

**T H E W T O
A G R E E M E N T S
S E R I E S**

3

A G R I C U L T U R E

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THE WTO AGREEMENTS SERIES

This series offers a set of handy reference booklets on selected WTO agreements, the legal foundation for the international trading system used by the bulk of the world's trading nations. Each volume in the series contains the text of one agreement, an explanation designed to help the user understand the text, and in some cases supplementary material.

The agreements were the outcome of the 1986-1994 Uruguay Round of world trade negotiations held under the auspices of what was then the GATT (the General Agreement on Tariffs and Trade). The full set is available in *The Results of the Uruguay Round of Multilateral Trade Negotiations: The Legal Texts*. It includes about 60 agreements, annexes, decisions and understandings, but not the commitments individual countries made on tariffs and services. A full package of agreements that includes the over-20,000 pages of commitments is available from WTO Publications in a 34-volume set, and also a CD-ROM, *The Results of the Uruguay Round*.

This series of smaller volumes includes introductions explaining the accompanying legal texts. They are intended to be an authoritative aid for understanding the agreements, but because of the legal complexity and the fact that a number of issues have not been tested - for example in the WTO's dispute settlement procedures - the introductions cannot be taken as legal interpretations of the agreements.

Another WTO publication, *Guide to the Uruguay Round Agreements* (published jointly by the WTO and Kluwer Law International), is a comprehensive explanation of all the agreements. A simpler guide to the agreements is in *Trading into the Future*, a booklet and electronic guide introducing all aspects of the WTO's work that can also be found on the WTO website: <http://www.wto.org>.

The volumes in this series

(the sequence follows their order of appearance in the WTO Agreement):

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| 1. Agreement Establishing the WTO | 11. Rules of Origin |
| 2. GATT 1994 and 1947 | 12. Import Licensing Procedures |
| 3. Agriculture | 13. Subsidies and Countervailing Measures |
| 4. Sanitary and Phytosanitary Measures | 14. Safeguards |
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CONTENTS: AT A GLANCE

ABBREVIATIONS	v
PREFACE	vii
THE LEGAL FRAMEWORK	viii
Part I - INTRODUCTION: The Agriculture Agreement	1
Market access	5
Domestic support	9
Export subsidies	15
Other provisions	19
Net food-importing developing countries	21
Part II - The Agreement on Agriculture: THE LEGAL TEXT	25
ANNEX 1 PRODUCT COVERAGE	46
ANNEX 2 DOMESTIC SUPPORT: THE BASIS FOR EXEMPTION FROM THE REDUCTION COMMITMENTS	47
ANNEX 3 DOMESTIC SUPPORT: CALCULATION OF AGGREGATE MEASUREMENT OF SUPPORT	55
ANNEX 4 DOMESTIC SUPPORT: CALCULATION OF EQUIVALENT MEASUREMENT OF SUPPORT	57
ANNEX 5 SPECIAL TREATMENT WITH RESPECT TO PARAGRAPH 2 OF ARTICLE 4	58

CONTENTS: IN DETAIL

ABBREVIATIONS	v
PREFACE	vii
THE LEGAL FRAMEWORK	viii
PART I - INTRODUCTION: The Agriculture Agreement	1
Agricultural trade	1
Trade policies prior to the WTO	1
Uruguay Round agricultural negotiations	3
Introduction to the Agreement on Agriculture	3
Relationship with other WTO Agreements	4
Product coverage	4
Rules and commitments	4
Implementation period	4
Committee on Agriculture	5
MARKET ACCESS	5
The conceptual framework	5
Schedule of tariff concessions	6
... and tariff quota commitments	6
The prohibition of non-tariff border measures	7
Special treatment	8
The special safeguard provisions	8
Notification obligations	8
DOMESTIC SUPPORT	9
The conceptual framework	9
The Green Box	10
Government service programmes	10
Direct payments to producers	11
Other exempt measures	11
Developmental measures	11
Blue Box	12
<i>De minimis</i>	12
Reduction commitments	12
Aggregate Measurement of Support	13
Equivalent Measurement of Support	13
Notification obligations	15

EXPORT SUBSIDIES	15
The conceptual framework	15
Reduction commitments	16
Definition of measures	16
Product categories	17
Rates of cut	17
Products with no specific reduction commitments	18
Anti-circumvention	18
Notification obligations	18
OTHER PROVISIONS	19
Export restrictions	19
Peace clause	19
Resolving disputes	20
Continuation clause	20
NET FOOD-IMPORTING DEVELOPING COUNTRIES	21
The Ministerial Decision	21
SUMMARY	22
Part II - The Agreement on Agriculture: THE LEGAL TEXT	25
PART I	26
Article 1 Definition of Terms	26
Article 2 Product Coverage	28
PART II	28
Article 3 Incorporation of Concessions and Commitments	28
PART III	29
Article 4 Market Access	29
Article 5 Special Safeguard Provisions	29
PART IV	33
Article 6 Domestic Support Commitments	33
Article 7 General Disciplines on Domestic Support	35
PART V	36
Article 8 Export Competition Commitments	36
Article 9 Export Subsidy Commitments	36
Article 10 Prevention of Circumvention of Export Subsidy Commitments	38
Article 11 Incorporated Products	39
PART VI	40
Article 12 Disciplines on Export Prohibitions and Restrictions	40
PART VII	40
Article 13 Due Restraint	40
PART VIII	42
Article 14 Sanitary and Phytosanitary Measures	42
PART IX	42
Article 15 Special and Differential Treatment	42

PART X	43
Article 16 Least-Developed and Net Food-Importing Developing Countries	43
PART XI	43
Article 17 Committee on Agriculture	43
Article 18 Review of the Implementation of Commitments	43
Article 19 Consultation and Dispute Settlement	44
PART XII	45
Article 20 Continuation of the Reform Process	45
PART XIII	45
Article 21 Final Provisions	45
Government Service Programmes	47
Section A	58
Section B	60
Attachment to Annex 5 Guidelines for the Calculation of Tariff Equivalents for the Specific Purpose Specified in Paragraphs 6 and 10 of this Annex	62

ABBREVIATIONS

AMS	Aggregate Measure of Support, the preferred calculation of domestic support used for reduction commitments
c.i.f.	cost, insurance, freight (included in the price)
EMS	Equivalent Measure of Support, used when AMS is not practicable
f.o.b.	free on board (price, excluding insurance and freight)
GATT	The General Agreement on Tariffs and Trade, established in 1947. The abbreviation is used for both the legal text and the institution
GATT 1947	The text of GATT as used until amended by the WTO Agreements which came into force in 1995
GATT 1994	The General Agreement on Tariffs and Trade, as revised in 1994, which is part of the WTO Agreements. GATT 1994 includes GATT 1947 together with amendments
MFN	Most-favoured-nation, in the WTO, the principle of treating trading partners equally
MTO	Multilateral Trade Organization - the proposed name of the new organization that eventually became the WTO, used during Uruguay Round negotiations (appears in negotiating documents such as "Modalities" for agricultural commitments)
SPS	Sanitary and phytosanitary (measures)
SSG	Special safeguard
TQ	Tariff-quota
TRQ	Tariff-rate-quota, same as TQ
UMRs	Usual marketing requirements, a system in FAO principles for food aid
WTO	The World Trade Organization, established as the successor to the GATT on 1 January 1995

PREFACE

THE AGREEMENT ON AGRICULTURE

The Agreement on Agriculture entered into force with the establishment of the World Trade Organization (WTO) on 1 January 1995.

This booklet presents the text of the Agriculture Agreement as it appears in the Final Act of the Uruguay Round of Multilateral Trade Negotiations, signed in Marrakesh on 15 April 1994 at the end of the 1986-94 Uruguay Round negotiations. A separate booklet, *Sanitary and Phytosanitary Measures*, deals with a related agreement on health and safety regulations for food, animals and plants.

This Agreement and others contained in the Final Act, including the General Agreement on Tariffs and Trade, are part of the treaty which established the WTO. The WTO superseded the GATT as the umbrella organization for international trade, but the text of the General Agreement remains in force. Known officially as GATT 1994, it is now the principal WTO agreement dealing with trade in goods, combining the original version ("GATT 1947") with amendments. The Agriculture Agreement is one of several supplementary agreements on trade in goods - together with GATT 1994, the whole package has the official title of the "Multilateral Agreement on Trade in Goods", which in turn is Annex 1A of the "Marrakesh Agreement Establishing the World Trade Organization".

The WTO Secretariat has prepared this booklet to assist public understanding of the Agriculture Agreement. It starts with an introduction to the Agreement. The second section contains the legal text of the Agreement and related documents. The booklet is in no way intended to provide legal interpretation of the Agreement.

May 1998

THE LEGAL FRAMEWORK

The conceptual structure is reflected in the way the legal texts are organized. A short **Marrakesh Agreement Establishing the World Trade Organization** sets up the legal and institutional foundations. Attached to it is a much lengthier set of four annexes.

- u **Annex 1** contains most of the detailed rules, and is divided into three sections:
 - l **1A**, containing the revised **General Agreement on Tariffs and Trade**, the other agreements governing trade in goods, and a protocol which ties in individual countries' specific commitments on goods;
 - l **1B**, the **General Agreement of Trade in Services**, texts on specific services sectors, and individual countries' specific commitments and exemptions; and
 - l **1C**, the **Agreement on Trade-Related Aspects of Intellectual Property Rights**.

Collectively, the agreements included in Annex 1 are referred to as the **Multilateral Trade Agreements**, since they comprise the substantive trade policy obligations which all the members of the WTO have accepted.

- u **Annex 2** sets the rules and procedures for **dispute settlement**.
- u **Annex 3** provides for regular **reviews** of developments and trends in national and international trade policy.
- u **Annex 4** covers "**plurilateral**" agreements which are within the WTO framework but which have limited membership: civil aircraft and government procurement. (Originally there were four: the agreements on dairy products and bovine meat were terminated at the end of 1997.)

Finally, the Marrakesh texts include a number of **decisions and declarations** on a wide variety of matters that were adopted at the same time as the WTO Agreement itself.

