

**WORLD TRADE
ORGANIZATION**

TN/AG/W/3
12 July 2006

(06-3360)

**Committee on Agriculture
Special Session**

Dear Mr Lamy,

I am sending to you in your capacity as TNC Chair, the attached document in line with the discussions at the informal TNC of 30 May and your fax of 16 June to TNC participants.

It sets out draft Modalities for preparing the Schedules for the Agriculture negotiations. I should stress that this document is not in a formal sense agreed by Members, even as a draft. But it is intended to reflect in a balanced and accurate way the state of intensive discussions and reflection to this point within the Special Session, consistent with the ground rules of our enterprise as laid down, for instance, in TNC/1: "Chairpersons should reflect consensus, or where this is not possible, different positions on issues." Of course, it is only the Members themselves that can establish Modalities, and it is a matter for Members also as to what documentation they wish to adopt in working to that end. That being the case, I forward this particular document in my capacity as Chair of the Informal session on Agriculture to you as Chair of the TNC.

There should be no surprises therein. Indeed, it has long been the premise of our work that this should not be the case. It has been clear that the draft that would emerge this week would be unlikely to contain things Members have not seen or heard before, or things that Members would not be able to work out for themselves. Members for their part have made it clear that they do not expect invented "solutions" out of thin air, and even if they were to appear, they would serve no practical purpose given that they emerge in a vacuum and are severed from any real emergent consensus or convergence by Members themselves. They have made it just as clear that they see draft "Modalities" as meaning precisely that: there is no basis to pick and choose among them. This is a "menu fixe" for decision. It is no smorgasbord. Reflecting that approach, I foreshadowed in the Reference Paper issued last week that: "unless or until there is such emergent consensus, one has to respect the substantive positions of Members. Come that date, therefore, I will be issuing a document that does so."

That is precisely the kind of document that is now attached.

It is not an elegant document. But it reflects the reality of where we are. When all is said and done, where there are divergences, there are divergences. There is no point deluding oneself on that. Indeed, it would be a profound error to do so. Apart from anything else, there will never be any prospect of bridging differences if one does not have a sober and realistic view of them to begin with. Brushing things under the carpet or wishing things were otherwise than they are is no way to resolve differences. Dealing with them honestly and fairly can be the only way that has any chance of moving us forward. I have not, therefore, attempted to invent solutions where none has so far emerged. To do so would not only go against our agreed procedures but also against a Chair's more fundamental duty to deal honestly and fairly with the Membership.

A Chair's responsibilities also involve the responsibility, consistent with that duty of honesty and fairness, to call things as they are seen in an effort to move the process forward. In my Reference Papers and, indeed, through more informal processes, I provided some commentary of my own which was aimed at suggesting where I thought particular efforts could and should be made. I stand by those various comments, but I do not think it is appropriate now to elaborate further any such personal views. They are on the record, and they served a purpose at the time – which was to try to promote convergence. But we are beyond that point now. Having made my own comments, positions of Members are what they are. The task here and now is above all to reflect that as fairly and honestly as possible. At this crucial point in the negotiations it is more than ever important to confront the issues squarely as they are without distraction or intrusion.

I can conclude only by confirming to you and participants that I remain committed to facilitating convergence in every way possible in the time remaining to us. You may count on my continued full support in your efforts as Chair of the TNC to move us forward over the crucial next few days in particular.

Yours sincerely

Ambassador Crawford Falconer
Chairman
Committee on Agriculture, Special Session

I. DEFINITIONS¹

- Year in relation to the implementation period and to the specific commitments of a Member refers to the calendar, financial or marketing year specified in the draft Schedules to be submitted pursuant to the modalities.
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- (ii) with respect to the level of support actually provided during any year of the implementation period and thereafter (i.e. the "Current Overall Trade-Distorting Domestic Support", calculated in accordance with the provisions of this Agreement and with the constituent data and methodology used in the tables of supporting material incorporated by reference in Part [] of the Member's Schedule.

[The maximum average reduction in bound duties any developing country Member shall be required to undertake is [] per cent. Should the above formula imply an average reduction of more than [] per cent for a developing country Member, that developing country Member shall have the flexibility to apply lesser reductions, at its discretion, so that the average reduction is no more than [] per cent.]

5. [Developing country Members with ceiling bindings and homogeneous low bindings:
- (a) shall be subject to the overall average reduction only;
 - (b) shall have the right to distribute their tariff lines across the lower tiers of the formula on the basis of their own assessment of sensitivities; and
 - (c) irrespective of the thresholds for the tiers to be agreed, shall not be required to undertake the level of cuts required in the highest tiers.]

B. [TARIFF CAP

6. If, after the application of the tiered formula, a bound duty should be greater than [75-100] per cent, it shall be reduced to that level. [Non-*ad valorem* bound duties shall be reduced by the amount required to bring the *ad valorem* equivalent to this maximum level]. For developing country Members, the maximum bound duty shall be [150] per cent.]

C. SENSITIVE PRODUCTS

1. **Designation**

7. Each [developed country] Member shall have the right to designate up to [1-15] per cent of [dutiab] tariff lines as "Sensitive Products". [Developing country Members shall have the right to designate up to [50 per cent more than the absolute number of tariff lines designated by the developed country having the highest number of such tariff lines] [[] per cent of [dutiab] tariff lines] as "Sensitive Products".]

8. Designation of such status shall be indicated by the symbol "SePs" in Column [] of Table 1, Section 1 of the Member's draft Schedule. Each such product shall be subject to a combination of a reduction in bound duties and an expansion of tariff quota for the product concerned or a proportionate increase if the product is one of a number in a single bound tariff quota [unless a current bound quota for the Sensitive Product concerned does not exist, in which case a Member [may] [shall] apply the provisions under paragraph 3.10(b)(iii) below].

2. **Treatment - Tariff Cr-5.8(nt -en(M)-5.4.10)7.62.23611(Ta)6.9(riff)-5.8(5qD()-5.5)-5.f0.749325.8(or)B73r5.8(**

- (a) Subject to the provisions set out in (b) below, expansion of the tariff quota for a Sensitive Product shall be on a most-favoured-nation basis.

