

Will Cancun Go the Seattle Way

The Breakdown of WTO's Agriculture Negotiations

Dr. Vandana Shiva



Navdanya



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Dr. Vandana Shiva

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A-60, Hauz Khas, New Delhi-110016, INDIA

Tel.: +91-11-26968077, 26853772, 26561868

Telefax: +91-11-26856795, 26562093

E-mail: rfste@vsnl.com; vshiva@vsnl.com

Website: <http://www.vshiva.net>

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AGRICULTURE AND WTO

DOHA TO CANCUN AND BEYOND

Food first or trade first?

Agriculture, which is the foundation of food security and national security, was redefined as an issue of trade and commerce alone during the Uruguay Round of GATT with agribusiness MNCs as the determining force in the shift. The Agreement on Agriculture (AoA) of the W.T.O. does not in fact refer to food and agriculture at all. There is no reference to soil or crops, to food or farmers, to sustainability or livelihoods, to food security or fair prices in the Agreement on Agriculture. These are the issues at the core of domestic agriculture policies. Core issues of agriculture and food security at national level have been reduced to non-issues in the global agreement on agriculture. Food security, rural development, environmental sustainability, survival and sustenance of small farmers have been lumped together as "non-trade" issues, or been redefined as barriers to trade. In the Agreement on Agriculture, trade and commerce come first – in other words, corporate profits take precedence over the health of the planet or people, or the survival of rural communities. That is why the relentless implementation of trade liberalization rules of W.T.O. is pushing farmers to suicide, the poor to hunger, the planet towards ecological catastrophe in the form of climate disasters, extinction of species and destruction of water systems.

The derailed review of Agriculture

Assessing the impact of trade liberalization is the obligation in Art. 20 of the Agreement on Agriculture. The mandatory review required taking into account.

- a) the experience from implementing W.T.O. rules.
- b) the effects on world trade in agriculture.

c) non-trade concerns (i.e. food security, food safety, livelihood security and rural development) and special and differential treatment to developing country members;

d) other commitments to reform agriculture.

The review started one year before the implementation period of the Uruguay Round, i.e. in the year 2000.

The Doha Ministerial Declaration adopted on 14 November 2001 stated in para 13 that member countries commit themselves to

"substantial improvements in market access, reductions of, with a view to phasing out, all forms of export subsidies, and substantial reductions in trade-distorting domestic support. We agree that special and differential treatment for developing countries shall be integral part of all elements of the negotiations and shall be embodied in the Schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development. We take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture."

The modalities are to be established by 31 March 2003.

The betrayal of Doha commitments: "Cancun could go the Seattle way"

However, no progress has been made on the implementation issues or review of the Agreement on Agriculture in spite of 3 years having gone by since the

review started and one and half years having passed since the Doha Ministerial. The recently concluded mini-ministerial in Tokyo, convened largely to iron out differences on agriculture issues on the basis of Harbinson's draft failed to achieve agreement between countries wanting to export at any cost and countries concerned with domestic food security and rural development issue. As the Indian Commerce Minister said on return from Tokyo, "Cancun could go the Seattle way".

Franz Fischler, EU Agriculture Commissioner said, "In this draft, we find few elements which offer the possibility of bridging the differences between W.T.O. members is lacking. Benefits are mainly for strong exporting countries and costs are mainly for countries which pursue policies reflecting domestic objectives which go beyond untrammelled free-trade, and which are linked with social, economic and environmental sustainability."

Divided agenda, distorted process

The crisis in W.T.O. on the Agriculture negotiations is two fold. The first arises from the fact that countries are pursuing different objectives and serving different interests. Large exporting countries – the U.S. and the CAIRNS group want market access for their exports at all costs. Anything denying them market access is a trade barrier that needs dismantling. The least developed countries, the developing countries, Europe and Japan put social, economic and environmental sustainability as higher objectives than trade. For the South, socio-economic sustainability has higher priority, for Europe, environmental sustainability is important. But in spite of major differences, a large group of countries put "food and agriculture first" not "trade first". This must be the objective of W.T.O. reform. Treaties at global level that undermine national food and agriculture security cannot be maintained or sustained.

Arun Jaitley, the Indian Commerce Minister has insisted that developing countries should have freedom in fixing tariffs in agriculture, especially in the face of high Northern subsidies. As he said, "Our tariffs have a direct impact on the lives of the farmers. We can't permit social unrest. "Trade liberalization cannot set the determining framework for how food is produced and how agriculture is organised. Countries cannot ignore the issues of social, economic and environmental sustainability. W.T.O.'s first error is that it has externalized

these basic life and death issues in the Agreement on Agriculture.

The second source of the crisis in agriculture negotiations arises from the process itself. W.T.O. as a system excludes and marginalizes the concerns of developing countries. W.T.O. as a system functions undemocratically. After the failure of the Seattle Ministerial, the most frequently used phrase was that W.T.O. is a "member driven organisation". However, the process since Doha shows the opposite. Negotiations through mini-ministerials leave out the majority of members. The 22 countries present at the Tokyo Mini-Ministerial were Australia, Canada, France, Chile, Costa Rica, EC, Egypt, Hong Kong, India Indonesia, Japan, Korea, Malaysia, Mexico, New Zealand, Nigeria, Singapore, Brazil, U.S., Senegal, Switzerland. Are not the remaining countries equal in their membership? Informal meeting like the forthcoming CII organised meeting on 15th – 16th March are also functioning as "mini-ministerial," Subverting the multilateral nature of trade negotiations.

The excluding nature of the W.T.O. process is made worse by the manner in which the Chairman Stuart Harbinson prepared the draft for negotiation. The issues raised of developing countries have been conveniently dropped or marginalized. For example, many countries have raised the issue of introducing import restrictions because artificially cheap imports are being dumped through market access rules, destroying domestic markets, rural economies and farmers livelihoods. This is not even mentioned in Harbinson's Market Access Summary which falsely states that "in the area of market access, the negotiations have covered five issues: tariffs, tariff quotas, tariff quota administration, special safeguard measures, importing state trading enterprises." The critical issue of Quantitative Restrictions (QRs) has conveniently been excluded even though it is at the heart of agricultural conflicts. The conflict between U.S. and E.U. is centred on European ban on GMOs. The North-South conflict is centred on the high subsidies of \$400 billion in OECD countries, and the dumping resulting from forced removal of QRs. A recently released report from the International Agriculture and Trade Policy Institute has shown that in four major U.S. commodities, the level of dumping has increased since 1995 when the W.T.O. came into force, even though the proclaimed aim of W.T.O. is to "reduce distortions in trade." While the full cost of U.S. wheat in 2001 was \$ 6.24/bushel, its

export price is \$ 3.5/bushel. In the case of soya bean, the cost was \$6.98/bushel, the export price was \$4.93/bushel. For maize, the full cost was \$3.47/bushel, export price was \$2.28/bushel. In the case of cotton, the cost was \$0.9313/bushel and the export price was \$ 0.3968/bushel, a dumping of 57%. The cost of production of rice was \$18.66/bushel and it was sold internationally at bushel \$14.55/bushel.

From 1995 to 2001 dumping jumped from 23% to 44% in the case of wheat, 9% to 29% in the case of soya beans, 11% to 33% in the case of maize, from 17% to 57% in the case of cotton.

While the W.T.O. Agreement on Agriculture claimed to achieve reduction of rich country subsidies, the \$ 248.6 billion farm Bill of 2002 has increased farm subsidies by \$83 billion. This dramatic increase threatens the livelihoods of Third World farmers. According to the World Bank, low cotton prices in U.S. resulting from high subsidies are costing African countries. \$250 million each year.

Eliminate Article 4 of AoA, not 5.

Introducing restrictions on imports or raising tariffs in the only safeguard for poor peasants and poor countries in the face of the trade distorting subsidies and dumping practised by rich countries. This is what countries like India, Argentina, Philippines have proposed. However, Harbinson's text completely ignores these proposals to regulate imports as a self-defense strategy against dumping. Instead Harbinson perversely proposes removing even temporary rights to safeguards by stating

in para 22, "Participation should decide whether the special Safeguard provisions of Article 5 of the Agreement on Agriculture should be eliminated."

What needs elimination is not Art. 5 but Art. 4.2 on Market Access which states,

Art. 4.2 "Members shall not maintain, resort to, or revert to any measures of the kind which have been required to be converted into ordinary customs duties (these measures include quantitative import restrictions, variable import levies, minimum import prices, discretionary import licensing, non-tariff measures maintained through state-trading enterprises, voluntary export restraints and similar border measures) except as provided for in Art. 5 and Annexure 5."

In the face of rising subsidies and increasing dumping, import restrictions and countervailing duties are a right, a survival necessity. W.T.O. has robbed countries of this right through Art. 4 and now, through Harbinson's draft, would like to rob them even of temporary safeguards by proposing the elimination of Art 5. As the deadline of March 31st approaches, and as the Cancun Ministerial approaches, countries should focus on stopping dumping by eliminating Art 4 of AoA which is the basis of the destruction of food security and rural livelihoods in the Third World through dumping. Once this crippling clause is removed, countries can start building a global system on citizens initiatives and national priorities that ensures sustainability, support small farmers, ensures just prices, prevents dumping, protects the countryside and the environment and ensures good, safe, adequate food for all.

¹ These measures include quantitative import restrictions, variable import levies, minimum import prices, discretionary import licensing, non-tariff measures maintained through state-trading enterprises, voluntary export restraints, and similar border measures other than ordinary customs duties, whether or not the measures are maintained under country-specific derogations from the provisions of GATT 1947, but not measures maintained under balance-of-payments provisions or under other general, non-agriculture-specific provisions of GATT 1994 or of the other Multilateral Trade Agreements in Annex 1A to the WTO Agreement.

² The reference price used to invoke the provisions of this subparagraph shall, in general, be the average c.i.f. unit value of the product concerned, or otherwise shall be an appropriate price in terms of the quality of the product and its stage of processing. It shall, following its initial use, be publicly specified and available to the extent necessary to allow other Members to assess the additional duty that may be levied.

³ Where domestic consumption is not taken into account, the base trigger level under subparagraph 4 (a) shall apply.

⁴ "Countervailing duties" where referred to in this Article are those covered by Article VI of GATT 1994 and Part V of the Agreement on Subsidies and Countervailing Measures.

