

WORLD TRADE ORGANIZATION

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**Committee on Agriculture
Special Session**

REVISED DRAFT MODALITIES FOR AGRICULTURE

This document reflects changes to the modalities intending to reflect the negotiation process.

I. DOMESTIC SUPPORT

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

Base level

1. The base level for reductions in Overall Trade-Distorting Domestic Support (hereafter "Base OTDS") shall be the sum of:

- (a) the Final Bound Total AMS specified in Part IV of a Member's Schedule; plus
- (b) for developed country Members, 10 per cent of the average total value of agricultural production in the 1995-2000 base period (this being composed of 5 per cent of the average total value of production for product-specific and non-product-specific AMS respectively); plus
- (c) the higher of average Blue Box payments as notified to the Committee on Agriculture, or 5 per cent of the average total value of agricultural production, in the 1995-2000 base period.

2. For developing country Members, item (b) of paragraph 1 above shall be 20 per cent of the average total value of agricultural production in the 1995-2000 or 1995-2004 period as may be selected by the Member concerned. For developing country Members, the base period for the purposes of item (c) of paragraph 1 above shall be 1995-2000 or 1995-2004 as may be selected by the Member concerned.

Tiered reduction formula

3. The Base OTDS shall be reduced in accordance with the following tiered formula:

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

4. Developed country Members with high relative levels of Base OTDS in the second tier (i.e. at least 40 per cent of the average total value of agricultural production in the 1995-2000 period) shall undertake an additional effort. The additional reduction to be undertaken shall be equal to one half of the difference between the reduction rates specified in paragraphs 3(a) and 3(b) above.

Implementation period and staging

5. For developed country Members, the reductions shall be implemented in six steps over five years.
- (a) For Members in the first two tiers specified in paragraphs 3(a) and 3(b) above, the Base OTDS shall be reduced by one-third on the first day of implementation. The remaining reductions shall be implemented annually in five equal steps.
 - (b) For Members in the third tier specified in paragraph 3(c) above, the Base OTDS shall be reduced by 25 per cent on the first day of implementation. The remaining reductions shall be implemented annually in five equal steps.

Special and differential treatment

6. Developing country Members with no Final Bound Total AMS commitments shall not be required to undertake reduction commitments in their Base OTDS.
7. For developing country Members with Final Bound Total AMS commitments, the applicable reduction in the Base OTDS shall be two-thirds of the relevant rate specified in paragraph 3(c) above. However, net food-importing developing countries (hereafter "NFIDCs") listed in document G/AG/5/Rev.8 shall not be required to undertake reduction commitments in their Base OTDS.
8. For those developing country Members, the reductions shall be implemented in nine steps over eight years. The Base OTDS shall be reduced by 20 per cent on the first day of implementation. The remaining reductions shall be implemented annually in eight equal steps.

Recently-Acceded Members

9. Saudi Arabia, the Former Yugoslav Republic of Macedonia and Viet Nam, as very recently-acceded Members (hereafter "RAMs") shall not be required to undertake reduction commitments in their Base OTDS. Small low-income RAMs with economies in transition¹ shall not be required to undertake reduction commitments in their Base OTDS. Reduction commitments for other RAMs with Final Bound Total AMS commitments shall be two-thirds of the relevant rate specified in paragraph 3(c) above and shall be implemented in accordance with the provisions in paragraph 8 above.

Other commitments

10. All Members other than least-developed country Members shall schedule their Base, Annual and Final Bound OTDS entitlements, as provided above, in monetary terms, in Part IV of their Schedules. Developing country Members that are not required to undertake *reduction commitments* under any of the provisions of these modalities shall only be required to schedule their Base OTDS.
11. For those Members that, under these modalities are subject to *reduction commitments* in their Base OTDS, such commitments shall apply as a minimum overall commitment. Throughout the implementation period and thereafter, each Member shall ensure that the sum of the applied levels of trade-distorting support under each OTDS component does not exceed the Annual and Final Bound OTDS levels specified in Part IV of its Schedule.

¹ This shall be applicable to Albania, Armenia, Georgia, Kyrgyz Republic and Moldova.

12. The Agreement on Agriculture shall be amended in order to provide for these OTDS modalities including amendments to existing Articles, where necessary, to ensure consistency with the above provisions. The data on value of production shall, for all Members undertaking OTDS reduction commitments, be provided in time to be annexed to these modalities.

B. FINAL BOUND TOTAL AMS: A TIERED FORMULA

Tiered reduction formula

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

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

14. Developed country Members with high relative levels of Final Bound Total AMS (i.e. at least 40 per cent of the average total value of agricultural production during the 1995-2000 period) shall undertake an additional effort in the form of a higher cut than would otherwise be applicable for the relevant tier. Where the Member concerned is in the second tier, the additional reduction to be undertaken shall be equal to the difference between the reduction rates specified in paragraphs 13(a) and 13(b) above. Where the Member concerned is in the bottom tier, the additional reduction to be undertaken shall be one half of the difference between the reduction rates specified in paragraphs 13(b) and 13(c) above.

Implementation period and staging

15. For developed country Members, reductions in Final Bound Total AMS shall be implemented in six steps over five years. For developed country Members in the top two tiers specified in paragraphs 13(a) and 13(b) above, this shall be implemented by means of a 25 per cent reduction on the first day of implementation, followed by reductions in equal annual instalments over five years. For other developed country Members, the reductions shall be implemented in six equal annual instalments over five years, commencing on the first day of implementation.

Special and differential treatment

16. The reduction in Final Bound Total AMS applicable to developing country Members shall be two-thirds of the reduction applicable for developed country Members under paragraph 13(c) above. The reductions in Final Bound Total AMS shall be implemented in nine equal annual instalments over eight years, commencing on the first day of implementation.

17. NFIDCs listed in document G/AG/5/Rev.8 shall not be required to undertake reduction commitments in their Final Bound Total AMS.

18. The provisions of Article 6.2 of the Agreement on Agriculture shall remain unchanged.

Recently-Acceded Members

19. Saudi Arabia, the Former Yugoslav Republic of Macedonia and Viet Nam, as very recently-acceded Members shall not be required to undertake reduction commitments in their Final Bound Total AMS. Small low-income RAMs with economies in transition shall not be required to undertake reduction commitments in their Final Bound Total AMS.² In the case of such Members, investment subsidies which are generally available to agriculture, agricultural input subsidies and interest subsidies to reduce the costs of financing, as well as grants to cover debt repayment, may be excluded from the calculation of the Current Total AMS.³ The reductions in Final Bound Total AMS for other RAMs with such commitments shall be two-thirds of the rate specified in paragraph 13(c) above and shall be implemented in accordance with paragraph 16 above.

Other

20. Article 18.4 of the Agreement on Agriculture shall continue to apply in order to respond to the situations referred to in that provision. Such due consideration shall also be given in the event that a developing country Member faces difficulties in its AMS calculation as a result of extraordinary and sudden increases in food prices relative to the fixed external reference price .

C. PRODUCT-SPECIFIC AMS LIMITS

General

21. Product-specific⁴ AMS limits shall be set out in terms of monetary value commitments in Part IV of the Schedule of the Member concerned in accordance with terms and conditions specified in the paragraphs below.

22. The product-specific AMS limits specified in the Schedules of all developed country Members other than the United States shall be the average of the product-specific AMS during the Uruguay Round implementation period (1995-2000) as notified to the Committee on Agriculture. These shall be tabulated by individual product for each Member in an Annex to these modalities.

23. For the United States only, the product-specific AMS limits specified in their Schedule shall be the resultant of applying proportionately the average product-specific AMS in the [1995-2004] period to the average product-specific total AMS support for the Uruguay Round implementation period (1995-2000) as notified to the Committee on Agriculture. These shall be tabulated by individual product in the Annex to these modalities referred to in the paragraph above.

24. Where a Member has, after the base period specified in paragraphs 22 and 23 above, introduced product-specific AMS support above the *de minimis* level provided for under Article 6.4 of the Uruguay Round Agreement on Agriculture, and it did not have product-specific AMS support above the *de minimis* level during the base period, the product-specific AMS limit specified in the Schedule may be the average amount of such product-specific AMS support for the two most recent years prior to the date of adoption of these modalities, for which notifications to the Committee on Agriculture have been made.

² This shall be applicable to Moldova which is the only such Member with a Final Bound Total AMS.

³ This shall be applicable to Albania, Armenia, Georgia, Kyrgyz Republic and Moldova.

⁴ "Product-specific" commitments have the same meaning as they are used in the Uruguay Round Agreement on Agriculture.

25. In cases where the product-specific AMS support for each year during the base period specified in paragraphs 22 and 23 above was below the *de minimis* level provided for under Article 6.4 of the Uruguay Round Agreement on Agriculture and the Member concerned is not in the situation covered by paragraph 24 above, the product-specific AMS limit specified in the Schedule for the product concerned may be that *de minimis* level, expressed in monetary terms.

26. The scheduled product-specific AMS limits shall be implemented in full on the first day of the implementation period. Where the average notified product-specific AMS in the two most recent years for which notifications are available was higher, the limits shall be implemented in three equal annual instalments, with the starting point for implementation being the lower of the average of those two years or 130 per cent of the scheduled limits.

Special and differential treatment

27. Developing country Members shall establish their product-specific AMS limits by choosing one of the following methods, and scheduling all their product-specific AMS commitments in accordance with the method chosen:

- (a) the average product-specific AMS during the base period 1995-2000 or 1995-2004 as may be selected by the Member concerned, as notified to the Committee on Agriculture; or
- (b) two times the Member's product-specific *de minimis* level provided for under Article 6.4 of the Uruguay Round Agreement on Agriculture during the base periods referred to in sub-paragraph (a) above;
- (c) 20 per cent of the Annual Bound Total AMS in the relevant year during the Doha Round implementation period.

28. Where a developing country Member chooses paragraph 27(a) above as its method for the establishment of product-specific AMS limits that Member shall also have access to the provisions of paragraphs 24 and 25 above.

29. Article 6.3 of the Agreement on Agriculture shall be amended to reflect these modalities.

D. *DE MINIMIS*

Reductions

30. The *de minimis* levels referred to in Article 6.4(a) of the Uruguay Round Agreement on Agriculture for developed country Members (i.e. 5 per cent of a Member's total value of production of a basic agricultural product in the case of product-specific *de minimis* and 5 per cent of the value of a Member's total agricultural production in the case of non-product-specific *de minimis*)⁵ shall be reduced by no less than [(50) (60)] per cent [effective on the first day of the implementation period / through five equal annual instalments]. Furthermore, where, in any year of the implementation period, a lower level of *de minimis* support than that resulting from application of that minimum percentage reduction would still be required to ensure that the Annual or Final Bound OTDS commitment for that

⁵ Where a Member makes use of the additional flexibilities under paragraphs 24 and 25 above to obtain product-specific AMS entitlements that it would not otherwise secure through the general base period, the corresponding product-specific *de minimis* entitlement that would otherwise have accrued to that Member through the general base period shall be deducted from that *de minimis* base for reduction commitments, thereby avoiding double counting.

year is not exceeded, a Member shall undertake such an additional reduction in what would otherwise be its *de minimis* entitlement.

Special and differential treatment

31. For developing country Members with Final Bound Total AMS commitments, the *de minimis* levels referred to in Article 6.4(b) of the Uruguay Round Agreement on Agriculture (i.e. 10 per cent of a Member's total value of production of a basic agricultural product in the case of product-specific *de minimis* and 10 per cent of the value of a Member's total agricultural production in the case of non-product-specific *de minimis*) to which they have access under their existing WTO obligations shall be reduced by at least two-thirds of the reduction rate specified in paragraph 30 above. The timeframe for implementation shall be three years longer than that for developed country Members. Furthermore, where, in any year of the implementation period, a lower level of *de minimis* support than that resulting from application of that minimum percentage reduction would still be required to ensure that the Annual Bound or Final OTDS commitment for that year is not exceeded, a Member shall undertake such an additional reduction in what would otherwise be their *de minimis* entitlement.

32. Developing country Members with no Final Bound Total AMS commitments; or with such AMS commitments, but that either allocate almost all that support for subsistence and resource-poor producers, or that are NFIDCs listed in document G/AG/5/Rev.8; shall continue to have the same access as under their existing WTO obligations to the limits provided for product-specific and non-product-specific *de minimis* in Article 6.4(b) of the Uruguay Round Agreement on Agriculture.

Recently-Acceded Members

33. Saudi Arabia, the Former Yugoslav Republic of Macedonia and Viet Nam, as very recently-acceded Members shall not be required to undertake reduction commitments in *de minimis*. Small low-income RAMs with economies in transition⁶ shall not be required to undertake reduction commitments in *de minimis*. Other RAMs with Final Bound Total AMS commitments and which have existing *de minimis* levels of 5 per cent shall reduce such levels by at least one-third of the reduction rate specified in paragraph 30 above and the timeframe for implementation shall be five years longer.

Other

34. The provisions of Article 6.4 of the Uruguay Round Agreement on Agriculture shall be amended accordingly to conform to these modalities.

E. BLUE BOX

Basic criteria

35. The value of the following domestic support, provided that it is consistent also with the limits as provided for in the paragraphs below, shall be excluded from a Member's calculation of its Current Total AMS but shall count for purposes of that Member's Blue Box commitments and OTDS:

- (a) Direct payments under production-limiting programmes if:
 - (i) such payments are based on fixed and unchanging areas and yields; or

⁶ This shall be applicable to Albania, Armenia, Georgia, Kyrgyz Republic and Moldova.

- (ii) such payments are made on 85 per cent or less of a fixed and unchanging base level of production; or
- (iii) livestock payments are made on a fixed and unchanging number of head.

Or

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

36. Each Member shall specify in its Schedule which of these categories – (a) or (b) - it has selected for the purposes of establishing all its Blue Box commitments in this Round. Any exception to this universal application would be with the agreement of all Members prior to finalization of Schedules. In no circumstances could both domestic support categories be made available for any particular product or products.

37. Any Member that is in a position to move its domestic support from AMS to Blue pursuant to paragraph 43 below, or introduce product-specific Blue Box support pursuant to paragraphs 46 and 51 below subsequent to the conclusion of this negotiation shall have the option to do so on the basis of either criterion above but, once selected and scheduled, this shall be binding.

Additional criteria

- (a) Overall Blue Box limit

38. The maximum value of support that can, under the above criteria of "Blue Box", be provided under Article 6.5 shall not exceed 2.5 per cent of the average total value of agricultural production in the 1995-2000 base period on the basis of notifications to the Committee on Agriculture where they exist. This limit shall be expressed in monetary terms in Part IV of Members' Schedules and shall apply from the first day of the implementation period.

39. In cases where a Member has, consistent with the terms of Article 6.5(a) of the Uruguay Round Agreement on Agriculture, placed in the Blue Box an exceptionally large percentage of its trade-distorting support – defined as 40 per cent – during the 1995-2000 base period, the limit for that Member shall, instead, be established by application of a percentage reduction in that average base period amount. That percentage reduction shall equal the percentage reduction that the Member concerned is to make in its Final Bound Total AMS. This Blue Box limit shall be expressed in monetary terms and bound in Part IV of that Member's Schedule. An implementation period of no more than 2 years may be provided for any such Member in the event that immediate implementation is unduly burdensome.

(b) Product-specific limits

40. For all Members other than the United States, the limit to the value of support that may be provided to specific products as Blue Box entitlements shall be the average value of support provided to those products at an individual product level, consistent with Article 6.5(a) of the Uruguay Round Agreement on Agriculture, during the 1995-2000 period and with notifications to the Committee on Agriculture. These product-specific limits shall be expressed in monetary terms at an individual product level, annexed in that format to these modalities, bound in Part IV of the Schedule of the Member concerned, and shall apply from the first day of the implementation period.

41. In any case where Article 6.5(a) consistent Blue Box support was not provided for the entirety of the 1995-2000 period, the Member concerned shall use the average value of support for the years notified within that period, provided that there are at least three consecutive notified years within that period.

42. For the United States, the limits to the value of support that may be provided to specific products under paragraph 35(b) above shall be [(110) (120)] per cent of the average product-specific amounts that would result from applying proportionately the legislated maximum permissible expenditure under the 2002 Farm Bill for specific products at an individual product level to the overall Blue Box limit of 2.5 per cent of the average total value of agricultural production during the 1995-2000 period. These product-specific limits shall be expressed in monetary terms at an individual product level, annexed in that format to these modalities and shall be bound in Part IV of that Member's Schedule.

43. Blue Box entitlements for specific products may nevertheless exceed the limits determined under paragraphs 40-42 above but only where there is a corresponding and irreversible one-for-one reduction in the product-specific AMS limits for the products concerned (except for cotton, where that rate would be two-for-one).

