

**Committee on Agriculture**

**SUMMARY REPORT OF THE MEETING HELD ON 18 SEPTEMBER 2008**

Note by the Secretariat<sup>1</sup>

1. The Committee on Agriculture held its fifty-second regular meeting on 18 September 2008 under the Chairmanship of Ms Valeria Csukasi of Uruguay.

2. The agenda of the meeting as set out in WTO/AIR/3237 of 8 September 2008 was adopted.

**I. THE REVIEW PROCESS**

A. MATTERS RELEVANT TO THE IMPLEMENTATION OF COMMITMENTS UNDER THE REFORM PROGRAMME: ARTICLE 18.6

(a) Argentina: EC's domestic support commitments following enlargement

3. Argentina noted that the European Communities (EC) had not proposed negotiations to WTO Members on the binding of AMS levels in respect of 25 member States for the period 1 May 2004<sup>2</sup> to 31 December 2006 and 27 member States as of 1 January 2007.<sup>3</sup> In Argentina's view, it was essential to begin this multilateral negotiating process and therefore Argentina sought clarifications as to: (i) when the EC would supply the statistical data needed to begin the negotiations; (ii) when the negotiations would start with all WTO Members; and (iii) why there had been such a delay in initiating negotiations considering the length of time that had gone by since the accession of ten new members (52 months ago), followed by two new members (19 months ago), to the EC.

4. Argentina also requested that the EC provide the base period, average exchange rates, value of total agricultural production and per subsidized product, and any other information used by the EC or necessary to determine, through multilateral negotiations, the AMS level in respect of 25 and 27 member States, as appropriate for each period, as well as the base level for reduction of overall trade-distorting domestic support (OTDS) for the purposes of this Committee in Special Session.

5. The EC stated that in 1995, an approach was agreed with those involved at that time in the GATT Article XXIV:6 negotiations for the move from EC-12 to EC-15. The agreed approach covered a methodology to address export subsidy commitments, domestic support commitments, and the netting out of tariff quotas. This approach was followed for the move from EC-15 to EC-25; it was also the approach that the EC was currently using for the move to EC-27. The EC recalled that some Members have not yet certified the EC-15 Schedule. However, the EC was presently in the process of ensuring certification of its Schedule, and any new commitments, including those arising out of the Doha Development Agenda (DDA), would be based on an updated and certified EC Schedule.

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<sup>1</sup> This document has been prepared under the Secretariat's own responsibility and is without prejudice to the positions of Members or to their rights or obligations under the WTO.

<sup>2</sup> Date of accession of ten new member States to the EC.

<sup>3</sup> Date of accession of two new member States to the EC.

6. At this time, the EC did not consider the regular Committee on Agriculture as the appropriate forum to present data underlying commitments such as OTDS or product-specific caps. These were currently negotiated in the DDA and had therefore not yet been included in a final modalities or Agreement text.

7. Argentina considered that the EC had not replied fully to its queries and reiterated its question as to when the EC would notify the start of multilateral negotiations as regards the enlargement to EC-25 and EC-27. Argentina also noted that it had requested data, including as regards the Blue Box, in this Committee because when such questions had been raised in the Special Session of the Committee on Agriculture, there had been no answers. In the absence of replies at this meeting, Argentina urged the EC to provide data in the Special Session.

8. The United States flagged interest in this matter and underlined that the EC enlargement and how their commitments were defined were important issues.

(b) Argentina: EC's estimation of product-specific Blue Box support during 1995-2000

9. Argentina sought the EC's objective estimate as to how product-specific support was currently applied and had been applied in the period 1995-2000 under the "per hectare compensatory payments for producers of cereals not subject to the base area for maize, based on regional base areas" Blue Box programme. The EC considered that this issue should be addressed in the ongoing DDA negotiations.

(c) Argentina: Expansion of EC's garlic tariff quota allocation to China

10. Argentina queried whether, under the negotiating process relating to the enlargement of the EC to 27 member States, China benefited from an expansion of the tariff quota for garlic, fresh or chilled, of heading 07032000, and if so, the extent of the volume increase.

11. The EC replied that it was in the process of GATT Article XXIV:6 negotiations with the WTO Members having negotiating rights, following the enlargement with Bulgaria and Romania. The EC assured that the result of all bilateral negotiations would be notified to the Membership in due course.

(d) Australia: Brazil's new support measures in the 2008/09 Agriculture and Livestock Plan

12. Australia understood that Brazil's 2008/09 Agriculture and Livestock Plan, announced in July 2008, had extended a number of existing interest rate, commodity and investment credit programmes and had introduced measures valued at US\$49 billion designed to increase agricultural production. Australia requested further information about these new measures, including type and level of support, eligibility criteria, and intended classification.

13. Brazil noted that general information about the Agricultural and Livestock Plan 2008/09 was available on the website of the Ministry of Agriculture of Brazil<sup>4</sup> and that the resources foreseen by this Plan amounted to R\$65 billion, equivalent to US\$38 billion, according to the current exchange rate. Such resources corresponded to the total stock of credit to be borrowed and paid back by rural producers. The element of support corresponded to the differential between the market rate of interest and the rate of interest of the loan, in accordance with the established methodology. The investment programmes were basically the same as in the previous plan, with minor adjustments to Prolapex.<sup>5</sup> As

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<sup>4</sup> <http://www.agricultura.gov.br>

<sup>5</sup> This programme finances agricultural production and livestock integration systems.

for Moderagro<sup>6</sup>, it was put under a new programme called Produsa<sup>7</sup> in order to better attain the objective of promoting the recovery of degraded soil and pasture, and support the use of environmentally sound practices. Another programme was created to further promote the development of storage facilities, for which a credit line of US\$176 million was made available. It was aimed at grain traders with a direct link with producers and its cooperatives. Minimum prices were reviewed upwards due to higher production costs and according to the behaviour of commodity market prices. As to investment credit, changes were introduced to eligibility criteria, increasing the maximum value to be financed and the reference level of borrowers' gross income. Moderfrota's<sup>8</sup> flat rate of 4 per cent paid by manufacturers and dealers of tractors and harvesting machines was also eliminated. An amount of US\$294 million from Moderfrota was assigned to finance producers under a new programme – Proger<sup>9</sup>, at an interest rate of 7.5 per cent.

14. As regards classification, capital credit for low-income and resource-poor producers (through Program for Strengthening of Family Agriculture – PRONAF) and all the investment credit was classified under Article 6.2 provisions. Capital credit for producers not covered by PRONAF and all commercialization credits were classified as Amber Box measures.

15. The United States expressed interest in this matter and highlighted the importance of a good understanding of Members' domestic support notifications.

(e) Australia: India's sugar export subsidies for 2008

16. With reference to India's responses provided to the Committee on Agriculture<sup>10</sup> and bilateral discussions in New Delhi in April this year, Australia noted that on 29 March 2008, the Department of Food and Public Distribution had issued an Order extending the Central Government freight export subsidies until 30 September 2008. Although the Order was not published on the official website of that Department, a hard copy was subsequently provided to Australia during the course of bilateral discussions. In light of the imminent expiry of that Order, Australia asked India to confirm whether a decision had been taken to extend the period of eligibility for freight export subsidies and if so, to provide a copy of the relevant Order. India recalled that it had submitted a detailed reply in the last session of the Committee on Agriculture and added that there was no proposal currently under consideration to extend the export assistance to sugar mills beyond 30 September 2008.

