

## บรรณานุกรม

ภาษาไทย

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ภาคผนวก

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จุฬาลงกรณ์มหาวิทยาลัย

ภาคผนวก ก

ข้อตกลงทั่วไปว่าด้วยภาษีศุลกากรและการค้า



Article XVI of the General Agreement on Tariffs and Trade

Subsidies

Section A - Subsidies in General

1. If any contracting party grants or maintains any subsidy, including any form of income or price support, which operates directly or indirectly duties into its territory it shall notify the CONTRACTING Parties in writing of the extent and nature of the subsidization, of the estimated effect of the subsidization on the quantity of the affected product or products imported into or exported from its territory and of the circumstances making the subsidization necessary. In any case in which it is determined that serious prejudice to the interests of any other contracting party is caused or threatened by any such subsidization, the contracting party granting the subsidy shall, upon request, discuss with the other contracting party or parties concerned, or with the CONTRACTING Parties, the possibility of limiting the subsidization.

Section B - Additional Provisions on Export Subsidies

2. The contracting parties recognize that the granting by a contracting party of a subsidy on the export of any product may have harmful effects for other contracting parties, both importing and exporting, may cause undue disturbance to their normal commercial interests, and may hinder the achievement of the objectives of this Agreement.

3. Accordingly, contracting parties should seek to avoid the use of subsidies on the export of primary products. If, however, a contracting party grants directly or indirectly any form of subsidy which operates to increase the export of any primary product from its territory, such subsidy shall not be applied in a manner which results in that contracting party having more than an equitable share of world export trade in the product, account being taken of the shares of the contracting parties in such trade in the product during a previous representative period, and any special in the product during a previous representative period, and any special factors which may have affected or may be affecting such trade in the product.

4. Further, as from 1 January 1958 or the earliest practicable date thereafter, contracting parties shall cease to grant either directly or indirectly any form of subsidy on the export of any product other than a primary product which subsidy

results in the sale of such product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market. Until 31 December 1957 no contracting party shall extend the scope of any such subsidization beyond that existing on 1 January 1955 by the introduction of new, or the extension of existing subsidies.

5. The CONTRACTING Parties shall review the operation of the provisions of this Article from time to time with a view to examining its effectiveness, in the light of actual experience, in promoting the objectives of this Agreement and avoiding subsidization seriously prejudicial to the trade or interests of contracting parties.

#### NOTE TO ARTICLE XVI

The exemption of an exported product from duties or taxes borne by the like product when destined for domestic consumption, or the remission of such duties or taxes in amounts not in excess of those which have accrued, shall not be deemed to be deemed to be a subsidy.

#### Section B

1. Nothing in Section B shall preclude the use by a contracting party of multiple rates of exchange in accordance with the Articles of Agreement of the International Monetary Fund.

2. For the purposes of Section B, a "primary product" is

understood to be any product of farm, forest or fishery, or any mineral, in its natural form or which has undergone such processing as is customarily required to prepare it for marketing in substantial volume in international trade.

### Paragraph 3

1. The fact that a contracting party has not exported the product in question during the previous representative period would not in itself preclude that contracting party from establishing its right to obtain a share of the trade in the product concerned.

2. A system for the stabilization of the domestic price or of the return to domestic producers of a primary product independently of the movements of export prices, which results at times in the sale of the product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market, shall be considered not to involve a subsidy on exports within the meaning of paragraph 3 if the CONTRACTING Parties determine that:

- (a) the system has also resulted, or is so designed as to result, in the sale of the product for export at a price higher than the comparable price charged for the like product to buyers in the domestic market ; and
- (b) the system is so operated, or is designed so to operate, either because of the effective regulation of production or otherwise, as not to stimulate exports unduly or

otherwise seriously to prejudice the interests of other contracting parties.

Notwithstanding such determination by the CONTRACTING Parties, operations under such a system shall be subject to the provisions of paragraph 3 where they are wholly or partly financed out of government funds in addition to the funds collected from producers in respect of the product concerned.

#### Paragraph 4

The intention of paragraph 4 is that the contracting parties should seek before the end of 1957 to reach agreement to abolish all remaining subsidies as from 1 January 1958 ; or, failing this, to reach agreement to extend the application of the standstill until the earliest date thereafter by which they can expect to reach such agreement.

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## Article XXII

## Consultation

1. Each contracting party shall accord sympathetic consideration to, and shall afford adequate opportunity for consultation regarding, such representations as may be made by another contracting party with respect to any matter affecting the operation of this agreement.

2. The CONTRACTING Parties may, at the request of a contracting party, consult with any contracting party or parties in respect of any matter for which it has not been possible to find a satisfactory solution through consultation under paragraph 1.

## Article XXIII of the General Agreement on Tariffs and Trade

## Nullification or Impairment

1. If any contracting party should consider that any benefit accruing to it directly or indirectly under this Agreement is being nullified or impaired or the attainment of any objective of the Agreement is being impeded as the result of

- (a) the failure of another contracting party to carry out its obligations under this Agreement, or
- (b) the application by another contracting party of any measure, whether or not it conflicts with the provisions of the Agreement, or

(c) the existence of any other situation,

The contracting party may, with a view to the satisfactory adjustment of the matter, make written representations or proposals to the other contracting party or parties which it considers to be concerned. Any contracting party thus approached shall give sympathetic consideration to the representations or proposals made to it.

2. If no satisfactory adjustment is effected between the contracting parties concerned within a reasonable time, or if the difficulty is of the type described in paragraph 1(c) of this Article, the matter may be referred to the CONTRACTING Parties. The CONTRACTING Parties shall promptly investigate any matter so referred to them and shall make appropriate recommendations to the contracting parties which they consider to be concerned, or give a ruling on the matter, as appropriate. The CONTRACTING Parties may consult with contracting parties, with the Economic and Social Council of the United Nations and with any appropriate inter-governmental organization in cases where they consider such consultation necessary. If the CONTRACTING Parties consider that the circumstances are serious enough to justify such action, they may authorize a contracting party or parties to suspend the application to any other contracting party or parties to such concessions or other obligations under this Agreement as they determine to be appropriate in the circumstances. If the application to any contracting party of any concession or other obligation is in fact suspended, that contracting party shall then be free, not later than sixty days after such action is taken, to give written notice to the Executive Secretary to the CONTRACTING Parties of its

intention to withdraw from this Agreement and such withdrawal shall take effect upon the sixtyth day following the day on which such notice is received by him.



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## ภาคผนวก ข

ข้อตกลงว่าด้วยการอุดหนุน 1979

## PART II

## Article 7 - NOTIFICATION OF SUBSIDIES

1. Having regard to the provisions of Article XVI:I of the General Agreement, any signatory may make a written request for information on the nature and extent of any subsidy granted or maintained by another signatory (including any form of income or price support) which operates directly or indirectly to increase exports of any product from or reduce imports of any product into its territory.
2. Signatories so requested shall provide such information as quickly as possible and in a comprehensive manner, and shall be ready upon request to provide additional information to the requesting signatory. Any signatory which considers that such information has not been provided may bring the matter to the attention of the Committee.
3. Any interested signatory which considers that any practice of another signatory having the effects of a subsidy has not been notified in accordance with the provisions of Article XVI:I of the General Agreement may bring the matter to the attention of such other signatory. If the subsidy practice is not thereafter notified promptly, such signatory may itself bring the subsidy practice in question to the notice of the Committee.




## Article 8 - SUBSIDIES GENERAL PROVISIONS

1. Signatories recognize that subsidies are used by governments to promote important objectives of social and economic policy. Signatories also recognize that subsidies may cause adverse effects to the interests of other signatories.
2. Signatories agree not to use export subsidies in a manner inconsistent with the provisions of this Agreement.
3. Signatories further agree that they shall seek to avoid causing, through the use of any subsidy:
  - (a) injury to the domestic industry of another signatory
  - (b) nullification or impairment of the benefits accruing directly or indirectly to another signatory under the General Agreement or
  - (c) serious prejudice to the interests of another signatory
4. The adverse effects to the interests of another signatory required to demonstrate nullification or impairment or serious prejudice may arise through:
  - (a) the effects of the subsidized imports in the domestic market of the importing signatory.
  - (b) the effects of the subsidy in displacing or impeding the imports of like products into the market of the subsidizing country: or
  - (c) the effects of the subsidized exports in displacing the exports of like products of another signatory from a third country market.

Article 9 - EXPORT SUBSIDIES ON PRODUCTS OTHER THAN CERTAIN  
PRIMARY PRODUCTS

1. Signatories shall not grant export subsidies on products other than certain primary products.
2. The practices listed in points (a) to (I) in the Annex are illustrative of export subsidies.



