Corrected 5 March 2008

UNOFFICIAL GUIDE TO THE REVISED DRAFT MODALITIES — AGRICULTURE

8 February 2008

The main purpose of this note is to walk you through the text; please consult the original. You can download it, read about its origins and find links to earlier documents here:
<http://www.wto.org/english/tratop_e/agric_e/chair_texts08_e.htm>
Amb.Crawford Falconer's press conference (mp3 format)
<http://www.wto.org/audio/2008_02_08_falconer_pc.mp3>

FOR STARTERS

- NO SURPRISES. As with previous drafts, this one is painstakingly built up from ideas discussed in the negotiations, alternating with working documents (see http://www.wto.org/english/tratop_e/agric_e/chair_workdoc_nov07_e.htm). It reflects the latest thinking among negotiators and the chairperson. Because this is a gradual process built on members' evolving positions (ie, a "bottom up" process), including some 150 hours of talks since September and 16 working documents, there are no surprises.

- THAT STILL MEANS A LOT OF PROGRESS. Reports that the text shows no progress miss the point. All along, the objective has been to whittle down the outstanding issues to a manageable few. These can then be discussed politically, and in comparison with other subjects, particularly non-agricultural market access (NAMA).

  In that sense, a tremendous amount of progress has been made since September, clarifying the issues, refining the approach so that it is technically and legally more appropriate, identifying answers to questions posed by the chairperson in his earlier draft, and sorting out a number of flexibilities targeted at specific situations — for over one-third of WTO members, including around 45 small and vulnerable economies, and different groups of countries that recently joined the WTO (the "recently-acceded members" or RAMs).

  The text is now comprehensive across all three agricultural pillars (domestic support, market access, and export subsidies and other "export competition" issues).

  That is why there are no changes in the numbers in the main reduction formulas. Since discussions on the previous draft began in September 2007, it was clear that they would be tackled later. As it turns out, the role of the formulas has changed somewhat.

- THERE'S MORE TO IT THAN FORMULAS. We should not exaggerate their importance. Sorting out other issues has taken some pressure off the big numbers.

  1. The formulas remain unchanged, but the options are already quite narrow. See for example the explanation of the tariff cutting formula. And for export subsidies, which will be eliminated, the remaining question on the "formula" is only about how fast subsidized quantities will go to zero. So, for example some negotiators have argued that the major issue in market access for them is no longer the formula, but the selection and treatment of sensitive products. Here, the negotiations have seen considerable progress even though differences remain on what is a highly technical subject — but one with real commercial impact involving important traded products.

  2. The large amount of new detail on flexibilities for developing countries, including provisions for small and vulnerable economies and recent new members, has also taken a lot of pressure off the main tariff reduction formula.

- THAT SAID, the formulas are still important for countries and products where the formulas will apply, and because many flexibilities take the form of deviations from the formulas. Overall, hard bargaining still remains, on the numbers, tariff quotas for sensitive products, special products, safeguards, preferences, tropical products, some disciplines for domestic support, etc. The difference is that the options are now simpler, more manageable, and less muddied by technical complexity.

BASICS

- The negotiations aim to reform agricultural trade principally in three areas (the “three pillars”): domestic support, market access, and export subsidies and related issues (“export competition”).
- The “modalities” would spell out how to achieve this, including steps to be taken each year over a period.
- After the “modalities” have been agreed, they would be translated into cuts in tariffs on thousands of products, and reductions in subsidies and support. These would be part of the final deal.
- Formulas in the “modalities” would describe the basic cuts in tariffs, support and subsidies. For domestic support and tariffs, “tiered” formulas are used: if support or a tariff is high (ie, in a higher tier) it will be cut more steeply. Export subsidies would be eliminated.
- Not one-size-fits-all: the basic formulas for developing countries prescribe gentler cuts over a longer period. On top of that, a range of flexibilities would allow countries to deviate from the basic formulas, either totally or for some products, particularly in market access. This is designed to take account of countries’ different vulnerabilities, the liberalization already undertaken by new members, and a range of special circumstances for some products in different countries.
- New or revised rules and disciplines would also be in the “modalities”: these are as important as the formulas and are part of the deal. They include reducing the potential that permitted domestic support could distort trade, ensuring the methods of administering quotas do not themselves impede trade, and disciplining export finance, exporting state trading enterprises and international food aid so that they do not provide loopholes for export subsidies.

JARGON BUSTER

BOXES — categories of domestic support.

AMBER BOX — domestic support considered to distort production and trade, eg, by supporting prices or being directly related to production quantities, and therefore subject to reduction commitments. Officially, “aggregate measurement of support” (AMS)

DE MINIMIS — Amber Box supports in small, minimal or negligible amounts (currently limited to 5% of production in developed countries, 10% in developing). To simplify this guide to the “modalities”, de minimis is treated separately from the Amber box

BLUE BOX — Amber Box types of support, but with constraints on production or other conditions designed to reduce the distortion. Currently not limited.