17. In regard to the export subsidies provided by the State Government of Maharashtra, Australia understood that the Maharashtra authorities provided freight subsidies and direct per unit subsidies for exports. Australia noted that it had not identified relevant documentation on the official website of the Maharashtra Government nor had the Maharashtra authorities responded to its request for relevant documentation and details of subsidies currently being granted by those authorities to sugar exports from that State. Australia therefore asked India to provide the relevant documentation and clarify the current status of those arrangements, including expiry dates and any decision to extend the period of eligibility. Also, in the context of India's advice to the Committee on Agriculture<sup>11</sup> that the State Government of Maharashtra subsidies were subject to the condition that the total per unit amount paid for exports – whether by the Central or Maharashtra authorities – does not exceed actual expenditure, Australia sought clarification of the arrangements in place between the Central and Maharashtra authorities for compliance with that condition.

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<sup>6</sup> Implementation or improvement of fruit trees, investments related to floriculture, sheep and goat raising, aquaculture, apiculture, swine, poultry, dairy, sericulture and systems of cattle and buffalo traceability.

<sup>7</sup> Programme to recover degraded soil and pasture and support the use of environmentally sound practices.

<sup>8</sup> This programme covers farm tractors, harvesting machines and equipment for processing coffee.

<sup>9</sup> This programme provides financing to small rural producers for the creation of jobs and income.

<sup>10</sup> See G/AG/R/51.

<sup>11</sup> See G/AG/R/51.

18. India explained that the Maharashtra Government via their Government Resolutions dated 27 July 2007 and 5 May 2008 had provided for financial assistance to sugar factories for export of sugar. Although India understood that the copies of these resolutions were provided to Australia during the bilateral meeting in April, India would provide the Secretariat with a copy of the resolution dated 27 July 2007 for further circulation to the interested Members. Regarding the arrangements in place between the Central and Maharashtra authorities for compliance with the condition that the total subsidy does not exceed actual expenditure, India indicated that the financial assistance to be provided by the Central Government was a fixed amount of Rs. 1,350 per tonne of exports of sugar and this condition was included in the said Government Resolution.

19. Australia noted that the Central Government subsidies involving a maritime freight component were not based on cost recovery, but were provided on a flat rate basis without variation to any destination. On the other hand, subsidies not involving a maritime freight component were based on cost recovery, within a ceiling limit. Australia sought clarification as to why India had elected to apply the two different methods for granting the subsidies. India stated that in cases of exports made to neighbouring countries involving movement by road and/or rail, and not by ship, the actual expenditure incurred in some cases might be less than if the exports had involved a movement by ship. This was the reason for the two different methods of providing financial assistance.

20. Australia remarked that in bilateral discussions, India had stated that the flat rate subsidy for freight and other costs involving a maritime component was less than actual costs. However, Australia considered that there were significant variations in freight rates to different destinations and further, many of India's sugar export shipments were transacted on an f.o.b. basis. Australia sought clarification of the verification arrangements in place to ensure that the Central and State subsidies granted on a flat rate basis do not exceed actual costs. India responded that the expenditure incurred for the purpose of internal transport and freight charges (including ocean freight and handling & marketing charges) was more than the flat rate of financial assistance. In the case of sugar mills of Maharashtra, the claims were settled by the Government of Maharashtra subject to the condition mentioned in a reply in paragraph 18 above.

21. In regard to the Duty Entitlement Pass Book (DEPB) scheme, Australia requested clarification as to whether the import duty credits earned by sugar exporters were transferable and whether they had to be utilised by a specified date. India clarified that the DEPB scrips were transferable, and once issued, were valid for imports for 29 months from the date of issuance.

22. Australia indicated that, if needed, it might pursue this issue with follow-up questions bilaterally at a later stage.

(f) Australia: United States' domestic food aid programme; and Farm Bill provisions relating to sugar

23. Australia noted that the United States had notified domestic food aid expenditure on food and nutrition programmes administered by its Food and Nutrition Service for marketing years 2002, 2003, 2004, 2005.<sup>12</sup> Australia asked the United States to provide details of the criteria used to determine which products were purchased for distribution under its various domestic food aid programmes, including on an *ad hoc* basis. Australia also noted that under Section 1403 of the *Food, Conservation and Energy Act of 2008*, the Secretary of Agriculture must establish for each crop year appropriate allotments for the marketing by processors of sugar at a level that was not less than 85 per cent of the estimated quantity of sugar for domestic human consumption for that crop year. Australia sought an explanation as to how the United States intended to implement and administer this 85 per cent requirement.

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<sup>12</sup> See G/AG/N/USA/60.

24. The United States indicated that the U.S. Department of Agriculture (USDA) purchased a variety of meat, poultry, and fruit, vegetable, and specialty crop products throughout the year for the National School Lunch Program and other domestic food assistance programmes. An annual purchase plan was developed based on multiple factors, including school and other food assistance programme needs and desires, expectations of available funds, market conditions, and past purchases. USDA's Food and Nutrition Service (FNS) received orders for a variety of products from state purchasing agents that reflected the demand for those products and USDA's Agricultural Marketing Service made the actual food purchases. All purchases were made at market prices. In addition, there might be legislative requirements, which would be taken into account, to purchase a certain amount of commodities. During a marketing year, some funds were held in reserve for potential *ad hoc* purchases for domestic food assistance programmes. Factors involved in these purchases included domestic needs and commodity availability. These purchases were distributed to food banks, emergency feeding programmes ("soup kitchens"), and other programmes that served needy persons.

25. Regarding sugar, the United States noted that on 9 September 2008, the USDA established some initial parameters for the FY 2009 sugar programme. The domestic sugar overall allotment quantity was established at 8,925,000 short tons raw value (STRV), 85 per cent of the estimated quantity of sugar for domestic human consumption of 10,500,000 STRV.<sup>13</sup> The USDA was in the process of preparing regulations that would provide a detailed description of the domestic sugar marketing allotment programme, including the operation of this provision.

26. In its follow-up questions, Australia sought further information as to what "domestic needs" referred to in the US response, and the nature of the "legislative requirements" to purchase certain amounts of commodities. In relation to USDA's US\$50 million *ad hoc* pork purchase on 1 May 2008, Australia also sought details on the criteria that were used by the USDA to make such purchases for donation to its domestic food aid programmes. The EC expressed interest in this matter and asked whether in the case of domestic food aid programmes, imported products were also eligible. The United States stated that these follow-up questions would be referred back to capital for response.

(g) Brazil: EC's export subsidy notifications: reflection of DSB recommendations in EC-Sugar

27. Brazil noted that public European Commission documents which refer to annual budgetary outlay and quantity levels in excess of the EC-15 scheduled commitments and footnote (5) to the EC export subsidy notification suggested that such notification does not take into account the DSB recommendations in the "EC-Sugar" case (DS/266). Brazil sought confirmation of its understanding and requested clarification as to how the EC intended to reflect the results of DS/266 in future notifications.

28. In its response<sup>14</sup>, the EC stated that it respected its commitments and complied with the DSB recommendations in DS/266. The currently available export subsidy notifications 2003/4 and 2004/5 concern the period before 22 May 2006 by which date the EC had to comply with the DSB recommendations. Public documents referred to by Brazil and Australia for more recent periods did not necessarily correspond to the notification format in the Committee on Agriculture. Some of these documents could include figures on exports of processed products and the marketing year 2006/7 covered a 15-month period due to the reform of the marketing organization for sugar. Therefore, the EC recommended that compliance with the commitments be reviewed on the basis of relevant notifications. Anticipating the EC notification for 2005/6 and subsequent years, the EC indicated that

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<sup>13</sup> As projected in the World Agricultural Supply and Demand Estimates report of 12 August 2008 (page 16).

