

**Committee on Agriculture  
Special Session**

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 have also circulated separately to Members some personal reflections on where we stand. I stand by those

## **DRAFT POSSIBLE MODALITIES ON AGRICULTURE**

### **I. DEFINITIONS<sup>1</sup>**

- Year in relation to the implementation period

- (i) with respect to support provided during the base period (i.e. the "Base Overall Trade-Distorting Domestic Support") and the maximum support permitted to be provided during any year of the implementation period or thereafter (i.e. the "Annual" and "Final Bound Overall Trade-Distorting Domestic Support Commitment Levels") as

## II. MARKET ACCESS

### A. TIERED FORMULA FOR TARIFF REDUCTIONS

#### 1. Basis for reductions

1. Subject to the provisions set out in sections B to H below, customs duties shall be reduced in equal annual instalments from bound duty levels<sup>2</sup> using the tiered formula in paragraphs 2.3 and 2.4 below.

2. In order to place bound non-*ad valorem* tariffs 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.

#### 2. Tiered Formula

3. 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 [20-30] the reduction shall be [20-65] per cent;
- (b) Where the bound duty or *ad valorem* equivalent is greater than [20-30] per cent and less than or equal to [40-60] per cent, the reduction shall be [30-75] per cent;
- (c) Where the bound duty or *ad valorem* equivalent is greater than [40-60] per cent and less than or equal to [60-90] per cent, the reduction shall be [35-85] per cent; and
- (d) Where the bound duty or *ad valorem* equivalent is greater than [60-90] per cent, the reduction shall be [42-90] per cent [except for those Members with more than [ ] per cent of tariff lines in the top tier who shall make a reduction of [ ] per cent].

[The average reduction in bound duties by developed country Members shall in any case be [at least [ ] per cent [with additional tariff reductions beyond those otherwise required for any particular band, if necessary, to achieve this objective]].]

4. Developing country 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 [20-50] per cent, the reduction shall be [15-slightly less than 65] per cent;
- (b) Where the bound duty or *ad valorem* equivalent is greater than [20-50] per cent and less than or equal to [40-100] per cent, the reduction shall be [20-slightly less than 75] per cent;
- (c) Where the bound duty or *ad valorem* equivalent is greater than [40-100] per cent and less than or equal to [60-150] per cent, the reduction shall be [25-slightly less than 85] per cent; and
- (d) Where the bound duty or *ad valorem* equivalent is greater than [60-150] per cent, the reduction shall be [30-slightly less than 90] per cent. [The maximum average

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<sup>2</sup> That is, all out-of-quota duties. In-quota tariffs shall be subject to commitments under paragraph 18.

reduction in bound duties any developing co

- (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. The expansion shall be

[at least [6] per cent of domestic consumption or, for developing country Members, less than two thirds of [6] per cent of domestic consumption. For developing country Members, domestic consumption shall not include self-consumption of subsistence production. Developing country Members shall be able to reduce existing bound quotas to less than two thirds of [6] per cent of domestic consumption if the current bound quota is greater than this quantity.]

[calculated according to the formula

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

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.

]

[calculated according to the formula

$$! Q = [! Q_b] + (T_{1s} - T_{1n}) * [S]$$

Where

! Q is the expansion in the tariff quota expressed as a percentage of domestic consumption;

!  $Q_b$  is the base expansion of the tariff quota expressed as a percentage of domestic consumption;

$T_{1s}$  is the bound duty to be applied to the sensitive product;

$T_{1n}$  is the bound duty as calculated under the tiered formula;

S is the Slope.

]

[calculated according to the 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 [ ] per cent of domestic consumption the expansion in the tariff quota under (a) above shall be adjusted by [ ]];
- (ii) [current imports] [the existing bound tariff quota] represent[s] less than [ ] per cent of domestic consumption, the expansion in the tariff quota under (a) above shall be adjusted by [ ]];
- (iii) there is no existing final bound tariff quota commitment for a Sensitive Product the Member concerned [may choose to] [shall not] create a new tariff quota, [provided that the tariff cut for the Sensitive Product shall be achieved in a shorter implementation period. Alternatively, a Member may opt for a longer imded that the tarifreq1803 -em per



otherwise be applied for the tier immediately above, as long as the tariff rate on the processed product will not fall below the tariff rate for the primary products.

- (b) if they both belong to the highest tier, the bound duty for the processed tariff lines shall be subject to an additional reduction of [ ] per cent compared to the reduction which would have been otherwise required under the tiered formula, as long as the tariff rate on the processed product will not fall below the tariff rate for the primary products.]

