

# **WORLD TRADE ORGANIZATION**

**TN/AG/W/4 and Corr.1**  
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**Committee on Agriculture  
Special Session**

## **REVISED DRAFT MODALITIES FOR AGRICULTURE**

This document is the same as that distributed as JOB(07)/128 with corrections to a number of typographical errors which were included in that document.

*(This English language version also includes the correction to footnote 3 as in TN/AG/W/4/Corr.1 of 16 August 2007)*

## **REVISED DRAFT MODALITIES FOR AGRICULTURE**

The attached document sets out my first revision of the draft Modalities for preparing the Schedules for the Agriculture negotiations.

It is in the form (roughly but not entirely) of a draft text. It is, therefore, inevitably a technical-looking document. For that reason, it is still not an easy read to the layperson. It has to be like that. To anyone that cares to compare it with the original draft, it represents considerable progress in my view. But there is a reason for that. Despite all the setbacks, failures and deadlocks that we have experienced over the past year, the underlying fact remains that under the surface very considerable progress has been made on all areas of this negotiation since that last draft. There are, in fact, relatively few square brackets now. They remain in places, but they are now narrowed down to what I would consider to be the essentials - either in the form of a relatively narrow range within which we need to (and in my view we can) settle, or on a precise number which, albeit not agreed, I think could serve as a reasonable target in the circumstances we now find ourselves in. The negotiating linkages that they imply are there for all who have eyes to see (not that everything is crudely linked, although I will confess that one pair of numbers that appears to be similar in two separate parts of the text is not coincidentally or randomly so, at least to my mind).

Of course, this is my effort as Chair at providing a revised draft text based on what I am hearing from Members in the multilateral process. It doesn't represent precise pre-agreement from the Membership to what is in there: that agreement is something that can come only from you as Members. But precisely in order to optimize our chances for getting to that agreement, I am taking the initiative of providing something that you can, hopefully, work off and refine from here on in. I know very well that Members have vastly varied and contradictory positions. But all Members know that any agreement requires compromise. And that can only be achieved by movement from established and preferred positions. Sometimes – and I have had the clear sense from Members that now is precisely such a time – that can be galvanised by having an independent third party express a view on the scope for compromise that no Member can quite bring themselves to articulate. I would have to say that, even had that not been the case, there comes a moment (and this is just such a moment) when the time for cutting to the chase is in fact upon us, and no other option is available.

Either way, this needs to be done. We have frankly exhausted all other avenues and the prospect of failure is, as a consequence, now so familiar to us that it can almost present itself seductively to us as our friend. We owe it to ourselves to at least now make the effort for a sustained and serious multilateral engagement on the basis of a working document.

I feel that this is all the more so incumbent upon us when in fact we have over the past period actually made very serious and valuable progress. So, above all, I would hope that what the revised draft text does is to demonstrate, as fairly and as adequately as I can find it in my powers to express it as Chair, just what is potentially on offer as we move into what could be – with the right political will – a serious closing zone for this negotiation. It should underline just how relatively narrow the differences are now. Of course, as is always the case, that last effort is always the most difficult even if it is a relatively narrow difference that remains to be bridged. But it is essential to emphasise that we can still do this if we give the genuinely multilateral process a fair chance.

As a textual document, it is not an appropriate place to editorialise within it on the political and commercial issues at stake in those remaining zones for decision in the way that has been done, for instance, in the challenges paper or the earlier reference papers. They have served their purpose. This is now where, as it were, the rubber hits the road. Suffice it to say that this document is intended to take everyone out of their comfort zones. That has to happen if we are ever to get an agreement.

Some of those narrow ranges or target numbers or technical draft text will be very painful, for sure. But that pain will be required to get agreement. I have done my level best to ensure that at least that pain is spread in a reasonably balanced way within the terms of the Framework. Where there are narrow ranges, there is still in my view a bit of room (but not much to be sure) for some crucial negotiating to be done (and you should not just breezily assume that I am implying in each and every case that all that is needed is to split the difference). In some areas I have not shrunk from acknowledging that we are further apart, and I have not proposed precise drafting. To have done so would have been arbitrary or artificial. I would of course have preferred to have a document with the same level of precision on everything, but the variability of precision reflects the reality of where we are. But nor would it have been responsible to deliberately understate my sense of where we can in fact get to a large range of issues just because some have not yet got to that level on some others. Of course it is clear that nothing can or will be finalised until we get to the point where everything is developed to the same level of specificity.

Indeed, the document cannot foist anything on anyone. It is there to be worked on by you as Members. Any ultimate agreement is under your control – not mine. As Don and I have made clear, we are not presenting our texts as some kind of tablets of stone descended from on high – and even if we did, you as Members would hardly treat them that way in any case. I am certain that you will make clear which numbers or which parts of the draft you reject or wish to amend. I am pretty sure, in fact, that I can guess now the interventions of many of you in advance on nearly all of the issues! That is exactly as it should be. But the crucial thing is to be working off a reference point to make subsequent progress rather than multiple options. So, this revision is intended to be the next step in the process. We set to intensive work on this in September and we take as long as it takes. And there will be an inevitable revision after that intensive process.

I can conclude only by reconfirming to you all that I remain committed to facilitating convergence in every way possible in the little time remaining to us.

Yours sincerely

Ambassador Crawford Falconer  
Chairman  
Committee on Agriculture, Special Session

## REVISED DRAFT MODALITIES ON AGRICULTURE

### I. DOMESTIC SUPPORT

#### A. OVERALL REDUCTION OF TRADE-DISTORTING DOMESTIC SUPPORT: A TIERED FORMULA

##### 1. Base level

1. The Base Overall Trade-Distorting Domestic Support shall be the sum of (i) the Final Bound Total AMS as defined in Article 1(h) of the Agreement on Agriculture plus (ii) 10 per cent of value of production in the 1995-2000 base period (this being composed of 5 per cent of value of production for product-specific and non-product-specific AMS respectively); plus (iii) the higher of existing average Blue Box payments, or 5 per cent of the average total value of agricultural production, in the 1995-2000 base period.

##### 2. Tiered reduction formula

2. The base level of Overall Trade-Distorting Domestic Support shall be reduced in accordance with the following tiered formula:

- (a) where the base level of Overall Trade-Distorting Domestic Support is greater than US\$60 billion, or the equivalent in the monetary terms in which the binding is expressed, the reduction shall be [75][85] per cent;
- (b) where the base level of Overall Trade-Distorting Domestic Support is greater than US\$10 billion and less than or equal to US\$60 billion, or the equivalents in the monetary terms in which the binding is expressed, the reduction shall be [66][73] per cent;
- (c) where the base level of Overall Trade-Distorting Domestic Support is less than or equal to US\$10 billion, or the equivalent in the monetary terms in which the binding is expressed, the rate of reduction shall be [50][60] per cent.

3. Developed country Members with high relative levels of OTDS in the second tier (at least 40 per cent of the total value of agricultural production) shall undertake an additional effort. The additional reduction to be undertaken shall be equal to the one half of the difference in the reduction rate between the second tier and the top tier.

4. Small low-income recently acceded Members with economies in transition will not be required to undertake reductions in OTDS.

##### 3. Implementation period and staging

5. As the first instalment of the overall reduction, in the first year and throughout the implementation period, the sum of all trade-distorting support shall not exceed 80 per cent of the base level of Overall Trade-Distorting Domestic Support. The remaining reductions shall be implemented in equal steps to the end of the implementation period.

##### 4. Special and differential treatment

6. Developing country Members with no AMS Commitments shall not be required to make commitments on reductions in Overall Trade-Distorting Domestic Support.

7. For developing country Members with AMS commitments, the applicable reduction for Overall Trade-Distorting Domestic Support shall be two thirds of the relevant rate specified in paragraph 2(c) above.

8. NFIDCs listed in document G/AG/5/Rev.8 shall be exempt from reduction commitments.

9. As the first instalment of the overall cut, in the first year and throughout the implementation period, the sum of all trade-distorting support shall not exceed 80 per cent of the base level of Overall Trade-Distorting Domestic Support. As for the second and subsequent years of implementation, the remaining reductions shall be implemented according to an implementation period that is longer than for developed country Members.

## **5. Other**

10. Commitments relating to reductions in Overall Trade-Distorting Domestic Support shall apply as a minimum overall commitment. If necessary, a Member shall be required to make additional commitments on reductions or limits in Final Bound Total AMS, *de minimis* and/or Blue Box in order to achieve the appropriate reduction in Overall Trade-Distorting Domestic Support.

### **B. FINAL BOUND TOTAL AMS: A TIERED FORMULA**

#### **1. Tiered reduction formula**

##### **(a) Reductions in Final Bound Total AMS**

11. The Final Bound Total AMS shall be reduced in accordance with the following tiered formula:

- (a) where the Final Bound Total AMS is greater than US\$40 billion, or the equivalent in the monetary terms in which the binding is expressed, the reduction shall be [70] per cent;
- (b) where the Final Bound Total AMS is greater than US\$15 billion and less than or equal to US\$40 billion, or the equivalents in the monetary terms in which the binding is expressed, the reduction shall be [60] per cent;
- (c) where the Final Bound Total AMS is less than or equal to US\$15 billion, or the equivalent in the monetary terms in which the binding is expressed, the rate of reduction shall be [45] per cent.

12. Developed country Members with high relative levels of Final Bound Total AMS (at least 40 per cent of the total value of agricultural production) shall undertake an additional effort. Where the Member concerned is in the second tier, the additional reduction to be undertaken shall be equal to the difference in the reduction rate between the second tier and the top tier. Where the Member concerned is in the bottom tier, the additional reduction to be undertaken shall be one half of the difference in the reduction rate between the first tier and the second tier.

13. Small low-income, recently-acceded Members with economies in transition will not be required to undertake reductions in Final Bound Total AMS. In the case of such Members, investment subsidies and input subsidies generally available to agriculture, interest subsidies to reduce the costs of financing as well as grants to cover debt repayment may be excluded from the calculation of Current Total AMS.

(b) Implementation period and staging

14. The reductions in Final Bound Total AMS shall be implemented in equal annual instalments over the implementation period.

(c) Special and differential treatment

15. The reduction in Final Bound Total AMS applicable to developing country Members with Final Bound Total AMS commitments shall be two-thirds of the reduction applicable for developed country Members. The reductions in Final Bound Total AMS shall be implemented in equal annual instalments with a longer implementation period than for developed country Members.

16. NFIDCs listed in document G/AG/5/Rev.8 shall be exempt from AMS reduction commitments.

17. Developing country Members shall have continued access to the provisions of Article 6.2 of the Agreement on Agriculture.

(d) Other

18. As provided for under Article 18.4 of the Agreement on Agriculture, cases of extraordinary situations shall be dealt with separately and on a pragmatic case-by-case basis.

C. PRODUCT-SPECIFIC AMS CAPS

1. **General**

19. Product-specific AMS limits shall be set out in the Schedule of the Member concerned.

20. Article 6.3 of the Agreement on Agriculture shall be amended to reflect the modalities with respect to product-specific AMS caps by the addition of the following:

**Ad Article 6.3:**

A Member shall not exceed the product-specific AMS limits specified in its Schedule.

21. The product-specific AMS limits specified in each Member's Schedule shall be the average applied product-specific AMS during the Uruguay Round implementation period (1995-2000).

22. For the United States, the product-specific AMS limits will be the resultant of applying the average distribution of product-specific support in the [1995-2004] period to the average Current Total AMS for the Uruguay Round implementation period (1995-2000).