<sup>14</sup> This reply also answers the third question from Australia under the review of notifications (see Annex 1, paragraph 11) concerning G/AG/N/EEC/55.

the exports concerned by footnote (5) would be included and hence this footnote would not be applicable from that year.

29. Brazil underlined its interest in this issue which in its view, raised major systemic elements for the WTO. Brazil was encouraged by the EC answer related to future notifications.

(h) Canada: China's application of tariffs and other duties and charges

30. With reference to China's WTO Accession Agreement<sup>15</sup>, Canada enquired as to how China intended to ensure that the application of an "interim MFN" tariff for a product was carried out in a way that was consistent with the principle of China's WTO Accession undertakings in regards to not causing distortions in the terms of competition between substitute products or competing suppliers, particularly between substitute oilseeds, including canola.

31. Noting Canada's concern, China asked Canada to take its special situation into consideration. Because of the soaring price of certain oilseeds in the world market and drop in domestic production, China had faced the gap between supply and domestic demand, and decided to levy interim tariffs on certain oilseed and vegetable oil products. China added that the interim tariffs on those products were scheduled to be terminated by the end of September 2008.

32. Noting that China might have special circumstances, Canada pointed out that accession commitments needed to be met. Canada welcomed the information that the interim tariffs were to be removed.

(i) Canada: United States' Average Crop Revenue Election programme (ACRE)

33. Referring to Section 1105 of the *Food, Conservation, and Energy Act of 2008*, specifically (g)(2)(A), Canada sought an explanation as to: (i) the significance of the wording acreage "considered planted" as opposed to acreage "planted"; (ii) for each major crop, the estimated difference between the acreage planted and the acreage considered planted in a typical crop year; and (iii) whether the wording "considered planted" had any implications as to where in its domestic support notification the United States might choose to report ACRE payments and, if so, how. The United States responded that the USDA was in the process of reviewing the legislation for the purpose of preparing regulations to implement the programme, which would not come into effect until 2009.

34. Canada noted that as the implementing legislation was being prepared, Canada remained keenly interested in how this programme was being implemented and therefore would likely return to it in a subsequent meeting.

(j) China: Lifting of EC import ban on Chinese poultry

35. China noted that the EC lifted a six-year import ban on Chinese poultry from 2 September 2008. However, due to the limited tariff quota and high out-of-quota tariff, the market share that the Chinese enterprises can enjoy is relatively small. China expected the EC to ensure the reasonable market share of Chinese poultry products through substantive negotiations to be launched as soon as possible.

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<sup>15</sup> Annex 8, Schedule CLII, Part I, Section 1-A Tariffs, paragraph 2(b): "China undertakes in principle to apply its tariff, both bound and applied rates, as well as other duties and charges, in such a way as to not cause distortions in the terms of competition between substitute products or competing suppliers. In this regard, there was particular interest in ensuring fair competition between rape (canola) seeds and soybeans, rape (canola) oil and soybean oil [...]".

36. The EC congratulated the Chinese authorities for their successful efforts to comply with the requirements enabling the EC to lift its ban on the imports of cooked poultry and China was now entitled to participate in the tariff quota of 11,443 tonnes, which was established in GATT Article XXVIII negotiations in 2006. The EC was very much aware that China had repeatedly requested to have a greater share of the EC market. However, the EC could not recognize the claim of a substantial interest. The WTO had clear rules and China was not in the same position as certain other Members who had historical exports to the EC. The EC was convinced that it had fully complied with WTO rules, and therefore there was no possibility to proceed to substantive negotiations with China on this issue.

37. China considered that it had substantial interest in this issue and looked forward to finding a mutually acceptable solution with the EC through bilateral channels. Argentina flagged interest in this matter.

(k) China: U.S. 2008 Appropriation Act: provisions relating to poultry products imported from China

38. China noted that Section 733 under the U.S. 2008 Appropriation Act provided that the funds available must not be used to establish or implement a rule allowing poultry products to be imported from China. In China's view, Section 733 was discriminatory and protectionist, which failed to be based on science in conformity with WTO rules. China requested the United States to abolish this provision and open its poultry market to China.

39. The United States considered that this issue would be more appropriately addressed, as it had been in the past, in the Committee on Sanitary and Phytosanitary Measures. The United States placed great importance on ensuring that its measures were based on science and in compliance with the SPS Agreement. The United States noted that its SPS officials continued to raise China's concerns with the appropriate authorities in Washington and hoped to resolve this issue as soon as possible.

40. China considered that the Committee on Agriculture was an appropriate venue to discuss this issue because it fell within the ambit of this Committee and the U.S. 2008 Appropriations Act was related to the implementation of agricultural policy. China looked forward to further discussions with the United States through bilateral channels.

## B. REVIEW OF NOTIFICATIONS

(a) Notifications in respect of which questions have been raised in advance of the issuance of the convening airgram

41. The Committee reviewed the notifications as listed in the agenda. Specific points raised with respect to these notifications and the responses thereto are summarized in Annex 2 to this report.

(b) Notifications subject to review in respect of which no questions have been raised in advance of the issuance of the convening airgram

42. The Committee took note of the notifications which had been circulated in advance of the date on which the notice convening the present meeting was issued, but in respect of which no questions had been raised by that date under the Committee's Working Procedures (G/AG/1). These notifications are listed in Annex 3.

(c) Notifications circulated or made available after the notice convening the meeting was issued

43. The following notifications were subject to preliminary review and are to be reverted to at the next meeting for substantive review in accordance with paragraph 9 of the Committee's Working Procedures.

- (a) in the context of the administration of tariff and other quota commitments (Table MA:1): from the United States (USA/63);
- (b) in the context of the special safeguard (Tables MA:3 to MA:5): from Norway (NOR/48);
- (c) in the context of domestic support commitments (Tables DS:1 and DS:2): from Chinese Taipei (TPKM/61); and
- (d) in the context of export subsidy commitments (Tables ES:1 to ES:3): from Switzerland (CHE/42/Corr.1 and CHE/44).

(d) Points concerning notifications raised at previous meetings

44. The Chairperson recalled that delegations have the possibility to inform the Committee of the outcome of discussions which are of general interest, but which may have been pursued bilaterally as a result of the review of notifications. There was no discussion under this agenda item.

(e) Counter-notifications

45. The Committee took note that no counter-notifications had been received under Article 18.7 of the Agreement on Agriculture.

(f) Deferred replies to questions raised under the Review Process

46. There were no deferred replies to questions previously raised.

(g) Overdue notifications

47. An updated room document, dated 17 September 2008 showing the current status of compliance with notification obligations was made available by the Secretariat.

(i) *Argentina - EC: Notifications relating to domestic support*

48. Argentina noted that without prejudice to Members' obligations in respect of Notification Requirements and Formats, a delay in submitting notifications of trade-distorting domestic support made it extremely difficult to verify implementation of the Agreement, and especially the effectiveness of cuts in these subsidies, which were under discussion in this Committee in Special Session, and consequently the fulfilment of the paragraph 5 mandate of the Hong Kong Ministerial Declaration. Argentina asked the EC to indicate the date on which this Committee would receive notifications of the applied level of domestic support for the following outstanding periods: 2004/2005, 2005/2006, 2006/2007 and 2007/2008.