Part I: INTRODUCTION

The Agriculture Agreement

Agricultural trade

While the volume of world agricultural exports has substantially increased over recent decades, its rate of growth has lagged behind that of manufactures, resulting in a steady decline in agriculture's share in world merchandise trade. In 1998, agricultural trade accounted for 10^{1/2} per cent of total merchandise trade - when trade in services is taken into account, agriculture's share in global exports drops to 8^{1/2} per cent. However, with respect to world trade agriculture is still ahead of sectors such as mining products, automotive products, chemicals, textiles and clothing or iron and steel. Among the agricultural goods traded internationally, food products make up almost 80 per cent of the total. The other main category of agricultural products is raw materials. Since the mid-1980s, trade in processed and other high value agricultural products has been expanding much faster than trade in the basic primary products such as cereals.

Agricultural trade remains in many countries an important part of overall economic activity and continues to play a major role in domestic agricultural production and employment. The trading system plays also a fundamentally important role in global food security, for example by ensuring that temporary or protracted food deficits arising from adverse climatic and other conditions can be met from world markets.

Trade policies prior to the WTO

Although agriculture has always been covered by the GATT, prior to the WTO there were several important differences with respect to the rules that applied to agricultural primary products as opposed to industrial products. The GATT 1947 allowed countries to use export subsidies on agricultural primary products whereas export subsidies on industrial products were prohibited. The only conditions were that agricultural export subsidies should not be used to capture more than an "equitable share" of world exports of the product con-

cerned (Article XVI:3 of GATT). The GATT rules also allowed countries to resort to import restrictions (e.g. import quotas) under certain conditions, notably when these restrictions were necessary to enforce measures to effectively limit domestic production (Article XI:2(c) of GATT). This exception was also conditional on the maintenance of a minimum proportion of imports relative to domestic production.

However, in practice many non-tariff border restrictions were applied to imports without any effective counterpart limitations on domestic production and without maintaining minimum import access. In some cases this was achieved through the use of measures not specifically provided for under Article XI. In other cases it reflected exceptions and country-specific derogations such as grandfather clauses, waivers and protocols of accession. In still other cases non-tariff import restrictions were maintained without any apparent justification.

The result of all this was a proliferation of impediments to agricultural trade, including by means of import bans, quotas setting the maximum level of imports, variable import levies, minimum import prices and non-tariff measures maintained by state-trading enterprises. Major agricultural products such as cereals, meat, dairy products, sugar and a range of fruits and vegetables have faced barriers to trade on a scale uncommon in other merchandise sectors.

In part, this insulation of domestic markets was the result of measures originally introduced following the collapse of commodity prices in the 1930s Depression. Furthermore, in the aftermath of the Second World War many governments were concerned primarily with increasing domestic agricultural production so as to feed their growing populations. With this objective in mind and in order to maintain a certain balance between the development of rural and urban incomes, many countries, particularly in the developed world, resorted to market price support - farm prices were administratively raised. Import access barriers ensured that domestic production could continue to be sold. In response to these measures and as a result of productivity gains, self-sufficiency rates rapidly increased. In a number of cases, expanding domestic production of certain agricultural products not only replaced imports completely but resulted in structural surpluses. Export subsidies were increasingly used to dump surpluses onto the world market, thus depressing world market prices. On the other hand, this factor, plus the effects of overvalued exchange rates, low food price policies in favour of urban consumers and certain other

domestic measures, reduced in a number of developing countries the incentive for farmers to increase or even maintain their agricultural production levels.

Uruguay Round agricultural negotiations

In the lead-up to the Uruguay Round negotiations, it became increasingly evident that the causes of disarray in world agriculture went beyond import access problems which had been the traditional focus of GATT negotiations. To get to the roots of the problems, disciplines with regard to all measures affecting trade in agriculture, including domestic agricultural policies and the subsidization of agricultural exports, were considered to be essential. Clearer rules for sanitary and phytosanitary measures were also considered to be required, both in their own right and to prevent circumvention of stricter rules on import access through unjustified, protectionist use of food safety as well as animal and plant health measures.

The agricultural negotiations in the Uruguay Round were by no means easy - the broad scope of the negotiations and their political sensitivity necessarily required much time in order to reach an agreement on the new rules, and much technical work was required in order to establish sound means to formalise commitments in policy areas beyond the scope of prior GATT practice. The Agreement on Agriculture and the Agreement on the Application of Sanitary and Phytosanitary Measures were negotiated in parallel, and a Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries also formed part of the overall outcome.

Introduction to the Agreement on Agriculture

The Agreement on Agriculture, (the "Agreement"), came into force on 1 January 1995. The preamble to the Agreement recognizes that the agreed long-term objective of the reform process initiated by the Uruguay Round reform programme is to establish a fair and market-oriented agricultural trading system. The reform programme comprises specific commitments to reduce support and protection in the areas of domestic support, export subsidies and market access, and through the establishment of strengthened and more operationally effective GATT rules and disciplines. The Agreement also takes into account non-trade concerns, including food security and the need to protect the environment, and provides special and differential treatment for develop-

ing countries, including an improvement in the opportunities and terms of access for agricultural products of particular export interest to these Members.

Relationship with other WTO agreements

In principle, all WTO agreements and understandings on trade in goods apply to agriculture, including the GATT 1994 and WTO agreements on such matters as customs valuation, import licensing procedures, pre-shipment inspection, emergency safeguard measures, subsidies and technical barriers to trade. However, where there is any conflict between these agreements and the Agreement on Agriculture, the provisions of the Agreement on Agriculture prevail. The WTO Agreements on Trade in Services and on Trade-Related Aspects of Intellectual Property rights are also applicable to agriculture.

Product coverage

The Agreement defines in its Annex 1 agricultural products by reference to the harmonized system of product classification - the definition covers not only basic agricultural products such as wheat, milk and live animals, but the products derived from them such as bread, butter and meat, as well as all processed agricultural products such as chocolate and sausages. The coverage also includes wines, spirits and tobacco products, fibres such as cotton, wool and silk, and raw animal skins destined for leather production. Fish and fish products are not included, nor are forestry products.

Rules and commitments

The Agreement on Agriculture establishes a number of generally applicable rules with regard to trade-related agricultural measures, primarily in the areas of market access, domestic support and export competition. These rules relate to country-specific commitments to improve market access and reduce trade-distorting subsidies which are contained in the individual country schedules of the WTO Members and constitute an integral part of the GATT.

Implementation period

The implementation period for the country-specific commitments is the six-year period commencing in 1995. However, developing countries have the flexibility to implement their reduction and other specific commitments over a period of up to 10 years. Members had the choice of implementing their concessions and commitments on the basis of calendar, marketing (crop) or fiscal

years. A WTO Member's implementation year for tariff reductions may thus differ from the one applied to export subsidy reductions. For the purpose of the peace clause, the implementation period is the nine-year period commencing in 1995.

Committee on Agriculture

The Agreement established a Committee on Agriculture. The Committee oversees the implementation of the Agreement on Agriculture and affords Members the opportunity of consulting on any matter relating to the implementation of commitments, including rule-based commitments. For this purpose, the Committee usually meets four times per year. Special meetings can be convened if necessary.

MARKET ACCESS

The conceptual framework

On the market access side, the Uruguay Round resulted in a key systemic change: the switch from a situation where a myriad of non-tariff measures impeded agricultural trade flows to a regime of bound tariff-only protection plus reduction commitments. The key aspects of this fundamental change have been to stimulate investment, production and trade in agriculture by (i) making agricultural market access conditions more transparent, predictable and competitive, (ii) establishing or strengthening the link between national and international agricultural markets, and thus (iii) relying more prominently on the market for guiding scarce resources into their most productive uses both within the agricultural sector and economy-wide.

In many cases, tariffs were the only form of protection for agricultural products before the Uruguay Round - the Round led to the "binding" in the WTO of a maximum level for these tariffs. For many other products, however, market access restrictions involved non-tariff barriers. This was frequently, though not only, the case for major temperate zone agricultural products. The Uruguay Round negotiations aimed to remove such barriers. For this purpose, a "tariffication" package was agreed which, amongst other things, provided for the replacement of agriculture-specific non-tariff measures with a tariff which afforded an equivalent level of protection. The tariffs resulting from the tariffication process account, on average of the developed country Members, for

around one fifth of the total number of agricultural tariff lines. For the developing country Members, this share is considerably smaller. Following the entry into force of the Agreement on Agriculture, there is now a prohibition on agriculture-specific non-tariff measures, and the tariffs on virtually all agricultural products traded internationally are bound in the WTO.

Schedule of tariff concessions

Each WTO Member has a “schedule” of tariff concessions covering all agricultural products. These concessions are an integral part of the results of the Uruguay Round, are formally annexed to the Marrakesh Protocol and have become an integral part of the GATT 1994. The schedule sets out for each individual agricultural product, or, in some cases agricultural products defined more generally, the maximum tariff that can be applied on imports into the territory of the Member concerned. The tariffs in the schedules include those that resulted from the tariffication process, which, in many cases, are considerably higher than industrial tariffs, reflecting the incidence of agriculture-specific non-tariff measures prior to the WTO. Many developing countries have bound their previously unbound tariffs at “ceiling” levels, i.e. at levels higher than the applied rates prior to the WTO.

Developed country Members have agreed to reduce, over a six-year period beginning in 1995, their tariffs by 36 per cent on average of all agricultural products, with a minimum cut of 15 per cent for any product. For developing countries, the cuts are 24 and 10 per cent, respectively, to be implemented over ten years. Those developing country Members which bound tariffs at ceiling levels did not, in many cases, undertake reduction commitments. Least-developed country Members were required to bind all agricultural tariffs, but not to undertake tariff reductions.

... and tariff quota commitments

As part of the tariffication package, WTO Members were required to maintain, for tariffied products, current import access opportunities at levels corresponding to those existing during the 1986-88 base period. Where such “current” access had been less than 5 per cent of domestic consumption of the product in question in the base period, an (additional) minimum access opportunity had to be opened on a most-favoured-nation basis. This was to ensure that in 1995, current and minimum access opportunities combined represent-

ed at least 3 per cent of base-period consumption and are progressively expanded to reach 5 per cent of that consumption in the year 2000 (developed country Members) or 2004 (developing country Members), respectively.

The current and minimum access opportunities are generally implemented in the form of tariff quotas. In case of minimum access, the applicable duty was required to be low or minimal, low that is either in absolute terms or, at least, in relation to the “normal” ordinary customs duty that applies to any imports outside the tariff quota. These tariff quotas, including the applicable tariff rates and any other conditions related to the tariff quotas, are specified in the schedules of the WTO Members concerned.

