



March 14-15, 2008
CONFERENCE DRAFT PAPER

An Overview of WTO Domestic Support Notifications

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For the IFPRI-Coordinated Research Project

Improving WTO Transparency: Shadow Domestic Support Notifications

**Measurement Issues and Analysis for Eight Countries—
EU, US, Japan, Norway, Brazil, China, India and the Philippines**

A research project of the

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Acknowledgements

Financial support for this research project and conference from the Global Development Program of the William and Flora Hewlett Foundation is gratefully acknowledged. Ann Tutwiler, Director of the Global Development Program, was instrumental in suggesting this line of inquiry.

This research project is one activity within the project entitled “Foundation Analysis for Agricultural Trade Reform” supported by the 2007 Hewlett Foundation grant to IFPRI's Markets, Trade, and Institutions Division. Antoine Bouet and David Orden are the project leaders.

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Chapter 1: An Overview of WTO Domestic Support Notifications

David Orden¹

1.1 Introduction

One of the fundamental achievements of the Uruguay Round of multilateral trade negotiations that established the World Trade Organization (WTO) in 1994 was to create the first multilateral framework for disciplines on domestic farm support. These rules are important because of the market-distorting effects of some support policies and because without constraints on domestic support it is hard to imagine substantial reductions of tariffs in agricultural markets, as certain countries have subsidized and protected their farmers more heavily with the first set of policy instruments and others with the latter.

The domestic support disciplines of the Uruguay Round Agreement on Agriculture (URAA) have become central to discussion of farm policy in developed countries, where output price support is most prominent. The disciplines are also important in developing countries, many of which have intervened in staple grain markets and with numerous input subsidies. Not only do countries have to be concerned with whether their existing policies meet the Uruguay Round rules and support bindings, but also about whether new policies they adopt will fit within these constraints or tighter limitations that may be negotiated. In perhaps the most striking example of such considerations, the emergence of a multilateral set of support rules and disciplines was critical in motivating a significant transformation of EU policies starting with the MacSharry reforms of 1992. Before those reforms, the EU was heavily criticized during the 1980s for distorting trade through high intervention price supports and extensive use of export subsidies. Subsequently, although support levels remain high, EU reforms have been undertaken generally towards less trade distorting support more compatible with both existing and potential future WTO rules and commitments.

If international trade rules and commitments are to be effective, countries' compliance with them must be monitored and enforced. Promulgated rules and commitments can also be interpreted differently. For these reasons, the URAA established a Committee on Agriculture and mandated it to, among other things, review the implementation of URAA commitments on the basis of countries' notifications. The Committee decided on a process for notifications. In domestic support, countries are required to identify their support policies, how they relate to URAA categories of support, and the levels of expenditures, support or revenues foregone under each policy. In principle, these notification were expected to provide substantial and widespread transparency about the policy actions of each country.

Unfortunately, the URAA rules for notifications have proven lax and themselves lack much discipline. Many countries see few negative consequences of not strictly following the Committee's decision on notifications. Since a marketing year's actual expenditures are usually not known until well after the end of the year, some delays in the filing of formal notifications

¹ Many helpful comments from Lars Brink are gratefully acknowledged.

were anticipated. In reality, performance has been even weaker. For the most part, as late as mid 2007, most countries had not filed notifications about their policies in effect since the beginning of the Doha Round negotiations that were launched in 2002. Consequently, public reviews based on official notifications were constrained to lagged historical analysis (e.g. Schnepf 2005). As noted by Josling (2007), there had been no notifications of the controversial policies adopted by the U.S. in its 2002 farm bill, nor by the EU since its reforms of 2003, nor under Japan's new Basic Law for farm support.

In January 2007 Canada sought consultations through the WTO dispute settlement process, followed by Brazil in July 2007, concerning whether U.S. support exceeded its bound commitment level. As efforts continued to bring the Doha Round negotiations to completion, and Brazil and Canada considered their next steps, on October 3, 2007 the United States notified its domestic support through 2005. The U.S. notification sharpened the debate about whether notifications, when they are delivered, account for support appropriately and how they might be affected by a new agreement on agriculture under the Doha Round of negotiations. Subsequently, on November 9, 2007, Brazil and Canada requested the formation of dispute settlement panels.

Broadly speaking, the URAA rules differentiate domestic support policies into several categories. One category is comprised of interventions and subsidies in output or input markets that are explicitly production-stimulating and thus trade distorting (often referred to as the "amber box"). A second category of policies are considered at most minimally trade distorting and the measures included in this category under specified conditions are often judged to either serve a broad public good or be decoupled from production (green box). The sum of certain trade-distorting support is subject to a cap while green box support is uncapped. There is an exemption from the cap on trade-distorting support for payments under production limiting programs and administered on specified base levels of production (blue box). Other trade-distorting support is also excluded from the summing of such support towards the cap under provisions for product-specific and non-product-specific *de minimis* support. Developing countries are allowed to exempt relatively more distorting support under the *de minimis* rules. They can also exclude support under certain development-oriented programs to assist poor farmers when they sum their distorting support towards the cap.

The underlying principle is to limit the trade-distorting support given by countries and make a violation of this limit vulnerable to dispute settlement challenges (the "stick") while encouraging countries to shift toward the less distorting policy instruments (for which the lack of constraints is the "carrot"). Yet, there are many issues of implementation and interpretation that arise, as apparent from the complexity of the text. This has become further evident in the negotiation dialogue and through the WTO dispute settlement process.

1.2 Research Project on Domestic Support Notifications

Given the dearth of formal notification reports, and the controversies that surround the classification of certain subsidies or assessment of their effects, an up-to-date set of estimated subsidy notifications will provide a valuable contribution to international agricultural policy deliberations. This monograph provides a policy analysis tool of a coordinated set of "shadow notifications." In its unofficial notifications analysis, the basic support information is tracked and

presented in useful form from 2000 to 2006 as market conditions have changed and policy instruments were altered. In addition to providing basic notification tabulations, several important controversies about interpretation of the rules are assessed and recommendations drawn for improvements in the WTO's subsidy classifications, rules and limits. Projections of support and its WTO compliance are evaluated through 2013.

The empirical analysis focuses on four developed countries (the U.S., EU, Japan and Norway) and four middle-income developing countries (Brazil, China, India and the Philippines).² Among the developed countries, the U.S., EU and Japan account for nearly 90 percent of capped support. The U.S. has traditionally been a leading agricultural exporter but increased its subsidy expenditures under the 2002 farm program legislation, which came under reconsideration in 2007 and 2008. The EU emerged as a net exporter in the 1980s under its substantial support programs noted above. Japan is a key net agricultural importer with some highly subsidized and protected sectors and Norway provides an example of a small country with high protection and subsidy levels.

The four developing countries in the study are central participants in world agricultural production, consumption and international markets. Brazil, China and India are leading members of the G20, so close scrutiny of their policies will contribute to a policy dialogue that is key to reaching a new agriculture agreement and resolving disputes that might arise under current or future agreements. Brazil is heavily export dependent in several commodities, while China and India are the world's largest agricultural markets. As a consequence, changes in the international market involvement of China or India have significant implications, but the level of trade of these countries has historically been relatively low compared to their domestic market size. The Philippines is also a populous country for which agriculture is central to government policies.

Project Design

This initial chapter provides an overview of the study and some common background and discussion on the URAA domestic support notification rules, related economic and legal issues, possible outcomes of the Doha Round negotiations, and other assumptions for the projections of future domestic support notifications. A separate chapter for each country is then included in the report. The country chapters have the following general design:

1. Brief synopsis of domestic support types and levels in the country and their relative magnitude compared to tariff protection and export subsidies. Brief discussion of recent agricultural support policy decisions. One reference reviewed by the authors was the country paper completed as part of the 2006-07 World Bank project on Distortions to Agricultural Incentives (Anderson and Martin, 2008). Other references vary by country and include such sources as recent reports by the OECD and WTO Trade Policy Reviews.

² As of September 30, 2007, the latest notifications available on the WTO web site were: U.S. 2001 (submitted March 11, 2004); EU 2003/2004 (submitted December 4, 2006); Japan 2004 (submitted August 31, 2007); Norway 2001 (submitted October 3, 2003); Brazil 2003/04 (submitted April 12, 2007); China 2001 (submitted January 10, 2006); India 1997-98 (submitted June 7, 2002); Philippines 2001 (submitted August 5, 2005). On October 4, 2007, the U.S. submitted notifications through 2005, as noted above.

