

PART II

**DETAILED ANALYSIS OF ANNEX A TO THE GENERAL COUNCIL DECISION JULY 2004
“FRAMEWORK FOR ESTABLISHING MODALITIES IN AGRICULTURE”**

TABLE OF CONTENTS

DOMESTIC SUPPORT.....	II-3
Overall Reduction: A Tiered Formula	II-5
Final Bound Total AMS: A Tiered Formula.....	II-8
De Minimis	II-9
Blue Box	II-10
Green Box	II-12
EXPORT COMPETITION	II-12
End Point.....	II-13
Implementation	II-14
Special and Differential Treatment	II-15
Special Circumstances	II-16
MARKET ACCESS	II-16
Sensitive Products	II-19
Other Elements.....	II-21
Special and differential treatment	II-23
ANNEX ON DOMESTIC SUPPORT COMMITMENTS AND EXPENDITURES	II-30
US Domestic Support Commitments and Expenditures	II-30
European Union Domestic Support Commitments and Expenditures.....	II-32
GLOSSARY FOR THE ANNEX ON DOMESTIC SUPPORT COMMITMENTS AND EXPENDITURES	II-34

Annex A to the July Decision by the WTO General Council	Analytical comments
<p>1. The starting point for the current phase of the agriculture negotiations has been the mandate set out in Paragraph 13 of the Doha Ministerial Declaration. This in turn built on the long-term objective of the Agreement on Agriculture to establish a fair and market-oriented trading system through a programme of fundamental reform. The elements below offer the additional precision required at this stage of the negotiations and thus the basis for the negotiations of full modalities in the next phase. The level of ambition set by the Doha mandate will continue to be the basis for the negotiations on agriculture.</p>	<p>Through this paragraph Members agreed to use the framework adopted as the basis for the negotiations of full modalities, diminishing in a way the relevance of the Doha mandate on agriculture as a reference for the following stages of the negotiations. The Doha mandate on agriculture is referred to in this paragraph, but only as the benchmark to measure the level of ambition to be achieved in the negotiations.</p>
<p>2. The final balance will be found only at the conclusion of these subsequent negotiations and within the Single Undertaking. To achieve this balance, the modalities to be developed will need to incorporate operationally effective and meaningful provisions for special and differential treatment for developing country Members. Agriculture is of critical importance to the economic development of developing country Members and they must be able to pursue agricultural policies that are supportive of their development goals, poverty reduction strategies, food security and livelihood concerns. Non-trade concerns, as referred to in Paragraph 13 of the Doha Declaration, will be taken into account.</p>	<p>This paragraph constitutes an attempt to reflect in the framework other aspects of the Doha mandate which would tend to balance the level of ambition to be achieved in the negotiations. These refer to Special and Differential Treatment (SDT) and non-trade concerns. The text indicates that the balance will be decided in the subsequent negotiations. This is particularly so for the modalities stage when many rule elements only outlined in the framework, need to be further specified and the reduction targets in each pillar of the agreement negotiated. Only after the concrete targets for reduction commitments have been established, could members assess the actual balance of concessions made and potential benefits of the agreement.</p> <p>The reference to the Single Undertaking reflects the concern of countries – particularly developed countries such as the EU, Switzerland, and Japan, with rather defensive interests in the agriculture negotiations - to establish a link with other negotiating areas of their interests (NAMA, services, trade facilitation, etc.) to create possibilities of trade-offs.</p>
<p>3. The reforms in all three pillars form an interconnected whole and must be approached in a balanced and equitable manner.</p>	<p>The balance in the level of commitments between the pillars have been an issues stressed by developing countries stemming from the experience in the implementation of the AoA. The main concern in this respect is that commitments in domestic support and export subsidies, instruments used mainly by developed countries, keep pace with commitments in market access most used by developing countries. Whether such a</p>

	<p>balance is reached will depend to a large extent on the formula for market access to be agreed, the flexibilities provided to developing countries, including through provisions such as Special products and safeguards, and the targets for reduction of domestic support to be negotiated.</p>
<p>4. The General Council recognizes the importance of cotton for a certain number of countries and its vital importance for developing countries, especially LDCs. It will be addressed ambitiously, expeditiously, and specifically, within the agriculture negotiations. The provisions of this framework provide a basis for this approach, as does the sectoral initiative on cotton. The Special Session of the Committee on Agriculture shall ensure appropriate prioritization of the cotton issue independently from other sectoral initiatives. A subcommittee on cotton will meet periodically and report to the Special Session of the Committee on Agriculture to review progress. Work shall encompass all trade-distorting policies affecting the sector in all three pillars of market access, domestic support, and export competition, as specified in the Doha text and this Framework text.</p>	<p>See Part I of this note for the analysis of the cotton issue's inclusion in the July 2004 framework.</p>
<p>5. Coherence between trade and development aspects of the cotton issue will be pursued as set out in paragraph 1.b of the text to which this Framework is annexed.</p>	
<p>DOMESTIC SUPPORT</p>	
<p>6. The Doha Ministerial Declaration calls for "substantial reductions in trade-distorting domestic support". With a view to achieving these substantial reductions, the negotiations in this pillar will ensure the following:</p> <ul style="list-style-type: none"> • Special and differential treatment remains an integral component of domestic support. Modalities to be developed will include longer implementation periods and lower reduction coefficients for all types of trade-distorting domestic support and continued access to the provisions 	<p>Trade-distorting support is defined in the framework as encompassing Amber box (Aggregate Measurement of Support – AMS), <i>de minimis</i> support and Blue box. It also includes Article 6.2 for developing countries although no commitments are established with respect to this type of support.</p> <p>SDT for developing countries is restricted to trade-distorting support. Therefore, the review and clarification of the green box contemplated in paragraph 16 of the framework will not necessarily address elements of SDT. In addition, developing countries are required to undertake reduction of <i>de minimis</i> support unless it can be argued that almost all such support is provided to subsistence and resource-poor farmers</p>

<p>under Article 6.2.</p> <ul style="list-style-type: none"> • There will be a strong element of harmonisation in the reductions made by developed Members. Specifically, higher levels of permitted trade-distorting domestic support will be subject to deeper cuts. • Each such Member will make a substantial reduction in the overall level of its trade-distorting support from bound levels. • As well as this overall commitment, Final Bound Total AMS and permitted <i>de minimis</i> levels will be subject to substantial reductions and, in the case of the Blue Box, will be capped as specified in paragraph 15 in order to ensure results that are coherent with the long-term reform objective. Any clarification or development of rules and conditions to govern trade distorting support will take this into account. 	<p><i>(For further details see comments on paragraph 11 below).</i></p> <p>Members have also agreed to the concept of harmonisation of support levels which is a key component of the US strategy in the negotiations on domestic support. Given that the US starts from low allowable levels of support (excluding the green box) as compared to other WTO members, the concept of harmonisation would allow the US to <u>increase</u> its ceiling of trade-distorting support through new provisions regarding the blue box (to be negotiated although outlined already in the framework), to cover the countercyclical payments institutionalised in the 2002 Farm Bill.</p> <p>Members have agreed to a substantial <u>overall</u> reduction of all trade-distorting support. In addition, however, specific reduction commitments will be negotiated with respect to the AMS or amber box and the <i>de minimis</i> support. The blue box will be capped but <u>not</u> further reduced except for countries currently using blue box payments at levels that exceed 5 per cent of the average of the total value of the agricultural production during a historical period to be agreed in the negotiations (paragraph 15 of the framework). This is likely to be the case for the EU which has extensively used the blue box in the past. Such countries will have to reduce blue box payments to that level as soon as the new agreement enters into force. The reduction in the blue box will not be a problem for the EU however, because the most recent CAP reform shifted a significant amount of those payments to the green box. Therefore, from a high historical level the EU will undertake reductions which were already envisaged in their programmes of internal policy reform.</p>
--	--

Overall Reduction: A Tiered Formula

7. The overall base level of all trade-distorting domestic support, as measured by the Final Bound Total AMS plus permitted *de minimis* level and the level agreed in paragraph 8 below for Blue Box payments, will be reduced according to a tiered formula. Under this formula, Members having higher levels of trade-distorting domestic support will make greater overall reductions in order to achieve a harmonizing result. As the first instalment of the overall cut, in the first year and throughout the implementation period, the sum of all trade-distorting support will not exceed 80 per cent of the sum of Final Bound Total AMS plus permitted *de minimis* plus the Blue Box at the level determined in paragraph 15.