44. Where this arises in the context of this particular negotiation, full documentation must be provided in support of this "transfer" to ensure that the starting point is verifiably, on the one hand, the product-specific AMS limit that would have been otherwise inscribed in the Schedule through application of the methodology provided above and, on the other, the Blue Box entitlement otherwise inscribed pursuant to application of the methodology set out above.

45. Where this arises as a result of continuation of the reform process after scheduling and during the implementation period, there must be an exact reciprocal reduction in the scheduled product-specific AMS limit for, as the case may be, a new, or an increase in the scheduled, product-specific Blue Box limit.

46. In both such situations, the overall Blue Box limit cannot in any case be exceeded.

47. Notwithstanding the above, where, for a particular product, there is no product-specific entitlement to a Blue Box limit under the provisions above, and no Current AMS support in the base period for that particular product, a product-specific Blue Box limit may still be scheduled but only where the total support for any such products concerned does not exceed 5 per cent of the overall Blue Box limit; there is a maximum for any single product of 2.5 per cent of the overall Blue Box limit; and the overall Blue Box limit is still respected. This is available to developed country Members with direct payments of the kind that meet the terms of paragraph 35(a) above, and is a once-only provision for commitment in this Round of negotiations. The monetary value and the products concerned shall be inscribed in a Member's Schedule.

Special and differential treatment

48. For developing country Members, the maximum permitted value of support referred to in paragraph 38 above shall be 5 per cent of the average total value of agricultural production in the 1995-2000 or the 1995-2004 base period as may be selected by the Member concerned. That limit shall be expressed in monetary terms and bound in Part IV in developing country Members' Schedules. However, in cases where there is a movement from AMS to Blue subsequent to the conclusion of this negotiation, the developing country Member concerned shall have the option of selecting as its base period the most recent five-year period for which data are at that time available.

49. Where a product accounted both for more than 25 per cent of the average total value of agricultural production and 80 per cent of the average Annual Bound Total AMS during the base period, a developing country Member that chooses to switch its support from AMS to Blue for that product, on a one-for-one and irreversible basis, shall be entitled to do so even if this would otherwise lead to exceeding the overall Blue Box limit provided for in the paragraph above.

50. Where, for a particular product, a developing country Member has no product-specific entitlement to a Blue Box limit for that product under the above provisions, and no Current AMS support in the base period for it, a product-specific Blue Box limit may still be scheduled but only where the total support for the totality of any such products concerned does not exceed 25 per cent of the overall Blue Box limit; there is a maximum for any single product of 7.5 per cent of the overall Blue Box limit; and the overall Blue Box limit is still respected.

Recently-Acceded Members

51. For RAMs, the maximum value of support referred to in paragraph 38 above shall be 5 per cent of the average total value of agricultural production in the 1995-2000 base period. However, in cases where there is a movement from AMS to Blue subsequent to the conclusion of this negotiation, the Member concerned shall have the option of selecting as its base period the most recent five-year period for which data are at that time available.

Other

52. Article 6.5 of the Agreement on Agriculture shall be amended to reflect the above modalities accordingly.

F. GREEN BOX

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

G. COTTON: DOMESTIC SUPPORT

Reductions in support for cotton

54. The development aspects of cotton shall be addressed as provided for in paragraph 12 of the Hong Kong Ministerial Declaration. AMS support for cotton shall be reduced according to the following formula:

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

R_c = Specific reduction applicable to cotton as a percentage

R_g = General reduction in AMS as a percentage

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

Implementation

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

Special and differential treatment

57. Developing country Members with relevant AMS and Blue Box commitments for cotton otherwise applicable under the relevant provisions of this Agreement, including paragraph 27 above, shall provide a rate of reduction for cotton that is two-thirds of that which would be applicable under paragraph 54 above.

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

II. MARKET ACCESS

A. TIERED FORMULA FOR TARIFF REDUCTIONS

Basis for reductions

59. Subject to such other specific provisions as may be made, all final bound tariffs⁷ shall be reduced using the tiered formula set out in the paragraphs below.

60. In order to place final 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 to TN/AG/W/3 of 12 July 2006. All AVEs so calculated shall be listed in an annex to these Modalities.

Tiered formula

61. Developed country Members shall reduce their final bound tariffs in equal annual instalments over five years in accordance with the following tiered formula:

- (a) where the final bound tariff or *ad valorem* equivalent is greater than 0 and less than or equal to 20 per cent, the reduction shall be 50 per cent;
- (b) where the final bound tariff or *ad valorem* equivalent is greater than 20 per cent and less than or equal to 50 per cent, the reduction shall be 57 per cent;
- (c) where the final bound tariff or *ad valorem* equivalent is greater than 50 per cent and less than or equal to 75 per cent, the reduction shall be 64 per cent; and
- (d) where the final bound tariff or *ad valorem* equivalent is greater than 75 per cent, the reduction shall be [(66) (73)] per cent.

62. The minimum average cut on final bound tariffs that a developed country Member shall be required to undertake⁸ is 54 per cent. Should application of the tiered formula treatment above, inclusive of the treatment for Sensitive Products as outlined in Section B below and additional cuts made as provided for elsewhere in these modalities relating to tariff escalation and tropical products result in an overall average cut less than 54 per cent, an additional effort shall be made proportionately across all bands to reach that target.

63. Developing country Members other than those specified in paragraph 65 below shall reduce their final bound tariffs in equal annual instalments over eight years in accordance with the following tiered formula:

- (a) where the final bound tariff or *ad valorem* equivalent is greater than 0 and less than or equal to 30 per cent, the reduction shall be 2/3 of the cut for developed country Members in paragraph 61(a) above;
- (b) where the final bound tariff or *ad valorem* equivalent is greater than 30 per cent and less than or equal to 80 per cent, the reduction shall be 2/3 of the cut for developed country Members in paragraph 61(b) above;

⁷ That is, all out-of-quota tariffs specified in Section I-A of Members' Schedules of Concessions. In-quota tariffs shall be subject to commitments under the relevant paragraphs.

⁸ i. e. the average of the cuts made.

- (c) where the final bound tariff or *ad valorem* equivalent is greater than 80 per cent and less than or equal to 130 per cent, the reduction shall be 2/3 of the cut for developed country Members in paragraph 61(c) above; and
- (d) where the final bound tariff or *ad valorem* equivalent is greater than 130 per cent, the reduction shall be 2/3 of the cut for developed country Members in paragraph 61(d) above.

64. The maximum overall average cut on final bound tariffs any developing country Member shall be required to undertake⁹ as a result of application of this formula inclusive of the treatment for Sensitive Products as outlined in Section B below is 36 per cent. Should the above formula imply an overall average cut of more than 36 per cent, the developing country Member shall have the flexibility to apply lesser reductions applied in a proportionate manner across the bands, to keep within such an average level.

65. Those small, vulnerable economies¹⁰, including those among them which are ceiling binding and homogeneously low binding countries, which choose to exercise the option set forth in paragraph 118 below shall be entitled to moderate the cuts specified in paragraph 63 above by a further 10 *ad valorem* percentage points in each band.

Recently-Acceded Members

66. RAMs shall be entitled to moderate the cuts they would otherwise have been required to make under the tiered formula by up to 10 *ad valorem* percentage points in the top two bands and 5 *ad valorem* points in the bottom two bands. All RAMs shall be entitled to exempt their final bound tariffs at or below 10 per cent from reductions in bound tariffs.

67. Saudi Arabia, the Former Yugoslav Republic of Macedonia, Viet Nam and Tonga, as very recently-acceded Members and small low-income RAMs with economies in transition¹¹, shall not be required to undertake reductions in final bound tariffs.

68. For all other RAMs, to the extent that, in implementing commitments undertaken in acceding to the WTO, there would be actual overlap with commitments to be otherwise undertaken in association with these Modalities, the start of implementation of commitments undertaken in association with these Modalities for such tariff lines shall begin one year after the end of implementation of the accession commitment.

69. The implementation period for RAMs may be prolonged by up to two years after the end of the developing country Members' implementation period.

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

⁹ i. e. the average of the cuts made.

¹⁰ The Members concerned are those that meet the criteria set out in paragraph 151 and are listed in Annex I. As is made clear in the Agreed Framework, Small vulnerable economies (SVEs) are not meant to create any sub-category of Members. Bearing that principle in mind, the following Members could also be deemed to be eligible for this treatment, should they choose to avail themselves of it, despite not being members of the SVE Group *per se* given that this treatment could be deemed to be broadly comparably appropriate: Republic of Congo, Côte d'Ivoire and Nigeria (plus other Members that can provide data that show that they meet the criteria in paragraph 151).

¹¹ This is applicable to Albania, Armenia, Georgia, Kyrgyz Republic and Moldova.

B. SENSITIVE PRODUCTS

Designation

71. Each developed country Member shall have the right to designate up to [(4) (6)] per cent of tariff lines as "Sensitive Products". Where such Members have more than 30 per cent of their tariff lines in the top band, they may increase the number of Sensitive Products by two per cent, subject also to the conditions outlined in paragraph 75 below. Where application of this methodology would impose a disproportionate constraint in absolute number of tariff lines because tariff concessions are scheduled at the 6-digit level, the Member concerned may increase its entitlement by that amount also.

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

Treatment - tariff cut

73. Members may deviate from the otherwise applicable tiered reduction formula in final bound tariffs on products designated as Sensitive. This deviation may be one-third, one-half or two-thirds of the reduction that would otherwise have been required by the tiered reduction formula.

Tariff quota expansion

74. For developed country Members, tariff quotas derived from the provisions in paragraph 71 above and paragraphs 75-76 below shall result in new access opportunities equivalent to no less than [(4) (6)] per cent of domestic consumption expressed in terms of physical units where the two-thirds deviation is used. Where the one-third deviation is used, the new access opportunities shall be no less than one per cent less than that percentage of domestic consumption. Where the one-half deviation is used, the new access opportunities shall be no less than 0.5 per cent less than that percentage of domestic consumption.¹²

75. Where a Member is entitled to, and chooses to exercise its entitlement to have a higher number of Sensitive Products pursuant to paragraph 71 above, the relevant amounts specified in paragraph 74 shall be maintained for the defined percentage of products applicable to all developed country Members. For the additional 2 per cent of products available to those Members under paragraph 71, the Member concerned shall have an obligation to ensure that, whichever deviation is selected, an additional 0.5 per cent of domestic consumption beyond what is generally provided for is achieved for those additional products. In addition, if after application of its tariff reduction commitments a developed country Member¹³ still wishes to retain more than 4 per cent of its tariff lines in excess of 100 per cent *ad valorem*, it shall, for all its Sensitive Products apply a further expansion of 0.5 per cent of domestic consumption.

76. Where the existing bound tariff quota volume already represents 10 per cent or more of domestic consumption, the obligations to expand the tariff quota volumes by the percentages of domestic consumption specified in paragraph 74 may be reduced by 0.5% for each deviation. Where the existing bound tariff quota volume represents 30 per cent or more of domestic consumption, the obligations to expand the tariff quota volumes by the percentages of domestic consumption specified in paragraph 74 above may be reduced by 1 per cent for each deviation.

¹² See Annex C regarding the calculation of these tariff quota expansion commitments.

¹³ For a developing country Member in a position to do so, and wishing, to avail itself of this provision, the entitlement, consistent with paragraph 71 is one third more than for a developed Member and the relevant tariff threshold is 150 percent *ad valorem*.

77. For developing country Members using the sensitive product deviation entitlements provided for in paragraph 73 above, the tariff quota expansion shall be two thirds of the volume for developed country Members. For developing country Members, domestic consumption shall not include self-consumption of subsistence production. Alternatively, developing country Members may choose from the following options for their sensitive product entitlement: (a) take the full formula tariff cut but with an implementation period that is three years longer than would otherwise be required; (b) take a smaller deviation than would otherwise be required under paragraph 62 above at the rate of one quarter (25%) less than the formula cut otherwise applicable for no more than two-thirds of their sensitive product entitlement. For such lines, there would be no requirement for tariff quota expansion, but the tariff reduction would occur over an implementation period that is two years shorter than would otherwise be required.

78. Expansion of the tariff quota for a Sensitive Product shall be scheduled and applied *erga omnes* on a most-favoured-nation basis only. The first instalment shall occur on the first day of implementation and be a minimum of one third of the total additional domestic consumption. The remaining two-thirds of the total shall be added in two steps at the expiry of each subsequent twelve-month period.

C. OTHER ISSUES

Tariff escalation

79. The tariff escalation formula provided below shall apply to the list of primary and processed products attached in Annex D.

80. In addition to the application of the tiered tariff reduction formula, tariff escalation shall be addressed in the following manner:

81. Instead of taking the cut that would otherwise apply to final bound tariffs in the band to which the processed product belongs (with the exception of the top band), the processed product shall take the cut that would, according to the tiered formula, otherwise be applicable to the tariffs that fall in the next highest band. A processed product in the top band shall be reduced by a cut which is equal to the cut that would otherwise have been applicable according to the tiered formula increased by 6 *ad valorem* points.

82. These supplementary cuts shall be moderated for the products concerned in two circumstances. First, where the absolute difference between the processed and primary product tariffs after application of the normal tariff formula would be 5 *ad valorem* percentage points or less in any given tier except in the case of the bottom tier, no additional tariff escalation adjustment shall be required.

83. Second, the tariff escalation adjustment formula cannot be applied in full where doing so would reduce the tariff for the processed product below that applicable to the primary product. In a situation where this would occur, the rate of reduction for the processed product shall be moderated to ensure that the final bound rate of the processed product equates to, but does not reduce below, the final bound rate for the primary product.

84. Tariff escalation treatment shall not apply to any product that is declared as Sensitive. Where the reduction for a tropical product would result in a reduction that is greater than the reduction under the tariff escalation formula, the tropical product reduction shall apply.

85. This modality shall be applied by developed country Members and developing country Members declaring themselves to be in a position to do so.

Commodities

86. In the event that adverse effects of tariff escalation for commodities 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.

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

- (a) commodity-dependent developing country Members, individually or as a group, shall identify and present products of interest to them for purposes of addressing tariff escalation to be adopted as part of the modalities. In doing so, they will indicate the match of products on which tariff escalation should be addressed;
- (b) developed countries and those developing country Members declaring themselves to be in a position to do so shall undertake tariff escalation reductions in the identified products;
- (c) at the end of the implementation period, the difference between the identified primary and processed products shall not exceed an agreed defined percentage spread in the event that the combined effect of reductions through the tiered formula, through liberalisation of tropical and diversification products and through the tariff escalation is not deemed to have been sufficient.

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

89. This work shall continue through the post-modality phase to be concluded no later than the scheduling phase. The Secretariat will provide technical assistance in support of the commodity-dependent developing country Members throughout this period.

90. Provision shall be made to ensure the possibility that Members may take joint action through adoption of suitable measures, including through adoption of intergovernmental commodity agreements, for stabilization of prices for exports of agricultural commodities at levels that are stable, equitable and remunerative. The provisions of Article XXXVIII in the chapter on Trade and Development of GATT 1994, Part IV which *inter alia* stipulates that the WTO Members could take "joint action" through "international arrangements" for ensuring "stable equitable and remunerative prices" for exports of primary agricultural commodities should be reviewed, clarified and improved so that, taken together with the role of Article XX (h) referred to in paragraph 94 below, an understanding will be reflected in the Agreement on Agriculture that the term "arrangements" covers both commodity agreements of which all interested producing and consuming countries are parties; and agreements of which only commodity-dependent producing countries are parties.

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

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

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

94. Such agreements may provide for participation of association of producers.
95. The general exceptions provisions of Article XX(h) of GATT 1994 shall also apply to intergovernmental commodity agreements of which only producing countries of the concerned commodities are Members.
96. Technical assistance shall be provided for, *inter alia*, the improvement of world markets for commodities and adoption and implementation of intergovernmental commodity agreements.
97. Financial resources required by the international trade and other organizations for providing technical assistance in accordance with the provisions of paragraphs 95 and 96 above shall be monitored through the mechanism established in WTO for administering Aid for Trade.

Tariff simplification

98. No tariff shall be bound in a form more complex than the current binding. All simplified bound tariffs shall not amount to any increase over the original more complex tariff.
99. [All bound tariffs on products in a Member's Schedule shall be expressed as simple *ad valorem* tariffs using the methodology set out in Annex A to TN/AG/W/3 of 12 July 2006.]
100. In any case, the most highly complex forms of bound tariffs, such as complex matrix tariffs, shall be converted to *ad valorem* or specific tariffs. The method for converting these into specific or *ad valorem* tariffs shall be the methodology to calculate *ad valorem* equivalents as set out in Annex A to TN/AG/W/3 of 12 July 2006.
101. Developing country Members making such conversions shall have an additional two years to achieve this outcome, if applicable. Least-developed country Members shall not be required to effect any such changes.
102. The simplified tariffs shall be specified in Members' Draft Schedules. In all cases of proposed simplification, Members shall supply supporting data that demonstrates that the proposed simplified bound tariff is representative of, and does not amount to any increase over, the original more complex tariff and that the proposed simplification is in conformity with the agreed methodology. All Members shall be given sufficient time for evaluation of the proposed changes and all Members undertaking such a simplification shall respond constructively to queries made regarding those proposed conversions. Upon request, the WTO Secretariat shall provide advice on technical matters and shall give particular technical assistance to developing country Members.