2. Replication of the most recent official WTO domestic support notifications drawing on primary and secondary data sources. This is to confirm that the data and procedures applied to calculate the various support categories and levels in the initial estimates from the project are consistent with past government decisions.
3. Construction of shadow notifications from the date of coverage of the last official notifications through at least 2005 (or 2005/06), with preliminary estimates for 2006 (or 2006/07) and 2007 (or 2007/08). The notifications will follow the categories stipulated by the Committee on Agriculture based on the URAA:
 1. Measures exempt from the reduction commitments – “Green Box;” “Special and Differential Treatment;” and “Direct Payments under Production-Limiting Programs (Blue Box).”
 2. Calculation of Current Total Aggregate Measurement of Support – “Product-Specific AMS” (Market Price Support, Non-Exempt Direct Payments and Other Non-Exempt Payments); and “Non-Product Specific AMS.”

For each country, an appendix set of tables are provided in a format similar to the WTO domestic support notification “DS” tables. Sufficient commodity and policy coverage is provided to provide an in-depth assessment of support levels.

4. Comparison of the calculated shadow notifications to the limit commitments of the country and discussion of the results.

Parts 1-4 complete a basic description and analysis of the recent domestic support. In addition, each country chapter provides:

5. Discussion of a set of relevant alternative support-definition scenarios, their effects on the calculated levels of support, and whether limit commitments would have been binding if these alternative definitions had been applied in the historical period of analysis. Alternative scenarios include such issues as i) alternative decisions about what categories certain expenditures are notified within, as might arise from domestic reporting decisions or dispute settlement cases; ii) recalculation of support levels compared to those reported; and iii) inclusion of support previously not included in notifications. Discussion is provided of policy reform options in the event that one or more WTO commitment limitations are binding under these scenarios.
6. At least a preliminary assessment of projected domestic support notifications through 2013 (or 2013/14) based on specified assumptions about production levels, world and domestic prices, domestic policies, and possible new constraints or latitude potentially negotiated in the Doha Round. The notification projections in this analysis are inherently less precise or complete than those reported in the shadow notifications for past years. However, these projections provide a basis for discussion of whether or not the WTO commitments are likely to constrain countries’ future policies in desirable directions

under criteria such as being less trade distorting, considering such issues as whether there are binding constraints and whether there are differences between legal interpretations of a country's commitments and the economic effects of specific intervention programs.

Parts 5 and 6 provide analysis relevant to a possible Doha Round implementation period and a basis for a longer-term analysis and assessment by the authors. Broadly, in considering the future there will be different production levels and prices, and therefore expenditures for various support programs. There may be different WTO subsidy constraints, such as those being negotiated in the Doha Round. There is room for re-legislating policy instruments to meet WTO classification criteria and also for challenges to those classifications. These are the issues that are considered for each country.

1.3 Domestic Support Rules under the Uruguay Round Agreement

This section provides a description of the disciplines on domestic support agreed to in the Uruguay Round and incorporated in the legal text of GATT 1994 (WTO 1995a). The discussion draws extensively on a precise and comprehensive description of the domestic support provisions of the agreement provided by Brink (2007). For completeness, the relevant articles of the Agreement on Agriculture are reproduced in Appendix 1.

Disciplined and Exempted Support

The URAA imposes discipline on all “domestic support measures in favour of agricultural producers” with some exceptions that are articulated.³ The discipline takes the form of a ceiling commitment, as stipulated in Articles 3.2 and 6.3, on the amount of support that these measures provide per year in total nominal currency terms. It is not stated explicitly in Article 6 that the domestic support measures it refers to have the effect of distorting trade. However, the introduction to the agreement notes that subject to other considerations described an agreed “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.” The category of measures disciplined in Article 6 in accordance with this objective is often referred to as the “amber box” although, as noted by Brink (2007) and others, the URAA legal text itself makes no mention of any colored boxes.

Two categories of support that otherwise would presumably be considered trade distorting are exempted from the domestic support ceiling commitment if the measures meet certain criteria or conditions. Article 6.2 specifies the criteria that measures need to meet in order to be excluded from the commitment on grounds of being part of the development programs of developing countries. Measures that are exempt on grounds of meeting the Article 6.2 criteria, which are termed “special and differential treatment” in the notifications, include investment subsidies that are generally available to agriculture in developing countries and agricultural input subsidies that are generally available to low-income or resource-poor producers (and also support to encourage diversification from illicit narcotic crops). Article 6.2 does not mention nor limit the extent to which these measures may distort trade. This means that developing countries are able to exempt

³ Unless otherwise indicated, references and quotations in this section refer to articles and annexes of the URAA.

from the ceiling commitment some of the kinds of measures that economic analysis has found to be the most distorting (OECD 2001) and that otherwise would be considered restrictive or distorting of trade in the URAA.

The second kind of measures that are exempt from commitment for developed and developing countries, under Article 6.5, are direct payments to farmers under production-limiting programs, if such payments meet certain criteria. These criteria describe conditions of fixity of area, yields, livestock heads, or the level of production on which payments are made, relative to a base level. Measures meeting these criteria are often said to be placed in the “blue box.” This exemption was negotiated between the U.S. and EU as a deal maker that excluded from the ceiling commitments some of their main support programs in existence when the Uruguay Round agreement was completed.

Perhaps the most fundamental exemption to the domestic support commitment, specified in Article 6.1, is measures that conform with the criteria in Annex 2 of the URAA, which are often referred to as “green box.” Three types of criteria define Annex 2 measures. First, the initial paragraph of the annex asserts that these measures “shall meet the fundamental requirement that they have no, or at most minimal, trade-distorting effects or effects on production.” Second, the initial paragraph of Annex 2 states that “accordingly” the measures shall conform to the “basic criteria” of being “provided through a publicly-funded government programme” (precluding “transfers from consumers”), and that the “support in question not have the effect of providing price support to producers.” Third, and most detailed, the annex describes for 11 types of measures—including 8 that involve “direct payments to producers”—the “policy-specific criteria and conditions” that must be met, together with the “basic criteria” in the first paragraph, for a certain measure to qualify for Annex 2 exemption from the domestic support commitment. The common shorthand for measures exempted on green box grounds is that they are “not trade-distorting.” Brink (2007) more precisely notes that the distinction is between measures that are exempt on the textual Annex 2 grounds, and all other measures. These other measures are then, by the same shorthand, considered to be “trade-distorting” even if exempt from the ceiling commitment on support.

Annex 2 does not define the “trade-distorting effects or effects on production” mentioned in the fundamental requirement, nor is there any jurisprudence on its legal meaning. A perusal of the specific criteria for the measures included in Annex 2 leaves open the interpretation that among these measures are a number that could have more than a minimal effect on production—in some cases directly and in others by affecting agricultural productivity over time. These measures would affect the cost structure of agricultural production, the competitive advantage among countries and their levels of agricultural output, and thus affect trade.

Nonetheless, under the specific “criteria and conditions” detailed, the included measures are defined by Annex 2 as having at most minimal trade-distorting effects or effects on production. Thus, the URAA and its Annex 2 defines trade-distorting effects and effects on production differently from the way an economic analysis might define them. Where an economic analysis of a measure finds distorting effects on trade or effects on production, a legal analysis under Annex 2 may find a measure nonetheless qualifies as exempt. The measure would then be exempt from domestic support commitment, in spite of the economic evidence of its trade-

distorting or production effects. Likewise, where economic analysis finds that a measure has no or minimal trade-distorting effects or effects on production, a legal analysis may find that the measure does not meet all the requirements of Annex 2 and is therefore not exempt. To be exempt, it is not enough for a measure to fit a general description, or have an objective similar to, the paragraph headings of the 11 exempted types of measures given in Annex 2. What matters is that “the measure must conform to each and every one of the criteria which are articulated under the respective headings” (Brink 2007).

In short, the URAA classification of measures generates four distinct categories of domestic support: Article 6.2 (special and differential treatment) measures, Article 6.5 (blue box) measures, Annex 2 (green box) measures, and a non-distinct or residual category of all other measures. A measure qualifies for inclusion in one of the three distinct categories exempt from discipline by meeting that category’s criteria or conditions. The residual set of measures—the category of measures subject to the domestic support commitment—has no such distinguishing criteria or conditions: it consists of the measures that do not qualify for any of the distinct exempt categories.

Within the residual category of measures subject to the domestic support commitment, Article 6.4 allows exemption of two types of *de minimis* amounts of support that would otherwise have to be counted. For developed countries, product-specific support for a product is exempt from being counted against the commitment when it does not exceed a threshold of 5 percent of the value of production. Likewise, there is a *de minimis* exemption for non-product-specific support that does not exceed 5 percent of the value of the country’s “total agricultural production.” For developing countries, the *de minimis* percentages are 10 percent in each category. For China, a *de minimis* percentage of 8.5 percent was negotiated during its accession to the WTO in 2001.

The *de minimis* rules of the URAA apply to the whole support for a product (i.e., an aggregation of support across measures) and similarly for the total non-product-specific support. They do not apply to individual subsidies or support on a measure by measure basis. This means that there is no classification of policy measures into *de minimis* measures and non-*de minimis* measures. The *de minimis* support may of course be provided through only one measure, in which case the measure can be thought of as providing only *de minimis* support.