[Bound tariff quotas shall be increased based on a minimum of [6] per cent of domestic consumption or, for developing country Members, less than [4] per cent of domestic consumption. For developing country Members, domestic consumption shall not include self-consumption of subsistence production. Developing country Members with bound quotas established as a result of Article XXVIII negotiations or accession commitments shall be able to use as a base for tariff quota expansion the lesser of the bound tariff quota so established or less than [4] per cent of domestic consumption. The formula for expansion shall be as follows: []]

[Bound tariff quotas shall be increased by the following formula

$$Q = 100*(0.45 - 0.5*(1-(r_f - r_s)/ r_f))$$

Where

Q is the expansion in the tariff quota expressed as a percentage of current bound tariff quota;

r_f is the reduction in bound duty under the tiered formula;

r_s is the reduction in bound duty for the sensitive product; and

the maximum deviation from the tiered formula as measured by $(r_f - r_s)/ r_f$ shall be [80] per cent and the minimum deviation [20] per cent.

]]

[Bound tariff quotas shall be increased by the following formula

$$Q = [0.8] * (r_f - r_s) * 100 / (1 + t_0)$$

Where

Q is the expansion in the tariff quota expressed as a percentage of current imports;

r_f is the reduction in bound duty under the tiered formula;

r_s is the reduction in bound duty for the sensitive product; and

t_0 is the current bound duty or its *ad valorem* equivalent.

]

(b) In cases where:

(i) [the existing bound tariff quota represents:

- ~~more than 130] 6890100555~~ ~~Investic 20419115580056~~ ~~Tiered~~ ~~sanr0 -2.241911.5580056 Tw00~~

implementation period, or the reduction

3.

24. [Any product accordingly designated and notified as SP, whether in its natural unprocessed form or in its processed forms, shall be presumed to meet at least one of the indicators given in Annex D, either at the national or regional level, in the developing country Member concerned. A product in any of its processed forms shall be deemed to be eligible for designation as SP if the product in its natural unprocessed form is designated as SP. The right to self-designate any product as SP shall not be questioned at any stage of the negotiating processes, including the processes for verification of the Schedules of Members.] [To show compliance with the criteria, each developing country designating a product as "SP" shall, [upon request] demonstrate, using appropriate indicators how the product concerned meets the criteria of food security, livelihood security and rural development.]

(b) Treatment

25. [No product designated as a Special Product sh

of] tariff lines [at the HS 6-digit level] as "SSM" in column [] in Part I, Section I of its Schedule] [may designate as "SSM" in its Schedule those products which have undertaken tariff reductions greater than [] per cent [which result in a reduction in the bound duty to less than then current applied duty]]. [Products designated as "Special Products" may not be designated as "SSM".]

(b) Trigger and Remedy

30. The quantity and price triggers under which the Special Safeguard Mechanism may be invoked and the additional duties that may be charged are set out in Annex E.

3. Fullst liberalization of trade in tropical and diversification products

31. [Tropical and diversification products are those listed in Annex F.] [A list of tropical products shall be established on the basis of the indicative list of the Uruguay Round and shall not include products produced in significant quantities in non-tropical countries. For Members identified as operating the diversification of production from the growing of illicit narcotic crops, a list of products of particular importance for diversification shall be established.]

32. [Developed country Members shall reduce bound duties on tropical and diversification products

(a) by the reduction applicable under paragraph A.2.3(d) above;

(b) where such products are subject to tariff escalation, an additional reduction in bound duties of 10 percentage points; and

(c) any bound in-quota duty shall be eliminated.]

33. [Members shall reduce bound duties on tropical products according to the following

- (a) [[the preference granting Member] applying a lesser reduction of [] percent of the appropriate reduction under the tiered formula;] [and] [or]
- (b) [[the preference granting Member] wherever relevant, eliminating any bound in-quota duty] [and] [or]
- (c) [[the preference granting Member] implementing the tariff reduction over an additional period of [] years [with the first year of the implementation deferred by [] years];] [and] [or]
- (d) [[the preference granting Member,] to the extent technically feasible, maintaining the preference margin;] [and] [or]
- (e) [[the preference granting Member] providing improved market access opportuuh1 Tm/Cs683n03934 -1.1.

43. [Developed-country Members sha

III. DOMESTIC SUPPORT

A. FINAL BOUND TOTAL AMS: A TIERED FORMULA

1. Tiered reduction formula

(a) Reductions in Final Bound Total AMS

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

- (a) Where the Final Bound Total AMS is greater than US\$40 billion, or the equivalent in the monetary terms in which the binding is expressed, the reduction shall be [70-83] per cent;
- (b) Where the Final Bound Total AMS is greater than US\$15 billion and less than or equal to US\$40 billion, or the equivalents in the monetary terms in which the binding is expressed, the reduction shall be [60-70] per cent;
- (c) Where the Final Bound Total AMS is less than or equal to US\$15 billion, or the equivalent in the monetary terms in which the binding is expressed, the rate of reduction shall be [37-60] per cent.

51. Developed country Members with high relative levels of Final Bound Total AMS [of at least [40] per cent of the total value of agricultural production] shall undertake an additional reduction [equal to at least half of the difference between the reduction rate specified in their tier and the reduction rate specified in the higher tier].

(b) Implementation period and staging

52. The reductions in Final Bound Total AMS shall be implemented according to the following schedule [].

(c) Special and differential treatment

53. 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 under subparagraph (a)50(c) above. The reductions in Final Bound Total AMS shall be implemented according to the following schedule []. [Net food-importing developing country Members shall be exempt from reductions in Final Bound Total AMS.]

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

(d) Other

55. [As provided for under Article 18.4 of the Agreement on Agriculture, those cases where [exchange rate fluctuations] [and inflation rates] have caused extraordinary situations shall be dealt with separately and on a pragmatic case-by-case basis.]

B. PRODUCT-SPECIFIC AMS CAPS

1. **Product-specific AMS caps**

56.

(c) [net food-importing developing country Members.]

shall be exempt from reductions in *de minimis*.

64. For other developing country Members, the *de minimis* levels pursuant to Article 6.4(b) of the Agreement on Agriculture shall be reduced by [] per cent [or by such an amount as would be required to adjust to the rate of cut of Overall Trade-Distorting Domestic Support if that is greater]. For these Members, the new *de minimis* levels shall [be phased in over a period[]].