APPENDIX 1

Text of the WTO Agreement on Agriculture

Members,

Having decided to establish a basis for initiating a process of reform of trade in agriculture in line with the objectives of the negotiations as set out in the Punta del Este Declaration;

Recalling that their long-term objective as agreed at the Mid-Term Review of the Uruguay Round "is to establish a fair and market-oriented agricultural trading system and that a reform process should be initiated through the negotiation of commitments on support and protection and through the establishment of strengthened and more operationally effective GATT rules and disciplines";

Recalling further that "the above-mentioned long-term objective is to provide for substantial progressive reductions in agricultural support and protection sustained over an agreed period of time, resulting in correcting and preventing restrictions and distortions in world agricultural markets";

Committed to achieving specific binding commitments in each of the following areas: market access; domestic support; export competition; and to reaching an agreement on sanitary and phytosanitary issues;

Having agreed that in implementing their commitments on market access, developed country Members would take fully into account the particular needs and conditions of developing country Members by providing for a greater improvement of opportunities and terms of access for agricultural products of particular interest to these Members, including the fullest liberalization of trade in tropical agricultural products as agreed at the Mid-Term Review, and for products of particular importance to the diversification of production from the growing of illicit narcotic crops;

Noting that commitments under the reform programme should be made in an equitable way among all Members, having regard to non-trade concerns, including food security and the need to protect the environment; having regard to the agreement that special and differential treatment for developing countries is an integral element of the negotiations, and taking into account the possible negative effects of the implementation of the reform programme on least-developed and net food-importing developing countries;

Hereby agree as follows:

PART I

Article 1

Definition of Terms

In this Agreement, unless the context otherwise requires:

- (a) "Aggregate Measurement of Support" and "AMS" mean

the annual level of support, expressed in monetary terms, provided for an agricultural product in favour of the producers of the basic agricultural product or non-product-specific support provided in favour of agricultural producers in general, other than support provided under programmes that qualify as exempt from reduction under Annex 2 to this Agreement, which is:

- (i) with respect to support provided during the base period, specified in the relevant tables of supporting material incorporated by reference in Part IV of a Member's Schedule; and
 - (ii) with respect to support provided during any year of the implementation period and thereafter, calculated in accordance with the provisions of Annex 3 of this Agreement and taking into account the constituent data and methodology used in the tables of supporting material incorporated by reference in Part IV of the Member's Schedule;
- (b) "basic agricultural product" in relation to domestic support commitments is defined as the product as close as practicable to the point of first sale as specified in a Member's Schedule and in the related supporting material;
- (c) "budgetary outlays" or "outlays" includes revenue foregone;
- (d) "Equivalent Measurement of Support" means the annual level of support, expressed in monetary terms, provided to producers of a basic agricultural product through the application of one or more measures, the calculation of which in accordance with the AMS methodology is impracticable, other than support provided under programmes that qualify as exempt from reduction under Annex 2 to this Agreement, and which is:
- (i) with respect to support provided during the base period, specified in the relevant tables of supporting material incorporated by reference in Part IV of a Member's Schedule; and
 - (ii) with respect to support provided during any year of the implementation period and thereafter, calculated in accordance with the provisions of Annex 4 of this Agreement and taking into account the constituent data and methodology used in the tables of supporting material incorporated by reference in Part IV of the Member's Schedule;
- (e) "export subsidies" refers to subsidies contingent upon export performance, including the export subsidies listed in Article 9 of this Agreement;

- f) "implementation period" means the six-year period commencing in the year 1995, except that, for the purposes of Article 13, it means the nine-year period commencing in 1995;
- g) "market access concessions" includes all market access commitments undertaken pursuant to this Agreement;
- h) "Total Aggregate Measurement of Support" and "Total AMS" mean the sum of all domestic support provided in favour of agricultural producers, calculated as the sum of all aggregate measurements of support for basic agricultural products, all non-product-specific aggregate measurements of support and all equivalent measurements of support for agricultural products, and which is:
 - ⓐ with respect to support provided during the base period (i.e. the "Base Total AMS") and the maximum support permitted to be provided during any year of the implementation period or thereafter (i.e. the "Annual and Final Bound Commitment Levels"), as specified in Part IV of a Member's Schedule; and
 - ⓑ with respect to the level of support actually provided during any year of the implementation period and thereafter (i.e. the "Current Total AMS"), calculated in accordance with the provisions of this Agreement, including Article 6, and with the constituent data and methodology used in the tables of supporting material incorporated by reference in Part IV of the Member's Schedule;
- ⓓ "year" in paragraph (f) above and in relation to the specific commitments of a Member refers to the calendar, financial or marketing year specified in the Schedule relating to that Member.

Article 2

Product Coverage

This Agreement applies to the products listed in Annex 1 to this Agreement, hereinafter referred to as agricultural products.

PART II

Article 3

Incorporation of Concessions and Commitments

1. The domestic support and export subsidy commitments in Part IV of each Member's Schedule constitute commitments limiting subsidization and are hereby made an integral part of GATT 1994.
2. Subject to the provisions of Article 6, a Member shall not provide support in favour of domestic producers in excess of the commitment levels specified in Section I of Part IV of its Schedule.
3. Subject to the provisions of paragraphs 2(b) and 4 of Article 9, a Member shall not provide export subsidies listed in paragraph 1 of Article 9 in respect of the agricultural products or groups of products specified in Section II of Part IV of its Schedule in excess of the budgetary outlay and quantity commitment levels specified therein and shall not provide such subsidies in respect

of any agricultural product not specified in that Section of its Schedule.

PART III

Article 4

Market Access

1. Market access concessions contained in Schedules relate to bindings and reductions of tariffs, and to other market access commitments as specified therein.
2. Members shall not maintain, resort to, or revert to any measures of the kind which have been required to be converted into ordinary customs duties¹, except as otherwise provided for in Article 5 and Annex 5.

Article 5

Special Safeguard Provisions

1. Notwithstanding the provisions of paragraph 1(b) of Article II of GATT 1994, any Member may take recourse to the provisions of paragraphs 4 and 5 below in connection with the importation of an agricultural product, in respect of which measures referred to in paragraph 2 of Article 4 of this Agreement have been converted into an ordinary customs duty and which is designated in its Schedule with the symbol "SSG" as being the subject of a concession in respect of which the provisions of this Article may be invoked, if:
 - a) the volume of imports of that product entering the customs territory of the Member granting the concession during any year exceeds a trigger level which relates to the existing market access opportunity as set out in paragraph 4; or, but not concurrently:
 - b) the price at which imports of that product may enter the customs territory of the Member granting the concession, as determined on the basis of the c.i.f. import price of the shipment concerned expressed in terms of its domestic currency, falls below a trigger price equal to the average 1986 to 1988 reference price² for the product concerned.

2. Imports under current and minimum access commitments established as part of a concession referred to in paragraph 1 above shall be counted for the purpose of determining the volume of imports required for invoking the provisions of subparagraph 1(a) and paragraph 4, but imports under such commitments shall not be affected by any additional duty imposed under either subparagraph 1(a) and paragraph 4 or subparagraph 1(b) and paragraph 5 below.
3. Any supplies of the product in question which were en route on the basis of a contract settled before the additional duty is imposed under subparagraph 1(a) and paragraph 4 shall be exempted from any such additional duty, provided that they may be counted in the volume of imports of the product in question during the following year for the purposes of triggering the provisions of subparagraph 1(a) in that year.

4. Any additional duty imposed under subparagraph 1 (a) shall only be maintained until the end of the year in which it has been imposed, and may only be levied at a level which shall not exceed one third of the level of the ordinary customs duty in effect in the year in which the action is taken. The trigger level shall be set according to the following schedule based on market access opportunities defined as imports as a percentage of the corresponding domestic consumption³ during the three preceding years for which data are available:

- (a) where such market access opportunities for a product are less than or equal to 10 per cent, the base trigger level shall equal 125 per cent;
- (b) where such market access opportunities for a product are greater than 10 per cent but less than or equal to 30 per cent, the base trigger level shall equal 110 per cent;
- (c) where such market access opportunities for a product are greater than 30 per cent, the base trigger level shall equal 105 per cent.

In all cases the additional duty may be imposed in any year where the absolute volume of imports of the product concerned entering the customs territory of the Member granting the concession exceeds the sum of (x) the base trigger level set out above multiplied by the average quantity of imports during the three preceding years for which data are available and (y) the absolute volume change in domestic consumption of the product concerned in the most recent year for which data are available compared to the preceding year, provided that the trigger level shall not be less than 105 per cent of the average quantity of imports in (x) above.

5. The additional duty imposed under subparagraph 1 (b) shall be set according to the following schedule:

- (a) if the difference between the c.i.f. import price of the shipment expressed in terms of the domestic currency (hereinafter referred to as the "import price") and the trigger price as defined under that subparagraph is less than or equal to 10 per cent of the trigger price, no additional duty shall be imposed;
- (b) if the difference between the import price and the trigger price (hereinafter referred to as the "difference") is greater than 10 per cent but less than or equal to 40 per cent of the trigger price, the additional duty shall equal 30 per cent of the amount by which the difference exceeds 10 per cent;
- (c) if the difference is greater than 40 per cent but less than or equal to 60 per cent of the trigger price, the additional duty shall equal 50 per cent of the amount by which the difference exceeds 40 per cent, plus the additional duty allowed under (b);
- (d) if the difference is greater than 60 per cent but less than or equal to 75 per cent, the additional duty shall equal 70 per cent of the amount by which the difference exceeds 60 per cent of the trigger price, plus the additional duties allowed under (b) and (c);

(e) if the difference is greater than 75 per cent of the trigger price, the additional duty shall equal 90 per cent of the amount by which the difference exceeds 75 per cent, plus the additional duties allowed under (b), (c) and (d).

6. For perishable and seasonal products, the conditions set out above shall be applied in such a manner as to take account of the specific characteristics of such products. In particular, shorter time periods under subparagraph 1 (a) and paragraph 4 may be used in reference to the corresponding periods in the base period and different reference prices for different periods may be used under subparagraph 1 (b).

7. The operation of the special safeguard shall be carried out in a transparent manner. Any Member taking action under subparagraph 1 (a) above shall give notice in writing, including relevant data, to the Committee on Agriculture as far in advance as may be practicable and in any event within 10 days of the implementation of such action. In cases where changes in consumption volumes must be allocated to individual tariff lines subject to action under paragraph 4, relevant data shall include the information and methods used to allocate these changes. A Member taking action under paragraph 4 shall afford any interested Members the opportunity to consult with it in respect of the conditions of application of such action. Any Member taking action under subparagraph 1 (b) above shall give notice in writing, including relevant data, to the Committee on Agriculture within 10 days of the implementation of the first such action or, for perishable and seasonal products, the first action in any period. Members undertake, as far as practicable, not to take recourse to the provisions of subparagraph 1 (b) where the volume of imports of the products concerned are declining. In either case a Member taking such action shall afford any interested Members the opportunity to consult with it in respect of the conditions of application of such action.

8. Where measures are taken in conformity with paragraphs 1 through 7 above, Members undertake not to have recourse, in respect of such measures, to the provisions of paragraphs 1 (a) and 3 of Article XIX of GATT 1994 or paragraph 2 of Article 8 of the Agreement on Safeguards.

9. The provisions of this Article shall remain in force for the duration of the reform process as determined under Article 20.

PART IV

Article 6

Domestic Support Commitments

1. The domestic support reduction commitments of each Member contained in Part IV of its Schedule shall apply to all of its domestic support measures in favour of agricultural producers with the exception of domestic measures which are not subject to reduction in terms of the criteria set out in this Article and in Annex 2 to this Agreement. The commitments are expressed in terms of

Total Aggregate Measurement of Support and "Annual and Final Bound Commitment Levels" .

2. In accordance with the Mid-Term Review Agreement that government measures of assistance, whether direct or indirect, to encourage agricultural and rural development are an integral part of the development programmes of developing countries, investment subsidies which are generally available to agriculture in developing country Members and agricultural input subsidies generally available to low-income or resource-poor producers in developing country Members shall be exempt from domestic support reduction commitments that would otherwise be applicable to such measures, as shall domestic support to producers in developing country Members to encourage diversification from growing illicit narcotic crops. Domestic support meeting the criteria of this paragraph shall not be required to be included in a Member's calculation of its Current Total AMS.
3. A Member shall be considered to be in compliance with its domestic support reduction commitments in any year in which its domestic support in favour of agricultural producers expressed in terms of Current Total AMS does not exceed the corresponding annual or final bound commitment level specified in Part IV of the Member's Schedule.
4. (a) A Member shall not be required to include in the calculation of its Current Total AMS and shall not be required to reduce:
 - (i) product-specific domestic support which would otherwise be required to be included in a Member's calculation of its Current AMS where such support does not exceed 5 per cent of that Member's total value of production of a basic agricultural product during the relevant year; and
 - (ii) non-product-specific domestic support which would otherwise be required to be included in a Member's calculation of its Current AMS where such support does not exceed 5 per cent of the value of that Member's total agricultural production.(b) For developing country Members, the *de minimis* percentage under this paragraph shall be 10 per cent.
5. (a) Direct payments under production-limiting programmes shall not be subject to the commitment to reduce domestic support if:
 - (i) such payments are based on fixed area and yields; or
 - (ii) such payments are made on 85 per cent or less of the base level of production; or
 - (iii) livestock payments are made on a fixed number of head.(b) The exemption from the reduction commitment for direct payments meeting the above criteria shall be reflected by the exclusion of the value of those direct payments in a Member's calculation of its Current Total AMS.