While the vast majority of tariff quotas in agriculture have their origin in the Uruguay Round negotiations, a number of such commitments were the result of accessions to the WTO. In February 2000, 37 Members have tariff quotas specified in their schedules. In total, there are 1,371 individual tariff quotas. These tariff quotas constitute binding commitments as opposed to autonomous tariff quotas which Members may establish at any time, for example, in order to stabilize the domestic price after a poor harvest.

The prohibition of non-tariff border measures

Article 4.2 of the Agreement on Agriculture prohibits the use of agriculture-specific non-tariff measures. Such measures include quantitative import restrictions, variable import levies, minimum import prices, discretionary import licensing procedures, voluntary export restraint agreements and non-tariff measures maintained through state-trading enterprises. All similar border measures other than “normal customs duties” are also no longer permitted. Although Article XI:2(c) of the GATT continues to permit non-tariff import restrictions on fisheries products, it is now inoperative as regards agricultural products because it is superseded by the Agreement on Agriculture.

However, Article 4.2 of the Agreement on Agriculture does not prevent the use of non-tariff import restrictions consistent with the provisions of the GATT or other WTO agreements which are applicable to traded goods generally (industrial or agricultural). Such measures include those maintained under balance-of-payments provisions (Articles XII and XVIII of GATT), general safeguard provisions (Article XIX of GATT and the related WTO agreement), general exceptions (Article XX of GATT), the Agreement on the

Application of Sanitary and Phytosanitary Measures, the Agreement on Technical Barriers to Trade or other general, non-agriculture-specific WTO provisions.

Special treatment

The Agreement on Agriculture contains a “special treatment” clause (Annex 5), under which four countries were permitted, subject to strictly circumscribed conditions, to maintain non-tariff border measures on certain products during the period of tariff reductions (with the possibility of extending the special treatment, subject to further negotiations). As one of the conditions, market access in the form of progressively increasing import quotas has to be provided for the products concerned. The products and countries concerned are: rice in the case of Japan, Korea and the Philippines; and cheese and sheepmeat in the case of Israel. As of 1 April 1999, Japan has ceased to apply special treatment.

The special safeguard provisions

As a third element of the tariffication package, Members have the right to invoke for tariffied products the special safeguard provisions of the Agreement on Agriculture (Article 5), provided that a reservation to this effect (“SSG”) appears beside the products concerned in the relevant Member’s schedule. The right to make use of the special safeguard provisions has been reserved by 38 Members, and for a limited number of products in each case.

The special safeguard provisions allow the imposition of an additional tariff where certain criteria are met. The criteria involve either a specified surge in imports (volume trigger), or, on a shipment-by-shipment basis, a fall of the import price below a specified reference price (price trigger). In case of the volume trigger, the higher duties only apply until the end of the year in question. In case of the price trigger, any additional duty can only be imposed on the shipment concerned. The additional duties cannot be applied to imports taking place within tariff quotas.

Notification obligations

The bound agricultural tariffs and the tariff quota commitments are contained in Members’ schedules. There is no requirement for Members to notify their tariffs to the Committee on Agriculture. Applied tariffs are, however, to be

submitted to other bodies of the WTO, including the Committee on Market Access and in the context of the Trade Policy Review mechanism.

Members with tariff quotas and the right to use the special safeguard provisions are required to make both ad hoc and annual notifications to the Committee on Agriculture. At the beginning of the implementation period, an “up-front” notification was due, setting out how each tariff quota is to be administered. Such notifications disclose, for example, if imports are permitted on a “first-come-first-served” basis or if import licences are used - and in the latter case, an indication of who is able to obtain a licence and how they are allocated. An ad hoc notification is required if the method of allocation under any tariff quota changes. At the end of each year, a notification of the quantity of imports entering under each tariff quota is required (tariff quota fill).

Members with the right to use the special safeguard provisions must notify its first use in order to allow its trading partners to establish the parameters of the special safeguard action, such as the volume or price used to trigger the special safeguard action. In the case of the price trigger, an upfront notification of the relevant reference prices has also been possible. In addition, an annual summary notification of the use of the special safeguard is required.

DOMESTIC SUPPORT

The conceptual framework

The agricultural package of the Uruguay Round has fundamentally changed the way domestic support in favour of agricultural producers was treated under the GATT 1947. A key objective has been to discipline and reduce domestic support while at the same time leaving great scope for governments to design domestic agricultural policies in the face of, and in response to, the wide variety of the specific circumstances in individual countries and individual agricultural sectors. The approach agreed upon is also aimed at helping ensure that the specific binding commitments in the areas of market access and export competition are not undermined through domestic support measures.

The main conceptual consideration is that there are basically two categories of domestic support - support with no, or minimal, distortive effect on trade on the one hand (often referred to as “Green Box” measures) and trade-distort-

ing support on the other hand (often referred to as “Amber Box” measures). For example, government provided agricultural research or training is considered to be of the former type, while government buying-in at a guaranteed price (“market price support”) falls into the latter category. Under the Agreement on Agriculture, all domestic support in favour of agricultural producers is subject to rules. In addition, the aggregate monetary value of Amber Box measures is, with certain exceptions, subject to reduction commitments as specified in the schedule of each WTO Member providing such support.

The Green Box

The Agreement on Agriculture sets out a number of general and measure-specific criteria which, when met, allow measures to be placed in the Green Box (Annex 2). These measures are exempt from reduction commitments and, indeed, can even be increased without any financial limitation under the WTO. The Green Box applies to both developed and developing country Members but in the case of developing countries special treatment is provided in respect of governmental stockholding programmes for food security purposes and subsidized food prices for urban and rural poor. The general criteria are that the measures must have no, or at most minimal, trade-distorting effects or effects on production. They must be provided through a publicly-funded government programme (including government revenue foregone) not involving transfers from consumers and must not have the effect of providing price support to producers.

Government service programmes

The Green Box covers many government service programmes including general services provided by governments, public stockholding programmes for food security purposes and domestic food aid - as long as the general criteria and some other measure-specific criteria are met by each measure concerned. The Green Box thus provides for the continuation (and enhancement) of programmes such as research, including general research, research in connection with environmental programmes, and research programmes relating to particular products; pest and disease control programmes, including general and product-specific pest and disease control measures; agricultural training services and extension and advisory services; inspection services, including general inspection services and the inspection of particular products for health, safety, grading or standardization purposes; marketing and promotion services;

infrastructural services, including electricity reticulation, roads and other means of transport, market and port facilities, water supply facilities, etc; expenditures in relation to the accumulation and holding of public stocks for food security purposes; and expenditures in relation to the provision of domestic food aid to sections of the population in need. Many of the regular programmes of governments are thus given the “green light” to continue.

Direct payments to producers

The Green Box also provides for the use of direct payments to producers which are not linked to production decisions, i.e. although the farmer receives a payment from the government, this payment does not influence the type or volume of agricultural production (“decoupling”). The conditions preclude any linkage between the amount of such payments, on the one hand, and production, prices or factors of production in any year after a fixed base period. In addition, no production shall be required in order to receive such payments. Additional criteria to be met depend on the type of measure concerned which may include: decoupled income support measures; income insurance and safety-net programmes; natural disaster relief; a range of structural adjustment assistance programmes; and certain payments under environmental programmes and under regional assistance programmes.

Other exempt measures

In addition to measures covered by the Green Box, two other categories of domestic support measures are exempt from reduction commitments under the Agreement on Agriculture (Article 6). These are certain developmental measures in developing countries and certain direct payments under production-limiting programmes. Furthermore, so-called *de minimis* levels of support are exempted from reduction.

Developmental measures

The special and differential treatment under the Green Box aside, the type of support that fits into the developmental category are measures of assistance, whether direct or indirect, designed to encourage agricultural and rural development and that are an integral part of the development programmes of developing countries. They include investment subsidies which are generally available to agriculture in developing country Members, agricultural input subsidies generally available to low-income or resource-poor producers in develop-

ing country Members, and domestic support to producers in developing country Members to encourage diversification from growing illicit narcotic crops.

Blue Box

Direct payments under production limiting programmes (often referred to as “Blue Box” measures) are exempt from commitments if such payments are made on fixed areas and yield or a fixed number of livestock. Such payments also fit into this category if they are made on 85 per cent or less of production in a defined base period. While the Green Box covers decoupled payments, in the case of the Blue Box measures, production is still required in order to receive the payments, but the actual payments do not relate directly to the current quantity of that production.

De minimis

All domestic support measures in favour of agricultural producers that do not fit into any of the above exempt categories are subject to reduction commitments. This domestic support category captures policies, such as market price support measures, direct production subsidies or input subsidies. However, under the *de minimis* provisions of the Agreement there is no requirement to reduce such trade-distorting domestic support in any year in which the aggregate value of the product-specific support does not exceed 5 per cent of the total value of production of the agricultural product in question. In addition, non-product specific support which is less than 5 per cent of the value of total agricultural production is also exempt from reduction. The 5 per cent threshold applies to developed countries whereas in the case of developing countries the *de minimis* ceiling is 10 per cent.

Reduction commitments

Twenty-eight Members (counting the EC as one) had non-exempt domestic support during the base period and hence reduction commitments specified in their schedules. The reduction commitments are expressed in terms of a “Total Aggregate Measurement of Support” (Total AMS) which includes all product-specific support and non-product-specific support in one single figure. Members with a Total AMS have to reduce base period support by 20 per cent over 6 years (developed country Members) or 13 per cent over 10 years (developing country Members). In any year of the implementation period, the Current Total AMS value of non-exempt measures must not exceed the sched-

uled Total AMS limit as specified in the schedule for that year. In other words, the maximum levels of such support are bound in the WTO.

In the case of Members with no scheduled reduction commitments, any domestic support not covered by one or another of the exception categories outlined above, must be maintained within the relevant “product-specific” and “non-product-specific” *de minimis* levels.

Aggregate Measurement of Support

Price support measures have been the most important type of policy measure within the non-exempt category. Price support can be provided either through administered prices (involving transfers from consumers) or through certain types of direct payments from governments. For the purpose of Current Total AMS calculations, price support is generally measured by multiplying the gap between the applied administered price and a specified fixed external reference price (“world market price”) by the quantity of production eligible to receive the administered price. Calculation details are specified in Annexes 3 and 4 of the Agreement on Agriculture and also incorporated into Members' schedules by way of references to supporting material. For each product, the implicit subsidy of price support measures is added to other product-specific subsidies - a product-specific fertilizer subsidy, for example - to arrive at a product-specific AMS which is then evaluated against the applicable *de minimis* threshold. Non-product-specific subsidies are calculated separately and, as in the former case, are included in the Current Total AMS only if they exceed the relevant *de minimis* level. The example in Box 1 illustrates the calculation of the Current Total AMS for a developed country (5 per cent *de minimis* threshold) in year Y.