Tariff quotas

- (a) Bound in-quota tariffs¹⁴

103. *Either: In the case where there is an existing tariff rate quota, but some or all of the tariff lines within it are not declared sensitive by the Member concerned, the rate of reduction for the in quota tariff for those lines not declared sensitive shall be the same rate of reduction as is applicable, under the tiered formula, to the out of quota tariff for those tariff lines.*

Where some or all of the tariff lines within an existing tariff rate quota are declared sensitive by the Member concerned, or where for the tariff line concerned, there was no prior tariff rate quota, the

¹⁴ Reductions in in-quota tariffs shall not count for the purposes of calculating the average cuts.

rate of reduction for the in quota tariff for those lines declared sensitive shall be the same rate of reduction as is applicable under the tiered formula to the out of quota tariff for those tariff lines (i.e. what it would have been without a sensitive deviation) but reduced by 10 ad valorem percentage points where the respective out of quota tariff line is in the top tier, 7.5 ad valorem percentage points where the respective out of quota tariff line is in the second highest tier, 5 ad valorem percentage points where the respective out of quota tariff lines is in the third highest tier and 2.5 ad valorem percentage points where the respective out of quota tariff lines is in the bottom tier. These amounts of reduction will be increased by one-third for developing country Members. However, for developed country Members, any current in-quota tariff that is already at 10 per cent or less shall be reduced to zero. The implementation period and staging shall be aligned with those applying to reductions in the existing bound out-of-quota tariffs.

Or: For developed country Members, in the case where there is an existing tariff rate quota, the in quota tariffs for all tariff lines under that tariff quota, irrespective of whether or not they are declared sensitive, shall, in the case of in-quota tariffs currently above 5 per cent ad valorem, be reduced to five percent ad valorem or take the same rate of reduction as is applicable under the tiered formula to the out of quota tariff for those tariff lines (i.e. what it would have been without a sensitive deviation), whichever results in the lower resultant tariff. Any current in-quota tariff that is already at 5 per cent or less shall be reduced to zero. The implementation period and staging shall be aligned with those applying to reductions in the existing bound out-of-quota tariffs. For developing country Members undertaking tariff quota expansion, the provisions of paragraphs 102 and 101 above shall apply. In the case where a developing country Member is using an alternative to tariff quota expansion as provided for under paragraph 76 above but has also an existing tariff quota with in tariff quota tariffs, the rate of reduction for those in quota tariffs shall be one-third of the rate of reduction used for the out of tariff quota tariff reduction. There shall be no new tariff quota creation.

(b) Tariff quota administration

104. Tariff quota administration of scheduled tariff quotas shall be deemed to be an instance of "import licensing" within the meaning of the Uruguay Round Agreement on Import Licensing Procedures and, accordingly, that Agreement shall apply in full, subject to the Agreement on Agriculture and to the following more specific and additional obligations.

105. As regards the matters referred to in paragraph 4(a) of Article 1 of that Agreement, as these agricultural tariff quotas are negotiated and scheduled commitments, publication of the relevant information shall be effected no later than 90 days prior to the opening date of the tariff quota concerned. Where applications are involved, this shall also be the minimum advance date for the opening of applications.

106. As regards paragraph 6 of Article 1 of that Agreement, applicants for scheduled tariff quotas shall apply to one administrative body only.

107. As regards the matters referred to in paragraph 5(f) of Article 3 of that Agreement, the period for processing applications shall be, unqualifiedly, no longer than 30 days for "as and when received" cases and no longer than 60 days for "simultaneous" consideration cases. The issuance of licences shall, therefore, take place no later than the effective opening date of the tariff quota concerned, except where, for the latter category, there has been an extension for applications allowed for under Article 1.6 of that Agreement.

108. As regards Article 3.5(i), licences for scheduled tariff quotas shall be issued in economic quantities.

109. Tariff quota "fill rates" shall be notified.

110. In order to ensure that their administrative procedures are consistent with Article 3.2 of that Agreement, "no more administratively burdensome than absolutely necessary to administer the measure", importing Members shall ensure that unfilled tariff quota access is not attributable to administrative procedures that are more constraining than an "absolute necessity" test would demand.

111. Where licences held by private operators exhibit a pattern of being less than fully utilized for reasons other than those that would be expected to be followed by a normal commercial operator in the circumstances, the Member allocating the licences shall give this due weight when examining the reasons for under utilization and considering the allocation of new licences as provided for under Article 3.5 (j).

112. Where it is manifest that a tariff quota is under filled but there would appear to be no reasonable commercial reason for this to be the case, an importing Member shall request those private operators holding unused entitlements whether they would be prepared to make them available to other potential users. Where the tariff quota is held by a private operator in a third country, e.g. as a result of country-specific allocation arrangements, the importing Member shall transmit the request to the holder of the allocation concerned.

113. As regards Article 3.5(a) (ii) of that Agreement, Members shall make available the contact details of those importers holding licences for access to scheduled agricultural tariff quotas, where, subject to the terms of Article 1.11, this is possible and/or with their consent.

114. Members shall provide for an effective re-allocation mechanism in accordance with the procedures outlined in Annex E

Special Agricultural Safeguard (SSG)

115. Developed country Members shall [eliminate / reduce to 1.5 per cent of scheduled tariff lines the number of lines eligible for] the SSG.

116. For developing country Members [the SSG coverage shall be reduced to no more than 3 per cent of tariff lines and]the terms and conditions of the SSG shall remain unchanged from the URAA terms and conditions except that the tariff rates concerned shall be updated to reflect the outcome of the Doha Round negotiations.

117. Article 5 of the Agreement on Agriculture shall be amended accordingly to reflect these modalities.

D. SPECIAL AND DIFFERENTIAL TREATMENT

Special Products

118. Developing country Members shall be entitled to self-designate Special Products guided by indicators¹⁵ based on the criteria of food security, livelihood security and rural development. There shall be [a maximum entitlement of 20 per cent and a minimum entitlement¹⁶ of] 8 per cent¹⁷ of tariff

¹⁵ See Annex F.

¹⁶ Below this minimum entitlement of 8 per cent, the developing country Member concerned need not resort to guidance by those indicators. In the case of RAMs, the threshold level above which indicators are not required to be used shall be 2 percentage points higher.

¹⁷ Where a Member has an entitlement to use sensitive products under this Agreement and has not chosen to avail itself of either of the alternatives to general tariff quota expansion provided for developing country Members under paragraph 77 above, that Member may, in effect, "transfer" any unused Sensitive Products entitlement to obtain thereby additional Special Products, subject to the following: (a) that the maximum entitlement for transfer

lines available for self-designation as Special Products.. Within this entitlement, [forty per cent of those¹⁸] [no] tariff lines shall be eligible for no cut. For the remaining tariff lines, there shall be an overall average cut of 15 percent achieved with a minimum cut of 12 per cent and a maximum cut of 20 per cent on each tariff line

119. In the case of small vulnerable economies, including those among them which are ceiling binding and homogenously low binding countries, they may, if they choose to do so, apply the moderated tariff tiered formula for SVEs provided for in paragraph 65 above plus the Special Product entitlement outlined above. Alternatively, they may chose not to apply the tiered formula but simply meet an overall average cut of 24 per cent through having in effect opted to designate as many tariff lines as they choose as Special Products. The tariff lines so chosen need not be subject to any minimum tariff cut and need not be guided by the indicators.

120. In the case of RAMs, the maximum tariff line entitlement to Special Products shall be one - tenth greater than the amount specified in paragraph 118 above and the relevant cuts for those designated tariff lines may be further reduced by 2 ad valorem points.

Special Safeguard Mechanism (SSM)

121. The SSM shall have no a priori product limitations as to its availability, i.e. it can be invoked for all tariff lines in principle. However, it shall not be invoked for more than [3 -8] products¹⁹ in any given twelve-month period.

122. A price-based and a volume-based SSM shall be available. In no circumstances may any product be, however, subject to the simultaneous application of price- and volume-based safeguards. Nor shall there be application of either of these measures if an SSG, a measure under GATT Article XIX, or a measure under the Agreement on Safeguards is in place.

123. As regards the volume-based SSM, it shall be applied on the basis of a rolling average of imports in the preceding three-year period (hereafter "base imports"). On this basis, the applicable triggers and remedies shall be set as follows:

124. Either

- (a) *where the volume of imports during any year exceeds 105 per cent but does not exceed 110 per cent of base imports, the maximum additional duty that may be imposed on applied tariffs shall not exceed 50 per cent of the current bound tariff or 40 percentage points, whichever is higher;*
- (b) *where the volume of imports during any year exceeds 110per cent but does not exceed 130per cent of base imports, the maximum additional duty that may be imposed on applied tariffs shall not exceed 75per cent of the current bound tariff or 50 percentage points, whichever is higher;*

cannot be more than one third of its sensitive product entitlement; and (b) that the tariff reduction treatment for the tariff lines concerned shall be the twenty per cent cut specified for Special Products under this paragraph.

¹⁸ An additional 1 per cent of tariff lines without tariff cuts shall be available to RAMs.

¹⁹ For the purposes of this provision a "product" is identifiable at the 6-digit level of the Harmonized System (HS) nomenclature, but with the understanding that this can entail a maximum of [4 - 8] tariff lines *per product* below that 6-digit level.

- (c) *where the volume of imports during any year exceeds 130 per cent of base imports, the maximum additional duty that may be imposed on applied tariffs shall not exceed 100 per cent of the current bound tariff or 60 percentage points, whichever is higher.*

Or

- (d) *where the volume of imports during any year exceeds 130 per cent but does not exceed 135 per cent of base imports, an additional duty which is the lower of 20 per cent of the current bound tariff or 20 ad valorem points may be imposed on applied tariffs provided that the current bound tariff is not exceeded;*
- (e) *where the volume of imports during any year exceeds 135 per cent but does not exceed 155 per cent of base imports, an additional duty which is the lower of 25 per cent of the current bound tariff or 25 percentage points may be imposed on applied tariffs provided that this does not exceed the mid point between the pre-Doha bound tariff and the current bound tariff;*
- (f) *where the volume of imports during any year exceeds 155 per cent of base imports, an additional duty which is the lower of 30 per cent of the current bound tariff or 30 percentage points may be imposed on applied tariffs, provided that the pre-Doha bound tariff is not exceeded.*
- (g) *Where, formally, these triggers could be met, but the absolute level of imports is manifestly negligible in relation to domestic production and consumption, remedies would not be applied.*
- (h) *For least-developed country Members, where the above volume triggers would be met, but the percentage remedies foreseen would be otherwise nullified or diminished by the conditionality regarding maintenance of the tariff bindings concerned, those Members would be nevertheless entitled to exceed their pre-Doha bound tariffs by a maximum of 25 ad valorem percentage points. This entitlement would also be applicable in the case of price – based measures below. In both situations, this would be provided that all other relevant conditions for application of the measure have been met.*

125. Imports under any scheduled tariff rate quota commitment may be counted for the purpose of determining the volume of imports required for invoking the volume-based SSM (except where a volume increase is entirely attributable to a scheduled tariff rate quota increase under Doha implementation phasing), but no additional duty shall be imposed on imports within such tariff rate quota commitments.

126. As regards the price-based SSM, it shall be applicable where the c.i.f. import price²⁰ of the shipment²¹ entering the customs territory of the developing country Member, expressed in terms of its domestic currency falls below a trigger price²² equal to [70 per cent of] the average monthly MFN-sourced price²³ for that product for the most recent three-year period preceding the year of

²⁰ Hereafter the "import price".

²¹ A shipment shall not be considered for purposes of paragraphs 126 and 127 unless the volume of the product included in that shipment is within the range of normal commercial shipments of that product entering into the customs territory of the importing developing country Member.

²² The trigger price shall be publicly disclosed and available to the extent necessary to allow other Members to assess the additional duty that may be levied.

²³ Hereafter the "reference price". The reference price used to invoke the provisions of this paragraph shall be the average monthly c.i.f. unit value of the product concerned.

importation for which data are available, provided that, where the developing country Member's domestic currency has at the time of importation depreciated by at least 10 per cent over the preceding 12 months against the international currency or currencies against which it is normally valued, the import price shall be computed using the average exchange rate of the domestic currency against such international currency or currencies for the three-year period referred to above.

127. The price-based SSM remedy shall apply on a shipment-by-shipment basis. The additional duty shall not exceed [50 per cent of] the difference between the import price of the shipment concerned and the trigger price [provided that this would not also result in exceeding the pre- Doha Round bound tariff, in which case the latter shall constitute the limit].

128. Developing country Members shall not normally take recourse to the price-based SSM where the volume of imports of the products concerned in the current year is clearly declining, or is at a manifestly negligible level incapable of undermining the domestic price level.

129. The calculation of volume or price triggers, and the application of measures in accordance with the relevant provisions of this section, shall be on the basis of MFN trade only.

130. Any shipments of the product in question which, before the imposition of the additional duty, have been contracted for and were en route after completion of custom clearance procedures in the exporting country, either under the price- or volume-based SSM, shall be exempted from any such additional duty, provided that where a volume-based SSM may be applicable in the next twelve-month period, the shipment of the product in question may be so counted in that period for the purposes of triggering the SSM.

131. The volume-based SSM may be maintained for a maximum period of 12 months from the initial invocation of the measure, unless a seasonal product is involved, in which case the SSM may apply for a maximum of six months to cover the period of seasonality. For the next immediate (consecutive) period, the three year rolling average shall be inclusive of that immediately preceding period of imports when the SSM was in place. However, where this would have the effect of lowering the three year rolling average below the level which triggered the SSM in the initial period, the trigger level for the initial period shall apply. No product shall be subject to the volume-based SSM consecutively for more than two periods and where such consecutive application has occurred this may not be resorted to again before the elapse of a further two consecutive periods.

132. The operation of the SSM shall be carried out in a transparent manner and the basis upon which ongoing calculations of rolling averages of import volumes and prices shall be accessible to all Members so that they can be fully informed of the basis upon which any potential actions may be taken. Any developing country Member taking action shall give notice in writing, indicating the tariff lines affected by the additional SSM duty and including relevant data, to the Committee on Agriculture as far in advance as may be practicable or, where this is not possible, no later than 15 days after the implementation of such action. The Member taking action shall afford any interested Members the opportunity to consult with it in respect of the conditions of application of such action.

133. The relevant Articles of the Agreement on Agriculture shall be amended to reflect the above modalities.

Fulllest liberalization of trade in tropical and diversification products

134. For those tropical and diversification products attached in Annex G, the following modality shall be applied over and above that which would otherwise result from application of the tiered formula.

135.

Either: *Where the scheduled tariff is less than or equal to 25 per cent ad valorem, it shall be reduced to zero. Where it is greater than 25 per cent ad valorem the applicable tariff cut shall be 85 per cent. There shall be no sensitive product treatment for any of the products appearing on the annexed list. The implementation of the cuts concerned shall be in four equal annual steps for all developed country Members.*

Or: *Where the tariff is greater than or equal to 10 per cent, it shall be reduced by the percentage cut specified in paragraph 61 (d) above, except for tariffs in the top band which shall be reduced by the tariff escalation tariff cut for that band increased by 2 ad valorem points. Where the tariff is less than 10 per cent, it shall be reduced to zero.*

The reductions concerned shall be implemented by developed country Members in accordance with the general tariff reduction implementation period. Developing country Members declaring themselves in a position to do so are encouraged to make additional efforts on tropical products beyond what would be required under the tiered formula.

Long-standing preferences and preference erosion

136.

Either: *For the products listed in Annex H, there shall be no tariff cuts on the items in that list for 10 years. Tariff cuts shall commence only after that point and shall be implemented over five years in equal annual instalments thereafter.*

Or: *For those products listed in Annex H, where:*

- (a) the pre-Doha MFN bound tariff is greater than 10 per cent ad valorem, and*
- (b) over the most recent three-year period, the total value of trade from long-standing preference receiving country Members is greater than US\$ 50,000 or is 3 per cent of any long-standing preference receiver's total agricultural trade to the market concerned and*
- (c) there is unconstrained long-standing preference eligibility in the market concerned,*

tariff cuts by long-standing preference granting country Members shall be implemented in equal annual instalments steps over a period that is two years longer than the implementation period for developing country Members for tariff cuts under the tiered formula.