Article 7

General Disciplines on Domestic Support

1. Each Member shall ensure that any domestic support measures in favour of agricultural producers which are not subject to reduction commitments because they qualify under the criteria set out in Annex 2 to this Agreement are maintained in conformity therewith.
2. (a) Any domestic support measure in favour of agricultural producers, including any modification to such measure, and any measure that is subsequently introduced that cannot be shown to satisfy the criteria in Annex 2 to this Agreement or to be exempt from reduction by reason of any other provision of this Agreement shall be included in the Member's calculation of its Current Total AMS.
(b) Where no Total AMS commitment exists in Part IV of a Member's Schedule, the Member shall not provide support to agricultural producers in excess of the relevant *de minimis* level set out in paragraph 4 of Article 6.

PART V

Article 8

Export Competition Commitments

Each Member undertakes not to provide export subsidies otherwise than in conformity with this Agreement and with the commitments as specified in that Member's Schedule.

Article 9

Export Subsidy Commitments

1. The following export subsidies are subject to reduction commitments under this Agreement:
 - (a) the provision by governments or their agencies of direct subsidies, including payments-in-kind, to a firm, to an industry, to producers of an agricultural product, to a cooperative or other association of such producers, or to a marketing board, contingent on export performance;
 - (b) the sale or disposal for export by governments or their agencies of non-commercial stocks of agricultural products at a price lower than the comparable price charged for the like product to buyers in the domestic market;
 - (c) payments on the export of an agricultural product that are financed by virtue of governmental action, whether or not a charge on the public account is involved, including payments that are financed from the proceeds of a levy imposed on the agricultural product concerned or on an agricultural product from which the exported product is derived;
 - (d) the provision of subsidies to reduce the costs of marketing exports of agricultural products (other than widely available export promotion and advisory services) including handling, upgrading and other processing costs, and the costs of international transport and freight;

- (e) internal transport and freight charges on export shipments, provided or mandated by governments, on terms more favourable than for domestic shipments;
 - (f) subsidies on agricultural products contingent on their incorporation in exported products.
2. (a) Except as provided in subparagraph (b), the export subsidy commitment levels for each year of the implementation period, as specified in a Member's Schedule, represent with respect to the export subsidies listed in paragraph 1 of this Article:
- (i) in the case of budgetary outlay reduction commitments, the maximum level of expenditure for such subsidies that may be allocated or incurred in that year in respect of the agricultural product, or group of products, concerned; and
 - (ii) in the case of export quantity reduction commitments, the maximum quantity of an agricultural product, or group of products, in respect of which such export subsidies may be granted in that year.
- (b) In any of the second through fifth years of the implementation period, a Member may provide export subsidies listed in paragraph 1 above in a given year in excess of the corresponding annual commitment levels in respect of the products or groups of products specified in Part IV of the Member's Schedule, provided that:
- (i) the cumulative amounts of budgetary outlays for such subsidies, from the beginning of the implementation period through the year in question, does not exceed the cumulative amounts that would have resulted from full compliance with the relevant annual outlay commitment levels specified in the Member's Schedule by more than 3 per cent of the base period level of such budgetary outlays;
 - (ii) the cumulative quantities exported with the benefit of such export subsidies, from the beginning of the implementation period through the year in question, does not exceed the cumulative quantities that would have resulted from full compliance with the relevant annual quantity commitment levels specified in the Member's Schedule by more than 1.75 per cent of the base period quantities;
 - (iii) the total cumulative amounts of budgetary outlays for such export subsidies and the quantities benefiting from such export subsidies over the entire implementation period are no greater than the totals that would have resulted from full compliance with the relevant annual commitment levels specified in the Member's Schedule; and
 - (iv) the Member's budgetary outlays for export subsidies and the quantities benefiting from such subsidies, at the conclusion of the implementation period, are no greater than 64 per cent and 79 per cent of the 1986-1990 base period levels, respectively. For developing country Members these percentages shall be 76 and 86 per cent, respectively.

- 3. Commitments relating to limitations on the extension of the scope of export subsidization are as specified in Schedules.
- 4. During the implementation period, developing country Members shall not be required to undertake commitments in respect of the export subsidies listed in subparagraphs (d) and (e) of paragraph 1 above, provided that these are not applied in a manner that would circumvent reduction commitments.

Article 10

Prevention of Circumvention of Export Subsidy Commitments

- 1. Export subsidies not listed in paragraph 1 of Article 9 shall not be applied in a manner which results in, or which threatens to lead to, circumvention of export subsidy commitments; nor shall non-commercial transactions be used to circumvent such commitments.
- 2. Members undertake to work toward the development of internationally agreed disciplines to govern the provision of export credits, export credit guarantees or insurance programmes and, after agreement on such disciplines, to provide export credits, export credit guarantees or insurance programmes only in conformity therewith.
- 3. Any Member which claims that any quantity exported in excess of a reduction commitment level is not subsidized must establish that no export subsidy, whether listed in Article 9 or not, has been granted in respect of the quantity of exports in question.
- 4. Members donors of international food aid shall ensure:
 - (a) that the provision of international food aid is not tied directly or indirectly to commercial exports of agricultural products to recipient countries;
 - (b) that international food aid transactions, including bilateral food aid which is monetized, shall be carried out in accordance with the FAO "Principles of Surplus Disposal and Consultative Obligations", including, where appropriate, the system of Usual Marketing Requirements (UMRs); and
 - (c) that such aid shall be provided to the extent possible in fully grant form or on terms no less concessional than those provided for in Article IV of the Food Aid Convention 1986.

Article 11

Incorporated Products

In no case may the per-unit subsidy paid on an incorporated agricultural primary product exceed the per-unit export subsidy that would be payable on exports of the primary product as such.

PART VI

Article 12

Disciplines on Export Prohibitions and Restrictions

- 1. Where any Member institutes any new export prohibition or restriction on foodstuffs in accordance with paragraph

2 (a) of Article XI of GATT 1994, the Member shall observe the following provisions:

- (a) the Member instituting the export prohibition or restriction shall give due consideration to the effects of such prohibition or restriction on importing Members' food security;
- (b) before any Member institutes an export prohibition or restriction, it shall give notice in writing, as far in advance as practicable, to the Committee on Agriculture comprising such information as the nature and the duration of such measure, and shall consult, upon request, with any other Member having a substantial interest as an importer with respect to any matter related to the measure in question. The Member instituting such export prohibition or restriction shall provide, upon request, such a Member with necessary information.

2 The provisions of this Article shall not apply to any developing country Member, unless the measure is taken by a developing country Member which is a net-food exporter of the specific foodstuff concerned.

PART VII

Article 13

De Restraint

During the implementation period, notwithstanding the provisions of GATT 1994 and the Agreement on Subsidies and Countervailing Measures (referred to in this Article as the "Subsidies Agreement"):

- (a) domestic support measures that conform fully to the provisions of Annex 2 to this Agreement shall be:
 - Ⓜ non-actionable subsidies for purposes of countervailing duties⁴;
 - Ⓜ exempt from actions based on Article XVI of GATT 1994 and Part III of the Subsidies Agreement; and
 - Ⓜ exempt from actions based on non-violation nullification or impairment of the benefits of tariff concessions accruing to another Member under Article II of GATT 1994, in the sense of paragraph 1 (b) of Article XXIII of GATT 1994;
- (b) domestic support measures that conform fully to the provisions of Article 6 of this Agreement including direct payments that conform to the requirements of paragraph 5 thereof, as reflected in each Member's Schedule, as well as domestic support within *de minimis* levels and in conformity with paragraph 2 of Article 6, shall be:
 - Ⓜ exempt from the imposition of countervailing duties unless a determination of injury or threat thereof is made in accordance with Article VI of GATT 1994 and Part V of the Subsidies Agreement, and due restraint shall be shown in initiating any countervailing duty investigations;
 - Ⓜ exempt from actions based on paragraph 1 of Article XVI of GATT 1994 or Articles 5 and 6 of the Subsidies

Agreement, provided that such measures do not grant support to a specific commodity in excess of that decided during the 1992 marketing year; and

- Ⓜ exempt from actions based on non-violation nullification or impairment of the benefits of tariff concessions accruing to another Member under Article II of GATT 1994, in the sense of paragraph 1 (b) of Article XXIII of GATT 1994, provided that such measures do not grant support to a specific commodity in excess of that decided during the 1992 marketing year;
- (c) export subsidies that conform fully to the provisions of Part V of this Agreement, as reflected in each Member's Schedule, shall be:
 - Ⓜ subject to countervailing duties only upon a determination of injury or threat thereof based on volume, effect on prices, or consequent impact in accordance with Article VI of GATT 1994 and Part V of the Subsidies Agreement, and due restraint shall be shown in initiating any countervailing duty investigations; and
 - Ⓜ exempt from actions based on Article XVI of GATT 1994 or Articles 3, 5 and 6 of the Subsidies Agreement.

PART VIII

Article 14

Sanitary and Phytosanitary Measures

Members agree to give effect to the Agreement on the Application of Sanitary and Phytosanitary Measures.

PART IX

Article 15

Special and Differential Treatment

1. In keeping with the recognition that differential and more favourable treatment for developing country Members is an integral part of the negotiation, special and differential treatment in respect of commitments shall be provided as set out in the relevant provisions of this Agreement and embodied in the Schedules of concessions and commitments.
2. Developing country Members shall have the flexibility to implement reduction commitments over a period of up to 10 years. Least-developed country Members shall not be required to undertake reduction commitments.

PART X

Article 16

Least-Developed and Net Food-Importing Developing Countries

1. Developed country Members shall take such action as is provided for within the framework of the Decision on

Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries.

2. The Committee on Agriculture shall monitor, as appropriate, the follow-up to this Decision.

PART XI

Article 17

Committee on Agriculture

A Committee on Agriculture is hereby established.

Article 18

Review of the Implementation of Commitments

1. Progress in the implementation of commitments negotiated under the Uruguay Round reform programme shall be reviewed by the Committee on Agriculture.
2. The review process shall be undertaken on the basis of notifications submitted by Members in relation to such matters and at such intervals as shall be determined, as well as on the basis of such documentation as the Secretariat may be requested to prepare in order to facilitate the review process.
3. In addition to the notifications to be submitted under paragraph 2, any new domestic support measure, or modification of an existing measure, for which exemption from reduction is claimed shall be notified promptly. This notification shall contain details of the new or modified measure and its conformity with the agreed criteria as set out either in Article 6 or in Annex 2.
4. In the review process Members shall give due consideration to the influence of excessive rates of inflation on the ability of any Member to abide by its domestic support commitments.
5. Members agree to consult annually in the Committee on Agriculture with respect to their participation in the normal growth of world trade in agricultural products within the framework of the commitments on export subsidies under this Agreement.
6. The review process shall provide an opportunity for Members to raise any matter relevant to the implementation of commitments under the reform programme as set out in this Agreement.
7. Any Member may bring to the attention of the Committee on Agriculture any measure which it considers ought to have been notified by another Member.

Article 19

Consultation and Dispute Settlement

The provisions of Articles XXII and XXIII of GATT 1994, as elaborated and applied by the Dispute Settlement Understanding, shall apply to consultations and the settlement of disputes under this Agreement.