Equivalent Measurement of Support

Where it is not practicable to calculate a product-specific AMS as set out in the Agreement, provisions are made of an “Equivalent Measurement of Support” (EMS). The EMS is generally calculated on the basis of budgetary outlays - the money spent by governments to support a product, for example, rather than market price support calculated with respect to a fixed external reference price.

Notification obligations

All Members must notify the Committee on Agriculture the extent of their domestic support measures. This requires a listing of all measures that fit into the exempt categories: the Green Box, developmental measures, direct payments under production limiting programmes (Blue Box) and *de minimis* levels of support. In addition, where the existence of measures requires it, AMS calculations must be undertaken by Members that have scheduled domestic support reduction commitments and the Current Total AMS must be notified. Where a Member without such scheduled commitments has support measures which are not covered by one or other of the exempt categories, a notification must be made showing that such non-exempt support is within the relevant *de minimis* levels. Special formats have been developed by the Committee on Agriculture in order to facilitate compliance with the notification obligations.

The requirement to notify is annual, except in the case of least-developed country Members which are only required to notify every other year. Developing country Members can also request the Committee to set aside the annual notification requirement for measures other than those falling into the Green Box or the developmental or Blue Box categories.

In addition to the annual notification obligations, all Members must notify any modifications of existing or any introduction of new measures in the exempt categories. These notifications too are examined by the Committee on Agriculture on a regular basis.

As most Members do not have domestic support measures other than those falling into the exempt categories, the annual notification requirements are in many cases not particularly burdensome. However, they are effective in providing a basis for policy discussions within the Committee on Agriculture and they also serve a useful purpose domestically in enabling governments to maintain an annual overview of support to their agricultural sectors.

EXPORT SUBSIDIES

The conceptual framework

The proliferation of export subsidies in the years leading to the Uruguay Round was one of the key issues addressed in the agricultural negotiations. While under the GATT 1947 export subsidies for industrial products have been prohibited all along, in the case of agricultural primary products such

subsidies were only subject to limited disciplines (Article XVI of GATT) which moreover did not prove to be operational.

The right to use export subsidies is now limited to four situations: (i) export subsidies subject to product-specific reduction commitments within the limits specified in the schedule of the WTO Member concerned; (ii) any excess of budgetary outlays for export subsidies or subsidized export volume over the limits specified in the schedule which is covered by the “downstream flexibility” provision of Article 9.2(b) of the Agreement on Agriculture; (iii) export subsidies consistent with the special and differential treatment provision for developing country Members (Article 9.4 of the Agreement); and (iv) export subsidies other than those subject to reduction commitments provided that they are in conformity with the anti-circumvention disciplines of Article 10 of the Agreement on Agriculture. In all other cases, the use of export subsidies for agricultural products is prohibited (Articles 3.3, 8 and 10 of the Agreement).

Reduction commitments

Definition of measures

Under the Agreement on Agriculture export subsidies are defined as referring to “subsidies contingent on export performance, including the export subsidies listed in detail in Article 9 of [the] Agreement”. As specified in more detail in Article 9.1 of the Agreement, this list covers most of the export subsidy practices which are prevalent in the agricultural sector, notably:

- u direct export subsidies contingent on export performance;
- u sales of non-commercial stocks of agricultural products for export at prices lower than comparable prices for such goods on the domestic market;
- u producer financed subsidies such as government programmes which require a levy on all production which is then used to subsidize the export of a certain portion of that production;
- u cost reduction measures such as subsidies to reduce the cost of marketing goods for export: this can include upgrading and handling costs and the costs of international freight, for example;

- u internal transport subsidies applying to exports only, such as those designed to bring exportable produce to one central point for shipping; and
- u subsidies on incorporated products, i.e. subsidies on agricultural products such as wheat contingent on their incorporation in export products such as biscuits.

All such export subsidies are subject to reduction commitments, expressed in terms of both the volume of subsidized exports and the budgetary outlays for these subsidies.

Product categories

The reduction commitments are shown in the schedules of WTO Members on a product-specific basis. For this purpose, the universe of agricultural products was initially divided into 23 products or product groups, such as wheat, coarse grains, sugar, beef, butter, cheese and oilseeds. Some Members took commitments on a more disaggregated level. The volume and budgetary outlay commitments for each product or group of products specified in a Member's schedule are individually binding. The reduction commitments on "incorporated products" (last item in the Article 9 list) are expressed in terms of budgetary outlays only. The ceilings specified in the schedules must be respected in each year of the implementation period although limited "overshooting" in the second to fifth year of implementation is permitted ("downstream flexibility"). By the last year of the implementation period, Members must be within their final export subsidy ceilings.

Rates of cut

Developed country Members are required to reduce, in equal annual steps over a period of 6 years, the base-period volume of subsidized exports by 21 per cent and the corresponding budgetary outlays for export subsidies by 36 per cent. In the case of developing country Members, the required cuts are 14 per cent over 10 years with respect to volumes, and 24 per cent over the same period with respect to budgetary outlays.

Developing countries may, during the implementation period, make use of a special and differential treatment provision of the Agreement (Article 9.4) which allows them to grant marketing cost subsidies and internal transport

subsidies, provided that these are not applied in a manner that would circumvent export subsidy reduction commitments.

All in all, 25 Members (counting the EC as one) have export subsidy reduction commitments specified in their schedules, with a total of 428 individual reduction commitments.

Products with no specific reduction commitment

The Agreement on Agriculture prohibits the use of Article 9.1 export subsidies on any agricultural product which is not subject to a reduction commitment as specified in the relevant part of the Member's schedule (with the exception, during the implementation period of those benefiting from special and differential treatment).

Anti-circumvention

In addition to the provisions directly related to the reduction commitments, the Agreement on Agriculture contains provisions which are designed to prevent the use of export subsidies that are not specifically listed in Article 9 of the Agreement in such a way as to circumvent reduction on other export subsidy commitments (Article 10). The anti-circumvention provisions include a definition of food aid in order that transactions claimed to be food aid, but not meeting the criteria in the Agreement, cannot be used to undermine commitments. Food aid that meets the specified criteria is not considered to be subsidized export hence is not limited by the Agreement on Agriculture. The Agreement also calls for the development of internationally agreed disciplines on export credits and similar measures in recognition that such measures could also be used to circumvent commitments. Any Member which claims that any quantity exported in excess of a reduction commitment level is not subsidized must establish that no export subsidy, whether listed in Article 9 or not, has been granted in respect of the quantity of exports in question.

Notification obligations

All Members must notify the Committee on Agriculture annually with respect to export subsidies. For the vast majority of Members - those without reduction commitments - this involves only a statement to the effect that export subsidies on agricultural products have not been used (or a listing of those mea-

asures that may be used by developing country Members under Article 9.4 of the Agreement if this has been the case). For Members with reduction commitments in their schedules, the annual notification must contain the annual use of subsidies in terms of both volume and budgetary outlays.

In addition, as part of the anti-circumvention provisions, Members must notify the use of food aid on an annual basis if such aid is granted. Likewise, total exports of agricultural products must be notified by Members with reduction commitments as well as by a number of other “significant exporters” as defined by the Committee.

As in other areas, the export subsidy notifications form part of the basis for reviewing the progress in the implementation of the commitments by the Committee on Agriculture.

OTHER PROVISIONS

Export restrictions

The Agreement on Agriculture requires Members which consider to institute new export restrictions on foodstuffs to give due consideration to the effects of such restrictions on importing Members' food security. Members, except developing country Members which are not net exporters of the product concerned, must notify the Committee on Agriculture before introducing new export restrictions on foodstuffs and consult with affected Members if so requested. This requirement - increased reliability of access to world market supply - is a corollary for the opening of markets which is required by the market access provisions of the Agreement and the related specific commitments undertaken by Members.

Peace clause

The Agreement on Agriculture contains a “due restraint” or “peace clause” which regulates the application of other WTO agreements to subsidies in respect of agricultural products (Article 13). The provisions provide that Green Box domestic support measures cannot be the subject of countervailing duty action or other subsidy action under the WTO Agreement on Subsidies and Countervailing Measures, nor can they be subject to actions based on non-violation nullification or impairment of tariff concessions under the GATT.

Other domestic support measures which are in conformity with the provisions of the Agreement on Agriculture may be the subject of countervailing duty actions, but due restraint is to be exercised by Members in initiating such investigations. Further, insofar as the support provided to individual products does not exceed that decided in the 1992 marketing year, these measures are exempt from other subsidy action or nullification or impairment action. Export subsidies conforming to the Agreement on Agriculture are, to the extent relevant, covered by corresponding provisions.

The peace clause remains in effect for a period of nine years.

Resolving disputes

In the case of disputes involving provisions of the Agreement on Agriculture, the general WTO dispute settlement procedures apply. Nevertheless, the Agreement also provides for certain mechanisms that can be used by Members to address their concerns without recourse to these procedures. In particular, the review process of the Committee on Agriculture provides a forum for discussion and consultation. This process is mainly based on the notifications and on a provision (Article 18.6) allowing any Member to raise at any time any matter relevant to the implementation of the commitments under the reform programme as set out in the Agreement. There is also a counter-notification provision. Furthermore, the Working Procedures of the Committee allow Members to request the Chairperson to mediate in concerns that may arise between them. The use of instruments under the auspices of the Committee on Agriculture does not, however, prevent any Member from seeking formal dispute settlement at any time.

Continuation clause

The commitments taken under the Agreement on Agriculture and within the Members' schedules are part of an ongoing process. Already at the conclusion of the Uruguay Round, Members agreed to hold further negotiations on agriculture commencing one year before the end of the six-year implementation period (Article 20). These negotiations will examine what further commitments are necessary to achieve the long-term objective of substantial progressive reductions in support and protection resulting in fundamental reform. The negotiations are also to take into account factors such as the experience gained during the implementation period, the effects of Uruguay Round

reduction commitments on world trade in agriculture, non-trade concerns, special and differential treatment to developing country Members and the objective to establish a fair and market-oriented agricultural trading system.

