# WORLD TRADE

# **ORGANIZATION**

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**Committee on Agriculture Special Session** 

# REVISED DRAFT MODALITIES FOR AGRICULTURE

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

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

# REVISED DRAFT MODALITIES FOR AGRICULTURE

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

It is in the form (roughly but not entirely) of a draft text. It is, therefore, inevitably a technical-looking document. For that reason, it is still not an easy read to the layperson. It has to be like that. To anyone that cares to compare it with the original draft, it represents considerable progress in my view. But there is a reason for that. Despite all the setbacks, failures and deadlocks that we have experienced over the past year, the underlying fact remains that under the surface very

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

# REVISED DRAFT MODALITIES ON AGRICULTURE

I.

- 7. For developing country Members with AMS commitments, the applicable reduction for Overall Trade-Distorting Domestic Support shall be two thirds of the relevant rate specified in paragraph 2(c) above.
- 8. NFIDCs listed in document G/AG/5/Rev.8 shall be exempt from reduction commitments.
- 9. As the first instalment of the overall cut, in the first year and throughout the implementation period, the sum of all trade-distorting support shall not exceed 80 per cent of the base level of Overall Trade-Distorting Domestic Support. As for the second and subsequent years of implementation, the remaining reductions shall be implemented according to an implementation period that is longer than for developed country Members.

# 5. Other

- (b) Implementation period and staging
- 14. The reductions in Final Bound Total AMS shall be implemented in equal annual instalments over the implementation period.
- (c) Special and differential treatment
- 15. The reduction in Final Bound Total AMS applicable to developing country Members with Final Bound Total AMS commitments shall be two-thirds of the reduction applicable for developed country Members. The reductions in Final Bound Total AMS shall be implemented in equal annual instalments with a longer implementation period than for developed country Members.
- 16. NFIDCs listed in document G/AG/5/Rev.8 shall be exempt from AMS reduction commitments.
- 17. Developing country Members shall have continued access to the provisions of Article 6.2 of the Agreement on Agriculture.
- (d) Other
- 18. As provided for under Article 18.4 of the Agreement on Agriculture, cases of extraordinary situations shall be dealt with separately and on a pragmatic case-by-case basis.
- C. PRODUCT-SPECIFIC AMS CAPS

# 1. General

- 19. Product-specific AMS limits shall be set out in the Schedule of the Member concerned.
- 20. Article 6.3 of the Agreement on Agriculture shall be amended to reflect the modalities with respect to product-specific AMS caps by the addition of the following:

#### Ad Article 6.3:

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

- 21. The product-specific AMS limits specified in each Member's Schedule shall be the average applied product-specific AMS during the Uruguay Round implementation period (1995-2000).
- 22. For the United States, the product-specific AMS limits will be the resultant of applying the average distribution of product-specific support in the [1995-2004] period to the average Current Total AMS for the Uruguay Round implementation period (1995-2000).
- 23. Where a Member has introduced product-specific AMS support above *de minimis* after the base period, the base period for that product shall be the average of the two most recent years for which notifications have been made.
- 24. In cases where a product-specific AMS during the base period was below the *de minimis* level the Current AMS for such products shall not exceed the [current][new] *de minimis* level.
- 25. Product-specific AMS caps shall be implemented in equal annual instalments in the implementation period. The starting point for implementation of product-specific AMS caps shall be [].

# 2. Special and differential treatment

- 26. In the case of developing country Members, the Current AMS for individual products shall not exceed the respective levels established by one of the following methods:
  - (a) the average applied levels during the base period 1995 to 2000 or 1995 to 2004, as may be selected by the Member concerned; or
  - (b) two times the Member's product-specific de minimis level; or
  - (c) 20 per cent of the Annual Bound Total AMS in any year.