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## Article 10

### Export subsidies on certain primary products

1. In accordance with the provisions of Article XVI:3 of the General Agreement, signatories agree not to grant directly or indirectly any export subsidy on certain primary products in a manner which results in the signatory granting such subsidy having more than an equitable share of world export trade in such product, account being taken of the shares of the signatories in trade in the product concerned during a previous representative period, and any special factors which may have affected or may be affecting trade in such product.

2. For purposes of Article XVI:3 of the General Agreement and paragraph 1 above:

(a) "more than an equitable share of world export trade"

shall include signatory is to displace the exports of another signatory bearing in mind the developments on world markets;

(b) with regard to new markets traditional patterns of supply of the product concerned to the world market, region or contry, in which the new market is situated shall be

taken into account in determining "equitable share of world export trade";

- (c) "a previous representative period" shall normally be the three most recent calendar years in which normal market conditions existed.

#### Article 11

##### Subsidies other than export subsidies

1. Signatories recognize that subsidies other than export subsidies are widely used as important instruments for the promotion of social and economic policy objectives and do not intend to restrict the right of signatories to use such subsidies to achieve these and other important policy objectives which they consider desirable.

Signatories note that among such objectives are :

- (a) the elimination of industrial, economic and social disadvantages of specific regions.
- (b) to facilitate the restructuring, under socially acceptable conditions, of certain sectors, especially where this has become necessary because of changes in trade and economic policies, including international agreements resulting in lower barriers to trade,
- (c) generally to sustain employment and to encourage re-training and change in employment,



- (d) to encourage research and development programmes, especially in the field of high-technology industries,
- (e) the implementation of economic programmes and policies to promote the economic and social development of developing countries,
- (f) redeployment of industry in order to avoid congestion and environmental problems.

2. Signatories recognize, however, that subsidies other than export subsidies, certain objectives and possible form of which are described, respectively, in paragraphs 1 and 3 of this Article, may cause or threaten to cause injury to a domestic industry of another signatory or serious prejudice to the interests of another signatory or may nullify or impair benefits accruing to another signatory under the General Agreement in particular where such subsidies would adversely affect the conditions of normal competition. Signatories shall therefore seek to avoid causing such effects through the use of subsidies. In particular, signatories, when drawing up their policies and practices in this field, in addition to evaluating the essential internal objectives to be achieved, shall also weigh, as far as practicable, taking account of the nature of the particular case, possible adverse effects on trade. They shall also consider the conditions of world trade, production (e.g. price, capacity utilization etc.) and supply in the product concerned.

3. Signatories recognize that the objectives mentioned in paragraph 1 above may be achieved, inter alia, by means of subsidies granted with the aim of giving an advantage to certain enterprises. Examples of possible forms of such subsidies are : government financing of commercial enterprises, including grants, loans or guarantees : government provision or government financed provision of utility, supply distribution and other operational or support services or facilities ; government provision or government financed provision of utility, supply distribution and other operational or support services of facilities; government financing of research and development programmes ; fiscal incentives ; and government subscription to, or provision of , equity capital.

Signatories note that the above form of subsidies are normally granted either regionally or by sector. The enumeration of forms of subsidies set out above is illustrative and non-exhaustive, and reflects those currently granted by a number of signatories to this Agreement.

Signatories recognize, nevertheless, that the enumeration of forms of subsidies set out above should be reviewed periodically and that this should be done, through consultations, in conformity with the spirit of Article XVI:5 of the General Agreement.

4. Signatories recognize further that, without prejudice to their rights under this Agreement, nothing in paragraphs 1-3 above and in particular the enumerations of forms of subsidies creates, in itself,

any basis for action under the General Agreement, as interpreted by this Agreement.

## Article 12

### Consultations

1. Whenever a signatory has reason to believe that an export subsidy is being granted or maintained by another signatory in a manner inconsistent with the provisions of this Agreement, such signatory may request consultations with such other signatory.
2. A request for consultations under paragraph 1 above shall include a statement of available evidence with regard to the existence and nature of the subsidy in question.
3. Whenever a signatory has reason to believe that any subsidy is being granted or maintained by another signatory and that such subsidy either causes injury to its domestic industry, nullification or impairment of benefits, accruing to is under the General Agreement, or serious prejudice to its interests, such signatory may request consultations with such other signatory.
4. A request for consultations under paragraph 3 above shall include a statement of available evidence with regard to (a) the existence and nature of the subsidy in question and (b) the injury caused to the domestic industry or, in the case of nullification or

impairment, or serious prejudice, the adverse effects caused to the interests of the signatory requesting consultations.

5. Upon request for consultations under paragraph 1 or paragraph 3 above, the signatory believed to be granting or maintaining the subsidy practice in question shall enter into such consultations as quickly as possible. The purpose of the consultations shall be to clarify the facts of the situation and to arrive at a mutually acceptable solution.

#### Article 13

##### Conciliation, dispute settlement and authorized countermeasures

1. If, in the case of consultations under paragraph 1 of Article 12, a mutually acceptable solution has not been reached within thirty days of the request for consultations, any signatory party to such consultations may refer the matter to the Committee for conciliation in accordance with the provisions of Part VI.
2. If, in the case of consultations under paragraph 3 of Article 12, a mutually acceptable solution has not been reached within sixty days of the request for consultations, any signatory party to such consultations may refer the matter to the Committee for conciliation in accordance with the provisions of Part VI.

3. If any dispute arising under this Agreement is not resolved as a result of consultations or conciliations, the Committee shall, upon request, review the matter in accordance with the dispute settlement procedures of Part VI.

4. If, as a result of its review, the Committee concludes that an export subsidy is being granted in a manner inconsistent with the provisions of this Agreement or that a subsidy is being granted or maintained in such a manner as to cause injury, nullification or impairment, or serious prejudice, it shall make such recommendations to the parties as may be appropriate to resolve the issue and, in the event the recommendations are not followed, it may authorize such countermeasures as may be appropriate, taking into account the degree and nature of the adverse effects found to exist, in accordance with the relevant provisions of Part VI.

#### Part VI

#### Article 17

#### Conciliation

1. In cases where matters are referred to the Committee for conciliation failing a mutually agreed solution in consultations under any provision of this Agreement, the Committee shall immediately review the facts involved and, through its good offices, shall encourage the signatories involved to develop a mutually acceptable solution.

2. Signatories shall make their best efforts to reach a mutually satisfactory solution throughout the period of conciliation.

3. Should the matter remain unresolved, notwithstanding efforts at conciliation made under paragraph 2 above, any signatory involved may, thirty days after the request for conciliation, request that a panel be established by the Committee in accordance with the provisions of Article 18 below.

#### Article 18

##### Dispute settlement

1. The Committee shall establish a panel upon request pursuant to paragraph 3 of Article 17. A panel so established shall review the facts of the matter and, in light of such facts, shall present to the Committee its findings concerning the rights and obligations of the signatories party to the dispute under the relevant provisions of the General Agreement as interpreted and applied by this Agreement.

2. A panel should be established within thirty days of a request therefor and a panel so established should deliver its findings to the Committee within sixty days after its establishment.

3. When a panel is to be established, the Chairman of the Committee, after securing the agreement of the signatories concerned, should propose the composition of the panel. Panels shall be composed



of three or five members, preferably governmental and the composition of panels should not give rise to delays in their establishment. It is understood that citizens of countries whose governments are parties to the dispute would not be members of the panel concerned with that dispute.

4. In order to facilitate the constitution of panels, the Chairman of the Committee should maintain an informal indicative list of governmental and non-governmental persons qualified in the fields of trade relations, economic development, and other matters covered by General Agreement and this Agreement, who could be available for serving on panels. For this purpose, each signatory would be invited to indicate at the beginning of every year to the Chairman of the Committee the name of one or two persons who would be available for such work.

5. Panel members would serve in their individual capacities and not as government representatives, nor as representatives of any organization. Governments would therefore not give them instructions with regard to matters before a panel. Panel members should be selected with a view to ensuring the independence of the members, a sufficiently diverse background and a wide spectrum of experience.

6. To encourage development of mutually satisfactory solutions between the parties to a dispute and with a view to obtaining their comments, each panel should first submit the descriptive part of its

report to the parties concerned , and should subsequently submit to the parties to the dispute its conclusions, or and outline thereof, a reasonable period of time before they are circulated to the Committee.

7. If a mutually satisfactory solution is developed by the parties to a dispute before a panel, any signatory with an interest in the matter has a right to enquire about and be given appropriate information about that solution and a notice outlining the solution that has been reached shall be presented by the panel to the Committee.