This paragraph establishes the overall base level from which reduction commitments on trade-distorting domestic support will be undertaken as the sum of the base level of support under each of the different components of this type of support. For the amber box component, the base level will be the final bound level of AMS agreed during the Uruguay Round as reflected in each member's schedule. For the *de minimis* support a fix base level does not exist. *De minimis* support is not a fixed figure because it is calculated as a percentage of the value of agriculture production of each member for any particular year. Each member will have to comply with the allowable level of *de minimis* support at any point in time throughout the implementation period, including considering additional restrictions resulting from the reduction commitments to be agreed in accordance with paragraph 11 of the framework. It is important to recall that *de minimis* support provides flexibility to members to exempt from reduction product-specific and non product-specific support when it remains below a specified threshold (Art. 6.4 of the AoA). Regarding the blue box, there are two options for establishing the base level depending of the situation of every country: i) 5 per cent of the average total value of the agricultural production of each member (current and potential users of the blue box) over an historical period to be negotiated. This figure will also constitutes the ceiling of blue box payments not to be exceeded over the implementation period, applicable from the time the agreement enters into force; or ii) the level of existing/historical blue box payments over a recent period to be determined, in the case such level exceeds the agreed ceiling.

In the Annex to the present analysis an attempt is made to calculate the overall base level of all trade distorting support for the US and the EU based on their notifications to the WTO and level of commitments.

This paragraph also commits members to negotiate a tiered approach for the reduction of trade distorting support. This would entail establishing bands or ranges of support levels for which specific reduction commitments will be agreed. Depending on the base level of support of every member, calculated as indicated above, a specific band will apply. The highest levels of support (upper bands) will be subject to deeper cuts. Having said that, the target for the reduction of overall trade distorting support has already been established at the same level for **all** countries (see further below) but reductions from that level are possible, depending on the specific reduction targets to be established for amber box and *de minimis* support. The blue box is being capped but no

additional reductions from the ceiling are foreseen. In summary, once the reduction of overall trade-distorting support has been agreed at the same level for all members, regardless of the base level of support, the tier approach becomes irrelevant.

The final sentence of this paragraph fixes the magnitude of the reduction in trade-distorting support to be undertaken in this Round. Basically, members commit to reduce the overall base level of trade-distorting support calculated as indicated above, by 20 per cent. One precision is required with respect to the blue box: The relevant figure with respect to the blue box used for measuring the 20 per cent reduction in overall trade-distorting support, is the ceiling of 5 per cent of the average of the total value of agricultural production over an historical period to be specified, for all countries. As explained above, the blue box figure for calculating the overall base level of trade-distorting support may or may not coincide (it could be higher for some countries). During the Uruguay Round, members agreed to reduce trade-distorting support defined at that time as the amber box only, by 20 per cent. It is questionable that a similar figure of reduction for trade-distorting support which has been expanded with the (new) blue box can be termed as a “substantial reduction” of trade-distorting support as required by the Doha Declaration.

By establishing a notional ceiling – that is, different from current levels of payments for the blue box without further reduction commitments, there is a possibility that current and potential users of such payments may show reductions of the blue box to be counted against the overall 20 per cent reduction of trade-distorting support without undertaking cuts in actual levels of spending. As mentioned before, the EU is likely to do that by reducing the blue box payments from historical levels to the agreed ceiling without undertaking real concessions because such cuts were agreed in the most recent CAP reform. On the other hand, countries such as the US (in case the new blue box is approved) will be able to show reductions in the blue box from that notional ceiling while in fact they will be increasing blue box payments from zero to the level required by the countercyclical payments in any particular year, which were previously notified as non product-specific AMS exempt from reduction under the *de minimis* exception. Furthermore, the US will also be able to show reduction in support levels in the *de minimis* by shifting countercyclical payments to the new blue box, if granted. Therefore, the US will double count reduction of support by the value of the countercyclical payments in the blue box and *de minimis* while in fact this country will

	<p>be <u>increasing</u> support levels by that same amount.</p> <p>It is important to consider that by including the blue box in the concept of trade-distorting support and establishing a notional ceiling rather than capping such payments at current levels of expenditure, as well as by the difference between the actual level of support provided by WTO members and their level of commitments (“water in AMS commitments”) the 20 per cent reduction specified for overall trade-distorting support does not seem to be a binding constraint for the major subsidisers.</p> <p><i>See the Annex to the present analysis for details of support and commitment levels by the US and the EU.</i></p>
<p>8. The following parameters will guide the further negotiation of this tiered formula:</p> <ul style="list-style-type: none"> • This commitment will apply as a minimum overall commitment. It will not be applied as a ceiling on reductions of overall trade-distorting domestic support, should the separate and complementary formulae to be developed for Total AMS, <i>de minimis</i> and Blue Box payments imply, when taken together, a deeper cut in overall trade-distorting domestic support for an individual Member. • The base for measuring the Blue Box component will be the higher of existing Blue Box payments during a recent representative period to be agreed and the cap established in paragraph 15 below. 	<p>The first bullet of this paragraph establishes that the agreed 20 per cent reduction of overall trade-distorting domestic support agreed works as a <u>minimum</u> required reduction level. This clarification is important and necessary because as indicated above, the agreed reduction target for overall trade distorting support can be easily met by the major subsidisers given the “water” between the actual support levels and their commitments in the WTO, and particularly, by the expansion of the allowable trade-distorting support with the inclusion of the blue box. As part of the framework, specific reduction commitments will be agreed for every component of overall trade-distorting support. These will apply independently from the commitment to reduce overall trade-distorting support. That is, members will have to jointly comply with the specifications to reduce overall reduction of trade-distorting support by 20 per cent from the base level <u>and</u> the specific targets established for the amber box, <i>de minimis</i> and blue box (the capping).</p> <p>The second bullet specifies the base level of the blue box to be used for calculating the overall base level of trade-distorting domestic support. As discussed above, there are two options: i) 5 per cent of the average total value of the agricultural production of each member at an historical period to be determined in the negotiations; or ii) the level of existing blue box payments over a recent historical period to be determined, in case such level exceeds the agreed ceiling.</p>

<p><i>Final Bound Total AMS: A Tiered Formula</i></p> <p>9. To achieve reductions with a harmonizing effect:</p> <ul style="list-style-type: none"> • Final Bound Total AMS will be reduced substantially, using a tiered approach. • Members having higher Total AMS will make greater reductions. • To prevent circumvention of the objective of the Agreement through transfers of unchanged domestic support between different support categories, product-specific AMSs will be capped at their respective average levels according to a methodology to be agreed. • Substantial reductions in Final Bound Total AMS will result in reductions of some product-specific support. 	<p>This paragraph specifies that the <u>Final Bound Total AMS</u> will be reduced substantially through a tiered approach and that Members with the highest <u>Total AMS</u> will make greater reductions. This seems to reflect discrepancies among members as to how measuring the AMS for purposes of deciding what countries have the highest levels of support and therefore, should be placed in the tiers or bands subject to the largest cuts. Countries such as the EU have insisted on using relative values of the AMS (e.g. AMS as a proportion of the value of the agriculture production of each member) which would place the EU in lower tiers as compared to smaller countries such as Norway or Switzerland which still use extensively price supports and/or border protection and whose value of agricultural production is smaller than the EU's. Using this method, will make these countries undertake larger cuts in support than the EU. In fact, previous versions of the July framework (i.e. JOB(04)/96) included a specific reference to the reduction of total AMS either in absolute or relative terms.</p> <p>As indicated above, the tiered approach as applied to the overall trade-distorting support is meaningless. In the case of the AMS it may be relevant. Members should strive to establish very demanding reduction targets on the amber box to push for reduction of overall trade distorting support beyond the 20 per cent already specified.</p> <p>The third bullet of this paragraph incorporates the concept of capping product-specific AMS support. So far, members could choose how much of the allowable amber support would provide to specific products. Although this provision would not necessarily prevent support to specific commodities to vary over time, it will establish restrictions as to the <u>maximum</u> support to be provided to any specific product.</p> <p>Although the final bullet seems to suggest that reduction of product-specific AMS support will take place at least for certain products, it does <u>not</u> commit members to undertake product-specific reduction of AMS for <u>any</u> product. Such objective will "result" from the substantial reduction of the Final Bound Total AMS.</p>
<p>10. Members may make greater than formula reductions in order to achieve the required level of cut in overall trade-distorting domestic support.</p>	<p>This provision reiterates that reduction commitments on overall trade-distorting support and on each of its constituting factors are independent and subsidiary to each other as explained in comments to paragraph 8 above.</p>

<p><i>De Minimis</i></p> <p>11. Reductions in <i>de minimis</i> will be negotiated taking into account the principle of special and differential treatment. Developing countries that allocate almost all <i>de minimis</i> support for subsistence and resource-poor farmers will be exempt.</p>	<p>This provision would require members to negotiate reduction targets for <i>de minimis</i> support. Current provisions include product and non-product specific <i>de minimis</i> support with thresholds of 5 per cent for developed countries and 10 per cent for developing countries (Article 6.4 of the AoA).</p> <p>Developing countries will have to reduce <i>de minimis</i> support at lower rates and over longer implementation periods than developed countries. As an exception, developing countries that can argue that “almost all” of <i>de minimis</i> support is provided to subsistence and resource-poor farmers will be exempt from reduction commitments. The terms subsistence and resource-poor farmers are defined neither in the current AoA nor in the framework just adopted. It is up to each developing country member to use this flexibility and to argue its case, if necessary, on the basis and conditions of its own agricultural sector.</p> <p>Members, particularly developing countries, should press for significant reduction or elimination of <i>de minimis</i> support by developed countries. This would contribute to move the reduction of overall trade-distorting support beyond the 20 per cent already specified.</p>
<p>12. Members may make greater than formula reductions in order to achieve the required level of cut in overall trade-distorting domestic support.</p>	<p>This provision reiterates that reduction commitments on overall trade-distorting support and on each of its conforming factors are independent and subsidiary to each other as explained in comments to paragraph 8 above.</p>