49. The EC stated that the Committee could expect to see the presentation of domestic support notification 2004/2005 and 2005/2006 soon. The notification for these years would include for the first time elements of the CAP reforms decided in the period 2003-2005. The EC noted that the data



collection for 2006/2007 was to be initiated in November this year while the data collection for 2007/2008 required the completion of the budget year 2008.

(ii) *Australia - EC and EC member States: Outstanding notifications*

50. Australia noted that according to the room document concerning compliance with notification obligations, notifications were outstanding for certain member States<sup>16</sup> prior to their accession to the EC. Australia sought clarification as to when those notifications would be provided, noting that the most recent notification of the EC<sup>17</sup> pertained to the EC-15 before 1 May 2004 and the EC-25 after 1 May 2004. The EC stated that it would work towards completion of its notification obligation.

(iii) *Australia - India: Notifications relating to imports under tariff quotas, tariff quota administration, domestic support and export subsidies*

51. Australia noted that according to the room document concerning compliance with notification obligations, India had a number of notifications pending for domestic support and export subsidies and had not submitted notifications regarding its imports under tariff quotas. Australia asked when India would provide Members with an opportunity to review its domestic support for the years 1998 – 2007, export subsidy programmes for the years 1995, 2001-2007, and imports under tariff quotas, including both Tables MA:1 and MA:2, specifying administration and fill rates.

52. India confirmed that the process of gathering information in preparation for compliance with notification obligations was underway and as soon as this process was completed, India's notifications would be circulated to Members. As regards imports under tariff quotas, India provided the following information in Annex 1.

53. In its follow-up comments, Australia noted that it looked forward to the submission of the overdue notifications as soon as possible.

(iv) *Argentina - United States: Notifications relating to domestic support*

54. Argentina noted that without prejudice to Members' obligations in respect of notification procedures, the delay in submitting notifications of trade-distorting domestic support for 2007 made it extremely difficult to verify implementation of the Agreement, and especially the effectiveness of cuts in the subsidies which were under discussion in this Committee in Special Session, and consequently, fulfilment of paragraph 5 of the Hong Kong Ministerial Declaration. Argentina enquired as to when the US would submit the notifications of the applied level of domestic support for the outstanding two years (2006 and 2007).

55. The United States stated that it was in the process of drafting the 2006 domestic support notification and would submit it upon completion. The 2007 marketing year had just ended for some commodities and final data were not yet available. The United States noted that it was among the group of WTO Members that were most up-to-date with domestic support notifications. The United States added that as regards its other outstanding notifications, it hoped to have them soon and it encouraged all Members to get their notifications up-to-date.

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<sup>16</sup> Bulgaria, Cyprus, Czech Republic, Lithuania, Malta and Poland.

<sup>17</sup> G/AG/N/EEC/55.

## II. OTHER MATTERS WITHIN THE PURVIEW OF THE COMMITTEE

### A. TRANSITIONAL REVIEW UNDER PARAGRAPH 18 OF THE PROTOCOL ON THE ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA (WT/L/432)

56. The Committee held its seventh annual review under paragraph 18 of the Protocol on the Accession of the People's Republic of China. The United States had submitted questions and comments to China in advance of the meeting.<sup>18</sup>

#### (a) Statement by China

57. In its opening remarks, China noted that since its accession, seven Transitional Reviews had been held under this Committee regarding the implementation of China's WTO accession commitments in the area of agriculture. In a spirit of enhancing transparency, China had addressed the questions and comments from Members with patience and good faith in previous meetings. China believed that those replies could not only enable Members to have a much more comprehensive understanding of the measures and policy tools by China in the area of agriculture but also clarify the issues being misunderstood.

58. In response to question 1, China stated that China's Enterprise Income Tax Law (EITL) had no specific definition of the term "enterprise" in the context of pork producers and pork processors. However, Article 2 stated that "enterprises" refer to those established within the territory of China pursuant to China's laws and regulations which cover the domestic and foreign enterprises with the status of legal persons. Further, Article 27 of China's EITL, and Article 86 of the Implementation Rules for China's EITL, set out that enterprises engaged in projects of agriculture, forestry, animal husbandry and fisheries, including preliminary processing of agricultural products might be subject to exempted or reduced enterprise income tax.

59. China added that the years 2006 and 2007 had witnessed a downturn in China's pork industry, illustrated by the dramatic slowdown of output and the abrupt jump in the price of pork due to the high price of feed in the international market, the outbursts of high fever disease, an unprecedented snow storm disaster in Southern China, and the devastating earthquake in the Sichuan Province. With a view to facilitating the recovery of pork production and stabilizing the market supply and price, the Chinese Government had started a number of programmes in relation to the pork industry, including those described below.

60. As regards the amount of revenue generated by pork producers and pork processors in 2007 and 2008, China noted that there was no nation-wide category of statistics on the amount of revenue generated by pork producers or processors in China.

61. Regarding question 2, China noted that support to sow producers was RMB 50 per head, amounting to a total of about US\$353 million. China remarked that the total figure indicated by the United States was incorrect but confirmed that support for pork in 2008 was RMB 100 per head. Under this programme, the sow breeders in China, regardless of farms or individual breeders, were all eligible to receive this payment.

62. In response to question 3, China stated that the sow insurance programme had started at the end of August 2007. Sow breeding farmers and enterprises that could qualify to the insurance terms would receive premium support after their application. China noted that the figures mentioned by the United States were incorrect.

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<sup>18</sup> G/AG/W/69 and Corr.1.

63. Regarding question 4, China stated that this programme involved support for pig breeding farms with over 500 head in such areas as waste treatment, standardized improvement of pig pens, and construction of auxiliary facilities for water, electricity, roads and prevention of epidemics, with a view to improving the sanitary conditions of the breeding farms and protecting the environment. There were four levels of support payments: (i) RMB 200,000 for farms with 500-999 head; (ii) RMB 400,000 for farms with 1,000-1,999 head; (iii) RMB 600,000 for farms with 2,000-2,999 head; and (iv) RMB 800,000 for farms with 3,000 head and above. China noted that the figures mentioned by the United States were incorrect.

64. Responding to question 5, China noted that it did not arrange for specific funds to be disbursed to pork producers in Southern China for weather-related losses. Rather, there was a more favourable investment arrangement given to disaster areas as a whole, including the snow storm and earthquake disaster areas, for the recovery of animal husbandry production. As there was no specific arrangement for the pork industry in this regard, China therefore would be interested in knowing where such information had been found.

65. In reply to question 6, China stated that it was not aware of the existence of any financial support to pork processors related to the slaughtering of hogs and that it would be interested in knowing where such information had been found.

66. Regarding question 7, China remarked that the information provided by the United States was incorrect. A programme was launched during the second half of 2007 when the Chinese Government had chosen 200 counties with better developed technical services networks for the artificial insemination of sows, with over 30 per cent prevalence rate for artificial insemination, and 20,000 head of sows in stock, in order to carry out this "superior breed" payment programme. The breeding farmers and enterprises in these counties were eligible for the payment. China further indicated that the total value of this pilot programme was RMB 180 million in 2007.

67. In response to question 8 regarding the total value of China's pork production in 2007 and estimates for 2008, China noted that the total amount of pork production was around 43 million tonnes in 2007.