8. In cases where the parties to a dispute have failed to come to a satisfactory solution, the panels shall submit a written report to the Committee which should set forth the findings of the panel as to the questions.

#### ANNEX

#### ILLUSTRATIVE LIST OF EXPORT SUBSIDIES

- (a) The provision by governments of direct subsidies to a firm or an industry contingent upon export performance.
- (b) Currency retention schemes or any simialr practices which involve a bonus on exports.



- (c) Internal transport and freight charges on export shipments, provided or mandated by governments, on terms more favourable than for domestic shipment.
- (d) The delivery by governments or their agencies of imported or domestic products or services for use in the production of exported goods, on terms or conditions more favourable than for delivery of like or directly competitive products or services for use in the production of goods for domestic consumption, if (in the case of products) such terms or conditions are more favourable than those commercially available on world markets to their exporters.
- (e) The full or partial exemption, remission, or deferral specifically related to exports, of direct taxes or social welfare charges paid or payable industrial or commercial enterprises.
- (f) The allowance of special deductions directly related to exports or export performance, over and above those granted in respect of production for domestic consumption, in the calculation of the base on which direct taxes are charged.
- (g) The exemption or remission in respect of the production and distribution of exported products, of indirect taxes in excess of those levied in respect of the production and distribution

of like products when sold for domestic consumption.

- (h) The exemption, remission or deferral of prior stage cumulative indirect taxes on goods or services used in the production of exported products in excess of the exemption remission or deferral of like prior stage cumulative indirect taxes on goods or services used in the production of like products when sold for domestic consumption ; provided, however , that prior stage cumulative indirect taxes may be exempted, remitted or deferred on exported products even when not exempted, remitted or deferred on like products when sold for domestic consumption, if the prior stage cumulative indirect taxes are levied on goods that are physically incorporated (making normal allowance for waste) in the exported product.
- (i) The remission of drawback of import charges in excess of those levied on imported goods that are physically incorporated (making normal allowance for waste) in the exported product ; provided, however, that in particular cases a firm may use a quantity of home market goods equal to and having the same quality and characteristics as, the imported goods as a substitute for them in order to benefit from this provision if the import and the corresponding export operations both occur within a reasonable time period, normally not to exceed two years.

- (j) The provision by governments (or special) institutions controlled by governments) of export credit guarantee or insurance programmes, of insurance or guarantee programmes against increases in the costs of exported products or of exchange risk programmes, at premium rates, which are manifestly inadequate to cover the long-term operating costs and losses of the programmes.
- (k) The grant by governments (or special institutions controlled by and/or acting under the authority of governments) of export credits at rates below those which they actually have to pay for the funds so employed (or would have to pay if they borrowed on international capital markets in order to obtain funds of the same maturity and denominated in the same currency as the export credit, or the payment by them of all or part of the costs incurred by exporters or financial institutions in obtaining credits, in so far as they are used to secure a material advantage in the field of export credit terms.
- Provided, however, that if a signatory is a party to an international undertaking on official export credits to which at least twelve original signatories to this Agreement are parties as of 1 January 1979 (or a successor undertaking which has been adopted by those original signatories), or if in practice a signatory applies the interest rates provisions

of the relevant undertaking not be considered an export subsidy prohibited by this Agreement.

- (i) Any other charge on the public account constituting an export subsidy in the sense of Article XVI of the General Agreement.



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CONSULTATIVE SUBCOMMITTEE ON SURPLUS DISPOSAL  
 LIST OF MEMBER COUNTRIES, OBSERVER COUNTRIES AND  
 OBSERVER ORGANIZATIONS

(As of 1 October 1979)

Member countries (46)

|                       |             |                     |
|-----------------------|-------------|---------------------|
| Argentina             | Ghana       | New Zealand         |
| Australia             | Greece      | Nigeria             |
| Austria               | Guatemala   | Pakistan            |
| Belgium               | India       | Panama              |
| Bolivia               | Indonesia   | Paraguay            |
| Brazil                | Iraq        | Peru                |
| Burma                 | Ireland     | Spain               |
| Canada                | Israel      | Sri Lanka           |
| Costa Rica            | Italy       | Sweden              |
| Cuba                  | Jamaica     | Switzerland         |
| Denmark               | Japan       | Thailand            |
| Ecuador               | Lebanon     | Trinidad and Tobago |
| Egypt                 | Malawi      | Turkey              |
| France                | Mexico      | United Kingdom      |
| Germany, Fed. Rep. of | Netherlands | United States       |
|                       |             | Uruguay             |

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\* Food and Agriculture Organization, Principle of Surplus Disposal (Rome : FAO, 1982), p. 43.

## European Economic Community

## Observer countries (19)

|                    |                |               |
|--------------------|----------------|---------------|
| Chile              | Jordan         | Portugal      |
| Colombia           | Korea, Rep. of | Saudi Arabia, |
| Dominican Republic | Lao            | Kingdom of    |
| El Salvador        | Libya          | Tunisia       |
| Finland            | Malta          | Viet Nam      |
| Honduras           | Norway         | Yugoslavia    |
| Iran               | Philippines    |               |

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ภาคผนวก ค

ร่างข้อตกลงของเลขาธิการแกตต์ กลุ่มสินค้าเกษตร (PART A, B, D)

PART A

URUGUAY ROUND AGREEMENT ON AGRICULTURE

The participants,

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

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

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

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

Noting that commitments under the reform programme should be made in an equitable way among all participants, having regard to non-trade concerns, including food security and the need to protect the environment; having regard to the agreement that special and differential treatment to developing countries is an integral element of the negotiations, and taking into account possible negative effects of the implementation of the reform programme on net food-importing developing countries;

Hereby agree, as follows:

Part I

Article 1 - Definition of Terms

In this Agreement, unless the context otherwise requires:

- (a) "AMS" and "aggregate measurement of support" refer to the aggregate measurement as specified in the Schedules of domestic support commitments and the related supporting material ;





- (b) "basic product" is defined as the product as close as practicable to the point of first sale as specified in Schedules of domestic support commitments and the related supporting material;
- (c) "budgetary outlays" or "outlays" include revenue foregone;
- (d) "equivalent commitments" are as specified in the Schedules of domestic support Commitments and the related supporting material;
- (e) "export subsidies" refer to subsidies contingent upon export performance including the export subsidies listed in Article 9 of this Agreement;
- (f) "implementation period" covers the period commencing in the year 1993 and ending in the year 1999;
- (g) "market access concessions: include all market access commitments undertaken pursuant to this Agreement;
- (h) "year" in (f) above and in relation to the specific commitments of a participant refers to the calendar, financial or marketing year specified in the Schedule of commitments relating to that participant.

#### Article 2 - Product Coverage

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

Part II

Article 3 - Incorporation of Concessions and Commitments

1. The Schedules of market access concessions relating to participants shall be annexed to the Uruguay Round (1992) Protocol to the General Agreement on Tariffs and Trade.
  
2. Schedules of domestic support and export competition commitments relating to participants shall be annexed to the aforementioned protocol as constituting commitments limiting subsidization.

Part III

Article 4 - Market Access Concessions

1. Market access concessions contained in Schedules relate to bindings and reductions of tariffs, and to other market access commitments as specified therein.
  
2. Participants undertake not to resort to, or revert to, any measures which have been converted into ordinary customs duties pursuant to concessions under this Agreement.

Article 5 - Special Safeguard Provisions

1. Notwithstanding the provisions of Article II:1(b) of the General Agreement, and participant may take recourse to the provisions of paragraphs 4 and 5 below in connection with the importation of an agricultural product which is specified in its Schedule as being the subject of a concession in respect of which the provisions of this Article may be invoked, if :

- (i) the volume of imports of that product entering the customs territory of the the participant granting the concession during any year exceeds a trigger level equal to 125 per cent of the corresponding average quantity during the three preceding years for which data are available or 125 per cent of the minimum access opportunity, whichever is the greater<sup>1</sup>; or, but not concurrently,

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<sup>1</sup> Recourse to this provision requires that the average quantity or minimum access opportunities represent commercially significant levels of imports.

- (ii) the price at which imports of that product may enter the customs territory of the participant granting the concession, as determined on the basis of the c.i.f. import price of the shipment concerned expressed in terms of its domestic currency, falls below a trigger price equal to the average 1986 to 1988 reference price<sup>2</sup>, for the product concerned.