23. Where a Member has introduced product-specific AMS support above *de minimis* after the base period, the base period for that product shall be the average of the two most recent years for which notifications have been made.

24. In cases where a product-specific AMS during the base period was below the *de minimis* level the Current AMS for such products shall not exceed the [current][new] *de minimis* level.

25. Product-specific AMS caps shall be implemented in equal annual instalments in the implementation period. The starting point for implementation of product-specific AMS caps shall be [ ].

**2. Special and differential treatment**

26. In the case of developing country Members, the Current AMS for individual products shall not exceed the respective levels established by one of the following methods:

- (a) the average applied levels during the base period 1995 to 2000 or 1995 to 2004, as may be selected by the Member concerned; or
- (b) two times the Member's product-specific *de minimis* level; or
- (c) 20 per cent of the Annual Bound Total AMS in any year.

D. *DE MINIMIS*

**1. Reductions**

27. The *de minimis* levels pursuant to Article 6.4(a) of the Agreement on Agriculture shall be reduced by at least [50] [60] per cent and by a greater amount if that would be required to adjust to the rate of cut of Overall Trade-Distorting Domestic Support.

28. Small low-income, recently-acceded Members with economies in transition will not be required to make cuts in *de minimis*.

29. The new *de minimis* levels shall [be effective from the beginning of the implementation period][be phased in through equal annual instalments over the implementation period].

**2. Special and differential treatment**

30. Developing country Members with:

- (a) no AMS commitments; or
- (b) AMS commitments, but that allocate almost all that support for subsistence and resource-poor farmers; or
- (c) NFIDCs listed in document G/AG/5/Rev.8

shall be exempt from reductions in *de minimis*.

31. For other developing country Members with AMS commitments, the *de minimis* levels pursuant to Article 6.4(b) of the Agreement on Agriculture shall be two thirds of the reduction for developed country Members with any such additional amount as would be required to adjust to the rate of cut of Overall Trade-Distorting Domestic Support if that is greater. In the case of developing country recently-acceded Members with AMS commitments, an allowance of a further five percentage points will be made. For all these Members, the new *de minimis* levels shall be phased in over a longer period than for developed country Members.

E. BLUE BOX

**1. Basic criteria**

32. Subject to the additional criteria set out below Article 6.5 shall be amended as follows:

**Article 6.5**

The value of the following direct payments shall be excluded from a Member's calculation of its Current Total AMS:

- (a) Direct payments under production-limiting programmes if:
  - (i) such payments are based on fixed and unchanging areas and yields; or
  - (ii) such payments are made on 85 per cent or less of a fixed and unchanging base level of production; or
  - (iii) livestock payments are made on a fixed and unchanging number of head.

Or

- (b) Direct payments that do not require production if:
  - (i) such payments are based on fixed and unchanging bases and yields; or
  - (ii) livestock payments made on a fixed and unchanging number of head; and
  - (iii) such payments are made on 85 per cent or less of a fixed and unchanging base level of production.

**2. Additional criteria**

(a) Blue Box cap

33. In addition to the criteria set out in the paragraph immediately above, a Member shall not provide support under Article 6.5 in excess of the amount as determined below. This will be expressed consistently in the value-specific commitments set out in that Member's Schedule.

34. The maximum permitted value of support under Article 6.5 shall not exceed 2.5 per cent of the average total value of agricultural production during the base period. This limit will apply from the commencement of the implementation period.

35. In cases where a Member has placed in the Blue Box an exceptionally large percentage of its trade-distorting support – defined as 40 per cent – during the base period, the percentage reduction in that support under Article 6.5(a) will equal the percentage reduction that the Member concerned will make in the Final Bound Total AMS. A short implementation period may be considered for any such Member in the event that immediate implementation is unduly burdensome.

(b) Other criteria

36. The value of support provided to an individual product under Article 6.5(a) shall not exceed the average value of support provided to it during the period 1995-2000.

37. The value of support provided to an individual product under Article 6.5(b) shall be no more than [110][120] per cent of that product-specific distribution under legislated limits as applied to the overall Blue Box limit of 2.5 per cent of the value of production.



38. An increase in Blue Box support for any individual product beyond the limitations determined under this Article shall be permissible where that amount does not exceed a corresponding and irreversible one-for-one reduction in Current AMS support for the product(s) concerned (except for cotton, where that rate would be two-for-one). Where there was no Current AMS support in the base period for a particular product, an increase in Blue Box support is permissible for that product where the support concerned does not exceed 10 per cent of the overall Blue Box ceiling and the overall Blue Box cap is still respected.

### **3. Special and differential treatment**

39. For developing country Members, the maximum permitted level for the value of support under Article 6.5 shall not exceed 5 per cent of the average total value of agricultural production in the base period.

40. Where a particular product accounts both for more than 25 per cent of the total value of agricultural production and 80 per cent of total bound AMS support during the base period, a developing country Member that chooses to switch its support from AMS to Blue for that product on a one-for-one and irreversible basis will be entitled to do so even if this would lead to exceeding the maximum permitted level provided for in the paragraph above.

#### **F. GREEN BOX**

41. Annex 2 of the Agreement on Agriculture shall be amended as set out in Annex A of this document.

#### **G. COTTON: DOMESTIC SUPPORT**

##### ***Reductions in Support for Cotton Production***

42. AMS support for cotton shall be reduced according to the following formula:

$$R_c = R_g + \frac{(100 - R_g) * 100}{3 * R_g}$$

R<sub>c</sub> = Specific reduction applicable to cotton as a percentage  
R<sub>g</sub> = General reduction in AMS as a percentage

43. This will be applied to the base value of support calculated as the arithmetic average of the amounts notified by Members for cotton in supporting tables DS:4 from 1995 to 2000. The Blue Box cap applicable to cotton shall amount to one third of the product-specific cap that would otherwise have been the resultant from the methodology generally applicable above.

#### **1. Implementation**

44. The reductions for trade-distorting domestic support on cotton shall be implemented over a period which is one third of the implementation period.

#### **2. Special and Differential Treatment**

45. Developing country Members with relevant AMS and Blue Box commitments for cotton otherwise applicable under the relevant provisions of this Agreement shall provide a rate of reduction for cotton that is two thirds of that which would be applicable under paragraph 42 above.

46. Developing country Members shall implement their reduction commitments for cotton over a longer time period than for developed country Members.

## II. MARKET ACCESS

### A. TIERED FORMULA FOR TARIFF REDUCTIONS

#### 1. Basis for reductions

47. Subject to such other specific provisions as may be made, customs duties shall be reduced in equal annual instalments from bound duty levels<sup>1</sup> using the tiered formula in paragraphs 49 to 53 below.

48. In order to place bound non-*ad valorem* duties in the appropriate band of the tiered formula, Members shall follow the methodology to calculate *ad valorem* equivalents (AVEs), along with associated provisions, set out in Annex A to TN/AG/W/3 of 12 July 2006.

#### 2. Tiered Formula

49. Members shall reduce bound duties in accordance with the following tiered formula:

- (a) where the bound duty or *ad valorem* equivalent is greater than 0 and less than or equal to 20 per cent the reduction shall be [48-52] per cent;
- (b) where the bound duty or *ad valorem* equivalent is greater than 20 per cent and less than or equal to 50 per cent, the reduction shall be [55-60] per cent;
- (c) where the bound duty or *ad valorem* equivalent is greater than 50 per cent and less than or equal to 75 per cent, the reduction shall be [62-65] per cent; and
- (d) where the bound duty or *ad valorem* equivalent is greater than 75 per cent, the reduction shall be [66-73] per cent.

50. Developing country Members, other than those specified in paragraph 52 below, shall reduce bound duties in accordance with the following tiered formula<sup>2</sup>:

- (a) where the bound duty or *ad valorem* equivalent is greater than 0 and less than or equal to 30 per cent, the reduction shall be 2/3 of the cut for developed in 49(a) above;
- (b) where the bound duty or *ad valorem* equivalent is greater than 30 per cent and less than or equal to 80 per cent, the reduction shall be 2/3 of the cut for developed in 49(b) above;
- (c) where the bound duty or *ad valorem* equivalent is greater than 80 per cent and less than or equal to 130 per cent, the reduction shall be 2/3 of the cut for developed in 49(c) above; and

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<sup>1</sup> That is, all out-of-quota duties. In-quota tariffs shall be subject to commitments under paragraphs 85 to 87.

<sup>2</sup> Pending final agreement on this aspect of the modalities Members may wish to keep under advisement the approach alluded to in the Chair's Challenges paper to the effect that a basic approach analogous to the Uruguay Round could be an overall cut for developing country Members of 36 per cent with a minimum cut of 15 per cent on each line. This could also be somewhat moderated both for the Members referred to in footnote 3 below and for RAMs.

- (d) where the bound duty or *ad valorem* equivalent is greater than 130 per cent, the reduction shall be 2/3 of the cut for developed countries in 49(d) above.

51. The maximum average reduction in bound duties any developing country Member shall be required to undertake as a result of application of this formula is [36][40] per cent. Should the above formula imply an average reduction of more than that for a developing country Member, that developing country Member shall have the flexibility to apply lesser reductions applied in a proportionate manner across the bands, to keep within such an average level.

52. Small and vulnerable economies<sup>3</sup> will, in respect of each tier specified above for developing countries, be entitled to moderate the two-thirds cut by a further [10] *ad valorem* points in each band. Should strict application of this formula result in an overall average cut higher than [24] per cent, the Member concerned would be entitled to apply lesser reductions at its discretion, to keep within such an average level.

53. Where a small and vulnerable Member (or a Member in the supplementary list specified in footnote 3 below) has ceiling bindings or homogeneous low bindings and application of the approach specified above would still place an unsustainable adjustment burden upon it, the Member concerned shall not be required to make a tiered reduction but would be subject only to the overall average reduction.

## B. SENSITIVE PRODUCTS

### 1. Designation

54. Each developed country Member shall have the right to designate up to [4][6] per cent of dutiable tariff lines as "Sensitive Products". Where such Members have more than 30 per cent of their tariff lines in the top band, there is an option to have the number of Sensitive Products increased to [6][8] per cent, subject also to the conditions outlined in paragraph 59 below. Where application of this methodology would impose a disproportionate constraint in absolute number of tariff lines because that Member has its import duty commitments at 6-digits level, it may have the equivalent to Members at [6][8] per cent.

55. Developing country Members shall have the right to designate up to one-third more of tariff lines as "Sensitive Products".

### 2. Treatment - Tariff Cut

56. Developed Members may deviate from the otherwise applicable reduction in bound duties on products designated as Sensitive. This deviation may be at a minimum of one third and a maximum of two thirds of the reduction that would otherwise have been required by the tiered formula.

57. Developing country Members shall have the right to deviate by a minimum of one third and a maximum of two thirds of the reduction that would otherwise have been required by the tiered formula applicable to developing countries.

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<sup>3</sup> The Members concerned are those that meet the criteria set out in paragraph 134 and are listed in Annex C. As is made clear in the Framework, SVEs are not meant to create any new category of Members. Bearing that principle in mind, the following Members could also be deemed to be eligible for this treatment, should they choose to avail themselves of it, despite not being Members of the SVE group of countries *per se* given that this treatment could be deemed to be broadly comparably appropriate: Côte d'Ivoire and Nigeria (plus other Members that can provide data that show that they meet the criteria in paragraph 134). These latter Members would also have freedom to opt for varying bands for the tiers.