D. BLUE BOX

1. Basic criteria

65. 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

68. In cases where a Member has placed an exceptionally large percentage of its trade-distorting support [greater than [40] per cent during the base period] in the Blue Box, [the percentage reduction in that support under Article 6.5 will equal the percentage reduction that the Member concerned will make in the Final Bound Total AMS] [the limit under Article 6.5 shall be [] percent of the average total value of agricultural production].

(b) Other criteria

69. [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 []. [Members using such payments shall demonstrate through notification that the production of the individual product in receipt of such payments has not increased in relation to the period when the application of such payments was decided.]]

70. [The value of support provided to an individual product under Article 6.5(b) shall:

(a) not exceed [] per cent of the value of the overall Blue Box cap; [and

(b) not exceed [] per cent of the value of production of the product concerned in the period [].]]

71. [Direct payments under Article 6.5(b) that are based on compensating for a differential between prices actually received as compared to a price benchmark [shall use a historical or specified reference period] [and] [shall not compensate for more than [] per cent of the differential in prices.]]

72. [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 [[] per cent of] a corresponding reduction in Current AMS support for the product(s) concerned.] [Where there was no Current AMS support in the base period [] to [] for a particular product, an increase in Blue Box support is permissible for that product where the support concerned does not exceed [] percent of value of production and the overall Blue Box cap is still respected.]

73. [Where more than [] per cent of the total value of agricultural production is derived from [] basic agricultural products, the Member concerned shall have the flexibility to [].]

3. Special and differential treatment

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

4. Transparency Requirements

75. [Members using direct payments under Article 6.5, shall for the products receiving such payments, notify:

(a) All parameters referring to any existing or additional criteria, at the time when the programmes were established;

(b) As from the first implementation year of the Doha Development Agenda, all those parameters, such as base period, production levels, area planted, number of head, and other parameters [to be completed] shall be notified at product-specific level.

76. No Blue Box payments shall be used until all notifications obligations above are complied with timely and accurately.]

77. Transparency of the Blue Box measures shall be increased through improved notification requirements.

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

1. Base level

78. The Base Overall Trade-Distor

- (c) Where the base level of Overall Trade-Distorting Domestic Support is less than or equal to US\$10 billion, or the equivalent in the monetary terms in which the binding is expressed, the rate of reduction shall be [31-70] per cent.

3. Implementation period and staging

80. As the first instalment of the overall reduction, in the first year and throughout the implementation period, the sum of all trade-distorting support shall not exceed 80 per cent of the base level of Overall Trade-Distorting Domestic Support. As for the second and subsequent years of implementation, the remaining reductions shall be implemented according to the following schedule [].

4. Special and differential treatment

81. Developing country [, and recently acceded] Members with no AMS Commitments shall not be required to make commitments

87. [AMS support for cotton shall be [eliminated] [reduced according to the following formula

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

R_c = Specific reduction applicable to cotton as a percentage

R_g = General reduction in AMS as a percentage

88. This will be applied to the base value of support calculated as the arithmetic average of the amounts notified by Members for cotton in supporting tables DS:4 from 1995 to 2000.]

89. [The ceiling on Blue Box subsidies for cotton shall be [5 per cent of total Blue Box ceiling] [one-third of [the ceiling on the Blue Box for agriculture as a whole] [the production value for cotton] [the amount that would be otherwise determined respectively through application of paragraph D.2(b)69 above and the "double trigger" approach specified in paragraph D.2(b)70(a) and (b) above.]]

2. Implementation

90. The reductions for trade-distorting domestic support on cotton shall be implemented over a period [which is one third of the implementation period] [according to the following schedule []].

3. Special and Differential Treatment

91. [Developing country Members shall have the following rates of reduction for trade-distorting domestic support for cotton [] [, provided that the rate of reduction is no less than two thirds of that specified in paragraph 1.86 above.]]

92. [The relevant Blue Box cap for developing country Members [which are net producers and exporters of cotton] shall be []. The relevant Blue Box cap for cotton for developing country Members shall be [].]

93. [Developing country Members shall implement their reduction commitments for cotton over a

I. MONITORING AND SURVEILLANCE

97. Procedures and notification requirements and formats shall be improved to ensure transparency and enhance monitoring of domestic support measures. Details to be developed in the context of horizontal modalities for monitoring and surveillance.

IV. EXPORT COMPETITION

A. GENERAL PROVISIONS ON EXPORT COMPETITION

98. 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 this Agreement. 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.

99. 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

100. Developed country Members shall eliminate their export subsidies by the end of 2013. This will be on the basis of annual budgetary outlay commitments being reduced by [] percent [and quantity commitments being reduced by [] percent] in each year commencing 2008 to 2013, such that a substantial part of the elimination of export subsidy commitments is achieved by 2010, the mid-point of implementation for developed country Members.

101. Developing country Members shall eliminate their export subsidies by the end of []. This will be on the basis of annual budgetary outlay commitments being reduced by [] percent [and quantity commitments being reduced by [] percent] in each year commencing 2008 to [] such that a substantial part of the elimination of export subsidy commitments is achieved by [], the mid-point of implementation for developing country Members.

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

C. EXPORT CREDITS, EXPORT CREDIT GUARANTEES OR INSURANCE PROGRAMMES

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

104. [Export financing support, which does not conform with the provisions of paragraph 3.4 of Annex I, or which is provided in circumstances as may otherwise be allowable under Article 9 of this Agreement, constitute export subsidies for the purposes of this Agreement and are therefore [subject to specific export financing elimination commitme

[and the maximum repayment term of 180 days shall be phased in according to the following schedule
[.]]

D.