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

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

3. Any supplies of the product in question which were en route on the basis of a contract settled before the additional duty is imposed under sub-paragraph 1(i) above shall be exempted from any such additional duty provided that they may be counted in the volume of imports of the product in question during the following year for the purposes of triggering the provisions of sub-paragraph 1(i) in the year.
4. Any additional duty imposed under sub-paragraph 1(i) above shall only be maintained until the end of the year in which it has been imposed, and may only be levied at a level which shall not exceed 30 per cent of the level of the ordinary customs duty in effect in the year in which the action is taken.
5. The additional duty imposed under sub-paragraph 1 (ii) above shall be set according to the following schedule:
- (a) if the difference between the c.i.f. import price of the shipment expressed in terms of the domestic currency (hereafter the "import price") and the trigger price as defined under that sub-paragraph is less than or equal to 10 per cent of the trigger price, no additional duty shall be imposed;

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

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

7. The operation of the special safeguard shall be carried out in a transparent manner. Any participant taking action under paragraph 1(i) above shall give notice in writing, including relevant data, to participants as far in advance as may be practicable and in any event within 10 days of the implementation of such action. Any participant taking action under paragraph 1(ii) above shall give notice in writing, including relevant data, to participants within 10 days of the implementation of the first such action or, for perishable and seasonal products, the first action in any period. Participants undertake, as far as practicable, not to take recourse to the provisions of paragraph 1(ii) either case a participant taking such action shall afford any interested participants the opportunity to consult with it in respect of the conditions of application of such action.

8. Where measures are taken in conformity with paragraphs 1 through 7 above, participants undertake not to have recourse, in respect of such measures, to the provisions of Article XIX:1(a) and XIX:3 of the General Agreement or paragraph 17 of the Agreement

on Safeguards.

9. The provisions of this Article shall remain in force for the duration of the reform process as determined under Article 19.

#### Part IV

#### Article 6 - Domestic Support Commitments

1. The domestic support reduction commitments of each participant contained in its Schedule of commitments shall apply to all of its domestic support measures in favour of agricultural producers with the exception of domestic measures which are not subject to reduction in terms of the criteria set in Annex 2 to this Agreement. These commitments are expressed in terms of Aggregate Measurements of Support and of equivalent commitments. The constituent data and methods employed in the calculation of these commitments shall be incorporated in to the Schedules of domestic support commitments by reference to the relevant tables of supporting material.

2. Investment subsidies which are generally available to agriculture in developing countries and agricultural input subsidies generally available to low-income or resource-poor producers in developing countries shall be exempt from domestic support reduction commitments which would otherwise be applicable to such measures, as shall domestic support to producers in developing countries to encourage diversification from growing illicit narcotic crops.



3. A participant shall be considered to be in compliance with its domestic support reduction commitments in any year where the sector-wide and product-specific AMS values for support, or the equivalent commitments, do not exceed the corresponding annual commitment levels specified in the Schedule of domestic support commitments of the participant concerned.

4. As long as domestic support subject to reduction does not exceed 5 per cent of the total value of production of a basic product in the case of product-specific support, there shall be no requirement to undertake the reduction of that support, and as long as domestic support subject to reduction does not exceed 5 per cent of the value of total agricultural production in the case of a sector wide AMS, there shall be no requirement to undertake the reduction of that support. For developing countries the percentage under this paragraph shall be 10 per cent.

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Article 7 - General Disciplines on Domestic Support

1. Each participant shall ensure that any domestic support measures in favour of agricultural producers which are not subject to reduction commitments are maintained in conformity with the criteria set out in Annex 2 to this Agreement.

2. Any domestic support measure in favour of agricultural producers, including any modification to such a measure, and any measure that is subsequently introduced that cannot be shown to satisfy the criteria in Annex 2 to this Agreement shall be included in the coverage of the applicable AMS or equivalent commitment. Where no applicable AMS or equivalent commitment exists the support in question shall not exceed the de minimis level set out in Article 6(4).

3. The domestic subsidies listed in Annex 2 to this Agreement shall be considered as non-actionable for the purposes of countervailing measures, but not otherwise, provided that such subsidies are in conformity with the general and specific criteria relating thereto as prescribed in that Annex.



PART V

Article 8 - Export Competition Commitments

Each participant undertakes not to provide export subsidies otherwise than in conformity with this Agreement and with its commitments as specified in its Schedule of export competition commitments.

Article 9 - Export Subsidy Reduction Commitments

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

- (a) The provision by governments or their agencies of direct subsidies, including payments-in-kind, to a firm, to an industry, to producers of an agricultural product, to a co-operative or other association of such producers, or to a marketing board contingent on export performance.
- (b) The sale or disposal for export by governments or their agencies of non-commercial stocks of agricultural products at a price lower than the comparable price charged for the like product to buyers in the domestic market.
- (c) Payments on the export of an agricultural product that are financed by virtue of governmental action, whether

or not a charge on the public account is involved, including payments that are financed from the proceeds of a levy imposed on the agricultural product concerned or on an agricultural product from which the exported product is derived.

- (d) The provision of subsidies to reduce the costs of marketing exports of agricultural products (other than widely available export promotion and advisory services) including handling, upgrading and other processing costs, and the costs of international transport and freight.
- (e) Internal transport and freight charges on export shipments, provided or mandated by governments, on terms more favourable than for domestic shipments.
- (f) Subsidies on agricultural products contingent on their incorporation in exported products.

2. Reduction commitments for any year of the implementation period, as specified in Schedules, represent :

- (a) in the case of outlay reduction commitments, the maximum level of expenditure that may be allocated or incurred in that year in connection with the export subsidies listed in this Article ;

(b) in the case of export quantity reduction commitments, the maximum quantity of an agricultural product, or group of such products, in respect of which export subsidies listed in this Article may be granted in that year.

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

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

Article 10 - Prevention of Circumvention  
of Export Competition Commitments

1. Export subsidies not listed in Article 9 (1) of this Agreement shall not be applied in a manner which results in, or which threatens to lead to, circumvention of export subsidy commitments ; nor shall non-commercial transactions be used to circumvent such commitments.

2. Participants undertake not to provide export credits, export credit guarantees or insurance programmes otherwise than in conformity with internationally agreed disciplines.

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

4. Participants donors of international food aid shall ensure :

(a) that the provision of international food aid is not tied directly or indirectly to commercial exports of agricultural products to recipient countries ;

(b) that international food aid transactions, including bilateral food aid which is monetised, shall be carried out in accordance with the FAO "Principles of Surplus Disposal and Consultative Obligations" including , where appropriate, the system of Usual Marketing Requirements (UMRs);

(c) that such aid shall be provided to the extent possible in fully grant form or on terms no less concessional than those provided for in Article IV of the Food Aid Convention 1986.

Article 11 - Incorporated Products

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

Part VI

Article 12 - Serious Prejudice

Where reduction commitments on domestic support and export subsidies are being applied in conformity with the terms of this Agreement, the presumption will be that they do not cause serious prejudice in the sense of Article XVI:1 of the General Agreement.

Part VII

Article 13 - Sanitary and Phytosanitary Measures

Participants agree to give effect to the agreement on Sanitary and Phytosanitary Measures.

Part VIII

Article 14 - Special and Differential Treatment

1. In keeping with the recognition that differential and more favourable treatment for developing countries is an integral part of the negotiation, special and differential treatment in respect of

commitments shall be provided as set out in the relevant provisions of this Agreement and embodied in the Schedules concessions and commitments.

2. Least developed countries shall not be required to undertake reduction commitments.

#### Part IX

##### Article 15 - Net Food-Importing Developing Countries

Developed participants shall take such action as is provided for within the framework of the Declaration in Part D hereto on the possible negative effects of the reform process on least-developed and net food-importing developing countries.

#### Part X

##### Article 16 - Committee on Agriculture

A Committee on Agriculture shall be established.

##### Article 17 - Review of the Implementation of Commitments

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



2. The review process shall be undertaken on the basis of notifications submitted by participants in relation to such matters and at such intervals as shall be determined, as well as on the basis of such documentation as the Secretariat may be requested to prepare in order to facilitate the review process.

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

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

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

6. Any participant may bring to the attention of participants any measure which it considers ought to have been notified by another participant.

Article 18 - Consultation and Conciliation

1. The provisions of Articles XXII and XXIII of the General Agreement, and the Understanding on Rules and Procedures Governing the Settlement of Disputes under Articles XXII and XXIII of the General Agreement on Tariffs and Trade as adopted by the CONTRACTING PARTIES shall apply to consultations and the settlement of disputes under this Agreement.

2. On the basis of the commitments undertaken in the framework of this Agreement, participants will exercise due restraint in the application of their rights under the General Agreement in relation to products included in the reform programme.

Part XI

Article 19 - Continuation of the Reform Process

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

- the experience to that date in implementing the reduction commitments ;
- the effects of the reduction commitments on world trade in agriculture : and

- what further commitments are necessary to achieve the above mentioned long-term objectives.