#### D. DE MINIMIS

#### 1. Reductions

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

#### E. BLUE BOX

#### 1. Basic criteria

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

#### Article 6.5

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

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

Or

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

#### 2. Additional criteria

- (a) Blue Box cap
- 33. In addition to the criteria set out in the paragraph immediately above, a Member shall not provide support under Article 6.5 in excess of the amount as determined below. This will be expressed consistently in the value-specific commitments set out in that Member's Schedule.
- 34. The maximum permitted value of support under Article 6.5 shall not exceed 2.5 per cent of the average total value of agricultural production during the base period. This limit will apply from the commencement of the implementation period.
- 35. In cases where a Member has placed in the Blue Box an exceptionally large percentage of its trade-distorting support defined as 40 per cent during the base period, the percentage reduction in that support under Article 6.5(a) will equal the percentage reduction that the Member concerned will make in the Final Bound Total AMS. A short implementation period may be considered for any such Member in the event that immediate implementation is unduly burdensome.
- (b) Other criteria
- 36. The value of support provided to an individual product under Article 6.5(a) shall not exceed the average value of support provided to it during the period 1995-2000.
- 37. The value of support provided to an individual product under Article 6.5(b) shall be no more than [110][120] per cent of that product-specific distribution under legislated limits as applied to the overall Blue Box limit of 2.5 per cent of the value of production.

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

# 3. Special and differential treatment

- 39. For developing country Members, the maximum permitted level for the value of support under Article 6.5 shall not exceed 5 per cent of the average total value of agricultural production in the base period.
- 40. Where a particular product accounts both for more than 25 per cent of the total value of agricultural production and 80 per cent of total bound AMS support during the base period, a developing country Member that chooses to switch its support from AMS to Blue for that product on a one-for-one and irreversible basis will be entitled to do so even if this would lead to exceeding the maximum permitted level provided for in the paragraph above.
- F. GREEN BOX
- 41. Annex 2 of the Agreement on Agriculture shall be amended as set out in Annex A of this document.
- G. COTTON: DOMESTIC SUPPORT

Reductions in Support for CottaM lf81h) Q8u\$ 7.71D-21D U\$

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

# II. MARKET ACCESS

A. TIERED FORMULA FOR TARIFF REDUCTIONS

#### 1. Basis for reductions

- 47. Subject to such other specific provisions as may be made, customs duties shall be reduced in equal annual instalments from bound duty levels<sup>1</sup> using the tiered formula in paragraphs 49 to 53 below.
- 48. In order to place bound non-ad valorem duties in the appropriate band of the tiered formula, Members shall follow the methodology to calculate ad valorem equivalents (AVEs), along with associated provisions, set out in Annex A to TN/AG/W/3 of 12 July 2006.

#### 2. Tiered Formula

- 49. Members shall reduce bound duties in accordance with the following tiered formula:
  - (a) where the bound duty or *ad valorem* equivalent is greater than 0 and less than or equal to 20 per cent the reduction shall be [48-52] per cent;

(b)

- (d) where the bound duty or *ad valorem* equivalent is greater than 130 per cent, the reduction shall be 2/3 of the cut for developed countries in 49(d) above.
- 51. The maximum average reduction in bound duties any developing country Member shall be required to undertake as a result of application of this formula is [36][40] per cent. Should the above formula imply an average reduction of more than that for a developing country Member, that developing country Member shall have the flexibility to apply lesser reductions applied in a proportionate manner across the bands, to keep within such an average level.
- 52. Small and vulnerable economies<sup>3</sup> will, in respect of each tier specified above for developing countries, be entitled to moderate the two-thirds cut by a further [10] *ad valorem* points in each band. Should strict application of this formula result in an overall average cut higher than [24] per cent, the Member concerned would be entitled to apply lesser reductions at its discretion, to keep within such an average level.
- 53. Where a small and vulnerable Member (or a Member in the supplementary list specified in footnote 3 below) has ceiling bindings or homogeneous low bindings and application of the approach specified above would still place an unsustainable adjustment burden upon it, the Member concerned shall not be required to make a tiered reduction but would be subject only to the overall average reduction.
- B. S