68. China also noted that almost all the figures cited by the United States in its questions were either incorrect or there was a huge discrepancy. China was therefore interested in knowing the sources of these data used by the United States. China reiterated that all the above-mentioned programmes had been carried out in a special context and aimed at the recovery or better development of animal husbandry production. Related measures could be found in China's Animal Husbandry Law, the Instruction on Restoration Planning after Snow Storm Disaster, the Working Planning on Post-Disaster Recovery of Animal Husbandry Production, the Notice of Implementing the Projects of Superior Breed by the Ministry of Agriculture and Ministry of Finance, which were all available on the Internet at <http://www.agri.gov.cn> and <http://www.mof.gov.cn>.

69. As regards question 9 concerning China's VAT exemptions, China remarked that in the previous Transitional Reviews as well as in China's Trade Policy Review, China pointed out that when the agricultural commodities such as wheat, cotton and corn were imported, they entered the circulation market where they were subject to the same taxation policy as domestic products in the same market. Both were assessed the VAT, therefore, there was no discriminatory treatment in the VAT taxation.

70. As regards the VAT exemption policy for agricultural products directly produced and sold by farmers, it was mainly based on the following considerations. Firstly, China's agricultural producers were characterized by large population, small-scale and very scattered distribution. The average arable land per farmer in China was only 2.3 mu (1 mu is equal to 0.067 hectares) while for example

in the United States, one family farm occupied arable land of as much as a few hundreds to a few thousands mu, with an average of 1,100 mu. In addition, farmers in China were dispersed and the costs for assessing taxes would be hundreds times more than those in the United States. In this context, with a view to increasing efficiency and lowering the costs of taxation, China had adopted VAT exemption policy for farmers according to Article 16 of the Provisional Regulation on VAT of the People's Republic of China. Nonetheless, this exemption was limited only to agricultural products produced and sold directly by farmers. Those products purchased and sold after this initial transaction, i.e. in the circulation market, were still subject to VAT taxation which was the same as for imported products.

71. Secondly, agricultural inputs such as pesticides, machinery and fuel, were VAT inclusive. However, this part of costs could not be deducted by farmers upon purchase. Based on the above considerations, China had adopted a VAT exemption policy for products directly produced and sold by farmers. China considered that the sale of self-produced agricultural products by farmers could not be compared to importation of those products. From the perspective of taxation policy for agricultural products in relation to their importation and domestic circulation, VAT was assessed in both cases, and, therefore, the above-mentioned taxation policy was in line with WTO rules.

72. Thirdly, with regard to VAT policies for agricultural inputs, under the current tax regime, certain domestically-produced fertilizers such as carbamide as well as seeds, pesticides, herbicides, agricultural machinery and fertilizers during the phase of wholesale and retail were exempted from VAT. Currently, most imported fertilizers and most imported seeds were also exempted from VAT. China noted that pesticides and agricultural machinery sold by domestic producers or imported should be assessed VAT at 13 per cent. Although pesticide and agricultural machinery were VAT exempted at the domestic wholesale and retail phase while imports of such products were assessed VAT, due to the principle of chain deduction of VAT, these VAT exempted domestic products could not deduct their input tax in the next transaction. Hence, the VAT incidence was included in the product and both domestic and imported products bear the same level of tax incidence.

73. China noted that the related measures could be found in circulars 2001/113, 2005/87, 2007/171 and 2007/93 issued by the Ministry of Finance and the State Administration of Taxation.

74. In reply to question 10 concerning export VAT rebates, China stated that according to China's Provisional Regulation on VAT, the tax rate for exported products was zero unless otherwise stated by the State Council. Measures which spelled out how to calculate the export rebate were provided in circulars 1994/31, 2002/11 and 2007/7 by the Ministry of Finance and the State Administration of Taxation. However, these circulars did not provide information on how to calculate the export rebate for a specific product. Under the current tax rebate regime, VAT rebate should be equal to or less than the assessed VAT rate. The difference between the assessed rate and the rebate rate multiplied by f.o.b. price should be turned into cost account from import tax which was the paid part and the remaining import tax would be covered by export rebate. This system ensures that the export rebate will not exceed the VAT assessed.

75. As regards question 11, China remarked that it was not clear. If the question referred to agricultural and food products under the processing trade, then under the current tax system the imported part was subject to a policy implemented in the bonded area which meant no taxation on imports and no rebate on exports.

76. In reply to question 12, China stated that the information sought by the United States would be disclosed upon request with the permission of concerned enterprises. However, most enterprises were highly concerned that such specific information was commercially sensitive and would not provide it. Therefore, the Chinese Government, respecting the enterprises' decision, could not provide such information. As regards the applied duty rates for tariff quotas, China stated that they should be

fixed within one year and the Chinese Government would issue notice for the next year by the end of each year. China suggested that Members refer to TQ rates on imports in the Appendix of China's Customs Tariff on Imports and Exports 2008 in order to check the tariff quotas for 2008.<sup>19</sup>

(b) Follow-up questions and comments by Members and China's responses thereto

77. The United States thanked China for the detailed responses. Some of the inaccuracies with the figures that were cited in the questions reflected the fact that it was sometimes challenging to obtain the correct information. The United States would appreciate receiving the responses in writing, including the references to relevant websites, as they would be referred back to capital for possible follow-up questions. The United States noted that the Transitional Review Mechanism was an important process not only in this Committee but in all WTO Committees.

78. In response to the request for the Internet addresses, China noted that the relevant information could be found at the Chinese Government website at <http://www.gov.cn>. The United States remarked that if it had difficulties in finding the specific information at this website, it would follow up bilaterally.

(c) Report to the Council for Trade in Goods (CTG)

79. With respect to the Committee's report on the Transitional Review to the CTG, the Committee took note that the Chairperson would submit a factual report on her own responsibility. The report would make reference to all relevant documents submitted in the context of this review and make reference to the Secretariat's summary report of this meeting reflecting the discussions held under this agenda item.<sup>20</sup>

B. IMPLEMENTATION-RELATED ISSUES

80. Paragraph 2 of the Doha Ministerial Decision on Implementation-Related Issues and Concerns<sup>21</sup> instructs the Committee to follow up on three distinct issues: (a) Members must develop disciplines on export credits as per Article 10.2 of the Agreement on Agriculture; (b) the Committee must examine possible means for improving the effectiveness of the implementation of the NFIDC Decision; (c) the Committee must also ensure that Members' tariff quota regimes are administered in a transparent, equitable and non-discriminatory manner, keeping such regimes under review. The Chairperson recalled that over the past few years, two reports had been submitted to the General Council<sup>22</sup> on these issues.

81. Argentina stated that, without prejudice to the provisions of Article 10.1 of the Agreement on Agriculture, the establishment of additional and specific disciplines on export credits, export credit guarantees or insurance programmes remained an outstanding implementation issue resulting from the Uruguay Round Agreement on Agriculture. Argentina therefore requested that this item be retained on the agenda of the Committee on Agriculture in regular session.

82. Cuba expressed its support and solidarity with countries affected by devastating natural disasters – Haiti, the Dominican Republic, Cuba and the United States. As regards the three issues discussed under this agenda item, Cuba noted that in the area of export competition, mainly credits,

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<sup>19</sup> A hard copy of "Customs Tariff on Import and Exports 2008" is compiled by the Office of Customs Tariff Commission of the State Council and Tariff Department of the Ministry of Finance of the People's Republic of China.