Where, however, there is an overlap between products subject to this provision and those covered by the tariff escalation and/or tropical products provisions, the latter provisions shall prevail, except for the specific list of products identified in Annex X on which tariff reduction commitments shall proceed as is specifically determined in that Annex.

137. Long-standing preference granting Members having undertaken to 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, progress shall be reviewed annually.

E. Least-Developed Countries

138. The provisions in the revised NAMA text are applicable here also.

F. COTTON MARKET ACCESS

139. Developed country Members and developing country Members declaring themselves to be in a position to do so shall give duty- and quota-free access for cotton exports from least-developed country Members from the first day of the implementation period.

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

G. SMALL, VULNERABLE ECONOMIES

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

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

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

III. EXPORT COMPETITION

A. GENERAL

144. Nothing in these modalities on export competition can be construed to give any Member the right to provide, directly or indirectly, export subsidies in excess of the commitments specified in Members' Schedules, or to otherwise detract from the obligations of Article 8 of that 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 Uruguay Round Agreement on Agriculture or other WTO Agreements.

B. SCHEDULED EXPORT SUBSIDY COMMITMENTS

145. Developed country Members shall eliminate their remaining scheduled export subsidy entitlements by the end of 2013. This shall be effected on the basis of:

- (a) budgetary outlay commitments being reduced by 50 per cent by the end of 2010 in equal annual instalments from the date of entry into force, with the remaining budgetary outlay commitments being reduced to zero in equal annual instalments so that all forms of export subsidies are eliminated by the end of 2013.
- (b) quantity commitment levels being [reduced to zero in equal annual instalments from the applicable commitment levels / applied as a standstill from the commencement until the end of the implementation period at the lower of either the then current actual applied quantity levels or the bound levels reduced by 20 per cent].

146. Developing country Members shall eliminate their export subsidy entitlements by reducing to zero their scheduled export subsidy budgetary outlay and quantity commitment levels in equal annual instalments by the end of 2016.

147. In accordance with the Hong Kong Ministerial Declaration, developing country Members shall, furthermore, continue to benefit from the provisions of Article 9.4 of the Agreement on Agriculture until the end of 2021, i.e. five years after the end-date for elimination of all forms of export subsidies.

C. EXPORT CREDITS, EXPORT CREDIT GUARANTEES OR INSURANCE PROGRAMMES

148. Export credit, export credit guarantees or insurance programmes shall comply with the provisions set out in Annex J.

D. AGRICULTURAL EXPORTING STATE TRADING ENTERPRISES

149. Agricultural exporting state trading enterprises shall comply with the provisions of Annex K.

E. INTERNATIONAL FOOD AID

150. International food aid shall comply with the provisions of Annex L.

F. COTTON

151. Those export subsidies for cotton referred to in paragraph 144 above are prohibited in accordance with the mandate contained in paragraph 11 of the Hong Kong Ministerial Declaration. However, developing country Members which have any export subsidy entitlements referred to in that paragraph shall comply with this prohibition no later than the end of the first year of the implementation period.

152. To the extent that new disciplines and commitments for export credits, export credit guarantees or insurance programmes, agricultural exporting state trading enterprises and international food aid create new and additional obligations for Members as regards cotton, any such obligations shall be implemented on the first day of the implementation period for developed country Members, and by the end of the first year of the implementation period for developing country Members.

IV. MONITORING AND SURVEILLANCE

153. See Annex M.

V. OTHER ISSUES

A. [DIFFERENTIAL EXPORT TAXES

B. GIS]

C. EXPORT PROHIBITIONS AND RESTRICTIONS

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

155. Prohibitions or restrictions under Article XI.2 (a) of GATT 1994 in Members' territories shall be notified to the Committee on Agriculture within 90 days of the coming into force of these provisions.

156. A Member instituting export prohibitions and restrictions shall give notice of the reasons for introducing and maintaining such measures.

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

158. 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.

159. Existing export prohibitions and restrictions in foodstuffs and feeds under Article XI.2 (a) of GATT 1994 shall be eliminated by the end of the first year of implementation.

160. Any new export prohibitions or restrictions under Article XI.2 (a) of GATT 1994 should not normally be longer than 12 months, and shall only be longer than 18 months with the agreement of the affected importing Members.

ANNEX A

UNITED STATES – PRODUCT SPECIFIC BLUE BOX LIMITS

US Product-Specific Blue Box Limits As Notified by the United States

1. For the United States, the average total value of agricultural production during the 1995-2000 period is equal to \$194,139.3 million.

Year	Total value of agricultural production (million dollars)	2.5 percent of the value of agricultural production
1995	190,109.7	4,752.7
1996	205,701.3	5,142.5
1997	203,883.7	5,097.1
1998	190,886.0	4,772.2
1999	184,734.6	4,618.4
2000	189,520.3	4,738.0
Average	194,139.3	4,853.5

2. Under the 2002 Farm Bill, counter-cyclical payments for each eligible commodity are equal to the counter-cyclical payment rate times 85 per cent of base acres times the counter-cyclical payment program yield. The counter-cyclical payment rate is determined as the difference between the target price for that commodity, minus the direct payment rate for that commodity, minus the higher of the season average price or the legislated national loan rate for that commodity. The counter-cyclical payment rate is highest when the market price is below the loan rate and is equal to the target price minus the direct payment rate minus the loan rate.

3. The legislated maximum permissible expenditures for each of the years 2002-07 are given in appendix table 1. The figures show slight variation from year to year and reflect the fact that the 2002 Farm Bill legislated different loan rates and target prices over the period. In addition, eligible production shows slight variation due to land entering and exiting from the Conservation Reserve Program over the period. The proportionate level for each commodity is determined by dividing the average maximum payment for the 2002-07 crop years by the total average maximum payments for all commodities.

Crop	Average maximum payment 2002-07 crop years	Payment as per cent of total payment
Corn	3,224.2	44.2%
Grain sorghum	147.4	2.0%
Barley	46.7	0.6%
Oats	8.7	0.1%
Wheat	1,421.5	19.5%
Soybeans	550.3	7.5%
Upland cotton	1,376.5	18.9%
Rice	323.1	4.4%
Peanuts	200.9	2.8%
Total	7,299.2	100.0%

4. Product-specific limits for Blue Box expenditures are calculated by multiplying 2.5 per cent of the value of agricultural production times the proportionate level of payment under the 2002 Farm Bill times 110 and 120 per cent.

Product-Specific Blue Box Caps

Crop	110 per cent	120 per cent
Corn	2,359.8	2,574.3
Grain sorghum	106.8	116.5
Barley	32.0	34.9
Oats	5.3	5.8
Wheat	1,041.1	1,135.7
Soybeans	400.4	436.8
Upland cotton	1,009.0	1,100.8
Rice	234.9	256.3
Peanuts	149.5	163.1

Appendix Table 1--Maximum Counter-Cyclical Payments Under 2002 Farm Bill

	Unit	A Target price <i>\$ per unit</i>	B Direct Payment rate <i>\$ per unit</i>	C Loan rate <i>\$ per unit</i>	D = A-B-C Maximum payment rate <i>\$ per unit</i>	E Crop base <i>mil acres</i>	F = 0.85*E Payment Acres <i>mil acres</i>	G Payment yield <i>unit per acre</i>	H = D*F*G Payment <i>\$mil</i>	Percent of Total
2002										
Corn	<i>bushel</i>	2.60	0.28	1.98	0.34	87.86	74.68	114.3	2,902.3	42.6%
Sorghum	<i>bushel</i>	2.54	0.35	1.98	0.21	12.10	10.29	58.0	125.3	1.8%
Barley	<i>bushel</i>	2.21	0.24	1.88	0.09	8.80	7.48	48.7	32.8	0.5%
Oats	<i>bushel</i>	1.40	0.024	1.35	0.03	3.10	2.64	49.8	3.4	0.1%
Wheat	<i>bushel</i>	3.86	0.52	2.80	0.54	76.20	64.77	36.1	1,262.6	18.5%
Soybeans	<i>bushel</i>	5.80	0.44	5.00	0.36	53.50	45.48	34.1	558.3	8.2%
Upland cotton	<i>pound</i>	0.72	0.0667	0.52	0.1373	18.86	16.03	639.0	1,406.3	20.6%
Rice	<i>cwt</i>	10.50	2.35	6.50	1.65	4.51	3.83	51.24	324.2	4.8%
Peanuts	<i>pound</i>	0.2475	0.018	0.1775	0.05	1.53	1.30	2,989	202.7	3.0%
Total									6,817.7	100.0%
2003										
Corn	<i>bushel</i>	2.60	0.28	1.98	0.34	87.83	74.66	114.4	2,903.8	42.8%
Sorghum	<i>bushel</i>	2.54	0.35	1.98	0.21	12.10	10.29	58.1	125.5	1.9%
Barley	<i>bushel</i>	2.21	0.24	1.88	0.09	8.80	7.48	48.7	32.8	0.5%
Oats	<i>bushel</i>	1.40	0.024	1.35	0.03	3.10	2.64	50.0	3.4	0.1%
Wheat	<i>bushel</i>	3.86	0.52	2.80	0.54	76.20	64.77	36.1	1,262.6	18.6%
Soybeans	<i>bushel</i>	5.80	0.44	5.00	0.36	53.50	45.48	34.1	558.3	8.2%
Upland cotton	<i>pound</i>	0.72	0.0667	0.52	0.1373	18.42	15.66	639.0	1,374.0	20.3%
Rice	<i>cwt</i>	10.50	2.35	6.50	1.650	4.49	3.81	51.2	322.2	4.8%
Peanuts	<i>pound</i>	0.2475	0.018	0.1775	0.052	1.52	1.29	2,989	200.3	3.0%
Total									6,782.8	100.0%

	Unit	A Target price \$ per unit	B Direct Payment rate \$ per unit	C Loan rate \$ per unit	D = A-B-C Maximum payment rate \$ per unit	E Crop base mil acres	F = 0.85*E Payment Acres mil acres	G Payment yield unit per acre	H = D*F*G Payment \$mil	Percent of Total
2004										
Corn	<i>bushel</i>	2.63	0.28	1.95	0.400	87.64	74.49	114.2	3,402.9	44.7%
Sorghum	<i>bushel</i>	2.57	0.35	1.95	0.270	12.00	10.20	58.1	160.0	2.1%
Barley	<i>bushel</i>	2.24	0.24	1.85	0.150	8.70	7.40	48.7	54.0	0.7%
Oats	<i>bushel</i>	1.44	0.024	1.33	0.086	3.10	2.64	49.8	11.3	0.1%
Wheat	<i>bushel</i>	3.92	0.52	2.75	0.650	76.00	64.60	36.1	1,515.8	19.9%
Soybeans	<i>bushel</i>	5.80	0.44	5.00	0.360	52.90	44.97	34.1	552.0	7.3%
Upland cotton	<i>pound</i>	0.72	0.0667	0.52	0.1373	18.72	15.91	636	1,389.4	18.3%
Rice	<i>cwt</i>	10.50	2.35	6.50	1.650	4.51	3.84	51.24	324.3	4.3%
Peanuts	<i>pound</i>	0.2475	0.018	0.1775	0.052	1.52	1.29	2,990	200.7	2.6%
Total									7,610.4	100.0%
2005										
Corn	<i>bushel</i>	2.63	0.28	1.95	0.400	87.15	74.08	114.3	3,386.8	44.8%
Sorghum	<i>bushel</i>	2.57	0.35	1.95	0.270	11.90	10.12	58.1	158.7	2.1%
Barley	<i>bushel</i>	2.24	0.24	1.85	0.150	8.70	7.40	48.7	54.0	0.7%
Oats	<i>bushel</i>	1.44	0.024	1.33	0.086	3.10	2.64	49.8	11.3	0.1%
Wheat	<i>bushel</i>	3.92	0.52	2.75	0.650	75.40	64.09	36.1	1,503.9	19.9%
Soybeans	<i>bushel</i>	5.80	0.44	5.00	0.360	52.50	44.63	34.1	547.8	7.3%
Upland cotton	<i>pound</i>	0.72	0.0667	0.52	0.1373	18.47	15.70	634	1,366.9	18.1%
Rice	<i>cwt</i>	10.50	2.35	6.50	1.650	4.49	3.82	51.26	322.9	4.3%
Peanuts	<i>pound</i>	0.2475	0.018	0.1775	0.052	1.52	1.29	2,990	201.0	2.7%
Total									7,553.4	100.0%

	Unit	A Target price \$ per unit	B Direct Payment rate \$ per unit	C Loan rate \$ per unit	D = A-B-C Maximum payment rate \$ per unit	E Crop base mil acres	F = 0.85*E Payment Acres mil acres	G Payment yield unit per acre	H = D*F*G Payment \$mil	Percent of Total
2006										
Corn	<i>bushel</i>	2.63	0.28	1.95	0.400	86.76	73.75	114.4	3,374.6	44.9%
Sorghum	<i>bushel</i>	2.57	0.35	1.95	0.270	11.80	10.03	58.2	157.6	2.1%
Barley	<i>bushel</i>	2.24	0.24	1.85	0.150	8.60	7.31	48.6	53.3	0.7%
Oats	<i>bushel</i>	1.44	0.024	1.33	0.086	3.10	2.64	49.9	11.3	0.2%
Wheat	<i>bushel</i>	3.92	0.52	2.75	0.650	74.80	63.58	36.1	1,491.9	19.9%
Soybeans	<i>bushel</i>	5.80	0.44	5.00	0.360	52.01	44.21	34.1	542.7	7.2%
Upland cotton	<i>pound</i>	0.72	0.0667	0.52	0.1373	18.40	15.64	634	1,361.3	18.1%
Rice	<i>cwt</i>	10.50	2.35	6.50	1.650	4.48	3.81	51.28	322.4	4.3%
Peanuts	<i>pound</i>	0.2475	0.018	0.1775	0.052	1.51	1.29	2,993	200.3	2.7%
Total									7,515.4	100.0%
2007										
Corn	<i>bushel</i>	2.63	0.28	1.95	0.400	86.76	73.75	114.4	3,374.6	44.9%
Sorghum	<i>bushel</i>	2.57	0.35	1.95	0.270	11.80	10.03	58.2	157.6	2.1%
Barley	<i>bushel</i>	2.24	0.24	1.85	0.150	8.60	7.31	48.6	53.3	0.7%
Oats	<i>bushel</i>	1.44	0.024	1.33	0.086	3.10	2.64	49.8	11.3	0.2%
Wheat	<i>bushel</i>	3.92	0.52	2.75	0.650	74.80	63.58	36.1	1,491.9	19.9%
Soybeans	<i>bushel</i>	5.80	0.44	5.00	0.360	52.01	44.21	34.1	542.7	7.2%
Upland cotton	<i>pound</i>	0.72	0.0667	0.52	0.1373	18.40	15.64	634	1,361.3	18.1%
Rice	<i>cwt</i>	10.50	2.35	6.50	1.650	4.48	3.81	51.28	322.4	4.3%
Peanuts	<i>pound</i>	0.2475	0.018	0.1775	0.052	1.51	1.29	2,993	200.3	2.7%
Total									7,515.4	100.0%

	A	B	C	D = A-B-C	E	F = 0.85*E	G	H = D*F*G	
	Target price	Direct	Loan rate	Maximum	Crop base	Payment	Payment	Payment	Percent
		Payment rate		payment rate		Acres	yield		of Total
	<i>\$ per unit</i>	<i>\$ per unit</i>	<i>\$ per unit</i>	<i>\$ per unit</i>	<i>mil acres</i>	<i>mil acres</i>	<i>unit per acre</i>	<i>\$mil</i>	
Average									
2002-07									
Corn	<i>bushel</i>							3,224.2	44.2%
Sorghum	<i>bushel</i>							147.4	2.0%
Barley	<i>bushel</i>							46.7	0.6%
Oats	<i>bushel</i>							8.7	0.1%
Wheat	<i>bushel</i>							1,421.5	19.5%
Soybeans	<i>bushel</i>							550.3	7.5%
Upland cotton	<i>pound</i>							1,376.5	18.9%
Rice	<i>cwt</i>							323.1	4.4%
Peanuts	<i>pound</i>							200.9	2.8%
Total								7,299.2	100.0%

ANNEX B

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

Government Service Programmes

General services (paragraph 2)

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

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

Public stockholding for food security purposes

Modify the existing footnote 5 as follows:

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

Modify the existing footnote 5 and 6 as follows:

For the purposes of paragraphs 3 and 4 of this Annex, **the acquisition of foodstuffs at subsidised prices when procured generally from low-income or resource-poor producers in developing countries with the objective of fighting hunger and rural poverty, as well as** the provision of foodstuffs at subsidised prices with the objective of meeting food requirements of urban and rural poor in developing countries on a regular basis at reasonable prices shall be considered to be in conformity with the provisions of this paragraph.