<p>Blue Box</p> <p>13. Members recognize the role of the Blue Box in promoting agricultural reforms. In this light, Article 6.5 will be reviewed so that Members may have recourse to the following measures:</p> <ul style="list-style-type: none"> • Direct payments under production-limiting programmes if: <ul style="list-style-type: none"> - such payments are based on fixed <u>and unchanging</u> areas and yields; or - such payments are made on 85% or less of a fixed <u>and unchanging</u> base level of production; or - livestock payments are made on a fixed <u>and unchanging</u> number of head. <p>Or</p> <ul style="list-style-type: none"> • Direct payments that do not require production if: <ul style="list-style-type: none"> - such payments are based on fixed <u>and unchanging</u> bases and yields; or - livestock payments made on a fixed <u>and unchanging</u> number of head; and - such payments are made on 85% or less of a fixed <u>and unchanging</u> base level of production. 	<p>The agreed framework completely changes the understanding of the blue box by WTO members. The blue box adopted during the Uruguay Round was the result of an understanding between the US and the European Union which most other members questioned. On that basis, the large majority of members had requested the blue box to be eliminated in this round, included the US which had eliminated such payments in 1996. Notwithstanding that, members have now recognized the role of the blue box in “promoting” reform in fact legitimising and guaranteeing the continuation of the blue box beyond this round. This was possible because the US’ position on blue box suffer a turn around. The increase in support witnessed in that country in the period 1998-2001 was institutionalized in the 2002 Farm Bill, putting the US at the defensive on domestic support negotiations in the WTO. Further reductions in amber box and <i>de minimis</i> support pushed this country to seek for other avenues – a new blue box- to accommodate the increase in support. Therefore, the need of the EU to continue to have access to the blue box plus the interest of the US to use this box, although in a modified form, conflated against the reform objective.</p> <p>The first bullet of this paragraph reflects the current blue box used extensively by the EU in the past. Additional criteria has been added to guarantee that the parameters used as a reference for the calculation of payments to farmers do not change over time (i.e. can not be updated through new legislation). (<i>See underlined text on the left column</i>).</p> <p>The second bullet would constitute a new category of blue box payments aimed at addressing the particular needs of the US. The main change from current provisions is that the constraint of direct payments being made under production limiting programmes has been lifted and changed for the condition of payments not being linked to production. Such provision is similar to decoupled payments of the green box but do not fit in such category because for doing so, payments should be decoupled from production <u>and</u> prices. The countercyclical payments of the US are dependent of variations of current international prices. Hence the need for a new blue box for the US. As in the case of the current blue box payments, the parameters for calculating the payments cannot be modified/updated over time.</p>
<p>14. The above criteria, along with additional criteria will be negotiated. Any such criteria will ensure that Blue Box payments are less trade-distorting than AMS measures, it being understood that:</p>	<p>According to this paragraph, is clear that the establishment of the new blue box outlined in the above mentioned provision, will have to be negotiated. That is, there is no agreement as yet with respect to establishing a new blue box. Developing countries still have the opportunity to oppose this as contrary, as it is, to the spirit and letter of the</p>

<ul style="list-style-type: none"> • Any new criteria would need to take account of the balance of WTO rights and obligations. • Any new criteria to be agreed will not have the perverse effect of undoing ongoing reforms. 	<p>AoA and the Doha Declaration.</p> <p>Paragraph 14 clearly indicates that additional criteria will have to be negotiated. Such provision is necessary in case the new blue box is granted to the US and would aim at restricting the capacity of this country to fully compensate farmers for the drop of international prices.</p> <p>The second bullet attempts to reassure the EU that additional disciplines, mainly targeting the countercyclical payments of the US, will not disrupt the current trend of reforms in the EU which is slowly moving its support from the blue to the green box on the basis of the current provisions of the AoA.</p>
<p>15. Blue Box support will not exceed 5% of a Member's average total value of agricultural production during an historical period. The historical period will be established in the negotiations. This ceiling will apply to any actual or potential Blue Box user from the beginning of the implementation period. In cases where a Member has placed an exceptionally large percentage of its trade-distorting support in the Blue Box, some flexibility will be provided on a basis to be agreed to ensure that such a Member is not called upon to make a wholly disproportionate cut.</p>	<p>The purpose of this paragraph is to establish a ceiling for the blue box however it may be defined pending the negotiations under paragraph 14 above. The ceiling for all users, current and potential, has been established at 5 per cent of the average of total value of the agricultural production of each member over an historical period to be determined. Therefore, blue box payments will be capped at this notional level rather than on the basis of actual levels of support. Members will count any reduction from this notional level against the commitments on overall trade-distorting support without undertaking any real concession. That is bound to be the case for the EU and the US.</p>

<p>Green Box</p> <p>16. Green Box criteria will be reviewed and clarified with a view to ensuring that Green Box measures have no, or at most minimal, trade-distorting effects or effects on production. Such a review and clarification will need to ensure that the basic concepts, principles and effectiveness of the Green Box remain and take due account of non-trade concerns. The improved obligations for monitoring and surveillance of all new disciplines foreshadowed in paragraph 48 below will be particularly important with respect to the Green Box.</p>	<p>This provision calls for a review and clarification of the green box criteria. The word clarification clearly opens the possibility for modifying and strengthening the criteria, in particular direct payments to producers. There are some caveats though, introduced to comfort the EU, the US and other countries which have been undertaking reform betting on the current green box criteria and are concerned that modifications to such criteria will jeopardize the compatibility of their internal agricultural policy with the WTO. Such caveats are that the basic concepts, principles and effectiveness of the green box need to be preserved. There is no agreed common understanding among WTO members as to what those terms mean in relation with the green box. Therefore, everything is open for negotiation. A point of concern is the reference to the non-trade concerns to be taken into account in the review of the green box. Some countries (i.e. Friend of multifunctionality) have been arguing that non-trade concerns such as measures to support enterprises to meet animal welfare standards, among others, should be recognized as non-trade distorting and exempt from reductions under the green box. It is expected that those countries will use the review and clarification process of the green box to continue pushing for an expansion of the criteria to cover these and other measures.</p>
<p>EXPORT COMPETITION</p>	
<p>17. The Doha Ministerial Declaration calls for “reduction of, with a view to phasing out, all forms of export subsidies”. As an outcome of the negotiations, Members agree to establish detailed modalities ensuring the parallel elimination of all forms of export subsidies and disciplines on all export measures with equivalent effect by a credible end date.</p>	<p>This provision commits members to eliminate export subsidies and “all export measures with equivalent effect.” Subsequent paragraphs in the framework provide an indication of what are the measures to be disciplined and eliminated for having equivalent effects to export subsidies. These include export credit, credit guarantees and insurance programmes, certain practices of State Trading Enterprises (STEs), certain food aid transactions, etc. Members have not agreed on an actual date for elimination of export subsidies and this will be one of the key aspects to negotiate as part of the modalities. This paragraph establishes the condition that such a date should be “credible” meaning in a timeframe not as long as to render the commitment to eliminate subsidies within this Round, an empty promise. Finally, the paragraph requires “parallelism.” This reflects the fact that different members use different forms of export subsidies and therefore, the commitments regarding every form of subsidisation should lead to similar concessions across members. This was a condition required by the EU as the main user of direct export subsidies, to agree to eliminate this kind of support.</p>