The nominal value of the *de minimis* thresholds in the URAA varies from year to year because they are set as a proportion of the annual value of production. If a country’s nominal value of total agricultural production grows over time, even through inflation or currency depreciation, the *de minimis* threshold grows in nominal terms, in contrast to the fixity of the ceiling commitment. If the value of production declines, so does the *de minimis* threshold.

Aggregate Measurements of Support (AMS)

Article 6.1 refers to a Member’s domestic support commitment and how it is expressed (i.e., in terms of a “Total Aggregate Measurement of Support” (Total AMS) and “Annual and Final Bound Commitment Levels”). The bound commitment level, or Total AMS commitment, is a ceiling amount that limits the applied yearly support calculated according to the URAA rules. The commitment level is included in the Member’s Schedule of Concessions and Commitments

(Part IV, Section I).⁴ It inscribes the yearly levels, including a constant yearly amount reached at the conclusion of the URAA implementation period from 2000 onwards (2004 for developing countries). Article 6.3 specifies that if the “Current Total AMS” for a given year does not exceed the scheduled Total AMS commitment, the Member is considered to be in compliance with its commitment. The Member’s obligation not to exceed the Total AMS commitment is stated in Article 3.2, while Article 7 requires that exempt measures maintain consistency with the exemption requirements or be added to the Current Total AMS.

The applied support that counts towards the Total AMS commitment (i.e., counts in the Current Total AMS) derives from a number of calculations of separate Aggregate Measurements of Support (AMS). The definition of AMS, given in Article 1 of the agreement, is that it is the annual level of support, expressed in monetary terms, provided in favor of producers, other than support provided through green box measures.⁵ Total AMS is defined as the sum of all AMSs (“all aggregate measurements of support”).⁶ The distinction hinges on the difference between “aggregate” and “total.” The “aggregate” in AMS refers to the aggregation of support across a variety of policies or measures. The “total” refers to the summation of many AMSs into one single Total AMS.

The domestic support commitments incorporated into a Member’s Schedule are based on its AMS and Total AMS calculations for the Uruguay Round base period of 1986-1988 and its reduction commitments. These calculations are often referred to as the Member’s AGST material, in line with the document identification code assigned to it by the WTO Secretariat. In most cases it is possible to trace a Member’s subsequent commitment on Total AMS back to the calculations of support in the referenced supporting material for the base period.⁷ According to Article 1(a), the AMSs for a current year are to be “calculated in accordance with the provisions of Annex 3 of this Agreement” and “taking into account the constituent data and methodology” used in member’s base period calculations. Annex 3 has thus been judged more authoritative than the constituent data and methodology when calculating an AMS, as explained by the Panel and the Appellate Body in the *Korea –Beef* dispute (WTO 2000b). However, under Article 1(h), the Current Total AMS is “calculated in accordance with” both the rules of the URAA and the “constituent data and methodology” in the referenced material, a slightly different specification of the relative importance of each criteria.

In accordance with the rules of the URAA, support through the measures under Annex 2, Article 6.2 and Article 6.5 is excluded from AMSs because these measures are not subject to the commitment ceiling, and the corresponding support is therefore not included in Current Total AMS. The Current Total AMS may also be affected by a Member’s use of the *de minimis* rules of Article 6.4. The thresholds defined by the *de minimis* rules are different in nature from a

⁴ The URAA legal text specifies the length of the “implementation period” (Article 1.f) but not the level of reduction commitments that were agreed and codified in the country schedules.

⁵ Under this definition only support provided through Annex 2 measures is excluded from AMS, which means that, technically, support provided through Article 6.2 and Article 6.4 measures is regarded as AMS support.

⁶ Equivalent Measurement of Support (EMS), described in Annex 4, is calculated somewhat differently from AMS but are summed, along with the AMSs, into the Total AMS. Only the EU notifies EMS support, so for ease of exposition they are not exposited herein separately from the AMS.

⁷ Part IV, Section I, of the Schedule of Members that have acceded to the WTO since 1995 refers to the final set of calculations for the relevant base period, identified differently than with an AGST code.

commitment. There is no obligation to keep the AMS at or below the threshold, in contrast to the obligation not to exceed the Total AMS commitment. An AMS can increase from zero without any consequence until it reaches the threshold level. However, the consequence of the AMS exceeding that level is immediate: the whole AMS (not just that part of the AMS that exceeds the threshold) is included in Current Total AMS. This applies to the non-product-specific AMS as well as to the product-specific amounts.

The URAA uses a similar concept to define support allowed by Members who do not have a scheduled Total AMS commitment. In such cases, the support to agricultural producers must not exceed the “*de minimis* level set out in paragraph 4 of Article 6” (Article 7.2(b)). Since Current Total AMS in such cases is constrained to be zero, there is no threshold effect: AMS support must simply be kept within the *de minimis* allowance.

Criteria for Calculations of AMS

Annex 3 of the URAA provides some guidance about the calculation of AMS, while not being exhaustive concerning the domestic support measures that are disciplined by the commitment limit or how support calculations are to be undertaken. The first paragraph of Annex 3 stipulates that a product-specific AMS is to be calculated for any basic agricultural product receiving “market price support, non-exempt direct payments, or any other subsidy not exempted from the reduction commitment.” Non-product-specific support is to be added into one total monetary value. Definitions are provided of several of the critical terms used in the agreement. Subsidies include “budgetary outlays and revenue foregone” by governments or their agents (para 2); and support at both national and sub-national levels is to be included (para 3), with specific agricultural levies or fees paid by producers deducted (para 4). Non-exempt direct payments based on factors other than price are to be measured using budgetary outlays (para 12). For other non-exempt measures, including input subsidies, the value is to be measured by government budgetary outlays or, where this does not reflect the full extent of the subsidy concerned, by “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” (para 13). The AMS is to be calculated “as close as practicable to the point of first sale of basic agricultural products,” and measures directed at processors are to be included “to the extent that such measures benefit the producers of the basic agricultural product” (para 7).

Annex 3 also defines how market price support (MPS) is to be measured for purposes of the AMS. It is to 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 administered price” (para 8). The fixed reference price is based on the years 1986 to 1988 (fob for net exporting countries and cif for net importing countries). Because the external reference price is fixed and is compared to an annual administered price not the prevailing market price, the measurement of price gaps for MPS in the WTO AMS calculations differs from a traditional calculation of the price gap for an economic nominal protection rate (NPR).

Monitoring the Agreement: Notifications and the Committee on Agriculture

The URAA established a Committee on Agriculture (Article 17). It provides a forum for regular reviews of the implementation of the negotiated commitments. Aspects of the review function are described in Article 18. The review process is stipulated to be based on the notifications submitted by members but also to provide an opportunity for member countries to “raise any matter relevant to the implementation” of the commitments. The URAA does not stipulate the timing of notification submissions except to stipulate that “any new domestic support measure, or modification of an existing measure, for which exemption from reduction is claimed shall be notified promptly” (Article 18.3).

The newly-formed Committee on Agriculture adopted a statement on “Notification Requirements and Formats” (G/AG/2) at its meeting of June 8, 1995 (WTO, 1995b). This document provides no additional guidance about the calculation of support but specifies the set of tables to be provided in the notification for each year, as shown in Table 1.1. Under the requirements, Table DS:1 is a concise statement of the Current Total AMS and the Total AMS commitment level. A set of supporting tables describe and give monetary values and source documentation for measures claimed to be exempt from the reduction commitment under Annex 2 (Supporting Table DS:1, “Green Box”), Article 6.2 (DS:2, Special and Differential Treatment), and Article 6.4 (DS:3, Direct Payments under Production-Limiting Programmes). The G/AG/2 committee document lists 12 categories of measures under the green box in Supporting Table DS:1, adding “other” to the 11 described in Annex 2.

Calculation of the Current Total AMS is to be reported in Supporting Tables DS:4 through DS:9. DS:4 lists and sums the AMSs, including non-product-specific, drawing on the tables that follow for the various components. Column headings in the Committee document indicate the reporting period (year), descriptions of the measure, and levels of price, quantity and value that the notifications are to provide. While not shown explicitly in the document, the practice has been that support claimed to be *de minimis* and thus excluded from the Current Total AMS in table DS: 1 is shown in the supporting tables.