F. COTTON

113. All forms of export subsidies for cotton shall be eliminated by developed countries in 2006

**DRAFT GUIDELINES FOR THE CONVERSION OF FINAL BOUND NON-AD VALOREM DUTIES
INTO AD VALOREM EQUIVALENTS⁵**

I. OBJECTIVE

1. There is general understanding amongst Members that construction of a tiered formula for tariff reductions requires a common measurement device for converting the various types of non-*ad valorem* final bound tariffs to *ad valorem* equivalents ("AVEs"). These Guidelines are intended to establish such a common methodology for the calculation, and subsequent submission, of AVEs for the purposes of allocating tariffs to the various tiers to be established. The Guidelines are based on

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A. UNIT VALUE METHOD BASED ON IDB IMPORT DATA

1. **Formula**

9. The final bound non-*ad valorem* MFN duties specified in Members' Schedules will be converted into their AVEs in accordance with the following formula:

$$AVE = (SP * 100)/(UV * XR)$$

AVE: *AD VALOREM* EQUIVALENT (per cent)

SP: MONETARY VALUE OF DUTY PER UNIT OF IMPORTS

UV: IMPORT UNIT VALUE

where $UV = V/(Q * C_Q)$

V = value of imports

B. ALTERNATIVE AVE CALCULATION

1.

unit value, if the resulting AVE is 3% using IDB da

Alternative treatment pursuant to the 40/20 filter

25. The conversion of non-*ad valorem* duties, captured in the 40/20 filter, into their AVEs will be calculated using the following weightings based on unit values of Comtrade and IDB data:

- (a) For HS Chapters 1 to 16, and the products in Annex 1 of the Agreement on Agriculture in the HS Chapters beyond Chapter 24, a 82.5/17.5 (Comtrade/IDB) weighting will apply.
- (b) For HS Chapters 17-24, a 60/40 (Comtrade/IDB) weighting will apply.

Other

26. For all tariff lines for raw and refined sugar, [world prices] [or other prices] will apply [].

C. ADDITIONAL DATA REQUIREMENTS

27. The following provisions apply for the methods under both section A and section B above.

28. Where technical conversion factors are necessary, these will be sourced from the FAO unless they are already specified in the Schedule of the Member concerned.

29. All import unit values/prices will be expressed on a c.i.f. basis. Where necessary, f.o.b./c.i.f. conversion factors will be applied according to a methodology to be established.

30. Where the conversion of the currency used to record import values is necessary, the exchange rate to be used will be the annual average market exchange rate published in the *International Financial Statistics (IFS)* by the International Monetary Fund (IMF).⁹ Where the exchange rates are unavailable from the *IFS Yearbook*, the rate of exchange to be used will be that duly published by the competent authorities of the importing Member concerned and will reflect, as effectively as possible, the current value of the currency in commercial transactions in terms of the currency of the country of importation.

III. MULTILATERAL VERIFICATION PROCEDURE

31. In order to ensure transparency, the preliminary AVE calculations resulting from the conversion methodology set out in Section II above will be subject to the multilateral verification procedure set out below.

1. Submissions of AVE calculations

32. Members will submit to the Secretariat their preliminary AVE calculations, including full details of the constituent data, data sources and methods applied, using the annexed electronic spreadsheet format.¹⁰ Those tariff lines that have been identified by the procedures under paragraphs 15 to 20 above will be identified as such in order to allow particular scrutiny. The Secretariat will post all submissions on the password-protected Members' WTO Web Site for the purposes of the multilateral review.

⁹ In the country tables of the monthly editions of the *International Financial Statistics* the annual

2. Verification

33. The verification process is to ensure that the AVE calculations have been performed in accordance with these Guidelines [details to be developed.]

34. Final lists of AVEs are to be submitted to the Secretariat within [] days following the completion of the verification process. Upon receipt, the Secretariat will promptly post these submissions on the password-protected Members' Web Site.

Tariff Escalation
Provisional Draft List of Primary and Processed Products¹

<u>Bovine meat</u>	
Primary product	Processed product
0102.90 Live bovine animals other than pure bred breeding animals	0201.10 – Meat of bovine animals, fresh or chilled; Carcasses and half-carcasses Meat of bovine animals, fresh or chilled. 0201.20 – Other cuts with bone in 0201.30 – Boneless 0202.10 – Meat of bovine animals, frozen; Carcasses and half-carcasses Meat of bovine animals, frozen. 0202.20 – Other cuts with bone in 0202.30 – Boneless 0206.10 – Edible offal of bovine animals, fresh or chilled Edible offal of bovine animals, frozen. 0206.21 – Tongues 0206.22 – Livers 0206.29 – Other 0210.20 – Meat of bovine animals salted, in brine or dried or smoked; Other, including edible flours and meals of meat and meat offal 1602.50 – Prepared or preserved meat, meat offal or blood of bovine animals

¹ The list is that proposed by Canada in JOB(06)/166 and is included here provisionally only. The ultimate list would need to be agreed specifically in accordance with the particular proposal adopted in the main text.

0702.00 – Tomatoes, fresh or chilled	Tomatoes prepared or preserved otherwise than by vinegar or acetic acid. 2002.10 – Tomatoes, whole or in pieces 2002.90 – Other 2009.50 – Tomato juice, unfermented and not containing added sugar or other sweetening matter 2103.20 – Tomato ketchup and other tomato sauces
<u>Fruits</u>	
Primary product	Processed product
0805.10 – Oranges, fresh or dried	Orange juice, unfermented and not containing added spirit, whether or not containing added sugar or sweetening matter. 2009.11 – Orange juice, frozen 2009.12 – Orange juice, not frozen, of a Brix value not exceeding 20 2009.19 – Other
0805.40 – Grapefruit, fresh or dried	Grapefruit juice, unfermented and not containing added spirit, whether or not containing added sugar or sweetening matter. 2009.21 – Of a Brix value not exceeding 20 2009.29 – Other
0806.10 – Grapes, fresh	0806.20 – Grapes, dried
0808.10 – Apples, fresh	0813.30 – Apples, dried Apple juice, unfermented and not containing added spirit, whether or not containing added sugar or sweetening matter. 2009.71 – Of a Brix value not exceeding 20 2009.79 – Other
<u>Coffee</u>	
Primary Product	Processed Product
0901.11 – Coffee, not roasted: Not decaffeinated	0901.21 – Coffee, roasted: Not decaffeinated 2101.11 – Extracts, essences and concentrates
0901.12 – Coffee, not roasted: Decaffeinated	0901.22 – Coffee, roasted: Decaffeinated 2101.11- Extracts, essences and concentrates
<u>Cereals</u>	
Primary Product	Processed Product
1001.10 – Durum Wheat 1001.90 – Wheat: Other	11.01 – Wheat or meslin flour 11.03.11 – Groats and meal, of wheat 11.03.20 – Pellets ² 1108.11 – Wheat starch 11.09 – Wheat gluten, whether or not dried
10.03 – Barley	11.03.19 Groats and meal, of other cereals ¹ 11.03.20 Pellets ¹ 1104.19 – Rolled or flaked grains, of other cereals ¹ 1104.29 – Other worked grains, of other cereals ¹ Malt, whether or not roasted 1107.10 – Not roasted 1107.20 – Malt, Roasted

² The test for determining tariff escalation will require examination of national schedules with detail beyond the 6 digit level.