<p>End Point</p> <p>18. The following will be eliminated by the end date to be agreed:</p> <ul style="list-style-type: none"> • Export subsidies as scheduled. • Export credits, export credit guarantees or insurance programmes with repayment periods beyond 180 days. • Terms and conditions relating to export credits, export credit guarantees or insurance programmes with repayment periods of 180 days and below which are not in accordance with disciplines to be agreed. These disciplines will cover, <i>inter alia</i>, payment of interest, minimum interest rates, minimum premium requirements, and other elements which can constitute subsidies or otherwise distort trade. • Trade distorting practices with respect to exporting STEs including eliminating export subsidies provided to or by them, government financing, and the underwriting of losses. The issue of the future use of monopoly powers will be subject to further negotiation. • Provision of food aid that is not in conformity with operationally effective disciplines to be agreed. The objective of such disciplines will be to prevent commercial displacement. The role of international organizations as regards the provision of food aid by Members, including related humanitarian and developmental issues, will be addressed in the negotiations. The question of providing food aid exclusively in fully grant form will also be addressed in the negotiations. 	<p>This paragraph details the different programmes export measures with equivalent effects to export subsidies. The first bullet refers to export subsidies for which commitments were made during the Uruguay Round. Members will have to eliminate the budgetary outlays and bring to zero the quantity of subsidised exports within the time frame to be negotiated. The second and third bullets refer to export credits, credit guarantees and insurance programmes. This is in fact an implementation issue because members had agreed during the Uruguay Round (Article 10.2 of the AoA) to establish disciplines on these programmes to avoid circumvention of export subsidies commitments, but no progress has been made so far. According to the framework just agreed, programmes of repayment periods of more than 180 days will be eliminated by the date to be agreed. Programmes with repayment periods of 180 days or less will continue but subject to disciplines to be negotiated. The language in the text seems to suggest that programmes not in conformity with the disciplines to be agreed will continue to be allowed until the end date for the elimination of all forms of export subsidies, to be agreed. The third bullet lists several elements of these programmes for which specific disciplines will be developed but this does not represent an exhaustive list. Therefore, during negotiations members may suggest additional elements of this type of programmes for negotiation.</p> <p>With respect to STEs, it is important to note that the provision relates to <u>exporting</u> STEs and lists a series of practices which have already been agreed to be eliminated. On the other hand, the elimination of monopoly power of such enterprises “will be subject to further negotiation.” Therefore, there is no agreement as yet as to whether for eliminating the export measures of equivalent effect to subsidies as they pertain to STEs, the monopoly powers of such enterprises should be curtailed.</p> <p>With respect to food aid, members have agreed to prohibit food aid transactions not in conformity with the disciplines to be negotiated, by the end date for all forms of export subsidies. That is, there may be a long time frame for the entry into force of such disciplines. The paragraph details the sort of issues to be discussed and these relate mainly to the role of international organizations and provision of food aid in grant form. These disciplines would aim at targeting US food aid programmes. This country gets rid of food surpluses through general development aid programmes. Food in kind is given to developing country governments and US NGOs, to be monetized (sold very cheap in the recipient country), regardless of the existence of an emergency situation. That is, the</p>
--	--

	<p>timing of the disbursement of “food aid” has nothing to do with the food aid needs of the country concerned. Moreover, the countries most in need of food aid are the least beneficiaries of US-food aid, since they don’t represent potential commercial outlets for US exports. In summary, many of the countries that receive “food aid” from the US do not need food but genuine development assistance in cash to use in accordance with their policy priorities. The current US system of aid tied to the discharge of their food surpluses impinge negatively on the food security situation of the recipient countries in the medium and long term. The involvement of international organization is important to signal that a genuine food aid crisis exists. The granting of food aid in cash is important to promote local and regional acquisition of food, at the discretion of the recipient country.</p>
<p>19. Effective transparency provisions for paragraph 18 will be established. Such provisions, in accordance with standard WTO practice, will be consistent with commercial confidentiality considerations.</p>	<p>Members commit by this paragraph to negotiate transparency provisions regarding commitments on all forms of export subsidies. This would include, among others, notification requirements and means to reflect commitments made. Transparency is at the heart of the requirement for parallelism for countries such as the EU, because transparency will allow to assess whether providers of different types of export subsidies are fulfilling their commitments.</p>
<p>Implementation</p> <p>20. Commitments and disciplines in paragraph 18 will be implemented according to a schedule and modalities to be agreed. Commitments will be implemented by annual instalments. Their phasing will take into account the need for some coherence with internal reform steps of Members.</p>	<p>This paragraph indicates that members will negotiate modalities, including rule elements to be negotiated in issues such as food aid and export credits and similar programmes, and schedules for the elimination of all forms of export subsidies. The schedules will reflect the timeframe and the commitment of each member for any particular year, with respect to the different types of export subsidies. Schedule of commitments, are the basis for enforcing WTO members obligations before the dispute settlement body.</p> <p>It is important to note the last sentence of this paragraph which calls for coherence between the commitments on export subsidies and the internal reforms of members. This constitutes a clear reference to the EU internal reform of the Common Agriculture Policy (CAP) which does not envisage a review of some of the sectors most affected by export subsidies (e.g. dairies) until 2013. Therefore, the EU can not commit to the elimination of export subsidies on certain sectors but over a long time-frame to respect the pace of internal reform. It is very likely that the elimination of all forms of export subsidies will be made at different stages for different products or group of products, according to modalities to be negotiated.</p> <p>According to this paragraph, commitments will be implemented by annual instalments,</p>

	<p>not necessarily equal annual instalments. Previous drafts of the framework (JOB(04)/96) referred to <u>progressive</u> annual instalments opening the possibility that members could undertake the largest cuts towards the end of the implementation period. Although the word was removed, this is an issue that may come back in the negotiations. The best would be to commit members to annual equal instalments to avoid back-loading of commitments.</p>
<p>21. The negotiation of the elements in paragraph 18 and their implementation will ensure equivalent and parallel commitments by Members.</p>	<p>This provision reiterates parallelism which should be achieved not only in the overall level of commitments on each of the forms of export subsidies, but also in the way commitments are to be implemented.</p>
<p><i>Special and Differential Treatment</i></p> <p>22. Developing country Members will benefit from longer implementation periods for the phasing out of all forms of export subsidies.</p>	<p>Developing countries commit to the elimination of all forms of export subsidies. That is, disciplines agreed on the new programmes to be eliminated will also apply to developing countries. Only a few developing countries have the right to use export subsidies.</p>
<p>23. Developing countries will continue to benefit from special and differential treatment under the provisions of Article 9.4 of the Agreement on Agriculture for a reasonable period, to be negotiated, after the phasing out of all forms of export subsidies and implementation of all disciplines identified above are completed.</p>	<p>Provisions on Article 9.4 of the AoA relate to subsidies for internal transport and freight charges on export shipments and subsidies to reduce the cost of the marketing of agricultural exports. All developing countries can make use of these provisions. They have now committed to the elimination of such subsidies over a time frame to be negotiated which is tied to the end date for the elimination of all forms of export subsidies by developed countries. Once such date is agreed, a reasonable period <u>beyond</u> that date will be negotiated for developing countries.</p>
<p>24. Members will ensure that the disciplines on export credits, export credit guarantees or insurance programs to be agreed will make appropriate provision for differential treatment in favour of least-developed and net food-importing developing countries as provided for in paragraph 4 of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries. Improved obligations for monitoring and surveillance of all new disciplines as foreshadowed in paragraph 48 will be critically important in this regard. Provisions to be agreed in this respect must not undermine the commitments undertaken by Members under the obligations in paragraph 18 above.</p>	<p>This provision requires members to negotiate SDT disciplines for NFDCs and LDCs with respect to export credits, guarantees and insurance programmes as required by the Marrakech Decision. Two elements need to be highlighted in this paragraph: First, is that improvements in the transparency provisions required per paragraph 48 of the framework should include means to assess whether provisions on SDT regarding export credits and similar programmes to be negotiated are being implemented. This is important to the extent that the implementation of the Marrakech Decision as a whole has been very disappointing and the problems encountered remain unresolved. Second, there is a tension between improved disciplines on export credits and similar programmes and flexibilities for developing countries considered as importers which will require relaxing the disciplines as applied to <u>developed</u> countries providers of such programmes. The disciplines to be negotiated will have to strike a delicate balance</p>

<p>25. STEs in developing country Members which enjoy special privileges to preserve domestic consumer price stability and to ensure food security will receive special consideration for maintaining monopoly status.</p>	<p>between the interests of exporting and importing developing countries in this respect.</p> <p>Regarding SDT for developing countries as pertain to STEs, the framework is rather confusing. Disciplines to be developed on STEs relate to practices impinging on exports, not imports. In consequence, SDT measures should address relevant flexibilities to developing countries related to practices on exports. However, this paragraph reflects the concerns of developing countries with respect to importing STEs and concedes that these countries will receive “special consideration” for maintaining monopoly status. In summary, there is no SDT for developing countries as it concerns practices of exporting STEs. In addition, the status of importing STEs which was outside of the negotiating table since long before Cancun, has been brought up to the fore. The language agreed would imply the need for developing countries to justify the role of importing STEs for maintaining the monopoly status. It is not clear whether the “special consideration” will be provided to all developing countries with importing STEs as a group, or it will require a case-by-case analysis and negotiation.</p>
<p><i>Special Circumstances</i></p> <p>26. In exceptional circumstances, which cannot be adequately covered by food aid, commercial export credits or preferential international financing facilities, ad hoc temporary financing arrangements relating to exports to developing countries may be agreed by Members. Such agreements must not have the effect of undermining commitments undertaken by Members in paragraph 18 above, and will be based on criteria and consultation procedures to be established.</p>	<p>This provision seems to reflect concerns that the new disciplines on export subsidisation, including the elimination of export subsidies and strengthened disciplines on food aid may undermine the capacity of vulnerable developing countries to access foodstuffs (although the provision is not limited to foodstuff but to all agricultural products). This provision opens the possibility of ad-hoc arrangements to guarantee access to developing countries to be negotiated among members. It does not specify though, whether only the importing and exporting country will be involved or other WTO members could request participation in the consultations leading to such arrangements.</p>
<p>MARKET ACCESS</p>	
<p>27. The Doha Ministerial Declaration calls for "substantial improvements in market access". Members also agreed that special and differential treatment for developing Members would be an integral part of all elements in the negotiations.</p>	<p>This paragraph reiterates the Doha mandate in the sense that substantial improvements in market access will need to be balanced with adequate provisions on SDT for developing countries.</p>
<p>28. To ensure that a single approach for developed and</p>	<p>This paragraph is problematic to the extent that members commit to a single approach</p>