PART XII

Article 20

Continuation of the Reform Process

Recognizing that the long-term objective of substantial progressive reductions in support and protection resulting in fundamental reform is an ongoing process, Members agree that negotiations for continuing the process will be initiated one year before the end of the implementation period, taking into account:

- (a) the experience to that date from implementing the reduction commitments;
- (b) the effects of the reduction commitments on world trade in agriculture;
- (c) non-trade concerns, special and differential treatment to developing country Members, and the objective to establish a fair and market-oriented agricultural trading system, and the other objectives and concerns mentioned in the preamble to this Agreement; and
- (d) what further commitments are necessary to achieve the above mentioned long-term objectives.

PART XIII

Article 21

Final Provisions

1. The provisions of GATT 1994 and of other Multilateral Trade Agreements in Annex 1A to the WTO Agreement shall apply subject to the provisions of this Agreement.
2. The Annexes to this Agreement are hereby made an integral part of this Agreement.

ANNEX 1

PRODUCT COVERAGE

1. This Agreement shall cover the following products:

⊕	HS Chapters 1 to 24 less fish and fish products, plus*		
⊕	HS Code	2905.43	(mannitol)
	HS Code	2905.44	(sorbitol)
	HS Heading	33.01	(essential oils)
	HS Headings	35.01 to 35.05	(albuminoidal substances, modified starches, glues)
	HS Code	3809.10	(finishing agents)
	HS Code	3823.60	(sorbitol n.e.p.)
	HS Headings	41.01 to 41.03	(hides and skins)
	HS Heading	43.01	(raw furskins)
	HS Headings	50.01 to 50.03	(raw silk and silk waste)

HS Headings	51.01 to 51.03	(wool and animal hair)
HS Headings	52.01 to 52.03	(raw cotton, waste and cotton carded or combed)
HS Heading	53.01	(raw flax)
HS Heading	53.02	(raw hemp)

2. The foregoing shall not limit the product coverage of the Agreement on the Application of Sanitary and Phytosanitary Measures.

**The product descriptions in round brackets are not necessarily exhaustive.*

ANNEX 2

DOMESTIC SUPPORT: THE BASIS FOR EXEMPTION FROM THE REDUCTION COMMITMENTS

1. Domestic support measures for which exemption from the reduction commitments is claimed shall meet the fundamental requirement that they have no, or at most minimal, trade-distorting effects or effects on production. Accordingly, all measures for which exemption is claimed shall conform to the following basic criteria:

- (a) the support in question shall be provided through a publicly-funded government programme (including government revenue foregone) not involving transfers from consumers; and,
- (b) the support in question shall not have the effect of providing price support to producers;

plus policy-specific criteria and conditions as set out below.
Government Service Programmes

2. General services

Policies in this category involve expenditures (or revenue foregone) in relation to programmes which provide services or benefits to agriculture or the rural community. They shall not involve direct payments to producers or processors. Such programmes, which include but are not restricted to the following list, shall meet the general criteria in paragraph 1 above and policy-specific conditions where set out below:

- (a) research, including general research, research in connection with environmental programmes, and research programmes relating to particular products;
- (b) pest and disease control, including general and product-specific pest and disease control measures, such as early-warning systems, quarantine and eradication;
- (c) training services, including both general and specialist training facilities;
- (d) extension and advisory services, including the provision of means to facilitate the transfer of information and the results of research to producers and consumers;
- (e) inspection services, including general inspection

services and the inspection of particular products for health, safety, grading or standardization purposes;

(f) marketing and promotion services, including market information, advice and promotion relating to particular products but excluding expenditure for unspecified purposes that could be used by sellers to reduce their selling price or confer a direct economic benefit to purchasers; and

(g) infrastructural services, including: electricity reticulation, roads and other means of transport, market and port facilities, water supply facilities, dams and drainage schemes, and infrastructural works associated with environmental programmes. In all cases the expenditure shall be directed to the provision or construction of capital works only, and shall exclude the subsidized provision of on-farm facilities other than for the reticulation of generally available public utilities. It shall not include subsidies to inputs or operating costs, or preferential user charges.

3. Public stockholding for food security purposes¹

Expenditures (or revenue foregone) in relation to the accumulation and holding of stocks of products which form an integral part of a food security programme identified in national legislation. This may include government aid to private storage of products as part of such a programme.

The volume and accumulation of such stocks shall correspond to predetermined targets related solely to food security. The process of stock accumulation and disposal shall be financially transparent. Food purchases by the government shall be made at current market prices and sales from food security stocks shall be made at no less than the current domestic market price for the product and quality in question.

4. Domestic food aid²

Expenditures (or revenue foregone) in relation to the provision of domestic food aid to sections of the population in need.

Eligibility to receive the food aid shall be subject to clearly-defined criteria related to nutritional objectives. Such aid shall be in the form of direct provision of food to those concerned or the provision of means to allow eligible recipients to buy food either at market or at subsidized prices. Food purchases by the government shall be made at current market prices and the financing and administration of the aid shall be transparent.

5. Direct payments to producers

Support provided through direct payments (or revenue foregone, including payments in kind) to producers for which exemption from reduction commitments is claimed shall meet the basic criteria set out in paragraph 1 above, plus specific criteria applying to individual types of direct payment as set out in paragraphs 6 through 13 below.

Where exemption from reduction is claimed for any existing or new type of direct payment other than those specified in paragraphs 6 through 13, it shall conform to criteria (b) through (e) in paragraph 6, in addition to the general criteria set out in paragraph 1.

6. Decoupled income support
 - (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 base period.
 - (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.
 - (c) The amount of such payments in any given year shall not be related to, or based on, the prices, domestic or international, applying to any production undertaken in any year after the base period.
 - (d) The amount of such payments in any given year shall not be related to, or based on, the factors of production employed in any year after the base period.
 - (e) No production shall be required in order to receive such payments.
7. Government financial participation in income insurance and income safety-net programmes
 - (a) Eligibility for such payments shall be determined by an income loss, taking into account only income derived from agriculture, which exceeds 30 per cent of average gross income or the equivalent in net income terms (excluding any payments from the same or similar schemes) in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry. Any producer meeting this condition shall be eligible to receive the payments.
 - (b) The amount of such payments shall compensate for less than 70 per cent of the producer's income loss in the year the producer becomes eligible to receive this assistance.
 - (c) The amount of any such payments shall relate solely to income; it shall not relate to the type or volume of production (including livestock units) undertaken by the producer; or to the prices, domestic or international, applying to such production; or to the factors of production employed.
 - (d) Where a producer receives in the same year payments under this paragraph and under paragraph 8 (relief from natural disasters), the total of such payments shall be less than 100 per cent of the producer's total loss.
8. Payments (made either directly or by way of government financial participation in crop insurance schemes) for relief from natural disasters
 - (a) Eligibility for such payments shall arise only following 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 which exceeds 30 per cent of the average of production in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry.
 - (b) Payments made following a disaster shall be applied only in respect of losses of income, livestock (including payments in connection with the veterinary treatment of animals), land or other production factors due to the natural disaster in question.
 - (c) Payments shall compensate for not more than the total cost of replacing such losses and shall not require or specify the type or quantity of future production.
 - (d) Payments made during a disaster shall not exceed the level required to prevent or alleviate further loss as defined in criterion (b) above.
 - (e) Where a producer receives in the same year payments under this paragraph and under paragraph 7 (income insurance and income safety-net programmes), the total of such payments shall be less than 100 per cent of the producer's total loss.
9. Structural adjustment assistance provided through producer retirement programmes
 - (a) Eligibility for such payments shall be determined by reference to clearly defined criteria in programmes designed to facilitate the retirement of persons engaged in marketable agricultural production, or their movement to non-agricultural activities.
 - (b) Payments shall be conditional upon the total and permanent retirement of the recipients from marketable agricultural production.
10. Structural adjustment assistance provided through resource retirement programmes
 - (a) Eligibility for such payments shall be determined by reference to clearly defined criteria in programmes designed to remove land or other resources, including livestock, from marketable agricultural production.
 - (b) Payments shall be conditional upon the retirement of land from marketable agricultural production for a minimum of three years, and in the case of livestock on its slaughter or definitive permanent disposal.
 - (c) Payments shall not require or specify any alternative use for such land or other resources which involves the production of marketable agricultural products.
 - (d) Payments shall not be related to either the type or quantity of production or to the prices, domestic or international, applying to production undertaken using the land or other resources remaining in production.

11. Structural adjustment assistance provided through investment aids

- (a) Eligibility for such payments shall be determined by reference to clearly-defined criteria in government programmes designed to assist the financial or physical restructuring of a producer's operations in response to objectively demonstrated structural disadvantages. Eligibility for such programmes may also be based on a clearly-defined government programme for the reprivatization of agricultural land.
- (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.
- (c) The amount of such payments in any given year shall not be related to, or based on, the prices, domestic or international, applying to any production undertaken in any year after the base period.
- (d) The payments shall be given only for the period of time necessary for the realization of the investment in respect of which they are provided.
- (e) The payments shall not mandate or in any way designate the agricultural products to be produced by the recipients except to require them not to produce a particular product.
- (f) The payments shall be limited to the amount required to compensate for the structural disadvantage.

12. Payments under environmental programmes

- (a) Eligibility for such payments shall be determined as part of a clearly-defined government environmental or conservation programme and be dependent on the fulfilment of specific conditions under the government programme, including conditions related to production methods or inputs.
- (b) The amount of payment shall be limited to the extra costs or loss of income involved in complying with the government programme.

13. Payments under regional assistance programmes

- (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.
- (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.
- (c) The amount of such payments in any given year shall

not be related to, or based on, the prices, domestic or international, applying to any production undertaken in any year after the base period.

- (d) Payments shall be available only to producers in eligible regions, but generally available to all producers within such regions.
- (e) Where related to production factors, payments shall be made at a degressive rate above a threshold level of the factor concerned.
- (f) The payments shall be limited to the extra costs or loss of income involved in undertaking agricultural production in the prescribed area.

ANNEX 3

DOMESTIC SUPPORT: CALCULATION OF AGGREGATE MEASUREMENT OF SUPPORT

1. Subject to the provisions of Article 6, an Aggregate Measurement of Support (AMS) shall be calculated on a product-specific basis for each basic agricultural product receiving market price support, non-exempt direct payments, or any other subsidy not exempted from the reduction commitment ("other non-exempt policies"). Support which is non-product specific shall be totalled into one non-product-specific AMS in total monetary terms.
2. Subsidies under paragraph 1 shall include both budgetary outlays and revenue foregone by governments or their agents.
3. Support at both the national and sub-national level shall be included.
4. Specific agricultural levies or fees paid by producers shall be deducted from the AMS.
5. The AMS calculated as outlined below for the base period shall constitute the base level for the implementation of the reduction commitment on domestic support.
6. For each basic agricultural product, a specific AMS shall be established, expressed in total monetary value terms.
7. The AMS shall be calculated as close as practicable to the point of first sale of the basic agricultural product concerned. Measures directed at agricultural processors shall be included to the extent that such measures benefit the producers of the basic agricultural products.
8. Market price support: market price support shall be calculated using the gap between a fixed external reference price and the applied administered price multiplied by the quantity of production eligible to receive the applied administered price. Budgetary payments made to maintain this gap, such as buying-in or storage costs, shall not be included in the AMS.
9. The fixed external reference price shall be based on the years 1986 to 1988 and shall generally be the average f.o.b. unit value for the basic agricultural product concerned in a net exporting country and the average c.i.f. unit value for the basic agricultural product concerned in a net importing country in the base period. The fixed

reference price may be adjusted for quality differences as necessary.