PART XII

Article 20 - Final Provisions

Annex 1

PRODUCT COVERAGE

1. This Agreement shall cover the following products as specified in participants' customs schedules :

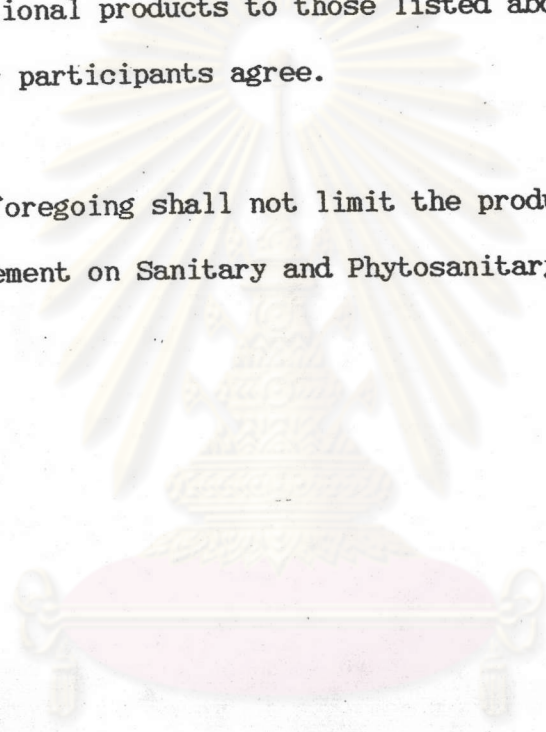
(i) HS Chapters 1 to 24 less fish and fish products, plus

|              |                |  |
|--------------|----------------|--|
| (ii) HS Code | 29.05.43       | (manitol)  |
| HS Code      | 29.05.44       | (sorbitol)   |
| HS Heading   | 33.01          | (essential oils)   |
| HS Headings  | 35.01 to 35.05 | (albuminoidal substances<br>modified starches,<br>glues) |
| HS Code      | 38.09.10       | (finishing agents)                                       |
| HS Code      | 38.23.60       | (sorbitol n.e.p.)  |
| HS Headings  | 41.01 to 41.03 | (hides and skins)  |
| HS Heading   | 43.01          | (raw furskins)   |
| HS Headings  | 50.01 to 50.03 | (raw silk and silk<br>waste)                             |

|             |                |  |
|-------------|----------------|--|
| HS Headings | 51.01 to 51.03 | (wool and animal hair)                             |
| HS Headings | 52.01 to 52.03 | (raw cotton, waste and<br>cotton carded or combed) |
| HS Heading  | 53.01          | (raw flax)   |
| HS Heading  | 53.02          | (raw hemp)   |

(iii) Any participant may extend its commitments to include additional products to those listed above, provided that other participants agree.

(iv) The foregoing shall not limit the product coverage of the Agreement on Sanitary and Phytosanitary Measures.



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Annex 2

DOMESTIC SUPPORT : THE BASIS FOR EXEMPTION FROM THE REDUCTION COMMITMENTS

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

(i) the support in question shall be provided through a publicly-funded government programme (including government revenue foregone) not involving transfers from consumers ; and,

(ii) the support in question shall not have the effect of providing price support to producers;

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

Government Service Programmes

2. General services

Policies in this category involve expenditures (or revenue foregone) in relation to programmes which provide services or benefits to agriculture or the rural community. They shall not involve direct payments to producers or processors. Such programmes, which include but are not restricted to the following list, shall

meet the general criteria in paragraph 1 above and policy-specific conditions where set out below :

- (i) research, including general research, research in connection with environmental programmes, and research programmes relating to particular products :
- (ii) pest and disease control, including general and product specific pest and disease control measures, such as early warning systems, quarantine and eradication ;
- (iii) training services, including both general and specialist training facilities ;
- (iv) extension and advisory services, including the provision of means to facilitate the transfer of information and the results of research to producers and consumers;
- (v) inspection services, including general inspection services and the inspection of particular products for health, safety, grading of standardization purposes;
- (vi) marketing and promotion services, including market information, advice and promotion relating to particular products but excluding expenditure for unspecified purposes that could be used by sellers to

reduce their selling price or confer a direct economic benefit to purchasers ; and

(vii) infrastructural services, including ; electricity reticulation, roads and other means of transport, market and port facilities, water supply facilities, dams and drainage schemes, and infrastructural works associated with environmental programmes. In all cases the expenditure shall be directed to the provision or construction of capital works only, and shall exclude the subsidized provision of on-farm facilities other for the reticulation of generally-available public utilities. It shall prefer ential user charges.

### 3. Public stockholding for food security purposes

Expenditures (or revenue foregone) in relation to the accumulation and holding of stocks of products which form an integral part of a food security programme identified in national legislation. This may include government aid to private storage of products as part of such a programme.

The volume and accumulation of such stocks shall correspond to predetermined targets related solely to food security. The process of stock accumulation and disposal shall be financially transparent. Food purchases by the government shall be made at current market prices and sales from food security stocks shall be made at no less than the current

domestic market price for the product and quality in question.

#### 4. Domestic Food Aid

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

Eligibility to receive the food aid shall be subject to clearly-defined criteria related to nutritional objectives.

Such aid shall be in the form of direct provision of food to those concerned or the provision of means to allow eligible recipients to buy food either at market or at subsidized prices. Food purchases by the government shall be made at current market prices and the financing and administration of the aid shall be transparent.

#### 5. Direct Payments to Producers

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



## 6. Decoupled income support

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

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

- (i) Eligibility for such payments shall be determined by an income loss, taking into account only income derived from agriculture, which exceeds 30 per cent of average gross income or the equivalent in net income terms (excluding any payments from the same or similar schemes) in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry. Any producers meeting this condition shall be eligible to receive the payments.
- (ii) The amount of such payments shall compensate for less than 70 per cent of the producer's income loss in the year the producer becomes eligible to receive this assistance.
- (iii) The amount of any such payments shall relate solely to income ; it shall not relate to the type or volume of production (including livestock units) undertaken by the producer ; or to the prices, domestic or international, applying to such production ; or to the factors of production employed.
- (iv) Where a producer receives in the same year payments under this paragraph and under paragraph 8 below (relief from natural disasters), the total of such payments shall be

less than 100 per cent of the producer's total income loss.

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

- (i) Eligibility for such payments shall arise only following a formal recognition by government authorities that a natural or like disaster (including disease outbreaks, pest infestations, nuclear accidents, and war on the territory of the participant concerned) has occurred or is occurring; and shall be determined by a production loss which exceeds 30 per cent of the average of production in the preceding three-year period or a three year average based the preceding five-year period, excluding the highest and the lowest entry.
- (ii) Payments made following a disaster shall be applied only in respect of losses of income, livestock (including payments in connection with the veterinary treatment of animals), land or other production factors due to the natural disaster in question.
- (iii) Payment shall compensate for not more than the total cost of replacing such losses and shall not require or specify the type or quantity of future production.

- (iv) Payments made during a disaster, shall not exceed the level required to prevent or alleviate further loss as defined in criterion (ii) above.
- (v) Where a producer receives the same year payments under this paragraph and under paragraph 7 above (income insurance and income safety-net programmes), the total of such payments shall be less than 100 per cent of the producer's total income loss.

9. Structural adjustment assistance provided through producer retirement programmes

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

10. Structural adjustment assistance provided through resource retirement programmes

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

designed to remove land or other resources, including livestock, from marketable agricultural production.

(ii) Payments shall be conditional upon the retirement of land from marketable agricultural production for a minimum of 3 years. and in the case of livestock on its slaughter or definitive permanent disposal.

(iii) Payments shall not require or specify any alternative use for such land or other resources which involves the production of marketable agricultural products.

(iv) Payments shall not be related to either the type or quantity of production or to prices, domestic or international, applying to production undertaken using the land or other resources remaining in production.

11. Structural adjustment assistance provided through investment aids

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

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

## 12. Payments under environmental programmes

- (i) Eligibility for such payments shall be determined as part of a clearly-defined government environmental or



conservation programme and be dependent on the fulfilment of specific conditions under the government programme, including conditions related to production methods or inputs.

- (ii) The amount of payment shall be limited to the extra costs or loss of income involved in complying with the government programme.

### 13. Payments under regional assistance programmes

- (i) Eligibility for such payments shall be limited to producers in disadvantaged regions. Each such region must be a clearly designated contiguous geographical area with a definable economic and administrative identity, considered as disadvantaged on the basis of neutral and objective criteria clearly spelt out in law or regulation and indication that the region's difficulties arise out of more than temporary circumstances.