## **2. Commodities**

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

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

## **3. Tariff simplification**

17. [All bound duties on agricultural products shall be expressed as simple *ad valorem* [or specific] duties.] [While reductions in bound duties shall be made on the basis of existing bound duties in whatever form they are currently expressed, highly complex forms of bound duties, such as complex matrix tariffs [or compound tariffs] shall be simplified.] [Members undertaking such simplification shall supply supporting data with their draft Schedules that demonstrates that the simplified bound duty is representative of the original complex duty.]

## **4. Tariff quotas**

- (a) Bound in-quota duties

18. [Bound in-quota duties rates shall be [eliminated] [reduced by [ ] percent].]

- (b) Tariff quota administration

19. The administration of bound tariff quotas shall be subject to the disciplines [to be developed taking into account the provisional and i



characterised by special circumstances<sup>3</sup>, an additional [15] per cent of the aforementioned tariff lines will not be subject to any tariff reduction commitment;

- (b) [25] per cent other than those categorised in subparagraph (a) above, of the aforementioned tariff lines will be subject to a reduction of [5] per cent; and
- (c) Each residual tariff line, other than those categorised in subparagraphs (a) and (b) above, of the aforementioned tariff lines will be subject to a reduction of not more than [10] per cent..]

27. [Products designated as "Special Products" shall be subject to a reduction in bound duties of [ ] per cent of the reduction that would otherwise have been applicable under the tiered formula for reductions in bound duties or, in the case where a cap in the bound duty would otherwise have been applied, the cap shall be [ ] per cent higher than would otherwise have been the case.]

28. ["Special Products" [currently subject to bound tariff quotas] shall be subject to tariff quota expansion of [ ] per cent.]

## **2. Special Safeguard Mechanism**

### **(a) Selection**

29. Each developing country Member [shall have access to a Special Safeguard Mechanism for all agricultural products] [shall have the right to designate up to [ ] [per cent 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.

- (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 modalities:

- (a) [ ] per cent of tropical product tariff lines shall be reduced to [0];
- (b) [ ] per cent of tropical product tariff lines shall be reduced by the reduction foreseen for the tier immediately above the one for the product in question in the tiered formula;
- (c) bound duties on other tropical products shall be reduced by the reduction applicable under the tiered formula.

34. For diversification products, importing Members shall designate [ ] per cent of the tariff lines on the above list and provide preferential access to the Members concerned for as long as an effective diversification programme is in place.]

35. [No tropical or diversification product listed in Annex F may be designated as a Sensitive Product by a developed country Member.] [Tropical and diversification products may be declared as Sensitive Products or as Special Products and be treated as such.]

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

36. In recognition of the importance of long-standing preferences, preference erosion [associated with the products and markets listed in Annex G] shall be addressed by:

- (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 opportunities for non-preference-receiving products which are also of vital export interest to preference receiving Members, to the extent possible]; [and] [or]
- (f) [[the preference granting Member] taking fully into account the issue of preference erosion in designating Sensitive Products].

37. [[Preference granting Member] [Members] shall provide targeted technical assistance, including additional financial and capacity building assistance, to help address supply-side constraints

and to promote the diversification of existing production in the territories of preference receiving Members.]

F. RECENTLY ACCEDED MEMBERS

38. [The implementation period for [developing] recently acceded Members shall be [2011] to [three years after the end of the implementation period for other [developing country] Members ].] [To the extent that the implementation period of commitments undertaken in acceding to the WTO overlaps with the implementation period of commitments undertaken in association with these modalities, the start of implementation of commitments undertaken in association with these modalities shall begin [immediately] [[ ] years] after the end of implementation of accession commitments.]

39. [Recently acceded Members may reduce bound duties by [ ] per cent of the reduction that would otherwise have been required by tiered formula] [and bound duties below [10] per cent in a





B. PRODUCT-SPECIFIC AMS CAPS

1. **Product-specific AMS caps**

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

57. 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.

58. The product-specific AMS limits specified in each Member's Schedule shall be the average applied levels of such support provided during the base period [1995 to 2000] [1999 to 2001].

59. [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 *de minimis* level] [[ ] per cent of the value of production of that product] and the limit for such products shall be denoted accordingly in the Schedule.]

60. Product-specific AMS caps shall be implemented [according to the following schedule [ ]].

2. **Special and differential treatment**

61. [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) [twice] the Member's product-specific *de minimis* level; or
- (c) [20] per cent of the Annual Bound Total AMS in any year.]

