be financed. Premium rebates shall not be accorded. Furthermore, support in the form of export credit insurance, reinsurance or guarantees shall not be provided in respect of export financing contracts whose terms and conditions are not otherwise in conformity with the provisions of this paragraph.

- (g) Foreign exchange risk: Export credits, export credit insurance, export credit guarantees, and related financial support shall be provided in freely traded currencies. Foreign exchange exposure deriving from credit that is repayable in the currency of the importer shall be fully hedged, such that the market risk and credit risk of the transaction to the supplier/lender/guarantor is not increased. The cost of the hedge shall be incorporated into and be in addition to the premium rate determined in accordance with this Article.
- (h) Period of validity of export financing offers: credit terms and conditions (e.g., interest rates for direct financing support and all risk-based terms and conditions) offered for an individual export credit or line of credit shall not be fixed for a period exceeding six months without payment of premium.

Non-conforming financing support

5. Export financing supports which do not conform with all the relevant the provisions of paragraph 4 of this Article, hereinafter referred to as "non-conforming export financing", constitute export subsidies for the purposes of this Agreement and are subject to specific export financing reduction commitments under this Article.

6. The commitments for each year of the implementation period, as specified in Part IV, Section IV, of a Member's Schedule, represent with respect to non-conforming financing support:

- (a) in the case of scheduled reduction commitments relating to the value of non-conforming export financing support, the maximum level of such financing support in value terms, that may be provided in that year in respect of the agricultural product, or group of products concerned;
- (b) in the case of scheduled quantity reduction commitments, the maximum quantity of an agricultural product, or group of products, in respect of which non-conforming export financing may be provided in that year; and
- (c) in the case of commitments relating to repayment terms, the maximum and degressive non-conforming repayment terms that may be supported in each successive year of the specified implementation period.

Emergency exception

7. An emergency situation is defined as a sudden, significant and unusual deterioration in a Member country's economy and its ability to finance current imports of basic foodstuffs, and which may have far reaching consequences such as social deprivation or unrest. In the event of such an emergency the importing Member country concerned may request an exporting Member to provide more generous export financing terms than are permissible under this Article. A Member making such a request shall concurrently notify the Committee on Agriculture in writing accordingly. The Member to whom such a request is addressed shall consider the request for more generous terms in accordance with the need to sustain the viability of its export credits, export credit guarantees, or export credit insurance programmes.

Transparency and notification

8. No later than three months after the entry into force of this Article each Member shall submit a notification concerning that Member's export financing programmes, export financing bodies and other related matters in accordance with the format specified in Annex [] hereto. This notification shall be updated at the beginning of each subsequent year. At not less than [] monthly intervals

Members shall submit a notification to the Committee on Agriculture in which details are provided of export financing commitments entered into in accordance with the format specified in Annex [...] hereto. Least-developed country Members shall not be required to submit such notifications. [Note: the Annexes referred to in this paragraph to be developed at the appropriate stage.]

Special and differential treatment

9. In respect of imports of agricultural products, special and differential treatment in favour of developing country Members shall comprise:

- (a) longer maximum repayments terms of up to [] months;
- (b) repayment of the principal sum in equal and regular instalments not less frequently than annually, with the first payment due no later than twelve months after the starting point of credit;
- (c) payment of interest not less frequently than annually, with the first interest payment to be made no later than twelve months after the starting point of credit.

10. In respect of imports of basic foodstuffs least-developed countries and net food-importing developing countries as listed in G/AG/5/Rev.5 shall be accorded:

- (a) additional longer maximum repayment terms of up to [] months;
- (b) differential and more favourable interest rates and/or premiums.

11. Developing country Members providing direct export financing support may use London Interbank Offered Rates (Libor rates) and CIRRs, plus an appropriate risk-based spread, as minimum interest rate benchmarks.

12. For developing country Members the provisions of this Article, other than those relating to notification and transparency, shall enter into force at the beginning of the year following the end of the developing country implementation period for export subsidy commitments: provided that, with respect to any product or group of products for which a developing country Member is listed as a significant exporter in document G/AG/2/Add.1, these provisions shall become applicable with effect from the entry into force of this Article; and provided further that the provisions of Article 9.4 of this Agreement shall also apply to export financing.

Other Matters

13. The provisions of Articles 3.1, 3.3, 8, 10.1 and 10.3 of this Agreement shall apply *mutatis mutandis* to the commitments with respect to export financing under this Article.