<p>developing country Members meets all the objectives of the Doha mandate, tariff reductions will be made through a tiered formula that takes into account their different tariff structures.</p>	<p>in market access for developed and developing countries, even though the formula to be used for the reduction of tariff has not been agreed as yet. It further states that reductions will take place through a tiered formula, meaning that bands or ranges of tariffs will be established. Every product will fit in a specific band depending on its initial tariff level (final bound level of the Uruguay Round or that resulting from the accession commitments for recently acceding members). The tiered approach is assumed to take care of the differences in tariff structures across members.</p>
<p>29. To ensure that such a formula will lead to substantial trade expansion, the following principles will guide its further negotiation:</p> <ul style="list-style-type: none"> • Tariff reductions will be made from bound rates. Substantial overall tariff reductions will be achieved as a final result from negotiations. • Each Member (other than LDCs) will make a contribution. Operationally effective special and differential provisions for developing country Members will be an integral part of all elements. • Progressivity in tariff reductions will be achieved through deeper cuts in higher tariffs with flexibilities for sensitive products. Substantial improvements in market access will be achieved for all products. 	<p>This paragraph delineates a set of guidelines to follow while developing the formula for tariff reductions. It is agreed that LDCs are exempt from tariff reductions and that all other developing countries will participate in the reform process.</p> <p>Similar to the approach on domestic support, the highest tariffs will be subject to the deeper cuts although sensitive products will enjoy flexibilities still to be negotiated. It must be noted, that substantial improvements in market access should be achieved in all products, including sensitive products, as a result of the negotiations. The key distinction of sensitive products is their departure from the formula approach for tariff reductions; improved market access could be provided through different means, including commitments on tariff rate quotas (TRQs).</p>
<p>30. The number of bands, the thresholds for defining the bands and the type of tariff reduction in each band remain under negotiation. The role of a tariff cap in a tiered formula with distinct treatment for sensitive products will be further evaluated.</p>	<p>During the negotiations, one of the issues discussed was whether developing countries should have access to additional bands within the tiered approach in order to smooth the reduction commitments, but no decision was reached in that respect. This issue, the formula for tariff to be used within each band, the thresholds to define the bands, as well as the targets for reduction within each band need to be negotiated. One of the difficulties in the negotiations on market access has been the insistence of the US on using the Swiss formula within the bands and the desire of the EU and other developed countries to “disconnect” the designation and treatment of the sensitive products completely from the workings of the formula. These visions combined, even in a tiered approach, would lead to a repetition of the blended formula. Other options considered</p>

have been a linear cut within each band. A linear cut is more amicable to developing countries in the sense that proportionality between the reduction of developed and developing countries, can be easily verified. Using the Swiss formula, proportionality cannot be verified because the actual cut (in percentage terms) resulting from applying the formula will depend on the initial tariff level of every product. For guaranteeing proportionality in the outcome between developed and developing countries, different coefficients for different products will have to be used by each country. This is something developed countries have not been willing to consider acceding only to different coefficients for the formula within each band for developed and developing countries.

The formula for market access is a fundamental issue of the coming phase of the negotiations. Even in the best of circumstances in terms of results on the negotiations on special products and the special safeguard mechanism, it is clear that such provisions will be treated as exceptions to cover some products. The large majority of products in developing countries will be subject to the formula approach for tariff reductions. This would call for a strong engagement of these countries in the negotiations so as to guarantee that the formula adopted responds to their needs.

Given the banded/tiered approach, and the tariff structure of each country, it is likely that the bulk of tariffs of specific countries may fall in just one or two of the bands. The reduction target decided for the highest band (highest tariffs) will set the bar for the size of cuts in the lower tiers. Therefore, the starting point in the highest band is of concern to all countries.

Finally, this paragraph refers to the issue of a tariff capping as needing further consideration. This issue is closely linked to the treatment of tariff peaks in developed countries hence sensitive products. To the extent that neither the designation nor the treatment of those products, or the formula for market access, have been decided members could not agree on whether a tariff capping may be needed to address tariff peaks. It may be redundant from the point of view of those interested in exporting, if the formula and the treatment of sensitive products is addressed in a way that satisfy them. On the other hand, it is clear that members of the G10 strongly oppose the concept of tariff capping and will continue to resist it in the future. From the perspective of some developing countries tariff capping may also be a problem due to their overall higher

	tariff levels as compared to developed countries.
<p><i>Sensitive Products</i></p> <p><u>Selection</u></p> <p>31. Without undermining the overall objective of the tiered approach, Members may designate an appropriate number, to be negotiated, of tariff lines to be treated as sensitive, taking account of existing commitments for these products.</p>	<p>This provision would allow all members, developed and developing alike to (self) designate an “appropriate” number of tariff lines as sensitive products. However, the designation – and treatment – of sensitive products cannot undermine the objective of the tiered approach. This would call for a clear link between the treatment of sensitive products and the formula approach. That is, the treatment of sensitive products could and would deviate from the formula, but it cannot be completely delinked. For example, the magnitude of the deviation (i.e. the extent to which the reduction of tariffs for any sensitive product will be less than required were the formula be applied) has to be limited to a proportion of the cut that the formula would require for any particular product. Other approach to establish that link could be to limit the percentage of tariff lines within each band that could be designated as sensitive products. This would be a guarantee that some of the peaks of developed countries will effectively be cut as part of the formula approach. Failing to establish this relationship would undermine the value of the tiered approach, as indicated in the framework, by allowing developed countries to shield tariff peaks from substantial tariff reductions. It would also leave many developed countries, including those with defensive interest in market access (e.g. EU) indifferent to the formula hence the pressure on developing countries to undertake deep tariff cuts will mount from countries such as the US and some Cairns group members.</p> <p>Further reference to the link between the formula and the treatment of sensitive products is made in paragraph 34 where it is stated that rules to be developed regarding the expansion of TRQs for sensitive products will take into account the deviation from the formula (<i>See comments to paragraph 34 for further details</i>).</p>
<p><u>Treatment</u></p> <p>32. The principle of ‘substantial improvement’ will apply to each product.</p>	
<p>33. ‘Substantial improvement’ will be achieved through combinations of tariff quota commitments and tariff reductions applying to each product. However, balance in this negotiation will be found only if the final negotiated result also reflects the</p>	<p>As mentioned before, substantial improvements in market access will be achieved for each sensitive product, but through a combination of means rather than by application of the formula. Such means will include tariff reduction and TRQ “commitments,” which may include quota expansion and intra and out-of quota tariff reductions.</p>

<p>sensitivity of the product concerned.</p>	
<p>34. Some MFN-based tariff quota expansion will be required for all such products. A base for such an expansion will be established, taking account of coherent and equitable criteria to be developed in the negotiations. In order not to undermine the objective of the tiered approach, for all such products, MFN based tariff quota expansion will be provided under specific rules to be negotiated taking into account deviations from the tariff formula.</p>	<p>This paragraph imposes mandatory expansion of TRQs for sensitive products on the basis of rules to be negotiated, taking into account the deviation from the formula. Such rules would be of general application. There is no clarity with respect to how additional commitments on sensitive products regarding tariff reductions related to the TRQs or not, will be negotiated. This leaves open the possibility of a request-offer approach according to which interested members will engage with proponents of sensitive products to negotiate additional market access commitments in addition to the expansion of the quota.</p> <p>Various readings of this paragraph and previous versions of it, were proposed during the negotiations with respect as to whether members would agree to general commitments on TRQ; (i.e. for all products, not only sensitive products, and not only those for which TRQs already exist). Some developed countries of the Cairns group suggested that this paragraph would require an across the board commitment on TRQs expansion, although such position may be hard to sustain given the placing of the paragraph under the section on sensitive products and the clear reference to “such products” throughout the paragraph. However, the reference to “other” elements related to TRQs to be negotiated under paragraph 35 below, not necessarily linked to sensitive products, could be used by those countries to stress their case for across the board commitments on TRQs expansion. Developing countries may insist on a restrictive interpretation of this paragraph as applicable only to sensitive products, to avoid being pressured with new commitments on TRQs, including establishing commitments of minimum market access for products for which none currently exists.</p> <p>It is worth noting as well that the rules to be developed with respect to the TRQ expansion for sensitive products will take into account the deviation from the formula. This suggests, as was discussed during the negotiations of the framework, that there will be a kind of compensation implying that the larger the deviation of the tariff cut on sensitive products from what would result by applying the banded formula, the larger the expansion of TRQ.</p> <p>It is relevant to note that any expansion of TRQs negotiated in accordance with this paragraph has to be done on a MFN-basis. Access <u>to the additional quota</u> will be open to all WTO members, and should be added to any preferential access currently available</p>