<sup>20</sup> The report was subsequently circulated in document G/AG/25 (dated 23 September 2008).

<sup>21</sup> WT/MIN(01)/17 (14 November 2001).

<sup>22</sup> See G/AG/16 (4 July 2003) and G/AG/16/Add.1 (13 June 2006).

and in the matter of the Marrakesh Decision, there was now a much clearer picture in the negotiations. In its view, it would be timely to evaluate what had been achieved or not achieved, given the successive documents submitted by the Chairman of the Special Session.

83. Cuba proposed that the reports that had so far provided guidance to Members' discussions on implementation-related issues (i.e., G/AG/16, G/AG/16/Add.1, and G/AG/22) be updated by the Secretariat taking account of the latest version of the Draft Modalities, notably in the areas of export credits, effectiveness of the Marrakesh Decision, and transparency in tariff quota administration. Cuba also recalled that the Director-General in his report of 27-28 July 2008 to the TNC stated that the export competition pillar had been practically stabilized, and balanced. Cuba noted however that it had concerns regarding export credits and that it would continue to discuss this issue in the Special Session.

84. The Chairperson noted that there was a clear line between the competence of this Committee and matters relating to the Doha Round negotiations which the Committee could not disregard while discussing Cuba's request.

85. Cuba clarified that it did not intend to make the linkages but to refer to the competence of the Special Session as well as to what was related to the Regular Session of the Committee. Cuba considered that there was now a situation in the negotiations that could enable a balance to be achieved as regards the follow-up to the Marrakesh Decision and the implementation-related decisions taken in Doha.

86. Further to this clarification, the Chairperson noted that a follow-up to Cuba's request would be made.

C. OTHER BUSINESS

(a) Annual Report to the Council for Trade in Goods

87. In line with past practice, a short and factual draft report for the CTG on the work undertaken by the Committee in the course of 2008 had been circulated before the meeting in order to facilitate Members' consideration of this matter. The Committee took note of the report and agreed that, after updating as appropriate, it would be submitted to the CTG on the Chairperson's responsibility.<sup>23</sup>

(b) Date of next meeting

88. The next (53<sup>rd</sup>) regular meeting of the Committee on Agriculture is scheduled to be held on Thursday, 4 December 2008. On this basis, the convening airgram will be issued on Monday, 24 November 2008, and the reminder airgram will be issued on Monday, 10 November 2008.

(c) Provisional schedule of meetings for 2009

89. According to the Committee's rules of procedures, regular meetings of the Committee are to be held in March, September and November. The Committee took note of the provisional schedule of meetings for 2009. The dates for each regular meeting would continue to be confirmed at the preceding meeting of the Committee. The question of whether there was a need for a regular meeting in June 2009 would be determined by the Chairperson following the March 2009 meeting in consultation with Members. Moreover, the following schedule may need to be re-visited in light of developments in the agriculture negotiations: [12 and 13] March 2009; [18 and 19 June 2009]; [21 and 22] September 2009; and [19 and 20] November 2009.

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<sup>23</sup> The report was later circulated in G/L/856 (dated 23 September 2008).

**Annexes**

		<u>Page</u>
Annex 1	India - Imports under tariff quotas	16
Annex 2	Summary of points raised with respect to notifications	17
Annex 3	Notifications subject to review in respect of which no questions have been raised in advance of the issuance of the convening airgram	30

**ANNEX 1**

**India - Imports under tariff quotas**

Sl. No.	ITC Code No. & Item	Quantity of Quota	Concessional duty	Quota release for the year		
				2005-06	2006-07	2007-08
1.	Tariff Code No. 0402.10 or 0402.21 Skimmed and whole Milk Powder. Milk Food for babies etc.	10,000 MT	15%	Nil	Nil	Nil
2.	Tariff Code No. 1005.90 Maize (Corn): other	500,000 MT	15%	1,784 MT	1,842.70 MT	1,021 MT
3.	Tariff Code No. 1512.11 Crude Sunflower seed or safflower oil or fractions thereof.	150,000 MT	50%	116,000 MT	150,000 MT	Nil
4.	Tariff Code No. 1514.19 & 1514.99 Rape, Colza, Canola or Mustard Oil, Other (Refined).	150,000 MT	45%	Nil	Nil	Nil



**ANNEX 2**

Summary of points raised with respect to notifications

		<u>Page</u>
(i)	Table MA:1	
	- Japan	G/AG/N/JPN/133 18
(ii)	Table DS:1	
	- Armenia	G/AG/N/ARM/16 18
	- Canada	G/AG/N/CAN/17/Corr.1, 35/Corr.1 37/Rev.1/Corr.1, 43/Corr.2 19
	- Chile	G/AG/N/CHL/26 and Corr.1 19
	- Japan	G/AG/N/JPN/132 and JPN/137 20
	- Switzerland	G/AG/N/CHE/6 and Corr.1, CHE/11 and Corr.1, CHE/15 and Corr.1, CHE/22 and CHE/34/Rev.1 22
(iii)	Table DS:2	
	- Australia	G/AG/N/AUS/70 23
(iv)	Tables ES:1 to ES:3	
	- European Communities	G/AG/N/EEC/55 26
	- Switzerland	G/AG/N/CHE/42 27

(i) **Table MA:1 (administration of tariff and other quota commitments)**

Japan G/AG/N/JPN/133

1. **Question by Thailand - Please provide the rationale for the following criteria set for rice bidding applications: The ordinary import system: the bidder must have at least one billion yen of owned capital. The Simultaneous Buy and Sell: the bidder must have at least 0.1 billion yen of owned capital.**

Regarding the import of crops under the minimum access requirement by the Government of Japan, there are two types of importing systems: the ordinary import system treated in the bulk unit (approximately 10,000 tonnes) and the Simultaneous Buy and Sell (SBS) system treated in the container unit (approximately 1,000 tonnes). In both importing systems, an applicant to competitive bidding has to meet some requirements such as proof of credit, experience and achievement of import and export of crops, in order to participate in importing.

As the requirement of proof of credit, it is necessary that an applicant have at least one billion yen of owned capital or must be able to obtain a loan of more than the same amount from the bank. In the case of the SBS, taking into account its import scale, it is required that an applicant have at least 0.1 billion yen of owned capital.

This is imposed as the benchmark of credit that we can expect from a trading company which has entered into a contract with the government and can certainly implement the fund raising, the acquisition of commodities in the exporting country and the delivery at the import port in our country. We think this requirement is appropriate. Furthermore, this requirement is also needed to ensure that the trading company can compensate sufficiently in the event that it is difficult to implement the contract due to unforeseeable accidents such as those related to food safety.

Follow-up comments: Thailand welcomed Japan's efforts to comply with its WTO commitment on minimum access for rice noting that Japan had just recently opened bidding in both systems.

(ii) **Table DS:1 (domestic support commitments)**

Armenia G/AG/N/ARM/16

2. **Questions by Canada - At the March 2007 Committee on Agriculture meeting, Canada asked Armenia the following question: Armenia's description of measures claimed as green under the heading "Payments for relief from natural disasters" does not indicate how these programmes meet the criteria of paragraph 8 of Annex 2. Could Armenia describe these programmes with reference to each and every criterion in paragraph 8, including the need for the production loss to exceed 30 per cent to establish eligibility for payments? To date, we have not received a reply. Can Armenia please update us on the status of the reply to this question?**

The Delegation of Armenia was not able to attend the meeting. It was contacted by the Secretariat and confirmed that it was waiting to receive replies from capital.