- (ii) The amount of such payments in any given year shall not be related to, or based on the type or volume of production (including livestock units) undertaken by the producer in any year after the base period other than to reduce that production.

- (iii) The amount of such payments in any given year shall not be related to, or based on, the prices, domestic or international, applying to any production undertaken in any year after the base period.
- (iv) Payments shall be available only to producers in eligible regions, but generally available to all producers within such regions.
- (v) Where related to production factors, payments shall be paid at a degressive rate above a threshold level of the factor concerned.
- (vi) The payment shall be limited to the extra costs or loss of income involved in undertaking agricultural production in the prescribed area.

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PART B

AGREEMENT ON MODALITIES FOR THE ESTABLISHMENT OF SPECIFIC  
BINDING COMMITMENTS UNDER THE REFORM PROGRAMME

1. Specific binding commitments in the areas of market access, domestic support and export competition shall be established in accordance with the modalities set out hereunder.

2. The commitments under the reform programme shall apply to measures maintained by participants relating to products listed in Annex1, hereafter referred to as agricultural products.

Specific Modalities : Market Access

3. For agricultural products currently subject to ordinary customs duties only, the reduction commitment shall be implemented on the bound duty level or, in the case of unbound duties, on the level applied as at 1 September 1986.

4. For agricultural products currently subject to border measures other than ordinary customs duties, the reduction commitment specified in paragraph 5 shall be implemented on customs duties resulting from the conversion of such measures ("tariffication"). The modalities of the conversion and other related provisions, including those relating to current access opportunities, and the establishment of minimum access opportunities are set out in Annex 3.

5. Ordinary customs duties, including those resulting from tariffication, shall be reduced, from the year 1993 to the year 1999, on a simple average basis by 36 per cent with a minimum rate of reduction of 15 per cent for each tariff line. Where there are no significant imports, minimum access opportunities shall be established. They shall represent in the first year of the implementation period not less than 3 per cent of corresponding domestic consumption in the base period as specified above and shall be expanded to reach 5 per cent of that base figure by the end of the implementation period.

6. Current access opportunities which, during the base period are in excess of the minimum access opportunities as defined in paragraph 5 above, shall be maintained and increased over the implementation period. However, in relation to the expansion of current access, due account shall be taken of reduction commitments in the exportation areas.

7. The reductions in ordinary customs duties and expansion of access opportunities shall be implemented in equal instalments. All customs duties, including those resulting from tariffication, shall be bound.

Specific Modalities : Domestic Support

8. All domestic support in favour of agricultural producers with the exception of measures exempted from reduction under Annex 4 shall be reduced, from the year 1993 to the year 1999, by 20 per cent.

The base period shall be the years 1986 to 1988. Credit shall be allowed in respect of actions undertaken since the year 1986. The reduction commitment shall be expressed and implemented through Aggregate Measurements of Support (AMS) as defined in Annex 5, or through equivalent commitments as defined in Annex 6 where the calculation of an AMS is not practicable, and shall be implemented in equal instalments.

9. Where any domestic support measure cannot be shown to satisfy the criteria set out in Annex 4, it shall be subject to the reduction commitment in paragraph 8 above.

10. As long as domestic support subject to reduction does not exceed 5 per cent of the total value of production of a basic product in the case of product-specific support, there shall be no requirement to undertake the reduction of that support, and as long as domestic support subject to reduction does not exceed 5 per cent of the value of total agricultural production in the case of a sector-wide AMS, there shall be no requirement to undertake the reduction of that support.

Specific Modalities : Export Competition

11. The export subsidies listed in Annex 7 shall be subject to budgetary outlay and quantity commitments. Outlays and quantities shall be reduced, from the year 1993 to the year 1999, by 36 per cent and 24 per cent, respectively. The base period shall be the year

1986 to the year 1990. These commitments shall be established in accordance with the molalities prescribed in Annex 8.

12. Commitments shall include undertakings not to introduce or re-introduce subsidies on the export of agricultural products or groups of products in respect of which such subsidies were not granted during the course of the base period. In addition commitments may be negotiated to limit the scope of subsidies on exports of agricultural products as regards individual or regional markets. The markets to which such commitments apply shall be specified in the lists of commitments on export competition.

#### Special and Differential Treatment

13. In Keeping with the recognition that special and differential treatment to developing countries is an integral element of the negotiation, the provisions set out in paragraphs 14 to 20 below shall apply in respect of developing countries.

14. In the case of products subject to unbound ordinary customs duties developing countries shall have the flexibility to offer ceiling bindings on these products.

15. Developing countries shall have the flexibility to apply lower rates of reduction in the areas of market access, domestic support and export competition provided that the rate of reduction in each is no less than two thirds of that specified in paragraphs 5, 8 and 11

above. Developing countries shall have the flexibility to implement the reduction commitments over a period of up to 10 years.

16. The least developed countries shall be exempt from the reduction commitments.

17. In implementing the commitments on market access, developed countries will take fully into account the particular needs and conditions of developing countries by providing for a greater improvement of opportunities and terms of access for agricultural products of particular interest to these countries, including the fullest liberalization of trade in tropical agricultural products as agreed at the Mid-Term Review, and products of particular importance to the diversification of production from the growing of illicit narcotic crops. Account may also be taken of the guidelines by Chairman of the Market Access Negotiating Group relating to concessions and other liberalization measures implemented by developing countries.

18. Special and differential treatment in respect of domestic support shall reflect the agreement by participants that government measures of assistance, whether direct or indirect, to encourage agricultural and rural development are an integral part of the development programmes of developing countries. Accordingly, policy measures specified below which may fall under the reduction commitment in paragraph 8 shall be exempt from reduction where implemented as part

of agricultural and rural development programmes in developing countries:

- (a) investment subsidies which are generally available to agriculture ;
- (b) domestic support to producers to encourage diversification from the growing of illicit narcotic crops ; and
- (c) agricultural input subsidies, whether in cash or kind, provided to low-income or resource-poor producers, defined using clear and objective criteria, and which are available to all producers meeting these criteria.

19. In addition to the exemptions listed above, and the general exemptions from reduction commitments specified under Annex 4, special and differential treatment shall apply to the de minimis provision concerning reduction commitments on domestic support in paragraph 10 above. The relevant threshold percentage for developing countries shall be 10 per cent.

20. During the implementation period, developing countries shall not be required to undertake commitments in respect of the export subsidies described in Annex 7 paragraphs 1(d) and 1(e).

Lists of Commitments

21. Lists of commitments, together with related supporting tables, shall be submitted in line with Annex2 no later than 1 March 1992. The lists as submitted by participants shall constitute the basis for the establishment of final Schedules for each participant not later than 31 March 1992.



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Annex 1PRODUCT COVERAGE

1. This Agreement shall cover the following products as specified in participants' customs schedules :

(i) HS Chapters 1 to 24 less fish and fish products, plus

|             |                 |   |
|-------------|-----------------|---|
| (ii)HS code | 29.05.43        | manitol   |
| HS code     | 29.05.44        | (sorbitol)  |
| HS Heading  | 33.01           | (essential oils)                                      |
| HS Headings | 35.01 to 35.05  | (albuminoidal substances<br>modified starches, glues) |
| HS Code     | 38.09.10        | (finishing agents)                                    |
| HS code     | 38.23.60        | (sorbitol n.e.p.)                                     |
| HS Headings | 41.01. to 41.03 | (hides and skins)                                     |
| HS Headings | 50.01 to 50.03  | (raw silk and silk waste)                             |
| HS Headings | 51.01 to 51.03  | (wool and animal hair)                                |
| HS Headings | 52.01 to 52.03  | (raw cotton, waste and<br>cotton carded or combed)    |
| HS Headings | 53.01           | (raw flax)  |
| HS Headings | 53.02           | (raw hemp)  |

(iii)Any participant may extend its commitments to include additional products to those listed above, provided that participants agree.

(iv)The forgoing shall not limit the product coverage of the Agreement on Sanitary and Phytosanitary Measures.





Annex 2

LISTS OF SPECIFIC COMMITMENTS

1. Participants shall submit, not later than 1 March 1992, Lists of commitments and supporting material established in line with the reduction commitments (in paragraphs 5, 8 and 11 of this Agreement) and modalities established in relation to each area of the negotiation. The supporting material shall, where specified, form an integral part of the specific commitments to which it relates. These lists shall be communicated to the Secretariat. Unless otherwise stipulated by the participant concerned, lists shall be classified as secret documents. They shall be made available to other participants that have themselves submitted lists.