10. Non-exempt direct payments: non-exempt direct payments which are dependent on a price gap shall be calculated either using the gap between the fixed reference price and the applied administered price multiplied by the quantity of production eligible to receive the administered price, or using budgetary outlays.
11. The fixed reference price shall be based on the years 1986 to 1988 and shall generally be the actual price used for determining payment rates.
12. Non-exempt direct payments which are based on factors other than price shall be measured using budgetary outlays.
13. Other non-exempt measures, including input subsidies and other measures such as marketing-cost reduction measures: the value of such measures shall be measured using government budgetary outlays or, where the use of budgetary outlays does not reflect the full extent of the subsidy concerned, the basis for calculating the subsidy shall be the gap between the price of the subsidized good or service and a representative market price for a similar good or service multiplied by the quantity of the good or service.

ANNEX 4

DOMESTIC SUPPORT: CALCULATION OF EQUIVALENT MEASUREMENT OF SUPPORT

1. Subject to the provisions of Article 6, equivalent measurements of support shall be calculated in respect of all basic agricultural products where market price support as defined in Annex 3 exists but for which calculation of this component of the AMS is not practicable. For such products the base level for implementation of the domestic support reduction commitments shall consist of a market price support component expressed in terms of equivalent measurements of support under paragraph 2 below, as well as any non-exempt direct payments and other non-exempt support, which shall be evaluated as provided for under paragraph 3 below. Support at both national and sub-national level shall be included.
2. The equivalent measurements of support provided for in paragraph 1 shall be calculated on a product-specific basis for all basic agricultural products as close as practicable to the point of first sale receiving market price support and for which the calculation of the market price support component of the AMS is not practicable. For those basic agricultural products, equivalent measurements of market price support shall be made using the applied administered price and the quantity of production eligible to receive that price or, where this is not practicable, on budgetary outlays used to maintain the producer price.
3. Where basic agricultural products falling under paragraph 1 are the subject of non-exempt direct payments or any other product-specific subsidy not exempted from the

reduction commitment, the basis for equivalent measurements of support concerning these measures shall be calculations as for the corresponding AMS components (specified in paragraphs 10 through 13 of Annex 3).

4. Equivalent measurements of support shall be calculated on the amount of subsidy as close as practicable to the point of first sale of the basic agricultural product concerned. Measures directed at agricultural processors shall be included to the extent that such measures benefit the producers of the basic agricultural products. Specific agricultural levies or fees paid by producers shall reduce the equivalent measurements of support by a corresponding amount.

ANNEX 5

SPECIAL TREATMENT WITH RESPECT TO PARAGRAPH 2 OF ARTICLE 4

Section A

1. The provisions of paragraph 2 of Article 4 shall not apply with effect from the entry into force of the WTO Agreement to any primary agricultural product and its worked and/or prepared products ("designated products") in respect of which the following conditions are complied with (hereinafter referred to as "special treatment"):
 - (a) imports of the designated products comprised less than 3 per cent of corresponding domestic consumption in the base period 1986-1988 ("the base period");
 - (b) no export subsidies have been provided since the beginning of the base period for the designated products;
 - (c) effective production-restricting measures are applied to the primary agricultural product;
 - (d) such products are designated with the symbol "ST-Annex 5" in Section I-B of Part I of a Member's Schedule annexed to the Marrakesh Protocol, as being subject to special treatment reflecting factors of non-trade concerns, such as food security and environmental protection; and
 - (e) minimum access opportunities in respect of the designated products correspond, as specified in Section I-B of Part I of the Schedule of the Member concerned, to 4 per cent of base period domestic consumption of the designated products from the beginning of the first year of the implementation period and, thereafter, are increased by 0.8 per cent of corresponding domestic consumption in the base period per year for the remainder of the implementation period.
2. At the beginning of any year of the implementation period a Member may cease to apply special treatment in respect of the designated products by complying with the provisions of paragraph 6. In such a case, the Member concerned shall maintain the minimum access opportunities already in effect at such time and increase

the minimum access opportunities by 0.4 per cent of corresponding domestic consumption in the base period per year for the remainder of the implementation period. Thereafter, the level of minimum access opportunities resulting from this formula in the final year of the implementation period shall be maintained in the Schedule of the Member concerned.

3. Any negotiation on the question of whether there can be a continuation of the special treatment as set out in paragraph 1 after the end of the implementation period shall be completed within the time-frame of the implementation period itself as a part of the negotiations set out in Article 20 of this Agreement, taking into account the factors of non-trade concerns.
4. If it is agreed as a result of the negotiation referred to in paragraph 3 that a Member may continue to apply the special treatment, such Member shall confer additional and acceptable concessions as determined in that negotiation.
5. Where the special treatment is not to be continued at the end of the implementation period, the Member concerned shall implement the provisions of paragraph 6. In such a case, after the end of the implementation period the minimum access opportunities for the designated products shall be maintained at the level of 8 per cent of corresponding domestic consumption in the base period in the Schedule of the Member concerned.
6. Border measures other than ordinary customs duties maintained in respect of the designated products shall become subject to the provisions of paragraph 2 of Article 4 with effect from the beginning of the year in which the special treatment ceases to apply. Such products shall be subject to ordinary customs duties, which shall be bound in the Schedule of the Member concerned and applied, from the beginning of the year in which special treatment ceases and thereafter, at such rates as would have been applicable had a reduction of at least 15 per cent been implemented over the implementation period in equal annual instalments. These duties shall be established on the basis of tariff equivalents to be calculated in accordance with the guidelines prescribed in the attachment hereto.

Section B

7. The provisions of paragraph 2 of Article 4 shall also not apply with effect from the entry into force of the WTO Agreement to a primary agricultural product that is the predominant staple in the traditional diet of a developing country Member and in respect of which the following conditions, in addition to those specified in paragraph 1(a) through 1(d), as they apply to the products concerned, are complied with:
 - (a) minimum access opportunities in respect of the products concerned, as specified in Section I-B of Part I of the Schedule of the developing country Member concerned, correspond to 1 per cent of base period domestic consumption of the products concerned from the beginning of the first year of the

implementation period and are increased in equal annual instalments to 2 per cent of corresponding domestic consumption in the base period at the beginning of the fifth year of the implementation period. From the beginning of the sixth year of the implementation period, minimum access opportunities in respect of the products concerned correspond to 2 per cent of corresponding domestic consumption in the base period and are increased in equal annual instalments to 4 per cent of corresponding domestic consumption in the base period until the beginning of the 10th year. Thereafter, the level of minimum access opportunities resulting from this formula in the 10th year shall be maintained in the Schedule of the developing country Member concerned;

- (b) appropriate market access opportunities have been provided for in other products under this Agreement.
8. Any negotiation on the question of whether there can be a continuation of the special treatment as set out in paragraph 7 after the end of the 10th year following the beginning of the implementation period shall be initiated and completed within the time-frame of the 10th year itself following the beginning of the implementation period.
9. If it is agreed as a result of the negotiation referred to in paragraph 8 that a Member may continue to apply the special treatment, such Member shall confer additional and acceptable concessions as determined in that negotiation.
10. In the event that special treatment under paragraph 7 is not to be continued beyond the 10th year following the beginning of the implementation period, the products concerned shall be subject to ordinary customs duties, established on the basis of a tariff equivalent to be calculated in accordance with the guidelines prescribed in the attachment hereto, which shall be bound in the Schedule of the Member concerned. In other respects, the provisions of paragraph 6 shall apply as modified by the relevant special and differential treatment accorded to developing country Members under this Agreement.

Attachment to Annex 5

Guidelines for the Calculation of Tariff Equivalents for the Specific Purpose Specified in Paragraphs 6 and 10 of this Annex

1. The calculation of the tariff equivalents, whether expressed as *ad valorem* or specific rates, shall be made using the actual difference between internal and external prices in a transparent manner. Data used shall be for the years 1986 to 1988. Tariff equivalents:
 - (a) shall primarily be established at the four-digit level of the HS;
 - (b) shall be established at the six-digit or a more detailed level of the HS wherever appropriate;
 - (c) shall generally be established for worked and/or prepared products by multiplying the specific tariff equivalent (s) for the primary agricultural product (s)

by the proportion(s) in value terms or in physical terms as appropriate of the primary agricultural product(s) in the worked and/or prepared products, and take account, where necessary, of any additional elements currently providing protection to industry.

2. External prices shall be, in general, actual average c.i.f. unit values for the importing country. Where average c.i.f. unit values are not available or appropriate, external prices shall be either:
 - (a) appropriate average c.i.f. unit values of a near country; or
 - (b) estimated from average f.o.b. unit values of (an) appropriate major exporter(s) adjusted by adding an estimate of insurance, freight and other relevant costs to the importing country.
3. The external prices shall generally be converted to domestic currencies using the annual average market

exchange rate for the same period as the price data.

4. The internal price shall generally be a representative wholesale price ruling in the domestic market or an estimate of that price where adequate data is not available.
5. The initial tariff equivalents may be adjusted, where necessary, to take account of differences in quality or variety using an appropriate coefficient.
6. Where a tariff equivalent resulting from these guidelines is negative or lower than the current bound rate, the initial tariff equivalent may be established at the current bound rate or on the basis of national offers for that product.
7. Where an adjustment is made to the level of a tariff equivalent which would have resulted from the above guidelines, the Member concerned shall afford, on request, full opportunities for consultation with a view to negotiating appropriate solutions.

¹ 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.

² For the purposes of paragraphs 3 and 4 of this Annex, the provision of foodstuffs at subsidized prices with the objective of meeting food requirements of urban and rural poor in developing countries on a regular basis at reasonable prices shall be considered to be in conformity with the provisions of this paragraph.

APPENDIX 2

**Text of the Ministerial Declaration
on Agriculture adopted at Doha**

NOVEMBER 2001

WORLD TRADE
ORGANIZATION

WT/MIN(01)/DEC/1

20 November 2001

(01-5859)

MINISTERIAL CONFERENCE

Fourth Session, Doha, 9 - 14 November 2001

MINISTERIAL DECLARATION

Adopted on 14 November 2001

Agriculture

13. We recognize the work already undertaken in the negotiations initiated in early 2000 under Article 20 of the Agreement on Agriculture, including the large number of negotiating proposals submitted on behalf of a total of 121 members. We recall the long-term objective referred to in the Agreement to establish a fair and market-oriented trading system through a programme of fundamental reform encompassing strengthened rules and specific commitments on support and protection in order to correct and prevent restrictions and distortions in world agricultural markets. We reconfirm our commitment to this programme. Building on the work carried out to date and without prejudging the outcome of the negotiations we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. We agree that special and differential treatment for developing countries shall be an integral

part of all elements of the negotiations and shall be embodied in the schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development. We take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture.

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

APPENDIX 3

AGRICULTURE: NEGOTIATIONS

Modalities phase: first draft

This is the first draft of the "modalities" paper, circulated to member governments on 12 February 2003, ahead of the 24-28 February negotiations meetings.

The draft focuses the negotiations on bridging differences – the search for the compromises that are necessary for a final agreement. Previously, delegations concentrated on spelling out what they wanted rather than on narrowing the gaps between them.

The "modalities" are targets (including numerical targets) for achieving the objectives of the negotiations, as well as issues related to rules. Due to be completed by 31 March 2003, they will set parameters of the final agreement to be reached by 1 January 2005.

In preparing this first draft, the negotiations' chairperson, Stuart Harbinson, drew on the 18 December 2002 overview paper, which was reviewed at a negotiations session of the Agriculture Committee on 22-24 January 2003. This in turn, was based on proposals made in the agriculture negotiations between March and December 2002.