NET FOOD-IMPORTING DEVELOPING COUNTRIES

The Ministerial Decision on Measures concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries

This Decision was adopted as part of the outcome of the Uruguay Round negotiations on agriculture. The Decision recognizes that while the progressive implementation of the results of the Uruguay Round as a whole will generate increasing opportunities for trade expansion and economic growth to the benefit of all Members, during the reform programme least-developed and net food-importing developing countries may experience negative effects in terms of the availability of adequate supplies of basic foodstuffs from external sources on reasonable terms and conditions, including short-term difficulties in financing normal levels of commercial imports of basic foodstuffs.

Ministers agreed to a number of mechanisms to ensure that the implementation of the results of the Uruguay Round does not adversely affect the availability of food aid at a level which is sufficient to continue to provide assistance in meeting the food needs of developing countries. These mechanisms include a review of the level of food aid established periodically by the Committee on Food Aid under the Food Aid Convention and the initiation of negotiations to establish a level of food aid commitments sufficient to meet the legitimate needs of developing countries during the reform programme; the adoption of guidelines to ensure that an increasing proportion of basic foodstuffs is provided in fully grant form; and agreement by the developed country Members to give full consideration in the context of their aid programmes to requests for the provision of technical and financial assistance to least-developed and net food-importing developing countries to improve their agricultural productivity and infrastructure.

Ministers also agreed to ensure that any agreement relating to agricultural export credits makes appropriate provision for differential treatment in favour of least-developed and net food-importing developing countries. The Decision recognizes that in case of short-term difficulties in financing normal

levels of commercial imports, net food-importing developing countries may be eligible to draw on the resources of international financial institutions under existing facilities, or such facilities as may be established, in the context of adjustment programmes, in order to address such financing difficulties.

The Decision's follow-up is monitored by the Committee on Agriculture and it is subject to regular review by the Ministerial Conference. As part of a series of steps to make the Decision operational, the Committee established a WTO list of least-developed and net food-importing countries since the Decision describes but does not list the countries that are to be covered by the Decision. As of February 2000, total membership on that list stood at 19 developing country Members (Barbados, Botswana, Cuba, Côte d'Ivoire, Dominican Republic, Egypt, Honduras, Jamaica, Kenya, Mauritius, Morocco, Pakistan, Peru, Saint Lucia, Senegal, Sri Lanka, Trinidad and Tobago, Tunisia and Venezuela) plus all least-developed countries.

SUMMARY

By way of summary, Box 2 provides an overview of key elements of the Agreement on Agriculture and the related commitments, as described above. The legal text of the Agreement on Agriculture is presented in Part II of this booklet.

Box 2 - Key Elements of the Agreement on Agriculture and Related Commitments			
Policy Area	Instrument	Developed Countries	Developing Countries
Market Access	Article 4.2 Article 4.1 and Schedule	Prohibition on the use of restrictions on imports other than tariffs; All tariffs bound;	
	Article 5	Special agriculture safeguard mechanism against import volume surges or import price declines below a trigger level (limited to "tariffed" products and not applicable to imports under related tariff quota commitments);	
	Schedules	Tariffs resulting from conversion of non-tariff border measures under negotiating modalities ("tariffication") plus pre-existing tariffs on all other agricultural products to be reduced;	
	Schedules	Implementation of current and minimum access opportunity commitments in respect of tariffed products.	
	Schedules	Average tariff reductions of 36% (minimum 15%) over 6 years.	Average tariff reductions of 24% (minimum 10%) over 10 years; Where "ceiling bindings" commitments undertaken reductions not required except on ad hoc basis; Least developed not required to undertake reduction commitments.
Domestic support	Articles 6, 7 and Annex 2	Policies divided into two groups; (i) permitted policies (Green Box), (ii) other policies included in the Aggregate Measure of Support (AMS) subject to reduction commitments (Amber Box);	
	Article 6.5	Decoupled direct payments associated with production limiting programmes (Blue Box) not in Green Box but excluded from AMS.	
	Article 6.2		Developing countries allowed to use some types of investment and input subsidies under certain conditions.
	Article 6.4(a) and (b)	<i>De minimis</i> provision allows exclusion of support less than 5% of output value from AMS;	<i>De minimis</i> provision allows exclusion from AMS of product-specific and non-product specific support less than 10% of respective current output value;
	Schedules	Total AMS support to be reduced by 20% over 6 years.	Total AMS support to be reduced by 13.3% over 10 years;
	Schedules		Least-developed countries must bind AMS support level if applicable but not required to reduce it.

Continued

Box 2 - continued

Policy Area	Instrument	Developed Countries	Developing Countries
Export subsidies	Article 9 Article 10 Article 3.3	Definition of export subsidies subject to reduction; Other export subsidies subject to anti-circumvention provisions which include disciplines relating to food aid; Prohibition on the use of export subsidies on products not subject to reduction commitments.	
	Schedules Article 11 Article 9.4	Distinct reduction commitments on both volume (21%) and budgetary outlays (36%) over six years; For incorporated/ processed products budgetary outlays only (36%).	Two-thirds of the reduction required for developed countries over ten years; Exception during the implementation period in respect of certain marketing and internal transportation subsidies.
Export prohibitions and restrictions	Article 12 Article 12.2	Requirement for advance notice and obligation to consult on request and supply information in case of new export restrictions on foodstuffs.	Exception for developing countries that are net-exporters of the foodstuff concerned.
Other aspects	Article 13 Article 17 Article 16	- Peace Clause; - WTO Committee on Agriculture given the task of overseeing the implementation of the Agreement and related commitments; - Marrakesh Ministerial <i>Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries</i> .	
Sanitary and phytosanitary measures	Article 14	Separate Agreement: Reaffirms right to countries to set their own health and safety standards provided they are justified on scientific grounds and do not result in arbitrary or unjustified barriers to trade; encourages use of international standards; includes certain special and differential treatment provisions.	

Part II - THE AGREEMENT ON AGRICULTURE

The Legal Text

Members,

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

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

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

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

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

Noting that commitments under the reform programme should be made in an equitable way among all Members, having regard to non-trade concerns, including food security and the need to protect the environment; having regard to the agreement that special and differential treatment for

developing countries is an integral element of the negotiations, and taking into account the possible negative effects of the implementation of the reform programme on least-developed and net food-importing developing countries;

Hereby *agree* as follows:

PART I

Article 1

Definition of Terms

In this Agreement, unless the context otherwise requires:

- (a) “Aggregate Measurement of Support” and “AMS” mean the annual level of support, expressed in monetary terms, provided for an agricultural product in favour of the producers of the basic agricultural product or non-product-specific support provided in favour of agricultural producers in general, other than support provided under programmes that qualify as exempt from reduction under Annex 2 to this Agreement, which is
 - (i) with respect to support provided during the base period, specified in the relevant tables of supporting material incorporated by reference in Part IV of a Member's Schedule; and
 - (ii) with respect to support provided during any year of the implementation period and thereafter, calculated in accordance with the provisions of Annex 3 of this Agreement and taking into account the constituent data and methodology used in the tables of supporting material incorporated by reference in Part IV of the Member's Schedule;
- (b) “basic agricultural product” in relation to domestic support commitments is defined as the product as close as practicable to the point of first sale as specified in a Member's Schedule and in the related supporting material;

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- (c) “budgetary outlays” or “outlays” includes revenue foregone;
- (d) “Equivalent Measurement of Support” means the annual level of support, expressed in monetary terms, provided to producers of a basic agricultural product through the application of one or more measures, the calculation of which in accordance with the AMS methodology is impracticable, other than support provided under programmes that qualify as exempt from reduction under Annex 2 to this Agreement, and which is:
- (i) with respect to support provided during the base period, specified in the relevant tables of supporting material incorporated by reference in Part IV of a Member's Schedule; and
 - (ii) with respect to support provided during any year of the implementation period and thereafter, calculated in accordance with the provisions of Annex 4 of this Agreement and taking into account the constituent data and methodology used in the tables of supporting material incorporated by reference in Part IV of the Member's Schedule;
- (e) “export subsidies” refers to subsidies contingent upon export performance, including the export subsidies listed in Article 9 of this Agreement;
- (f) “implementation period” means the six-year period commencing in the year 1995, except that, for the purposes of Article 13, it means the nine-year period commencing in 1995;
- (g) “market access concessions” includes all market access commitments undertaken pursuant to this Agreement;
- (h) “Total Aggregate Measurement of Support” and “Total AMS” mean the sum of all domestic support provided in favour of agricultural producers, calculated as the sum of all aggregate measurements of support for basic agricultural

products, all non-product-specific aggregate measurements of support and all equivalent measurements of support for agricultural products, and which is

- (i) with respect to support provided during the base period (i.e. the “Base Total AMS”) and the maximum support permitted to be provided during any year of the implementation period or thereafter (i.e. the “Annual and Final Bound Commitment Levels”), as specified in Part IV of a Member's Schedule; and
 - (ii) with respect to the level of support actually provided during any year of the implementation period and thereafter (i.e. the “Current Total AMS”), calculated in accordance with the provisions of this Agreement, including Article 6, and with the constituent data and methodology used in the tables of supporting material incorporated by reference in Part IV of the Member's Schedule;
- (i) “year” in paragraph (f) above and in relation to the specific commitments of a Member refers to the calendar, financial or marketing year specified in the Schedule relating to that Member.

Article 2

Product Coverage

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

PART II

Article 3

Incorporation of Concessions and Commitments

1. The domestic support and export subsidy commitments in Part IV of each Member's Schedule constitute commitments limiting subsidization and are hereby made an integral part of GATT 1994.

2. Subject to the provisions of Article 6, a Member shall not provide support in favour of domestic producers in excess of the commitment levels specified in Section I of Part IV of its Schedule.

3. Subject to the provisions of paragraphs 2(b) and 4 of Article 9, a Member shall not provide export subsidies listed in paragraph 1 of Article 9 in respect of the agricultural products or groups of products specified in Section II of Part IV of its Schedule in excess of the budgetary outlay and quantity commitment levels specified therein and shall not provide such subsidies in respect of any agricultural product not specified in that Section of its Schedule.

PART III

Article 4

Market Access

1. Market access concessions contained in Schedules relate to bindings and reductions of tariffs, and to other market access commitments as specified therein.