C. DE MINIMIS

1. **Reductions**

62. The *de minimis* levels pursuant to Article 6.4(a) of the Agreement on Agriculture shall be reduced by [50] [80] [ ] 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]. The new *de minimis* levels shall [become effective from the beginning of the implementation period] [be phased in through equal annual instalments over the implementation period].

2. **Special and differential treatment**

63. Developing country Members:

- (a) that allocate almost all *de minimis* support for subsistence and resource-poor farmers;
- (b) with no AMS commitments[.] [; and]



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

shall be exempt from reductions in *de minimis*.

64.

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.]

- (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.



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**

comprising export credit insurance or reinsurance and export credit guarantees according to the following schedule [ .]

D. A



F. COTTON

113. All forms of export subsidies for cotton shall be eliminated by developed countries in 2006 [and developed countries concerned shall provide information on measures they have taken to implement this [and their schedules of commitments shall be modified with effect from 31 December 2006].]

114. [All forms of export subsidies for cotton shall be eliminated by developing country Members in 2007 [and developing country Members concerned shall provide information on measures they have taken to implement this] [and their schedules of commitments shall be modified with effect from 31 December 2007].]

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

**V. EXPORT PROHIBITIONS AND RESTRICTIONS**

A. ARTICLE 12.1

116. [Article 12.1 of the Agreement on Agriculture shall be amended to include the measures set out in Annex L.]

**VI. COMMODITY ARRANGEMENTS**

A. UNDERSTANDING ON THE PROVISIONS OF ARTICLES XX(H) AND XXXVIII OF GATT 1994

117. [An Understanding on the provisions of Articles XX(h) and XXXVIII of GATT 1994 is set out in Annex M.]

**VII. [OTHER ISSUES]**

A. [SECTORAL INITIATIVES]

B. [GEOGRAPHICAL INDICATIONS]

C. [DIFFERENTIAL EXPORT TAXES]

118. The differential element of export taxes shall be eliminated by the end date for implementation.]

**DRAFT GUIDELINES FOR THE CONVERSION OF FINAL BOUND NON-AD VALOREM DUTIES  
INTO AD VALOREM EQUIVALENTS<sup>5</sup>**

**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 the principles of practicality, comparability, simplicity, transparency and verifiability.

2. All Members with final bound non-*ad valorem* tariffs for agricultural products (as defined in Annex 1 of the Agreement on Agriculture) in their WTO Schedules will apply these Guidelines for converting their non-*ad valorem* tariffs into AVEs.<sup>6</sup>

3. There are no preconditions to the tabling of data sets as a working basis. However, it should be noted in this context that all tariff reductions will be made from Members' bound rates, as agreed in paragraph 29 of the Framework Agreement. The issue of tariff simplification remains under negotiation in accordance with paragraph 37 of the Framework Agreement.

4. A solution to the issue of the potential "overlap" in tariff cuts, which may be created at the margins of the tariff bands, will need to be found.

5. While there is broad acceptance that Members are searching for the closest approximation possible of the correct AVE (exact precision being unattainable), it should be noted that in the consultations strong linkages have been made between providing Members "flexibility" and "verification" procedures.

6. At the request of Members, the Secretariat will continue to provide advice on technical matters, including technical assistance which may be necessary in the case of some developing country Members for applying the methodology set out below.

**II. CONVERSION METHODOLOGY**

7. The principal method for converting the final bound non-*ad valorem* duties into their *ad valorem* equivalents will be the unit value method based on IDB import data. This method will be applied in accordance with the modalities outlined in Section A below.

8. An alternative conversion method will be applied to the extent that the unit value method based on IDB import data is not appropriate or not practicable as determined in Section B below.

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<sup>5</sup> This text was first distributed as document number 2601 on 10 May 2005. The text and Members' submissions of *ad valorem* equivalents of bound non *ad valorem* tariffs can be found on the Members' website.

<sup>6</sup> Secretariat notes TN/AG/S/11, S/11/Add.1 and S/11/Add.2 describe the incidence of final bound non-*ad valorem* duties in Members' WTO Schedules.

A. UNIT VALUE METHOD BASED ON IDB IMPORT DATA

1. **Formula**

9. The final bound non-*ad valorem*

B. ALTERNATIVE AVE CALCULATION

1. **Specific situations covered**

*Missing data*

15. An alternative method for the calculation of AVEs to that outlined in Section A above will apply in the following situations:

- the IDB import data for the tariff line concerned are missing, or
- the IDB import value for the tariff line concerned is, on weighted average of the 1999-2001 period, lower than US\$ 2,500 or the equivalent in another currency, or
- there are reporting or other errors in the IDB import data.