TN/AG/W/1
17 February 2003

Committee on Agriculture
Special Session

NEGOTIATIONS ON AGRICULTURE FIRST DRAFT OF MODALITIES FOR THE FURTHER COMMITMENTS

INTRODUCTION

1. Under the programme adopted by the Special Session of the Committee on Agriculture on 26 March 2002, the Chairman is required to prepare the first draft of modalities for further commitments for circulation in advance of the Special Session to be held on 24-28 February 2003 (TN/AG/1 refers). In accordance with this requirement, the Chairman submits herewith this first draft on his own responsibility.
2. The draft is based on the work carried out during the series of formal and informal Special Sessions of the Committee on Agriculture and related intersessional and technical consultations conducted in accordance with the mandate provided by Ministers at Doha and the programme thereunder as adopted by the Special

Session on Agriculture on 26 March 2002. Paragraphs 13 and 14 of the Doha Ministerial Declaration provide (WT/MIN(01)/DEC/1 refers):

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

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

3. This draft should also be seen against the background of the Chairman's recent references to the difficulty participants have so far had in building bridges between widely divergent positions and to the consequent lack of guidance on approaches to solutions. It therefore represents no more than a first attempt to identify possible paths to solutions. It does not claim to be agreed in whole or in any part and is without prejudice to the positions of participants.
4. Square brackets are used in a number of places for a variety of purposes, such as to put forward figures for indicative purposes, to suggest alternatives, or possible formulations. Where text is not in square brackets, this does not convey any degree of acceptance. In a few areas, the text has not been fully elaborated and any resulting unevenness may need to be ironed out. Based on the third sentence of paragraph 14 of the Doha Ministerial Declaration, not all of the elements of the draft and its attachments may need to be finalised in detail by 31 March 2003, bearing in mind that negotiations will continue well beyond that date. Further consultations on these matters will be arranged.
5. It is the Chairman's earnest hope that this first draft will stimulate further and immediate, meaningful and serious negotiations between participants, so as to enable an improved second draft to be prepared in March.

GENERAL PROVISIONS AND TERMS

6. Unless otherwise specified below, the following general provisions and terms shall apply:
 - (a) Product coverage
The product coverage as specified in Annex 1 of the Agreement on Agriculture shall apply (hereafter referred to as "agricultural products").
 - (b) "Year"
"Year" in relation to the specific commitments of a Member refers to the calendar year, financial or marketing year specified in the Schedule relating to that Member.
 - (c) "Commitment"
The term "commitment" includes concessions.
 - (d) Starting-point of reduction commitments
The starting-point for the first instalment of the reduction commitments in all areas shall be the beginning of year 1 of the respective implementation periods. Subsequent reductions shall be made at the beginning of each of the following implementation years.

MARKET ACCESS

Tariffs

7. Tariffs, except in-quota tariffs, shall be reduced by a simple average for all agricultural products subject to a minimum reduction per tariff line. The base for the

reductions shall be the final bound tariffs as specified in the Schedules of Members. Except as provided in paragraph 14 below, the tariff reductions shall be implemented in equal annual instalments over a period of [five] years, applying the following formula:

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

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

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

Special and Differential Treatment

9. In implementing their market access commitments, developed country Members should take fully into account the particular needs and conditions of developing country Members by providing for greater improvement of opportunities and terms of access for agricultural products of particular interest to these Members, including the fullest liberalization of trade in tropical products, whether in primary or in processed form, and for products of particular importance to the diversification of production from the growing of illicit narcotic crops, or crops whose non-edible or non-drinkable products, while being lawful, are recognized [by WHO] as being harmful for human health.
10. Developing countries shall have the flexibility to declare up to [] agricultural products at the [6-digit] HS level as being strategic products with respect to food security, rural development and/or livelihood security concerns and designate these products with the symbol "SP" in Section I-B of Part I of their Schedules (hereafter referred to as "SP products"). For all agricultural products other than SP products, the reduction commitments of developing countries shall be implemented applying the following formula:

- Ⓐ For all agricultural tariffs greater than [120 per cent *ad valorem*] the simple average reduction rate shall be [40] per cent subject to a minimum cut of [30] per cent per tariff line.
 - Ⓑ For all agricultural tariffs lower than or equal to [120 per cent *ad valorem*] and greater than [20 per cent *ad valorem*] the simple average reduction rate shall be [33] per cent subject to a minimum cut of [23] per cent per tariff line.
 - Ⓒ For all agricultural tariffs lower than or equal to [20 per cent *ad valorem*] the simple average reduction rate shall be [27] per cent subject to a minimum cut of [17] per cent per tariff line.
11. Where participants apply non-*ad valorem* tariffs, the provisions of paragraph 8 above apply.
 12. The simple average reduction rate for all SP products shall be [10] per cent subject to a minimum cut of [5] per cent per tariff line [, except for SP products for which a developing country opts to have access to the special safeguard provisions under paragraph 24 below].
 13. In all cases, the base for the reductions shall be the final bound tariffs as specified in the Schedules of Members. The reduction commitments shall be implemented in equal annual instalments over a period of [ten] years.

Preferential Schemes

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

Tariff Quotas

Tariff Quota Volume

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

consumption, provided that the volumes for a corresponding number of tariff quotas concerned are expanded to [12] per cent.

16. In calculating domestic consumption participants shall use, where applicable, the same definitions and method applied when establishing the Uruguay Round base levels. "Current" domestic consumption means the average consumption of the period 1999-2001 or of the most recent three-years period for which data are available. Full details of the method and data used for the calculations of domestic consumption for the products concerned shall be included in the tables of supporting material for the draft Schedules and shall be subject to multilateral review.
17. The expansion of tariff quota volumes shall be implemented in equal instalments over a period of [five] years. The starting-point for implementing the expansion of tariff quotas shall be the beginning of year 1 of the implementation period. Additional market access opportunities provided by the expansion of tariff quotas shall be on an MFN basis.

Special and differential treatment

18. Developing countries shall not be required to expand tariff quota volumes for SP products. For other agricultural products, final bound tariff quota volumes as specified in Members' Schedules which are equivalent to less than [6.6] per cent of "current" domestic consumption of the product concerned shall be expanded to that level. However, for up to one-quarter of the total number of tariff quotas concerned a Member may opt for binding the tariff quota volume at a level equivalent to [5] per cent of that consumption, provided that the volumes for a corresponding number of tariff quotas concerned are expanded to [8] per cent.
19. The modalities in paragraphs 16 and 17 above apply, except that the commitments by developing countries shall be implemented over a period of [ten] years.

In-quota Tariffs

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

Special and differential treatment

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

Tariff Quota Administration

22. The administration of tariff quotas shall be subject to

disciplines as outlined for further consideration in Attachment 1 to this document.

Special Safeguard Provisions

Article 5 of the Agreement on Agriculture

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

Special and differential treatment

24. For SP products [subject to tariff reductions in accordance with paragraph 10 above], developing countries shall have the flexibility to apply a special safeguard mechanism to be based on the provisions of Article 5 of the Agreement on Agriculture. This right shall be reserved by designating in their Schedules with the symbol "SSM" the products concerned. Only products designated in this way in the Schedule, as well as items already currently covered and designated with the symbol "SSG", shall be eligible for measures under Article 5.
25. Participants undertake to review the provisions of Article 5 of the Agreement on Agriculture with a view to ensuring that these provisions are operationally effective and enable developing countries to effectively take account of their development needs, including food security, rural development and livelihood security concerns. This review shall take into account the various proposals on possible safeguard mechanisms submitted by developing countries in the negotiations under the Doha Development Agenda and shall be completed no later than [].

State Trading Import Enterprises

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

Other Market Access Issues

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

EXPORT COMPETITION

Export Subsidies

28. The basis for the further commitments on export subsidies shall be the final bound budgetary outlay and quantity commitment levels as specified in Members' Schedules.
29. For a set of agricultural products representing at least [50]

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

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

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

with

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

30. At the beginning of [year 6], budgetary outlays and quantities shall be reduced to zero.
31. For the remaining products, final bound levels of budgetary outlays and quantities as specified in Members' Schedules should be reduced over [nine years (n = 9)] using the formulae (1) and (2) above. However, for these products the constant factor c shall equal [0.25]. At the beginning of [year 10], budgetary outlays and quantities for these products shall be reduced to zero.

Special and differential treatment

32. For a set of agricultural products representing at least [50] per cent of the aggregate final bound level of budgetary outlays for all products subject to export subsidy commitments, final bound levels of budgetary outlays and quantities as specified in developing country Members' Schedules shall be reduced over [ten years (n = 10)] using the formulae (1) and (2) above, with the constant factor c equal to [0.25]. At the beginning of [year 11], budgetary outlays and quantities shall be reduced to zero.
33. For the remaining products, final bound levels of budgetary outlays and quantities as specified in developing country Members' Schedules should be reduced over [twelve years (n = 12)] using the formulae (1) and (2) above. However, for these products the constant factor c shall equal [0.2]. At the beginning of [year 13], budgetary outlays and quantities for these products shall be reduced to zero.
34. The exemptions for developing countries under Article 9.4 for the transport and marketing subsidies set out in Article 9.1(d) and (e) of the Agreement on Agriculture shall be maintained for the time of the implementation period of the further export subsidy commitments to be undertaken by developing countries.

Export Credits

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

Food Aid

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

State Trading Export Enterprises

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

Export Restrictions and Taxes

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

Special and differential treatment

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

DOMESTIC SUPPORT Annex 2 of the Agreement on Agriculture (Green Box)

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

Special and differential treatment

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

Article 6.2 of the Agreement on Agriculture

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

Article 6.5 of the Agreement on Agriculture (Blue Box)

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

Special and differential treatment

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

Amber Box

45. The final bound Total AMS shall be reduced by [60] per cent in equal annual instalments over a period of [five] years.
46. Article 6.3 of the Agreement on Agriculture shall be amended so as to ensure that the AMS for individual products shall not exceed the respective levels of such support provided on average of the years [1999-2001].

Special and differential treatment

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

Other matters

Inflation

48. Scheduled Total AMS commitments may be expressed in national currency, a foreign currency or a basket of currencies. In case a foreign currency or a basket of currencies is used and the final bound Total AMS in a Member's Schedule is expressed in national currency (or another foreign currency) and a participant wants to avail itself of this option, the final bound Total AMS shall be converted using the average exchange rate(s) as reported by the IMF for the year at issue.
49. The provisions of Article 18.4 shall be maintained.

Article 6.4 of the Agreement on Agriculture (de minimis)

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

Special and differential treatment

51. The *de minimis* level of 10 per cent under subparagraph (b) of Article 6.4 of the Agreement on Agriculture shall be maintained.
52. [Developing countries shall have the flexibility to credit any negative product-specific support to the non-product-specific *de minimis* support.]

LEAST-DEVELOPED COUNTRIES

53. In addition to the special and differential treatment provisions above, least-developed countries shall not be required to undertake reduction commitments. [However,

they are encouraged to consider making commitments commensurate with their development needs on a voluntary basis.]

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

OTHERS

Recently Acceded Members

55. [Members that have recently acceded to the WTO shall have the flexibility to begin the implementation of the further commitments regarding tariffs, tariff quotas, export subsidies and trade-distorting domestic support [two] years following the expiry of the full implementation of their accession commitments under the Agreement on Agriculture. The respective implementation periods shall be adjusted accordingly.]