	to any country or group of countries.
<p><i>Other Elements</i></p> <p>35. Other elements that will give the flexibility required to reach a final balanced result include reduction or elimination of in-quota tariff rates, and operationally effective improvements in tariff quota administration for existing tariff quotas so as to enable Members, and particularly developing country Members, to fully benefit from the market access opportunities under tariff rate quotas.</p>	<p>This paragraph adds to the confusion regarding the extent of commitments on TRQs. The reference to the required “flexibility” would suggest that commitments on in-quota tariff would also refer to the treatment of sensitive products. Starting the phrase with the word “other” seems to establish continuity from the paragraphs above. In addition, the paragraph is not clear as whether there is an obligation to negotiate in-quota tariff reductions or elimination. Even if that were the case, the paragraph does not specify how such commitments would be negotiated which leaves open the possibility of a request-offer approach. All these elements suggest that such commitments are related to sensitive products only. Nevertheless, this paragraph is placed under a separate section, together with elements of general application.</p> <p>In summary, the extent and nature of commitments regarding in-quota tariffs is not clear. Developing countries may insist on a restricted interpretation of this paragraph and guarantee that, if finally agreed, commitments on in-quota tariffs will be limited to sensitive products.</p>
	<p>The paragraph also refers to improvements in TRQ administration. Such disciplines would apply to all <u>existing</u> TRQs. This language suggests that new TRQs may be established, as per some countries interpretation of commitments regarding TRQs for sensitive products. However, it does not make much sense to develop rule elements for the administration of TRQ to be applicable only to a subset of quotas (only to the existing TRQs).</p> <p>In summary, the framework is not at all clear as to the extent and nature of commitments of members with respect to TRQs, particularly as to whether any commitment will be limited to sensitive products or would apply to all TRQs. The confusion may result from previous drafts (JOB(04)/96) where a general commitment on TRQ expansion was clearly established. Commitments regarding in-quota tariffs were to be negotiated. In the framework adopted in July the general obligation to expand TRQs was removed, restricting it to sensitive products. This paragraph, as it relates to commitments on in-quota tariffs should have been removed or moved to the section on sensitive products. All this needs clarification and faced with lack of clarity, members may suggest the most suitable interpretation.</p>

<p>36. Tariff escalation will be addressed through a formula to be agreed.</p>	<p>Tariff escalation refers to those tariff structures which penalize imports at higher levels of processing: inputs or raw materials (e.g. cocoa in grains) may enter at very low or zero tariff while the same product in processed form will face high tariffs (e.g. chocolate bars). To address tariff escalation, tariffs on processed products need to fall faster and deeper than tariffs on inputs. Tariff escalation may be more pervasive in some sectors than others. It would be important that developing countries identify the sectors of their interest and make proposals regarding the approach to be used for eliminating tariff escalation. It is important to note, that some developing countries use escalating tariff structures in an attempt to promote further processing of raw materials before exporting or create local value-added. The effect of provisions on tariff escalation must recognize the differences in levels of development between WTO members and provide for appropriate SDT for developing countries.</p>
<p>37. The issue of tariff simplification remains under negotiation.</p>	<p>Some WTO members, particularly developed countries, apply very complex tariff structures. <i>Ad valorem</i> tariffs are combined with specific tariffs in different ways. Such structures are less transparent and tend to disproportionately affect export of low value-added products from developing countries. Moreover, calculating the <i>ad valorem</i> tariff equivalent of complex tariff structures is not an easy task. Different methods could be used as well as different reference prices which can be manipulated. This is extremely important for assessing to what extent members are really complying with the tariff reduction commitments agreed.</p> <p>Members have not reached agreement on this as yet. Developing countries may insist on negotiating a common methodology for calculating the <i>ad valorem</i> tariff equivalent of non-<i>ad valorem</i> tariffs <u>and</u> binding tariffs in <i>ad valorem</i> terms. If the elimination of non-<i>ad valorem</i> tariffs is not feasible, developing countries should insist at least, on a common and verifiable methodology for calculating the <i>ad valorem</i> equivalent of non-<i>ad valorem</i> tariffs.</p>
<p>38. The question of the special agricultural safeguard (SSG) remains under negotiation.</p>	<p>The Special Safeguard (SSG) was granted to countries that tariffed during the Uruguay Round. Only a few developing countries did so. Most developing countries have insisted on the elimination of the SSG and the establishment of a new special safeguard mechanism (SSM) available to all developing countries, including LDCs. Such mechanism will be established in accordance with paragraph 42 of the framework. The future of the current safeguard, including whether it should be discontinued, and if so, over what timeframe and for what products, remains under negotiation.</p>

	<p>Important issues for the negotiations on safeguards arise from the relationship between the SSG and the new SSM, such as the product coverage and trigger mechanisms. It would be difficult to sustain that the number of products of the SSM for developing countries have to be severely limited while the SSG is to continue with the same ample product coverage as it has today in most developed countries. Equally important would be the flexibility to trigger the SSM in itself and vis-à-vis the conditions of the SSG.</p> <p>Another aspect to consider is the situation of developing countries with access to the current SSG and how the transition will be made to the new SSM. Obviously, to the extent that the SSM is restricted in product coverage and the flexibility to trigger the measure questionable, there will be no incentive for developing countries with access to the SSG to change to the new SSM, at least in certain cases.</p>
<p><i>Special and differential treatment</i></p> <p>39. Having regard to their rural development, food security and/or livelihood security needs, special and differential treatment for developing countries will be an integral part of all elements of the negotiation, including the tariff reduction formula, the number and treatment of sensitive products, expansion of tariff rate quotas, and implementation period.</p>	<p>This phrase reiterates that SDT for developing countries will be an integral part of all elements of the negotiations, and then lists a few of them. The list has to be understood as non-exhaustive. For example, if commitments on in-quota tariffs are to be made (the text is not clear about this), SDT should be provided to developing countries even if this issue is not specifically mentioned in this paragraph.</p> <p>With regard to sensitive products, developing countries shall have access to such products in larger numbers and under more flexible treatment conditions than developed countries. It is clear though, for the stipulations in the framework that sensitive products even of developing countries (members agree to a single approach for developed and developing countries in market access), will undertake commitments on TRQ expansion and tariff reductions on basis still to be defined.</p>
<p>40. Proportionality will be achieved by requiring lesser tariff reduction commitments or tariff quota expansion commitments from developing country Members.</p>	<p>Proportionality refers to the extent and depth of commitments between developed and developing countries. During the Uruguay Round, the proportionality in the level of commitments was established at 2/3: developing countries were required to reduce tariffs by two-thirds of the reductions to be undertaken by developed countries. At that time proportionality was guaranteed by the fact that an average overall reduction of tariff was negotiated (36 per cent for developed countries and 24 per cent for developing countries). The different non-linear formulae being proposed on this occasion as well as the agreement to establish several bands complicate the task of assessing proportionality. The US for example, insists on applying proportionality in the formula but not in the outcome of the negotiations. On this basis, they continue to press for a Swiss formula with different coefficients for developed and developing</p>

	<p>countries <u>within each band</u>. In fact, previous drafts of the framework indicated just that and developing countries push for the phrase to be removed. As explained in comments under paragraph 30, the depth of cut with the Swiss formula with any particular coefficient will depend on the initial tariff of the product concerned: the higher the tariffs, the deeper the cut in tariff. Developing countries tend to have higher overall tariff levels than developed countries whose tariff structure is significantly skewed. By shielding the tariff peaks under the sensitive products category, developed countries will apply the Swiss formula to products already at low tariff levels producing only minor overall cuts. Developing countries must insist on the principle of proportionality in the outcome of the negotiations to be realised. In that sense, the importance of establishing a link between the designation and treatment of sensitive products and the formula for tariff reductions cannot be understated: from a technical and strategic point of view, this issue is key for achieving proportionality.</p> <p>This paragraph further specifies that SDT will be provided to developing countries with respect to commitments on TRQ expansion by means of proportionality.</p>
<p>41. Developing country Members will have the flexibility to designate an appropriate number of products as Special Products, based on criteria of food security, livelihood security and rural development needs. These products will be eligible for more flexible treatment. The criteria and treatment of these products will be further specified during the negotiation phase and will recognize the fundamental importance of Special Products to developing countries.</p>	<p>Previous drafts of the framework, made a direct link between sensitive and special products (SPs) for developing countries. The need of “coherence” between those two, and the SSM was explicitly referred to reflecting the position of several WTO members which insist that some of these instruments were redundant. The reference to coherence was removed which strengthens the negotiating position of developing countries as compared with previous texts but there is no doubt that the discussion on sensitive products further complicated the negotiations on SPs: developing countries will have access to sensitive products, subject to all kind of conditions, including expansion of TRQs, but still having access to such products, may undermine their possibility to have a flexible approach towards SPs in terms of product coverage and treatment. In that respect, developing countries may insist and put their negotiating capital on guaranteeing adequate protection under SPs rather than negotiating better treatment under sensitive products which will be hijacked by the developed countries in their own benefit.</p> <p>One of the main concerns regarding the designation of SPs has been whether each country can decide what those products would be, or there will be specific conditions to be met for a particular product to be so designated. The first sentence in paragraph 41 states that each developing country will designate its SPs based on criteria of</p>