*40/20 Filter*

16. An alternative method to that outlined in Section A above will also apply in any case where the IDB-based AVE cannot be considered to reflect the true level of tariff protection afforded by the non-*ad valorem* tariff. The "40/20 filter" is designed to systematically identify distorted IDB-based AVEs using existing, publicly available data that all Members have access to. This filter will be

unit value, if the resulting AVE is 3% using IDB data, rather than 6% using Comtrade data. Though there is a 100% difference here, the absolute difference between the AVEs is low enough so as not to warrant additional attention.

19. The relevance test is designed to only identify tariff lines in which ther

*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 b

## **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 Products<sup>1</sup>**

<b><u>Bovine meat</u></b>	
<b>Primary product</b>	<b>Processed product</b>
0102.90 Live bovine animals other than pure bred breeding	



<b>Swine meat</b>	
<b>Primary product</b>	<b>Processed product</b>
Live Swine, other than pure-bred breeding animals 0103.91 Weighing less than 50 kg 0103.92 Weighing 50 kg or more	0203.11 – Meat of swine, fresh or chilled; Carcasses and half-carcasses  Meat of swine, fresh or chilled. 0203.12 – Hams, shoulders and cuts thereof, with bone in 0203.19 – Other  0203.21 – Meat of swine, frozen; Carcasses and half carcasses  Meat of swine, fresh or chilled. 0203.12 – Hams, shoulders and cuts thereof, with bone in 0203.19 – Other  Meat of swine, frozen. 0203.22 – Hams, shoulders and cuts thereof, with bone in 0203.29 – Other  0206.30 – Edible offal of swine, fresh or chilled Edible offal of swine, frozen. 0206.41 – Livers 0206.49 – Other

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

<p>10.04 – Oats</p>	<p>11.03.19 Groats and meal, of other cereals<sup>1</sup> 11.03.20 Pellets<sup>1</sup></p> <p>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</p>
<p><b><u>Oilseeds</u></b></p>	
<p><b>Primary Product</b></p>	<p><b>Processed Product</b></p>
<p>12.01 – Soya Beans, whether or not broken</p>	<p>Flours and meals of oil seeds or oleaginous fruits, other than those of mustard: 1208.10 – Of soya bean</p> <p>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</p>
<p>1202.10 – Ground-nuts, not roasted or otherwise cooked, whether or not shelled or broken: In shell</p>	<p>Ground-nuts, not roasted or otherwise cooked, whether or not shelled or broken: 1202.20 – Shelled, whether or not broken</p> <p>Flours and Meals of Oilseeds or oleaginous fruits, other than those of mustard, 12.08.90 – Other than of soybeans<sup>1</sup></p> <p>Ground-nut oil and its fractions, whether or not refined, but not chemically modified. 1508.10 – Crude oil 1508.90 – Other</p> <p>Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included. 2008.11 – Ground nuts</p>
<p>Rape or colza seeds, whether or not broken 1205.10 – Low erucic acid rape or colza seed 1205.90 – Other</p>	<p>Flours and Meals of Oilseeds or oleaginous fruits, other than those of mustard, 12.08.90 – Other than of soybeans<sup>1</sup></p> <p>Rape, colza or mustard oil and fractions thereof, whether or not refined, but not chemically modified. - Low erucic acid rape or colza oil and its fractions: 1514.11 – Crude oil 1514.19 – Other - Other: 1514.91 – Crude oil 1514.99 – Other</p>
<p>12.06 – Sunflower seeds, whether or not broken</p>	<p>Flours and Meals of Oilseeds or oleaginous fruits, other than those of mustard, 12.08.90 – Other than of soybeans<sup>1</sup></p> <p>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</p>

<p>1207.60 – Safflower seeds</p>	<p>Flours and Meals of Oilseeds or oleaginous fruits, other than those of mustard, 12.08.90 – Other than of soybeans<sup>1</sup></p> <p>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</p>
<p>Other oil seeds and oleaginous fruits, whether or not broken 1207.10 – Palm nuts and kernels</p>	<p>Flours and Meals of Oilseeds or oleaginous fruits, other than those of mustard, 12.08.90 – Other than of soybeans<sup>1</sup></p> <p>Palm oil and its refractions, whether or not refined, but not chemically modified</p> <p>1511.10 – Crude oil 1511.90 – Other</p>
<p>Other oil seeds and oleaginous fruits, whether or not broken 1207.20 – Cotton seeds</p>	<p>Flours and Meals of Oilseeds or oleaginous fruits, other than those of mustard, 12.08.90 – Other than of soybeans<sup>1</sup></p> <p>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</p>

**Annex C**

**Provisional draft**  
**Tariff Quota Administration<sup>1</sup>**

1. Tariff quota commitments shall be administered in a manner which is transparent and predictable, and ensures that the market access opportunities represented by such commitments are made fully and effectively available.
2. [In order to promote this,] Members shall administer tariff quotas in conformity with WTO

- (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 according to its intentions. Reallocated quota shares must be valid until the end of the quota period in question.]

