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## **1 ARTICLE 16 OF THE AGREEMENT ON AGRICULTURE**

### **1.1 Text of Article 16**

#### **Article 16**

##### *Least-Developed and Net Food-Importing Developing Countries*

1. Developed country Members shall take such action as is provided for within the framework of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries.
2. The Committee on Agriculture shall monitor, as appropriate, the follow-up to this Decision.

### **1.2 Text of the Marrakesh Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries (NFIDC Decision)**

1. *Ministers recognize* that the progressive implementation of the results of the Uruguay Round as a whole will generate increasing opportunities for trade expansion and economic growth to the benefit of all participants.
2. *Ministers recognize* that during the reform programme leading to greater liberalization of trade in agriculture least-developed and net food-importing developing countries may experience negative effects in terms of the availability of adequate supplies of basic foodstuffs from external sources on reasonable terms and conditions, including short-term difficulties in financing normal levels of commercial imports of basic foodstuffs.
3. *Ministers accordingly agree* to establish appropriate mechanisms to ensure that the implementation of the results of the Uruguay Round on trade in agriculture does not adversely affect the availability of food aid at a level which is sufficient to continue to provide assistance in meeting the food needs of developing countries, especially least-developed and net food-importing developing countries. To this end *Ministers agree*:

(i) to review the level of food aid established periodically by the Committee on Food Aid under the Food Aid Convention 1986 and to initiate negotiations in the appropriate forum to establish a level of food aid commitments sufficient to meet the legitimate needs of developing countries during the reform programme;

(ii) to adopt guidelines to ensure that an increasing proportion of basic foodstuffs is provided to least-developed and net food-importing developing countries in fully grant form and/or on appropriate concessional terms in line with Article IV of the Food Aid Convention 1986;

(iii) to give full consideration in the context of their aid programmes to requests for the provision of technical and financial assistance to least-developed and net food-importing developing countries to improve their agricultural productivity and infrastructure.

4. *Ministers further agree* to ensure that any agreement relating to agricultural export credits makes appropriate provision for differential treatment in favour of least-developed and net food-importing developing countries.

5. *Ministers recognize* that as a result of the Uruguay Round certain developing countries may experience short-term difficulties in financing normal levels of commercial imports and that these countries may be eligible to draw on the resources of international financial institutions under existing facilities, or such facilities as may be established, in the context of adjustment programmes, in order to address such financing difficulties. In this regard Ministers take note of paragraph 37 of the report of the Director-General to the CONTRACTING PARTIES to GATT 1947 on his consultations with the Managing Director of the International Monetary Fund and the President of the World Bank (MTN.GNG/NG14/W/35).

6. The provisions of this Decision will be subject to regular review by the Ministerial Conference, and the follow-up to this Decision shall be monitored, as appropriate, by the Committee on Agriculture."

### 1.3 Recommendations approved at the Singapore Ministerial Conference

1. The NFIDC Decision is subject to regular review by the Ministerial Conference pursuant to paragraph 6 of the Decision. In the context of this review, the Singapore Ministerial Conference approved the following, based on the recommendations by the Committee on Agriculture:

"(i) that, in anticipation of the expiry of the current Food Aid Convention in June 1998 and in preparation for the renegotiation of the Food Aid Convention, action be initiated in 1997 within the framework of the Food Aid Convention, under arrangements for participation by all interested countries and by relevant international organizations as appropriate, to develop recommendations with a view towards establishing a level of food aid commitments, covering as wide a range of donors and donable foodstuffs as possible, which is sufficient to meet the legitimate needs of developing countries during the reform programme. These recommendations should include guidelines to ensure that an increasing proportion of food aid is provided to least-developed and net food-importing developing countries in fully grant form and/or on appropriate concessional terms in line with Article IV of the current Food Aid Convention, as well as means to improve the effectiveness and positive impact of food aid;<sup>1</sup>

(ii) that developed country WTO Members continue to give full consideration in the context of their aid programmes to requests for the provision of technical and financial assistance to least-developed and net food-importing developing countries to improve their agricultural productivity and infrastructure;

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<sup>1</sup> The Food Aid Convention 1999 was adopted under the auspices of the United Nations on 24 March 1999. It provisionally entered into force on 1 July 1999 for an initial duration of three years. The Convention was subsequently extended several times by the Food Aid Committee. The Food Assistance Convention of 2013 succeeded the Food Aid Convention 1999.