10.04 – Oats	11.03.19 Groats and meal, of other cereals ¹ 11.03.20 Pellets ¹ Cereal Grains Otherwise Worked (for example, hulled, rolled, flaked, pearled, sliced or kibbled), except rice of heading 10.06; germ of cereals, whole, rolled, flaked or ground 1104.12 – Rolled or flaked grains: Of oats 1104.22 – Other worked grains: Of oats
<u>Oilseeds</u>	
Primary Product	Processed Product
12.01 – Soya Beans, whether or not broken	Flours and meals of oil seeds or oleaginous fruits, other than those of mustard: 1208.10 – Of soya bean Soya bean oil and its fractions, whether or not refined, but not chemically modified. 1507.10 – Crude oil, whether or not degummed 1507.90 – Other
1202.10 – Ground-nuts, not roasted or otherwise cooked, whether or not shelled or broken: In shell	Ground-nuts, not roasted or otherwise cooked, whether or

1207.60 – Safflower seeds	Flours and Meals of Oilseeds or oleaginous fruits, other than those of mustard, 12.08.90 – Other than of soybeans ¹ Sunflower-seed, safflower or cotton-seed oil and fractions thereof, whether or not refined, but not chemically modified. Sunflower-seed or safflower oil and fractions thereof: 1512.11 – Crude oil 1512.19 – Other
Other oil seeds and oleaginous fruits, whether or not broken 1207.10 – Palm nuts and kernels	Flours and Meals of Oilseeds or oleaginous fruits, other than those of mustard, 12.08.90 – Other than of soybeans ¹ Palm oil and its refractions, whether or not refined, but not chemically modified 1511.10 – Crude oil 1511.90 – Other
Other oil seeds and oleaginous fruits, whether or not broken 1207.20 – Cotton seeds	Flours and Meals of Oilseeds or oleaginous fruits, other than those of mustard, 12.08.90 – Other than of soybeans ¹ Sunflower-seed, safflower or cotton-seed oil and fractions thereof, whether or not refined, but not chemically modified. Cotton-seed oil and its fractions: 1512.21 – Crude oil, whether or not gossypol has been removed 1512.29 – Other
Sugar	
Primary product	Processed product³
1701.11 – Raw cane sugar, not containing added flavouring or colouring matter 1701.12 – Raw beet sugar, not containing added flavouring or colouring matter	1701.91 – Cane or beet sugar containing added flavouring or colouring matter 1701.99 – Cane or beet sugar, other than containing added flavouring or colouring matter 1704 – Sugar confectionery (including white chocolate) not containing cocoa
Cocoa	
Primary product	Processed product
1801.00 – Cocoa beans, whole or broken, raw or roasted	1803.10 – Cocoa paste, not defatted 1803.20 – Cocoa paste, wholly or partly defatted 1805.00 – Cocoa powder, not containing added sugar or other sweetening matter 1804.00 – Cocoa butter, fat and oil Chocolate and other food preparations containing cocoa. 1806.10 – Cocoa powder, containing added sugar or other sweetening matter 1806.20 – Other preparations in blocks, slabs or bars more than 2 kg or liquid, paste, powder, granular or other bulk form in containers or immediate packings of a content exceeding 2 kg 1806.32 – Other, in blocks, slabs or bars, not filled 1806.90 – Other

][other]

³ This does not preclude the possible addition of additional products within Chapter 17 and 18 that can be linked back to the primary product.

- (g) [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.]
- (h) [Members shall not impose unfavourable commercial terms or requirements which act to restrict products eligible for importation under a TRQ such as:
 - (i) domestic purchasing requirements;
 - (ii) non-viable quota allotments; and
 - (iii) export or re-export requirements which restrict imports.]
- (i) [Members shall establish a mechanism of redistribution of unused licences in order to ensure that the system is operating accoe that e m inan

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.]

Illustrative list of indicators for designation of Special Products

- (i) The product has been identified as a staple food or as part of the basic food basket of the developing country Member concerned through laws and regulations, including administrative guidelines.
- (ii)
 - (a) A significant proportion of the domestic consumption of the product in its natural unprocessed or processed form is met through domestic production in the developing country Member concerned; or
 - (b) Total domestic production of each food class (in terms of carbohydrates, fats and proteins or any other food class) accounts for a significant proportion of the total normative requirement of that food class in accordance with the dietary preferences in the developing country Member concerned; or
 - (c) The product contributes to a significant proportion of the total calorific intake per capita per day.
- (iii)
 - (a) A significant proportion of the total food expenditure, or of the total income, at the household level in the developing country Member concerned is spent on the product; or
 - (b) A significant proportion of the total agricultural income at the household level in the developing country Member concerned is derived from the production of the product.
- (iv) Domestic consumption of the product in the developing country Member is significant in relation to total world exports of that product.
- (v) A significant proportion of total world exports of the product is accounted for by the largest exporting country.
- (vi)
 - (a) A significant proportion of the total domestic production of the product is produced on farms or operational land holdings of twenty (20) hectares or of average farm size of the developing country Member concerned or less in size; or
 - (b) A significant proportion of the farms or operational land holdings producing the product are of twenty (20) hectares or the average farm size of the developing country Member concerned or less in size.
- (vii) A significant proportion of the producers engaged in the production of the product are low income, resource poor or are subsistence farmer or disadvantaged producers.
- (viii)
 - (a) A relatively high absolute number of people are dependent on the product; or
 - (b) A significant proportion of the total agricultural population or rural labour force is employed in the production of the product.
- (ix) A significant proportion of the gross arable land is under cultivation of the product.
- (x) A significant proportion of the domestic production of the product, including a product produced from livestock is produced in drought-prone or hilly or mountainous regions.
- (xi) A significant proportion of the domestic production of the product is produced by vulnerable populations such as tribal communities, ethnic groups, women, aged people, or disadvantaged producers.