### 3. Tariff Quota Expansion

58. Tariff quotas arrived at through the use of the Sensitive Products provision pursuant to paragraphs 54 and 55 above and 59 to 64 below shall, for developed Members, result in new access opportunities equivalent to no less than [4][6] per cent of domestic consumption expressed in terms of physical units where the maximum deviation of two thirds is used. Where the minimum deviation of one third is used, the new access opportunities shall be no less than [3] [5] per cent.

59. Where a Member is entitled to, and chooses to exercise its entitlement to have a higher number of Sensitive Products pursuant to paragraph 54 above, the relevant amounts specified in the preceding sentence will be maintained for all products, as a minimum, but the Member will have an obligation to ensure that a higher overall average of [4.5] [6.5] per cent is also achieved. In addition, should there be any Member which, after application of its commitments for reductions in bound duties, would still retain more than 5 per cent of its dutiable tariff lines in excess of 100 per cent *ad valorem*, it will also need to meet this additional latter requirement increased by a further [ ] per cent.

60. Where, current bound duties are greater than 50 per cent (that is in the tariff bands in 49(c) or 49(d) above) and MFN imports are already occurring at an amount in excess of 50 per cent of those entering under existing tariff quotas (and those tariff quotas are already providing for at least 2 per cent of domestic consumption) and the minimum deviation is used, the tariff quota expansion obligation may be moderated (reduced) by one quarter. For the other two bands, where such conditions apply, it may be moderated (reduced) by one fifth.

61. Where imports under an existing bound tariff quota already represent 10 per cent or more of domestic consumption and the minimum deviation is used, the expansion in the tariff quota under paragraph 58 above need not be more than [2.5][3.5] per cent. Where those imports are at 20 per cent or more of domestic consumption, the expansion need not be more than [2] [3] per cent.

62. Where, in the application of its commitments for reductions in bound duties, a Member finds that imports over the reduced MFN tariff have increased by an amount that is more than [two][three] times the increase in the new tariff quota commitment expressed in terms of percentage of domestic consumption, the new tariff quota commitment may be reduced by up to one half. This provision will not, however, be applicable in any case where there is any other WTO consistent measure raising or supplementing the MFN tariff, in place.

63. For developing country Members, the tariff quotas shall be two thirds of the amount for developed. For developing country Members, domestic consumption shall not include self-consumption of subsistence production.

64. Expansion of the tariff quota for a Sensitive Product shall be on a most-favoured-nation basis only.

#### C. OTHER ISSUES

##### 1. Tariff escalation

65. The fact is that we are not in a zone where we can yet define the central issues in a way that facilitates imminent decision. We have made only small progress on this, despite, latterly, some genuine engagement. Clearly we cannot close this negotiation nor have a final text without bringing this issue to resolution also. But there is nothing to be gained by pretending we have a close basis for agreement when we do not. This issue requires even more intensive work than some other areas before we can revise this draft text. We have to do that, and precisely in order to emphasise that need,

I am not going to invent something artificial to act as nothing more than a fig leaf. At most there are certain points I would emphasise.

66. First, I stand by the tenor of my remarks in the Challenges paper. The subsequent informal discussions seemed to me to reinforce that impression.

67. Second, the mandate cannot be ignored or brushed under the carpet, so there is no escaping the fact that we need to address the issue and achieve an outcome.

68. Third, the issue is of interest to a number of Members, but more particularly so for developing country Members and those of them that have strong interests in commodities and tropical products – which of course have particular mandates of their own, serving only to reinforce the necessity of dealing with this.

69. Fourth, we do have particular proposals on the table, and we need to deal with these in a constructive spirit. My sense is that such proposals are too far-reaching in their present form and will not command agreement in their entirety. They cannot in that sense constitute a "basis" in any formal sense for our work, but our work should use them (non-exclusively) in the near term to help focus the discussion.

70. Fifth, we also have to be realistic about this in the overall context. By this I do not mean that we should neglect the issue, but that we need to have a practical and realistic recognition of what is the clear political reality that the primary driver of tariff liberalisation will be the tiered formula, and there is no prospect of this specific element being seen to become some kind of *de facto* dominant modality that would "trump" the main formula in any general sense. It will have a part to play in supplementing the formula in certain situations, but it will be a part.

71. Sixth, I would suggest we keep a focus on cases of this which are what I would say demonstrable and quantifiable. That way we may be less likely to get lost in abstract chains of value added which may be more theoretical than real but, be that as it may, will be impracticable to deal with through the relatively rough and ready instruments of tariff-cutting that we have to hand.

72. Seventh, we should perhaps think about some kind of *de facto* threshold benchmark for priority attention. In other words find a proxy measure for cases that are more egregious rather than go looking for each and every case – actual or potential – that might exist mathematically. If that was the case we could orientate ourselves by some kind of minimum spread concept e.g. measured by how wide the spread is in *ad valorem* terms.

## **2. Commodities**

73. In the event that adverse effects of tariff escalation were not to be eliminated via the tiered formula for reductions in bound duties and such specific measures on tariff escalation as are provided for, Members shall engage with commodity-dependent producing country Members to ensure satisfactory solutions.

74. Consistent with this, the following approach shall be applicable:

- (a) commodity-dependent developing countries, individually or as a group, shall identify and present products of interest to them for purposes of addressing tariff escalation to be adopted as part of the modalities. In doing so, they will indicate the match of products on which tariff escalation should be addressed;

- (b) developed countries and developing countries in a position to do so will undertake tariff escalation reductions in the identified products;
- (c) at the end of the implementation period, the difference between the identified primary and processed products shall not exceed [x] percentage points. For this purpose, all non-*ad valorem* duties on the products identified by developing countries shall be bound in *ad valorem* terms.

75. Provision shall be made also for suitable procedures for negotiations on the elimination of non-tariff measures affecting trade in commodities.

76. Provision will be made to ensure the possibility that Members may take joint action through adoption of suitable measures, including through adoption of intergovernmental commodity agreements, for stabilization of prices for exports of agricultural commodities at levels that are stable, equitable and remunerative.

77. Action for negotiations and adoption of intergovernmental commodity agreements in pursuance of the provisions of the paragraph above may be taken either jointly by producing and consuming countries or by commodity-dependent producing countries only.

78. Such intergovernmental commodity agreements may be negotiated and adopted by the countries themselves, or adopted after negotiations undertaken under the auspices of the WTO, UNCTAD or international commodity organizations.

79. Intergovernmental commodity agreements may be negotiated and adopted on an international or regional basis.

80. Such agreements may provide for participation of association of producers.

81. The general exceptions provisions of Article XX(h) shall also apply to intergovernmental commodity agreements of which only producing countries of the concerned commodities are Members.

82. Technical assistance shall be provided for, *inter alia*, the improvement of world markets for commodities and adoption and implementation of intergovernmental commodity agreements.

83. Financial resources required by the international trade and other organizations for providing technical assistance in accordance with the provisions of paragraphs 81 and 82 above shall be monitored through the mechanism established in WTO for administering Aid for Trade.

### **3. Tariff simplification**

84. All bound duties on agricultural products shall be expressed as simple *ad valorem* [or specific and compound] duties no later than the end of the implementation period. In any case, no import duty may be bound in a form more complex than the current binding. Highly complex forms of bound duties, such as complex matrix tariffs, shall be eliminated or at least simplified in a transparent and verifiable way. In all cases of simplification, Members shall supply supporting data with their draft Schedules (or in the Committee on Agriculture in any cases where this occurs after commencement of implementation) that demonstrates that the simplified bound duty is representative of the original more complex duty.

#### **4. Tariff quotas**

(a) Bound in-quota duties

85. This remains to be precisely negotiated. I would propose the following by way of orientation.

86. In-quota duty rates should be reduced to a level which ensures that trade will be capable of flowing effectively over them. At the very minimum, in no case should any variability in the rate of reductions in MFN duty and the rate of reduction in the in-quota duty lead to an effective increase in the relative margin between the two to the detriment of in-quota access. If this principle is reasonable, a reasonable safeguard against this would be that reductions of in-quota duties would in no case be less than the rate of cut in the respective band. It is clear, however, that a number of Members will see the negotiations as leading to an outcome in this area that marks an improvement in terms and conditions of access over and above maintaining existing relativities – albeit at a lower overall level. If so, this is a matter of determining where, along a spectrum from this point to total elimination of all or some in-quota duties, a negotiated outcome will be struck.

87. Reductions in in-quota duty rates would not count for purposes of calculating average cuts either within the bands or overall averages (if applicable).

(b) Tariff quota administration

88. The administration of bound tariff quotas shall be subject to disciplines to be developed taking into account the proposals on the table. This is an important issue and must be part of the modalities. It will require further intensive work to arrive at a draft.

#### **5. Special Agricultural Safeguard**

Either:

89. Article 5 of the Agreement on Agriculture shall expire for developed country Members at the end of the implementation period. To this end, Members shall reduce the number of tariff lines eligible for the SSG under the Uruguay Round Agreement on Agriculture by no less than 50 per cent at the start of the implementation period and by subsequent equal annual instalments.

Or:

90. Developed country Members will be entitled to retain an SSG for tariff lines equivalent in number to their entitlement under the Sensitive Product provision. [However, the terms and conditions of such an SSG will be streamlined to ensure that:

- (a) in respect of the quantity trigger, it would be available where imports have increased by more than 25 per cent compared to the previous three-year average and the remedy would be a maximum of an additional one third of the applied duty; and
- (b) in respect of the price trigger, the restrictiveness of the present provisions under Article 5 would be effectively halved by modifying the specific amounts currently provided in paragraphs (b) through (e) of paragraph 5 of Article 5.]



D. SPECIAL AND DIFFERENTIAL TREATMENT

1. **Special Products**

(a) Selection

91. This is clearly a fundamental element of the modalities, but it is simply not yet developed well enough to go to precise text without that being either meaningless through the number of square brackets that would have to be inserted, or being an artificial construct with no underlying consensus in the Membership. I see no point in trying either at this point. That said there has recently been a much more constructive sense of practical engagement and we are well beyond the utterly entrenched positions of a year ago. I am therefore suggesting some possible orientation below that might help intensify our work in September.

92. Each developing country Member shall have the right to self-designate an appropriate number of tariff lines as "Special Products". Designation shall be guided by the indicators (to be finalised) which are based on the criteria of food security, livelihood security and rural development for individual developing country Members. All commitments would be on a MFN basis.

93. Beyond that, I would suggest the following by way of orientation to facilitate an intensive drafting process in September.

94. First, that we work off the G-33 indicators list (JOB(07)/35). This is not to make the assumption that these are, in their present form, formally "agreed" as a basis. But we need to work off something as a text and this makes the most sense in practical terms.

95. Second, that we try to quantify operationally the concepts that are present in that document (e.g. terms such as "significant proportion", "relatively low proportion", etc.).

96. Third, that we agree that the indicators have to be transparent (which means accessible), objective and, thereby, open to verification. These would utilise data that is either internationally collected and diffused or is available at national level in a form that is also accessible to other Members.