Decoupled income support (paragraph 6)

Modify the existing subparagraph (a) as follows:

- (a) Eligibility for such payments shall be determined by clearly-defined criteria such as income, status as a producer or landowner, factor use or production level in a defined, fixed **and unchanging historical** base period **which shall be notified to the Committee on Agriculture. An exceptional update is not precluded, [provided that producer expectations and production decisions are unaffected, in particular due to the fact that any updated base period¹ is a significant number of years in the past. / but such**

¹ Where a Member has, at the time of entry into force of this Agreement, more than one type of direct payments within the same system of decoupled income support it shall be possible to decide, within a period of

an exceptional update shall ensure that producer expectations and production decisions are not affected and shall only be permissible: (i) where the updated base period is itself a sufficiently significant number of years in the past and (ii) the result of the updated base period is either neutral with respect to the overall level of support to producers or reduces that support.] Members which have not previously made use of this type of payment, and thus have not notified, shall not be precluded from establishing an appropriate base period⁷, which shall be fixed and unchanging and shall be notified.

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

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

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

- (a) Eligibility for such payments shall arise:
 - (i) **In the case of direct payments related to disasters** only following a formal recognition by government authorities that a natural or like disaster (including disease outbreaks, pest infestations, nuclear accidents, and war on the territory of the Member concerned) has occurred or is occurring; and shall be determined by a production loss⁸ which exceeds 30 per cent of the average of production in the preceding **five**-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry. **In the case of developing country Members, payments for relief from natural disasters may be provided to producers when the production loss is less than 30 per cent of the average of production in the preceding five-year period or a three-year average based on the preceding five-year period.**
 - (ii) **In the case of government financial participation in crop or production insurance schemes, eligibility for such payments shall be determined by a production loss which exceeds 30 per cent of the average production in a period demonstrated to be actuarially appropriate. In the case of a developing country Member's government's financial participation in crop or production insurance schemes, eligibility for payments may be provided to producers when the production loss is less than 30 per cent of the average of production in the preceding five-year period or a three-year average based on the preceding five-year period.**
 - (iii) **In the case of the destruction of animals or crops to control or prevent pests, diseases, disease-carrying organisms or disease-causing organisms named in national legislation or international standards, the production loss may be less than 30 per cent of the average of production referred to in paragraph 8(a)(i) or 8(a)(ii), as applicable.**
- (b) Payments made **under this paragraph** shall be applied only in respect of losses of income, **crops**, livestock (including payments in connection with the veterinary treatment

no more than three years from the date of entry into force of this agreement, to move from one to another type of direct payments for all or part of the territory of that member, including the use of a changed base period. This decision shall be taken once and for all for each part of the territory of the Member concerned. Where a member intends to exercise this possibility, it shall notify its decision to the Committee on Agriculture within 180 days of the entry into force of this Agreement.

of animals), land or other production factors due to the natural disaster **or destruction of animals or crops** in question.

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

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

Structural adjustment assistance provided through investment aids (paragraph 11)

Modify the existing subparagraph (b) as follows:

- (b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production (including livestock units) undertaken by the producer in any year after the base period other than as provided for under criterion (e) below. **The options presented in regard to paragraph 6 (a) above shall be considered here also. Members which have not previously made use of this type of payment, and thus have not notified, shall not be precluded from establishing an appropriate base period⁹, which shall be fixed and unchanging and shall be notified.**

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

Payments under regional assistance programmes (paragraph 13)

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

- (a) Eligibility for such payments shall be limited to producers in disadvantaged regions. Each such region must be a clearly designated contiguous geographical area with a definable economic and administrative identity, considered as disadvantaged on the basis of neutral and objective criteria clearly spelt out in law or regulation and indicating that the region's difficulties arise out of more than temporary circumstances. **Developing country Members shall be exempted from the condition that a disadvantaged region must be a contiguous geographical area.**
- (b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production (including livestock units) undertaken by the producer in any year after the base period other than to reduce that production. **The options presented in regard to paragraph 6 (a) above shall be considered here also. Members which have not previously made use of this type of payment, and thus have not notified, shall not be precluded from establishing an appropriate base period¹⁰, which shall be fixed and unchanging and shall be notified.**
- (f) The payments shall be limited to the extra costs or loss of income involved in undertaking agricultural production (**including livestock production**) in the prescribed area.

¹⁰ **Developing country Members may not have the capacity to fully assess the impact of innovation in their agricultural policies. Accordingly, the base period of a time-limited experimental or pilot programme may not be taken as the fixed and unchanging base period for the purposes of this paragraph.**

ANNEX C

Basis for the calculation of tariff quota expansion

Either:

1. Where, for any product¹, a Member has a tariff quota bound in its Schedule and wishes to designate any tariff line within that product coverage as Sensitive, the defined percentage of tariff quota access to be provided shall be calculated in terms of the percentage of domestic consumption of the entire product, irrespective of whether, for any number of tariff lines within that product coverage, the Member concerned has taken the full (i.e. "non-Sensitive") tariff cut.

2. Where the domestic consumption data for the product in question is available from recognized international sources such as FAO or OECD, it shall be used. If it is not so available, existing national data shall be used. In the calculation of domestic consumption at that product level, all consumption must be included in the calculation, whether for direct human consumption, industrial use, animal feed, etc. This data must be provided in a transparent manner using a commonly-agreed supporting data template. Where this data does not currently exist at a national level, it shall be arrived at through a balance sheet approach (i.e. imports + production – exports +/- changes in stocks). Calculations shall be provided in a transparent manner using a commonly-agreed supporting data template.

Or:

3. Where, for any product², a Member wishes to designate only a certain number of tariff lines within that product as Sensitive, it is free to do so (provided the total number of tariff lines remains within the defined numerical limit on tariff lines that may be declared Sensitive). In such cases the method set out in Attachment Ai shall apply.

4. For each product in its entirety as specified in Attachment Ai there shall be a floor minimum access of at least [1 - 3] per cent of domestic consumption of that product.

5. Where there are separate tariff lines for in-quota and out-of-quota trade, they shall be combined and treated as one tariff line under this approach.

6. Where there are separate tariff lines that do not reflect material differences in essential product characteristics (e.g. reflecting superficial differences such as packaging; end use requirements such as distinguishing personal use from other uses; or other administrative distinctions) they shall be combined and treated as one tariff line under this approach.

7. Imports for re-export (including where the obligation to re-export is in a processed form) shall not be counted as "imports" under that tariff line under this approach.

¹ For the purpose of these modalities, these products are those specified and delimited in terms of each product's 6-digit tariff line coverage in Attachment A.

² For the purpose of these modalities, these products are those specified and delimited in Attachment Ai [except that this attachment shall be adjusted further to meet the requirements of Members, particularly developing country Members, which have not yet had sufficient opportunity to have their requirements taken into account in the finalisation of this list, and is without prejudice to the coverage of tropical products which remains to be finalised].

8. Under whichever of these approaches is selected:
 - (a) The resultant calculations shall have been made available to all Members with a sufficient period for them to have reviewed and verified them so that, at the time of the adoption of these Modalities, Members shall be in a position to know precisely what the actual volume of tariff quota expansion shall be at a tariff line level, should a product be subsequently declared as Sensitive. The results of these calculations, as reflected in the templates and attachments, are an integral part of these modalities. As such, only products in respect of which the agreed calculations are annexed shall be eligible for sensitive product treatment and, where such a product is in fact selected subsequently as sensitive at the scheduling stage, the results of these calculations shall be, for whatever product is concerned, applicable without variation.
 - (b) Existing scheduled tariff lines shall be the basis for all calculations. There shall be no sub-categorization of tariff lines beyond existing scheduled commitments.
 - (c) The base period shall be the most recent period for which data is available, i.e. 2003-05 unless this would be, for some particular product, a manifestly unrepresentative period due to exceptional circumstances.
9. For any given product category, [a single tariff quota with a single in-quota tariff shall be scheduled, irrespective of how many tariff lines are designated as Sensitive / the provisions of the Attachment on this matter shall apply as regards sub-allocation of tariff quotas].
10. New tariff quota volumes arising from this negotiation shall be bound in part I-B of Members' Schedules of concessions erga omnes on a most favoured nation basis.

ANNEX D

TARIFF ESCALATION LIST

Vegetables

Primary product	Processed product
0702.00 – Tomatoes, fresh or chilled	2002.10 – Tomatoes, whole or in pieces, prepared or preserved otherwise than by vinegar or acetic acid. 2002.90 – Tomatoes, prepared or preserved otherwise than by vinegar or acetic acid. 2009.50 – Tomato juice, unfermented and not containing added sugar or other sweetening matter. 2103.20 - Tomato ketchup and sauce
0707.00 Cucumbers and gherkins, fresh or chilled	0711.40 - Cucumbers and gherkins provisionally preserved 2001.10 - Cucumbers and gherkins prepared or preserved by vinegar or acetic acid
0709.60 - Fruits of the genus Capsicum or genus Pimenta	0904.20 - Fruits of the genus Capsicum or genus Pimenta, dried or ground
0714.10 – Cassava	1108.14 - Cassava starch

Fruits and Nuts

Primary product	Processed product
0801.11 - Coconuts, dessicated 0801.19 - Coconuts, excluding dessicated	1513.11 - Crude coconut oil 1513.19 - Other coconut oil 2306.50 - Oilcake and other solid residues of coconut 2308 - Vegetable materials and vegetable waste *

Primary product	Processed product
0805.50 – Lemons	2007.91 - Citrus fruit preparations; Jams, fruit jellies, marmalades, fruit or nut puree, and fruit or nut pastes, obtained by cooking, whether or not containing added sugar or other sweetening matter.* 2009.31 - Juice of any other citrus fruit (other than orange or grapefruit); of a Brix value lower or similar to 20).*
0808.20 – Pears and quinces, fresh	2008.40 – Pears, Otherwise prepared or preserved. 2009.80 - Juice of any single fruit or vegetable (other than juice of any single citrus fruit, pineapple, tomato, grape, or apple) unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter*
0809.10 – Apricots, fresh	2008.50 – Apricots, Otherwise prepared or preserved.
0809.20 - Cherries, fresh	0812.10 - Cherries, provisionally preserved. 2008.60 - Cherries, otherwise prepared or preserved.
0809.30 – Peaches, including nectarines, fresh	2008.70 – Peaches including nectarines, otherwise prepared or preserved.
0809.40 - Plums	0813.20 - Prunes, dried

Coffee

Primary product	Processed product
0901.11 - Coffee, not roasted: Not decaffeinated	0901.12 – Coffee, not roasted, decaffeinated 0901.12 – Coffee, not roasted, decaffeinated 0901.21 - Coffee, roasted: Not decaffeinated 0901.22 - Coffee, roasted: Decaffeinated 0901.90 - Other (Coffee husks and skins, coffee substitutes containing coffee) 2101.11 - Extracts, essences and concentrates* 2101.12 - Preparations with a basis of extracts, essences or concentrates or with a basis of coffee

Spices

Primary product	Processed product
0910.10 - Ginger	2006.00 - Other fruits, vegetables and nuts, preserved by sugar 2008.99 - Other fruits and edible parts of the plant,

	prepared or preserved*
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Oilseeds

Primary product	Processed product
12.01 - Soya Beans, whether or not broken	1208.10 - Flours and meals of soya bean 1507.10 - Crude oil, whether or not degummed, of soya bean oil and its fractions, not chemically modified. 1507.90 – Refined oil of soybeans and its fractions, but not chemically modified. 23.04 - Oil cakes of soybeans
1202.10 - Ground-nuts, in shell, not roasted or otherwise cooked	1202.20 - Ground-nuts, shelled, whether or not broken, not roasted or otherwise cooked 1208.90 – Flours and Meals of Oilseeds or oleaginous fruits, other than those of soybeans or mustard* 1508.10 - Crude Ground-nut oil , not chemically modified 1508.90 - Refined Ground-nut oil, not chemically modified 2008.11 – Ground nuts, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included. 23.05 - Oilseed cake of ground nuts
1205.10 - Low erucic acid rape or colza seeds, whether or not broken	1208.90 – Flours and Meals of Oilseeds or oleaginous fruits, other than those of soybean or mustard* 1514.11 - Low erucic acid rape or colza oil, crude, not chemically modified. 1514.19 - Low erucic acid rape or colza oil, refined, not chemically modified. 2306.41 - Of low erucic acid rape or colza seed
1205.90 - Rape or colza seeds, whether or not broken	1208.90 – Flours and Meals of Oilseeds or oleaginous fruits, other than those of soybean or mustard* 1514.91 - Crude rape, colza or mustard oil and fractions thereof, not chemically modified. 1514.99 - Refined rape, colza or mustard oil and fractions thereof, not chemically modified, Other

Primary product	Processed product
12.06 - Sunflower seeds, whether or not broken	1208.90 – Flours and Meals of Oilseeds or oleaginous fruits, other than those of soybean or mustard* 1512.11 - Crude sunflower-seed or safflower oil and fractions thereof, not chemically modified. 1512.19 - Refined sunflower-seed or safflower oil and fractions thereof, not chemically modified. 2306.30 - Oilseed cake of sunflower seeds
1207.60 - Safflower seeds	1208.90 – Flours and Meals of Oilseeds or oleaginous fruits, other than those of soybeans or mustard* 1512.11 - Crude sunflower-seed or safflower oil and fractions thereof, not chemically modified. 1512.19 - Refined sunflower-seed or safflower oil and fractions thereof, not chemically modified.
1207.10 – Palm nuts and kernels, whether or not broken	1208.90 – Flours and Meals of Oilseeds or oleaginous fruits, other than those of soybean or mustard* 1511.10 - Crude palm oil and its refractions, not chemically modified oil 1511.90 – Refined palm oil and its refractions, not chemically modified Other 2306.60 - Oilseed cake of palm nuts or kernels
1207.20 - Cotton seeds, whether or not broken	1208.90 – Flours and Meals of Oilseeds or oleaginous fruits, other than those of soybeans or mustard* 1512.21 - Crude cotton-seed oil and its fractions, whether or not gossypol has been removed, not chemically modified 1512.29 - Refined cotton-seed oil and its fractions, not chemically modified 1521 - Vegetable waxes (of cotton) 2306.10 - Oilseed cake of cotton seeds
1207.40 - Sesamum seeds	12.08.90 – Flours and Meals of Oilseeds or oleaginous fruits, other than those of soybeans or mustard* 1515.50 - Sesame oil and its fractions 2306.90 - Oilseed cake, not otherwise specified*

Cocoa

Primary product	Processed product
1801.00 – Cocoa beans, whole or broken, raw or roasted	1802.00 - Cocoa shells, husks, skins and other cocoa waste 1803.10 – Cocoa paste, not defatted 1803.20 – Cocoa paste, wholly or partly defatted 1804.00 – Cocoa butter, fat and oil 1805.00 – Cocoa powder, not containing added sugar or other sweetening matter 1806.10 - Cocoa powder, containing added sugar or other sweetening matter 1806.20 - Chocolate, containing cocoa, in blocks, slabs or bars >2 kg 1806.31 - Chocolate in blocks, slabs or bars, filled 1806.32 - Other, in blocks, slabs or bars, not filled 1806.90 - Other food preparations containing cocoa

Cereals

Primary product	Processed product
1001.10 – Durum Wheat	11.01 - Wheat or meslin flour* 1103.11 - Groats and meal, of wheat* 1103.20 – Pellets* 1108.11 - Wheat starch 11.09 - Wheat gluten, whether or not dried 1902.11 - Pasta, containing eggs 1902.19 - Other pasta, not stuffed, cooked or otherwise prepared (other than those containing egg) 1902.20 - Stuffed pasta, whether or not cooked or otherwise prepared 1902.30 - Other pasta 1905.20 - Gingerbread 1905.31 - Sweet biscuits 1905.32 - Waffles and wafers
10.03 - Barley	1103.19 Groats and meal, of other cereals* 1103.20 Pellets* 1104.19 - Rolled or flaked grains, of other cereals* 1104.29 - Other worked grains, of other cereals* 1107.10 - Malt, not roasted 1107.20 - Malt, roasted 1901.90 - Malt extract and food prep of flour groats, meal or starch, other than for infant preparations, other than for use in mixes and doughs
10.04 - Oats	10.06 - Germ of cereals, whole, rolled, flaked or ground, or otherwise worked, except rice of heading 1103.19 Groats and meal, of other cereals* 1103.20 Pellets* 1104.12 - Rolled or flaked grains: Of oats 1104.22 - Other worked grains: Of oats
1005.90 - Maize (corn), other than seed	1102.20 - Maize (corn) flour 1103.13 - Cereal grouts and meal of corn 1108.12 - Corn starch 1515.29 - Other fixed maize oil other than not refined, but not chemically modified 1901.10 - Preparations for infant use, put up for retail sale* 1901.20 - Mixes and doughs for the preparation of bakers' wares of heading 19.05* 1904.10 - Prepared foods obtained from the swelling or roasting of cereals or cereal products* 1905.90 Other* 2005.80 - Sweet corn, prepared or preserved, other than by vinegar or acetic acid, not frozen
1006.10 - Rice in husk (paddy or rough)	1006.20 Husked (brown) rice 1006.30 Semi-milled or wholly milled rice, whether or not polished or glazed 1006.40 - Broken rice 1102.30 - Rice flour 1103.19 - Groats, meal and pellets, of other cereals*

Primary product	Processed product
	1904.20 - Prepared foods obtained from the unroasted cereal flakes or from mixtures of unroasted and roasted cereal flakes or swelled cereals* 2302.20 Bran, sharps and other residues of rice
10.07 - Sorghum	1904.10 - Prepared foods obtained by the swelling or roasting of cereals or cereal products* 1904.20 - Prepared foods obtained from the unroasted cereal flakes or from mixtures of unroasted and roasted cereal flakes or swelled cereals*

* **In cases where the HS heading can be associated with more than one primary product, the tariff escalation modality would only apply if a Member has scheduled the processed product at the product specific level**

ANNEX E

TARIFF QUOTA UNDERFILL MECHANISM

1. During the first monitoring year, where an importing Member does not notify the fill rate, or where the fill rate is below a defined percentage, a Member may raise a specific concern regarding a tariff quota commitment in the Committee on Agriculture and place this concern on a tracking register maintained by the Secretariat. The importing Member shall discuss the administration of the tariff quota with all interested Members, with the aim of understanding the concerns raised, improving the membership's understanding of the market circumstances and of the manner in which the tariff quota is administered and whether elements of the administration contribute to underfill. This shall take place on the basis of provision of objective and relevant data bearing on the matter, in particular as regards the market circumstances.