- (xii) The productivity per worker or per hectare of the product in the developing country Member is relatively low as compared to either the average productivity in the world or the highest productivity level achieved in any country.
- (xiii) A relatively low proportion of the product is processed in the developing country Member as compared to the world average.
- (xiv) The product contributes to improving the living standards of the rural population directly and through its linkages to non-farm rural economic activities, including handicrafts and cottage industries or any other form of rural value addition.
- (xv) A significant proportion of the total value of agricultural production or agricultural GDP or agricultural income is contributed to by the product.
- (xvi) A significant proportion of the customs tariff revenue is derived from the product in a developing country Member.
- (xvii)
 - (a) A significant proportion of the agricultural income or agricultural production is derived from the production of the livestock product(s), or
 - (b) A significant proportion of the agricultural population or rural labour is employed in

Draft

Special Safeguard Mechanism for Developing Country Members

1. Notwithstanding the provisions of paragraph 1(b) of Article II of GATT 1994 or of Article 4 of this Agreement, any developing country Member may take recourse to the imposition of an additional duty in accordance with the provisions of paragraphs 4 and 5 below in connection with the importation of any agricultural product [which is designated in its Schedule with the symbol "SSM"] if:

- (a) the quantity of imports of that product entering the customs territory of that developing country Member [during any year] exceeds a trigger level equal to [130 per cent of] the average yearly quantity of imports [on a most-favoured-nation basis] for the [36 month] period preceding the year of importation for which data are available [or 130 per cent of the average yearly import quantity on a most-favoured-nation basis for the base period of [] to [], whichever is the greater] (hereinafter referred to as the "average import volume")[.] [and domestic prices are declining.] [and unit import value of trade on a most-favoured-nation basis are declining relative to the base period.]

[Where there are no, or minimal, levels of imports in the base period or the most recent three-year period for which data are available, [] per cent of domestic consumption of the product shall be used as a proxy for "average import volume". Where historical trade patterns have been disrupted due to historical circumstances, an alternative representative base period shall be used];

or, but not concurrently:

- (b) the c.i.f. import price, expressed in terms of the developing country Member's

- [(b) An additional duty under subparagraph 1(a) may be invoked if imports over the previous six months are [] per cent greater than imports over the same six months period in the preceding twelve months.

Any additional duty under subparagraph 1(a) and 1(b) above shall not exceed [] per cent of the difference between the Final Bound Rate of duty of the Uruguay Round and the current Bound Rate in the developing country Member's Schedule. Least-developed country Members may apply an additional duty of [].]

5. [(a) Any additional duty imposed under subparagraph 1(b) may be assessed either on a shipment-by-shipment basis or on an *ad valorem* basis for a duration of no more than 12 months as defined in subparagraph 5(b) below.

(b) In the event that the additional duty is assessed on that product:

- (i) on a shipment-by-shipment basis, the additional duty shall not exceed the difference between the import price of each shipment and the trigger price;
- (ii) on an *ad valorem* basis, the additional duty shall not exceed the difference between the import price of the shipment and the trigger price referred to in subparagraph 1(b) above, expressed as a percentage of that import price;

provided that if at least two subsequent shipments are at import prices that are 5 per cent or more lower than the trig

- (iv) an additional duty of up to 25 per cent of the difference between the import price and the trigger price may be applied if the import price is more than 40 per cent but less than, or equal to, 50 per cent below the trigger price;
 - (v) an additional duty of up to 30 per cent of the difference between the import price and the trigger price may be applied if the import price is more than 50 per cent below the trigger price.
6. [The trigger levels under paragraphs 1(a) may be decreased by [20] per cent and under

Draft [Indicative List of]

Tropical Agricultural Products and Products of Particular Importance to the Diversification of
Production from the Growing of Illicit Narcotic Crops¹

HS4	HS4 DESCRIPTION
ts6(r1h)30427.D4af b]TJEoifi10.1(oifi)owiucts10.664(tfoifi)owiro64(toifi)owiucts10n]TJEaifi	

HS4	HS4 DESCRIPTION
1803	Cocoa paste, whether or not defatted.
1804	Cocoa butter, fat and oil.
1805	Cocoa powder, not containing added sugar or other sweetening matter.

HS4	HS4 Description
2009	Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter
2101	Extracts, essences and concentrates, of coffee, tea or maté and preparations with a basis of these products or with a basis of coffee, tea or maté; roasted chicory and other roasted coffee substitutes, and extracts, essences and concentrates thereof
2103	Sauces and preparations therefor; mixed condiments and mixed seasonings; mustard flour and meal and prepared mustard
2204	Wine of fresh grapes, including fortified wines; grape must other than that of heading No 2009
2207	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 % vol or higher; ethyl

- (c) Transparency and Reporting (to be developed)

Decoupled income support (paragraph 6)

- (i) Modify the existing subparagraphs (a) and (e) and add a subparagraph (f) as follows:
 - (a) Eligibility for such payments shall be determined by clearly-defined criteria ~~such as~~ *of low levels of* income, ~~status as a producer or landowner~~

Text of footnote 10: ***Includes administrative orders and regulations made by the designated competent authorities.***

- (ii) Add two footnotes to the existing subparagraphs (a) and (b):
- (a) Eligibility for such payments shall be determined by an income loss¹, 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.

Text of the footnote 1: ***Developing country Members may determine the income loss on an aggregate basis of the agriculture sector as a whole (i.e. not on an individual basis) at either a national or regional level.***

- (b) The amount of such payments shall compensate for less than 70 per cent of the producer's income loss² in the year the producer becomes eligible to receive this assistance.