GREEN BOX — domestic supports considered not to support trade or to cause minimal distortion and therefore permitted with no limits.

DISTORTION — when prices are higher or lower than normal, and when quantities produced, bought, and sold are also higher or lower than normal — ie, than the levels that would usually exist in a competitive market.

TIERED FORMULA — a formula where higher tariffs have steeper cuts than lower tariffs — products with higher tariffs are put in a higher category or tier, which has a steeper cut than lower tiers. Also used for cutting domestic support.

TARIFF QUOTA — when quantities inside a quota are charged lower import duty rates, than those outside (which can be high). (The reductions from the formulas apply to out-of-quota tariffs.)

EXPORT COMPETITION — term used in these negotiations to cover export subsidies and the “parallel” issues, which could provide loopholes for governments’ export subsidies — export finance (credit, guarantees and insurance), exporting state trading enterprises, and international food aid.

HIGHLIGHTS OF THIS DRAFT

Numbers in the draft tend to be in square brackets (indicating they are still to be negotiated) and in some cases the text offers ranges (e.g. tariffs) or alternatives (e.g. domestic support). Terms used in this box are explained in the longer summary.

DOMESTIC SUPPORT

(Explanation of the “boxes”: http://www.wto.org/english/tratop_e/agric_e/agboxes_e.htm)

- OVERALL TRADE DISTORTING DOMESTIC SUPPORT (Amber + de minimis + Blue). EU to cut by 75% or 85%; US/Japan to cut by 66% or 73%; the rest to cut by 50% or 60%. “Downpayment” (immediate cut) of 33% for US, EU, Japan, 25% for the rest. Bigger cuts from some other developed countries whose overall support is a larger % of production value. Cuts made over 5 years (developed countries) or 8 years (developing).

- AMBER BOX (AMS). Overall, EU to cut by 70%; US/Japan to cut by 60%; the rest to cut by 45%. Bigger cuts from some other developed countries whose AMS is larger % of production value. Also has downpayment.

- PER PRODUCT Amber Box support: capped at average for notified support in 1995-2000 with some variation for the US and others.

- DE MINIMIS. Developed countries cut to 2.5% or 2% of production. Developing countries to make two-thirds of the cut (no cuts if mainly for subsistence/resource-poor farmers, etc). (Applies to product-specific and non-product specific de minimis payments)

- BLUE BOX (including “new” type). Limited to 2.5% of production (developed), 5% (developing) with caps per product.

- GREEN BOX. Revisions and tighter monitoring and surveillance

MARKET ACCESS:

- Tariffs would mainly be cut according to a FORMULA, which prescribes steeper cuts on higher tariffs. For developed countries the cuts range from 48–52% for tariffs below 20%, to 66–73% for tariffs above 75%, subject to a minimum average. (For developing countries the range is 32–34% for tariffs below 30% to 44–48% for tariffs above 130%, subject to a maximum average.)

- Some products would have smaller cuts via a number of FLEXIBILITIES designed to take into account various concerns. These include: SENSITIVE PRODUCTS (available to all countries), the smaller cuts offset by tariff quotas allowing more access at lower tariffs; SPECIAL PRODUCTS (for developing countries, for specific vulnerabilities), with more concrete options than in the previous draft.

- CONTINGENCIES. Scrap or reduce use of the old “special safeguard” (available for “tariffied” products). Details of the new “special safeguard mechanism” for developing countries are fleshed out in this new version.

EXPORT COMPETITION

- Export subsidies to be ELIMINATED by end of 2013 (longer for developing countries). Half of this by end of 2010.

- Revised provisions on EXPORT CREDIT, GUARANTES AND INSURANCE, INTERNATIONAL FOOD AID (with a “safe box” for emergencies), and EXPORTING STATE TRADING ENTERPRISES.

DETAILS ...

SOME DETAILS

DOMESTIC SUPPORT

BACKGROUND EXPLANATION: Cutting trade-distorting domestic support would operate simultaneously through three layers of constraints. First, each category of supports would be cut or limited:

- AMBER BOX (the most distorting, with direct links to prices and production, officially AGGREGATE MEASUREMENT OF SUPPORT or AMS)
- DE MINIMIS (Amber Box but in smaller or minimal amounts)
- BLUE BOX (less distorting because of conditions attached to the support)

Second, For each of these, there would also be some constraints on SUPPORT FOR INDIVIDUAL PRODUCTS ("PRODUCT-SPECIFIC").

Third, on top of that would be cuts in the permitted amounts of all three combined:

- "OVERALL TRADE-DISTORTING DOMESTIC SUPPORT" (OTDS)

(News reports of some countries being asked to cut their supports to certain amounts of dollars or euros are referring only to that last "overall" discipline.)