97. Fourth, we discard any view that we will end up with a rigidly applicable, one-size-fits-all approach as regards selection, given the inherent country-specific nature of a Special Product provision under the Framework and the Hong Kong Agreement. One option is, of course, that we have no *a priori* number whatsoever and accept whatever derives from the indicators when agreed. Another option is to adopt a more tailored approach, along something like the following broad lines:

- (a) that, whatever the indicators provide by guidance, there would in any case be an assurance that no less than a certain minimum percentage of Special Products would be made available. That number would in fact be higher than the Sensitive Products allowance;
- (b) specific additional flexibilities would be available for RAMs; and
- (c) for those developing country Members including SVEs and others referred to in footnote 3 above, their threshold could be set at a proportionately higher level. There would be no ceiling for those Members above that threshold.

98. Fifth, as regards treatment, you know my views as expressed in the Challenges paper. A number of you have made clear to me that you disagree with that view. But I also know that you as Members have yet to reach any other agreement on this.<sup>4</sup>

## 2. Special Safeguard Mechanism

99. This is clearly a fundamental element of the modalities also, but it is simply not yet developed well enough to go to precise text without that being either meaningless through the number of square brackets that would have to be inserted, or an artificial construct with no underlying consensus in the Membership. I see no point in trying either at this point. That said, there has been recently a much more constructive sense of practical engagement and we are well beyond the utterly entrenched positions of a year ago. I am therefore suggesting some possible orientation below – following on the constructive discussion we had pursuant to the Challenges paper – that might help intensify our work in September.

100. There will be two distinct triggers: price and quantity. The Hong Kong declaration was clear about this.

101. The Special Safeguard Mechanism is there to respond to the needs of farmers in developing countries, that is, rural development, food security and livelihood security needs. It is not just a measure applicable to imports *per se*. This strongly implies that the fundamental direction of this is for domestically-produced products and substitutes of these products.

102. SSM is not about providing protection to preferential suppliers. For that reason, if preferential trade is to be counted in when calculating the triggers, then the remedy must apply also to preferential trade. If preferential trade is not to be subject to remedy, it should not be counted in when calculating the triggers. In practical terms it would seem unlikely that preferential trading arrangements would permit such remedy. Therefore, the working assumption could be that no preferential trade would be counted in the trigger.

103. It also seems to be generally accepted that the price- and quantity-based remedies would not be applicable at the same time to the same product.

104. Whatever the detailed triggers end up being, there is clear agreement that this is not to be set in such a way as would permit this mechanism to be literally triggered hundreds or scores of times by developing country Members. That is not what any Members intend. This mechanism is meant to be used as its name implies: in "special" situations.

105. The triggers and the remedy should not give rise to situations where "normal" trade is occurring. In other words it should not be applied in a way that is disruptive to such trade where fluctuations upwards and downwards are the norm: it is to address more unusual or excessive movements.

106. The triggers and the remedy are meant to be usable by the developing country Members concerned: for that reason alone the mechanism must not be unduly complicated or burdensome for such Members to use.

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<sup>4</sup> In the event that this remains an intractable issue after further intensive work, Members may wish to reflect further on the merits of the approach referred to in footnote 2 above which, if applied, would obviate the need for this element in anything approaching its current complexity.

107. Drawing on these elements it might be worth considering some areas where we could end up, knowing that there are varying positions and that to get agreement there will simply need to be reasonable compromise.

108. On the quantity trigger, if we are to deal with agreement that we not disrupt "normal" trade or make the mechanism over-sensitive to relatively minor movements, you need a reasonable benchmark against which to judge that. Previous 3 or 5 years? If the trigger is sitting too close to that historical level, virtually any increase will trigger it, but obviously it needs to be able to apply if levels fluctuate too rapidly or excessively. Somewhere around 110 per cent?

109. On price, there are parallel considerations. Monthly movement could set the trigger off very easily. Too long a period of years will potentially mask significant movement. Maybe somewhere around 12-18 months would be worth looking at. Should the remedy be the full difference between the average benchmark price and the actual import price (whatever these are negotiated to be)?

110. It would also seem anomalous if the practical effect of applying the SSM was, through its application, to actually reduce the base level of trade for subsequent years so that future triggering actually becomes more regressive. This would tend to suggest that the remedy would be applicable to the end of the calendar, financial, marketing or whatever 12 month period is applicable for the product in question.

111. It does not seem likely that we will easily reach agreement that this measure can be applied in such a way that existing Uruguay Round bound rates can also be exceeded (except, perhaps, in the case of least-developed Member countries), as this would have the effect of going backwards. The most that might be feasible here would be some very restricted and tailored circumstances targeted perhaps to a more severe level of fluctuation than the norm and focussed on those least-developed countries.

### **3. Fulllest liberalization of trade in tropical and diversification products**

112. The fact is that we are not in a zone where we can yet define the central issues in a way that facilitates imminent decision. We are still too far apart on this issue. We have made some progress. We have had, latterly, some genuine engagement. Clearly we cannot close this negotiation nor have a final text without bringing this issue to resolution also. But there is nothing to be gained by pretending we have a close basis for agreement when we do not. This issue requires even more intensive work than some other areas before we can revise this draft text. We have to do that, and precisely in order to emphasise that need, I am not going to invent something artificial to act as nothing more than a fig leaf. At most there are certain working hypotheses that I can propose.

113. First, as regards the "list", that list will be Uruguay Round list "plus". This is not just a consequence of whatever view one takes as to the status of the word "indicative". It is a negotiating reality that there is a body of the Membership which is arguing for a wider embrace than just the Uruguay Round indicative list. That will have to be recognised and dealt with, and, as with any negotiation, concession and compromise will be needed. That said, nobody ever gets everything that they seek in a negotiation either. So any ultimate list will have to be "less" than the Cairns Group list in its present form.

114. Second, there is no obligation for any Member to "separate out" "diversification" products. But some Members did indicate their preparedness to identify these, and I believe it would indeed be a helpful step if they were able to carry through on that.

115. Third, the words "fullest liberalisation" must be given meaning. Any liberalisation that is "less" than a maximum cut in bound duties is not going to be, by definition, "fullest". What will that

maximum cut be? As you have seen elsewhere in this document, the rate I have seen as the range to continue to negotiate over for the top band cut for developed countries is [66][73] per cent. It seems unavoidable, therefore, that once that is established, we are looking generally at tariff cuts for tropical and diversification products that may be more, but are no less, than that.

116. Fourth, the Secretariat has estimated the way in which items on the indicative Uruguay Round tropical products list that were not already duty-free, were moved to duty-free in that Round (see Attachment 1 at the end of this document). One option is that we should, at a bare minimum, set ourselves a target of improving by an appropriate multiple the outcome in this Round. This note also indicates the relative distribution of remaining duties – a very large proportion of which are under 10 per cent *ad valorem*.

117. Fifth, we have to be mindful that in this area we need to reconcile what we do with, most notably, the terms of the mandates on tariff escalation, commodities and on preference erosion.

#### **4. Preference erosion**

118. We are still a bit too far apart on this issue to be able to properly frame the essentials for imminent decision. We have made some good progress, and some aspects are I believe, somewhat clearer than others. We have had, latterly, some genuine engagement. Clearly we cannot close this negotiation nor have a final text without bringing this issue to resolution also. But there is nothing to be gained by pretending we have a close basis for agreement when we do not. This issue is among those that require even more intensive work than some other areas before we can revise this draft text. We have to do that, and precisely in order to emphasise that need, I am not going to invent something artificial to act as nothing more than a fig leaf. At most there are a few provisional proposals and working hypotheses that I would suggest.

119. First, there is a certain range of what can be called "big ticket" items that are, for agriculture, at the heart of the issue. There is no mystery about what those products are. For the moment I consider that, as regards, sugar, the comments in the Challenges paper remain valid. Bananas are obviously the other major product at issue. While there are doubtless other items, they are not in the same league when it comes to significance.

120. Second, we need to keep a sense of perspective. Preference erosion will occur as a result of this negotiation. What is important is focussing not on the pure mathematical inevitability of that, but on the precise items where there is a genuine impact.

121. Third, we should orientate ourselves by sensible proxies for arriving at judgements on that. I have suggested certain possibilities in the Challenges paper. I am not wedded to them, but I suspect we need something broadly along those kinds of lines.

122. Fourth, non-trade based solutions are a given, but they will not be the exclusive response to genuine cases where preference erosion is at issue. Inevitably, to some degree, there will be some trade-based measures involved and this reflects the fact that the cases requiring such measures are not likely to be pervasive by any means. In such cases some lengthening of the implementation period is likely to be the practical outcome.

123. Fifth, as an aid to advancing this work I am attaching some analytical work done by the Secretariat in Attachment 2 at the end of this document. The methodology used is without prejudice to anyone's substantive position on the issue, but I think it could help us focus in more clearly on where the practical issues are most likely to lie.

E. RECENTLY ACCEDED MEMBERS

124. Saudi Arabia, the Former Yugoslav Republic of Macedonia and Vietnam, as very recently-acceded Members will not be obliged to make any new commitments under this Agreement.

125. For all other RAMs, to the extent that, in implementing commitments undertaken in acceding to the WTO there would be actual overlap with commitments to be otherwise undertaken in association with these modalities, the start of implementation of commitments undertaken in association with these modalities shall begin 1 year after the end of implementation of accession commitment.

126. The implementation period for recently-acceded Members may be prolonged by up to [2] years after the end of the implementation period for other Members.

127. Recently-acceded Members will be entitled to moderate the cuts they would otherwise have been required to make under the tiered formula by up to [5] *ad valorem* points in each band, and bound duties below 10 per cent in a developing recently-acceded Member shall be exempt from reduction.

128. Small low-income, recently-acceded Members with economies in transition shall not be required to undertake reductions in bound duties.

129. More specific provisions can be found in the relevant sections of this document.

F. LEAST-DEVELOPED COUNTRIES

130. Least-developed country Members are not required to undertake reductions in bound duties.

131. Developed country Members shall, and developing country Members declaring themselves in a position to do so should<sup>5</sup>:

- (a) Provide duty-free and quota-free market access on a lasting basis, for all products originating from all LDCs by 2008 or no later than the start of the implementation period in a manner that ensures stability, security and predictability.
- (b) Members facing difficulties at this time to provide market access as set out above shall provide duty-free and quota-free market access for at least 97 per cent of products originating from LDCs, defined at the tariff line level, by 2008 or no later than the start of the implementation period. In addition, these Members shall take steps to progressively achieve compliance with the obligations set out above, taking into account the impact on other developing country Members at similar levels of development, and, as appropriate, by incrementally building on the initial list of covered products.
- (c) Developing country Members shall be permitted to phase in their commitments and shall enjoy appropriate flexibility in coverage.
- (d) Ensure that preferential rules of origin applicable to imports from LDCs are transparent and simple, and contribute to facilitating market access.

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<sup>5</sup> The text of this paragraph is the "Decision on Measures in Favour of Least-Developed Countries" in Annex F of the Hong Kong Ministerial Declaration (WT/MIN(05)/DEC).

G. COTTON MARKET ACCESS

132. Developed country Members and developing country Members in a position to do so shall give duty- and quota-free access for cotton exports from least-developed country Members from the commencement of the implementation period.

133. Developing country Members that are not in a position to give duty- and quota-free access for cotton exports from least-developed country Members from the commencement of the implementation period shall undertake to look positively at possibilities for increased import opportunities for cotton from least-developed country Members.

H. SMALL, VULNERABLE ECONOMIES

134. For the purposes of this Agreement, this term applies to Members with economies that, in the period 1999 to 2004, had an average share of (a) world merchandise trade of no more than 0.16 per cent or less, and (b) world trade in non-agricultural products of no more than 0.1 per cent and (c) world trade in agricultural products of no more than 0.4 per cent.