3. [Underfill Mechanism:

- (a) [If the tariff quota fill rate in any year falls below [85%]<sup>2</sup> the under-filled portion of the tariff quota shall be added to the tariff quota quantity for the following year.
- (b) If fill rates are, in each year over a [two-year] period, less than [85] per cent

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.]





- (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 the production of the livestock product(s).
- (xviii) The product in respect of which product-specific AMS has been notified by any other Member and which has been exported by that notifying Member during any year of the implementation period of the Uruguay Round.



currency against such international currency or currencies for the three-year period referred to above.]

2. Imports under any [bound] tariff quota shall be counted for the purpose of determining the volume of imports required for invoking the provisions of subparagraph 1(a) and paragraph 4, but imports within such [bound] tariff quota shall not be affected by any additional duty imposed under either subparagraph 1(a) and paragraph 4 or subparagraph 1(b) and paragraph 5 below.

3. Any shipments of the product in question which have been contracted and were en route after completion of custom clearance procedures in the exporting country before the additional duty is imposed either under subparagraph 1(a) and paragraph 4 or under subparagraph 1(b) and paragraph 5 shall be exempted from any such additional duty, provided that:

(a) the volume of such shipments may be counted in the volume of imports of the product in question during the following year for the purposes of triggering the provisions of subparagraph 1(a) in that year; or

(b) the price of any such shipment may be used during the following year in determining the average [import] [monthly] price trigger for the purposes of triggering the provisions of subparagraphs 1(b) in that year.

4. (a) Any additional duty imposed under subparagraph 1(a) shall be maintained [for no more than 12 months after it has been imposed] [only until the end of the year in which it has been imposed]. [If, import quantities are such that an additional duty under subparagraph 1(a) is applicable in two consecutive years the additional duty in the second year shall be two thirds that applicable in the first year. If, import quantities are such that an additional duty under subparagraph 1(a) is applicable in three consecutive years the additional duty in the third year shall be one third that applicable in the first year. No additional duty under subparagraph 1(a) may be imposed until [ ] years have passed after the third consecutive year of application of additional duties.

[(b) An additional duty imposed under subparagraph 1(a) may only be levied at levels that do not exceed [20 per cent of the current bound duty.] [those specified in the following schedule:

(i) where the level of imports during a year does not exceed 105 per cent of the average import volume, no additional duty may be imposed;

(ii) where the level of imports during a year exceeds 105 per cent but does not exceed 110 per cent of the average import volume, the maximum additional duty that may be imposed shall not exceed 50 per cent of the bound tariff or 40 percentage points, whichever is higher;

(iii) where the level of imports during a year exceeds 110 per cent but does not exceed 130 per cent of the average import volume, the maximum additional



(iv)

Draft [Indicative List of ]

Tropical Agricultural Products and Products of Particular Importance to the Diversification of  
Production from the Growing of Illicit Narcotic Crops<sup>1</sup>

<b>HS4</b>	<b>HS4 DESCRIPTION</b>
<b>0602</b>	<b>Other live plants (including their roots), cuttings and slips; mushroom spawn.</b>
<b>0603</b>	<b>Cut flowers and flower buds of a kind suitable</b>