IN THE 2007 and 2008 REVISED DRAFTS: The cuts would be achieved by two methods:

1. TIERED FORMULAS. Like the tariff formula, the formulas for the AMBER BOX and OVERALL DISTORTING SUPPORT are also expressed as "tiers" with support in the highest tier having the steepest percentage cuts. Countries with larger support go into higher tiers.

2. LIMITS (or cuts resulting in limits). For DE MINIMIS, BLUE BOX and SUPPORT FOR EACH PRODUCT.

OVERALL TRADE-DISTORTING DOMESTIC SUPPORT
(Amber + de minimis + Blue)

(Cuts made from figures for base period of 1995–2000 — paragraph 1)

(Par.3) (Unchanged from 2007 draft)

- Highest tier (above $60bn, i.e. EU), cut by 75% or 85%.
  (EU's current ceiling for 15 members is estimated at €110.3bn = approx $151.93bn. Cut would bring the ceiling down to €27.6bn or €16.5bn)
- Middle tier ($10bn–$60bn, i.e. US, Japan), cut by 66% or 73%
  (US's current ceiling is estimated at $48.2bn. Cut would bring the ceiling down to $16.4bn or $13bn)
  (Japan would make a bigger effort because its overall support is more than 40% of the value of its agricultural production — a cut halfway between the cuts of the top and second tiers — Par.4)
- Lower tier (below $10bn. i.e. all others), cut by 50% or 60%

New in 2008 draft: 33.3% is cut from the start of the implementation period (a "downpayment") for the top three subsidizers (ie, EU, US and Japan); 25% for other developed countries (previously 20% for all) (Par.5)

IMPLEMENTATION: 5 years for developed countries, 8 years for developing; equal annual steps (Pars.5, 8).

BASE LEVEL: the starting point for the percentage cuts. This is needed because the concept of "overall trade-distorting domestic support" is new, because there is a new type of Blue Box programme, and because previously there were no limits on Blue Box payments. New in this draft: when countries make no cuts, they have to stay within the base level (except least-developed countries) (Par.10).

The base level for developed countries = Amber Box commitment ceiling + non-product-specific de minimis ceiling (5% of production for developed countries, 10% for developing) + total of product-specific de minimis ceiling (sum total of 5% of production of each product for developed, 10% for developing) + actual Blue Box payment or 5% of production (if higher). (Par.1) (Unchanged from 2007 draft)

(Therefore, for some developed countries, the base level = Amber Box commitment + 15% of production)

DEVELOPING COUNTRIES. Those with Amber Box commitments: cut by two-thirds of the formula cut. (Par.7) Those without Amber Box commitments, including net-food-importing countries, would make no reductions, but would have to stay within the base amount of support. (Pars.6, 10) (Modified)

RECENT NEW MEMBERS. New members who joined very recently, and some others with low incomes (Saudi Arabia, FYR of Macedonia, Viet Nam; Albania, Armenia, Georgia, Kyrgyz Rep, Moldova) would make no cuts. Others would make two-thirds of the formula's cut. (Par.9) (More detail. Two-thirds cut is new)

AMBER BOX (i.e. FINAL BOUND TOTAL AMS)

(Par.13) (Unchanged)

- Highest tier (above $40bn, i.e. EU), cut by 70%.
  (EU's current ceiling is €67.16bn = approx $92.5bn. Cut would bring ceiling down to €20.1bn)
- Middle tier ($15bn–$40bn, i.e. US, Japan), cut by 60%
  (US's current ceiling is $19.1bn; down to $7.6bn after cut.)
- Lower tier (below $15bn. i.e. all others), cut by 45%

Japan would make the top tier cut, effectively putting it in the top tier. Other developed countries whose Amber Box support is more than 40% of the value of their agricultural production would also make a bigger cut, i.e. a cut halfway between the cut of their tier and the tier above. (Par.14) (Also unchanged)

DOWNPAYMENT. New: The top three subsidizers (ie, EU, US and Japan) to cut 25% from the start. (Par.15) Unchanged: All other cuts in equal annual steps over five years (eight for developing countries). (Par.15)

VARIOUS DEVELOPING COUNTRIES would make two-thirds of the formula cut or be exempt cuts, and would continue to be allowed some types of support. (Pars. 16–18) (Unchanged)

RECENT NEW MEMBERS. New members who joined very recently, and some others with low incomes (Saudi Arabia, FYR of Macedonia, Viet Nam; Albania, Armenia, Georgia, Kyrgyz Rep, Moldova) would make no cuts. Some would be allowed to exclude investment subsidies from Amber Box calculations. Some would make two-thirds of the formula cut. (Par.19) (More detail. Two-thirds cut is new)

AMBER BOX SUPPORT PER PRODUCT would be limited to no more than the amounts actually provided on average in 1995–2000 (with some variation for developing countries). The calculation for the US would be based on total Amber Box support for specific products per year for that period but shared among products according to the average share over the years 1995–2004. Some additional adjustments would be made for special situations. Developing countries would be allowed to choose from three options. (Pars.21–29) (Largely unchanged)