food/livelihood security and rural development. This is important because food and livelihood security needs are country and even region-specific and therefore, each government is best suited to decide and take responsibility for the selection of the products to be protected under these provisions in a way that is meaningful for its farmers and rural and poor population. This paragraphs also indicates that “the criteria and treatment” of SPs will be further specified in the negotiations. Developing countries may insist that further specification cannot undermine the basic criteria of food/livelihood security and rural development which has informed their decision on what products to designate as SPs. That is, further specifications cannot challenge the concept of self-designation of SPs and should build on the basic criteria provided in the framework rather than substitute it with trade-related criteria.

Paragraph 41 indicates that members should negotiate a restriction or limit to the number of SPs but it also provides the criteria to assess the “appropriate” number of products which is food and livelihood security and rural development. In that respect, the framework leaves open for negotiations how that number should be determined. It could be expressed as an absolute number (e.g. 20 SPs) or as a proportion of all tariff lines, or a proportion of domestically produced tariff lines of every developing country, or any other form. Therefore, the G33 could continue insisting on its stated position for the designation of the SPs.

It is important to note as well that the language in the framework refers to an appropriate number of products rather than tariff lines. Therefore, the discussion on SP should be based on the need to protect specific products (e.g. rice or wheat) rather than specific tariff lines (e.g. husked rice or durum wheat). Once the relevance for food/livelihood security or rural development of a product has been determined by the developing country concerned, all tariff lines following under the designation of the product in question should be in principle be protected, unless the country concerned decides to leave some tariff lines out of the SP category. That is, developing countries should avoid falling into a discussion on how SPs will be reflected in the schedules of commitments and how many tariff lines will be covered in the SP category, but keep the discussion on the relevance of specific products for food/livelihood security and rural development. The language on the framework provides the space for keeping the negotiations at that level.

	<p>Regarding the treatment of SPs, the framework indicates such products will be <u>eligible</u> to more favourable treatment. Eligibility does not necessarily mean guaranteed access for any particular product to more favourable treatment. Developing countries should be aware of this issue and be vigilant to the criteria that may be proposed for the designation of SPs and their treatment, as well as any linkage that may be proposed between such products, safeguard measures and sensitive products.</p>
<p>42. A Special Safeguard Mechanism (SSM) will be established for use by developing country Members.</p>	<p>Two main issues in relation with the SSM have become very contentious: what countries should have access to the mechanism and the product coverage. Regarding the former, paragraph 42 of the framework would indicate that the SSM will be available to all developing countries. Nevertheless, criteria suggested latter in the process could still be constructed to exclude certain countries.</p> <p>Paragraph 42 is indeed quite vague leaving most issues to be negotiated later, from how to designate products eligible to SSM to designing the trigger mechanisms.</p> <p>Regarding the product coverage, it clear from the history of the negotiation that some members consider the SSM and SP provisions as redundant. The same argument may be used with respect to sensitive products to which developing countries will also have access, according to the framework. Some WTO members also suggested providing access to the SSM as an incentive for further trade liberalisation suggesting that only products with very low tariffs should be granted access to the SSM. In that respect, developing countries may insist on the importance of the SSM as part of a broader strategy on food/livelihood security and rural development. It must also be kept in mind that the SSG may be extended in which case developed countries will have access to safeguards on a broad range of products. Unless the product coverage for the SSG is also negotiated downwards, developing countries may use that as an argument to press for flexible product coverage for the SSM.</p> <p>Discussions on the trigger mechanisms have evolved around whether both a price and volume trigger would be necessary. Some countries have proposed restricting the SSM to volume trigger only. Chile made a proposal on a price-trigger safeguard. Back in 2003 before the presentation of the first modalities draft, members held discussions on a special safeguard for developing countries which included price and volume triggers. The current SSG also includes both.</p>
<p>43. Full implementation of the long-standing commitment to achieve the fullest liberalisation of trade in tropical agricultural</p>	<p>During the Uruguay Round there was a Working Group on Tropical Products which produced a list of such products. This was a negotiated list based on the interest of the</p>

<p>products and for products of particular importance to the diversification of production from the growing of illicit narcotic crops is overdue and will be addressed effectively in the market access negotiations.</p>	<p>countries involved more than on the basis of any agreed definition of what a tropical product may be. Tropical products could be broadly defined as products of export interest of developing countries produced in the tropical regions of Africa, Latin America and the Caribbean, and Asia such as rubber, tea, cocoa, coffee, etc. The main difficulty arises with products of great interest to developing countries which can also be produced in the temperate zones such as cotton, sugar, banana, etc. In the absence of a definition of tropical products and the difficulties to devise one, it would be expected that the negotiation for the liberalization of tropical products be made on the basis of a list of the products of interest prepared by the interested developing countries. In that respect, it is worth noting that for some of the tropical products such as cocoa and coffee, the main barriers to market access affect processed products rather than products in their primary form. Therefore, it would be important to keep this issue in mind and press for the liberalisation of processed tropical products as well. Provisions on tariff escalation and the formula for tariff reductions finally agreed will impinge on this issue as well.</p>
<p>44. The importance of long-standing preferences is fully recognised. The issue of preference erosion will be addressed. For the further consideration in this regard, paragraph 16 and other relevant provisions of TN/AG/W/1/Rev.1 will be used as a reference.</p>	<p>The language on preference established that the issue of preference erosion will be addressed without providing much guidance as to how. Paragraph 16 of TN/AG/W/1/Rev.1 (Harbinson's draft) and other provisions will be used as a reference. That text provided for a delayed implementation of tariff reductions over a longer time frame for developed countries in products which represented more than a percentage to be negotiated (e.g. 25 per cent as suggested at some point in the negotiations) of all merchandise exports of a preference-receiving developing country. The reference to other relevant provisions is not clear but could include issues such as commitments on SSG and Amber box of preference-providing countries. The language in paragraph 44 does not prevent members from making additional proposals for addressing the issue of preference erosion.</p>
<p>LEAST- DEVELOPED COUNTRIES</p>	
<p>45. Least-Developed Countries, which will have full access to all special and differential treatment provisions above, are not required to undertake reduction commitments. Developed Members, and developing country Members in a position to do so, should provide duty-free and quota-free market access for products originating from least-developed countries.</p>	<p>This paragraph guarantees that provisions on SDT currently available to developing countries or those that may be established will be available to LDCs. This clarification may be particularly relevant for provisions such as SPs and SSM which are linked to market access concessions. To the extent that LDCs will be exempt from reduction of tariffs some members may suggest they do not need SPs or safeguards because their tariffs will remain unchanged. However, it is important that the principle of these</p>

	countries being able to use such provisions at the time they deem appropriate to do so be recognised. In fact, the SSM is a particularly important aspect of SDT which LDCs may want to implement right away.
46. Work on cotton under all the pillars will reflect the vital importance of this sector to certain LDC Members and we will work to achieve ambitious results expeditiously.	See Part I of this note.
RECENTLY ACCEDED MEMBERS	
47. The particular concerns of recently acceded Members will be effectively addressed through specific flexibility provisions.	The language in this paragraph suggests recognition of the recently acceding members as a group with specific concerns to be addressed in the negotiations. The extent of liberalisation undertaken by these countries as part of their accession process puts them ahead of most WTO members. Their main concern is that this would not be recognised and new commitments would be imposed on them as a result of the current round. Although commitments in market access are the primary concern, this provision does not restrict the scope of the flexibilities to be considered for negotiation.
MONITORING AND SURVEILLANCE	
48. Article 18 of the Agreement on Agriculture will be amended with a view to enhancing monitoring so as to effectively ensure full transparency, including through timely and complete notifications with respect to the commitments in market access, domestic support and export competition. The particular concerns of developing countries in this regard will be addressed.	<p>Article 18 of the AoA relates to the <i>Review of the implementation of commitments</i> including notifications and counter notifications. The regular Committee on Agriculture undertakes the review of notification and discusses other issues of relevance on the basis of this article. According to paragraph 48 of the framework, this provision will be modified to strengthen it and improve monitoring of commitments. This issue is particularly relevant with respect to domestic support where major agricultural producers have submitted notifications with significant delay undermining the effectiveness of the transparency provisions of the agreement. The particular relevance of this enhanced monitoring mechanism is made in other sections of the framework such as those related to export competition, green box, and special circumstances.</p> <p>The administrative and institutional capacity of developing countries should be recognised when deciding on the new disciplines through SDT provisions. Notification requirements can be very costly to meet by developing countries particularly in terms of timing and resources.</p>