14. [Annexes hereto comprise....]

Attachment 5

Article 10.4 of the Agreement on Agriculture

Draft for further consideration of a possible replacement of paragraph 4 of Article 10 of the Agreement on Agriculture

4. (a) Members donors of international food aid, whether in kind or in the form of financial grants to be used to purchase food for or by the recipient country, shall ensure:
 - (i) that, in the case of food aid to meet or relieve emergency or critical food needs arising from natural disasters, crop failures or humanitarian crises and post-crisis situations, such aid is granted in response to appeals from specialised United Nations food aid agencies, from non-governmental humanitarian organisations or private charitable bodies, or in response to bilateral government-to-government requests for emergency food aid relief;
 - (ii) that food aid for other purposes, including under projects or programmes to enhance nutritional standards amongst vulnerable groups in least-developed and net food-importing developing countries, is provided exclusively in the form of untied financial grants to be used to purchase food for or by the recipient country: except that such food aid may be provided in-kind within the framework of projects and programmes operated by specialised United Nations food aid agencies or on behalf of such specialised agencies through non-governmental humanitarian organisations or private charitable bodies;
 - (iii) that food aid is provided exclusively in fully grant form;
 - (iv) that the provision of food aid is not tied directly or indirectly, formally or informally, explicitly or implicitly, to commercial exports of agricultural products or of other goods and services to recipient countries.
- (b) Members shall ensure that their food aid transactions are carried out in accordance with the procedures under the FAO "Principles of Surplus Disposal and Consultative Obligations", including, where appropriate, the system of "Usual Marketing Requirements". Any Member may raise any matter relating to a donor Member's compliance with these principles and requirements under Article 18.6 of this Agreement.
- (c) Members which are recipients of food aid undertake not to re-export such food aid otherwise than as part of a triangular food aid transaction initiated by a specialised United Nations food aid agency.
- (d) Members shall report on the form in which food aid is provided, as well as on the products, amounts, destinations, channelling and other relevant terms and conditions of their food aid operations, on the basis of a format and at intervals to be established by the Committee on Agriculture.
- (e) Food aid transactions which are not in conformity with the provisions of subparagraph (a) above and which cannot be accommodated within limits of a Member's export subsidy reduction commitments shall be deemed for the purposes of Article 10.1 of this Agreement to constitute non-commercial transactions which circumvent that Member's export subsidy commitments.

Attachment 6

State Trading Export Enterprises

*Draft for further consideration of possible additional provisions for inclusion
as a new Article 10.5 of the Agreement on Agriculture*

5. (a) Members shall ensure that state trading export enterprises are operated in conformity with the provisions of this Article and, subject to these provisions, in accordance with Article XVII and other relevant provisions of GATT 1994, this Agreement and other WTO agreements. For the purposes of this Article, state trading export enterprises include any governmental or non-governmental enterprise, including a marketing board, which has been granted or which enjoys de facto as a result of its governmental or quasi-governmental status, exclusive or special rights, privileges or advantages, including any statutory or constitutional powers, in the exercise of which or by virtue of which such state trading export enterprises (hereinafter referred to as "governmental export enterprises") influence through their purchases and sales the level, direction or prices of exports.
- (b) Members shall ensure that governmental export enterprises are not operated in such a way as to circumvent export subsidy commitments under this Agreement nor in such a manner that would nullify or impair the conditions of competition in world export markets that would prevail in the absence of such special rights, privileges or advantages. To this end Members undertake:
- (i) to ensure that exports of a product by a governmental export enterprise do not take place at a price less than the price paid by such an enterprise to the domestic producers of the product concerned;
 - (ii) not to restrict the right of any interested entity to export, or to purchase for export, agricultural products;
 - (iii) not to grant special financing privileges, including government grants, loans, loan guarantees, or underwriting of operational costs, to governmental export enterprises that export for sale, directly or indirectly, a significant share of the respective Member's total exports of an agricultural product.
- (c) The provisions of sub-paragraph (b) above, other than (b)(i), shall not apply to developing country Members.
- (d) The provisions of sub-paragraph (b)(ii) above shall enter into force progressively on the basis of a plan to be negotiated and specified in Part IV, Section V of the Schedule of the Member concerned.
- (e) Any Member which establishes or maintains a governmental export enterprise shall notify relevant information on the operations of that enterprise in accordance with a format and at intervals to be established by the Committee on Agriculture.