DE MINIMIS

(Amber Box supports in small, minimal or negligible amounts, currently limited to 5% of production in developed countries, 10% in developing)

- Developed countries: cut by 50% or 60% (i.e. cap at 2.5% or 2% of the value of production, from the current 5%) (Par.30) (Unchanged)
- Developing countries with Amber Box commitments: cut two-thirds of the above cuts (from the current 10% of the value of production). Totally exempt: if almost all is for "subsistence and resource-poor farmers" or the country is a net food importer. (Pars.31–32) (Unchanged)
- Recent new members: no cuts for those who joined very recently and some with low incomes (Saudi Arabia, FYR of Macedonia, Viet Nam; Albania, Armenia, Georgia, Kyrgyz Rep, Moldova). Others make at least one-third of the standard cut. (Par.33) (Unchanged)

BLUE BOX

NEW TYPE. (The present Blue Box is essentially Amber Box support but with production limits so that over-production is curbed.) The Agriculture Agreement would be amended to add a new type of Blue Box based on payments that do not require production but are based on a fixed amount of production in the past (eg, for US “countercyclical payments”). (Par.35) (Unchanged).

New in the 2008 draft: a country would have to decide which type of Blue Box to use. It would normally only use one type for all products and this would not change. Any exceptions would have to be approved now (when “schedules” of commitments are agreed). In any case, any product can only receive one type of Blue Box support. (Par. 36–37)

LIMIT (unchanged except for some details): 2.5% of the value of production during the base period (Par.38). More is allowed for SOME COUNTRIES (such as Norway) that now use a lot of Blue Box support as they reform their support by shifting away from the more distorting Amber Box — if the Blue Box support is more than 40% of trade-distorting support, it is cut by the same percentage as the Amber Box cut, in up to two years (Par 39). DEVELOPING COUNTRIES: 5% of the value of production, with flexibility for some special circumstances. (Pars.49–51) RECENT NEW MEMBERS: 5% of the value of production, with some flexibility over the base period. (Par.52)

OTHER CRITERIA: The 2008 texts spells out in greater detail how limits would also be imposed on Blue Box support FOR EACH PRODUCT. Generally the limits are the average spent in 1995–2000, with adjustments if there are gaps in spending in some years. For the US, the limits are 10% or 20% more than estimates of maximums under the 2002 Farm Bill. Various provisions deal with a range of situations, including the possibility of going above Blue Box limits per product if an equivalent reduction is made in the Amber Box limits for that product. (Pars.40–48) (Some new)

GREEN BOX

(Ie, support that does not distort production or prices or causes minimal distortion.) The Agriculture Agreement’s provisions (its Annex 2) would be amended to allow more development programmes by developing countries and to tighten criteria for developed countries (e.g. on decoupled income support). Remaining issues include the question of “fixed and unchanging” base periods for income support, structural adjustment and regional assistance programmes; and possible revision of conditions for developing countries’ food stockpiling purchases at prices that are higher than the market.

In order to ensure Green Box programmes are genuinely “green” (i.e. non-distorting), transparency, monitoring and surveillance would be enhanced. (Annex B) (Some modification)

COTTON

Trade-distorting domestic support for cotton would be cut by more than for the rest of the sector. The text includes a formula reflecting this, based on a formula proposed by the “Cotton Four” African countries in 2006. (Par.55) (Unchanged)

Mathematically, the formula says that if a country’s general Amber Box cut is “Rg”, then,

the percentage cut for cotton = Rg + ((100-Rg)x100)/3xRg

Eg, if the US Amber Box reduction is 60%, as above, then its cut in Amber Box support for cotton would be 82.2% i.e. (60+(40x100/180))%. That is unchanged and remains unsettled.

Blue Box support for cotton would be capped at one-third of what would be the normal limit (Par.56). (Unchanged)

Developing countries with Amber and Blue Box commitments would make two-thirds of developed country cuts for cotton and over a longer time period (Pars.58 and 59). (Unchanged)

MARKET ACCESS

TARIFF REDUCTION FORMULA: THE BOTTOM LINE

The tiered reduction formula is the MAIN APPROACH for cutting tariffs (from ceilings legally bound in the WTO). Products are categorized by the height of the starting bound tariff (Year 0 in the charts below). Products in higher tiers have steeper cuts. Eventually a single percentage cut will be negotiated for use in each tier: the present text contains ranges of possibilities (eg, 66%–73% in the top tier for developed countries).

In the 2008 text, the numbers remain unchanged (for details see charts on next page). For developing countries, the standard cuts in each tier would be two-thirds of the equivalent cut for developed countries. The numbers in the formulas are among the narrower set of more political issues that will probably only be settled later when compared with non-agricultural market access and possibly other issues, and the negotiations go to a more political level.