The document adopted by the Committee on Agriculture in June 1995 was also more explicit than the URAA about the expected timing of notifications on which reviews of implementation were to be based. It stipulated that for members with bound commitment levels, notifications should be “made no later than 90 days following the end of the calendar (or marketing, fiscal, etc.) year in question” (page 11).⁸ Members with no commitment level except least-developed countries (LDCs) were to submit “an annual notification,” with the Committee allowed to set aside this requirement other than for supporting tables DS:1 to DS:3. These three tables were also to be submitted by LDCs “every two years.” Further, G/AG/2 articulated that new or modified support measures claimed to be exempt under Annex 2, Article 6.1 or Article 6.5 be notified “as far as practicable before such measures are adopted and in any event within 30 days of adoption” (page 22). Clearly, the intent of these adopted guidelines for the timing of notifications were intended to make the notifications relatively promptly available for review.

⁸ The document allows an additional 30 days for submission of a final notification if the initial notification is provisional.

A Synopsis of Committee on Agriculture Review Activities

Committee minutes to be reviewed and 2-3 pages of synopsis related to our 8 countries provided

The 2007 Brazil and Canada Total AMS Dispute Cases

Since disputes originate from review discussions in the Committee, a synopsis of the TAMS cases to be provided here. Also might include brief discussion of Canada-dairy and EU sugar cases on domestic subsidies as export subsidies.

Table 1.1. Format of Domestic Support Notifications

Table	Contents
DS:1	Current Total AMS (and Total AMS Commitment Level)
Measures Exempt from Reduction Commitments	
Supporting Table DS:1	-- Green Box (Annex 2)
Supporting Table DS:2	-- Special and Differential Treatment (Article 6.1)
Supporting Table DS:3	-- Direct Payments under Production limiting Programs (Article 6.5)
Current Total AMS	
Supporting Table DS:4	Calculation of Current Total AMS
Supporting Table DS:5	Product Specific AMS: Market Price Support
Supporting Table DS:6	Product Specific AMS: Non-Exempt Direct Payments
Supporting Table DS:7	Product Specific AMS: Other Product-Specific Support and Total Product-Specific AMS
Supporting Table DS:8	Product-Specific EMS
Supporting Table DS:9	Non-Product-Specific AMS

Source: WTO, 1995b.

1.4 Projecting Future Notifications

Each country chapter provides at least a preliminary assessment of projected domestic support notifications through 2013 (or 2013/14). These projections require assumptions about levels of production and prices, about policies that might be adopted, and about how the policies respond to market circumstances and existing or new WTO commitments. The level of precision of these projections will differ among the countries. For example, in the case of the EU the projections are not too dependent on future prices, which are not known with certainty, but this is not the case for the U.S. In both the EU and U.S. cases, planned policies through 2013/14 are relatively clear (or will be once the U.S. passes a new farm bill and the EU completes its CAP “health check” in 2008). In other cases, the future path of policy is more uncertain. Each country study has made the most plausible assumptions on projection aspects unique to that country based on assessments by the author. Two important elements are in common as discussed herein.

WTO Scenarios—The 2007-08 Falconer Draft Modalities

With the outcome of the Doha Round still uncertain in March 2008, in this manuscript we consider whether future notifications are likely to fit the domestic support commitments of a country under two alternative scenarios concerning the WTO rule. The first scenario assumes the continuation of the URAA, which remains in effect in the absence of agreement in the Doha Round negotiations. The second scenario assumes a Doha Round agreement. It is based on the “Revised Draft Modalities for Agriculture” first released by Ambassador Crawford Falconer, the chairman of the agricultural negotiations, in August 2007 (WTO, 2007a), then further articulated in four working papers on domestic support subsequently released on December 21, 2007 (WTO, 2007b), and revised and released again on February 8, 2008. The Falconer draft modalities reflect the framework and commitment levels the negotiations chairman judged the members were converging toward as a basis for a Doha Round agreement. Herein, the “Falconer text” (FT) based on these documents is described in general terms. Subsequent chapters describe its particular application to each country. Pending further developments in the negotiations, revisions to our description and analyses will be considered as the manuscript is completed.

The Falconer draft modalities are summarized in Table 1.2. For completeness, the Falconer February 2008 Revision to the modalities on domestic support that reflect his assessment of where convergence had progressed are replicated in Appendix 2. The draft modalities make several fundamental changes from the URAA. First, the Doha negotiations articulate in a more formal manner the distinction made in the URAA between “trade-distorting” and Annex 2 measures. The Falconer draft modalities adopt a measure of Overall Trade-Distorting Support (OTDS) to be specified in members’ schedules. The Base OTDS adds together the nominal values of the Final Bound Total AMS, 10 or 20 percent of the total value of agricultural production (based on 5 or 10 percent of this value for the product-specific and non-product-specific categories of *de minimis* for developed and developing countries, respectively), and either base period blue box payments or an additional 5 percent of the total value of agricultural production.⁹ Nominal values of Base OTDS are to be determined using the period 1995-2000. Only those countries with AMS commitments would be required to make reduction commitments for their OTDS. The OTDS ceiling levels are to be reduced using a tiered formula with the largest cuts applied to the highest initial values and developing countries making two thirds of the cuts agreed for developed countries.

The proposed reduction commitments of the OTDS are accompanied in the Falconer draft modalities by ceiling commitments on the Total AMS and the blue box, and by new *de minimis* thresholds. For the Total AMS, tiered reductions are applied at the proposed rates of 70, 60 and

⁹ As Brink (2006) discusses, it is important to recognize that the OTDS commitment operates independently from the commitments on Total AMS, on total blue box payments, and on product-specific AMSs and blue box payments. One consequence of the architecture of the OTDS and Total AMS commitments, operating in conjunction with *de minimis* exemptions, is that the sum of all applied *de minimis* AMSs (whether product-specific or non-product-specific) and Current Total AMS will always in practice be smaller than the sum of all *de minimis* allowances and the Total AMS commitment. The reason is that there is no *de minimis* AMS for a product for which product-specific support is counted in Current Total AMS because it exceeds the *de minimis* threshold (the same applies to the non-product-specific AMS). Thus, the OTDS commitment exceeds the usable nominal sum feasible in these categories under the URAA. However, the nominal Base OTDS commitment may bind future *de minimis* support which otherwise can increase proportionately with the nominal value of production.

45 percent, respectively, for URAA ceilings of greater than US\$40 billion (or equivalent monetary terms in which the binding is expressed), US\$15-40 billion, and less than US\$15 billion. Article 6.2 exemptions are retained and again developing countries with AMS commitments are to make reductions of two thirds those required of developed countries. The FT draft modalities also introduce product-specific AMS caps. The overall principle is to base these limits on average actual nominal values of support by product during a base period of 1995-2000, but the specific details were still under negotiation.¹⁰ A specific formula for cotton is proposed.

Under the FT, the criteria for Article 6.5 (the blue box) is expanded so that certain direct payments that “do not require production” qualify for exemption from the support commitment under similar payment-basis conditions as in the URAA for production-limiting programs. This broadening of the definition was initially introduced by the United States, essentially to accommodate in a redefined blue box the counter-cyclical payments legislated in its domestic 2002 farm bill (Orden, 2007). In the draft modalities, the blue box exemption that developed countries are allowed to claim is capped at 2.5 percent of the average total value of agricultural production (5 percent for developing countries with AMS commitments) with a base period of 1995-2000. Product specific caps were also to apply to blue box payments, with some of the specific provisions remaining under negotiation.

Allowed *de minimis* exemptions are also to be reduced for some countries under the Falconer draft modalities. The August 2007 and February 2008 texts described only reductions to the threshold percentages of values of production that could be claimed as exempt.¹¹ The suggested reductions are “at least [50] [60] percent” with the bracketed reduction percentage still under negotiation. Under the FT, developing countries with AMS commitments are to make two thirds of the reduction to *de minimis* thresholds made by developed countries. Developing countries without AMS commitments would face no change from the URAA *de minimis* rules.¹²

The Falconer draft modalities of August 2007 also included several changes to Annex 2. The full text of these proposed changes are given in Appendix 3.¹³ In summary, for developing countries the proposed changes add to exempt “General Services” policies and services related to rural development and rural livelihoods, among them infrastructure services, drought management and flood control, and nutritional security (see Table 1.2). For developed countries, the modalities tightened the criteria for historical base, requiring base to be notified to the Committee on Agriculture and unchanging except under “exceptional” circumstances and subject to specific

¹⁰ A remaining issue was whether the United States only would be allowed to apply the proportions for a longer base period (1995-2004) to the actual average total AMS from 1995-2000.

¹¹ The December working paper added the criteria that *de minimis* be specified in monetary terms at the URAA allowed percentages of values of production using a 1995-2000 base period, with these specified nominal amounts to be reduced. If this provision had been retained, the *de minimis* support would have been subject to these specific caps as well as the cap on OTDS, instead of having the *de minimis* threshold continue to vary based on annual values of production as long as support remains within the OTDS limit. This would have added an additional constraint on future *de minimis* support policies.

¹² Among the developing countries included in this study, only Brazil would face a new limit on *de minimis* under the Falconer draft modalities of February 2008.