2. Members shall not maintain, resort to, or revert to any measures of the kind which have been required to be converted into ordinary customs duties¹, except as otherwise provided for in Article 5 and Annex 5.

Article 5

Special Safeguard Provisions

1. Notwithstanding the provisions of paragraph 1(b) of Article II of GATT 1994, any Member may take recourse to the provisions of paragraphs 4 and 5 below in connection with the importation of an agricultural product,

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

in respect of which measures referred to in paragraph 2 of Article 4 of this Agreement have been converted into an ordinary customs duty and which is designated in its Schedule with the symbol "SSG" as being the subject of a concession in respect of which the provisions of this Article may be invoked, if:

- (a) the volume of imports of that product entering the customs territory of the Member granting the concession during any year exceeds a trigger level which relates to the existing market access opportunity as set out in paragraph 4; or, but not concurrently:
- (b) the price at which imports of that product may enter the customs territory of the Member granting the concession, as determined on the basis of the c.i.f. import price of the shipment concerned expressed in terms of its domestic currency, falls below a trigger price equal to the average 1986 to 1988 reference price² for the product concerned.

2. Imports under current and minimum access commitments established as part of a concession referred to in paragraph 1 above shall be counted for the purpose of determining the volume of imports required for invoking the provisions of subparagraph 1(a) and paragraph 4, but imports under such commitments shall not be affected by any additional duty imposed under either subparagraph 1(a) and paragraph 4 or subparagraph 1(b) and paragraph 5 below.

3. Any supplies of the product in question which were *en route* on the basis of a contract settled before the additional duty is imposed under subparagraph 1(a) and paragraph 4 shall be exempted from any such additional duty, provided that they may be counted in the volume of imports of the product in question during the following year for the purposes of triggering the provisions of subparagraph 1(a) in that year.

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

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

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

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

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

- (a) if the difference between the c.i.f. import price of the shipment expressed in terms of the domestic currency (hereinafter

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

referred to as the “import price”) and the trigger price as defined under that subparagraph is less than or equal to 10 per cent of the trigger price, no additional duty shall be imposed;

- (b) if the difference between the import price and the trigger price (hereinafter referred to as the “difference”) is greater than 10 per cent but less than or equal to 40 per cent of the trigger price, the additional duty shall equal 30 per cent of the amount by which the difference exceeds 10 per cent;
- (c) if the difference is greater than 40 per cent but less than or equal to 60 per cent of the trigger price, the additional duty shall equal 50 per cent of the amount by which the difference exceeds 40 per cent, plus the additional duty allowed under (b);
- (d) if the difference is greater than 60 per cent but less than or equal to 75 per cent, the additional duty shall equal 70 per cent of the amount by which the difference exceeds 60 per cent of the trigger price, plus the additional duties allowed under (b) and (c);
- (e) if the difference is greater than 75 per cent of the trigger price, the additional duty shall equal 90 per cent of the amount by which the difference exceeds 75 per cent, plus the additional duties allowed under (b), (c) and (d).

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

7. The operation of the special safeguard shall be carried out in a transparent manner. Any Member taking action under subparagraph 1(a) above shall give notice in writing, including relevant data, to the Committee on Agriculture as far in advance as may be practicable and in any event within 10

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

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

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

PART IV

Article 6

Domestic Support Commitments

1. The domestic support reduction commitments of each Member contained in Part IV of its Schedule shall apply to all of its domestic support measures in favour of agricultural producers with the exception of domestic measures which are not subject to reduction in terms of the criteria set out in this Article and in Annex 2 to this Agreement. The commitments are expressed in terms of Total Aggregate Measurement of Support and “Annual and Final Bound Commitment Levels”.

2. In accordance with the Mid-Term Review Agreement that government measures of assistance, whether direct or indirect, to encourage agricul-

tural and rural development are an integral part of the development programmes of developing countries, investment subsidies which are generally available to agriculture in developing country Members and agricultural input subsidies generally available to low-income or resource-poor producers in developing country Members shall be exempt from domestic support reduction commitments that would otherwise be applicable to such measures, as shall domestic support to producers in developing country Members to encourage diversification from growing illicit narcotic crops. Domestic support meeting the criteria of this paragraph shall not be required to be included in a Member's calculation of its Current Total AMS.

3. A Member shall be considered to be in compliance with its domestic support reduction commitments in any year in which its domestic support in favour of agricultural producers expressed in terms of Current Total AMS does not exceed the corresponding annual or final bound commitment level specified in Part IV of the Member's Schedule.

4. (a) A Member shall not be required to include in the calculation of its Current Total AMS and shall not be required to reduce:
- (i) product-specific domestic support which would otherwise be required to be included in a Member's calculation of its Current AMS where such support does not exceed 5 per cent of that Member's total value of production of a basic agricultural product during the relevant year; and
 - (ii) non-product-specific domestic support which would otherwise be required to be included in a Member's calculation of its Current AMS where such support does not exceed 5 per cent of the value of that Member's total agricultural production.
- (b) For developing country Members, the *de minimis* percentage under this paragraph shall be 10 per cent.
5. (a) Direct payments under production-limiting programmes shall not be subject to the commitment to reduce domestic support if:

- (i) such payments are based on fixed area and yields; or
 - (ii) such payments are made on 85 per cent or less of the base level of production; or
 - (iii) livestock payments are made on a fixed number of head.
- (b) The exemption from the reduction commitment for direct payments meeting the above criteria shall be reflected by the exclusion of the value of those direct payments in a Member's calculation of its Current Total AMS.

Article 7

General Disciplines on Domestic Support

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

PART V

Article 8

Export Competition Commitments

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

Article 9

Export Subsidy Commitments

1. The following export subsidies are subject to reduction commitments under this Agreement:

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

-
- (e) internal transport and freight charges on export shipments, provided or mandated by governments, on terms more favourable than for domestic shipments;
 - (f) subsidies on agricultural products contingent on their incorporation in exported products.
2. (a) Except as provided in subparagraph (b), the export subsidy commitment levels for each year of the implementation period, as specified in a Member's Schedule, represent with respect to the export subsidies listed in paragraph 1 of this Article:
- (i) in the case of budgetary outlay reduction commitments, the maximum level of expenditure for such subsidies that may be allocated or incurred in that year in respect of the agricultural product, or group of products, concerned; and
 - (ii) in the case of export quantity reduction commitments, the maximum quantity of an agricultural product, or group of products, in respect of which such export subsidies may be granted in that year.
- (b) In any of the second through fifth years of the implementation period, a Member may provide export subsidies listed in paragraph 1 above in a given year in excess of the corresponding annual commitment levels in respect of the products or groups of products specified in Part IV of the Member's Schedule, provided that:
- (i) the cumulative amounts of budgetary outlays for such subsidies, from the beginning of the implementation period through the year in question, does not exceed the cumulative amounts that would have resulted from full compliance with the relevant annual outlay commitment levels specified in the Member's Schedule by more than 3 per cent of the base period level of such budgetary outlays;

- (ii) the cumulative quantities exported with the benefit of such export subsidies, from the beginning of the implementation period through the year in question, does not exceed the cumulative quantities that would have resulted from full compliance with the relevant annual quantity commitment levels specified in the Member's Schedule by more than 1.75 per cent of the base period quantities;
- (iii) the total cumulative amounts of budgetary outlays for such export subsidies and the quantities benefiting from such export subsidies over the entire implementation period are no greater than the totals that would have resulted from full compliance with the relevant annual commitment levels specified in the Member's Schedule; and
- (iv) the Member's budgetary outlays for export subsidies and the quantities benefiting from such subsidies, at the conclusion of the implementation period, are no greater than 64 per cent and 79 per cent of the 1986-1990 base period levels, respectively. For developing country Members these percentages shall be 76 and 86 per cent, respectively.

3. Commitments relating to limitations on the extension of the scope of export subsidization are as specified in Schedules.

4. During the implementation period, developing country Members shall not be required to undertake commitments in respect of the export subsidies listed in subparagraphs (d) and (e) of paragraph 1 above, provided that these are not applied in a manner that would circumvent reduction commitments.

Article 10

Prevention of Circumvention of Export Subsidy Commitments

1. Export subsidies not listed in paragraph 1 of Article 9 shall not be applied in a manner which results in, or which threatens to lead to, circum-

vention of export subsidy commitments; nor shall non-commercial transactions be used to circumvent such commitments.

2. Members undertake to work toward the development of internationally agreed disciplines to govern the provision of export credits, export credit guarantees or insurance programmes and, after agreement on such disciplines, to provide export credits, export credit guarantees or insurance programmes only in conformity therewith.

3. Any Member which claims that any quantity exported in excess of a reduction commitment level is not subsidized must establish that no export subsidy, whether listed in Article 9 or not, has been granted in respect of the quantity of exports in question.

4. Members donors of international food aid shall ensure:

- (a) that the provision of international food aid is not tied directly or indirectly to commercial exports of agricultural products to recipient countries;
- (b) that international food aid transactions, including bilateral food aid which is monetized, shall be carried out in accordance with the FAO "Principles of Surplus Disposal and Consultative Obligations", including, where appropriate, the system of Usual Marketing Requirements (UMRs); and
- (c) that such aid shall be provided to the extent possible in fully grant form or on terms no less concessional than those provided for in Article IV of the Food Aid Convention 1986.