However, the general tiered formula will not apply to all products. Some flexibility is spelt out for some products (details below), including those that are politically “sensitive” and those that are “special” because they affect food security, livelihood security and rural development in poorer countries.

Developing countries have more exceptions, particularly the smallest and most vulnerable among them — the text lists around 45 small and vulnerable economies, meaning that OVER HALF OF DEVELOPING COUNTRIES that are not least-developed would be eligible for even smaller reductions (Annex I). Least-developed countries and some recent new members will not have to make any cuts (Pars.145–6).

THE CHARTS (next page) are only provided to illustrate how the formula works and to allow developed and developing countries’ cuts to be compared. The solid lines compare developed and developing countries’ cuts from starting tariffs that are mid-points in the developed countries’ lower three tiers and arbitrarily 100% in their top tier. The dotted lines show cuts from mid-tier or 150% in the top tier, for developing countries.

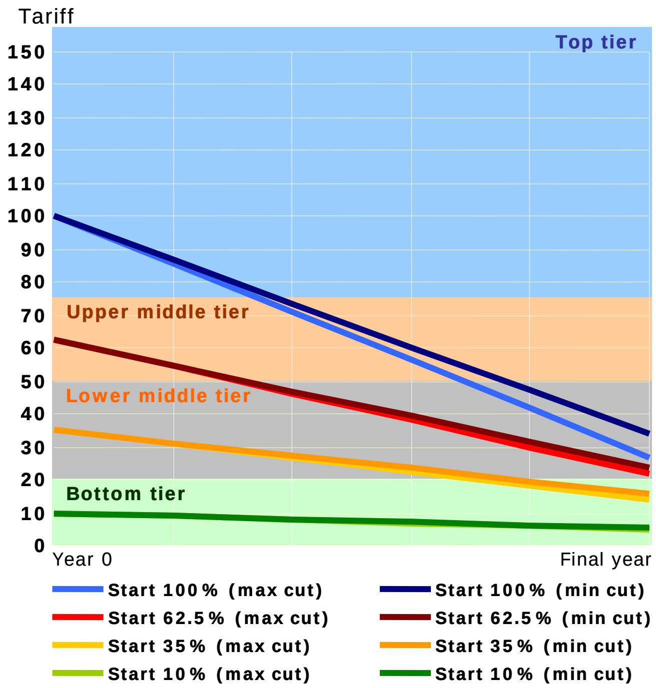
The charts show that in each case the maximum and minimum cuts suggested by the ranges do not produce very different results, particularly in the lower tiers. Eg, for developed countries a 10% tariff would be cut to 4.8%–5.2%; for developing countries to 6.53%–6.8%. But the cuts to be made by developing countries are clearly less than those of developed countries. Eg, a 100% tariff would be cut to 27%–34% in a developed country, but only to 56.7%–58.7% in a developing country.

Note that the SPECIAL TREATMENT FOR DEVELOPING COUNTRIES can sometimes work doubly. Not only are the cuts in each tier gentler, but many products (such as those with a 100% tariff) fall into a lower tier in the formula (top tier for developed, upper middle tier for developing), meaning that the cut is even gentler.

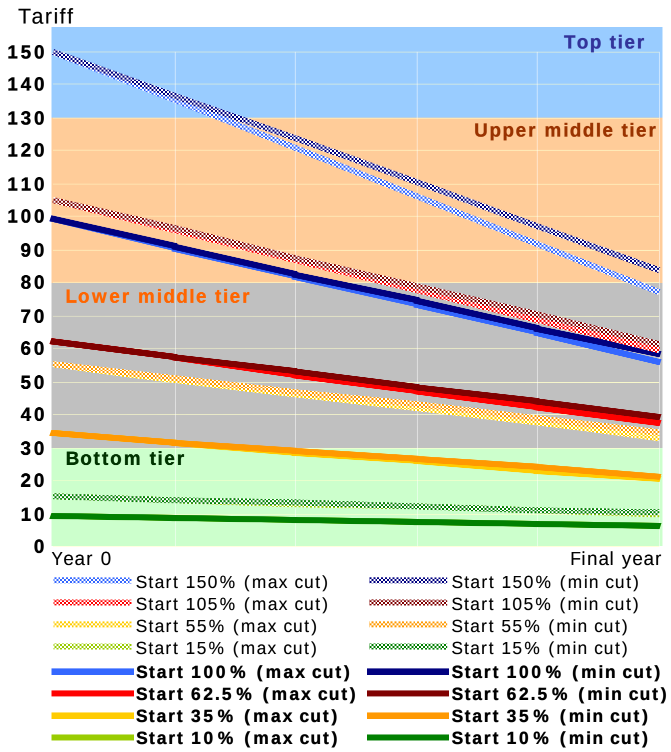
The only products that are in the same tier for both developed and developing countries are those with tariffs above 130% (top tier), those with tariffs of 30%–50% (lower middle tier), and those with tariffs below 20% (bottom tier).