HS4	HS4 DESCRIPTION
1803	<b>Cocoa paste, whether or not defatted.</b>
1804	<b>Cocoa butter, fat and oil.</b>
1805	<b>Cocoa powder, not containing added sugar or other sweetening matter.</b>
1806	Chocolate and other food preparations containing cocoa.
1903	<b>Tapioca and substitutes therefore prepared from starch, in the form of flakes, grains, pearls, siftings or in similar forms.</b>
2001	Vegetables, fruit, nuts and other edible parts of plants, prepared or preserved by vinegar or acetic acid.
2004	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, frozen, other than products of heading No. 20.06.
2005	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading No. 20.06.
2006	<b>Vegetables, fruit, nuts, fruit-peel and other parts of plants, preserved by sugar (drained, glacés or crystallised).</b>
2007	<b>Jams, fruit jellies, marmalades, fruit or nut purée and fruit or nut pastes, being cooked preparations, whether or not containing added sugar or other sweetening matter.</b>
2008	<b>Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included.</b>
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	<b>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.</b>
2103	Sauces and preparations therefore; mixed condiments and mixed seasonings; mustard flour and meal and prepared mustard.
2208	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol.; spirits, liqueurs and other spirituous beverages.
2305	<b>Oil-cake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of ground-nut oil.</b>
2306	<b>Oil-cake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of vegetable fats or oils, other than those of heading No. 23.04 or 23.05.</b>
2401	<b>Unmanufactured tobacco; tobacco refuse.</b>
2402	<b>Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes.</b>
2403	Other manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences.
3203	Colouring matter of vegetable or animal origin (including dyeing extracts but excluding animal black), whether or not chemically defined; preparations as specified in Note 3 to this Chapter based on colouring matter of vegetable or animal origin.
3301	<b>Essential oils (terpeneless or not), including concretes and absolutes; resinoids; extracted oleoresins; concentrates of essential oils in fats, in fixed oils, in waxes or the like, obtained by enfleurage or maceration; terpenic by-products of the deterpenation of essential oils; aqueous distillates and aqueous solutions of essential oils.</b>
5001	Silk-worm cocoons suitable for reeling
5202	Cotton, not carded or combed



**Annex G**

**[Draft List of Products Relating to Long-standing Preferences and Preference Erosion<sup>1</sup>]**

<b>Importing Member</b>	<b>HS4</b>	<b>HS4 DESCRIPTION</b>
		<b>Meat of Bovine Animals</b>
EC	0201	Meat of bovine animals, fresh or chilled
EC	0202	Meat of bovine animals, frozen
		<b>Bananas</b>
EC	0803	Bananas, including plantains, fresh or dried.
		<b>Sugar</b>
EC and United States	1701	Cane or beet sugar and chemically pure sucrose, in solid form.
EC and United States	1703	Molasses resulting from the extraction or refining of sugar

**[Provisional Indicative List of Products Relating to Long-Standing Preferences<sup>2</sup>]**

<b>HS4</b>	<b>HS4 Description</b>
0201	Meat of bovine animals, fresh or chilled
0202	Meat of bovine animals, frozen
0207	Meat and edible offal, of the poultry of heading No 0105, fresh, chilled or frozen

<b>HS4</b>	<b>HS4 Description</b>
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 alcohol and other spirits, denatured, of any strength
2208	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol; spirits, liqueurs and other spirituous beverages
2309	Preparations of a kind used in animal feeding
2401	Unmanufactured tobacco; tobacco refuse
2402	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes

AGREEMENT ON AGRICULTURE: ANNEX 2

Running list of proposed changes to paragraphs 2 through 13

*Government Service Programmes*

*General services (paragraph 2)*

- (i) Add the following subparagraph (h), including a footnote, to the existing paragraph 2:
- (h) agrarian, land and institutional reform[, and any other programmes related to food and livelihood security and rural development, in developing country Members,] including services related to such [reform and other] programmes.<sup>1</sup>**
- Text of footnote 1: *Such reform and other programmes include, inter alia, settlement programmes, issuance of property titles, employment assurance, [provision of infrastructure,] nutritional security, poverty alleviation, soil conservation and resource management, and drought management and flood control.*
- (ii) Add the following subparagraph (h) to the existing paragraph 2:
- (h) services relating to agrarian, land and institutional reform, food and livelihood security and rural development, including issuance of property titles, employment assurance, nutritional security, poverty alleviation, soil conservation and resource management, and drought management and flood control.**
- (iii) Add the following subparagraph (h) to the existing paragraph 2:
- (h) Policies and services related to farmer settlement, land reform and the redress of historical land ownership structures in developing country Members. These services may include the provision of infrastructure, land rehabilitation, soil conservation and food security programmes to promote rural development and poverty alleviation**

*Public stockholding for food security purposes<sup>5</sup> (paragraph 3)*

- (i) 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.~~
- (ii) Add text at the end of the existing footnote 5:
- ... However, acquisition of stocks of foodstuffs by developing country Members with the objective of supporting low-income or resource-poor producers shall not be required to be accounted for in the AMS.**

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\* The following symbols have been used:

*Domestic food aid*<sup>6</sup> (paragraph 4)

(i) Modify the existing footnote 5&6 as follows:

5&6



(ii) Add two footnotes to the existing subparagraphs (a) and (b):