135. Developed country Members and developing country Members in a position to do so shall provide enhanced improvements in market access for products of export interest to Members with small, vulnerable economies.

136. More specific provisions are to be found in relevant sections of this document.

### III. EXPORT COMPETITION

#### A. GENERAL PROVISIONS ON EXPORT COMPETITION

137. Nothing in the modalities on export competition can be construed to give any Member the right to provide, directly or indirectly, support to exports of agricultural products in excess of the commitments set out in Members' Schedules or in conflict with the terms of Article 8 of the Agreement on Agriculture. Furthermore, nothing can be construed to imply any change to the obligations and rights under Article 10.1 or to diminish in any way existing obligations under other provisions of the Agreement on Agriculture or other WTO Agreements.

138. The following provisions will give effect to the detailed modalities ensuring parallel elimination of all forms of export subsidies and disciplines on all export measures with equivalent effect pursuant to the July 2004 Agreed Framework and the Hong Kong Ministerial Declaration.

#### B. EXPORT SUBSIDY COMMITMENTS

139. Developed country Members shall eliminate their other export subsidies by the end of 2013. This will be on the basis of budgetary outlay commitments being reduced by 50 per cent by end 2010 with the remaining budgetary outlay commitments being eliminated in equal annual instalments so that all forms of export subsidies are eliminated by the end of 2013.

140. Quantity commitment levels will [be reduced in equal annual instalments from the applicable Uruguay Round commitment levels][apply as a standstill from the commencement until the end of the implementation period at the lower of either the then current actual applied quantity levels or the Uruguay bound levels reduced by 20 per cent].

141. Developing country Members shall eliminate their export subsidies by [ ] in equal annual instalments.

142. In accordance with the Hong Kong Ministerial Declaration, developing country Members will continue to benefit from the provisions of Article 9.4 of the Agreement on Agriculture for five years after the end-date for elimination of all forms of export subsidies.

#### C. EXPORT CREDITS, EXPORT CREDIT GUARANTEES OR INSURANCE PROGRAMMES

143. Export credit, export credit guarantees or insurance programmes shall comply with the detailed disciplines set out in Annex D.

144. The disciplines set out in Annex D, shall apply from the first day of the implementation period of the Doha Round for developed country Members and the maximum repayment term of 180 days shall be phased in according to the following schedule [ ].

#### D. AGRICULTURAL EXPORTING STATE TRADING ENTERPRISES

145. Agricultural exporting state trading enterprises shall comply with the detailed disciplines set out in Annex E.

#### E. INTERNATIONAL FOOD AID

146. International food aid shall comply with the detailed disciplines set out in Annex F.

F. COTTON

147. All forms of export subsidies for cotton shall be eliminated by developed countries by the start of the implementation period and by developing countries by: .

148. The extent to which disciplines and commitments for the parallel elimination of all forms of export subsidies and disciplines on all export measures with equivalent effect for export credits, agricultural exporting state trading enterprises and international food aid, apply to cotton and their scheduling shall be specified in the lists of commitments.

**IV. MONITORING AND SURVEILLANCE**

149. This is a vital area. It has been subject to two very recent major proposals: by the Cairns Group and the G-20 (JOB(07)/88 and JOB(07)/97, respectively) and these have not yet been discussed. We will intensively address these very recent proposals with a view to finalising a text in this area in September.

**V. OTHER ISSUES**

A. [SECTORAL INITIATIVES]

B. [DIFFERENTIAL EXPORT TAXES]

C. [GIS]

D. EXPORT PROHIBITIONS AND RESTRICTIONS

150. In order to strengthen the existing disciplines on export prohibitions and restrictions, Article 12 of the Agreement on Agriculture will be modified to include the following elements.

151. Existing prohibitions or restrictions in Members' territories shall be notified to the Committee on Agriculture within 90 days of the coming into force of these provisions.

152. As provided in paragraph 7 of Article 18 of the Agreement on Agriculture, any Member may bring to the attention of the Committee on Agriculture such measures which it considers ought to have been notified by another Member.

153. [As of day one of the implementation period, a term of one year shall be established for the elimination of those export prohibitions or restrictions in foodstuffs and feeds.

154. The above is proposed notwithstanding that, any Member instituting export prohibitions or restrictions and the affected importing Member may agree to set a term exceeding one year, as long as the term agreed on is not in excess of 18 months. Notice shall be given to the Committee on Agriculture of the agreement reached in this respect.]

155. A Member instituting those measures shall give notice of the causes that justify its keeping it.

156. The Committee on Agriculture shall provide for annual notification update and surveillance of these obligations.



ANNEX A

ANNEX 2 OF THE AGREEMENT ON AGRICULTURE SHALL BE AMENDED AS FOLLOWS:

*Government Service Programmes*

*General services (paragraph 2)*

Add the following subparagraph (h) to the existing paragraph 2:

- (h) **policies and services related to farmer settlement, land reform programmes, rural development and rural livelihood security in developing country Members, such as provision of infrastructural services, land rehabilitation, soil conservation and resource management, drought management and flood control, rural employment programmes, nutritional security, issuance of property titles and settlement programmes, to promote rural development and poverty alleviation.**

*Public stockholding for food security purposes*

Modify the existing footnote 5 as follows:

For the purposes of paragraph 3 of this Annex, governmental stockholding programmes for food security purposes in developing countries whose operation is transparent and conducted in accordance with officially published objective criteria or guidelines shall be considered to be in conformity with the provisions of this paragraph, including programmes under which stocks of foodstuffs for food security purposes are acquired and released at administered prices, ~~provided that the difference between the acquisition price and the external reference price is accounted for in the AMS~~ **The difference between the acquisition price and the external reference price may be covered by the *de minimis* percentage of the developing country Member concerned pursuant to Article 6.4 of this Agreement.**

*Decoupled income support (paragraph 6)*

Modify the existing subparagraph (a) as follows:

- (a) Eligibility for such payments shall be determined by clearly-defined criteria such as income, status as a producer or landowner, factor use or production level in a defined, ~~and~~ **fixed and unchanging historical base period which shall be notified to the Committee on Agriculture. An exceptional update is not precluded, but any such update would only be permissible where (i) the updated base period is itself a significant number of years in the past and (ii) the result of the updated base period is either neutral with respect to support to producers or reduces that support. Developing country Members who have not previously made use of this type of payment, and thus have not notified, shall not be precluded from establishing an appropriate base period<sup>7</sup>, which shall be fixed and unchanging and shall be notified.**

<sup>7</sup> Developing country Members may not have the capacity to fully assess the impact of innovation in their agricultural policies. Accordingly, the base period of a time-limited experimental or pilot programme may not be taken as the fixed and unchanging base period for the purposes of this paragraph.

*Payments (made either directly or by way of government financial participation in crop insurance schemes) for relief from natural disasters (paragraph 8)*

Modify the existing subparagraphs (a), (b) and (d) as follows:

- (a) Eligibility for such payments shall arise:
  - (i) **In the case of direct payments related to disasters** only following a formal recognition by government authorities that a natural or like disaster (including disease outbreaks, pest infestations, nuclear accidents, and war on the territory of the Member concerned) has occurred or is occurring; and shall be determined by a production loss<sup>8</sup> which exceeds 30 per cent of the average of production in the preceding ~~three~~ **five-year period** or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry. **In the case of developing country Members, payments for relief from natural disasters may be provided to producers when the production loss is less than 30 per cent of the average of production in the preceding five-year period or a three-year average based on the preceding five-year period.**
  - (ii) **In the case of government financial participation in crop or production insurance schemes, eligibility for such payments shall be determined by a production loss which exceeds 30 per cent of the average production in a period demonstrated to be actuarially appropriate. In the case of a developing country Member's government's financial participation in crop or production insurance schemes, eligibility for payments may be provided to producers when the production loss is less than 30 per cent of the average of production in the preceding five-year period or a three-year average based on the preceding five-year period.**
  - (iii) **In the case of the destruction of animals or crops to control or prevent pests, diseases, disease-carrying organisms or disease-causing organisms named in national legislation or international standards, the production loss may be less than 30 per cent of the average of production referred to in paragraph 8(a)(i) or 8(a)(ii), as applicable.**
- (b) Payments made **under this paragraph** ~~following a disaster~~ shall be applied only in respect of losses of income, **crops**, 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 this paragraph** shall not exceed the level required to prevent or alleviate further loss as defined in criterion (b) above.

<sup>8</sup> **Developing country Members may determine the production loss of the affected sector(s) or region(s) on an aggregate basis.**

*Structural adjustment assistance provided through investment aids (paragraph 11)*

Modify the existing subparagraph (b) as follows:

- (b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production (including livestock units) undertaken by the producer in any year after the base period other than as provided for under criterion (e) below. **The base period shall be fixed and unchanging and shall be notified to the Committee on Agriculture. An exceptional update is not precluded, but any such update would only be permissible where (i) the updated base period is itself a significant number of years in the past and (ii) the result of the updated base period is either neutral with respect to support to producers or reduces that support. Developing country Members who have not previously made use of this type of payment, and thus have not notified, shall not be precluded from establishing an appropriate base period<sup>9</sup>, which shall be fixed and unchanging and shall be notified.**

<sup>9</sup> **Developing country Members may not have the capacity to fully assess the impact of innovation in their agricultural policies. Accordingly, the base period of a time-limited experimental or pilot programme may not be taken as the fixed and unchanging base period for the purposes of this paragraph.**

*Payments under regional assistance programmes (paragraph 13)*

Modify the existing subparagraphs (a), (b) and (f) as follows:

- (a) Eligibility for such payments shall be limited to producers in disadvantaged regions. Each such region must be a clearly designated contiguous geographical area with a definable economic and administrative identity, considered as disadvantaged on the basis of neutral and objective criteria clearly spelt out in law or regulation and indicating that the region's difficulties arise out of more than temporary circumstances. **Developing country Members shall be exempted from the condition that a disadvantaged region must be a contiguous geographical area.**
- (b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production (including livestock units) undertaken by the producer in any year after the base period other than to reduce that production. **The base period shall be fixed and unchanging and shall be notified to the Committee on Agriculture. An exceptional update is not precluded, but any such update would only be permissible where (i) the updated base period is itself a significant number of years in the past and (ii) the result of the updated base period is either neutral with respect to support to producers or reduces that support. Developing country Members who have not previously made use of this type of payment, and thus have not notified, shall not be precluded from establishing an appropriate base period<sup>10</sup>, which shall be fixed and unchanging and shall be notified.**
- (f) The payments shall be limited to the extra costs or loss of income involved in undertaking agricultural production **(including livestock production)** in the prescribed area.

<sup>10</sup> **Developing country Members may not have the capacity to fully assess the impact of innovation in their agricultural policies. Accordingly, the base period**

**of a time-limited experimental or pilot programme may not be taken as the fixed and unchanging base period for the purposes of this paragraph.**

**ANNEX B**

**LIST OF INDICATORS FOR  
DESIGNATION OF SPECIAL PRODUCTS**

To be finalised

### SMALL, VULNERABLE ECONOMIES

1. The data are based on the methodology that was used to prepare a previous Secretariat paper on shares of WTO Members in world non-agricultural trade, 1999-2004 (TN/MA/S/18). Individual Members' data were extracted from the United Nations Comtrade database on 6 June 2007. World export and import totals, excluding significant re-exports were taken from the Secretariat's International Trade Statistics Report 2006. This time period has been updated to 2000-2005 and a cif-fob adjustment has been applied to world exports by commodity group to derive respective world imports, but this does not change the overall results<sup>1</sup>. The country averages are calculated on the basis of the years for which data are available.
2. A small, vulnerable economy is defined as one whose average share for the period 1999-2004 (a) of world merchandise trade does not exceed 0.16 per cent and (b) of world NAMA trade does not exceed 0.10 per cent and (c) of world agricultural trade does not exceed 0.40 per cent.
3. The attached table does not include those Members that are defined as least-developed countries by the United Nations Economic and Social Council and those Members for which no data are available.