(iii) that the provisions of paragraph 4 of the Marrakesh Ministerial Decision, whereby Ministers agreed to ensure that any agreement relating to agricultural export credits makes appropriate provision for differential treatment in favour of least-developed and net food-importing developing countries, be taken fully into account in the agreement to be negotiated on agricultural export credits;

(iv) that WTO Members, in their individual capacity as members of relevant international financial institutions, take appropriate steps to encourage the institutions concerned, through their respective governing bodies, to further consider the scope for establishing new facilities or enhancing existing facilities for developing countries experiencing Uruguay Round-related difficulties in financing normal levels of commercial imports of basic foodstuffs."<sup>2</sup>

#### **1.4 Recommendations approved at the Doha Ministerial Conference**

2. The issue of improving the effectiveness of the implementation of the NFIDC Decision was also considered in the context of the work on implementation-related issues conducted in the Committee on Agriculture on the instructions of the General Council.<sup>3</sup> In advance of the Doha Ministerial Meeting, the Committee reported on its work on implementation-related issues and made the following recommendations.

##### **"I. Food Aid (paragraph 3 (i) and (ii) of the Decision)**

(a) that early action be taken within the framework of the Food Aid Convention 1999 (which unless extended, with or without a decision regarding its renegotiation, would expire on 30 June 2002) and of the UN World Food Programme by donors of food aid to review their food aid contributions with a view to better identifying and meeting the food aid needs of least-developed and WTO net food-importing developing countries;

"(b) WTO Members which are donors of food aid shall, within the framework of their food aid policies, statutes, programmes and commitments, take appropriate measures aimed at ensuring: (i) that to the maximum extent possible their levels of food aid to developing countries are maintained during periods in which trends in world market prices of basic foodstuffs have been increasing; and (ii) that all food aid to least developed countries is provided in fully grant form and, to the maximum extent possible, to WTO net food-importing developing countries as well.

##### **II. Technical and Financial Assistance in the Context of Aid Programmes to Improve Agricultural Productivity and Infrastructure (paragraph 3(iii) of the Decision)**

(a) that developed country WTO Members should continue to give full and favourable consideration in the context of their aid programmes to requests for the provision of technical and financial assistance by least-developed and net food-importing developing countries to improve their agricultural productivity and infrastructure;

(b) that, in support of the priority accorded by least-developed and net food-importing developing countries to the development of their agricultural productivity and infrastructure, the WTO General Council call upon relevant international development organisations, including the World Bank, the FAO, IFAD, the UNDP and the Regional Development Banks to enhance their provision of, and access to, technical and financial assistance to least-developed and net food-importing developing countries, on terms and conditions conducive to the better use of such facilities and resources, in order to improve agricultural productivity and infrastructure in these countries under existing facilities and programmes, as well as under such facilities and programmes as may be introduced.

##### **III. Financing Normal Levels of Commercial Imports of Basic Foodstuffs (paragraphs 4 and 5 of the Decision)**

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<sup>2</sup> [G/L/125](#), adopted by the Singapore Ministerial Conference, [WT/MIN\(96\)/DEC](#), para. 13.

<sup>3</sup> [WT/L/384](#).

(a) that the provisions of paragraph 4 of the Marrakesh Ministerial Decision, which provide for differential treatment in favour of least-developed and WTO net food-importing developing countries, shall be taken fully into account in any agreement to be negotiated on disciplines on agricultural export credits pursuant to Article 10.2 of the Agreement on Agriculture;

(b) that an inter-agency panel of financial and commodity experts be established, with the requested participation of the World Bank, the IMF, the FAO, the International Grains Council and the UNCTAD, to explore ways and means for improving access by least-developed and WTO net food-importing developing countries to multilateral programs and facilities to assist with short term difficulties in financing normal levels of commercial imports of basic foodstuffs, as well as the concept and feasibility of the proposal for the establishment of a revolving fund in G/AG/W/49 and Add.1 and Corr.1. The detailed terms of reference, drawing on the Marrakesh NFIDC Decision, should be submitted by the Vice-Chairman of the WTO Committee on Agriculture, following consultations with Members, to the General Council for approval by not later than 31 December 2001. The inter-agency panel shall submit its recommendations to the General Council by not later than 30 June 2002."<sup>4</sup>