- (a) Eligibility for such payments shall be determined by an income loss<sup>1</sup>, 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 loss<sup>2</sup> 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 7(a) above on an aggregate basis of the agriculture sector as a whole, the total amount of payments shall compensate for less than 70 per cent of the aggregate income loss of the agriculture sector as a whole.***

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

- (a) Eligibility for such payments shall be determined by an income loss ***of the farm enterprise as a whole***, taking into account only income derived from agriculture, which exceeds 30 per cent of ***the reference income, which is*** average gross income or the equivalent in net income terms (excluding any payments from the same or similar schemes) 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. Any producer meeting this condition shall be eligible to receive the payments ***from the government***.
- (b) The amount of such payments ***by governments*** shall ~~compensate for less than 70 per cent of the producer's income loss~~ in the year the producer becomes eligible to receive this assistance ***raise the producer's reference income to no more than 70 per cent of the producer's reference income.***

*income, which is* average gross income or the equivalent in net income terms (excluding any payments from the same or similar schemes) in the preceding ~~three~~ **minimum five-** year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry. Any producer meeting this condition shall be eligible to receive the payments ***directly or indirectly from the government.***

- (b) The amount of such payments, ***directly or indirectly from the government, shall,*** ~~shall compensate for less than 70 per cent of the producer's income loss~~ in the year the producer becomes eligible to receive this assistance ***contribute only up to 70 per cent of the producer's reference income.***

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

- (i) Modify subparagraphs (a) and (b) as follows:
- (a) Eligibility for such payments shall arise only following a formal recognition by government authorities that a natural disaster or like disaster (including disease outbreaks, pest infestations, nuclear accidents, and war on territory of the Member concerned) has occurred or is occurring; and shall be determined by a production loss which exceeds 30 percent of the average of production in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry, ***or in the case of a developing country Member, in accordance with specific criteria which shall be defined in national legislation***<sup>11</sup>.

Text of footnote 11: ***Includes administrative orders and regulations made by the designated competent authorities.***



(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,*  
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- (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 schemes, eligibility shall be determined by a production loss which exceeds 30 per cent of the average of production in a period that is actuarially appropriate.***
- (iii) ***Where payments under this paragraph are made in respect of the destruction of animals or crops to control or prevent a disease identified by an appropriate authority, may arise when the production loss is less than the 30 per cent of the average of production referred to in paragraph 8(a)(i) or 8(a)(ii), as applicable.***
- (b) Payments made ***under this paragraph*** ~~following a disaster~~ shall be applied only in respect of losses of income, livestock (including payments in connection with the veterinary treatment of animals), land or other production factors due to the natural disaster ***or destruction of animals or crops*** in question.
- (d) Payments made ***under this paragraph*** ~~during a disaster~~ shall not exceed the level required to prevent or alleviate further loss as defined in criterion (b) above.

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

- (i) 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 ***a fixed and unchanging*** base period, other than as provided for under criterion (e) below. ***Developing country Members who have not previously [made use of this type of payment, and thus have not notified] [notified the usage of this type of payment], shall not be precluded from establishing an appropriate base period [<sup>12</sup>, which shall be fixed and unchanging and shall be notified].***  
  
Text of footnote 12: ***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.***
- (ii) Add at the end of subparagraph (a) and modify the existing subparagraph (b) as follows:
  - (a) ... ***Such structural disadvantages must be clearly defined.***
  - (b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production, ***[the use of factors of production,] or inputs into the production*** (including livestock units) undertaken by the producer in any year after ***a fixed and unchanging historical*** ~~the~~ base period, other than as provided for under criterion (e) below. ***The base period shall be notified.***

*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 be related to, or based on, the type or volume of production (including livestock units) undertaken by the producer in any year after the ***fixed and unchanging historical*** base period, ***which shall be notified***, other than to reduce that production. ***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>13</sup>, which shall be fixed and unchanging and shall be notified.***

Text of footnote 13: ***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***

**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, 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 [, otherwise than on market related terms and conditions]. Each Member accordingly undertakes not to provide export financing support otherwise than in conformity with this Article [and with the commitments as specified in Members schedules].

**2. 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 6(ing3se1ocing E(6pu8

3.

of the WTO Agreements nor shall such support be deemed a non-commercial transaction for the purposes of Article 10.1 of the Agreement on Agriculture.] [Furthermore, support in the form of export credit insurance, reinsurance or guarantees shall not be provided in respect of export financing contracts whose terms and conditions are not otherwise in conformity with the provisions of this paragraph.]