Attachment 7

Annex 2 of the Agreement on Agriculture

Possible amendments for further consideration (changes in italics)

1. Addition to paragraphs 5, 6, 11 and 13:

Reference to base periods

Payments shall be based on activities in a fixed and unchanging historical base period. All base periods shall be notified.

2. Modification of subparagraphs 7(a), (b) and (c):

Compensation criteria with respect to government financial participation in income insurance and income safety-net programmes.

- (a) Eligibility for such payments shall be determined by an income loss, taking into account only income derived from agriculture, which exceeds 30 per cent of average gross income or the equivalent in net income terms (excluding any payments from the same or similar schemes) in the preceding three to *five*-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry. Any producer meeting this condition shall be eligible to receive the payments *from the government*.
- (b) The amount of such *payments by governments shall restore a producer's income to no more than 70 per cent of income derived by that producer from agriculture in the averaging period used to trigger eligibility for payment.*
- (c) The amount of any such payments shall relate solely to *income derived from agriculture of the farm enterprise as a whole*; it shall not relate to the type or volume of production (including livestock units) undertaken by the producer; or to the prices, domestic or international, applying to such production; or to the factors of production employed.

3. Modification of subparagraphs 8(a), (b) and (d):

Compensation criteria with respect to payments (made either directly or by way of government financial participation in crop insurance schemes) for relief from natural disasters.

- (a) Eligibility for such payments shall arise:
 - *in the case of disasters: only following a formal recognition ... excluding the highest and lowest entry.*
 - *in the case of government financial participation in crop insurance schemes: eligibility for such payments shall be determined by a production loss which exceeds 30 per cent of the average of production in an actuarially appropriate period.*

- *in the case of the destruction of animals or crops to control or prevent diseases named in national legislation or international standards: the production loss may be less than the 30 per cent of the average of production referred to above.*
 - (b) Payments made *under paragraph 8* shall be applied only in respect of losses of income, livestock (including payments in connection with the veterinary treatment of animals), land or other production factors due to the natural disaster *or destruction of animals or crops* in question.
 - (d) Payments made *under paragraph 8* shall not exceed the level required to prevent or alleviate further loss as defined in criterion (b) above.
4. Modification of subparagraph 9(b):
- Structural adjustment assistance provided through producer retirement programmes
- Payments shall be conditional upon the total and permanent retirement of the recipients from marketable agricultural production *or lending of land for a longer period than [x] years. Payments shall be time limited.*
5. Addition at the end of subparagraph 10(d):
- Structural adjustment assistance provided through resource retirement programmes
- (d) Payments shall not ... remaining in production. *Payments shall be time limited.*
6. Addition at the end of subparagraph 11(a), modification of subparagraph 11(b), and inclusion of new subparagraph 11(b) *bis*
- Structural adjustment assistance provided through investment aids
- (a) *Such structural disadvantages must be clearly defined.*
 - (b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production *or inputs into the production* (including livestock units) ... *(b bis) The amount of such payments in any given year shall not be related to, or based on, the use of factors of production in any given year after the base period.*
7. Modification of scope of paragraph 12 (heading) and/or of subparagraphs 12(a) and (b):
- Payments under environmental programmes/*animal welfare payments*
- (a) Eligibility for such payments shall be determined as part of a clearly-defined government (...) programme and be dependent on the fulfilment of specific conditions under the government programme[.] ~~*including conditions related to production methods or inputs*~~.
 - (b) The amount of payment shall be *less than the extra costs involved in complying with the government programme and not be related to or based on the volume of production.*

Attachment 8

Annex 2 of the Agreement on Agriculture

Possible new elements of special and differential treatment for further consideration (changes in italics)

1. Inclusion of a new sentence at the end of paragraph 3:

Public stockholding for food security purposes

The volume and accumulation ... product and quality in question. *Developing country Members shall be exempted from the condition in paragraph 3 that the volume and accumulation of food security stocks shall correspond to predetermined targets.*

2. Inclusion of new paragraph 6 bis:

Payments to maintain domestic production capacity of staple crops for food security purposes

(a) *Eligibility for such payments shall be determined by reference to clearly-defined criteria in government programmes designed to provide support for the producers of staple crops.*

(b) *Total production of the crop shall account for no less than [X] per cent of the total value of agricultural production and:*

- *Total consumption of such crop shall account for no less than [Y] per cent of the total domestic consumption of agricultural products in terms of calorie intake; or*
- *Total export of such crop shall account for no less than [Z] per cent of the total export of a particular country.*