**3. Question by the United States - The United States thinks that the artificial insemination measures reported under Infrastructural Services should be reported as a product-specific expenditure instead. Could Armenia please explain why this item is listed under Infrastructural Services?**

The Delegation of Armenia was not able to attend the meeting. It was contacted by the Secretariat and confirmed that it was waiting to receive replies from capital.

Canada G/AG/N/CAN/17/Corr.1, 35/Corr.1, 37/Rev.1/Corr.1 and 43/Corr.2

**4. Questions by the United States - Can Canada provide some background to explain the nature and extent of the changes to the value of production for major commodities for the years 1995–1998? We notice that changes with respect to barley were especially large. For example, the increase in the value of production in some years more than doubled; in 1995, it went from C\$818 million to C\$2,171 million. The revision for 1996 was a near doubling from C\$1,112 million to C\$2,003 million. Wheat increased practically every year, and the increases for oats were also very large. In 1998, the increase in the value of production for oats resulted in the *de minimis* provision being triggered, and the AMS actually fell. Although revisions to data are normal, these increases seem unusually large. We would appreciate an explanation, especially for barley and oats. As noted in the past, we believe adding the value of direct payments to the value of production is inappropriate.**

Canada has changed its value of production methodology to more accurately report the Value of Production of certain individual grains and oilseeds. A large portion of the production of barley and oats, and a smaller portion of wheat and durum and some other crops, is fed to livestock on the farm where it is produced (fed on-farm) while some grains and oilseeds sold off the farm are sold to other farms in the same province (inter-farm sales within a province).

The former methodology of using Farm Cash Receipts data from Statistics Canada did not account for the value of inter-farm sales within a province or value of crops fed on-farm. Therefore, a new production multiplied by price-based methodology was used to capture these types of sales and crops fed on-farm. Prior to this change, Canada's value of production for grains and oilseeds was underestimated (greatly so for wheat and durum, barley and oats). The new methodology used to calculate the value of production figures in the corrigenda is consistent with the methodology used to calculate the value of production since 2000 and will provide a comparable time series of values from 1995 to our most recent notification. Canada's revised methodology for most grains and oilseeds better estimates the value of production of each of wheat and durum, barley, oats, corn, canola and soybeans.

Follow-up comments: The United States noted that Canada's responses would be referred back to capital for possible follow-up questions.

Chile G/AG/N/CHL/26 and Corr.1

**5. Question by Canada – Would Chile please explain the reason why fruit farming is not included in the total value of agricultural production?**

A major proportion of Chile's territory is considered to be suffering from soil degradation. Following up on its decision to intervene and improve degraded soil productivity, since 1996 the Chilean Government has been implementing the "Incentives for the Recovery of Degraded Land Program", the prerequisite for implementation being that funds are allocated for land in this condition, with inspections and monitoring by the government services responsible for the programme.

Although not excluded *per se*, fruit farming and its development require higher-quality soil, which is not eligible under the programme.

After 12 years of implementation, 85 per cent of the incentives have gone to the central-southern and southern areas of the country, which are chiefly engaged in cereal-growing, livestock, the dairy industry and forestation. The remainder of the funds go to the pre-mountain and drought-affected areas in the north of Chile, which are not suitable for fruit farming.

In order to facilitate the calculation of the *de minimis* percentage, the estimated gross value of fruit production has been deducted, since fruit farming is not eligible under the programme, for the reasons mentioned above. In quantitative terms, moreover, this sector makes a significant contribution to the gross value of agricultural production.

Japan G/AG/N/JPN/132 and 137

**6. Questions by Australia - Supporting Table DS:7 - Product-Specific Aggregate Measurements of Support: Other Product-Specific Support and Total Product-Specific AMS - Australia notes that Japan has provided *de minimis* support for four product categories - rice, eggs, vegetables and fruits - during fiscal years 2005 and 2006. Can Japan provide further details of the data source used for total output of each product category used to calculate *de minimis* entitlements in the note to Supporting Table DS:7? Can Japan provide the gross value of production data for those basic agricultural products receiving product-specific support AMS under the 'fruits' and 'vegetables' category?**

Regarding the total output of vegetables and fruits, we think that providing more detailed data used for total output is unnecessary because of the consistency with the commitment in the Schedule of Japan in which the AMS is calculated under the classification of 'vegetables' and 'fruits'. While we fully support transparency regarding this issue, it would be difficult to provide detailed data regularly because it involves a great deal of work. Regarding rice and eggs, the total output in the Supporting Table DS:7 is the only data. More detailed data does not exist. The gross value of the production data of vegetables and fruits is detailed in Japan's notification.

**7. Questions by the United States**

**Please provide an explanation regarding why the Government of Japan's crop conversion programme is reported as a Green Box expenditure in G/AG/N/JPN/137. The description of the programme seems to indicate that it would not be Green Box.**

The objective of the "Payments for conversion from rice production" programme is to preserve a favourable environment for paddy fields by growing crops other than rice or by adopting other appropriate management practices. The support is provided through a publicly funded government programme, not involving transfers from consumers. Furthermore, since the programme aims to preserve a favourable environment for paddy fields, it does not have the effect of providing price support to producers.

In addition, eligibility for payment is dependent on the fulfilment of specific conditions to preserve the environment which are set out by the government, and the amount of payment is limited to the extra costs or loss of income involved in complying with the government programme for the preservation of the environment of paddy fields. Therefore, this programme meets the criteria for "Payments under environmental programmes" set out in paragraph 12 of Annex 2. We have notified this programme as 'Green Box'.

**In Supporting Table DS:5, for wheat and barley, eligible production is no longer total production - it is just what the government procures. In Japan's domestic support notification, it appears that Japan still maintains a MAFF resale price to millers, thus Japan does not have a basis for not counting all production. Therefore, it appears that Japan may not be reporting a billion dollars' worth of AMS. Please explain.**

Regarding the domestically-produced wheat and barley, the government purchase price and government resale price were set in 2005 and 2006, but because all production after 2005 was distributed to the private sector, there was no product for the government to control in distribution. Therefore, AMS which should be notified as the market price support did not occur. Furthermore, the government purchase price and the government resale price were abolished in 2007.

**In Supporting Table DS:5, for sugar and starch, please explain the rationale for using a different formula to calculate column 8. It appears that there is a circular reference in the formula, using the administered price to deflate the price gap. Japan's sugar AMS appears to be understated by a factor of roughly 10 (\$200 million instead of \$2 billion), and it appears that starch is understated similarly. The United States requests clarification.**

Regarding sugar and starch, the price support includes not only the support to the producer of sugarbeet, sugarcane, potato and sweet potato but also the support to the processor of sugar and starch. The sum of both supports appears as the price gap between the international price and the domestic price of sugar and starch. In the case of calculation of AMS related to sugar and starch based on the Agreement on Agriculture, the percentage of support to the producer of material crops from the total support is required to calculate AMS.

**The United States is aware that Japan does not report any price support in relation to its rice programme since the reported change in the programme, however, could Japan please explain the change and how the change would justify not reporting price support.**

The Food Control Law was abolished in 1996 and the Staple Food Law was introduced. Subsequently, detailed operational rules were provided in the New Rice Policy in 1998, in line with the Staple Food Law. The objective of this series of reforms was the abolition of government control on all rice in distribution, an activity which had been carried out for more than half a century. As a result of this reform, the rice distribution system was left to the private sector without government intervention.