2. The lists together with the supporting material shall be established in line with the formats. (See Attachment)

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Annex 3MARKET ACCESS ; AGRICULTURAL PRODUCTS SUBJECT TO  
BORDER MEASURES OTHER THAN ORDINARY CUSTOMS DUTIESSection A : The calculation of tariff equivalents and related provisions

1. The policy coverage of tariffification shall include all border measures other than ordinary customs duties\* such as : quantitative import restrictions, variable import levies, minimum import prices, discretionary import licensing, non-tariff measures maintained through state trading enterprises, voluntary export restraints and any other schemes similar to those listed above, whether or not the measures are maintained under country-specific derogations from the provisions of the General Agreement.

2. The calculation of the tariff equivalents, whether expressed as ad valorem or specific rates, shall be made using the actual difference between internal and external prices in a transparent manner using data, data sources and definitions as specified in Annex 2. Data used shall be for the years 1986 to 1988.

\*Excluding measures maintained for balance-of-payments reasons or under general safeguard and exception provisions (Articles XII, XVIII XIX, XX and XXI of the General Agreement.)

3. Tariff equivalents shall be established for all agricultural products subject to border measures other than ordinary customs duties:

- (i) tariff equivalents shall primarily be established at the four-digit level of the HS;
- (ii) tariff equivalents shall be established at the six-digit or a more detailed level of the HS wherever appropriate, as in the case of certain fruits and vegetables;
- (iii) for transformed and processed agricultural products, tariff equivalents shall generally be established by multiplying the specific tariff equivalent(s) for the agricultural input(s) by the proportion(s) in value terms or in physical terms as appropriate of the agricultural input(s) in the transformed and processed agricultural products, and take account, where necessary, of any additional elements currently providing protection to industry.

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

- (i) appropriate average c.i.f. unit values of a near country ; or

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

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

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

7. The initial tariff equivalents may be adjusted, where necessary, to take account of differences in quality or variety using an appropriate coefficient.

8. Where a tariff equivalent resulting from these guidelines is negative or lower than the current bound rate, the initial tariff equivalent may be established at the current bound rate or on the basis of national offers for that product.

9. Where an adjustment is made to the level of a tariff equivalent which would have resulted from the guidelines provided above, participants shall afford, on request, full opportunities for consultation with a view to negotiating appropriate solutions.

10. The level of tariff equivalent resulting from tariffication shall constitute the base level for the implementation of reduction commitments on market access.

Section B ; Requirements concerning current access opportunities

11. Current access opportunities on terms at least equivalent to those existing shall be maintained as part of the tariffication process. Current access opportunities shall be no less than average annual import quantities for the years 1986 to 1988. Where these opportunities are expanded, the expansion shall be in line with the provisions of paragraph 6 of this Agreement. Any such expansions in access opportunities shall be provided on an m.f.n. basis.

12. For existing global or country specific quantitative restrictions, voluntary restraint agreements, voluntary export restraints, specific arrangements providing for imports with reduced import levies and like measures, current access opportunities shall be defined as the quantity of product imported, in the base period. Where imports exceeded the quantity of product permitted to be imported under those measures in the base period, the actual imported quantity shall be considered to be the current access opportunity.

13. For existing non-automatic import licensing, non-tariff measures maintained through state trading enterprises and like measures, current access opportunities shall be defined as the quantity of product imported during the base period.

Section C : Requirements concerning minimum access opportunities

14. Minimum access opportunities shall be implemented on the basis of a tariff quota at a low or minimal rate and shall be provided on and m.f.n. basis.

15. Access opportunities under this commitment shall in general be provided at the 4-digit level of the HS, or wherever appropriate at a more detailed level, and allocated to the tariff lines of internationally traded products. If another level of aggregation is used to implement the commitment the provisions of paragraph 5 of this Agreement and paragraph 14 above shall still apply insofar as practicable. Participants may request consultations on any matter affecting this commitment with a view to negotiating appropriate solutions.

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Annex 4DOMESTIC SUPPORT : THE BASIS FOR EXEMPTION FROM THE REDUCTION COMMITMENTS

(refer to Annex 2, Uruguay Round Agreement on Agriculture)



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Annex 5DOMESTIC SUPPORT : DEFINITION OF THE AGGERGATE MEASUREMENT OF SUPPORT

1. An Aggregate Measurement of Support (AMS) shall be calculated on a product-specific basis for each basic product (defined as the product as close as practicable to the point of first sale) receiving market price support, non-exempt direct payment, or any other subsidy not exempted from the reduction commitment ("other non-exempt policies") Support which is non-product specific shall be totalled into one non-product-specific AMS in total monetary terms.
2. Subsidies under paragraph 1 shall include both budgetary outlays and revenue foregone by governments or their agents.
3. Support at both the national and sub-national level shall be included.
4. Specific agricultural levies or fees paid by producers shall be deducted from the AMS.
5. The AMS calculated as outlined below for the base period shall constitute the base level for the implementation of the reduction commitment on domestic support.
6. For each basic product, a specific AMS shall be established, expressed in total monetary value terms.



7. The AMS shall be calculated as close as practicable to the point of first sale of the product concerned. Policies directed at agricultural processors shall be included to the extent that such policies benefit the producers of the basic products.
8. Market price support : Market price support shall be calculated using the gap between a fixed external reference price and the applied administered price multiplied by the quantity of production eligible to receive the applied administered price. Budgetary payments made to maintain this gap, such as buying or storage costs, shall not be included in the AMS.
9. The fixed external reference price shall be based on the years 1986 to 1988 and shall generally be the average f.o.b. unit value for the product concerned in a net exporting country and the average c.i.f. unit value for the product concerned in a net importing country in the base period. The fixed reference price may be adjusted for quality differences as necessary.
10. Non-exempt direct payments : Non-exempt direct payments which are dependent on a price gap shall be calculated either using the gap between the fixed reference price and the applied administered price multiplied by the quantity of production eligible to receive the administered price, or using budgetary outlays.

11. The fixed reference price shall be based on the years 1986 to 1988 and shall generally be the actual price used for determining payment rates.
12. Non-exempt direct payments which are based on factors other than price shall be measured using budgetary outlays.
13. Other non-exempt policies, including input subsidies and other policies such as marketing cost reduction measures. The value of such policies shall be measured using government budgetary outlays or, where the use of budgetary outlays does not reflect the full extent of the subsidy concerned, the basis for calculating the subsidy shall be the gap between the price of the subsidised good or service and a representative market price for a similar good or service multiplied by the quantity of the good or service.

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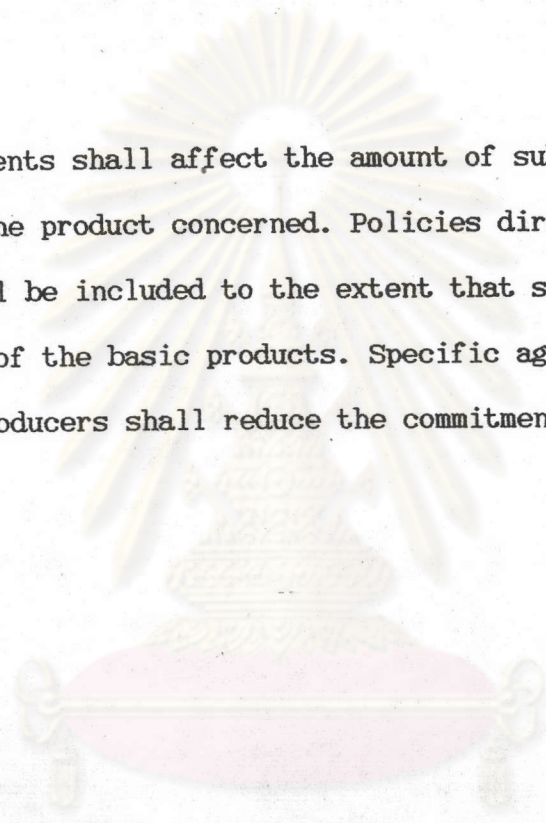
Annex 6DOMESTIC SUPPORT : THE DEFINITION OF  
DOMESTIC SUPPORT EQUIVALENT COMMITMENTS

1. Equivalent commitments shall be undertaken in respect of all products where market price support as defined in Annex 5 exists but for which calculation of this component of the AMS is not practicable. For such products the base level for implementation of the domestic support reduction commitments shall consist of a market price support component expressed in terms of equivalent commitments under paragraph 2 below, as well as any non-exempt direct payments and other non-exempt support, which shall be evaluated as provided for under paragraph 3 below. Support at both national and sub-national level shall be included.