¹³ See Blandford and Josling (2007a) for discussion of earlier proposals about the green box criteria.

criteria. The historical base criteria are to apply to decoupled income support and programs of structural adjustment and regional assistance.

Application of the Falconer Draft Modalities to our Analyses

The discussions in the country chapters of domestic support notifications in relation to a Doha Round agreement have to be undertaken with uncertainty remaining about the final outcome. To provide some comparability among the discussions, we make the common assumption in our country studies to focus on reductions at the lower end of the proposed ranges in the Falconer draft modalities as described in Table 1.2 and Appendix 2. We consider the proposed stiffer reductions in sensitivity analysis of our results if the difference matters to our assessment. There is also uncertainty about the year in which reduction commitments would begin and about the timing of the reductions. For illustrative purposes, we assume that an agreement would come into effect with initial reductions applying to the year 2009 (2009/10). Our assumptions about the staging of the reductions draw on the draft modalities. We assume for developed countries for the main focus of the analysis: 1) for OTDS, one third of the reduction immediately at the commencement of the implementation period, then the remaining reductions in 5 equal annual steps; 2) for total AMS, 25 percent initially then 4 equal annual steps; 3) for blue box, immediately at commencement of implementation; and 4) for *de minimis*, 5 equal steps. Thus, by 2013 implementation is assumed to be nearly completed for developed countries and we discuss the implications of completing the final implementation step for OTDS as well. For developing countries, longer implementation periods are assumed (8 equal steps for all measures). In the country chapters, implications of full implementation after 2013 are discussed even though the projections of support notifications are not extended to the longer time horizon.

World Prices

The level of prices is another factor that will affect the notification projections among countries. While specific values of domestic and international prices relevant to the projections will exhibit differences among the countries based on domestic and trade policies, location, status as exporter or importer, and other factors, the relevant prices will also reflect to a large extent the global price context. There is currently a commodity boom with relatively high prices forecast for coming years compared to the first decade under the URAA. However, since future prices are difficult to predict, sensitivity analysis is important here too.

In our evaluations of notifications projections we consider two alternative broad price regimes. The first regime of relatively high price levels reflects commodity price forecasts made in 2007. A second regime assumes prices will be lower, at least by 2013 or in subsequent years. Our project does not encompass development of global forecasting models, nor can the future be predicted well enough that extremely precise forecasts are germane to our notifications projections. But considering the implications of alternative price trajectories on the disciplines the URAA or a possible Doha agreement might impose on countries is a critical exercise within our analysis.

Table 1.2. Summary of the 2007 Falconer Draft Domestic Support Modalities ¹

Define and Limit OTDS	Base Overall Trade-Distorting Domestic Support (OTDS) defined as sum of Total AMS commitment and 15 percent of value of 1995-2000 agricultural production (25 percent for developing countries). Reduction commitments specified for developed countries are [75-85]; [66-73] and [50-60] percent for base OTDS greater than US\$60 billion; US\$10-60 billion and less than US\$10 billion. Additional reductions for developed countries in second tier with OTDS exceeding 40% of value of production; 2/3 of the above reductions/no reductions for developing countries with/without AMS commitments.
Reduce Total AMS Commitments	Total AMS commitment to be reduced [70]; [60]; [45] percent for final bound URAA levels of greater than US\$40 billion; US\$15-40 billion and less than US\$15 billion. Additional reductions for developed countries in second and third tier with total AMS exceeding 40% of value of production; 2/3 of the above reductions for developing countries with AMS commitments.
Introduce Product-Specific AMS Caps	Product-specific AMS caps for developed countries set at actual average of 1995-2000 AMS support ([1995-2004] proportions to apply for U.S. only). Special formula for cotton. Three options for developing countries with AMS commitments.
Redefine and Cap Article 6.4 (blue box)	Direct payments that do not require production allowed under similar criteria as under production-limiting programmes. Blue box exemption capped at 2.5 percent of average total value of agricultural production (5 percent for developing countries with AMS commitments) using base period of 1995-2000. Additional reductions for developed countries with blue box exceeding 40% of trade-distorting support. Product specific caps to apply. Irreversible product-specific transfers from AMS to blue box limits allowed.
Cap and Reduce <i>de minimis</i>	<i>De minimis</i> as percentages of values of production to be reduced at least [50-60] percent (2/3 of the reduction/no change to URAA for developing countries with/without AMS commitments).
Redefinitions ² of criteria in Annex 2	Adds to exempt General Services for developing countries policies and services related to rural development, among them infrastructure services, drought management and flood control, and nutritional security; also allows more flexibility for disaster and insurance programs. For developed countries, tightens criteria for historical base to be notified and unchanging for decoupled income support, structural adjustment and regional assistance programs.
Staging of Implementation	For developed countries: OTDS: one third at commencement, then 5 equal annual steps Total AMS: [25] percent, then 4 equal annual steps Product-specific AMS caps: in full at implementation Blue box cap: in full at implementation <i>De minimis</i> caps: [in full immediately or 5 equal annual steps] For developing countries: OTDS: 20 percent immediately, then 8 equal annual steps; Total AMS: 9 equal steps in 8 years; Product-specific AMS and blue Box caps: nothing specified; <i>de minimis</i> caps: 3 years longer than developed countries

¹ See Appendix 2 for the full text of the draft modalities and timing of implementation. The [] in text indicates number or language remained under negotiation.

² See Appendix 3 for the full text.

Source: WTO, 2008.

The consequences for price levels, and therefore in some cases for future subsidy expenditures and potential pressures on the policies of countries from their WTO commitments, is illustrated in Table 1.3 for corn and wheat. The top row for each commodity shows the price projection from 2005/06 through 2013/14 released in February 2007 in the USDA Agricultural Baseline Projections to 2016. Below that line are shown the annual baseline projections for those years available from February 2006 back to February 2001. The USDA cautions that its annual baseline projections are not forecasts but rather the possible outcome under one specific set of assumptions about uncertain future developments concerning “the macroeconomy, agricultural and trade policies, the weather and international developments.”

The projections from USDA in February 2007 display a sharp increase in corn and wheat prices between 2005/06 and 2006/07 with corn prices projected to rise further and wheat prices to remain relatively stable at the higher level through 2013/14. Earlier projections for corn show a similar tendency to rise as the projection horizon increases and this is also somewhat the case for wheat. None of the earlier projections anticipated the sharp increase in prices that occurred. For both corn and wheat, for 2006/07 through 2013/14 the earlier price projections average just two thirds to three quarters of the projections of 2007. USDA attributes this shift in price levels to continued strong global economic growth, increased oil prices, strong demand for corn for ethanol under the mandate of the Renewable Fuel Program of the Energy Policy Act of 2005 and continued tax credits for ethanol (USDA assumes 12 billion gallons of ethanol will be produced in the United States by 2016).

In the short run, the USDA projections of February 2007 proved not to be as bullish as oil and agricultural commodity markets turned out that year.¹⁴ Prices rose well above the projected levels. Nonetheless, there remains uncertainty about future agricultural prices. For purposes of our analysis of projected domestic support notification levels and whether or not these could prove binding on countries, it seems adequate to treat the February 2007 projections (possibly updated after the 2008 baseline becomes available) as the relatively high price outcome. For the relatively lower price alternative scenario, we apply prices in the range of pre-2007 USDA price projections which are more consistent with the period when the URAA was in effect through 2005.

¹⁴ A new ten-year baseline projection will be available in February 2008.

Table 1.3. Comparison of USDA Price Projections for 2005/06 to 2013/14

		2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14
Corn	Feb-07	2.00	3.00	3.50	3.60	3.75	3.55	3.50	3.45	3.40
	Feb-06	1.80	2.00	2.20	2.45	2.55	2.60	2.60	2.60	2.55
	Feb-05	2.00	2.15	2.25	2.35	2.40	2.45	2.45	2.45	2.45
	Feb-04	2.20	2.25	2.30	2.30	2.30	2.35	2.35	2.30	2.35
	Feb-03	2.10	2.15	2.20	2.25	2.25	2.30	2.40	2.40	
	Feb-02	2.30	2.30	2.40	2.45	2.55	2.55	2.60		
	Feb-01	2.25	2.35	2.40	2.50	2.55	2.60			
	Average (01-06)	2.11	2.20	2.29	2.38	2.43	2.48	2.48	2.44	2.45
Ave/07	1.05	0.73	0.65	0.66	0.65	0.70	0.71	0.71	0.72	
Wheat	Feb-07	3.42	4.35	4.45	4.25	4.25	4.35	4.40	4.45	4.50
	Feb-06	3.40	3.15	3.10	3.10	3.20	3.25	3.35	3.40	3.45
	Feb-05	3.00	3.05	3.15	3.25	3.35	3.40	3.50	3.50	3.55
	Feb-04	2.75	2.70	2.70	2.75	2.80	2.85	2.90	2.95	3.00
	Feb-03	2.85	2.85	2.90	3.00	3.10	3.20	3.25	3.30	
	Feb-02	2.95	3.00	3.15	3.25	3.35	3.40	3.50		
	Feb-01	3.20	3.25	3.35	3.45	3.60	3.70			
	Average (01-06)	3.03	3.00	3.06	3.13	3.23	3.30	3.30	3.29	3.33
Ave/07	0.88	0.69	0.69	0.74	0.76	0.76	0.75	0.74	0.74	

Source: USDA Agricultural Baseline Projections, 2007 and earlier years.