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<sup>1</sup> Cif-fob factors were estimated based on the ratio of imports to exports for a matched group of reporters in Comtrade. World imports by commodity group were derived by applying these cif-fob factors to the WTO's world exports by commodity group and aligning the resulting figures to the WTO's world total imports. Intra-trade of the 25 member States of the European Communities was then subtracted from the totals.

<i>WTO Member</i>	Share of total merchandise trade (%)			Share of world agriculture (AOA) trade (%)			Share of non-agriculture (NAMA) trade (%)		
	<i>Total (exports + imports)</i>	<i>Exports</i>	<i>Imports</i>	<i>Total (exports + imports)</i>	<i>Exports</i>	<i>Imports</i>	<i>Total (exports + imports)</i>	<i>Exports</i>	<i>Imports</i>
<b>World<sup>a</sup></b>	100	100	100	100	100	100	100	100	100
Albania	0.019	0.008	0.029	0.050	0.008	0.087	0.017	0.008	0.026
Antigua and Barbuda	0.004	0.001	0.007	0.011	0.000	0.020	0.004	0.001	0.006
Armenia	0.015	0.010	0.019	0.040	0.018	0.060	0.013	0.010	0.016
Barbados	0.013	0.005	0.020	0.037	0.022	0.050	0.011	0.004	0.019
Belize	0.006	0.004	0.008	0.023	0.029	0.017	0.004	0.001	0.007
Bolivia	0.032	0.032	0.032	0.102	0.143	0.065	0.028	0.025	0.030
Botswana	0.057	0.061	0.053	0.075	0.030	0.116	0.056	0.065	0.048
Brunei Darussalam	0.050	0.078	0.025	0.029	0.000	0.056	0.053	0.086	0.023
Cameroon	0.036	0.038	0.035	0.112	0.140	0.087	0.032	0.032	0.032
Cuba	0.063	0.034	0.089	0.240	0.223	0.256	0.052	0.022	0.080
Dominica	0.002	0.001	0.002	0.007	0.005	0.008	0.001	0.001	0.002
Dominican Rep.	0.068	0.018	0.113	0.154	0.115	0.189	0.063	0.011	0.111
Ecuador	0.110	0.112	0.108	0.326	0.515	0.154	0.098	0.087	0.107
El Salvador	0.051	0.026	0.075	0.173	0.136	0.206	0.044	0.018	0.068
Fiji	0.014	0.010	0.018	0.047	0.055	0.040	0.012	0.007	0.017
FYR Macedonia	0.033	0.026	0.039	0.076	0.069	0.083	0.027	0.024	0.030
Gabon	0.031	0.046	0.017	0.026	0.004	0.046	0.032	0.051	0.015
Georgia	0.014	0.009	0.020	0.052	0.044	0.060	0.012	0.006	0.018
Ghana	0.057	0.044	0.067	0.221	0.302	0.144	0.047	0.027	0.063
Grenada	0.003	0.001	0.004	0.009	0.006	0.012	0.002	0.001	0.004
Guatemala	0.086	0.053	0.116	0.319	0.416	0.231	0.072	0.030	0.110
Guyana	0.010	0.009	0.010	0.037	0.052	0.024	0.008	0.007	0.010
Honduras	0.041	0.026	0.056	0.190	0.223	0.160	0.032	0.013	0.049
Jamaica	0.044	0.024	0.063	0.114	0.091	0.136	0.040	0.020	0.059
Jordan	0.079	0.052	0.104	0.198	0.120	0.269	0.071	0.049	0.092

<i>WTO Member</i>	Share of total merchandise trade (%)			Share of world agriculture (AOA) trade (%)			Share of non-agriculture (NAMA) trade (%)		
	<i>Total (exports + imports)</i>	<i>Exports</i>	<i>Imports</i>	<i>Total (exports + imports)</i>	<i>Exports</i>	<i>Imports</i>	<i>Total (exports + imports)</i>	<i>Exports</i>	<i>Imports</i>
Kenya	0.052	0.037	0.065	0.215	0.314	0.126	0.041	0.019	0.062
Kyrgyzstan	0.011	0.010	0.012	0.029	0.032	0.026	0.010	0.009	0.011
Macao, China	0.049	0.049	0.048	0.055	0.013	0.093	0.050	0.053	0.046
Mauritius	0.037	0.032	0.041	0.096	0.102	0.090	0.034	0.028	0.038
Moldova	0.018	0.013	0.022	0.089	0.132	0.051	0.013	0.006	0.021
Mongolia	0.013	0.011	0.014	0.025	0.017	0.033	0.012	0.011	0.013
Namibia	0.030	0.030	0.029	0.072	0.073	0.070	0.028	0.028	0.027
Nicaragua	0.023	0.012	0.034	0.102	0.129	0.079	0.018	0.004	0.031
Panama	0.038	0.016	0.059	0.105	0.091	0.114	0.035	0.011	0.056
Papua New Guinea	0.032	0.042	0.023	0.070	0.086	0.056	0.030	0.040	0.022
Paraguay	0.032	0.022	0.042	0.173	0.280	0.077	0.023	0.005	0.040
Saint Kitts and Nevis	0.002	0.001	0.003	0.006	0.002	0.009	0.002	0.001	0.003
Saint Lucia	0.004	0.001	0.006	0.016	0.009	0.022	0.003	0.001	0.005
Saint Vincent and the Grenadines	0.002	0.001	0.003	0.011	0.009	0.012	0.002	0.000	0.003
Sri Lanka	0.102	0.092	0.112	0.249	0.284	0.217	0.095	0.081	0.107
Suriname	0.009	0.009	0.011	0.017	0.007	0.027	0.009	0.009	0.010
Swaziland	0.019	0.018	0.019	0.068	0.082	0.056	0.015	0.014	0.016
Trinidad and Tobago	0.086	0.102	0.071	0.086	0.072	0.098	0.088	0.107	0.071
Uruguay	0.047	0.044	0.050	0.209	0.333	0.096	0.037	0.025	0.048
Zimbabwe	0.037	0.037	0.039	0.151	0.280	0.067	0.030	0.021	0.037

Source: All data are from the United Nations Comtrade database except for World totals, which are WTO estimates.

<sup>a</sup> Excludes intra-trade of the European Communities and significant re-exports.



**ANNEX D**

**POSSIBLE NEW ARTICLE 10.2 OF THE AGREEMENT ON AGRICULTURE**

**EXPORT CREDITS, EXPORT CREDIT GUARANTEES OR INSURANCE PROGRAMMES**

***General Provisions***

1. Subject to the provisions of this Agreement and other WTO Agreements, 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, including the credit and other risks associated therewith. Each Member accordingly undertakes not to provide export financing support otherwise than in conformity with this Article.

***Forms and Providers of Export Financing Support Subject to Discipline***

2. For the purpose of this Article, the term "export financing support" includes any of the following forms of support for, or in connection with, the financing of exports of agricultural products:

- (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; and
- (d) any other form of governmental export credit support, direct or indirect, including deferred invoicing and foreign exchange risk hedging.

3. The provisions of this Article shall apply to export financing support provided by or on behalf of the following entities, hereinafter referred to as "export financing entities", whether such entities are established at the national or at the sub-national level:

- (a) government departments, agencies, or statutory bodies;
- (b) 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;
- (c) agricultural export state trading enterprises; and
- (d) 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 shall be provided in conformity with terms and conditions set out below.

- (a) **Maximum repayment term:** The maximum repayment term of a supported export credit, the period beginning at the starting point of credit<sup>1</sup> and ending on the contractual date of the final payment, shall be no more than 180 days<sup>2</sup>.
- (b) **Payment of interest:** Interest shall be payable. "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.
- (c) **Minimum interest rate:** The applicable Libor (London Interbank Offered Rate) for the currency in which the credit is denominated (not inclusive of and separate from risk-premium reflective of, as the case may be, the buyer/commercial, country/political and sovereign credit risks covered) plus a margin of at least [50] basis points shall be applicable in respect of export financing support and in respect of invoiced amounts benefiting from deferred payment under an export contract.
- (d) **Premiums in respect of coverage of risks of non-repayment under direct financing support, export credit guarantees or export credit insurance/reinsurance:** Premiums shall be charged, shall be market-based or, in the absence of market-based premiums, shall be risk-based and shall ensure that the programme or part of the programme which is subject to the provisions of these disciplines is self-financing as defined in paragraph 3.4(g). Premiums shall be expressed in percentages of the outstanding principal value of the credit and shall be payable in full no later than the end of the month following the month in which the exports are made. Premium rebates shall not be accorded.
- (e) **Risk sharing:** Cover provided in the form of export financing support shall not exceed [90] per cent of the value of a transaction.
- (f) **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 paragraph.
- (g) **Self-Financing:** Export financing support programmes or parts thereof which are subject to the provisions of this Article shall be self-financing. Self-financing shall be considered as the ability of such programmes, or parts thereof, to operate in a manner by which the premiums charged cover all operating costs and losses over a period of [4][5] years.<sup>3</sup> Each successive period would need to respect the self-financing rule.

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<sup>1</sup> 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.

<sup>2</sup> Exceptions will be made for seeds ([12] months) and breeding cattle ([24] months). In case of non-payment within the agreed re-payment period the exporter shall be entitled to claim indemnification from the export credit agency only within a fixed period of time which shall not exceed [ ] months.

<sup>3</sup> It is understood that this would be assessed net of the consequence of any rare case where there has been an catastrophic situation (i.e. war, extensive climatic upheaval, wide scale natural disaster such as Tsunami) giving rise to an extraordinary default.

- (h) **Loss preventative measures:** Other than may be agreed multilaterally, *pari passu* rescheduling debt arrangements, debts shall not be rescheduled or otherwise restructured in a manner that results in circumvention of the terms and conditions of this paragraph.

#### ***Non-conforming Financing Support***

5. Export financing support, which does not conform with the provisions of paragraph 3.4 of this Article or which is provided in circumstances as may otherwise be allowable under Article 3.3 and Article 9 of this Agreement, hereinafter referred to as "non-conforming export financing", constitute export subsidies for the purposes of this Agreement and are therefore, to be eliminated within the binding levels of Members' export subsidies elimination Schedules.

#### ***Special and Differential Treatment***

6. Developing countries providers of export financing support shall be eligible to benefit from the following elements:

- (a) the maximum repayment term shall be [twice] that provided for developed country Members;
- (b) the minimum interest rate as provided for under paragraph 4(c) may be adjusted to take into account withholding taxes on international borrowings and additional borrowings for capital required to conform to Basel II norms. Such elements shall not be considered export subsidies for the purpose of this Article;
- (c) as an exception to the provisions of paragraph 4(f), developing country Members may hedge in non-freely traded currencies;
- (d) the self-financing period contained in paragraph 4(g) for developing countries shall be at least [6][7.5] years;
- (e) for the purpose of paragraph 4(h), when warranted by genuine financial difficulties the rescheduling of debt should be on the same terms and conditions as those for commercial tenders in order to prevent or curtail planned defaults;
- (f) [other]

7. Least-developed countries and net food-importing developing countries as listed in G/AG/5/Rev.8 shall be accorded differential and more favourable treatment comprising allowance for a repayment term in respect of them of 270 days and [ ].