Others

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

Final Note

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

ATTACHMENT 1

Tariff Quota Administration

Draft for further consideration of possible disciplines regarding tariff quota administration

1. Tariff concessions in Part I of a Member's Schedule which are limited to specified quantities or values of a product or products ("tariff quota commitments") shall be administered in conformity with the provisions of this Article and, subject to these provisions, in accordance with other relevant WTO provisions, including those of the Agreement on Import Licensing Procedures.
2. Tariff quota commitments shall be administered in a manner which ensures that the market access opportunities represented by such commitments are made fully and effectively available. To this end the following general requirements shall be complied with:
 - (a) Tariff quota commitments shall be administered in a

transparent and predictable manner and, to maximum practicable extent, in the same way as other tariff concessions.

- (b) Domestic purchasing requirements or other measures having the same effect shall not be imposed, directly or indirectly, on or in connection with importation of tariff quota products.
 - (c) Except as specifically described in Schedules, no seasonal restrictions shall be imposed on imports under tariff quotas.
 - (d) A tariff quota commitment shall not be administered in a manner which precludes the importation of any product within the tariff description of the commitment, or which restricts importation of such products in processed form or for sale to final consumers.
 - (e) Methods of tariff quota administration shall not be employed which result in the attribution to importers of commercially non-viable allotments.
 - (f) Only imports of tariff quota products from mfn suppliers shall be credited as imports against tariff quota commitments.
 - (g) Export or re-export requirements shall not be imposed in connection with the importation of tariff quota products.
 - (h) An importer shall be treated no less favourably than another on the basis of degree of foreign affiliation or ownership.
 - (i) No charges, deposits or other financial requirements shall be imposed, directly or indirectly, on or in connection with the administration of tariff quota commitments or with importation of tariff quota products other than as permitted under the GATT 1994.
3. The following specific requirements shall apply to the methods of tariff quota administration referred to hereunder ("year" in this context refers to the calendar, marketing or other annual basis to which the commitment relates as specified in a Member's Schedule):
- (a) In the case of tariff-only methods of administration and methods not requiring import licences as a condition of importation: access opportunities shall be made available from the beginning of the year concerned and timely advance public notice shall be given of any suspension of the opportunity to import at the in-quota rate of tariff.
 - (b) In the case of methods of administration under which import licences are a requirement:
 - (i) The total quantity or value of a tariff quota shall be allocated to importers sufficiently in advance of the year to which they relate so as to enable imports to be effected from the beginning of that year and to facilitate imports from developing countries and distant suppliers.
 - (ii) No restrictions shall be applied with respect to retail distributors and other end-users applying for

and being allotted shares of tariff quotas. Nor shall conditions or formalities be imposed which would prevent any importer from utilising fully the share which has been allocated to it within the period of validity of the corresponding import licence.

(iii) Tariff quota licences shall be valid for a period of [eight] months and shall not be transferable without the concurrence of the administering authority.

(iv) The quantity or value of any tariff quota commitment which remains unused following the expiry of the period of validity of the licences initially issued in connection with that tariff quota shall be reallocated in time to enable importation before the end of the year concerned.

(c) In the case of allocation of tariff quota shares to supplying countries: where an allocated country-specific share remains unused or is consistently under-utilised, such unused or under-utilised share shall be re-allocated to non-traditional suppliers.

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

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

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

ATTACHMENT 2

State Trading Import Enterprises

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

3 (a) Members shall ensure that state trading import enterprises are operated in conformity with the

provisions of this Article and, subject to these provisions, in accordance with Article XVII and other relevant provisions of GATT 1994, this Agreement and other WTO agreements. For the purposes of this Article, state trading import enterprises shall include any governmental or non-governmental enterprise, including a marketing board, which has been granted or which enjoys de facto as a result of its governmental or quasi governmental status, exclusive or special rights, privileges or advantages, including any statutory or constitutional powers, in the exercise of which or by virtue of which such state trading import enterprises (hereinafter referred to as "governmental import enterprises") influence through their purchases and sales the level, direction or prices of exports.

(b) Members shall ensure that governmental import enterprises are not operated in such a way as to nullify or impair the benefits of market access concessions and of the commitments relating to non-tariff measures under Article 4.2 of this Agreement.

(c) Any Member which establishes or maintains a governmental import enterprise shall notify relevant information on the operations of that enterprise in accordance with a format and at intervals to be established by the Committee on Agriculture.

(d) The disciplines regarding governmental import enterprises shall not unduly impede developing countries in the pursuit of their legitimate food and livelihood security and rural development objectives. The notification requirements to be established under sub-paragraph (c) above shall provide for appropriate special and differential treatment for developing countries.

ATTACHMENT 3

Illustration of the Operation of the Export Subsidy Reduction Formula

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

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

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

with

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

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

Export subsidy reduction formula

(Base level = 100 per cent of final bound level of budgetary outlays/quantities)

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

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

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

Base level $Q_0 = 500$ tonnes

"current" bound level in year 1, ..., 3

Year	in tonnes	in per cent of base level (Column 5 of table above)
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1 $Q_1 = Q_0 - c \cdot Q_0 = 500 - 0.3 \cdot 500 = 350$ 70.0

2 $Q_2 = Q_1 - c \cdot Q_1 = 350 - 0.3 \cdot 350 = 245$ 49.0

3 $Q_3 = Q_2 - c \cdot Q_2 = 245 - 0.3 \cdot 245 = 171.5$ 34.3

and so forth.

ATTACHMENT 4

Export Credits

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

General

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

Forms and providers of export financing support subject to discipline

2. Export financing support that is subject to the provisions of this Article includes:
- direct financing support, comprising direct credits/financing, refinancing, and interest rate support;
 - risk cover, comprising export credit insurance or reinsurance and export credit guarantees;
 - 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;
 - any other form of governmental support, direct or indirect, including deferred invoicing and foreign exchange risk hedging.
3. The provisions of this Article shall be applicable to export financing support provided by or on behalf of: government departments, agencies, or statutory bodies, at both the national and sub-national levels; any financial institution or entity engaged in export financing in which there is governmental participation by way of equity, provision of loans or underwriting of losses; any governmental or non-governmental enterprise, including a marketing board, which has been granted or enjoys de facto exclusive or special rights, privileges or financing advantages, including statutory or constitutional powers, in the exercise of which or by virtue of which support for or in connection with the financing of exports is provided; and any bank or other private financial, credit insurance or guarantee institution which acts on behalf of or at the direction of governments or their agencies.

Terms and conditions

4. Export financing support which is provided in conformity with the following terms and conditions shall be deemed to comply with paragraph 1 above:
- Maximum repayment term: the maximum repayment term of a supported export credit shall not exceed the period beginning at the starting point of credit and ending on the contractual date of the final

payment. The "starting point of a credit" shall be no later than the weighted mean date or actual date of the arrival of the goods in the recipient country for a contract under which shipments are made in any consecutive six-month period. The following maximum repayment terms shall be respected:

(i) for breeding cattle: [] months for contracts up to and including []; and [] months for contracts exceeding [];

(ii) for agricultural vegetable reproduction material: [] months;

(iii) for exports of agricultural products to developing countries, as specified in paragraph 9 (a) below: [.. months];

(iv) for exports of basic foodstuffs to least-developed and for net food-importing developing countries as listed in document G/AG/5/Rev.5, as specified in paragraph 10 (a) below;

(v) for all other products and destinations: [six months/180 days].

- (b) Cash payments: a minimum cash payment shall be required to be paid, by or on behalf of the importer, at or before the starting point of the supported credit, representing not less than [15] per cent of the total amount of the contract/shipment value but excluding interest as defined in sub-paragraph (c) below. Cash payments shall not be financed.
- (c) Payment of interest: in the case of direct financing support, "interest" excludes premiums and other charges for insuring or guaranteeing supplier or financial credits, banking fees or commissions relating to the export credit, and withholding taxes imposed by the importing country. Interest shall be payable. Where the repayment term exceeds 180 days, interest shall be payable not less frequently than every six months, with the first payment to be made no later than six months after the starting point of export financing.
- (d) Minimum interest rates: interest rates in respect of direct financing support shall not be below the actual cost of borrowing for the funds so employed (including the cost of funds if capital was borrowed on international capital markets in order to obtain funds of the same maturity), plus an appropriate risk-based spread reflective of prevailing market conditions: provided however that, for repayment terms of twenty-four months or longer, Members shall use Commercial Interest Reference Rates (CIRRs) as published by the OECD, plus an appropriate risk-based spread reflective of prevailing market conditions.
- (e) Repayment of principal: the principal sum (transaction value minus cash payment) of an export credit shall be repayable in equal, regular six-monthly instalments starting not later than six months after the starting point of the credit.
- (f) Premiums in respect of coverage of risks under export credit insurance, reinsurance and export credit guarantees: premiums shall be charged, shall be risk-based and shall be adequate to cover long term operating costs and

losses. Premium shall be expressed in percentages of the outstanding principal value of the credit, shall be payable in full at the date of issuance of cover and shall not be financed. Premium rebates shall not be accorded. Furthermore, support in the form of export credit insurance, reinsurance or guarantees shall not be provided in respect of export financing contracts whose terms and conditions are not otherwise in conformity with the provisions of this paragraph.

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

Non-conforming financing support

5. Export financing supports which do not conform with all the relevant the provisions of paragraph 4 of this Article, hereinafter referred to as "non-conforming export financing", constitute export subsidies for the purposes of this Agreement and are subject to specific export financing reduction commitments under this Article.
6. The commitment for each year of the implementation period, as specified in Part IV, Section IV, of a Member's Schedule, represent with respect to non-conforming financing support:
- (a) in the case of scheduled reduction commitments relating to the value of non-conforming export financing support, the maximum level of such financing support in value terms, that may be provided in that year in respect of the agricultural product, or group of products concerned;
- (b) in the case of scheduled quantity reduction commitments, the maximum quantity of an agricultural product, or group of products, in respect of which non-conforming export financing may be provided in that year; and
- (c) in the case of commitments relating to repayment terms, the maximum and degressive non-conforming repayment terms that may be supported in each successive year of the specified implementation period.

Emergency exception

7. An emergency situation is defined as a sudden, significant and unusual deterioration in a Member country's economy

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

Transparency and notification

8. No later than three months after the entry into force of this Article each Member shall submit a notification concerning that Member's export financing programmes, export financing bodies and other related matters in accordance with the format specified in Annex [] hereto. This notification shall be updated at the beginning of each subsequent year. At not less than [] monthly intervals Members shall submit a notification to the Committee on Agriculture in which details are provided of export financing commitments entered into in accordance with the format specified in Annex [...] hereto. Least-developed developing country Members shall not be required to submit such notifications. [Note: the Annexes referred to in this paragraph to be developed at the appropriate stage.]

Special and differential treatment

9. In respect of imports of agricultural products, special and differential treatment in favour of developing country Members shall comprise:
 - (a) longer maximum repayments terms of up to [] months;
 - (b) repayment of the principal sum in equal and regular instalments not less frequently than annually, with the first payment due no later than twelve months after the starting point of credit;
 - (c) payment of interest not less frequently than annually, with the first interest payment to be made no later than twelve months after the starting point of credit.
10. In respect of imports of basic foodstuffs least-developed developing countries and net food-importing developing countries as listed in G/AG/5/Rev.5 shall be accorded:
 - (a) additional longer maximum repayment terms of up to [] months;
 - (b) differential and more favourable interest rates and/or premiums.
11. Developing country Members providing direct export financing support may use London Interbank Offered Rates (Libor rates) and CRRs, plus an appropriate risk-based spread, as minimum interest rate benchmarks.