However, the tariff formula is by no means the whole story …

Developed countries



Developing countries



Top tier: tariffs above 75% — cut by 66-73%
Upper middle tier: tariffs below 75%, above 50% — cut by 62-65%
Lower middle tier: tariffs below 50%, above 20% — cut by 55-60%
Bottom tier: tariffs below 20% — cut by 48-52%

Subject to a minimum average cut of 54%. If the formula gives a smaller average, then additional reductions would be made. (Pars.62-63)

Top tier: tariffs above 130% — cut by 44–48.7%
Upper middle tier: tariffs below 130%, above 80% — cut by 41.3–43.3%
Lower middle tier: tariffs below 80%, above 30% — cut by 36.7–40%
Bottom tier: tariffs below 30% — cut by 32–34.7%

Plus a maximum average cut of 36%. If the average is more than that, the cut by the formula can be reduced. (Par.64–65)

FLEXIBILITIES IN BRIEF: DEVIATIONS AND EXEMPTIONS FROM THE BOTTOM LINE

For developing countries these could be quite extensive, and in some cases the bottom-line formula could be the exception rather than the rule, or it could be discarded completely:

- SENSITIVE PRODUCTS (available for all) would have smaller cuts than from the formula, but with new quotas allowing imports at lower tariffs ("tariff quotas") to provide some access to the market. Deviations would be one-third, half or two-thirds of the cut, with the tariff quota adjusted in relation to the deviation. (More details below)

- MAXIMUM AVERAGE CUT (developing countries) — 36%. Developing countries could reduce the formula's cuts in order to stay within that average maximum. (Par. 65) (Unchanged)

- SMALLER MAXIMUM AVERAGE CUT (45 small and vulnerable economies) — 24% possible. This group of developing countries could choose to make even smaller cuts than the formula — which in any case is 10 percentage points less than the normal formula for developing countries — in order to stay within that lower average maximum cut. Any products deviating from the formula would be "special products" and some would be exempt cuts (see below). (Pars.66, 124 and Annex I) (Modified and clarified as "special products")

- WOULD NOT HAVE TO MAKE ANY TARIFF CUTS: least-developed countries, "very recent" new members (Saudi Arabia, FYR of Macedonia, Viet Nam), small low-income recent new members (Albania, Armenia, Georgia, Kyrgyz Rep, Moldova). (Pars.67–71, 145) (Revised)

- SMALLER THAN FORMULA CUTS (other recent new members) — up to 7.5 percentage points less, and no cuts on tariffs of 10% or less, starting one year after their current membership deals have been implemented fully and perhaps with two additional years to implement the new agreement. (Pars.67–71) (7.5 percentage points is new, previously 5 points)

- SPECIAL PRODUCTS (developing countries) — smaller cuts for 8%–12% or 8%–20% of products whose selection (beyond the minimum 8%) is guided by indicators (Annex F). Of these perhaps up to 6% of products would have tariffs cut by 8% or 15%, another up to 6% might have 12% or 25% cuts with possibly up to 8% of products exempt any cut. (Pars.123–125) (See above for small and vulnerable economies. Recent new members have different conditions.)

TARIFF CAP

No mention. However, developed countries with more than 4% (previously 5%) of products (either only those that are charged duty — “dutiable” — or all of them) whose tariffs end up at levels above 100% have to provide a larger increase in tariff quotas than they would normally (Par.76, last sentence). (Modified)

(In his 17 July 2007 press conference, Amb.Falconer described this as an “incentive” for countries to keep their tariffs within a certain limit. If they decide to go above the limit, then they “pay” for that through larger market access. He also said that if he had drafted a paper with a fixed limit or cap on tariffs, then the proposal for the top tier of tariffs would also have been different.)

SENSITIVE PRODUCTS (ALL COUNTRIES)

WHAT AND HOW MANY? These are sensitive essentially for political reasons — smaller cuts than the formula, can be made by all members. For DEVELOPED countries 4% or 6% of products could be “sensitive” (or 6% or 8% if more than 30% of products fall into the top tier of the formula). (Par.72)

WHAT TARIFF CUT? the tariff cut would deviate from the formula cut by one-third, half or two-thirds of the formula cut. (Par.74) (The half cut is new)

FOR DEVELOPING COUNTRIES, one-third more (5.3% or 8%) of products (Par.73) (Unchanged). The deviation would be the same as for developed countries. (Par.74) (New)

THE PAYMENT — SOME MORE MARKET ACCESS, VIA A “TARIFF QUOTA” (where quantities inside the quota are charged lower or no duty. The out-of-quota tariff is the normal rate determined by the reduction formula).