2. Once the underfill mechanism has been initiated, where the fill rate remains below the percentage specified in paragraph 1 for two consecutive years, or no notification has been submitted for that period, a Member may request, through the Committee on Agriculture, that the importing Member take specific action(s)¹ to modify the administration of the tariff quota concerned. The importing Member shall take either the specific action(s) requested or, drawing on the discussions previously held with the importing Member, such other action(s) which it considers will effectively improve the fill rate of the tariff quota. If the action(s) of the importing Member lead to a fill rate above the defined percentage or interested Members are otherwise satisfied that lesser fill rates are indeed attributable to market circumstances based on the data-based discussions that have taken place, this will be noted and the concern marked "resolved" on the Secretariat's tracking register and will be no longer subject to monitoring (unless at some future point the process is restarted but, if so, it will be a new three year cycle). If the fill rate remains below the defined percentage, a Member may continue to request additional modifications to the administration of the tariff quota.

3. During the third and subsequent monitoring years: following three or more consecutive years of underfill, where:

- (a) the fill rate remains below the defined percentage for three consecutive years; and
- (b) the fill rate has not increased by annual increments of a defined minimum amount per cent for each of the preceding three years;
- (c) the data-based discussions regarding commercial factors have not led to the conclusion among all interested parties these are in fact the reason for underfill; and
- (d) an interested Member makes a statement in the Committee on Agriculture, that it wishes to initiate the final stage of the underfill mechanism.

¹ The actions and remedies taken by the importing Member pursuant to the underfill mechanism shall not modify or impede the rights of a Member holding a country-specific allocation for that tariff quota with respect to their country-specific allocation.

4. The importing Member shall then promptly provide unencumbered access via one of the following tariff quota administration methods²: a first-come, first-served only basis (at the border); or an automatic, unconditional license on demand system. In taking a decision on which of these two options to implement, the importing Member will consult with interested exporting Members. The method selected shall be maintained by the importing Member for a minimum of two years, after which time – provided that timely notifications for the two years have been submitted – it will be noted on the Secretariat's tracking register and the concern marked "closed".

5. The availability of this mechanism and resort to it by any Member is without prejudice to Members' rights and obligations under the covered Agreements in respect of any matter dealt with under the mechanism and, in the event of any conflict, the provisions of the covered agreements shall prevail.

² The actions and remedies taken by the importing Member shall not modify or impede the rights of a Member holding a country-specific allocation for that tariff quota with respect to their country-specific allocation.

ANNEX F

ILLUSTRATIVE LIST OF INDICATORS FOR THE DESIGNATION OF SPECIAL PRODUCTS

1. The product is a staple food, or is a part of the basic food basket of the developing country Member through, *inter alia*, laws and regulations, including administrative guidelines or national development plan or policy or historical usage, or the product contributes significantly to the nutritional or caloric intake of the population.
2. A significant proportion of the domestic consumption of the product in its natural, unprocessed or processed form, in a particular region or at a national level, is met through domestic production in the developing country Member concerned.
3. Domestic consumption of the product in the developing country Member is significant in relation to total world exports of that product; or a significant proportion of total world exports of the product are accounted for by the largest exporting country.
4. A significant proportion of the total domestic production of the product in a particular region or at the national level is produced on farms or operational land holdings of up to and including 10 hectares, or is produced on farm or operational land holdings which are of a size equal to or less than the average farm size of the developing country Member concerned, or a significant proportion of the farms or operational land holdings producing the product are up to and including 10 hectares in size or of the average farm size or less of the developing country Member concerned.
5. A significant proportion of the total agricultural population or rural labour force, in a particular region or at the national level, is employed in the production of the product.
6. A significant proportion of the producers of the product, in a particular region or at the national level, are low income, resource poor, or subsistence farmers, including disadvantaged or vulnerable communities and women or a significant proportion of the domestic production of the product is produced in disadvantaged regions and areas including, *inter alia*, drought-prone or hilly or mountainous regions.
7. A significant proportion of the total value of agricultural production or agricultural income of households, in a particular region or at the national level, is derived from the production of the product.
8. A relatively low proportion of the product is processed in the developing country Member as compared to the world average; or the product contributes a relatively high proportion to value addition in the rural areas, in a particular region or at the national level, through its linkages to non-farm rural economic activities, including handicrafts and cottage industries or any other form of rural value addition.
9. A significant proportion of the agricultural customs tariff revenue is derived from the product in a developing country Member.
10. A significant proportion of the total food expenditure, or of the total income, of households in a particular region or at the national level in the developing country Member concerned, is spent on the product.

11. The product in respect of which product specific AMS or blue box support has been notified by any WTO Member and which has been exported by that notifying Member during any year from 1995 to the starting date of the implementation of Doha Round.
12. The productivity per worker or per hectare of the product in the developing country Member, in a particular region or at the national level, is relatively low as compared to the average productivity in the world.

ANNEX G*

LIST OF TROPICAL AND ALTERNATIVE PRODUCTS

HS96	Description
060240	Roses, grafted or not
060290	Live plants, incl. their roots, and mushroom spawn
060310	Cut flowers and flower buds for bouquets, etc., fresh
060390	Cut flowers and flower buds for bouquets, dried, etc.
060491	Foliage, branches, for bouquets, etc. – fresh
060499	Foliage, branches, for bouquets, etc. – except fresh
070190	Potatoes, fresh or chilled except seed
070310	Onions and shallots
070960	Peppers (Capsicum, Pimenta) fresh or chilled
070990	Vegetables, fresh or chilled nes
071190	Other vegetables; mixtures of vegetables
071390	Other dried leguminous vegetables
071410	Manioc (cassava), fresh or dried
071420	Sweet potatoes
071490	Arrowroot, salep, etc. fresh or dried and sago pith
080111	Desiccated coconuts
080119	Other coconuts
080290	Nuts, fresh or dried, whether or not shelled or peeled
080300	Bananas, including plantains, fresh or dried
080420	Figs, fresh or dried
080430	Pineapples, fresh or dried
080440	Avocados, fresh or dried
080450	Guavas, mangoes and mangosteens, fresh or dried
080510	Oranges, fresh or dried
080520	Mandarin, clementine & citrus hybrids, fresh or dried
080530	Lemons and limes, fresh or dried
080590	Other citrus fruit, fresh or dried
080711	Watermelons, fresh
080719	Melons, fresh
080720	Fresh pawpaws "papayas"
081090	Fresh tamarinds, passion fruit, carambola, pitahaya and other edible fruit
081190	Fruits and nuts (uncooked, steamed, boiled) frozen
081290	Fruit and nuts, provisionally preserved
081340	Other fruit
081350	Mixtures of nuts or dried fruits
081400	Peel of citrus fruit or melons
090112	Coffee, not roasted, decaffeinated
090121	Coffee, roasted, not decaffeinated
090122	Coffee, roasted, decaffeinated
090190	Coffee, other roasted
090210	Tea, green (unfermented) in packages < 3 kg
090412	Pepper, crushed or ground
090420	Capsicum or Pimenta, dried, crushed or ground
090700	Cloves (whole fruit, cloves and stems)
091010	Ginger
100610	Rice in the husk (paddy or rough)

HS96	Description
100620	Husked (brown) rice
100630	Semi-milled or wholly milled rice, whether or not polished or glazed
100640	Broken rice
110230	Rice flour
110620	Flour, meal and powder of sago or of roots or tubers of heading 07.14
110630	Flour, meal and powder of the dried leguminous vegetables
110814	Manioc (cassava) starch
120210	Ground-nuts in shell, not roasted or cooked
120220	Ground-nuts, shelled, whether or not broken
120890	Other flours and meals of oil seeds or oleaginous fruits
121190	Plants & parts, pharmacy, perfume, insecticide uses
121210	Locust beans, locust seeds
121299	Vegetable products for human consumption
130219	Vegetable saps and extracts
140190	Other vegetable materials
150710	Crude soya-bean oil, and its fractions
150790	Other soya-bean oil, and its fractions
150810	Crude ground nut oil
151110	Palm oil, crude
151190	Palm oil or fractions simply refined
151211	Crude sunflower-seed or safflower oil and fractions thereof
151219	Other sunflower-seed or safflower oil and fractions thereof
151311	Crude coconut (copra) oil and its fractions
151319	Other coconut (copra) oil and its fractions
151321	Crude palm kernel or babassu oil
151329	Palm kernel or babassu oil and fractions thereof, other
151410	Low erucic acid rape or colza oil, crude
151490	Low erucic acid rape or colza oil, other
151530	Castor oil and its fractions
151550	Sesame oil or fractions not chemically modified
151620	Veg fats, oils or fractions hydrogenated, esterified
151710	Margarine, excluding liquid margarine
152190	Beeswax, other insect waxes and spermaceti
170111	Raw sugar, cane
170191	Containing added flavouring or colouring matter
170199	Refined sugar, in solid form, pure sucrose
170310	Cane molasses
180310	Cocoa paste, not defatted
180320	Cocoa paste, wholly or partly defatted
180400	Cocoa butter, fat, oil
180500	Cocoa powder, unsweetened
180610	Cocoa powder, sweetened
180620 ¹	Chocolate and other food preps containing cocoa > 2 kg
180631	Chocolate, cocoa preps, block, slab, bar, filled, > 2kg
180632	Chocolate, cocoa prep, block/slab/bar, not filled, > 2kg
180690 ²	Chocolate/cocoa food preparations

¹ Excluding more disaggregated lines which have a majority of their ingredients which are not tropical or alternative products.

² Excluding more disaggregated lines which have a majority of their ingredients which are not tropical or alternative products.

HS96	Description
200190	Veg, fruit, nuts nes prepared or preserved by vinegar
200410	Potatoes, prepared, frozen

INDICATIVE LIST OF TROPICAL PRODUCTS USED IN THE URUGUAY ROUND*

PRODUCT GROUPS AND SUB-GROUPS		4-DIGIT HS HEADINGS
Group I:	Tropical beverages	
(a)	Unprocessed products	0901, 0902, 1801, 1802
(b)	Semi-processed and processed products	1803, 1804, 1805, 2101
Group II:	Spices, flowers and plants, plaiting products, etc.	
(a)	Unprocessed products	0904-0910, 0602, 0603, 1211, 1301, 1401, 1402, 1403, 1404
(b)	Semi-processed and processed products	1302, 1521, 3203, 3301, 4601, 4602, 9601
Group III:	Certain oilseeds, vegetable oils and products thereof	
(a)	Unprocessed products and residues from oil extraction	1202, 1203, 1207, 2305, 2306
(b)	Semi-processed and processed products	1208, 1508, 1511, 1513, 1515, 1516, 1518, 1519, 1520
Group IV:	Tropical roots, rice and tobacco	
(a)	Unprocessed products	0714, 1006, 2401
(b)	Semi-processed and processed products	1106, 1108, 1903, 2402
Group V:	Tropical nuts and fruits	
(a)	Unprocessed products	0801, 0803, 0804, 0807
(b)	Semi-processed and processed products	2006, 2007, 2008
Group VI:	Rubber and tropical wood	
(a)	Raw material	4001, 4403
(b)	Semi-manufactures	4005-4009, 4407-4410, 4412
(c)	Finished products	4011, 4013-4017, 4414, 4418-4421, 9401, 9403
Group VII:	Jute and hard fibres	
(a)	Raw material	5303, 5304, 5305
(b)	Semi-manufactures	5307, 5308, 5310, 5311
(c)	Finished products	5607, 5608, 5609, 5905, 6305

*The resolution of these lists remains under active negotiation at this point.

ANNEX H

INDICATIVE LIST OF PREFERENCE EROSION PRODUCTS*

Tariff Lines at HS 6	Product Description
020130	Fresh or chilled bovine meat, boneless
020230	Frozen, boneless meat of bovine animals
020312	Fresh or chilled hams, shoulders and cuts thereof of swine, with bone in
060310	Fresh cut flowers and flower buds, for bouquets or for ornamental purposes
070200	Tomatoes, fresh or chilled
070810	Fresh or chilled peas "Pisum sativum", shelled or unshelled
070820	Fresh or chilled beans "Vigna spp., Phaseolus spp.", shelled or unshelled
070990	Fresh or chilled vegetables (excl. potatoes, tomatoes, vegetables of the Allium)
071490	Roots and tubers of arrowroot, salep, Jerusalem artichokes and similar roots and tubers with high starch or inulin content, fresh, chilled, frozen or dried, whether or not sliced or in the form of pellets and sago pith (excl. manioc "cassava")
080290	Other nuts, fresh or dried, other
080300	Bananas, incl. plantains, fresh or dried
080430	Fresh or dried pineapples
080440	Avocados
080450	Fresh or dried guavas, mangoes and mangosteens
080610	Fresh grapes
080719	Fresh melons (excl. watermelons)
080720	Fresh pawpaws "papayas"
081090	Fresh tamarinds, cashew apples, jackfruit, lychees, sapodillo plums, passion fruit, carambola, pitahaya and other edible fruit (excl. nuts, bananas, dates, figs, pineapples, avocados, guavas, mangoes, mangosteens, papaws "papayas", citrus fruit, grapes,
081340	Dried peaches, pears, papaws "papayas", tamarinds and other edible fruits (excl. nuts, bananas, dates, figs, pineapples, avocados, guavas, mangoes, mangosteens, citrus fruit, grapes apricots, prunes and apples, unmixed)
090121	Roasted coffee (excl. decaffeinated)
090500	Vanilla
090700	Cloves, whole fruit, cloves and stems
100620	Husked or brown rice
110313	Cereal groats meal and pellets; of maize
121210	Locust beans, incl. locust bean seed, fresh, chilled, frozen or dried, whether or not ground
150810	Crude ground-nut oil
151190	Palm oil and its fractions, whether or not refined (excl. chemically modified and crude)
151311	Crude coconut oil
151321	Crude palm kernel and babassu oil
151590	Fixed vegetable fats and oils and their fractions, whether or not refined, but not chemically modified (excl. soya-bean, ground-nut, olive, palm, sunflower-seed, safflower, cotton-seed, coconut, palm kernel, babassu, rape, colza and mustard, linseed, maize
170111	Raw cane sugar (excl. added flavouring or colouring)
170199	Cane or beet sugar and chemically pure sucrose, in solid form; other
180310	Cocoa paste (excl. defatted)
180400	Cocoa butter, fat and oil
190590	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products (excl. crispbread, gingerbread and the like
200590	Preparation of vegetables, mixtures

Tariff Lines at HS 6	Product Description
200820	Pineapples, prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, n.e.s.
200830	Citrus fruit, prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, n.e.s.
200860	Cherries, prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit (excl. preserved with sugar but not laid in syrup, jams, fruit jellies, marmalades, fruit purée and pastes, obtained by cooking)
200899	Fruits and nuts, other
200911	Frozen orange juice, unfermented, whether or not containing added sugar or other sweetening matter or spirit, n.e.s.
200939	Single citrus fruit juice, unfermented, Brix value > 20 at 20°C, whether or not containing added sugar or other sweetening matter
200979	Apple juice, unfermented, Brix value > 20 at 20°C, whether or not containing added sugar or other sweetening matter (excl. containing spirit)
200980	Juice of fruit or vegetables, unfermented, whether or not containing added sugar
210320	Tomato ketchup
210390	Sauces, other
220710	Beverages, spirits and vinegar; Undenatures ethyl alcohol
220840	Rum and tafia
220890	Ethyl alcohol of an alcoholic strength of < 80% vol, not denatured; spirits and other spirituous beverages (excl. compound alcoholic preparations of a kind used for the manufacture of beverages, spirits obtained by distilling grape wine or grape marc)
230990	Preparations of a kind used in animal feeding (excl. dog or cat food put up for retail sale)
240110	Tobacco, unstemmed/unstripped
240120	Tobacco, partly or wholly stemmed/stripped, otherwise unmanufactured
240130	Tobacco refuse
240210	Cigars, cheroots and cigarillos containing tobacco

*The resolution of this list remains under active negotiation at this point.