(c) *The amount of payment shall be limited to the minimum to maintain domestic production capacity of such crop of the Member concerned.*

3. Inclusion of new paragraph 6 ter:

Payments to small scale family farms for the purpose of maintaining rural viability and cultural heritage

(a) *Eligibility for such payments shall be determined by reference to clearly defined criteria in government programmes designed to provide support for small scale family farms.*

(b) *Small scale farms shall be defined in national legislation, taking into account such factors as total annual sales, share of hired farm labour, off-farm income, etc.*

(c) *The amount of such payment shall be limited to the minimum level for continued existence of such farms based on the purpose of maintaining rural viability and cultural heritage.*

(d) *The payment shall not mandate or in any way designate the agricultural products to be produced by the recipients.*

4. Modification of subparagraphs 7(a), (b) and (c):

Compensation criteria with respect to government financial participation in income insurance and income safety-net programmes.

- (a) Eligibility for such payments shall be determined by an income loss, taking into account only income derived from agriculture, which exceeds 30 per cent of average gross income or the equivalent in net income terms (excluding any payments from the same or similar schemes) in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry, *or, in the case of developing country Members, a certain proportion of average gross income or the equivalent in net income terms (excluding any payments from the same or similar schemes) which shall be clearly defined in national legislation.* Any producer meeting this condition shall be eligible to receive the payments.
- (b) The amount of such payments shall compensate for less than 70 per cent of the producer's income loss in the year the producer becomes eligible to receive this assistance, *or, in the case of developing country Members, shall compensate for less than a certain proportion of the producer's income loss, which shall be clearly defined in national legislation.*
- (c) The amount of any such payments shall relate solely to income *derived from agriculture of the farm enterprise as a whole*; it shall not relate to the type or volume of production ... production employed.

5. Modification of subparagraph 8(a):

Payments (made either directly or by way of government financial participation in crop insurance schemes) for relief from natural disasters

- (a) Eligibility for such payments shall arise only following formal ... excluding the highest and the lowest entry, *or, in the case of developing country Members, [exceeds 10 per cent of the average of production in the preceding year] [exceeds a proportion of the average of production in the preceding three-year period to be determined in national legislation].*

6. Modification of subparagraph 10(b):

Structural adjustment assistance provided through resource retirement programmes

- (b) Payments shall be conditional upon the retirement of land from marketable agricultural production for a minimum of three years, *or, in the case of developing country Members, one year*, and in the case of livestock ... disposal.

7. Inclusion of new sentence at the end of subparagraph 13(a):

Payments under regional assistance programmes

- (a) Eligibility for such payments temporary circumstances. *Developing country Members shall be exempted from the condition that disadvantaged regions must constitute a clearly designated contiguous geographical area with a definable economic and administrative identity.*

Attachment 9

Article 6.2 of the Agreement on Agriculture

Possible amendments for further consideration (changes in italics)

In accordance with the Mid-Term Review Agreement that government measures of assistance, whether direct or indirect, to encourage agricultural and rural development are an integral part of the development programmes of developing countries, *and in accordance with paragraph 13 of the Doha Ministerial Declaration the following measures* in developing country Members shall be exempt from domestic support reduction commitments *to the extent that these commitments* would otherwise be applicable to such measures:

- (i) investment subsidies which are generally available to agriculture
- (ii) agricultural input subsidies generally available to low-income or resource-poor producers
- (iii) domestic support to producers to encourage diversification from growing illicit narcotic crops *or those whose non-edible or non-drinkable products, being lawful, are recognized [by WHO] as harmful for human health*
- (iv) *subsidies for concessional loans through established credit institutions or for the establishment of regional and community credit cooperatives*
- (v) *transportation subsidies for agricultural products and farm inputs to remote areas*
- (vi) *on-farm employment subsidies for families of low-income and resource-poor producers*
- (vii) *government assistance for conservation measures*
- (viii) *marketing support programmes and programmes aimed at compliance with quality and sanitary and phytosanitary regulations*
- (ix) *capacity building measures with the objective of enhancing the competitiveness and marketing of low-income and resource-poor producers*
- (x) *government assistance for the establishment and operation of agricultural cooperatives*
- (xi) *government assistance for risk management of agricultural producers and savings instruments to reduce year-to-year variations in farm incomes*

Domestic support meeting the criteria of this paragraph shall not be required to be included in a Member's calculation of its Current Total AMS.