In return for being allowed a smaller tariff cut, developed countries have to allow at least some quantities into their markets at a lower tariff (inside the tariff quota, which expands if a quota already exists). This new “access opportunity” would be 4% or 6% of domestic consumption if the full two-thirds deviation is applied, 3.5% or 5.5% if only half the cut is made, or 3% or 5% if the deviation is the smaller one-third. (Par.75) (The half cut is new)

The text says countries have to provide additional access to their markets if they have the exceptionally larger number of sensitive products, and even more if over 5% of products end up with tariffs of over 100% (see “tariff cap” above); but they can provide less access if normal imports are comparatively large. The quota expansions have to be made available to all members on equal terms (“most-favoured-nation”). (Pars.75–77, 79) (Modified)

For developing countries the quota expansion is two-thirds of the amounts for developed countries, and domestic consumption (see below) does not include subsistence farmers’ consumption of their own produce. (Par.78) (Unchanged)

COMPLEXITY — DOMESTIC CONSUMPTION. Behind these broad principles lie some highly complex questions. A considerable amount of progress has been made in trying to resolve different positions on these.

A major question is the extent of disaggregation for identifying “sensitive products” and for the tariff quotas. Must a sensitive product be a broad category such as “cheese”? Or can it be “hard cheese”, or even more detailed such as “cheddar cheese”? (“Partial designation” is the term for using subcategories or parts of categories to identify sensitive products.)

This is a problem for two reasons. First, domestic consumption is going to be the yardstick for new or expanded tariff quotas, but data are not usually available for narrow categories of products. Therefore consumption has to be estimated using “proxies”, a subject of divergent opinions. Second, subcategories of products can be substitutes (which means they can compete with each other), so the distinctions are not always clear-cut.

The new text describes how this would work and includes options for a minimum quota or quota expansion (“safety net provision” or “floor”) to cover cases where trade figures used (as “proxies”) to estimate domestic consumption are exceptionally low because of trade barriers. (See Annex C of paper for details.)

ADDITIONAL CRITERIA AND OTHER ISSUES

“TARIFF ESCALATION” (the problem of higher tariffs on processed products than on raw materials, which hinders processing for export in the country producing the raw materials). Where the escalated processed product has a tariff that is significantly above the unprocessed product (ie, by 5 percentage points or more), it would take the cut of the tier above or if it is already in the top tier, an additional 30% cut. Sensitive products would be exempt, and the tropical products cut would override the escalation cut if it is bigger. (Pars.80–86 and Annex D) (Revised. New: Annex D — list of potential escalation products, to be developed)

COMMODITIES: This aims to strengthen provisions on tariff escalation for developing countries depending on commodity exports. It includes possibilities for eliminating non-tariff barriers and for price stabilization. (Pars.87–97)

SIMPLIFYING TARIFFS. All of this is new. A minimum number of tariffs (perhaps 90%) would be simplified and no others would be made more complex than they are already. This could mean they are only ad valorem (percentages of the price) or perhaps specific (dollars, euros etc, per tonne, litre, etc). More complex tariffs have to be simplified, either as ad valorem or specific duties. Options are also presented for countries with a lot of non-ad valorem tariffs, and more technical issues such as the method of converting tariffs to their ad valorem equivalents. (Par.98–104)

TARIFF QUOTAS (where a higher tariff is charged on quantities outside the quota, and a lower or zero duty for quantities inside. The out-of-quota tariff is the normal rate determined by the reduction formula). The new text includes some new provisions on bound in-quota tariffs and how much they should be cut, and whether new quotas should have zero in-quota duties. Provisions on tariff quota administration are streamlined, now referring to the WTO Import Licensing Agreement with additional criteria, instead of having provisions written from scratch. (Pars.105–118) Also new, a proposed way of monitoring tariff quotas and improving access to the market if imports are persistently less than the quota (“underfill”). (Annex E)

TROPICAL AND DIVERSIFICATION PRODUCTS and LONG-STANDING PREFERENCES: new provisions are designed to accelerate liberalization of tropical products — alternative proposals suggest imports could be duty-free if the present tariff is no more than 25% or 10%, otherwise having a range of cuts, depending on the proposal. Slower liberalization for products with long-standing preferences — alternative proposals suggest a 10-year delay in starting tariff cuts or simply two years longer to make the cuts. Where the two overlap, the tropical products (and tariff escalation) provisions could override those of preferences, except for some products (still to be identified). (Pars.140–144, products listed in Annexes G and H)

SAFEGUARDS

1. SPECIAL SAFEGUARD (SSG). Eliminate or reduce the number of products eligible for the current “special safeguard”. (This safeguard can be used on products whose variable duties, discretionary import licensing, quotas or import bans were converted to tariffs in the Uruguay Round, and many developing

countries gave up their right to use it because they chose to set ceiling bindings instead of to “tariffy”.) (Pars.119–122)

2. (THE NEW) SPECIAL SAFEGUARD MECHANISM (SSM). Developing countries would be able to temporarily protect their producers by applying the new special safeguard mechanism. Previously there was no draft text. Now the draft proposes formulas for the mechanism, and includes possible disciplines to avoid the safeguard being triggered frequently and frivolously, and disciplines the increase in tariffs so that present bound ceilings (or “Pre-Doha Round bindings”) are not exceeded. (Pars.126–139)