Article 11

Incorporated Products

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

PART VI

Article 12

Disciplines on Export Prohibitions and Restrictions

1. Where any Member institutes any new export prohibition or restriction on foodstuffs in accordance with paragraph 2(a) of Article XI of GATT 1994, the Member shall observe the following provisions:

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

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

PART VII

Article 13

Due Restraint

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

- (a) domestic support measures that conform fully to the provisions of Annex 2 to this Agreement shall be:

- (i) non-actionable subsidies for purposes of countervailing duties⁴;
 - (ii) exempt from actions based on Article XVI of GATT 1994 and Part III of the Subsidies Agreement; and
 - (iii) exempt from actions based on non-violation nullification or impairment of the benefits of tariff concessions accruing to another Member under Article II of GATT 1994, in the sense of paragraph 1(b) of Article XXIII of GATT 1994;
- (b) domestic support measures that conform fully to the provisions of Article 6 of this Agreement including direct payments that conform to the requirements of paragraph 5 thereof, as reflected in each Member's Schedule, as well as domestic support within de minimis levels and in conformity with paragraph 2 of Article 6, shall be:
- (i) exempt from the imposition of countervailing duties unless a determination of injury or threat thereof is made in accordance with Article VI of GATT 1994 and Part V of the Subsidies Agreement, and due restraint shall be shown in initiating any countervailing duty investigations;
 - (ii) exempt from actions based on paragraph 1 of Article XVI of GATT 1994 or Articles 5 and 6 of the Subsidies Agreement, provided that such measures do not grant support to a specific commodity in excess of that decided during the 1992 marketing year; and
 - (iii) exempt from actions based on non-violation nullification or impairment of the benefits of tariff concessions accruing to another Member under Article II of

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

GATT 1994, in the sense of paragraph 1(b) of Article XXIII of GATT 1994, provided that such measures do not grant support to a specific commodity in excess of that decided during the 1992 marketing year;

- (c) export subsidies that conform fully to the provisions of Part V of this Agreement, as reflected in each Member's Schedule, shall be:
 - (i) subject to countervailing duties only upon a determination of injury or threat thereof based on volume, effect on prices, or consequent impact in accordance with Article VI of GATT 1994 and Part V of the Subsidies Agreement, and due restraint shall be shown in initiating any countervailing duty investigations; and
 - (ii) exempt from actions based on Article XVI of GATT 1994 or Articles 3, 5 and 6 of the Subsidies Agreement.

PART VIII

Article 14

Sanitary and Phytosanitary Measures

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

PART IX

Article 15

Special and Differential Treatment

1. In keeping with the recognition that differential and more favourable treatment for developing country Members is an integral part of the negotia-

tion, special and differential treatment in respect of commitments shall be provided as set out in the relevant provisions of this Agreement and embodied in the Schedules of concessions and commitments.

2. Developing country Members shall have the flexibility to implement reduction commitments over a period of up to 10 years. Least-developed country Members shall not be required to undertake reduction commitments.

PART X

Article 16

Least-Developed and Net Food-Importing Developing Countries

1. Developed country Members shall take such action as is provided for within the framework of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries.

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

PART XI

Article 17

Committee on Agriculture

A Committee on Agriculture is hereby established.

Article 18

Review of the Implementation of Commitments

1. Progress in the implementation of commitments negotiated under the Uruguay Round reform programme shall be reviewed by the Committee on Agriculture.

2. The review process shall be undertaken on the basis of notifications submitted by Members in relation to such matters and at such intervals as shall

be determined, as well as on the basis of such documentation as the Secretariat may be requested to prepare in order to facilitate the review process.

3. In addition to the notifications to be submitted under paragraph 2, any new domestic support measure, or modification of an existing measure, for which exemption from reduction is claimed shall be notified promptly. This notification shall contain details of the new or modified measure and its conformity with the agreed criteria as set out either in Article 6 or in Annex 2.

4. In the review process Members shall give due consideration to the influence of excessive rates of inflation on the ability of any Member to abide by its domestic support commitments.

5. Members agree to consult annually in the Committee on Agriculture with respect to their participation in the normal growth of world trade in agricultural products within the framework of the commitments on export subsidies under this Agreement.

6. The review process shall provide an opportunity for Members to raise any matter relevant to the implementation of commitments under the reform programme as set out in this Agreement.

7. Any Member may bring to the attention of the Committee on Agriculture any measure which it considers ought to have been notified by another Member.

Article 19

Consultation and Dispute Settlement

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

PART XII

Article 20

Continuation of the Reform Process

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

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

PART XIII

Article 21

Final Provisions

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

ANNEX 1
PRODUCT COVERAGE

1. This Agreement shall cover the following products:

- (i) HS Chapters 1 to 24 less fish and fish products, plus*
- (ii)
- | | | |
|-------------|----------------|--|
| HS Code | 2905.43 | (mannitol) |
| HS Code | 2905.44 | (sorbitol) |
| HS Heading | 33.01 | (essential oils) |
| HS Headings | 35.01 to 35.05 | (albuminoidal substances, modified
starches, glues) |
| HS Code | 3809.10 | (finishing agents) |
| HS Code | 3823.60 | (sorbitol n.e.p.) |
| HS Headings | 41.01 to 41.03 | (hides and skins) |
| HS Heading | 43.01 | (raw furskins) |
| HS Headings | 50.01 to 50.03 | (raw silk and silk waste) |
| HS Headings | 51.01 to 51.03 | (wool and animal hair) |
| HS Headings | 52.01 to 52.03 | (raw cotton, waste and cotton
carded or combed) |
| HS Heading | 53.01 | (raw flax) |
| HS Heading | 53.02 | (raw hemp) |

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

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

ANNEX 2
DOMESTIC SUPPORT: THE BASIS FOR EXEMPTION FROM
THE REDUCTION COMMITMENTS

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

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

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

Government Service Programmes

2. General services

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

- (a) research, including general research, research in connection with environmental programmes, and research programmes relating to particular products;
- (b) pest and disease control, including general and product-specific pest and disease control measures, such as early-warning systems, quarantine and eradication;

- (c) training services, including both general and specialist training facilities;
- (d) extension and advisory services, including the provision of means to facilitate the transfer of information and the results of research to producers and consumers;
- (e) inspection services, including general inspection services and the inspection of particular products for health, safety, grading or standardization purposes;
- (f) marketing and promotion services, including market information, advice and promotion relating to particular products but excluding expenditure for unspecified purposes that could be used by sellers to reduce their selling price or confer a direct economic benefit to purchasers; and
- (g) infrastructural services, including: electricity reticulation, roads and other means of transport, market and port facilities, water supply facilities, dams and drainage schemes, and infrastructural works associated with environmental programmes. In all cases the expenditure shall be directed to the provision or construction of capital works only, and shall exclude the subsidized provision of on-farm facilities other than for the reticulation of generally available public utilities. It shall not include subsidies to inputs or operating costs, or preferential user charges.

3. Public stockholding for food security purposes⁵

Expenditures (or revenue foregone) in relation to the accumulation and holding of stocks of products which form an integral part of a food secu-

⁵ 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.

urity programme identified in national legislation. This may include government aid to private storage of products as part of such a programme.

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

4. Domestic food aid⁶

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

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

5. Direct payments to producers

Support provided through direct payments (or revenue foregone, including payments in kind) to producers for which exemption from reduction commitments is claimed shall meet the basic criteria set out in paragraph 1 above, plus specific criteria applying to individual types of direct payment as set out in paragraphs 6 through 13 below. Where exemption from reduction is claimed for any existing or new type of direct payment other than those specified in paragraphs 6 through 13, it shall conform to criteria (b) through (e) in paragraph 6, in addition to the general criteria set out in paragraph 1.

6. Decoupled income support

^{5 & 6} For the purposes of paragraphs 3 and 4 of this Annex, the provision of foodstuffs at subsidized prices with the objective of meeting food requirements of urban and rural poor in developing countries on a regular basis at reasonable prices shall be considered to be in conformity with the provisions of this paragraph.

- (a) Eligibility for such payments shall be determined by clearly-defined criteria such as income, status as a producer or landowner, factor use or production level in a defined and fixed base period.
- (b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production (including livestock units) undertaken by the producer in any year after the base period.
- (c) The amount of such payments in any given year shall not be related to, or based on, the prices, domestic or international, applying to any production undertaken in any year after the base period.
- (d) The amount of such payments in any given year shall not be related to, or based on, the factors of production employed in any year after the base period.
- (e) No production shall be required in order to receive such payments.

7. Government financial participation in income insurance and income safety-net programmes

- (a) Eligibility for such payments shall be determined by an income loss, taking into account only income derived from agriculture, which exceeds 30 per cent of average gross income or the equivalent in net income terms (excluding any payments from the same or similar schemes) in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry. Any producer meeting this condition shall be eligible to receive the payments.
- (b) The amount of such payments shall compensate for less than 70 per cent of the producer's income loss in the year the producer becomes eligible to receive this assistance.

- (c) The amount of any such payments shall relate solely to income; it shall not relate to the type or volume of production (including livestock units) undertaken by the producer; or to the prices, domestic or international, applying to such production; or to the factors of production employed.
- (d) Where a producer receives in the same year payments under this paragraph and under paragraph 8 (relief from natural disasters), the total of such payments shall be less than 100 per cent of the producer's total loss.

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

- (a) Eligibility for such payments shall arise only following a formal recognition by government authorities that a natural or like disaster (including disease outbreaks, pest infestations, nuclear accidents, and war on the territory of the Member concerned) has occurred or is occurring; and shall be determined by a production loss which exceeds 30 per cent of the average of production in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry.
- (b) Payments made following a disaster shall be applied only in respect of losses of income, livestock (including payments in connection with the veterinary treatment of animals), land or other production factors due to the natural disaster in question.
- (c) Payments shall compensate for not more than the total cost of replacing such losses and shall not require or specify the type or quantity of future production.
- (d) Payments made during a disaster shall not exceed the level required to prevent or alleviate further loss as defined in criterion (b) above.
- (e) Where a producer receives in the same year payments under this paragraph and under paragraph 7 (income insurance and

income safety-net programmes), the total of such payments shall be less than 100 per cent of the producer's total loss.

9. Structural adjustment assistance provided through producer retirement programmes

- (a) Eligibility for such payments shall be determined by reference to clearly defined criteria in programmes designed to facilitate the retirement of persons engaged in marketable agricultural production, or their movement to non-agricultural activities.
- (b) Payments shall be conditional upon the total and permanent retirement of the recipients from marketable agricultural production.

10. Structural adjustment assistance provided through resource retirement programmes

- (a) Eligibility for such payments shall be determined by reference to clearly defined criteria in programmes designed to remove land or other resources, including livestock, from marketable agricultural production.
- (b) Payments shall be conditional upon the retirement of land from marketable agricultural production for a minimum of three years, and in the case of livestock on its slaughter or definitive permanent disposal.
- (c) Payments shall not require or specify any alternative use for such land or other resources which involves the production of marketable agricultural products.
- (d) Payments shall not be related to either the type or quantity of production or to the prices, domestic or international, applying to production undertaken using the land or other resources remaining in production.

11. Structural adjustment assistance provided through investment aids

- (a) Eligibility for such payments shall be determined by reference to clearly-defined criteria in government programmes

designed to assist the financial or physical restructuring of a producer's operations in response to objectively demonstrated structural disadvantages. Eligibility for such programmes may also be based on a clearly-defined government programme for the reprivatization of agricultural land.