Text of footnote 2: ***If developing country Members have based the eligibility criteria in***

entry. *In the case of developing country Members, payments for relief from natural disasters may be provided to producers when the estimated production loss is less than 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.*

- (iv) Add to the existing subparagraph (a) and modify the existing subparagraph (b) 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 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.
- (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 of production in a period demonstrated to be actuarially appropriate.*
- (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 the 30 per cent of the average of production referred to above.*
- (b) Payments made following a disaster shall be applied only in respect of losses of income, *crops*, livestock (including payments in connection with the veterinary treatment of animals), land or other production factors due to the natural disaster in question.
- (v) Add to the existing subparagraph (a) and modify the existing subparagraphs (b) and (d) as follows:
- (a) *Eligibility for such payments shall arise:*
- (i) *In the case of direct payments related to disasters* ~~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~~ *five*-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry.
- (ii) *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.*
- (iii) *In the case of the destruction of animals or crops to control or prevent diseases named in 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 ~~following a disaster~~ *under Paragraph 8* shall be applied only in respect of (ii)

(vi) Add to the existing subparagraph (a) and modify the existing subparagraphs (b) and (d) as follows:

(a) Eligibility for such payments shall arise:

- (i) ***In the case of direct payments, eligibility*** 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 ***minimum five-year*** ~~three-year~~ period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry.
- (ii) ***In the case of government financial participation in production insurance***

Payments under environmental programmes (paragraph 12)

- (i) Add the following subparagraph (c) to the existing paragraph 12:
 - (c) ***The conditions spelt out in paragraphs 12 (a) and (b) above shall not apply to payments made by developing country Members.***
- (ii) Modify the existing subparagraph (b) as follows:
 - (b) The amount of payment shall be limited to the extra costs ~~or loss of income~~ ***involved in complying with the government programme and not be related to or based on the volume of production.***

Payments under regional assistance programmes (paragraph 13)

- (i) Add text at the end of subparagraph (a) and modify the existing subparagraph (b) as follows:
 - (a) ***... 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.***
 - (b) The amount of such payments in any given year shall not exceed 6 per cent of the value of the production of the region concerned in the base year.

(iv) Modify the existing subparagraph (b) as follows:

ANNEX I

POSSIBLE NEW ARTICLE 10.2 OF THE AGREEMENT ON AGRICULTURE

EXPORT CREDITS, EXPORT CREDIT GUARANTEES OR INSURANCE PROGRAMMES

1. General Provisions

1. Subject to the provisions of this Article, Member

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 [at the date of issuance of cover] [or] [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 credit insurance, reinsurance or export credit guarantees] [export financing support] shall not exceed [] 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 [1-15] years.]sram96.2(r)-9w[(ac(.9297 -1purpose,6.6(als of t11.3(er)2()11.3(ev[(ac(3(s-15)6.4

4. 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 9 of this Agreement, hereinafter referred to as "non-conforming export financing", constitute export subsidies for the purposes of this Agreement and are therefore, [subject to specific export financing elimination commitments contained in Members' Schedules] [to be prohibited by []] [to be eliminated within the binding levels of Members' export subsidies elimination Schedules].

5. Implementation

6. [The following additional and specific disciplines shall be phased in from the first day of the implementation period of the Doha Round: [].]

7. [Over the implementation period the scope of permitted export financing instruments shall be reduced to only pure risk cover comprising export credit insurance or reinsurance and export credit guarantees according to the following timetable [].]

6. Other Issues

8. Members who operate export financing programmes in accordance with the provisions of this Article [, excluding least-developed country Members,] shall comply with the following transparency requirements:

- (a) [on the day of the entry into force of these provisions, Members concerned shall submit a notification concerning that Member's export financing programmes, export financing bodies and other related matters in the years [] to [] in accordance with the format specified in Annex [to be developed] hereto;
 - (b) After the entry into force of this Agreement the notification under paragraph 6.8(a) shall be updated at the beginning of each subsequent year;
 - (c) 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 [to be developed] hereto. For each export financing programme, the notification shall include accounting information referred to under the self-financing provisions indicating whether the programme was self-financing during the previous year;
 - (d) A Member whose export financing programmes are not in conformity with the disciplines and the self-financing principle shall provide the Committee on Agriculture information on any corrective action taken or envisaged to bring the programme back into conformity.]
-
- (a) [no later than three months after the entry into force of this Article each Member shall notify the Committee on Agriculture of any export financing support entity that exceeds the maximum repayment term of 180 days and is not covered by the exceptions in paragraph 3.4(a). Failure to notify shall result in prohibition of use of such programmes;

- (b) Each Member operating a non-conforming export financing support entity shall annually notify the Committee on Agriculture, at the beginning of each subsequent year, all relevant data;
- (c) Each Member shall annually notify the Committee on Agriculture, at the beginning of each subsequent year, of the following information for each entity providing export financing support. If funds are provided in a foreign currency other than the Member's national currency, then the repayment and interest shall be converted to the Member's national currency using prevailing market exchange rates at the time funds are received. The notifications shall include the following data:
 - (i) the value of all direct financing support comprising direct credits, refinancing and interest rate support granted, including any government-to-government transactions the value of all risk cover extended in the form of export credit insurances, reinsurance and export credit guarantees, including any government-to-government transactions; and the value of all other support, including, but not limited to, deferred invoicing and foreign exchange risk hedging;
 - (ii) the total amount of funds from all sources including national accounts used to pay claims and the total amount of reimbursements of funds to such sources including national accounts in respect of such claims;
 - (iii) the total amount of revenue earned from premiums charged and interest
- (d) If a Member's annual notification for any export financing support