ANNEX I

SMALL, VULNERABLE ECONOMIES

1. The data are based on the methodology that was used to prepare a previous Secretariat paper on shares of WTO Members in world non-agricultural trade, 1999-2004 (TN/MA/S/18). Individual Members' data were extracted from the United Nations Comtrade database on 6 June 2007. World export and import totals, excluding significant re-exports were taken from the Secretariat's International Trade Statistics Report 2006. This time period has been updated to 2000-2005 and a c.i.f.-f.o.b. adjustment has been applied to world exports by commodity group to derive respective world imports, but this does not change the overall results.¹ The country averages are calculated on the basis of the years for which data are available.

2. A small, vulnerable economy is defined as one whose average share for the period 1999-2004 (a) of world merchandise trade does not exceed 0.16 per cent and (b) of world NAMA trade does not exceed 0.10 per cent and (c) of world agricultural trade does not exceed 0.40 per cent.

3. The attached table does not include those Members that are defined as least-developed countries by the United Nations Economic and Social Council and those Members for which no data are available.

¹ C.i.f.-f.o.b. factors were estimated based on the ratio of imports to exports for a matched group of reporters in UN Comtrade. World imports by commodity group were derived by applying these c.i.f.-f.o.b. factors to the WTO's world exports by commodity group and aligning the resulting figures to the WTO's world total imports. Intra-trade of the 25 EC member States was then subtracted from the totals.

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

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

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

^a Excludes intra-EC trade (25 member States) and significant re-exports.

ANNEX J

POSSIBLE NEW ARTICLE TO REPLACE THE CURRENT ARTICLE 10.2 OF THE AGREEMENT ON AGRICULTURE

EXPORT CREDITS, EXPORT CREDIT GUARANTEES OR INSURANCE PROGRAMMES

Definition

1. In addition to complying with all other export subsidy obligations under this Agreement and the other covered Agreements¹, Members undertake not to provide export credits, export credit guarantees or insurance programmes otherwise than in conformity with this Article. These export credits, export credit guarantees and insurance programmes (hereinafter referred to as "export financing support") shall comprise:

- (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 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.

2. 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:

- (e) government departments, agencies, or statutory bodies;
- (f) any financial institution or entity engaged in export financing in which there is governmental participation by way of equity, provision of funds, loans or underwriting of losses;
- (g) agricultural export state trading enterprises; and
- (h) any bank or other private financial, credit insurance or guarantee institution which acts on behalf of or at the direction of governments or their agencies.

¹ However, the second paragraph of item (k) of Annex I to the Agreement on Subsidies and Countervailing Measures (hereafter the "Illustrative List") shall not be applicable in the case of agricultural products.

Terms and Conditions

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

- (a) **Maximum repayment term:** the maximum repayment term for export financing support under this Agreement, this being the period beginning at the starting point of credit² and ending on the contractual date of the final payment, shall be no more than 180 days. For developed country Members, this shall apply from the first day of implementation or the last day of 2010, whichever comes first. Existing contracts which have been entered into prior to the signature of this Agreement, are still in place, and are operating on a longer timeframe than that defined in the preceding sentence, shall run their course until the end of their contractual date, provided that they are notified to the Committee on Agriculture and are not modified.
- (b) **Self-financing:** export credit guarantee, insurance and reinsurance programmes, and other risk cover programmes included within sub-paragraphs 1(b) (c) and (d) above shall be self-financing. Where premium rates charged under a programme are inadequate to cover the operating costs and losses of that programme over a previous [4 - 5]-year rolling period, this shall, in and of itself, be sufficient to determine that the programme is not self-financing. In addition, and irrespective of whether these programmes conform with the requirements set out in the preceding sentence, this does not exempt them from complying with any other provision of this Agreement or the other covered Agreements, including by reference to the more generally formulated long-term operating costs and losses of a programme, not limited to the historical rolling period referred to in the previous sentence, under item (j) of the Illustrative List. Where these programmes are found to constitute export subsidies within the meaning of item (j) of the Illustrative List, they shall also be deemed to be not self-financing under this Agreement.

Special and Differential Treatment

4. Developing country Members providers of export financing support shall be eligible to benefit from the following elements:

- (a) **Maximum repayment terms:** the developing country Members concerned shall have a phase-in period of three years after the first day of the implementation period or the end of 2013, whichever comes first, within which to fully implement the maximum repayment term of 180 days. This shall be achieved as follows:
 - (i) on the first day of implementation, the maximum repayment term for any new support entered into shall be 360 days;
 - (ii) two years after implementation, the maximum repayment term for any new support to be entered into shall be 270 days;
 - (iii) three years after implementation the maximum repayment term of 180 days shall apply.

It is understood that where there are, after any of the relevant dates, pre-existing support arrangements entered into under the limits established in the sub-paragraphs (i)-(iii) above, they shall run their original term.

- (b) **Self-financing:** the self-financing period referred to in paragraph 3(b) shall be fifty percent longer for developing country Members.

² The "starting point of a credit" shall be no later than the weighted mean date or actual date of the arrival of the goods in the recipient country for a contract under which shipments are made in any consecutive six-month period.

5. Notwithstanding the terms of paragraphs 3 (a) and 4 (a) above, Least-developed and net food-importing developing countries as listed in G/AG/5/Rev.8 shall be accorded differential and more favourable treatment comprising allowance for a repayment term in respect of them of between 360 and 540 days for the acquisition of basic foodstuffs. Should one of these Members face very exceptional circumstances which preclude financing normal levels of commercial imports of basic foodstuffs and/or in accessing loans granted by multilateral and/or regional financial institutions within these timeframes, provision shall be made, subject to notification and review, for an extension of such a time frame to meet humanitarian needs for basic foodstuffs.

ANNEX K

POSSIBLE NEW ARTICLE 10 BIS OF THE AGREEMENT ON AGRICULTURE AGRICULTURAL EXPORTING STATE TRADING ENTERPRISES

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

Entities

2. For the purpose of the disciplines set out hereunder in this Article, an agricultural exporting state trading enterprise shall be any enterprise which meets the working definition provided for in the Understanding on the Interpretation of Article XVII of the GATT 1994.¹

Disciplines

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

- (a) eliminate, in parallel and in proportion to the elimination of all forms of export subsidies including those related to food aid and export credits:
 - (i) export subsidies, defined by Article 1(e) of the Uruguay Round Agreement on Agriculture, which are currently provided, consistently with existing obligations under Article 3.3 of the Uruguay Round Agreement on Agriculture, to or by an agricultural exporting state trading enterprise;
 - (ii) government financing of agricultural exporting state trading enterprises, preferential access to capital or other special privileges with respect to government financing or re-financing facilities, borrowing, lending or government guarantees for commercial borrowing or lending, at below market rates; and
 - (iii) government underwriting of losses, either directly or indirectly, losses or reimbursement of the costs or write-downs or write-offs of debts owed to, or by agricultural exporting state trading enterprises on their export sales.
 - (iv) [by 2013, the use of agricultural export monopoly powers for such enterprises.]
- (b) ensure that any use of agricultural export monopoly powers by such enterprises is not exercised in a manner which, either *de jure* or *de facto* effectively circumvents the provisions set out in sub-paragraphs (i) to (iii) above.

¹ "Governmental and non-governmental enterprises, including marketing boards, which have been granted exclusive or special rights or privileges, including statutory or constitutional powers, in the exercise of which they influence through their purchases or sales the level or direction of imports or exports." It is understood that where there is reference to the "rights and privileges" that "influence ... the level or direction of *imports*" in the preceding sentence, this matter of imports is not *per se* a matter falling under the disciplines of this Article which relates, rather, solely to the matter of exports under that working definition.

Special and differential treatment

4. Notwithstanding paragraph 3(a)(iv) above, agricultural exporting state trading enterprises in developing country Members which enjoy special privileges to preserve domestic consumer price stability and to ensure food security shall be permitted to maintain or use export monopoly powers to the extent that they would not be otherwise inconsistent with other provisions of this Agreement and other WTO Agreements.

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

6. In any case, agricultural exporting state trading enterprises in least-developed country Members and Members, small, vulnerable economies, whether or not they enjoy such special privileges to preserve domestic consumer price stability and to ensure food security, shall be permitted to maintain or use monopoly powers for agricultural exports to the extent that they would not be otherwise inconsistent with other provisions of this Agreement and other WTO Agreements.

Monitoring and surveillance

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

ANNEX L

POSSIBLE NEW ARTICLE 10.4 TO REPLACE THE CURRENT 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"¹), to take account of the interests of food aid recipients and to ensure that the disciplines contained hereafter do not unintentionally impede the delivery of food aid provided to deal with emergency situations. Members shall ensure that food aid is provided in full conformity with the disciplines below, thereby contributing to the objective of preventing commercial displacement.

General disciplines applicable to all food aid transactions

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 in fully grant form;
- (c) they are not tied directly or indirectly to commercial exports of agricultural products or of other goods and services;
- (d) they are not linked to the market development objectives of donor Members; and
- (e) agricultural products provided as food aid shall not be re-exported in any form, except where, for logistical reasons and in order to expedite the provision of food aid for another country in an emergency situation, such re-exportation occurs as an integral part of an emergency food aid transaction that is itself otherwise in conformity with the provisions of this Article.

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 cause, or would be reasonably foreseen to cause, an adverse effect on local or regional production of the same or substitute products.² Members are encouraged to procure food aid from local or regional sources to the extent possible, provided that the availability and prices of basic foodstuffs in these markets are not unduly compromised. Members commit to making their best efforts to move increasingly towards more untied cash-based food aid.

4. Untied cash-based food aid that is in conformity with the provisions of paragraph 2 above shall be presumed to be in conformity with this Article.

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

² It is conceivable that there could be circumstances where strict application of this obligation would have the effect of acting as an unintended impediment to the capacity of Members to respond fully and effectively to genuine need with in-kind food aid in an emergency situation envisaged under paragraphs 6 to 10 below. Therefore it is recognized that, in such an emergency situation, Members may be permitted to depart from the strict application of this obligation, but only and strictly to the extent that this is a necessary and unavoidable consequence of the nature of the emergency itself such that to act in strict conformity would manifestly compromise the capacity of a Member to respond effectively to meet food aid needs. Furthermore, a Member shall in any case be obliged to avoid or, if this is not possible in the circumstances, to minimize, any adverse effects on local or regional production through the provision of in-kind food aid otherwise in conformity with the provisions of paragraphs 6 to 10 below.

5. The recipient government has a primary role and responsibility for the organization, coordination and implementation of food aid activities within its territory.

Further disciplines for food aid transactions in emergency situations (Safe Box)

6. To ensure that there is no unintended impediment to the provision of food aid during an emergency situation, food aid provided under such circumstances (whether cash or in-kind) shall be in the ambit of the Safe Box and, therefore, deemed to be in conformity with this Article, provided that:

- (a) there has been a declaration of an emergency by the recipient country or by the Secretary-General of the United Nations; or
- (b) there has been 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 or the International Federation of Red Cross and Red Crescent Societies; a relevant regional or international intergovernmental agency; a non-governmental humanitarian organization of recognized standing traditionally working in conjunction with the former bodies; and

in either case, there is an assessment of need coordinated under the auspices of a relevant United Nations agency, including the World Food Programme; the International Committee of the Red Cross or the International Federation of Red Cross and Red Crescent Societies.³

7. Following the emergency declaration or appeal as provided for in paragraph 6 above, there may well be a period where the needs assessment outcome is pending. For the purposes of this Agreement, this period shall be deemed to be 3 months in duration. Should any Member consider that the food aid concerned would fail to satisfy the conditions provided for under paragraph 6 above, no initiation of dispute settlement on these grounds may occur until that period has elapsed (provided that the relevant multilateral agency referred to in paragraph 6 above has not, within this period, given a negative assessment or has otherwise demonstrably not consented to a needs assessment). Where, within or by the end of this period, the relevant multilateral agency has either itself carried out a positive needs assessment or has demonstrably provided its consent or approval pursuant to footnote 3, and the other conditions of paragraph 6 have been satisfied, the food aid concerned shall remain in the Safe Box hereafter provided it is also in conformity with all the other relevant provisions of this Article.

8. There shall be no monetization for food aid inside the Safe Box except for least-developed countries where there is a demonstrable need to do so for the sole purpose of transport and delivery. Such monetization shall be carried out solely within the territory of the recipient least-developed country such that commercial displacement is avoided or, if not feasible, at least minimized.

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

³ Needs assessment should be done with the involvement of the recipient government and may involve a relevant regional intergovernmental organization or an NGO, but while the latter bodies may be so involved, this is in a context where they are in coordination with the relevant United Nations agency or ICRC/IFRCRCS as the case may be. A needs assessment shall not have standing for the purposes of access to the safe box under these provisions unless it has been conducted in such a coordinated manner, and has obtained the demonstrable consent or approval of the latter multilateral agencies.

10. Subject to its continued conformity with other provisions of this Article, food aid that is in conformity with paragraph 6 may be provided as long as the emergency lasts subject to an assessment of continued genuine need as a result of the initial onset of the emergency. The relevant multilateral agency shall be responsible to make or convey such determination.

Further disciplines for food aid transactions in non-emergency situations

11. Further to the disciplines set out in paragraphs 1 to 5 above, in-kind food aid in non-emergency situations outside the Safe Box shall be:

- (a) based on a targeted assessment of need whether carried out by an international or regional intergovernmental organization, including the UN, or by a donor government or a humanitarian non-governmental organisation of recognized standing, working in partnership with a recipient country government. That assessment would incorporate and reflect objective and verifiable poverty and hunger data published by an international or regional intergovernmental organisation or by a recipient country that reliably identifies the food insecurity needs of the target populations described in sub-paragraph (b) below;
- (b) provided to redress food deficit situations which give rise to chronic hunger and malnutrition and, accordingly, such food aid shall be targeted to meet the nutritional requirements of identified food insecure groups; and
- (c) be provided consistently with the objective of preventing, or at the very least minimizing, commercial displacement. Commercial displacement in this context shall arise where the provision of in-kind food aid by a Member materially displaces commercial transactions that would otherwise have occurred in or into a normally functioning market in the recipient country for the same product or directly competitive products.

12. Monetization of in-kind food aid shall be [prohibited.] permissible [solely where it is necessary to fund the internal transportation and delivery of food aid to least-developed and net food-importing developing country Members carried out within the territory of the recipient least-developed or net food-importing developing country.⁴ Additionally, commercial displacement shall be avoided or, if not feasible, at least minimized.][to fund activities that are directly related to the delivery of the food aid to developing country recipients, or for the procurement of agricultural inputs to low-income or resource-poor producers in developing countries].

Monitoring and surveillance

13. Food aid donor Members shall be required to notify to the Committee on Agriculture, on an annual basis, all relevant data.

⁴ In the case of a landlocked Member, additionally for the transit transport/delivery from the extra-territorial continentally contiguous port of final unloading to the destination territorial border.

ANNEX M

MONITORING AND SURVEILLANCE

The existing Article 18 of the Agreement on Agriculture will be replaced by the text below. Enhanced monitoring also requires that, as a matter of urgency, the Committee's Working Procedures (G/AG/1) and the Notification Requirements and Formats (G/AG/2) be amended to reflect the new commitments that result from the current negotiations which require amendments to existing notification formats, additional notification obligations and an enhanced role for the Committee in reviewing and monitoring implementation of commitments and disciplines under the Agreement on Agriculture.

In addition to the provisions set out below, the revision of G/AG/2 shall require that a Member that provides support which it claims is consistent with Annex 2 of the Agreement, shall include in the initial notification required under 4(b)(ii) of Annex X a summary of the measure, including, where appropriate, base periods and yields, the sources where full details may be found, the expected budgetary outlay under each programme and such other information as the Committee on Agriculture may decide. Any revision to a measure claimed to be consistent with Annex 2 of the Agreement shall also be so notified before the revision takes effect.