1.5 Issues in Interpretation of Notifications

To conclude this introductory chapter, some of the issues that arise in assessing domestic support notifications in legal and economic terms are discussed below. This is only a preliminary discussion. As the country analyses are completed it will be refined and developed into a summary/synopsis of the findings and conclusions of the study.¹⁵

Where Do Policies Fit

The first question is simply where in the WTO classification scheme does a particular policy fit? For each country, a list of relevant policies can be articulated and each policy classified into a category. But the criteria are sometimes ambiguous (e.g. does a crop insurance program in a

¹⁵ Among recent studies examining WTO domestic support compliance are Sumner (2005), Quiroga (2006), Blandford and Josling (2007b) and Schnepf (2007a.b).

developed country satisfy the criteria for green box classification or is an input subsidy in a middle-income developing country an AMS production stimulus or Article 6.2 aid to disadvantaged farmers). Moreover, WTO dispute settlement may in some cases refine the WTO-classification of various measures, such as in the ongoing Brazilian and Canadian cases questioning whether the U.S. has exceeded its Total AMS commitment level or the earlier Brazil-U.S. cotton case where the issue was raised of whether land-based fixed income payments to U.S. farmers fall into the green box if eligibility for payments depends on whether or not certain crops (in this case fresh fruits and vegetables) are produced.

Measurement of Support Levels

Once policies are classified, the next issue concerns measurement: how to evaluate the level of support. In some cases this is relatively straightforward. For example, the amber box market price support (MPS) component is based on administered price guarantees and fixed reference prices in a base period. This is easier to measure than the level of support provided on a conceptual economic basis, which requires estimation of the relevant parity level of world prices each year compared to the actual domestic prices. In other cases, issues arise as to whether countries are accounting for subsidy costs in comparable ways; for example, for irrigation or power subsidies.

Relation to OECD Producer Support Estimates (PSEs)

The best-known alternative measure of countries' support are the PSEs calculated by OECD and in related studies. PSEs differ in a number of respects from notifications reported to the WTO as the basis for its disciplines. Market price support in PSEs, as opposed to the WTO notifications, is based on an annual comparison of the actual domestic price to a parity world price. The PSE includes all monetary transfers to farmers whatever WTO box they fall into. The PSEs provide an initial information basis for constructing a set of shadow notifications but mapping from the PSEs to the notifications is not a trivial exercise. A recent IFPRI study constructing PSEs for four developing countries (India, Indonesia, China and Vietnam) provides useful background on methodology issues and empirical measurement of subsidy levels (Orden et al. 2007). For market price support, Cheng in his chapter for this report defines over (under) counting by the extent to which the level reported under WTO notification rules exceeds (is less than) the market price support at actual prices. This is useful comparison to make in discussion of the market price support component of the AMS.

Border Protection and Domestic Subsidies

Some observers contend that the WTO domestic support measurement “double counts” protection and support in certain situations. This would arise when the domestic price of a commodity is held above the world market level by a tariff and simultaneously there is an administered price domestic support program counted in the AMS. In this case, eliminating the applied administered price will reduce the AMS, but if the tariff remains in place this may have little effect on markets or trade opportunities. Monitoring in the WTO of a country's compliance with its market access commitments, such as tariffs and tariff rate quotas, is separate from the monitoring of compliance with its domestic support commitments. Tariffs may be used to

maintain the domestic price higher than the international price, but that protection does not enter the calculation of market price support for AMS. Only the applied administered price is used to measure market price support (along with the fixed external reference price and the eligible production). Thus, two or more policy instruments may be used to maintain the domestic price, but only one of them is represented in the market price support calculation. The use of two different policy instruments is monitored against two different commitments.

The use of the applied administered price in calculating market price support makes it possible to “create” room within the Total AMS commitment simply by eliminating the administered price. Leaving the border protection unchanged would in many circumstances still allow the domestic price to exceed the international price. A noted example of such a policy revision was undertaken by Japan for rice. Using such a loophole in the URAA disciplines allows the room created under the Total AMS ceiling to be redirected to other support instruments for the same product or for other products. Similar sleight-of-hand realignment of policy measure could be used to evade effective reductions in domestic support from tighter Total AMS constraints negotiated in the Doha Round, depending on how binding new tariff limits become and the extent to which shifts of AMS are precluded by product-specific caps. In general, the interdependence of domestic support with tariff protection is also highlighted by consideration of the redundancy of support and tariff measures in some cases.

Box Shifting

Shifting support from one box to another might also be called a loophole in the domestic support discipline. Thus, there has been controversy over the extent to which the shift in EU policies, so that much of its support is claimed as green box rather than AMS or blue box while support levels remain near the initial rates, is reducing the trade-distorting effect of the expenditures. Such shifts have to be evaluated in definitional terms (does the new policy meet the green box criteria) and in terms of impact (is the economic evidence consistent with minimal trade distortion). To the extent that box-shifting reduces trade distortions without reducing the amount of support, it would be one step, albeit incomplete, consistent with the WTO objectives.

Developing Country Special and Differential Treatment

Latitude about how to classify various policies also arises among developing countries. For example, India reduced its reported “Non-Product-Specific AMS” from US\$5.8 billion in 1995 to US\$0.9 billion in 1996 by shifting many input subsidies from the AMS category to the uncapped category of Article 6.2 special and differential treatment as input subsidies to low income or resource poor producers. Without judging the merit of these programs as a development strategy, the latitude afforded by the WTO rules for the middle-income developing countries demonstrates where tensions could arise in the multilateral system if too liberal a use is made of categories exempted from the domestic support disciplines. In relation to calls early in the Doha Round negotiations for a new “development box” of exempt subsidies for developing countries, IFPRI research by Diaz-Bonilla, Thomas and Robinson (2003) demonstrated that the existing rules provide ample latitude for farm and rural support programs. Often domestic fiscal constraints would preclude extensive use of this latitude, but in the cases of key emerging middle-income countries this may not be the case.

Economic Assessments of Dispute Settlement Decisions

The WTO domestic support rules provide a framework of constraints that can be subjected to legal and economic analysis of their effects. In two key cases (Canadian dairy and EU sugar), WTO panels have ruled that high prices in domestic markets provide support that constitutes export subsidies. This interpretation, resting partly on the notion that the domestic subsidies are production stimulating because they cover some of the producers' fixed costs, is intuitively appealing to some (and carried the day with the dispute panels). Standard economic analysis suggests that this outcome arises when the industry employs some quasi-fixed factors of production that can not adjust to optimal levels and the larger scale of production with the domestic subsidies lowers average costs. But this cross-subsidization disappears in the economic analysis if all production factors adjust to optimal levels. Other models (de Gorter et al 2007) demonstrate short-run and long-run output-increasing effects of inframarginal support. Such considerations need to be further articulated in relation to the WTO rules and their interpretation in case law.

Instrument Cascading

As policy reforms are considered to comply with the WTO rules, there is a temptation to build up integrated support programs for which different parts are claimed to fall into different WTO categories. For example, a certain part of a crop insurance program may be counted as satisfying the green box criteria. On top of that is added a component that falls into the AMS. The net effect of the cascading of the policy instruments may be quite different than intended under the green box criteria of at most minimally trade distorting effects or effects on production, yet with only a modest component counted under the support ceiling commitment.

Classification Criteria that Limit Economically Optimal Policies

The preceding points emphasize measurement and definitional issues primarily from the perspective that the WTO rules allow substantial latitude for trade-distorting interventions that merit being monitored through the shadow notifications. It is also germane that in some respects the WTO rules potentially restrict countries from pursuing legitimate policies with respect to market failures. One example arises in the case of environmental payments. The WTO green box criteria limits such payment to the additional cost incurred by the producer, in order to constrain production-enhancing subsidies from being counted as environmental payments. But economic analysis of an environmental externality might suggest that a price be established for provision of improved environmental quality through a subsidy. Producer revenue would then include both the costs of environmental compliance and a "profit" from provision of this environmental good, which could be inconsistent with the WTO green box rules.

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Appendix 1: Articles of the Agreement on Agriculture Particularly Relevant to Domestic Support

AGREEMENT ON AGRICULTURE

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;
- (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 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 agricultural 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 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 negotiation, 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 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.