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

66. First, I stand by the tenor of my remarks in the Challenges paper. The subsequent informal

- (b) developed countries and developing countries in a position to do so will undertake tariff escalation reductions in the identified products;
- (c) at the end of the implementation period, the difference between the identified primary and processed products shall not exceed [x] percentage points. For this purpose, all non-ad valorem duties on the products identified by developing countries shall be bound in ad valorem terms.
- 75. Provision shall be made also for suitable procedures for negotiations on the elimination of non-tariff measures affecting trade in commodities.
- 76. Provision will be made to ensure the possibility that Members may take joint action through adoption of suitable measures, including through adoption of intergovernmental commodity agreements, for stabilization of prices for exports of agricultural commodities at levels that are stable, equitable and remunerative.
- 77. Action for negotiations and adoption of intergovernmental commodity agreements in pursuance of the provisions of the paragraph above may be taken either jointly by producing and consuming countries or by commodity-dependent producing countries only.
- 78. Such intergovernmental commodity agreements may be negotiated and adopted by the countries themselves, or adopted after negotiations undertaken under the auspices of the WTO, UNCTAD or international commodity organizations.
- 79. Intergovernmental commodity agreements may be negotiated and adopted on an international or regional basis.
- 80. Such agreements may provide for participation of association of producers.
- 81. The general exceptions provisions of Article XX(h) shall also apply to intergovernmental commodity agreements of which only producing countries of the concerned commodities are Members.
- 82. Technical assistance shall be provided for, *inter alia*, the improvement of world markets for commodities and adoption and implementation of intergovernmental commodity agreements.
- 83. Financial resources required by the international trade and other organizations for providing technical assistance in accordance with the provisions of paragraphs 81 and 82 above shall be monitored through the mechanism established in WTO for administering Aid for Trade.

#### 3. Tariff simplification

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

# 4. Tariff quotas

- (a) Bound in-quota duties
- 85. This remains to be precisely negotiated. I would propose the following by way of orientation.
- 86. In-quota duty rates should be reduced to a level which ensures that trade will be capable of

D. SPECIAL AND DIFFERENTIAL TREATMENT

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

# 2. Special Safeguard Mechanism

- 99. This is clearly a fundamental element of the modalities also, but it is simply not yet developed well enough to go to precise text without that being either meaningless through the number of square brackets that would have to be inserted, or an artificial construct with no underlying consensus in the Membership. I see no point in trying either at this point. That said, there has been recently a much more constructive sense of practical engagement and we are well beyond the utterly entrenched positions of a year ago. I am therefore suggesting some possible orientation below following on the constructive discussion we had pursuant to the Challenges paper that might help intensify our work in September.
- 100. There will be two distinct triggers: price and quantity. The Hong Kong declaration was clear about this.
- 101. The Special Safeguard Mechanism is there to respond to the needs of fari8275 0 Tf ofpaveloping countries, that is, rural development, food security

measure applicabla to imports  $pe6(6.6 \text{ se})TMT2\ 1\ Tf2.4850\ TD\{.\ Th)6.9 \text{ s}\ s)6.4(t)-0.4(r)-91(o)6.9 \text{ ng})6.9(54(y)-10.5)5i)-6.2 \text{ s}\ for domestically-produced products and substitutes of these products.}$ 

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<sup>&</sup>lt;sup>4</sup> In the event that this remains an intractable issue after further intensive work, Members may wish to

maximum cut be? As you have seen elsewhere in this document, the rate I have seen as the range to continue to no9itiate over for the top band cut for de veloped countries is [66][73] per cent. It seems unavoidable, therefore, that once that is established, we are looking generally at tariff cuts for tropical and diversification products that may be more, but are no less, than that.