In revising the Working Procedures of the Committee on Agriculture and Members' Notification Requirements and Formats, Members shall provide for an enhanced surveillance role for the Committee so as to improve transparency and the contribution of obligations established under these modalities to the long-term objective of establishing a fair and market-oriented agricultural trading system.

Possible new Article 18 to Replace the Current Article 18 of the Agreement on Agriculture

Review of the Implementation of Commitments

Objectives

1. The Committee on Agriculture shall review and monitor the implementation of Members' obligations established under this Agreement. The Committee on Agriculture shall provide effective surveillance of compliance with obligations through ensuring transparency and give an opportunity to Members to assess
2. the contribution of these obligations to the long-term objective of establishing a fair and market-oriented agricultural trading system.

Institutional aspects

3. The Committee on Agriculture shall meet as necessary, but not less than 4 times per year, for the purposes established in this Article and to afford Members the opportunity of consulting on any matter relating to the provisions of this Agreement. The Committee shall carry out such responsibilities as assigned to it under this Agreement or by Members. The Committee shall establish subsidiary bodies, as appropriate, which shall carry out such responsibilities as may be assigned to them by the Committee in accordance with the relevant provisions of this Agreement. The Committee shall establish Working Procedures and Notification Requirements and Formats to reflect Members' obligations as set out in this Agreement and Members' Schedules and taking into account the requirements established in this Article. With respect to the Notification Requirements and Formats, there shall be special and differential treatment for developing country Members with respect to the deadlines to be met.

The review process

4. The review process shall be primarily undertaken on the basis of notifications submitted by Members in relation to their specific binding commitments and the disciplines applicable to them and in relation to other matters which may be agreed, using the Notification Requirements and Formats to be established under paragraph 2.
5. The basis for the review process shall be supplemented by such documentation as the Secretariat may be requested by the Committee to prepare in order to facilitate the review process, including the advance circulation of Members' questions. Should a Member be unable to submit a final notification by the appropriate deadline set out in the Notification Requirements and Formats, that Member should submit a provisional notification pending the provision of the final notification. Where appropriate, a Member shall include in its notifications the sources for the domestic provisions that regulate the measure.

(a) In relation to market access:

- (i) A Member with tariff and other quota commitments shall provide a comprehensive one-off notification of the administration of its tariff quota commitments including: information on the allocation and re-allocation of quotas and licenses; administrative procedures applicable; and any other information relevant to the implementation of commitments under these arrangements as well

as prompt notification of any changes to any of these matters. A Member with tariff and other quota commitments shall provide an annual notification of imports under tariff quota commitments as well as the levels of, and significant changes in tariff quota fill.

- (ii) If there is a choice made (and without prejudice to the outcome of that decision) to permit some retention of the special safeguard pursuant to the options in paragraphs 115 -117 above and, accordingly, a Member would be thereby entitled to have in its Schedule some right to invoke the Special Agricultural Safeguard under Article 5 of this Agreement, it shall notify safeguard actions when initiated, and provide information on triggers and remedies, as well as an annual summary of these safeguard actions.
 - (iii) A developing country Member shall notify special safeguard measure actions when initiated, and provide information on triggers and remedies, as well as an annual summary of these actions.
- (b) In relation to domestic support commitments:
- (i) Members shall provide an annual notification of domestic support measures, to allow Members to assess compliance with their Scheduled commitments concerning Overall Trade-distorting Domestic Support, Bound Total Aggregate Measurement of Support, product-specific AMS limits, *de minimis* levels and limits to support under Article 6.5. The annual notifications shall also include information on support which is claimed to be consistent with Article 6.2, Article 6.5 and Annex 2. The notifications shall include: information on support measures; the details of the calculation of support for each measure; the monetary value of such support; and, where appropriate, the value of production by product; the total value of agricultural production; and sources for the information and data included in the notification.
 - (ii) A Member providing support which it claims to be consistent with Article 6.5, Article 6.2 or Annex 2 shall provide a comprehensive one-off notification setting out the programmes under each provision, the source for the domestic legislation under which support is provided and a summary description of the measure. A Member introducing or amending a programme which it claims to be consistent with Article 6.5, Article 6.2 or Annex 2 shall provide a notification for each new or modified measure.
- (c) In relation to export competition, a Member with commitments in Section II of Part IV of its Schedule, and a developing country Member using the provisions of Article 9.4, shall, *inter alia*, submit annual notifications setting out its use of export subsidies, by product or groups of products consistent with that Member's scheduled commitments, where appropriate, in both export quantity and budgetary outlay terms. A Member which provides export financing support shall provide an initial notification identifying the steps taken to ensure compliance of its export credit and insurance guarantee programmes with disciplines set out in the relevant Article and an annual notification to enable the monitoring of self-financing and repayment disciplines. A Member that has provided international food aid shall provide annual notifications of the provision of both emergency and non-emergency food aid. A Member that has maintained any agricultural exporting state trading enterprises shall notify the steps taken to ensure compliance with the disciplines in Article 10.4 as amended.

- (d) Members shall also submit additional notifications on these and other matters within the scope of the provisions of this Agreement, including commitments undertaken with respect to cotton, and other matters relevant to the Agreement on Agriculture as may be agreed by the Committee on Agriculture.
 - (e) Annual notification shall be submitted according to the periods set out in the Notification Requirements and Formats established under paragraph 2. Notifications of new measures or modifications of existing ones shall be submitted immediately after they have been decided and, in any case, before their entry into force.
6. In the review process Members shall give due consideration to the influence of excessive rates of inflation on the ability of any Member to abide by its domestic support commitments.
7. In the review process, any Member may bring to the attention of the Committee on Agriculture any measure which it considers ought to have been notified by another Member, including by means of a counter notification.
8. The review process shall provide an opportunity for Members to raise any matter relevant to the implementation of commitments under the reform programme as set out in this Agreement.

The surveillance process

9. The Committee, and any working bodies established under its Working Procedures, shall provide an effective forum for Members to monitor compliance with commitments and disciplines under the Agreement on Agriculture and to undertake surveillance of progress towards the long-term objective of establishing a fair and market-oriented agricultural trading system. In the discharge of its surveillance functions, and based on factual reports from the Secretariat as requested by the Committee, the Committee and its working bodies shall review the implementation of commitments and obligations at such intervals and in relation to such matters to be agreed, including:
- (a) The follow-up to the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries;
 - (b) Special review of implementation of special and differential treatment provisions of this Agreement and related development concerns;
 - (c) The implementation of cotton-related commitments;
 - (d) Conformity with notification obligations;
 - (e) As requested by Members, factual background papers based on information provided by Members in notifications, including annual summaries of notifications of support claimed to be in compliance with Annex 2 of the Agreement on Agriculture and notifications relating to Food Aid. When payments provided for consistent with this annex are made, Members shall notify the base period and all other relevant criteria relevant to programmes under the provisions. Notifications under paragraph 5(a) shall include regular and periodic updates on how the programmes concerned achieve the stated objectives.

Special and Differential Treatment

10. The Secretariat of the WTO shall give priority, within the limits of its resources, to requests for technical co-operation from developing country Members, including advice and assistance in meeting notification obligations, with the objective of enhancing their participation in the Committee's work. Members should also give consideration to the provision of technical assistance to developing country Members to assist meeting the provisions of this Article and complementary obligations.

Appraisal

Members shall review the effectiveness of monitoring and surveillance mechanisms, with the objective of making further improvements, following a period of 3 years from the entry into force of this Agreement.

Attachment A

Attachment Ai: Partial Designation Modalities for Sensitive Products

A) Product Categories:

The purpose of the product category list is to establish a common basis on which a member would undertake a partial designation calculation, in the event tariff lines in a product category might be declared Sensitive. The list is comprehensive for the purposes of transparency required in paragraph 7a of Annex C in TN/AG/W/4/Rev.1.

The approaches in this attachment are provided without prejudice to the outcome of negotiations on issues such as tropical products, preference erosion and other elements of the market access negotiations.

1) Product Category Tariff Line Coverage: For the purpose of these modalities, the scope of sensitive products are those specified and delimited in terms of each product's 6-digit tariff line coverage in Attachment A.

For additional tariff lines added to existing product categories in Attachment A, such lines will be assigned a coefficient of zero. Any adjustments to domestic consumption due to the addition of new lines would follow the requirements for net trade adjustments outlined in section B.

Any additional tariff lines and product categories to be submitted by other Members would need to be reviewed to ensure consistency with the overall approach.

2) Core and Non-Core Product Tariff Line(s): The core and non-core product tariff lines associated with each product category are specified in Attachment A.

B) Balance Sheet for Domestic Consumption:

The domestic consumption for each product category, except for "other dairy", which is outlined below, will be calculated using a balance sheet approach based on the tariff line coverage specified for each product category in Attachment A using the template set out in Attachment B. Changes to domestic consumption as specified in Attachment C from the addition or subtraction of tariff lines to a product category will be made on a net trade basis (imports minus exports).

When Members submit data for the purpose of making adjustments to their national product coverage to adapt it to the product coverage defined in Attachment A, the sum of the net trade adjustments for non-core tariff lines should not result in a reduction of the domestic consumption for the product.

C) Approach for all products, other than dairy and fruits and vegetables⁵:

For each product for which a Member chooses to provide data, they will use the partial designation two step approach, based on the agreed template in Attachment D, to allocate domestic consumption to each 8 digit tariff line.

Within each product category:

⁵ Except as in the alternative approach to fruit and vegetables and egg product categories outlined in footnote 3 of Attachment A.

- i) All non-core tariff lines in Chapter 18 and higher shall be assigned a 6 digit coefficient of zero for Step 1.
- ii) A minimum of 90% of the domestic consumption shall be allocated to the core product tariff lines. The remaining domestic consumption shall be allocated in accordance with Attachment A.
- iii) When more than 90% of domestic consumption is allocated to the core tariff lines of a product category as a result of provision i) above and when non-core tariff lines are selected sensitive, a maximum of 90% of domestic consumption shall be allocated to the core tariff lines and 10% shall be allocated equally to non-core tariff lines.

D) Approach for dairy products:

For dairy products, domestic consumption shall be calculated using the balance sheet for domestic consumption data for the following individual products (as listed in Attachment A):

- Fluid Milk
- Butter
- Skim Milk Powder
- Whole milk powder
- Cheese
- Condensed/Evaporated milk
- Yogurt
- Ice Cream
- Casein and Caseinates
- Powdered Whey
- Powdered Buttermilk

Methodology to calculate domestic consumption of other dairy tariff lines:

For the remaining dairy tariff lines, domestic consumption shall be calculated using a residual methodology and an import cross-check. The common HS 6 digit coefficients used to allocate domestic consumption to each HS 6 digit tariff line are as outlined in Attachment F.

Residual Approach

Each Member shall convert their total dairy consumption to a milk solids basis and subtract the domestic consumption for each of the dairy products listed above converted to a milk solids basis using common agreed coefficients as outlined in Attachment E. The residual amount of dairy consumption shall be allocated to each of the bound tariff lines covered by the HS 6 categories listed in the “other dairy” product category in Attachments F using the Step 1 and 2 allocation template.

Volume Import Cross-Check

For tariff lines that Members declare as Sensitive Products, the import volume shall be compared to the allocated consumption calculated using the residual methodology. Import volumes shall be converted to a milk solids basis using national coefficients in order to make this comparison. In cases where the import volume is greater than the allocated consumption using the residual methodology, the basis for calculating tariff quota expansion shall be the volume of imports for that tariff line.

Floor-Application

The sum of the tariff quota expansion for all of the sensitive tariff lines (the greater of the residual methodology or volume import cross-check) must be greater than the agreed floor (based on the dairy residual domestic consumption); otherwise the agreed floor applies.

E) Approach for Fruits and Vegetables⁶

For Fruit and Vegetables, Members wanting to designate a product as sensitive will do so on the basis of the product categories outlined in Attachment A.

Members designating sensitive products in the fresh product category relating to the product consumed as fresh shall also provide for transparency reasons the balance sheet relating to the total domestic consumption of the whole product in fresh equivalent.

If a Member decides to designate sensitive products only in the product category of "fresh", the TQ expansion resulting from the application of the partial designation methodology or the agreed floor of that product category shall at least be equal to 1.5% of the total domestic consumption in fresh equivalent for that product.

F) Minimum Tariff Quota Expansion :

Members shall have the option, for at most two product categories with five or more core tariff lines at the HS6 level, to provide a tariff quota expansion that is equal to the larger of the tariff quota expansion resulting from the application of the partial designation methodology or 1 per cent of domestic consumption of that product category.

For one of those two product categories only, if the average annual volume of commercial exports of the product category not benefiting from export subsidies in the 2003-2005 base period represents at least 15 times the volume of imports of the same product category, and provided the minimum deviation is applied, Members shall have the option to provide a tariff quota expansion that is equal to the larger of the tariff quota expansion resulting from the application of the partial designation methodology using a 1.75 per cent expansion (of the domestic consumption allocated to the Sensitive tariff lines) or 1 per cent of the domestic consumption of that product category.

Product categories subject to the provisions of section F shall not be subject to any sub-allocation.

The product categories subject to the provisions of section F shall be specified in advance of modalities.

G) Scheduling of Tariff Quotas:

Except as specified below, for any given product category, a single tariff quota shall be established.

Sub-Allocation of Tariff Quotas

⁶ Footnote 3 in Attachment A outlines an alternative approach to address situations where Members are not able to produce domestic consumption data for the fruit and vegetable and egg product categories outlined in Attachment A.

Any exception to the single tariff quota rule shall be specified in advance of modalities and shall not apply to product categories with less than ten tariff lines at the HS-6 digit level.

Exceptions to the single tariff quota rule shall be limited to a maximum of two tariff quotas for up to three product categories.

Members availing themselves of sub-allocation for a product shall forfeit the right to provisions under section F above for that product category.

The domestic consumption base for each sub-allocated tariff quota shall result from the two step methodology for allocation of domestic consumption outlined in Annex C except:

- When a tariff quota contains one or more non-core tariff lines with a zero coefficient, the non-core domestic consumption (totalling 10% of the product's domestic consumption) shall be allocated equally to all sensitive and non sensitive 6 digit non-core tariff lines.
 - For such a TQ the entire quantity allocated to a non-core 6-digit line shall be included in the TQ if any Member tariff line (e.g. 8 digit) within that 6-digit is declared sensitive.

In no case shall the TQ expansion resulting from sub-allocation be less than the TQ expansion resulting from partial designation without sub-allocation.

As Members that designate sensitive products at the 7 digit level have less flexibility under the partial designation approach, any such Members that forfeit their right to use section F for all product categories as well as other options for sub-allocation in section G and meet the following criteria:

- Allocate the entire aggregate domestic consumption for the product category, and
- Provide all necessary data in advance of the adoption of modalities

Shall be permitted for their sub-allocations to schedule up to three tariff quotas for two product categories, provided that at least 60 percent of the aggregate consumption for the product category is allocated to the tariff quota representing the largest share of world trade during the 2003-2005 base period. The remaining two tariff quotas for the product category shall be allocated 20 percent each.

And

Shall be permitted to schedule two tariff quotas for one product category provided that at least 70 percent of the aggregate consumption for the product category is allocated to the tariff quota representing the largest share of world trade during the 2003-2005 base period.

In addition, and subject to the other constraints in this section, where both sub-quotas contain only core lines (excluding other dairy), the domestic consumption base for the sub-allocated tariff quota containing the member tariff line (eg 8 digit) with the highest annual average value of national imports among the sensitive tariff lines in the product category in the 2003-2005 base period shall be the higher of the result of the partial designation methodology to that sub-allocated quota or 55% of the total tariff quota expansion arrived at through the application of the partial designation methodology to the product category. The domestic consumption base for the other sub-quota shall result from the difference between the total domestic consumption base resulting from partial designation of the product category and the above-mentioned sub-quota.

H) Tariff Quota Fill Coefficients:

Tariff quotas must be established and administered on a basis equivalent to the unit of measure on which domestic consumption was calculated and identified in Attachment B (e.g., grain equivalents, carcass weight equivalents, etc) or allocated and identified in Attachment F (milk solids basis).

Coefficients shall be used for the purpose of counting imports under different tariff lines against tariff quota fill where such imports need to be converted into the equivalent unit of measure for the product for which the tariff quota was established.

For “other dairy”, this coefficient shall be the same coefficient that is used for the purpose of allocating domestic consumption for a tariff line.

The coefficients to be used in the administration of the tariff quota shall be provided in advance of modalities and subject to verification, prior to their inclusion in schedules.