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 purposes¹⁶

Expenditures (or revenue foregone) in relation to the accumulation and holding of stocks of products which form an integral part of a food security 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 predetermined 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 aid¹⁷

¹⁶ 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.

¹⁷ 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.

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

- (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.

Appendix 2: Doha Round Falconer February 8, 2008 Revised Draft Modalities for agriculture Domestic Support

I. DOMESTIC SUPPORT

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

Base level

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

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

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

Tiered reduction formula

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

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

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

Implementation period and staging

5. For developed country Members, the reductions shall be implemented in six steps over five years.

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

Special and differential treatment

6. Developing country Members with no Final Bound Total AMS commitments shall not be required to undertake reduction commitments in their Base OTDS.

7. For developing country Members with Final Bound Total AMS commitments, the applicable reduction in the Base OTDS shall be two-thirds of the relevant rate specified in paragraph 3(c) above. However, net food-importing developing countries (hereafter "NFIDCs") listed in document G/AG/5/Rev.8 shall not be required to undertake reduction commitments in their Base OTDS.

8. For developing country Members, the reductions shall be implemented in nine steps over eight years. The Base OTDS shall be reduced by 20 per cent on the first day of implementation. The remaining reductions shall be implemented annually in eight equal steps.

Recently-Acceded Members

9. Saudi Arabia, the Former Yugoslav Republic of Macedonia and Viet Nam, as very recently-acceded Members (hereafter "RAMs") shall not be required to undertake reduction commitments in their Base OTDS. Small low-income RAMs with economies in transition¹⁸ shall not be required to undertake reduction commitments in their Base OTDS. Reduction commitments for other RAMs with Final Bound Total AMS commitments shall be two-thirds of the relevant rate specified in paragraph 3(c) above and shall be implemented in accordance with the provisions in paragraph 8 above.

Other commitments

¹⁸ This shall be applicable to Albania, Armenia, Georgia, Kyrgyz Republic and Moldova.

10. All Members other than least-developed country Members shall schedule their Base, Annual and Final Bound OTDS entitlements, as provided above, in monetary terms, in Part IV of their Schedules. Developing country Members that are not required to undertake *reduction commitments* under any of the provisions of these modalities shall only be required to schedule their Base OTDS.

11. For those Members that, under these modalities are subject to *reduction commitments* in their Base OTDS, such commitments shall apply as a minimum overall commitment. Throughout the implementation period and thereafter, each Member shall ensure that the sum of the applied levels of trade-distorting support under each OTDS component does not exceed the Annual and Final Bound OTDS levels specified in Part IV of its Schedule.

12. The Agreement on Agriculture shall be amended in order to provide for these OTDS modalities including amendments to existing Articles, where necessary, to ensure consistency with the above provisions.

B. FINAL BOUND TOTAL AMS: A TIERED FORMULA

Tiered reduction formula

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

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

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

Implementation period and staging

15. For developed country Members, reductions in Final Bound Total AMS shall be implemented in six steps over five years. For developed country Members in the top two tiers

specified in paragraphs 13(a) and 13(b) above, such reductions shall be implemented by means of a first instalment of a [25] per cent reduction on the first day of implementation, followed by reductions in equal annual instalments over five years. For other developed country Members, the reductions shall be implemented in six equal annual instalments over five years, commencing on the first day of implementation.

Special and differential treatment

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

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

18. Developing country Members shall continue to have the same access to the provisions of Article 6.2 of the Agreement on Agriculture as under their respective existing WTO obligations.

Recently-Acceded Members

19. Saudi Arabia, the Former Yugoslav Republic of Macedonia and Viet Nam, as very recently-acceded Members shall not be required to undertake reduction commitments in their Final Bound Total AMS. Small low-income RAMs with economies in transition shall not be required to undertake reduction commitments in their Final Bound Total AMS.¹⁹ In the case of such Members, investment subsidies which are generally available to agriculture, agricultural input subsidies and interest subsidies to reduce the costs of financing, as well as grants to cover debt repayment, may be excluded from the calculation of the Current Total AMS.²⁰ The reductions in Final Bound Total AMS for other RAMs with such commitments shall be two-thirds of the rate specified in paragraph 13(c) above and shall be implemented in accordance with paragraph 16 above.

Other

20. Article 18.4 of the Agreement on Agriculture shall continue to apply in order to respond to the situations referred to in that provision.

C. PRODUCT-SPECIFIC AMS LIMITS

General

¹⁹ This shall be applicable to Moldova which is the only such Member with a Final Bound Total AMS.

²⁰ This shall be applicable to Albania, Armenia, Georgia, Kyrgyz Republic and Moldova.

21. Product-specific²¹ AMS limits shall be set out in terms of monetary value commitments in Part IV of the Schedule of the Member concerned in accordance with terms and conditions specified in the paragraphs below.

22. The product-specific AMS limits specified in the Schedules of all developed country Members other than the United States shall be the average of the product-specific AMS during the Uruguay Round implementation period (1995-2000) as notified to the Committee on Agriculture.

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

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

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

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

Special and differential treatment

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

- (a) the average product-specific AMS during the base period 1995-2000 or 1995-2004 as may be selected by the Member concerned, as notified to the Committee on Agriculture; or

²¹ "Product-specific" commitments have the same meaning as they are used in the Uruguay Round Agreement on Agriculture.

- (b) two times the Member's product-specific *de minimis* level provided for under Article 6.4 of the Uruguay Round Agreement on Agriculture during the base periods referred to in sub-paragraph (a) above;
- (c) 20 per cent of the Annual Bound Total AMS in the relevant year during the Doha Round implementation period.

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

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

D. *DE MINIMIS*

Reductions

30. The *de minimis* levels referred to in Article 6.4(a) of the Uruguay Round Agreement on Agriculture for developed country Members (i.e. 5 per cent of a Member's total value of production of a basic agricultural product in the case of product-specific *de minimis* and 5 per cent of the value of a Member's total agricultural production in the case of non-product-specific *de minimis*)²² shall be reduced by no less than [50] [60] per cent [effective on the first day of the implementation period] [through five equal annual instalments]. Furthermore, where, in any year of the implementation period, a lower level of *de minimis* support than that resulting from application of that minimum percentage reduction would still be required to ensure that the Annual or Final Bound OTDS commitment for that year is not exceeded, a Member shall undertake such an additional reduction in what would otherwise be its *de minimis* entitlement.

Special and differential treatment

31. For developing country Members with Final Bound Total AMS commitments, the *de minimis* levels referred to in Article 6.4(b) of the Uruguay Round Agreement on Agriculture (i.e. 10 per cent of a Member's total value of production of a basic agricultural product in the case of product-specific *de minimis* and 10 per cent of the value of a Member's total agricultural production in the case of non-product-specific *de minimis*)⁵ to which they have access under their existing WTO obligations shall be reduced by at least two-thirds of the reduction rate specified in paragraph 30 above. The timeframe for implementation shall be three years longer than that for developed country Members. Furthermore, where, in any year of the implementation period, a lower level of *de minimis* support than that resulting from application of that minimum percentage reduction would still be required to ensure that the Annual Bound or Final OTDS commitment for that year is not exceeded, a Member shall undertake such an additional reduction in what would otherwise be their *de minimis* entitlement.

²² Where a Member makes use of the additional flexibilities under paragraphs 24 and 25 above to obtain product-specific AMS entitlements that it would not otherwise secure through the general base period, the corresponding product-specific *de minimis* entitlement that would otherwise have accrued to that Member through the general base period shall be deducted from that *de minimis* base for reduction commitments, thereby avoiding double counting.

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

Recently-Acceded Members

33. Saudi Arabia, the Former Yugoslav Republic of Macedonia and Viet Nam, as very recently-acceded Members shall not be required to undertake reduction commitments in *de minimis*. Small low-income RAMs with economies in transition²³ shall not be required to undertake reduction commitments in *de minimis*. Other RAMs with Final Bound Total AMS commitments and which have existing *de minimis* levels of 5 per cent shall reduce such levels by at least one-third of the reduction rate specified in paragraph 30 above and the timeframe for implementation shall be five years longer.

Other

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

E. BLUE BOX

Basic criteria

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

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

Or

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

²³ This shall be applicable to Albania, Armenia, Georgia, Kyrgyz Republic and Moldova.

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

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

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

Additional criteria

- (b) Overall Blue Box limit

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

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

- (c) Product-specific limits

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

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

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

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

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

45. Where this arises as a result of continuation of the reform process after scheduling and during the implementation period, there must be an exact reciprocal reduction in the scheduled product-specific AMS limit for, as the case may be, a new, or an increase in the scheduled, product-specific Blue Box limit. In both such situations, the overall Blue Box limit cannot in any case be exceeded.