8. At the request of an importing developing country Member, in exceptional circumstances which can not be adequately covered otherwise by international food aid, commercial export credits or preferential international financing facilities, Members may provide *ad hoc* temporary government financing arrangements to underwrite agricultural export credits that are not otherwise in conformity with the terms of conditions of paragraph 4(b) to (g). The importing developing country Member concerned shall notify the Committee on Agriculture in writing of the circumstances which justify more favourable terms than are permitted under the relevant provisions of this Article, together with details of the product(s) concerned so that interested exporting Members shall have the opportunity to respond. Members shall provide *ex ante* notifications on the more favourable terms provided for in such exceptional circumstances. The maximum repayment term for exceptional circumstances temporary government financing arrangements shall not exceed 360 days.

9. Members shall ensure that, in the event that exceptional circumstances provided for under the preceding paragraph arise, actions will be taken strictly consistent with the terms and conditions of that paragraph so as not to undermine or circumvent their export subsidy commitments and obligations under this Agreement.

**ANNEX E**

**POSSIBLE NEW ARTICLE 10 BIS OF THE AGREEMENT ON AGRICULTURE**

**AGRICULTURAL EXPORTING STATE TRADING ENTERPRISES**

1. Members shall ensure that agricultural exporting state trading enterprises are operated in conformity with the provisions specified below and, subject to these provisions, in accordance with Article XVII, the Understanding on the Interpretation of Article XVII and other relevant provisions of GATT 1994, the Agreement on Agriculture and other WTO agreements.

***Entities***

2. For the purpose of this Article, an agricultural exporting state trading enterprise shall be considered to be :

Any governmental or non-governmental enterprise, including a marketing board, which has been granted exclusive or special rights or privileges, including statutory or constitutional powers, in the exercise of which the enterprise influences through its purchases or export sales the level or direction of agricultural exports.

***Disciplines***

3. In order to ensure the elimination of trade-distorting practices with respect to agricultural exporting state trading enterprises as described above, Members shall:

- (a) eliminate, in parallel and in proportion to the elimination of all forms of export subsidies including those related to food aid and export credits:
  - (i) those export subsidies, defined by Article 1(e) of the Agreement on Agriculture, which are currently provided to or by an agricultural exporting state trading enterprise;
  - (ii) government financing of exporting state trading enterprises, preferential access to capital or other special privileges with respect to government financing or re-financing facilities, borrowing, lending or government guarantees for commercial borrowing or lending, at below market rates; and
  - (iii) government underwriting of losses, either directly or indirectly, losses or reimbursement of the costs or write-downs or write-offs of debts owed to, or by export state trading enterprises on their export sales.
  - (iv) [by 2013, the use of export monopoly powers for such enterprises.]
- (b) ensure that any use of monopoly powers by such enterprises is not exercised in a manner which, either *de jure* or *de facto* effectively circumvents the provisions set out in subparagraphs (i) to (iii) above.

***Special and Differential Treatment***

4. Notwithstanding paragraph[s 3(a)(iv) and] 3(b)above:

- (a) agricultural state trading enterprises in least-developed countries (including those which enjoy special privileges to preserve domestic consumer price stability and to

ensure food security) will be permitted to maintain or use monopoly powers for agricultural exports to the extent that they would not be otherwise inconsistent with other provisions of this Agreement and other WTO Agreements;

- (b) agricultural state trading enterprises in developing country Members which enjoy special privileges to preserve domestic consumer price stability and to ensure food security will be permitted to maintain or use monopoly powers for agricultural exports to the extent that they would not be otherwise inconsistent with other provisions of this Agreement and other WTO Agreements; and
- (c) where a developing or least-developed country Member has an agricultural exporting state trading enterprise with export monopoly powers, that enterprise may continue also to maintain or use those powers, even if the purpose for which that enterprise has such privileges could not be deemed to be characterised by the objective: "to preserve domestic consumer price stability and to ensure food security". Such an entitlement, however, would be permissible only for such an enterprise whose share of world exports of the agricultural product or products concerned is less than 5 per cent, such that the entity's share of world exports of the product or products concerned does not exceed that level in 3 consecutive years, and to the extent that the exercise of those monopoly powers is not otherwise inconsistent with other provisions of this Agreement and other WTO Agreements.

### ***Monitoring and Surveillance***

5. Any Member that maintains an agricultural exporting state trading enterprise shall notify to the Committee on Agriculture, on an annual basis, relevant information regarding the enterprise's nature and operations. This will, consistent with standard WTO practice and normal commercial confidentiality considerations, require timely and transparent provision of information on any and all exclusive or special rights or privileges granted to such enterprises within the meaning of paragraph 1 above sufficient to ensure effective transparency. Members shall notify any benefits, not otherwise notified under other WTO disciplines, that accrue to a state trading export enterprise from any special rights and privileges including those that are of a financial nature. At the request of any Member, a Member maintaining a state trading export enterprise shall provide, subject to normal considerations of commercial confidentiality, information requested concerning the enterprise's export sales of agricultural products, the product exported, the volume of the product exported, the export price and the export destination.

**ANNEX F**

**POSSIBLE NEW ARTICLE 10.4 OF THE AGREEMENT ON AGRICULTURE**

**INTERNATIONAL FOOD AID**

1. Members reaffirm their commitment to maintain an adequate level of international food aid (hereinafter referred to as food aid<sup>1</sup>), to take account of the interests of food aid recipients and to ensure that the disciplines contained hereafter do not unintentionally impede the delivery of food aid provided to deal with emergency situations. Members shall ensure the elimination of commercial displacement caused by food aid.

***General Provisions***

2. Members shall ensure that all food aid transactions, whether in the Safe Box or outside, are provided in conformity with the following provisions:

- (a) they are needs-driven;
- (b) they are provided in fully grant form;
- (c) they are not tied directly or indirectly to commercial exports of agricultural products or of other goods and services;
- (d) they are not linked to the market development objectives of donor Members; and
- (e) agricultural products provided as food aid shall not be commercially re-exported. Non-commercial re-exportation is permissible, but only where, for logistical reasons and in order to expedite the provision of emergency food aid for another country in an emergency situation, this occurs as an integral part of a food aid transaction initiated by a relevant United Nations agency, relevant regional or international intergovernmental agency or organization.

3. The provision of food aid shall take fully into account local market conditions of the same or substitute products. Members shall refrain from providing in-kind food aid in situations where this would create, or would risk to create, an adverse effect on local or regional production of the same or substitute products. Members are encouraged to procure food aid from local or regional sources to the extent possible, provided that the availability and prices of basic foodstuffs in these markets are not unduly compromised. Members commit to making their best efforts to move increasingly towards more cash-based food aid.

***Safe Box for Emergency Food Aid***

4. To ensure that there is no unintended impediment to the provision of food aid during an emergency situation, food aid provided under such circumstances (whether cash or in-kind) shall be in the ambit of the Safe Box and, therefore, not actionable, provided that:

- (a) there has been a declaration of an emergency by the recipient country, or, the Secretary-General of the United Nations; or

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<sup>1</sup> Unless otherwise specified, the term food aid is used to refer to both in-kind and cash-based food aid donations.

- (b) there has been an emergency appeal from a country<sup>2</sup>, a relevant United Nations agency, including the World Food Programme and the United Nations Consolidated Appeals Process; the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies; [a relevant regional or international intergovernmental agency, a non-governmental humanitarian organisation of recognised standing traditionally working in conjunction with the former bodies]; and
- (c) there is an assessment of need undertaken by a relevant United Nations agency, including the World Food Programme; the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies;<sup>3</sup> [a relevant regional or international intergovernmental agency, a non-governmental humanitarian organisation of recognised standing traditionally working in conjunction with the former bodies].

5. Following the triggering, there may well be a period where the needs assessment outcome is pending. For the purposes of this agreement, this period will be deemed to be [3] months in duration. During this period, the food aid concerned will in any event be non-actionable (provided that the relevant UN agency responsible for the needs assessment has not, within this period, given a negative assessment). Where, within or by the end of this period, the relevant UN agency has carried out a positive needs assessment, the food aid concerned will remain in the Safe Box thereafter.

6. [There will be no monetization for food aid inside the Safe Box.]

7. A notification will be required on an *ex-post* basis by donors at six month intervals in order to ensure transparency.

8. The provision of food aid in conformity with paragraph 4 may be provided for as long as necessary subject to an assessment of continued genuine need as a result of the initial onset of the emergency. It is for the relevant UN agency to make such determination.

#### ***Disciplines for Food Aid in Non-emergency Situations***

9. Food aid outside the Safe Box as provided above will be actionable where it leads to commercial displacement. In-kind food aid provided in situations other than defined above, and which fails to meet the following criteria will be deemed to create such commercial displacement and thereby circumvent export subsidy commitments.

10. In-kind food aid provided outside the Safe Box shall be:

- (a) based on an assessment of need by an identified multilateral third party organization, which may include humanitarian non-governmental organizations working in partnership with specialized United Nations agencies;
- (b) targeted to a well-identified vulnerable population group;
- (c) provided to address specific developmental objectives or nutritional requirements; and

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<sup>2</sup> It is understood that an NGO can be involved in this triggering whether by working with a donor or recipient country.

<sup>3</sup> Needs assessment should be done with the involvement of the recipient government and may involve a relevant regional intergovernmental organization or a NGO.



- (d) the monetisation of in-kind food aid shall be [prohibited except][permissible, but Members will endeavour to constrain it to situations] where is it necessary to fund activities that are directly related to the delivery of the food aid to the recipient, or for the procurement of agricultural inputs. Such monetisation shall be carried out under the auspices of a relevant United Nations agency and the recipient government.

***Monitoring and Surveillance***

11. Food aid donor Members shall be required to notify to the Committee on Agriculture, on an annual basis, the following data:

**Tropical Product Tariffs  
(Uruguay Round indicative list)**

**United States**

Total tropical products with 0 base duty (start of implementation)	110
Total tropical products with 0 bound duty (end of implementation)	150
Number of lines brought to zero by the UR	40
Total tropical products with non-zero duty (current)	276
# lines less than 5%	132
# lines less than 10%	203

**European Communities**

Total tropical products with 0 base duty (start of implementation)	97
Total tropical products with 0 bound duty (end of implementation)	146
Number of lines brought to zero by the UR	49
Total tropical products with non-zero duty (current)	441
# lines less than 5%	54
# lines less than 10%	164

**Japan**

Total tropical products with 0 base duty (start of implementation)	87
Total tropical products with 0 bound duty (end of implementation)	115
Number of lines brought to zero by the UR	28
Total tropical products with non-zero duty (current)	245
# lines less than 5%	67
# lines less than 10%	111

Note – for technical reasons it was not possible to match Japan's tariff bindings with *ad valorem* equivalents. Assume all non *ad valorem* tariffs are greater than 10 per cent.