116. Fourth, the Secretariat has estimated the way in which items on the indicative Uruguay Round tropical products list that were not already duty-free, were moved to duty-free in that Round (see Attachment 1 at the end of this document). One option is that we should, at a bare minimum, set ourselves a target of improving by an appropriate mul

# E. RECENTLY ACCEDED MEMBERS

- 124. Saudi Arabia, the Former Yugoslav Republic of Macedonia and Vietnam, as very recently-acceded Members will not be obliged to make any new commitments under this Agreement.
- 125. For all other RAMs, to the extent that, in implementing commitments undertaken in acceding to the WTO there would be actual overlap with commitments to be otherwise undertaken in association with these modalities, the start of implementation of commitments undertaken in association with these modalities shall begin 1 year after the end of implementation of accession commitment.
- 126. The implementation period for recently-acceded Members may be prolonged by up to [2] years after the end of the implementation period for other Memb thT(it)-6b2 TD-0.0005 Tc0 Tw(125.)Tj/TT10 1 Tf1.7541 0

#### G. COTTON MARKET ACCESS

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

### H. SMALL, VULNERABLE ECONOMIES

- 134. For the purposes of this Agreement, this term applies to Members with economies that, in the period 1999 to 2004, had an average share of (a) world merchandise trade of no more than 0.16 per cent or less, and (b) world trade in non-agricultural products of no more than 0.1 per cent and (c) world trade in agricultural products of no more than 0.4 per cent.
- 135. Developed country Members and developing country Members in a position to do so shall provide enhanced improvements in market access for products of export interest to Members with small, vulnerable economies.
- 136. More specific provisions are to be found in relevant sections of this document.

#### III. EXPORT COMPETITION

#### A. GENERAL PROVISIONS ON EXPORT COMPETITION

- 137. Nothing in the modalities on export competition can be construed to give any Member the right to provide, directly or indirectly, support to exports of agricultural products in excess of the commitments set out in Members' Schedules or in conflict with the terms of Article 8 of the Agreement on Agriculture. Furthermore, nothing can be construed to imply any change to the obligations and rights under Article 10.1 or to diminish in any way existing obligations under other provisions of the Agreement on Agriculture or other WTO Agreements.
- 138. The following provisions will give effect to the detailed modalities ensuring parallel elimination of all forms of export subsidies and disciplines on all export measures with equivalent effect pursuant to the July 2004 Agreed Framework and the Hong Kong Ministerial Declaration.

# B. EXPORT SUBSIDY COMMITMENTS

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

# F. COTTON

- 147. All forms of export subsidies for cotton shall be eliminated by developed countries by the start of the implementation period and by developing countries by: .
- 148. The extent to which disciplines and commitments for the parallel elimination of all forms of

#### ANNEX A

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

Government Service Programmes

General services (paragraph 2)

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

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

Public stockholding for food security purposes

Modify the existing footnote 5 as follows:

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

Decoupled income support (paragraph 6)

Modify the existing subparagraph (a) as follows:

(a) Eligibility for such payments shall be determined by clearly-defined criteria such as

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

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

- (a) Eligibility for such payments shall arise:
- (i) In the case of direct payments related to disasters only following a formal recognition by government authorities that a natural or like disaster (including disease outbreaks, pest infestations, nuclear accidents, and war on the territory of the Member concerned) has occurred or is occurring; and shall be determined by a production loss<sup>8</sup> which exceeds 30 per cent of the average of production in the preceding three five-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry. In the case of developing country Members, payments for relief from natural disasters may be provided to producers when the production loss is less than 30 per cent of the average of production in the preceding five-year period or a three-year average based on the preceding five-year period.
- (ii) In the case of government financial participation in crop or production insurance schemes, eligibility for such payments shall be determined by a production loss which exceeds 30 per cent of the average production in a period demonstrated to be actuarially appropriate. In the case of a developing country Member's government's financial participation in crop or production insurance schemes, eligibility for payments may be provided to producers when the production loss is less than 30 per cent of the average of production in the preceding five-year period or a three-year average based on the preceding five-year period.
- (iii) In the case of the destruction of animals or crops to control or prevent pests, diseases, disease-carrying organisms or disease-causing organisms named in national legislation or international standards, the production loss may be less than 30 per cent of the average of production referred to in paragraph 8(a)(i) or 8(a)(ii), as applicable.
- (b) Payments made

Structural adjustment assistance provided through investment aids (paragraph 11)

Modify the existing subparagraph (b) as follows:

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

Payments under regional assistance programmes(paragraph 13)

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

(a) Eligibility for such payments shall be limited to producers in disadvantaged regions. Each such region must be a clearly designated contiguous geographical area with a definable economic and administrative identity, considered as disadvantaged on the basis of neutral and objective criteria clearly spelt out in law or regulation and indicating that the region's difficulties arise out of more than temporary circumstances. **Developing country Members shall be exempted from the** 

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

# ANNEX B

# LIST OF INDICATORS FOR DESIGNATION OF SPECIAL PRODUCTS

To be finalised

# SMALL, VULNERABLE ECONOMIES

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

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

	Share of total merchandise trade			Share o	f world agri	culture	Share of non-agriculture			
		(%)		(AOA) trade (%)			(NAMA) trade (%)			
	Total			Total			Total			
WTO Member	(exports +	Exports	<i>Imports</i>	(exports +	Exports	<i>Imports</i>	(exports +	Exports	<i>Imports</i>	
	imports			imports			imports			
World <sup>a</sup>	100	100	100	100	100	100	100	100	100	
Albania	0.019	0.008	0.029	0.050	0.008	0.087	0.017	0.008	0.026	
Antigua and Barbuda	0.004	0.001	0.007	0.011	0.000	0.020	0.004	0.001	0.006	
Armenia	0.015	0.010	0.019	0.040	0.018	0.060	0.013	0.010	0.016	
Barbados	0.013	0.005	0.020	0.037	0.022	0.050	0.011	0.004	0.019	
Belize	0.006	0.004	0.008	0.023	0.029	0.017	0.004	0.001	0.007	
Bolivia	0.032	0.032	0.032	0.102	0.143	0.065	0.028	0.025	0.030	
Botswana	0.057	0.061	0.053	0.075	0.030	0.116	0.056	0.065	0.048	
Brunei Darussalam	0.050	0.078	0.025	0.029	0.000	0.056	0.053	0.086	0.023	
Cameroon	0.036	0.038	0.035	0.112	0.140	0.087	0.032	0.032	0.032	
Cuba	0.063	0.034	0.089	0.240	0.223	0.256	0.052	0.022	0.080	
Dominica	0.002	0.001	0.002	0.007	0.005	0.008	0.001	0.001	0.002	
Dominican Rep.	0.068	0.018	0.113	0.154	0.115	0.189	0.063	0.011	0.111	
Ecuador	0.110	0.112	0.108	0.326	0.515	0.154	0.098	0.087	0.107	

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Share of total merchandise trade (%)
Share of world agriculture (AOA) trade (%)
Share of non-agriculture (NAMA) trade (%)

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

## EXPORT CREDITS, EXPORT CREDIT GUARANTEES OR INSURANCE PROGRAMMES

# **General Provisions**

1. Subject to the provisions of this Agreement and other WTO Agreements, Members shall not, directly or indirectly, provide support or enable support to be provided for, or in connection with, the financing of exports of agricultural products, including the credit and other risks associated therewith. Each Member accordingly undertakes not to provide export financing support otherwise than in conformity with this Article.

# Forms and Providers of Export Financing Support Subject to Discipline

- 2. For the purpose of this Article, the term "export financing support" includes any of the following forms of support for, or in connection with, the financing of exports of agricultural products:
  - (a) direct financing support, comprising direct credits/financing, refinancing, and interest rate support;
  - (b) risk cover, comprising export credit insurance or reinsurance and export credit guarantees;
  - (c) government-to-government credit agreements covering the imports of agricultural products exclusively from the creditor country under which some or all of the risk is undertaken by the government of the exporting country; and
  - (d) any other form of governmental export credit support, direct or indirect, including deferred invoicing and foreign exchange risk hedging.
- 3. The provisions of this Article shall apply to export financing support provided by or on behalf of the following entities, hereinafter referred to as "export financing entities", whether such entities are established at the national or at the sub-national level:
  - (a) government departments, agencies, or statutory bodies;
  - (b) any financial institution or entity engaged in export financing in which there is governmental participation by way of equity, provision of loans or underwriting of losses;
  - (c) agricultural export state trading enterprises; and
  - (d) any bank or other private financial, credit insurance or guarantee institution which acts on behalf of or at the direction of governments or their agencies.