3. The Doha Ministerial Conference took note of and approved these recommendations.<sup>5</sup>

#### 1.4.1 International food aid

4. With regard to the recommendation "that early action be taken within the framework of the Food Aid Convention 1999 (which unless extended, with or without a decision regarding its renegotiation, would expire on 30 June 2002)", the Food Aid Committee agreed at its session in December 2002, in principle, to a two-year extension of the Convention from 1 July 2003. At its December 2004 session, the Food Aid Committee concluded that the relationship between the review process in the Food Aid Committee and negotiations underway in the WTO was such that conclusive recommendations should await the outcome of the WTO negotiations. In these circumstances, the Food Aid Convention 1999 was extended on an annual basis. In December 2010, the Food Aid Committee agreed to begin the formal process of renegotiating the Convention. After successful negotiations, the new Food Assistance Convention<sup>6</sup> was adopted on 25 April 2012 and entered into force on 1 January 2013, following the depositing of instruments of ratification by the required number of Parties. The Food Aid Convention 1999 expired on 30 June 2012.<sup>7</sup>

5. The disciplines on international food aid contained in the Nairobi 10<sup>th</sup> Ministerial Decision on Export Competition of December 2015 reaffirm Members' commitment to maintain an adequate level of international food aid and require Members to ensure that all international food aid is in fully grant form. Members also agreed to review the international food aid provisions of the Nairobi Decision within the Committee on Agriculture annual NFIDC monitoring exercise.<sup>8</sup>

#### 1.4.2 Financing Normal Levels of Commercial Imports of Basic Foodstuffs

6. As mentioned in paragraphs 2 and 3 above, the Doha Ministerial Conference approved the recommendation submitted by the Committee on Agriculture to establish an Inter-Agency Panel on Short-Term Difficulties in Financing Normal Levels of Commercial Imports of Basic Foodstuffs ("Inter-Agency Panel").<sup>9</sup>

7. At its meeting on 19<sup>th</sup> December 2001, the General Council adopted the following terms of reference for the Inter-Agency Panel within the framework of the NFIDC Decision:

"1. To examine the terms and conditions of existing facilities of the international financial institutions (namely: IMF and the World Bank) to which the least-developed and WTO net

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<sup>4</sup> [G/AG/11](#), section B.I-III.

<sup>5</sup> [WT/MIN\(01\)/17](#), para. 2.2.

<sup>6</sup> Accessible at <https://www.foodassistanceconvention.org/convention/FoodAssistance.pdf>.

<sup>7</sup> See [G/AG/W/42/Rev.19](#), section 2.1.1.

<sup>8</sup> [WT/MIN\(15\)/45](#), paras. 22-32.

<sup>9</sup> [WT/MIN\(01\)/17](#), para. 2.2; [G/AG/11](#), section B.III.

food-importing developing countries could have recourse in order to address short-term difficulties in financing normal levels of commercial imports of basic foodstuffs, principally cereals, rice, basic dairy products, pulses, vegetable oils and sugar, during periods of rising world prices for such basic foodstuffs, including, as appropriate, other relevant sources of concessional financing; this examination shall take into account, *inter alia*, such submissions as may be submitted to the Panel by least-developed and WTO net food-importing developing countries, donors and the relevant international financial institutions, by no later than end-March 2002;

2. To examine the concept and feasibility of the proposal for the establishment of a revolving fund in documents [G/AG/W/49](#) and [Add.1](#) and [Corr.1](#), together with any further elaboration of those proposals as may be submitted to the Panel by the sponsoring Members concerned before the end of March 2002;

3. In the light of its review and examination under paragraphs (1) and (2) above and having regard to the Marrakesh NFIDC Decision, to make such recommendations for the consideration of the WTO General Council as the Panel considers appropriate regarding: ways and means for improving access by least-developed and WTO net food-importing developing countries to multilateral programmes and facilities to assist with short-term difficulties in financing normal levels of commercial imports of basic foodstuffs;

4. In carrying out its task the Panel may consult with such bodies or institutions as it considers appropriate;

5. The Panel shall submit its report and recommendations to the WTO General Council by no later than 30 June 2002."<sup>10</sup>

8. The Inter-Agency Panel submitted its report to the General Council on 28 June 2002.<sup>11</sup> In its Report, the Inter-Agency Panel made four recommendations:

"[C]oncerning ways and means for improving access by LDCs and NFIDCs to multilateral programme and facilities to assist with short-term difficulties in financing normal levels of commercial imports of basic foodstuffs:

(a) that in the context of the impending review of the CFF of the IMF, consideration be given by member governments to

(i) extending the product coverage of the facility to cover all basic foodstuffs,

(ii) clarifying access in the context of an existing arrangement with the IMF,

(iii) providing a greater degree of automaticity without requiring an IMF – supported programme,

(iv) reviewing the procedures and timeliness of disbursements, as well as encouraging governments to come forward with purchase requests;

(b) that in the light of the limited potential usefulness of an ex-post revolving fund to support food imports in time of need, the feasibility of an ex-ante financing mechanism aimed at food importers be explored;

(c) that the terms of reference of the Diagnostic Trade Integration Studies to be undertaken in the context of the Integrated Framework include, as appropriate and if requested by the beneficiary country, the items of

(i) food security implications of trade development strategies,

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<sup>10</sup> [WT/GC/M/72](#), paras. 61-63; and [G/AG/12](#).

<sup>11</sup> [G/AG/13](#) - [WT/GC/62](#).

(ii) availability of, and access to, adequate financing, in particular by the private sector, to support food imports;

(d) that strategies of commodity price risk management from the perspective of developing country food importers be addressed by the Commodity Price Risk Management Group of the World Bank."<sup>12</sup>

9. At its meeting on 15 October 2002 the General Council approved these four recommendations, with the amendments proposed by the Committee on Agriculture:

"[W]ith regard to the recommendations in Paragraphs 168 (a), (c) and (d), that the General Council authorize him, as Chairman [of the General Council], to write to the IMF, World Bank and the Integrated Framework Agencies requesting them to review the Panel report as it related to the issue within their competence. Finally, with regard to the recommendation in Paragraph 168 (b), he proposed that the General Council approve to the recommendation of the Committee on Agriculture that the question on feasibility of an ex-ante financing mechanism aimed at food importers be pursued by Committee, on the understanding that a proposal regarding the establishment of an ex-ante financing mechanism would be submitted by the WTO net food-importing developing countries, and follow-up report concerning the discussion of the proposal be submitted to the General Council following the regular meeting of the Committee in November."<sup>13</sup>

10. The disciplines on maximum repayment term and self-financing for export credits, export credit guarantees or insurance programmes for exports of agricultural products, adopted by Members at the December 2015 Nairobi 10th Ministerial Conference, contain specific provisions for least-developed country Members and net food-importing developing country Members.<sup>14</sup>

## **1.5 Article 16.2: Monitoring the follow-up to the NFIDC Decision**

### **1.5.1 General**

11. The annual monitoring exercise on the follow-up to the NFIDC Decision has been undertaken at each November meeting of the Committee on Agriculture, on the basis of Table NF:1 notifications by donor Members as well as contributions by the observer organizations, contributions by Members and observer organizations, and a background note by the Secretariat summarizing information on the implementation of the NFIDC Decision.<sup>15</sup>

### **1.5.2 List of least-developed country Members and net food-importing developing country Members**

12. At its meeting of 21 November 1995, the Committee on Agriculture adopted a decision on establishment of a WTO list of net food-importing developing countries eligible as beneficiaries in respect of measures provided for in the NFIDC Decision. The decision to establish this list was taken on the understanding that "being listed would not as such confer automatic benefits since, under the mechanisms covered by the Marrakesh Ministerial Decision, donors and the institutions concerned would have a role to play".<sup>16</sup>

13. The agreed criteria provided that the following countries would be eligible for the list:

"a) Least developed countries as recognized by the Economic and Social Council of the United Nations.

b) Any developing country Member of the WTO which was a net importer of basic foodstuffs in any three years of the most recent five-year period for which data are available and

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<sup>12</sup> [G/AG/13](#), para. 168 – [WT/GC/62](#), para. 168.

<sup>13</sup> [WT/GC/M/76](#), paras. 63-64.

<sup>14</sup> [WT/MIN\(15\)/45](#), para. 17.

<sup>15</sup> Circulated in the document series [G/AG/W/42/\\*](#). The latest background note is contained in [G/AG/W/42/Rev.20](#), dated 15 October 2019.