LEAST-DEVELOPED COUNTRIES

Least-developed countries would not have to reduce tariffs. They would also enjoy duty-free and quota-free access to developed countries’ markets “on a lasting basis … that ensures stability, security and predictability” on at least 97% of products, and for cotton products. (Pars.145–146)

EXPORT COMPETITION

EXPORT SUBSIDIES

Eliminate by the end of 2013 (developed countries), with half cut by the end of 2010, and options offered for cutting the subsidized quantities in the period (unchanged). New: the elimination date for developing countries would be 2016. (Pars.153–155)

EXPORT CREDITS, EXPORT CREDIT GUARANTEES OR INSURANCE PROGRAMMES

These would be disciplined to avoid hidden subsidies and ensure the programmes operate on commercial terms. Proposed conditions include limiting the repayment period to 180 days, ensuring programmes are self-financing (ie, not making losses over a period), etc. This revision greatly simplifies the text on self-financing: instead of listing criteria it just refers to recovering costs "to a commercially viable standard", over a "rolling" period of four or five years. (Annex J)

For developing countries providing credit, the 180-day maximum repayment term would be reached in three steps over a period, probably three years. Least-developed and net food-importing developing countries would be allowed 360 days to repay (previously 270 days). Some additional flexibility in special cases would be allowed under the supervision of the WTO Agriculture Committee. (Annex J)

AGRICULTURAL EXPORTING STATE TRADING ENTERPRISES

Their activities would be disciplined. A key question remains whether monopoly power would be outlawed or just disciplined. The new text simplifies the definition by referring to the relevant provisions in the General Agreement on Tariffs and Trade (Art.17). It also has minor changes to the special provisions for developing countries. (Annex K)

INTERNATIONAL FOOD AID

As before, emergency food aid would be in a "Safe Box" with more lenient disciplines. Emergencies would be declared by relevant international organizations such as the UN, World Food Programme, Red Cross, etc.

Other food aid (ie, not emergency aid) would be disciplined to prevent the aid from displacing commercial trade, and with needs assessment, which would be under the responsibility of a UN agency.

The revised text tidies up a lot of the legal language. It gives the recipient government priority over all food aid operations, increases the emphasis on needs assessment, and strengthens the UN's final say when NGOs assess needs. Members' continuing differences over monetization (ie, selling donated products to raise funds for aid) is reflected in options for disciplining the practice. It could be permitted under certain conditions both in emergencies and in other situations. (Annex L)

COTTON

Export subsidies would be eliminated from the start of the implementation period. (Par.160–61)

EXPORT PROHIBITIONS AND RESTRICTIONS

Disciplines would be tightened for introducing new export restrictions, with increased transparency and monitoring. (Pars.163–179)

OTHER ISSUES

MONITORING AND SURVEILLANCE

The text includes new proposals for a flexible institutional structure based on the WTO's regular Agriculture Committee. It includes clearer obligations on member governments to keep each other informed (through "notification") on what they do under the agreement, and to set up enquiry points. The surveillance mechanism would be reviewed every five years. (Annex M)

(The following remain in square brackets with no other text, indicating no narrowing of opposing views.)

[SECTORAL INITIATIVES] (Duty-free trade in a particular sector)

[DIFFERENTIAL EXPORT TAXES] (Higher export duties on raw materials than on processed products — the mirror image of tariff escalation)

[GEOGRAPHICAL INDICATIONS] (Names of products — often food — that are identified by their origin and characteristics)

THE ANNEXES

Annex A:	United States — Product-Specific Blue Box Limits (left blank, to be finalized) (new)
Annex B:	The Green Box ("Annex 2 of the Agreement on Agriculture shall be amended as follows") (modified)
Annex C:	Basis for the Calculation of Tariff Quota Expansion (new)
Annex D:	Tariff Escalation Provisional Potential List (to be finalized) (new)
Annex E:	Tariff Quota Underfill Mechanism (new)
Annex F:	Illustrative List of Indicators for the Designation of Special Products (previously blank)
Annex G:	Proposed List of Tropical and Alternative Products and Indicative List of Tropical Products Used in the Uruguay Round) (new)
Annex H:	Proposed Indicative List of Preference Erosion Products (new, previously analytical sample list)
Annex I:	Small, Vulnerable Economies (unchanged)
Annex J:	Possible New Article to Replace the Current Article 10.2 of the Agreement on Agriculture — Export Credits, Export Credit Guarantees or Insurance Programmes (modified)
Annex K:	Possible Article 10 bis of the Agreement on Agriculture — Agricultural Exporting State Trading Enterprises (modified)
Annex L:	Possible New Article 10.4 to Replace the Current Article 10.4 of the Agreement on Agriculture — International Food Aid (modified)
Annex M:	Monitoring and Surveillance (new)