- (c) [The provisions of paragraph 5.7, shall be implemented according to the following timetable [];]
 - (d) [The maximum repayment period under paragraph 3.4(a) shall be no more than [] days;]
 - (e) [The minimum interest rate as provided for under paragraph 3.4(c) may be adjusted to take into account withholding taxes on international borrowings and additional borrowings for capital required to conform to Basel II norms. Such elements shall not be considered export subsidies for the purpose of this Article;]
 - (f) [The premiums charged in accordance with paragraph 3.4(d) may be market-based and premium rebates may be provided for under the following circumstances [];]
 - (g) [With respect to the risk sharing provisions contain in paragraph 3.4(e), 100 per cent of the value of the transaction may be covered in the form of [export credit insurance, reinsurance or export credit guarantees] [export financing support];]
 - (h) [As an exception to the provisions of paragraph 3.4(f), developing country Members may hedge in non-freely traded currencies;]
 - (i) [The self-financing period contained in paragraph 3.4(g) for developing countries shall be [at least] [] years;]
 - (j) [For the purpose of paragraph 3.4(h), when warranted by genuine financial difficulties the rescheduling of debt should be on the same terms and conditions as those for commercial tenders in order to prevent or curtail planned defaults.]]
10. [Developing country Members shall benefit from a grace period of three years after the entry into force of this Agreement before being required to comply with the provisions under paragraph 6.8.]
11. [Export financing entities in developing country Members which have the objective of preserving domestic price stability or ensuring food security shall be exempt from the provisions of paragraph 6.8 of this Article.]
12. Least-developed countries and net food-importing developing countries as listed in G/AG/5/Rev.8 shall be accorded differential and more favourable treatment comprising: [].
13. In exceptional circumstances which can not be adequately covered otherwise by international food aid, commercial export credits or preferential international financing facilities, Members may provide,

[in respect of exports to developing and least-devel.8(trirc)4(u)-9.5v7ed.doc/3/rev.1a.8(.2(t2.9(D-0(m-4.

accordance with this paragraph. Notwithstanding the terms and conditions of paragraph 3.4, export financing support provided pursuant to this paragraph shall be deemed conforming export financing support. An emergency is defined as a sudden, significant and unusual deterioration in a developing country Member's economy and in its ability to finance current imports of

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

A

out] by [] [the end of 2013] the use of monopoly powers for such enterprises, after

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 aid⁹), 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.

1. General Provisions

2. Members shall ensure that all food aid transactions are provided in conformity with the following provisions:

- (a) they are needs-driven;
- (b) they are provided in fully [or, in the event of an exceptional situation, less than 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 [affected] [country] in an emergency [humanitarian] 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,] [or non-governmental humanitarian organization or private charitable body].

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

2. Safe Box for Emergency Food Aid

4. To ensure that there is no unintended impediment to the provision of food aid during an emergency [humanitarian] situation^[10], food aid provided under such circumstances shall be exempt from the provisions of paragraph[s] [] , provided that there has been:

- (a) a declaration of an emergency by the [affected] [recipient] country [, or, the Secretary-General of the United Nations]; and
- (b) an assessment of need undertaken by [a country][,] a relevant United Nations agency, including the World Food Programme and the United Nations Consolidated Appeals Process; the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies [, a relevant regional or international intergovernmental agency or organization, a non-governmental humanitarian organization or private charitable body working in collaboration with the recipient government]; and
- (c) an emergency appeal from [a country][,] a relevant United Nations agency, including the World Food Programme and the United Nations Consolidated Appeals Process; the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies [, a relevant regional or international intergovernmental agency or organization, a non-governmental humanitarian organization or private charitable body working in collaboration with the recipient government].

5. [A notification will be required on an ex-post ba

paragraph 2.4.] In such circumstances, an ex-post declaration of appeal by an organization or agency listed in paragraph 2.4 above shall be deemed to be in conformity with that paragraph.]

7. The provision of food aid in conformity with paragraph 2.4 [,2.5 and 2.6] may be provided for [as long as necessary] [as long as the emergency lasts] [a period of [] months, after which the continuation of such food aid under the Safe Box shall be] subject to an assessment of continued genuine need as a result of the initial onset of the emergency. The assessment of continued need shall be conducted by [the triggering organization or agency] [or] [in co-operation with] [the recipient country].

8. ["Cash-based" food aid that is conformity with the other provisions of this Agreement will be included in the safe box and be presumed to be in conformity with Article 10.1 of the Agreement on Agriculture.]

3. Disciplines for Food Aid in Non-emergency Situations

9. [In addition to the provisions of paragraphs 1.2 and 1.3, in-kind food aid provided in situationsll be]052 .1..4(o)6.7(n)3(sll be]0)-6.8.4(e)-6.4(nragrapdl be]0)-6.8.f Fnl be]0h52 .1..6] 3, fot2 d(2.7.7(3,)nd)6.6.7(3

11.

EXPORT PROHIBITIONS AND RESTRICTIONS

[POSSIBLE AMENDMENT TO ARTICLE 12.1 OF THE AGREEMENT ON AGRICULTURE¹¹]

1. [In order to strengthen the existing disciplines on export prohibitions and restrictions of Article XI of GATT 1994, Article 12 of the Agreement on Agriculture shall be modified to include the following elements:

- (a) [Existing prohibitions or restrictions in Members territories shall be notified to the Committee on Agriculture within 90 days of the coming into force of these provisions.
- (b) As provided in paragraph 7 of Article 18 of the Agreement on Agriculture, any Member may bring to the attention of the Committee on Agriculture such measures which it considers ought to have been notified by another Member.
- (c) As of day one of the implementation period, a term of one year shall be established for the elimination of those export prohibitions or restrictions in foodstuffs and feeds.
- (d) The above is proposed notwithstanding that, any Member instituting export prohibitions or restrictions and the affected importing Member may agree to set a term exceeding one year, as long as the term agreed on is not in excess of 18 months. Notice shall be given to the Committee on Agriculture of the agreement reached in this respect.
- (e) A Member instituting those measures shall give notice of the causes that justify its keeping it.
- (f) A biannual surveillance mechanism shall be established in the Committee on Agriculture for the observance of obligations described in subparagraphs (c) and (d).]

¹¹ Proposal submitted by the G-20 in JOB(06)/147 of 18 May 2006 is included here for illustrative purposes only at this point.

ANNEX M

[COMMODITY ARRANGEMENTS

UNDERSTANDING ON THE PROVISIONS OF ARTICLES XX(H) AND XXXVIII OF GATT 1994^{12]}

1. [The term "arrangements" in Article XXXVIII of GATT 1994 is understood to cover both:
 - (a) Commodity agreements of which all interested producing and consuming countries are parties; and
 - (b) Agreements of which only commodity-dependent producing countries are parties.