<sup>16</sup> [G/AG/R/4](#), para. 17.

which notifies the Committee of its decision to be listed as a Net Food-Importing Developing Country for the purpose of the decision."<sup>17</sup>

14. As of February 2018, the most recent list includes the least-developed country Members as recognized by the Economic and Social Council of the United Nations, plus 31 other Members.<sup>18</sup>

### 1.5.3 Notification requirements

15. For notification requirements and formats concerning the follow-up to the NFIDC Decision, see section 1.2.2 of the document on Article 18 of the Agreement on Agriculture (Practice).

### 1.5.4 Opportunities for consultation

16. Paragraph 18 of the Organization of Work and Working Procedures of the Committee on Agriculture<sup>19</sup> states:

"There shall be an opportunity at any regular meeting of the Committee to raise any matter relating to the Decision on Measures concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries."<sup>20</sup>

### 1.5.5 Effective implementation

17. At its meeting on 15 December 2000, the General Council decided that:

"The Committee on Agriculture shall examine possible means of improving the effectiveness of the implementation of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries and report to the General Council at the second regular meeting of the Council in 2001."<sup>21</sup>

18. Pursuant to this mandate, the Committee on Agriculture submitted recommendations that were approved by the Doha Ministerial Conference.<sup>22</sup>

19. Between 2003 and 2006, the Committee on Agriculture also considered, at each of its regular meetings, a proposal by the African Group calling for developed country Members, *inter alia*, to contribute to a revolving fund for normal levels of food imports.<sup>23</sup> In September 2004, the Committee on Agriculture decided to revert to this matter on the basis of the recommendation contained in its report to the General Council on Implementation-Related Issues.<sup>24</sup> Informal consultations specifically dedicated to that proposal were also held in May 2005 and again in February 2006, as part of the discussions on implementation-related issues. The outcome of such consultations is reflected in the Committee's follow-up report to the General Council.<sup>25</sup>

20. Developing country Members eligible as beneficiaries within the framework of the NFIDC Decision have regularly emphasized the need of an effective implementation of the Decision. During the 2014 NFIDC annual monitoring discussions, the African Group urged Members

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<sup>17</sup> [G/AG/3](#).

<sup>18</sup> [G/AG/5/Rev.10](#). The 31 other Members were Antigua and Barbuda, Barbados, Bolivarian Republic of Venezuela, Botswana, Côte d'Ivoire, Cuba, Dominica, Dominican Republic, Egypt, El Salvador, Gabon, Grenada, Honduras, Jamaica, Jordan, Kenya, Maldives, Mauritius, Mongolia, Morocco, Namibia, Pakistan, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Senegal, Sri Lanka, Swaziland, Trinidad and Tobago, and Tunisia.

<sup>19</sup> With respect to the adoption of the document, see section 1.2.1 of the document on Article 18 of the Agreement on Agriculture (Practice).

<sup>20</sup> [G/AG/1](#), para. 18.

<sup>21</sup> [WT/L/384](#), para. 1.2.

<sup>22</sup> [WT/MIN\(01\)/17](#), para. 2.2; and [G/AG/11](#). See section 1.4 above.

<sup>23</sup> African Group proposal: [TN/CTD/W/3/Rev.2](#), para. 52, 17 July 2002.

<sup>24</sup> See [G/AG/16](#), para. 19(c). Progress reports relating to the African Group proposal can be found in [G/AG/17](#) and [Corr.1](#); [G/AG/20](#); [G/AG/22](#).

<sup>25</sup> [G/AG/16/Add.1](#), paras. 11-12, 13 June 2006.

to improve the implementation of the NFIDC Decision so as to achieve its intended objectives.<sup>26</sup> The need to improve the implementation of the NFIDC Decision was highlighted by the NFIDC Group during the subsequent annual monitoring discussions as well, when the Group presented some specific suggestions to reinvigorate the annual monitoring exercise.<sup>27</sup>

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<sup>26</sup> Specific suggestions made by the African Group towards an improved implementation of the NFIDC Decision are included in paragraph 2.3 of [G/AG/R/76](#).

<sup>27</sup> [G/AG/R/83](#), paras. 2.2-2.7; [G/AG/R/90](#), para. 2.8; and [G/AG/R/93](#), para. 2.6.