#### Terms and Conditions

4. Export financing support shall be provided in conformity with terms and conditions set out below.

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

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

<sup>&</sup>lt;sup>1</sup> The "starting point of a credit" shall be no later than the weighted mean date or actual date of the arrival of the goods in the recipient country for a contract under which shipments are made in any consecutive six-month period.

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

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

# Non-conforming Financing Support

5. Export financing support, which does not conform with the provisions of paragraph 3.4 of this Article or which is provided in circumstances as may otherwise be allowable under Article 3.3 and Article 9 of this Agreement, hereinafter referred to as "non-conforming export fi1(r)-1-0.6(rr)48(paragra1.2(f)4.5) 08-5.9(h)D(m)8.1

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

ANNEX E

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

#### AGRICULTURAL EXPORTING STATE TRADING ENTERPRISES

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

#### Entities

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

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

## **Disciplines**

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

# Special and Differential Treatment

- 4. Notwithstanding paragraph[s 3(a)(iv) and] 3(b)above:
  - (a) agricultural state trading enterprises in least-developed countries (including those which enjoy special privileges to preserve domestic consumer price stability and to

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

# Monitoring and Surveillance

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

#### ANNEX F

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

#### INTERNATIONAL FOOD AID

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

#### **General Provisions**

- 2. Members shall ensure that all food aid transactions, whether in the Safe Box or outside, are provided in conformity with the following provisions:
  - (a) they are needs-driven;
  - (b) they are provided in fully grant form;
  - (c) they are not tied directly or indirectly to commercial exports of agricultural products or of other goods and services;
  - (d) they are not linked to the market development objectives of donor Members; and
  - (e) agricultural products provided as food aid shall not be commercially re-exported. Non-commercial re-exportation is permissible, but only where, for logistical reasons and in order to expedite the provision of emergency food aid for another country in an emergency situation, this occurs as an integral part of a food aid transaction initiated by a relevant United Nations agency, relevant regional or international intergovernmental agency or organization.
- 3. The provision of food aid shall take fully into account local market conditions of the same or substitute products. Members shall refrain from providing in-kind food aid in situations where this would create, or would risk to create, an adverse effect on local or regional production of the same or substitute products. Members are encouraged to procure food aid from local or regional sources to the extent possible, provided that the

(b) there has been an emergency appeal from a country<sup>2</sup>, a relevant United Nations agency,

# **ATTACHMENT 1**

# Tropical Product Tariffs (Uruguay Round indicative list)

# **United States**

Total tropical products with 0 base duty (start of implementation)	110
Total tropical products with 0 bound duty (end of implementation)	150

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

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

Tariff Line	Basic Description	Tariff Line Description	Current Bound	New Bound	Trade Value (\$000)	Main Exporters
0603108000	Cut Flowers	Cut flowers and flower buds suitable for bouquets or ornamental purposes, fresh	6.4	3.5	3,327.0	Dominican Republic
0709590000				0.0	731.2	South Africa
0709602000	Chili's	Chili peppers, fresh or chilled	3.8	2.1	506.2	Dominican Republic
0709604000	Capsicum	Fruits of the genus capsicum (peppers) (ex. chili peppers) or of the genus pimen	3.0	1.7	2,727.5	Dominican Republic
0709900500	Jicamas, pumpkins	Jicamas, pumpkins and breadfruit, fresh or chilled		0.0	429.5	Dominican Republic, Jamaica
0709909100				0.0	422.3	Ghana, Jamaica
0710223700	Frozen beans	Frozen beans nesi, not reduced in size	4.0	2.2	87.7	Bangladesh
0710291500	Leguminous vegetables	Lentils, uncooked or cooked by steaming or boiling in water, frozen	0.1	0.1	64.1	Bangladesh

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