OTHER ISSUES

<p>49. Issues of interest but not agreed: sectoral initiatives, differential export taxes, GIs.</p>	<p>None of these issues are of interest to most developing countries and some are being discussed in a different context (i.e. GIs). Furthermore, there is no mandate in the agreement to negotiate differential export taxes (Art. 12 of the AoA refers to export restrictions and prohibitions only). This paragraph creates no obligation on the part of members to negotiate on these issues. Opening new areas for the negotiations will distract the attention and resources of developing countries from the issues of their interest which have mostly being postponed for negotiations in the modalities phase.</p>
<p>50. Disciplines on export prohibitions and restrictions in Article 12.1 of the Agreement on Agriculture will be strengthened.</p>	<p>Current provisions in Art. 12.1 of the AoA establish obligations for developing countries only to the extent that they are net exporters of the foodstuff for which the export restriction or prohibition is to be imposed. Such obligations are limited to previous notification and consultation, upon request of interested importing countries, of the measures to be adopted. Some WTO members have argued that there should be a balance in the AoA between the interests of exporters and importers and that this provision should be modified to limit the discretion of net exporting countries to restrict exports. From the perspective of developing countries, export restrictions may be necessary under certain circumstances to guarantee food availability and promote local value-added. These measures constitute a response to tariff escalation in developed countries. The new disciplines may be applicable to all developing countries, not only net exporters. Therefore, all developing countries should be involved in these negotiations and avoid disciplines that would limit their policy options in this area.</p>

ANNEX ON DOMESTIC SUPPORT COMMITMENTS AND EXPENDITURES

US Domestic Support Commitments and Expenditures (US\$ million)

Year	AMS allowable level	Actual Product-specific AMS	Actual Non-product specific AMS	Actual Total AMS	Total notified AMS	Water in AMS commitments	Support excluded from AMS as Product-specific <i>de minimis</i>	Support excluded from AMS as Non-product specific <i>de minimis</i>	Total Value of agricultural production	Allowable non-product specific <i>de minimis</i> support
1995	23'083.142	6'311.207	1'543.451	7'854.658	6'213.859	73.08%	97.348	1'543.451	190'110.00	9'505.00
1996	22'287.173	5'937.453	1'113.407	7'050.860	5'897.658	73.54%	39.795	1'113.451	205'701.00	10'285.00
1997	21'491.203	6'474.668	567.602	7'042.270	6'238.407	70.97%	236.261	567.228	203'884.00	10'194.00
1998*	20'695.234	10'550.201	4'583.883	15'134.081	10'391.852	49.78%	158.349	4'583.883	190'886.00	9'544.00
1999	19'899.264	16'891.340	7'405.513	24'296.853	16'862.276	15.26%	29.064	7'405.513	184'735.00	9'237.00
2000	19'103.294	16'865.246	7'278.011	24'143.257	16'802.588	12.04%	62.658	7'278.011	189'520.32	9'476.02
2001	19'103.294	14'627.626	6'828.154	21'455.780	14'413.059	24.55%	214.567	6'828.154	198'502.00	9'925.00
2002	Information not available. Notifications overdue									
2003										

Source: US notifications to the WTO.

*First year of introduction of emergency legislation to compensate farmers for fall in international prices (Countercyclical payments)

Year	Blue Box	Green Box
1995	7'120.42	46'041.00
1996	NA	51'825.00
1997	NA	51'252.00
1998	NA	49'824.00
1999	NA	49'749.00
2000	NA	50'057.00
2001	NA	50'672.00
2002	Information not available. Notifications overdue	

2003	
------	--

Average total value of agricultural production 1995-2001 (Million US\$ Million)	194'762.62
Average <i>de minimis</i> exception 1995-2001	9'738
Notional blue box ceiling (5 per cent of the value of agriculture production over the period 1995-2001) (Million US\$)	9'738
Overall Base level of all trade distorting support (Final Bound Total AMS+Product-specific <i>de minimis</i> +Non product-specific <i>deminimis</i> + blue box ceiling) (Million US\$)	(19'103.294+9'738+9'738+9'738)= 48'317.29

European Union Domestic Support Commitments and Expenditures (Million Euros)

Year	AMS allowable level	Actual Product-specific AMS	Actual Non-product specific AMS	Actual Total AMS	Total notified AMS	Water in AMS commitments	Support excluded from AMS as Product-specific <i>de minimis</i>	Support excluded from AMS as Non-product specific <i>de minimis</i>	Total Value of agricultural production (Billion Euros)	Allowable non-product specific <i>de minimis</i> support
1995	78'672	50'074.9	776.68	50'851.6	50'026	36.41%	48.92	776.68	207'400	10'370
1996	76'369	51'208.2	728.40	51'936.6	51'009	33.21%	199.2	728.40	219'700	10'985
1997	74'067	50'440.2	487.30	50'927.5	50'194	33.23%	246.2	487.30	217'800	10'890
1998	71'765	46'859.7	347.80	47'206.7	46'683	34.65%	175.9	347.80	213'500	10'675
1999	69'463	48'057.2	290.50	48'347.7	47'886	31.06%	171.2	290.50	233'700	11'685
2000	67'159	43'854.8	537.70	44'392.5	43'654	35.00%	200.8	537.70	274'768 ¹	13'738
2001	Information not available. Notifications overdue									
2002										
2003										

Source: European Communities notifications to the WTO.

Year	Blue Box	Green Box
1995	20'845.5	20'845.5
1996	21'520.8	21'520.8
1997	20'442.8	20'442.8
1998	20'503.5	20'503.5
1999	19'792.1	19'792.1
2000	22'222.7	22'222.7
2001	Information not available. Notifications overdue	
2002		
2003		

¹ Output in agricultural activities sector, in Million Euros.

http://europa.eu.int/comm/agriculture/agrista/2001/table_en/en2.htm

Average total value of agricultural production 1995-1999 (Million Euros)	218'420
Average <i>de minimis</i> exception 1995-1999 (Million Euros)	10'921
Average Blue Box expenditures 1995-2000	20'888
Notional blue box ceiling (5 per cent of the value of agriculture production over the period 1995-1999) (Million Euros)	10'921
Overall Base level of all trade distorting support (Final Bound Total AMS+Product-specific <i>de minimis</i> +Non product-specific <i>de minimis</i> + blue box average) (Million Euros)	(67'159+10'921+10'921+20'888)= 109'889

GLOSSARY FOR THE ANNEX ON DOMESTIC SUPPORT COMMITMENTS AND EXPENDITURES

Glossary Item	Definition
AMS allowable level	Maximum level of AMS support – Amber Box – permissible to any member in a particular year as reflected in its schedule of commitments. This figure represents an aggregate measure of support.
Actual Product-specific AMS	Actual expenditures in amber box support made on a product-specific basis, such as market price support for specific commodities. No commitments exist with respect to support to specific commodities, but members are obliged to notify amber box support on a disaggregated basis.
Actual Non-product specific AMS	Actual expenditures in amber box support provided to agriculture in general such as subsidies for irrigation or crop insurance.
Actual Total AMS	Total AMS expenditures for any particular year (actual expenditures on product-specific support plus actual expenditures on non-product specific support).
Total notified AMS	Total actual AMS expenditures for any particular year minus exclusions for product-specific and non-product specific <i>de minimis</i> exceptions.
Water in AMS commitments	Difference in percentage terms, between the AMS allowable level (i.e. level of commitment on AMS) and the total notified AMS.
Support excluded from AMS as Product-specific <i>de minimis</i>	Expenditures in amber box provided on a product-specific basis excluded from the notified AMS on the basis of the product-specific <i>de minimis</i> exception (Art. 6.4 (i) of the AoA). That is, support to any particular commodity is less than 5 per cent (10 per cent for developing countries) of the value of production of that commodity for the year in question.
Support excluded from AMS as Non-product specific <i>de minimis</i>	Expenditures in non-product specific amber box excluded from the notified AMS on the basis of the non-product-specific <i>de minimis</i> exception (Art. 6.4 (ii) of the AoA). That is, non product-specific support is less than 5 per cent of the value of total agricultural production.
Total value of agricultural production	Total value of agricultural production for any specific year. Figure used to calculate the <i>de minimis</i> exception.
Allowable non -product specific <i>de minimis</i> support	Maximum non product-specific support to be excluded from the notified AMS on the basis of the non-product specific <i>de minimis</i> exception in any particular year.



Chemin du Champ d'Anier 17
Case postale 228, 1211 Geneva 19
Switzerland

Telephone : (41 22) 791 8050

Fax : (41 22) 798 8531

Email : south@southcentre.org

Website:

<http://www.southcentre.org>