- (a) **Maximum repayment term:** The maximum repayment term of a supported export credit, the period beginning at the starting point of credit<sup>3</sup> and ending on the contractual date of the final payment, shall be no more than 180 days<sup>[4]</sup> [without exception.][except for:
- (i) breeding stock; for which the maximum repayment period shall be [36] months;
  - (ii) agricultural vegetable reproduction material, for which the maximum repayment period shall be [12] months;
  - (iii)

operating costs<sup>[6]</sup> and losses<sup>[7]</sup> over a period of [ ] [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

#### **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)







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 basic foodstuffs, and which may have far reaching consequences such as social deprivation or unrest. In the event of such an emergency the importing developing country Member concerned may request exporting Members to provide more favourable export financing terms than are otherwise permissible under this Article. The importing developing country Member concerned shall notify the Committee on Agri

**ANNEX J**

**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.

**1. 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 [or which enjoys *de facto* as a result of its governmental or quasi-governmental status] exclusive or special rights [or] privileges [or advantages with respect to exports of agricultural products], including statutory or constitutional powers, in the exercise of which the enterprise influences through their export sales the level or direction of agricultural exports.

**2. 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 by [the end of 2013] for developed country Members, and by [ ] for developing country Members [, in parallel with the elimination of export subsidies]:
  - (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, consistent with Members export subsidy commitments and the provisions of Article 9.4 of the Agreement on Agriculture;
  - (ii) government financing of exporting state trading enterprises, [including, *inter alia*], preferential access to capital or other special privileges with respect to government financing or re-financing facilities, borrowing, lending or government guarantees for commercial borrowing or lending, at below market rates; and
  - (iii) government underwriting of losses, either directly or indirectly, [including] 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.
- (b) [Ensure that the use of monopoly powers by such enterprises is not exercised in a manner which, either *de jure* or *de facto*, [effectively] circumvents, or threatens to circumvent, the provisions set out in paragraphs 1 and 2.3(a) above [, it being understood also that where the use of such powers would, to all practical intents and purposes, amount to a difference in form rather than substance from introduction or maintenance of an export subsidy per se, such use is prohibited.] [[Prohibit] [Phase-out] by [ ] [the end of 2013] the use of monopoly powers for such enterprises, after

which Members shall not restrict the right of any interested entity to export, or to purchase for export, agricultural products.]

**3. Special and Differential Treatment**

4. [Notwithstanding paragraph 2.3 (b) above <sup>8</sup>:

- (a) agricultural state trading enterprises in developing country and least-developed 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 exporting [until [ ]] to the extent that they would not be otherwise inconsistent with other provisions of this Agreement and other WTO Agreements; [and]
- (b) [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 [until [ ]] even if the purpose for which that enterprise has such privileges could not be deemed to be characterised by the

**ANNEX K**

**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>9</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.

**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 8915(] 6(8dk)8.365e75 Tw.ikecNT2 1 Tf1ason)hc0-3.278t-0.t(])6.4(c)24(2

## 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<sup>10</sup>, 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 basis by donors [and the relevant international agency or organization] in order to ensure transparency.]

6. [Recognising that there can be exceptional circumstances such that to wait for an emergency appeal as described in paragraph 2.4 above would result in an unacceptable delay in the provision of food aid, food aid may be provided in response to an urgent request from the country concerned. In such cases, the donor Member shall notify the Committee on Agriculture no later than [ ] after the provision of such aid. [Food aid provided under this paragraph shall be limited to the period of the immediate aftermath of the emergency, and thereafter shall be subject to the provisions of

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<sup>10</sup> [For the purpose of this Article, an emergency [humanitarian] situation is defined as an urgent situation in which there is clear evidence that an event or series of events has occurred which causes human suffering or imminently threatens human lives or livelihoods and which the government concerned has not the means to remedy: and it is a demonstrably abnormal event or series of events which products dislocation in the life of a community on an exceptional scale. The event or series of events may comprise one or a combination of the following:

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 situations other than defined in paragraphs 2.4 [, 2.5 and 2.6], shall be:

- (a) [based on an assessment of need [by an identified multilateral third party

11. [Non-emergency in-kind food aid provided in conformity with the provisions of paragraphs



**ANNEX L**

**EXPORT PROHIBITIONS AND RESTRICTIONS**

**[POSSIBLE AMENDMENT TO ARTICLE 12.1 OF THE AGREEMENT ON AGRICULTURE<sup>11</sup>]**

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

[COMMODITY ARRANGEMENTS

UNDERSTANDING ON THE PROVISIONS OF ARTICLES XX(H) AND XXXVIII OF GATT 1994<sup>12</sup>]

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)