46. Notwithstanding the above, where there is no product-specific entitlement to a Blue Box limit under the provisions above, and no Current AMS support in the base period for a particular product, a product-specific Blue Box limit may still be scheduled but only where the total support for any such products concerned does not exceed 5 per cent of the overall Blue Box limit; there is a maximum for any single product of 2.5 per cent; and the overall Blue Box limit is still respected. This is available to developed country Members with direct payments of the kind that meet the terms of paragraph 35(a) above, and is a once-only provision for commitment in this Round of negotiations. The monetary value and the products concerned shall be inscribed in a Member's Schedule. If it is resorted to, the Member concerned shall make also an equivalent value reduction in its Total AMS commitment in addition to what it would have been otherwise required to undertake according to the AMS formula cuts.

47. [Where a Member's overall Blue Box support in any year is within the scheduled overall Blue Box limit, but there is product-specific Blue Box support which is in excess of that Member's scheduled product-specific limit, the support for such a product shall be required to be included *in its entirety* (i.e. not just the portion that is in excess of the scheduled limit) in the calculation of the Current AMS, provided that the scheduled product-specific AMS as well as the Annual or Final Bound Total AMS limits are not exceeded.

48. Where a Member's overall Blue Box support in any year is in excess of that Member's scheduled overall Blue Box limit, and irrespective of whether the scheduled product-specific Blue Box limits are exceeded or not, that support shall be required to be included *in its entirety*

(i.e. not just the amount by which it exceeds the scheduled limit) in the calculation of the Current AMS provided that the scheduled product-specific AMS as well as the Annual or Final Bound Total AMS limits are not exceeded.]

Special and differential treatment

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

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

51. As regards the provisions in paragraph 46 above, where a developing country Member has no product-specific entitlement to a Blue Box limit under the above provisions, and no Current AMS support in the base period for a particular product, a product-specific Blue Box limit may still be scheduled but only where the total support for any such products concerned does not exceed 7.5 per cent of the overall Blue Box limit; there is a maximum for any single product of 5 per cent; and the overall Blue Box limit is still respected.

Recently-Acceded Members

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

Other

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

F. GREEN BOX

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

G. COTTON: DOMESTIC SUPPORT

Reductions in support for cotton

55. AMS support for cotton shall be reduced according to the following formula:

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

R_c = Specific reduction applicable to cotton as a percentage

R_g = General reduction in AMS as a percentage

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

Implementation

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

Special and differential treatment

58. Developing country Members with relevant AMS and Blue Box commitments for cotton otherwise applicable under the relevant provisions of this Agreement shall provide a rate of reduction for cotton that is two-thirds of that which would be applicable under paragraph 55 above.

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

Appendix 3: Modifications to Annex 2 included in Falconer February 8, 2008 Draft Modalities

(Additions are in **bold**)

ANNEX B

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

Government Service Programmes

General services (paragraph 2)

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

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

Public stockholding for food security purposes

Modify the existing footnote 5 as follows:

For the purposes of paragraph 3 of this Annex, governmental stockholding programmes for food security purposes in developing countries whose operation is transparent and conducted in accordance with officially published objective criteria or guidelines shall be considered to be in conformity with the provisions of this paragraph, including programmes under which stocks of foodstuffs for food security purposes are acquired and released at administered prices, ~~provided that the difference between the acquisition price and the external reference price is accounted for in the AMS~~ **[provided that the difference between the acquisition price and the external reference price when multiplied by the volume of production for the product concerned does not exceed [15] per cent of that Member's total value of production of the basic agricultural product concerned and that the total for all such products under any such programmes does not exceed [10] per cent of the value of total agricultural production for the Member concerned. Where a developing country Member uses this provision, it shall notify the relevant data to the Committee on Agriculture.]**

Decoupled income support (paragraph 6)

Modify the existing subparagraph (a) as follows:

- (a) Eligibility for such payments shall be determined by clearly-defined criteria such as income, status as a producer or landowner, factor use or production level in [, **or the allocation of entitlements established in relation to,**] a defined, ~~and~~ fixed and unchanging historical base period which shall be notified to the Committee on Agriculture. An exceptional update is not precluded, [provided that producer expectations and production decisions are unaffected, in particular due to the fact that any updated base period is a significant number of years in the past.] [but any such update shall only be permissible where the updated base period is itself a sufficiently significant number of years in the past so as to ensure that producer expectations and production decisions are not affected and, accordingly, that the payments or entitlements concerned shall not have the effect of inducing production contrary to paragraph 1 of Annex 2 or newly providing price support to producers contrary to paragraph 1(b) of Annex 2.] [Developing country] Members which have not previously made use of this type of payment, and thus have not notified, shall not be precluded from establishing an appropriate base period⁷, which shall be fixed and unchanging and shall be notified.

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

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

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

- (a) Eligibility for such payments shall arise:
- (i) **In the case of direct payments related to disasters** only following a formal recognition by government authorities that a natural or like disaster (including disease outbreaks, pest infestations, nuclear accidents, and war on the territory of the Member concerned) has occurred or is occurring; and shall be determined by a production loss⁸ which exceeds 30 per cent of the average of production in the preceding ~~three~~-five-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry. **In the case of developing country Members, payments for relief from natural disasters may be provided to producers when the production loss is less than 30 per cent of the average of production in the preceding five-year period or a three-year average based on the preceding five-year period.**
- (ii) **In the case of government financial participation in crop or production insurance schemes, eligibility for such payments shall be determined by a production loss which exceeds 30 per cent of the average production in a**

period demonstrated to be actuarially appropriate. In the case of a developing country Member's government's financial participation in crop or production insurance schemes, eligibility for payments may be provided to producers when the production loss is less than 30 per cent of the average of production in the preceding five-year period or a three-year average based on the preceding five-year period.

- (iii) **In the case of the destruction of animals or crops to control or prevent pests, diseases, disease-carrying organisms or disease-causing organisms named in national legislation or international standards, the production loss may be less than 30 per cent of the average of production referred to in paragraph 8(a)(i) or 8(a)(ii), as applicable.**
- (b) Payments made **under this paragraph** ~~following a disaster~~ shall be applied only in respect of losses of income, **crops**, livestock (including payments in connection with the veterinary treatment of animals), land or other production factors due to the natural disaster **or destruction of animals or crops** in question.
- (d) Payments made **under this paragraph** shall not exceed the level required to prevent or alleviate further loss as defined in criterion (b) above.

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

Structural adjustment assistance provided through investment aids (paragraph 11)

Modify the existing subparagraph (b) as follows:

- (b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production (including livestock units) undertaken by the producer in any year after the base period other than as provided for under criterion (e) below. **[Where applicable,] The base period shall be fixed and unchanging and shall be notified to the Committee on Agriculture. An exceptional update is not precluded, [provided that producer expectations and production decisions are unaffected, in particular due to the fact that any updated base period is a significant number of years in the past] [but any such update shall only be permissible where the updated base period is itself a sufficiently significant number of years in the past so as to ensure that producers expectations and production decisions are not affected and, accordingly, that the payments or entitlements concerned shall not have the effect of inducing production contrary to paragraph 1 of Annex 2 or newly providing price support to producers contrary to paragraph 1(b) of Annex 2.] [Developing country] Members which have not previously made use of this type of payment, and thus have not notified, shall not be precluded from establishing an appropriate base period⁹, which shall be fixed and unchanging and shall be notified.**

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

Payments under regional assistance programmes (paragraph 13)

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

- (a) Eligibility for such payments shall be limited to producers in disadvantaged regions. Each such region must be a clearly designated contiguous geographical area with a definable economic and administrative identity, considered as disadvantaged on the basis of neutral and objective criteria clearly spelt out in law or regulation and indicating that the region's difficulties arise out of more than temporary circumstances. **Developing country Members shall be exempted from the condition that a disadvantaged region must be a contiguous geographical area.**
- (b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production (including livestock units) undertaken by the producer in any year after the base period other than to reduce that production. **[Where applicable,] The base period shall be fixed and unchanging and shall be notified to the Committee on Agriculture. An exceptional update is not precluded, [provided that producer expectations and production decisions are unaffected, in particular due to the fact that any updated base period is a significant number of years in the past] [but any such update shall only be permissible where the updated base period is itself a sufficiently significant number of years in the past so as to ensure that producers expectations and production decisions are not affected and, accordingly, that the payments or entitlements concerned shall not have the effect of inducing production contrary to paragraph 1 of Annex 2 or newly providing price support to producers contrary to paragraph 1(b) of Annex 2.] [Developing country] Members which have not previously made use of this type of payment, and thus have not notified, shall not be precluded from establishing an appropriate base period¹⁰, which shall be fixed and unchanging and shall be notified.**
- (f) The payments shall be limited to the extra costs or loss of income involved in undertaking agricultural production **(including livestock production)** in the prescribed area.

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