- (b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production (including livestock units) undertaken by the producer in any year after the base period other than as provided for under criterion (e) below.
- (c) The amount of such payments in any given year shall not be related to, or based on, the prices, domestic or international, applying to any production undertaken in any year after the base period.
- (d) The payments shall be given only for the period of time necessary for the realization of the investment in respect of which they are provided.
- (e) The payments shall not mandate or in any way designate the agricultural products to be produced by the recipients except to require them not to produce a particular product.
- (f) The payments shall be limited to the amount required to compensate for the structural disadvantage.

12. Payments under environmental programmes

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

13. Payments under regional assistance programmes

- (a) Eligibility for such payments shall be limited to producers in disadvantaged regions. Each such region must be a clearly designated contiguous geographical area with a definable economic and administrative identity, considered as disadvantaged on the basis of neutral and objective criteria clearly spelt out in law or regulation and indicating that the region's difficulties arise out of more than temporary circumstances.
- (b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production (including livestock units) undertaken by the producer in any year after the base period other than to reduce that production.
- (c) The amount of such payments in any given year shall not be related to, or based on, the prices, domestic or international, applying to any production undertaken in any year after the base period.
- (d) Payments shall be available only to producers in eligible regions, but generally available to all producers within such regions.
- (e) Where related to production factors, payments shall be made at a degressive rate above a threshold level of the factor concerned.
- (f) The payments shall be limited to the extra costs or loss of income involved in undertaking agricultural production in the prescribed area.

ANNEX 3
DOMESTIC SUPPORT:
CALCULATION OF AGGREGATE MEASUREMENT OF SUPPORT

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

value for the basic agricultural product concerned in a net importing country in the base period. The fixed reference price may be adjusted for quality differences as necessary.

10. Non-exempt direct payments: non-exempt direct payments which are dependent on a price gap shall be calculated either using the gap between the fixed reference price and the applied administered price multiplied by the quantity of production eligible to receive the administered price, or using budgetary outlays.

11. The fixed reference price shall be based on the years 1986 to 1988 and shall generally be the actual price used for determining payment rates.

12. Non-exempt direct payments which are based on factors other than price shall be measured using budgetary outlays.

13. Other non-exempt measures, including input subsidies and other measures such as marketing-cost reduction measures: the value of such measures shall be measured using government budgetary outlays or, where the use of budgetary outlays does not reflect the full extent of the subsidy concerned, the basis for calculating the subsidy shall be the gap between the price of the subsidized good or service and a representative market price for a similar good or service multiplied by the quantity of the good or service.

ANNEX 4
DOMESTIC SUPPORT:
CALCULATION OF EQUIVALENT MEASUREMENT OF SUPPORT

1. Subject to the provisions of Article 6, equivalent measurements of support shall be calculated in respect of all basic agricultural products where market price support as defined in Annex 3 exists but for which calculation of this component of the AMS is not practicable. For such products the base level for implementation of the domestic support reduction commitments shall consist of a market price support component expressed in terms of equivalent measurements of support under paragraph 2 below, as well as any non-exempt direct payments and other non-exempt support, which shall be evaluated as provided for under paragraph 3 below. Support at both national and sub-national level shall be included.

2. The equivalent measurements of support provided for in paragraph 1 shall be calculated on a product-specific basis for all basic agricultural products as close as practicable to the point of first sale receiving market price support and for which the calculation of the market price support component of the AMS is not practicable. For those basic agricultural products, equivalent measurements of market price support shall be made using the applied administered price and the quantity of production eligible to receive that price or, where this is not practicable, on budgetary outlays used to maintain the producer price.

3. Where basic agricultural products falling under paragraph 1 are the subject of non-exempt direct payments or any other product-specific subsidy not exempted from the reduction commitment, the basis for equivalent measurements of support concerning these measures shall be calculations as for the corresponding AMS components (specified in paragraphs 10 through 13 of Annex 3).

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

ANNEX 5
SPECIAL TREATMENT WITH RESPECT TO PARAGRAPH 2
OF ARTICLE 4

Section A

1. The provisions of paragraph 2 of Article 4 shall not apply with effect from the entry into force of the WTO Agreement to any primary agricultural product and its worked and/ or prepared products ("designated products") in respect of which the following conditions are complied with (hereinafter referred to as "special treatment"):

- (a) imports of the designated products comprised less than 3 per cent of corresponding domestic consumption in the base period 1986-1988 ("the base period");
- (b) no export subsidies have been provided since the beginning of the base period for the designated products;
- (c) effective production-restricting measures are applied to the primary agricultural product;
- (d) such products are designated with the symbol "ST-Annex 5" in Section I-B of Part I of a Member's Schedule annexed to the Marrakesh Protocol, as being subject to special treatment reflecting factors of non-trade concerns, such as food security and environmental protection; and
- (e) minimum access opportunities in respect of the designated products correspond, as specified in Section I-B of Part I of the Schedule of the Member concerned, to 4 per cent of base period domestic consumption of the designated products from the beginning of the first year of the implementation period and, thereafter, are increased by 0.8 per cent of corresponding domestic consumption in the base period per year for the remainder of the implementation period.

2. At the beginning of any year of the implementation period a Member may cease to apply special treatment in respect of the designated products by complying with the provisions of paragraph 6. In such a case, the Member

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

3. Any negotiation on the question of whether there can be a continuation of the special treatment as set out in paragraph 1 after the end of the implementation period shall be completed within the time-frame of the implementation period itself as a part of the negotiations set out in Article 20 of this Agreement, taking into account the factors of non-trade concerns.

4. If it is agreed as a result of the negotiation referred to in paragraph 3 that a Member may continue to apply the special treatment, such Member shall confer additional and acceptable concessions as determined in that negotiation.

5. Where the special treatment is not to be continued at the end of the implementation period, the Member concerned shall implement the provisions of paragraph 6. In such a case, after the end of the implementation period the minimum access opportunities for the designated products shall be maintained at the level of 8 per cent of corresponding domestic consumption in the base period in the Schedule of the Member concerned.

6. Border measures other than ordinary customs duties maintained in respect of the designated products shall become subject to the provisions of paragraph 2 of Article 4 with effect from the beginning of the year in which the special treatment ceases to apply. Such products shall be subject to ordinary customs duties, which shall be bound in the Schedule of the Member concerned and applied, from the beginning of the year in which special treatment ceases and thereafter, at such rates as would have been applicable had a reduction of at least 15 per cent been implemented over the implementation period in equal annual instalments. These duties shall be established on the basis of tariff equivalents to be calculated in accordance with the guidelines prescribed in the attachment hereto.

Section B

7. The provisions of paragraph 2 of Article 4 shall also not apply with effect from the entry into force of the WTO Agreement to a primary agricultural product that is the predominant staple in the traditional diet of a developing country Member and in respect of which the following conditions, in addition to those specified in paragraph 1 (a) through 1 (d), as they apply to the products concerned, are complied with:

- (a) minimum access opportunities in respect of the products concerned, as specified in Section I-B of Part I of the Schedule of the developing country Member concerned, correspond to 1 per cent of base period domestic consumption of the products concerned from the beginning of the first year of the implementation period and are increased in equal annual instalments to 2 per cent of corresponding domestic consumption in the base period at the beginning of the fifth year of the implementation period. From the beginning of the sixth year of the implementation period, minimum access opportunities in respect of the products concerned correspond to 2 per cent of corresponding domestic consumption in the base period and are increased in equal annual instalments to 4 per cent of corresponding domestic consumption in the base period until the beginning of the 10th year. Thereafter, the level of minimum access opportunities resulting from this formula in the 10th year shall be maintained in the Schedule of the developing country Member concerned;
- (b) appropriate market access opportunities have been provided for in other products under this Agreement.

8. Any negotiation on the question of whether there can be a continuation of the special treatment as set out in paragraph 7 after the end of the 10th year following the beginning of the implementation period shall be initiated and completed within the time-frame of the 10th year itself following the beginning of the implementation period.

9. If it is agreed as a result of the negotiation referred to in paragraph 8 that a Member may continue to apply the special treatment, such Member shall

confer additional and acceptable concessions as determined in that negotiation.

10. In the event that special treatment under paragraph 7 is not to be continued beyond the 10th year following the beginning of the implementation period, the products concerned shall be subject to ordinary customs duties, established on the basis of a tariff equivalent to be calculated in accordance with the guidelines prescribed in the attachment hereto, which shall be bound in the Schedule of the Member concerned. In other respects, the provisions of paragraph 6 shall apply as modified by the relevant special and differential treatment accorded to developing country Members under this Agreement.

Attachment to Annex 5

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

1. The calculation of the tariff equivalents, whether expressed as ad valorem or specific rates, shall be made using the actual difference between internal and external prices in a transparent manner. Data used shall be for the years 1986 to 1988. Tariff equivalents:

- (a) shall primarily be established at the four-digit level of the HS;
- (b) shall be established at the six-digit or a more detailed level of the HS wherever appropriate;
- (c) shall generally be established for worked and/or prepared products by multiplying the specific tariff equivalent(s) for the primary agricultural product(s) by the proportion(s) in value terms or in physical terms as appropriate of the primary agricultural product(s) in the worked and/or prepared products, and take account, where necessary, of any additional elements currently providing protection to industry.

2. External prices shall be, in general, actual average c.i.f. unit values for the importing country. Where average c.i.f. unit values are not available or appropriate, external prices shall be either:

- (a) appropriate average c.i.f. unit values of a near country; or
- (b) estimated from average f.o.b. unit values of (an) appropriate major exporter(s) adjusted by adding an estimate of insurance, freight and other relevant costs to the importing country.

3. The external prices shall generally be converted to domestic currencies using the annual average market exchange rate for the same period as the price data.

4. The internal price shall generally be a representative wholesale price ruling in the domestic market or an estimate of that price where adequate data is not available.

5. The initial tariff equivalents may be adjusted, where necessary, to take account of differences in quality or variety using an appropriate coefficient.
6. Where a tariff equivalent resulting from these guidelines is negative or lower than the current bound rate, the initial tariff equivalent may be established at the current bound rate or on the basis of national offers for that product.
7. Where an adjustment is made to the level of a tariff equivalent which would have resulted from the above guidelines, the Member concerned shall afford, on request, full opportunities for consultation with a view to negotiating appropriate solutions.