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

Other Matters

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

ATTACHMENT 5

Article 10.4 of the Agreement on Agriculture

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

4. (a) Members donors of international food aid, whether in kind or in the form of financial grants to be used to purchase food for or by the recipient country, shall ensure:
 - (i) that, in the case of food aid to meet or relieve emergency or critical food needs arising from natural disasters, crop failures or humanitarian crises and post-crisis situations, such aid is granted in response to appeals from specialised United Nations food aid agencies, from non-governmental humanitarian organisations or private charitable bodies, or in response to bilateral government-to-government requests for emergency food aid relief;
 - (ii) that food aid for other purposes, including under projects or programmes to enhance nutritional standards amongst vulnerable groups in least-developed and net food-importing developing countries, is provided exclusively in the form of untied financial grants to be used to purchase food for or by the recipient country: except that such food aid may be provided in-kind within the framework of projects and programmes operated by specialised United Nations food aid agencies or on behalf of such specialised agencies through non-governmental humanitarian organisations or private charitable bodies;
 - (iii) that food aid is provided exclusively in fully grant form;
 - (vi) that the provision of food aid is not tied directly or indirectly, formally or informally, explicitly or

implicitly, to commercial exports of agricultural products or of other goods and services to recipient countries.

- (b) Members shall ensure that their food aid transactions are carried out in accordance with the procedures under the FAO "Principles of Surplus Disposal and Consultative Obligations", including, where appropriate, the system of "Usual Marketing Requirements". Any Member may raise any matter relating to a donor Member's compliance with these principles and requirements under Article 18.6 of this Agreement.
- (c) Members which are recipients of food aid undertake not to re-export such food aid otherwise than as part of a triangular food aid transaction initiated by a specialised United Nations food aid agency.
- (d) Members shall report on the form in which food aid is provided, as well as on the products, amounts, destinations, channelling and other relevant terms and conditions of their food aid operations, on the basis of a format and at intervals to be established by the Committee on Agriculture.
- (e) Food aid transactions which are not in conformity with the provisions of sub-paragraph (a) above and which cannot be accommodated within limits of a Member's export subsidy reduction commitments shall be deemed for the purposes of Article 10.1 of this Agreement to constitute non-commercial transactions which circumvent that Member's export subsidy commitments.

ATTACHMENT 6

State Trading Export Enterprises

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

- 5. (a) Members shall ensure that state trading export enterprises are operated in conformity with the provisions of this Article and, subject to these provisions, in accordance with Article XVII and other relevant provisions of GATT 1994, this Agreement and other WTO agreements. For the purposes of this Article, state trading export enterprises include any governmental or non-governmental enterprise, including a marketing board, which has been granted or which enjoys de facto as a result of its governmental or quasi-governmental status, exclusive or special rights, privileges or advantages, including any statutory or constitutional powers, in the exercise of which or by virtue of which such state trading export enterprises (hereinafter referred to as "governmental export enterprises") influence through their purchases and sales the level, direction or prices of exports.
- (b) Members shall ensure that governmental export enterprises are not operated in such a way as to circumvent export subsidy commitments under this Agreement nor in such a manner that would nullify or impair the conditions of competition in world export markets that would prevail in the absence of

such special rights, privileges or advantages. To this end Members undertake:

- (i) to ensure that exports of a product by a governmental export enterprise do not take place at a price less than the price paid by such an enterprise to the domestic producers of the product concerned;
 - (ii) not to restrict the right of any interested entity to export, or to purchase for export, agricultural products;
 - (iii) not to grant special financing privileges, including government grants, loans, loan guarantees, or underwriting of operational costs, to governmental export enterprises that export for sale, directly or indirectly, a significant share of the respective Member's total exports of an agricultural product.
- (c) The provisions of sub-paragraph (b) above, other than (b) (i), shall not apply to developing country Members.
 - (d) The provisions of sub-paragraph (b) (ii) above shall enter into force progressively on the basis of a plan to be negotiated and specified in Part IV, Section V of the Schedule of the Member concerned.
 - (e) Any Member which establishes or maintains a governmental export enterprise shall notify relevant information on the operations of that enterprise in accordance with a format and at intervals to be established by the Committee on Agriculture.

ATTACHMENT 7

Annex 2 of the Agreement on Agriculture

Possible amendments for further consideration (changes in italics)

- 1. Addition to paragraphs 5, 6, 11 and 13:
Reference to base periods
Payments shall be based on activities in a fixed and unchanging historical base period. All base periods shall be notified.
- 2. Modification of subparagraphs 7(a), (b) and (c):
Compensation criteria with respect to government financial participation in income insurance and income safety-net programmes.
 - (a) Eligibility for such payments shall be determined by an income loss, taking into account only income derived from agriculture, which exceeds 30 per cent of average gross income or the equivalent in net income terms (excluding any payments from the same or similar schemes) in the preceding three to five-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry. Any producer meeting this condition shall be eligible to receive the payments from the government.
 - (b) The amount of such payments by governments shall restore a producer's income to no more than 70 per

cent of income derived by that producer from agriculture in the averaging period used to trigger eligibility for payment.

- (c) The amount of any such payments shall relate solely to income derived from agriculture of the farm enterprise as a whole; it shall not relate to the type or volume of production (including livestock units) undertaken by the producer; or to the prices, domestic or international, applying to such production; or to the factors of production employed.

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

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

- (a) Eligibility for such payments shall arise:

· in the case of disasters: only following a formal recognition ... excluding the highest and lowest entry.

· in the case of government financial participation in crop insurance schemes: eligibility for such payments shall be determined by a production loss which exceeds 30 per cent of the average of production in an actuarially appropriate period.

· in the case of the destruction of animals or crops to control or prevent diseases named in national legislation or international standards: the production loss may be less than the 30 per cent of the average of production referred to above.

- (b) Payments made under paragraph 8 shall be applied only in respect of losses of income, livestock (including payments in connection with the veterinary treatment of animals), land or other production factors due to the natural disaster or destruction of animals or crops in question.

- (c) Payments made under paragraph 8 shall not exceed the level required to prevent or alleviate further loss as defined in criterion (b) above.

4. Modification of subparagraph 9 (b) :

Structural adjustment assistance provided through producer retirement programmes

Payments shall be conditional upon the total and permanent retirement of the recipients from marketable agricultural production or lending of land for a longer period than [x] years. Payments shall be time limited.

5. Addition at the end of subparagraph 10 (d) :

Structural adjustment assistance provided through resource retirement programmes

- (d) Payments shall not ... remaining in production. Payments shall be time limited.

6. Addition at the end of subparagraph 11 (a), modification of subparagraph 11 (b), and inclusion of new subparagraph 11 (b) bis

Structural adjustment assistance provided through investment aids

- (a) Such structural disadvantages must be clearly defined.

- (b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production or inputs into the production (including livestock units) ... (b bis) The amount of such payments in any given year shall not be related to, or based on, the use of factors of production in any given year after the base period.

7. Modification of scope of paragraph 12 (heading) and/or of subparagraphs 12 (a) and (b) :

Payments under environmental programmes/animal welfare payments

- (a) Eligibility for such payments shall be determined as part of a clearly-defined government (...) programme and be dependent on the fulfilment of specific conditions under the government programme [.]

- (b) The amount of payment shall be less than the extra costs involved in complying with the government programme and not be related to or based on the volume of production.

ATTACHMENT 8

Annex 2 of the Agreement on Agriculture

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

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

Public stockholding for food security purposes

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

2. Inclusion of new paragraph 6 bis:

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

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

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

· Total consumption of such crop shall account for no less than [Y] per cent of the total domestic consumption of agricultural products in terms of calorie intake; or

· Total export of such crop shall account for no less than [Z] per cent of the total export of a particular country.

- (c) The amount of payment shall be limited to the

minimum to maintain domestic production capacity of such crop of the Member concerned.

3. Inclusion of new paragraph 6 ter:

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

- (a) *Eligibility for such payments shall be determined by reference to clearly defined criteria in government programmes designed to provide support for small scale family farms.*
- (b) *Small scale farms shall be defined in national legislation, taking into account such factors as total annual sales, share of hired farm labour, off-farm income, etc.*
- (c) *The amount of such payment shall be limited to the minimum level for continued existence of such farms based on the purpose of maintaining rural viability and cultural heritage.*
- (d) *The payment shall not mandate or in any way designate the agricultural products to be produced by the recipients.*

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

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

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

5. Modification of subparagraph 8(a):

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

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

6. Modification of subparagraph 10(b):

Structural adjustment assistance provided through resource retirement programmes

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

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

Payments under regional assistance programmes

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

ATTACHMENT 9

Article 6.2 of the Agreement on Agriculture

*Possible amendments for further consideration (changes in **italics**)*

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

- (i) investment subsidies which are generally available to agriculture
- (ii) agricultural input subsidies generally available to low-income or resource-poor producers
- (iii) domestic support to producers to encourage diversification from growing illicit narcotic crops or those whose non-edible or non-drinkable products, being lawful, are recognized [by WHO] as harmful for human health
- (iv) subsidies for concessional loans through established credit institutions or for the establishment of regional and community credit cooperatives
- (v) transportation subsidies for agricultural products and farm inputs to remote areas
- (vi) on-farm employment subsidies for families of low-income and resource-poor producers

- (vii) government assistance for conservation measures*
- (viii) marketing support programmes and programmes aimed at compliance with quality and sanitary and phytosanitary regulations*
- (ix) capacity building measures with the objective of enhancing the competitiveness and marketing of low-income and resource-poor producers*

- (x) government assistance for the establishment and operation of agricultural cooperatives*
- (xi) government assistance for risk management of agricultural producers and savings instruments to reduce year-to-year variations in farm incomes*

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

APPENDIX 4

MODALITIES

26 March 2002 to 31 March 2003

Timetable

2002

- **June meeting: export subsidies and restrictions** (informal 17-19 June, formal 20 June)
- **Early September meeting: market access** (informal 2-3 September, formal 6 September)
- **Late September meeting: domestic support** (informal 23-25 September, formal 27 September)
- **November meeting: follow-up** (informal 18-20 November, formal 22 November)
- **After that, for circulation by 18 December: overview paper** drafted by Chairperson Harbinson, based on discussions so far.

2003

- **January meeting: comprehensive review based on overview paper** (informal/formal 22-24 January)
- **Drafting: first draft** of modalities document
- **February meeting: comments on first draft** (informal/formal 24-28 February)
- **Redrafting: second draft** of modalities document
- **March meeting: consideration of final text** (informal/formal 25-31 March)
- **31 March: deadline**

The Doha mandate (from the Doha Ministerial Conference, November 2001) > [back to top](#)

Deadlines:

- 31 March 2003: formulas and other "modalities" for countries' commitments
- Fifth Ministerial Conference, Mexico, 2003: countries' comprehensive draft commitments and stock taking
- 1 January 2005: Deadline for concluding negotiations, part of single undertaking

Phase 2

(26-27 March 2001 to 4-7 February 2002)

Launched at the 26-27 March 2001 stock-taking meeting.

Phase 2 meetings

- **21-23 May 2001 informal meeting** (tariff quota administration, tariffs, amber box)
- **23-25 July 2001 informal meeting** (export subsidies, export credits, state trading enterprises, export taxes and restrictions, food security, food safety)
- **24-26 September 2001 informal meeting** (rural development, geographical indications, green box, blue box, agricultural safeguards); **28 September formal meeting**
- **3-4 December 2001 informal meeting** (environment, trade preferences, food aid, consumer information and labelling, sectoral initiatives); **7 December formal meeting**
- **4-6 February 2002 informal meeting**: the development box, single commodity producers, special and differential treatment, small island developing countries, and "other issues". **7 February formal meeting**, ended Phase 2

Phase 1

(23-24 March 2000 to 26-27 March 2001)

- 7 meetings
- 45 proposals
- 4 documents described as notes, technical submissions, discussion papers
- proposals from **121** countries (counting the EU as 16, i.e. the 15 countries plus the EU as a group) or **85%** of the WTO's membership; or, including technical submissions, from 126 countries, 89% of the WTO's membership.