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

3. Where products falling under paragraph 1 above are the subject of non-exempt direct payments or any other product-specific subsidy not exempted from the reduction commitment, the basic for commitments concerning these measures shall be calculations as for the corresponding AMS components (specified in paragraphs 10 to 13 of Annex 5)

4. Commitments shall affect the amount of subsidy at the point of first sale of the product concerned. Policies directed at agricultural processors shall be included to the extent that such policies benefit the producers of the basic products. Specific agricultural levies or fees paid by producers shall reduce the commitments by a corresponding amount.



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Annex 7EXPORT SUBSIDIES SUBJECT TO REDUCTION COMMITMENTS

1. The following export subsidies shall be subject to reduction commitments :
  - (a) The provision by governments or their agencies of direct subsidies, including payments-in-kind, to a firm, to an industry, to producers of an agricultural product, to a co-operative or other association of such producers. or to a marketing board, contingent on export performance.
  - (b) The sale or disposal for export by governments or their agencies of non-commercial stocks of agricultural products at a price lower than the comparable price charged for the like product to buyers in the domestic market.
  - (c) Payments on the export of an agricultural product that are financed by virtue of governmental action, whether or not a charge on the public account is involved, including payments that are financed from the proceeds of a levy imposed on the agricultural product concerned or on an agricultural product from which the exported product is derived.

- (d) The provision of subsidies to reduce the costs of marketing exports of agricultural products (other than widely available export promotion and advisory services) including handling, upgrading and other processing costs, and the costs of international transport and freight.
- (e) Internal transport and freight charges on export shipments provided or mandated by governments, on terms more favourable than for domestic shipments.
- (f) Subsidies on agricultural products contingent on their incorporation in exported products.

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Annex 8MODALITIES OF EXPORT COMPETITION COMMITMENTS

1. Commitments to reduce budgetary outlays in respect of the export subsidies listed in Annex 7 and to reduce the quantity of exports of an agricultural product on which such subsidies may be provided shall be established in accordance with this Annex.

2. The expressions "outlays" or "expenditure" shall, unless the context otherwise requires, be taken to include "revenue foregone"

Reduction Commitments

3. The annual average for the base period of :

- (a) budgetary outlays in respect of the export subsidies listed in Annex 7 : and
- (b) quantities in respect of which the export subsidies listed in Annex 7 have been provided ;

shall constitute, respectively, base outlay and quantity levels for the purposes of reduction commitments in respect of the agricultural products or groups of agricultural products referred to in paragraph 7 through 9 below.

4. Base levels reduced in each year of the implementation period in accordance with paragraph 5 below shall constitute the annual quantity and outlay commitment levels.

5. In the first year of the implementation period base levels shall be reduced by an amount corresponding to the reduction that would be applicable under implementation on the basis of equal instalments. Thereafter commitment levels for any year of the implementation period shall be reduced by at least half the reduction applicable under implementation on the basis of equal annual instalments. Commitment levels in the final year of the implementation period shall be established at levels that ensure that the overall reduction during the implementation period is no less than if annual commitment levels had been established on the basis of equal annual instalments.

6. Base levels, as well as commitment levels for each year of the implementation period, shall be specified in Schedules of export competition commitments.

#### Product Specificity of Commitments

7. Outlay and quantity commitment levels shall be established for all products or groups of products in any case where exports of such products are subsidized through practices listed in Annex 7 paragraphs (i)(a) through (i)(e) including, in particular:

- |                           |                    |
|---------------------------|--------------------|
| (i) Wheat and wheat flour | (xii) Bovine Meat  |
| (ii) Coarse grains        | (xiii) Pigmeat     |
| (iii) Rice                | (xiv) Poultry meat |
| (iv) Oilseeds             | (xv) Sheepmeat     |



- |                              |                    |
|------------------------------|--------------------|
| (V) Vegetable oils           | (XVI) Live animals |
| (Vi) Oilcakes                | (Xvii) Eggs        |
| (vii) Sugar                  | (xviii) Wine       |
| (viii) Butter and butter oil | (xix) Fruit        |
| (ix) Skim milk powder        | (xx) Vegetables    |
| (x) Cheese                   | (xxi) Tobacco      |
| (xi) Other milk products     | (xxii) Cotton      |

8. This listing shall not preclude the scope for negotiating commitments on particular products within groups of products.

#### Incorporated Products

9. Base and annual commitment levels shall be established for aggregate budgetary outlays in respect of subsidies on agricultural primary products incorporated in exported products (Annex 7 paragraph 1(f)). This shall not preclude the scope for negotiating commitments on particular incorporated products or, where feasible, on quantities.

#### Commitments Limiting the Scope of Export Subsidies

10. Limitations on the extension of the subsidization of exports of particular products to specific markets may be specified in schedules.

PART D

DECLARATION ON MEASURES CONCERNING  
THE POSSIBLE NEGATIVE EFFECTS OF THE  
REFORM PROGRAMME ON NET FOOD-IMPORTING  
DEVELOPING COUNTRIES

1. Participants recognize that the progressive implementation of the results of the Uruguay Round as a whole will generate increasing opportunities for trade expansion and economic growth to the benefit of all participants.

2. Participants recognize that during the reform programme leading to greater liberalization of trade in agriculture least developed and net food - importing developing countries may experience negative effects in terms of the availability of adequate supplies of basic foodstuffs from external sources on reasonable terms and conditions, including short-term difficulties in financing normal levels of commercial imports of basic foodstuffs.

3. Participants accordingly agree to establish appropriate mechanisms to ensure that the implementation of the results of the Uruguay Round on trade in agriculture does not adversely affect the availability of food aid at a level which is sufficient to continue to provide assistance in meeting the food needs of developing countries,

especially least developed and net food-importing developing countries. To this end participants agree :

(i) to review the level of food aid established periodically by the Committee on Food Aid under the Food Aid Convention and to initiate negotiations in the appropriate forum to establish a level of food aid commitments sufficient to meet the legitimate needs of developing countries during the reform programme ;

(ii) to adopt guidelines to ensure that an increasing proportion of basic foodstuffs is provided to least developed and net food-importing developing countries in fully grant form or on appropriate concessional terms in line with Article IV of the Food Aid Convention;

(iii) to give sympathetic consideration in the context of their aid programmes to requests for the provision of technical and financial assistance to least developed and net food-importing countries to improve their agricultural productivity and infrastructure.

4. Participants further agree to ensure that any agreement relating to agricultural export credits makes appropriate provision for differential treatment in favour of least developed and net food-importing developing countries.

5. Participants recognize that as a result of the Uruguay Round certain countries may experience short-term difficulties in financing normal levels of commercial imports and that these countries may be eligible to draw on the resources of international financial institutions under existing facilities, or such facilities as may be established. in the context of adjustment programmes, in order to address such financing difficulties. In this regard participants take note of paragraph 37 of the report of the Director-General of the GATT on his consultations with the Managing-Director of the International Monetary Fund and the President of the World Bank.

6. The provisions of this Declaration will be subject to regular review by the CONTRACTING PARTIES.

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Attachment to Annex 2 of the Agreement on Modalities for the  
Establishment of Specific Binding Commitments under the Reform Programme

Formats for lists of specific commitments and supporting  
material.



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3. A participant shall be considered to be in compliance with its domestic support reduction commitments in any year where the sector-wide and product-specific AMS values for support, or the equivalent commitments, do not exceed the corresponding annual commitment levels specified in the Schedule of domestic support commitments of the participant concerned.

4. As long as domestic support subject to reduction does not exceed 5 percent of the total value of production of a basic product in the case of product-specific support, there shall be no requirement to undertake the reduction of that support, and as long as domestic support subject to reduction does not exceed 5 per cent of the value of total agricultural production in the case of a sector-wide AMS, there shall be no requirement to undertake the reduction of that support. For developing countries the percentage under this paragraph shall be 10 per cent.]

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## ประวัติผู้เขียน

นายนิวัฒน์ ไทวัฒนา เกิดที่กรุงเทพมหานคร จบการศึกษานิติศาสตรบัณฑิต จากคณะ  
นิติศาสตร์ มหาวิทยาลัยรามคำแหง ในปีพ.ศ.2527 ต่อจากนั้นได้ศึกษาปริญญาโท คณะนิติศาสตร์  
จุฬาลงกรณ์มหาวิทยาลัย ในปีการศึกษา 2531 ขณะที่กำลังศึกษาปริญญาโทได้ทำงานที่ธนาคาร  
เพื่อการเกษตรและสหกรณ์การเกษตร ตำแหน่งในปัจจุบัน นิติกร 5 ประจำกองนิติการ



ศูนย์วิทยทรัพยากร  
จุฬาลงกรณ์มหาวิทยาลัย