**Norway**

Total tropical products with 0 base duty (start of implementation)	95
Total tropical products with 0 bound duty (end of implementation)	97
Total tropical products with non-zero duty (current)	178
Number of lines brought to zero by the UR	81
# lines less than 5%, greater than 0	73
# lines less than 10%, greater than 0	80

**ATTACHMENT 2**

**Preferences analysis**

European Communities – Tariff lines where the G-20 reductions would result in a loss in the preference margin of more than 10 percentage points

Tariff Line	Basic Description	Tariff Line Description	Current Bound	New Bound	Trade Value (\$000)	Main Exporters
02013000	Beef, chilled	- Boneless	85.2	21.3	73,817.5	Botswana, Namibia
07099070	Courgettes	-- Courgettes	27.6	12.4	1,516.7	Kenya, South Africa, Zambia
07141091	Roots & tubers with high starch content	--- Of a kind used for human consumption, in immediate packings of a net content not exceeding 28 kg, either fresh and whole or without skin and frozen, whether or not sliced	50.1	17.5	2,341.7	Cameroon, Ghana
07141099	Roots & tubers with high starch content	--- Other	118.9	29.7	159.6	Benin, Cameroon, Côte d'Ivoire, Ghana
08030019	Bananas	-- Other	117.1	29.3	625,177.7	Cameroon, Côte d'Ivoire, Dominican Republic
08061010	Grapes	---- Of the variety Emperor ( <i>Vitis vinifera</i> cv.) from 1 to 31 December(2)	22.6	10.1	366,475.2	Namibia, South Africa
11031310	Corn groats & meal	--- Of a fat content not exceeding 1,5 % by weight	62.1	21.7	590.5	Lesotho
11031390	Corn groats & meal	--- Other	38.9	17.5	159.7	Tanzania
17011110	Sugar	--- For refining(2)	130.3	32.6	947,282.2	Fiji, Guyana, Jamaica, Mauritius, Swaziland
17011190	Sugar	--- Other	161.1	40.3	79,235.3	Malawi, Mauritius
17019910	Sugar	--- White sugar	168.7	42.2	28,541.4	Côte d'Ivoire, Kenya, Madagascar, Mauritius, Zambia
19041090	Prepared foods from cereals	-- Other	24.4	11.0	54.8	Ghana, Kenya
19042095	Prepared foods from cereals	--- Obtained from rice	30.9	13.9	79.3	Bangladesh

Tariff Line	Basic Description	Tariff Line Description	Current Bound	New Bound	Trade Value (\$000)	Main Exporters
20082071	Prepared/perserved pineapples	---- With a sugar content exceeding 19 % by weight	20.8	9.4	1,511.8	Kenya
20082090	Prepared/perserved pineapples	---- Of 4,5 kg or more	20.9	9.4	20,647.8	Kenya, South Africa, Swaziland
20084090	Prepared/perserved pears	---- Of 4,5 kg or more	20.9	9.4	2,161.2	South Africa
20088090	Prepared/perserved strawberries	---- Of 4,5 kg or more	22.0	9.9	60.2	Fiji
20091119	Frozen orange juice	---- Other	33.6	15.1	110.7	Jamaica
20098036	fruit or vegetable juice	----- Juices of tropical fruit	21.0	9.5	52.0	Dominican Republic
20098038	fruit or vegetable juice	----- Other	33.6	15.1	98.3	Dominican Republic
20098086	fruit or vegetable juice	----- Other	29.4	13.2	83.8	Dominican Republic
22071000	Undenatured alcohol	- Undenatured ethyl alcohol of an alcoholic strength by volume of 80 % vol or higher	43.0	19.3	21,460.1	South Africa, Swaziland, Zimbabwe
22084099	Rum & tafia	---- Other	24.6	11.1	26,455.3	Dominican Republic, Guyana, Jamaica
24013000	Tobacco	- Tobacco refuse	31.3	14.1	14,031.4	Malawi, Tanzania, Zambia, Zimbabwe
24021000	Cigars, cigarettes	- Cigars, cheroots and cigarillos, containing tobacco	26.0	11.7	29,773.3	Dominican Republic
24022090	Cigarettes	-- Other	57.6	20.2	113.0	Nigeria

Note – for the three highlighted cells, there is a concordance issue with the data.

**Assumptions:**

Tariff lines are those included in the ACP list for which there is a non-reciprocal preference, the total ACP trade value is greater than US\$50,000, the MFN duty is greater than zero and the margin of preference is at least 5 per cent.

G-20 thresholds and cuts for developed countries are applied. Tariff lines are then selected as those where the tariff formula would result in a reduction of the preference margin of more than 10 percentage points. It is assumed that the import duty under preferences is zero.

**United States – Tariff lines important for preferences**

G-20 reductions would result in any loss in the preference margin (loss of more than 10 percentage points for one tariff line which is highlighted)

Tariff Line	Basic Description	Tariff Line Description	Current Bound	New Bound	Trade Value (\$000)	Main Exporters
0603108000	Cut Flowers	Cut flowers and flower buds suitable for bouquets or ornamental purposes, fresh	6.4	3.5	3,327.0	Dominican Republic
0709590000				0.0	731.2	South Africa
0709602000	Chili's	Chili peppers, fresh or chilled	3.8	2.1	506.2	Dominican Republic
0709604000	Capsicum	Fruits of the genus capsicum (peppers) (ex. chili peppers) or of the genus pimen	3.0	1.7	2,727.5	Dominican Republic
0709900500	Jicamas, pumpkins	Jicamas, pumpkins and breadfruit, fresh or chilled		0.0	429.5	Dominican Republic, Jamaica
0709909100				0.0	422.3	Ghana, Jamaica
0710223700	Frozen beans	Frozen beans nesi, not reduced in size	4.0	2.2	87.7	Bangladesh
0710291500	Leguminous vegetables	Lentils, uncooked or cooked by steaming or boiling in water, frozen	0.1	0.1	64.1	Bangladesh
0710807000	Other vegetables	Vegetables nesi, uncooked or cooked by steaming or boiling in water, frozen, not	11.3	6.2	202.7	Bangladesh, Sierra Leone
0710809700	Other vegetables	Vegetables nesi, uncooked or cooked by steaming or boiling in water, frozen, red	14.9	8.2	132.6	Bangladesh, Dominican Republic
0710909100	Vegetable mixtures			0.0	582.7	Dominican Republic
0802901500	Nuts	Pecans, fresh or dried, shelled	3.6	2.0	1,101.4	South Africa
0802908000	Nuts	Nuts nesi, fresh or dried, in shell	0.4	0.2	1,125.0	Malawi, South Africa
0802909800	Nuts	Nuts nesi, fresh or dried, shelled	0.8	0.4	33,845.2	Kenya, Malawi, South Africa
0804304000	Pineapples	Pineapples, fresh or dried, not reduced in size, in crates or other packages	2.1	1.2	476.8	South Africa
0804400000	Avocados	Avocados, fresh or dried	7.1	3.9	17,219.9	Dominican Republic
0804504000	Guavas, mangoes, and mangosteens	Guavas, mangoes, and mangosteens, fresh, if entered during the period September	8.0	4.4	3,965.0	Dominican Republic
0804506000	Guavas, mangoes, and mangosteens	Guavas, mangoes, and mangosteens, fresh, if entered during the period June 1 thr	10.8	5.9	3,561.2	Haiti

Tariff Line	Basic Description	Tariff Line Description	Current Bound	New Bound	Trade Value (\$000)	Main Exporters
0804508000	Guavas, mangoes, and mangosteens	Guavas, mangoes, and mangosteens, dried	0.7	0.4	456.9	South Africa
0806102000	Grapes	Grapes, fresh, if entered during the period February 15 through March 31, inclus	0.2	0.1	1,413.6	South Africa
0806201000	Raisins	Raisins, made from dried seedless grapes	1.5	0.8	3,331.5	South Africa
1006309000	Rice	Rice semi-milled or wholly milled, whether or not polished or glazed, other than	2.5	1.4	190.9	Bangladesh
1701111000	Sugar	Cane sugar, raw, in solid form, w/o added flavoring or coloring, subject to add.	7.6	4.2	120,097.7	Dominican Republic, South Africa
2005905000	Prepared/preserved vegetables	Pimientos, prepared or preserved otherwise than by vinegar or acetic acid, not f	8.1	4.5	1,601.7	South Africa
2005909700	Prepared/preserved vegetables	Vegetables nesoi,& mixtures of vegetables,prepared or preserved otherwise than b	11.2	6.2	2,911.0	Dominican Republic
2008921000	Prepared/preserved fruits	Mixtures of fruit or edible parts of plants, in airtight cont. excl. apricots, c	5.6	3.1	84.1	Dominican Republic
2008991000	Prepared/preserved fruits	Avocados, otherwise prepared or preserved, nesi	5.8	3.2	741.6	South Africa
2008999000	Prepared/preserved fruits	Fruit nesi, and other edible parts of plants nesi, other than pulp and excluding	6.0	3.3	3,826.2	Jamaica
2009110000	Frozen orange juice	Orange juice, frozen, unfermented and not containing added spirit	38.9	17.5	19,382.1	Belize
2009396000	Fruit or vegetable juices			0.0	1,470.6	South Africa
2009904000	Fruit or vegetable juices	Mixtures of fruit juices, or mixtures of vegetable and fruit juices, concentrate	8.9	4.9	1,765.6	South Africa
2103204000	Sauces	Tomato sauces, nesi	11.6	6.4	4,352.5	Dominican Republic
2103908000	Sauces, mixed condiments, seasonings	Mixed condiments and mixed seasonings, not described in add US note 3 to Ch. 21	6.4	3.5	6,933.1	Dominican Republic, Jamaica
2103909000	Sauces, mixed condiments, seasonings	Sauces and preps, neosi	6.4	3.5	5,254.9	Dominican Republic, Jamaica
2204215000	Wine	Wine other than Tokay (not carbonated), not over 14% alcohol, in containers not	1.4	0.8	37,628.5	South Africa

Tariff Line	Basic Description	Tariff Line Description	Current Bound	New Bound	Trade Value (\$000)	Main Exporters
2204218000	Wine	Grape wine, other than "Marsala", not sparkling or effervescent, over 14% vol. a	1.9	1.0	5,880.1	South Africa
2208402000	Rum and tafia	Rum and tafia, in containers each holding not over 4 liters, valued not over \$3/	9.6	5.3	673.7	Dominican Republic
2401208300	Tobacco	Tobacco, partly or wholly stemmed/stripped, threshed or similarly processed, not	12.0	6.6	19,734.9	Malawi
2401208500	Tobacco	Tobacco, partly or wholly stemmed/stripped, threshed or similarly processed, not	11.1	6.1	26,155.3	Malawi
2402108000	Cigars, cheroots, cigarillos	Cigars, cheroots and cigarillos containing tobacco, each valued 23 cents or over	2.3	1.3	188,754.6	Dominican Republic
2402208000	Cigarettes	Cigarettes containing tobacco but not containing clove, paper-wrapped	8.6	4.7	6,599.9	South Africa

**Assumptions:**

Tariff lines are those included in the ACP list for which there is a non-reciprocal preference, the total ACP trade value is greater than US\$50,000, the MFN duty is greater than zero and the margin of preference is at least 5 per cent.

G-20 thresholds and cuts for developed countries are applied. Tariff lines are then selected as those where the tariff formula would result in any reduction of the preference margin.

It is assumed that the import duty under preferences is zero.

For only the highlighted tariff line would the resulting tariff reductions reduce the margin of preference by more than 10 percentage points. In effect all of the other bound duties are too low for the preferences to be highly valuable and thus the reduction in the preference margin is small.

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