Previously, all domestically-produced rice was eligible for government purchases. As a result of the rice policy reform, government purchases were limited to the minimum necessity to form public stockholding for food security purposes. The purchase prices for stockholding were set at actual market prices. Furthermore, the administered price for rice was abolished and the price band system applied in the domestic market was also abolished. As a result of these changes, the market price support system for rice was entirely eliminated by the end of FY 1997.

Follow-up comments: As regards the *de minimis* calculation, Australia considered that in order for a better transparency of all these calculations, there was a need to provide the total value of production so that Members could get a better sense of whether the *de minimis* was being met or not. Hence, Australia's questions with regard to *de minimis* and whether it applied to basic agricultural product or not. The United States noted that pending review of Japan's responses, it might have follow-up questions at a future meeting. Argentina flagged interest in this matter.

Switzerland G/AG/N/CHE/6 and Corr.1, CHE/11 and Corr.1, CHE/15 and Corr.1, CHE/22 and CHE/34/Rev.1

**8. Question by Argentina - The WTO Secretariat document on total value of agricultural production (TN/AG/S/21/Rev.1) does not provide any value for Switzerland. This information is important for calculating the basis in respect of overall trade-distorting domestic support in the draft modalities document of the Chairman of this Committee in Special Session. Since the value in question does not seem to emerge from the above notifications, could Switzerland provide these data for the period 1995-2000?**

This question was put to us in Spanish. Comprehension of the language prevents Switzerland from providing more than an approximate response. We contacted the Argentine delegation on 8 September to draw its attention to the problem but have received no reply since. We would therefore request the WTO Secretariat to translate the question, so that we can soon give a more specific reply in writing.

If we understand the question correctly, Argentina is asking us to provide the WTO Secretariat with the data concerning total production value for the period 1995-2000. These figures are essential for the calculation of overall trade-distorting domestic support, which is the basis for calculating domestic support reduction in the Doha Round draft negotiating modalities. Hence the figure in question is linked to the negotiations.

We think that the Committee on Agriculture is not the appropriate forum to address matters relating to the negotiations. The Doha Round negotiations are proceeding in the Committee on Agriculture in Special Session. We therefore request the Delegation of Argentina to pose its question in the framework designated for this purpose, which is the Committee on Agriculture in Special Session.

On the other hand, we are willing to provide the requested figures to the WTO Secretariat, within the appropriate framework.

Follow-up comments: Argentina considered that the value of production was an issue not only of negotiations but implementation. According to Argentina, there were several provisions in different documents regarding the implementation of the Agreement on Agriculture that establish the notification of the value of production, for example, the Supporting Table DS:9. Argentina added that Switzerland was the only developed country, apart from a few EC member States, that did not submit the value of production data. As a matter of transparency and implementation of the Agreement on Agriculture, Argentina urged Switzerland to provide eight-year delayed data. Australia and the United States supported Argentina's remarks as regards the need to provide the total value of production data to improve transparency.

In response to Argentina's comment concerning a few of the new EC member States that had not provided data for the whole period, the EC noted that it would prefer to provide the data in the context of the Special Session.

(iii) **Table DS:2 (new or modified domestic support measures exempt from reduction)**

Australia G/AG/N/AUS/70

9. **Questions by Canada - Would Australia please indicate how the Western Australia Natural Disaster Relief Arrangements – Cyclone Isobel, Victorian Government Bushfire Clean-up and Restoration Grants, Victorian Government Water Tank Rebate Scheme, South Australian Government Planning for Recovery Programme, South Australian Government Storm Damage Relief 2007 - Farm Business Assistance Grants and Victorian Government Concessional Loans 2006/07 notified under paragraph 8 of Annex 2 of the Agreement on Agriculture meet the policy specific criteria of this paragraph. For example, does the production loss need to exceed 30 per cent of the average production in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry?**

Australia highlighted the importance of improving transparency in the multilateral trading system and noted that the Cairns Group was a strong advocate of improving monitoring and surveillance as part of the Doha Round.

Australia noted that during the 2006/07 reporting period, Australian state governments administered some programmes which had been notified as Green Box support. The small, one-off type programmes had been created following the significant impacts and destruction caused by a formally-recognized natural disaster – the drought. These measures did not have the effect of providing price support to producers nor did they have trade-distorting effects or effects on production. Rather, the programmes were premised on the basis of assisting producers who had suffered production losses as a result of a natural disaster to return to pre-existing conditions. The clear policy intent of these measures was consistent with the objectives of the Green Box.

The natural disaster relief programmes discussed below contain a number of criteria which are designed to ensure that the measures meet Green Box criteria. These include, amongst others, a thorough assessment process which requires applicants to provide evidence of production losses, historical income data, supporting invoices for costs incurred as a result of the event and the existence of other assets/resources. The strictly-enforced payment limits exist to make sure that the support provided for producers under these programmes does not compensate for more than the total cost of replacing/covering the losses. These programmes do not require production of any type as a condition for receiving support.

Western Australia Natural Disaster Relief Arrangements – Cyclone Isobel

Cyclone Isobel caused significant production losses to farmers in affected regions when it hit the state of Western Australia in 2007. This six-month scheme – administered under the Western Australian Government Natural Disaster Relief Arrangements – was available to farming enterprises in that state with demonstrated damage caused as a result of the cyclone.

Farmers had to meet a number of strict criteria in order to be eligible for assistance under these arrangements. All claims for assistance were assessed on an individual basis and eligible applicants were required to demonstrate their needs through the assessment process. In particular, applicants had to have demonstrated losses incurred as measured against production levels preceding Cyclone Isobel.

Limits were placed on the amount of payment permitted under each type of assistance package available. Supporting grants under this programme were limited to a maximum of \$A1,500 for professional advice relating to production loss issues and \$A5,000 for restoration of property

associated with production. Supporting invoices/receipts were required for grants above \$A5,000 for severely damaged properties and these were capped at \$A15,000 per applicant. Recipients were not required to produce a specific type or quantity of product as part of the package.

#### Victorian Government Bushfire Clean-up and Restoration Grants

The Clean-up and Restoration Grant provided a one-off, discretionary payment to farmers who suffered direct damage as a result of bushfires in the state of Victoria during 2006-07.

All claims for assistance were assessed on an individual basis and eligible applicants were required to demonstrate their needs through the assessment process. Production losses in reference to the pre-bushfire period were assessed as part of the process.

Grants were provided to eligible farmers who suffered damage to livestock, crops, pasture or other production factors such as farm buildings, fencing and/or tools of trade. The assistance was provided for animal welfare, business restoration and removal of debris. The grant was not intended to replace insurance and any grant for work which was subsequently covered by an insurance claim was to be repaid.

An initial maximum of \$A3,000 was available for immediate clean-up and/or stock welfare. A further \$A12,000 was available following a more detailed assessment which was subject to a separate application and included an examination of production losses.

#### Victorian Government Water Tank Rebate Scheme

The water tank rebate scheme was available to eligible recipients located in certain areas of the state of Victoria declared by the Federal Government as suffering from 'Exceptional Circumstances'. Farmers who did not receive a dam fill from bulk storages during the 2006-07 financial year due to prolonged drought conditions were eligible for assistance under the scheme.

Exceptional Circumstances is defined as a rare and severe event that is outside those a farmer could normally be expected to manage using responsible farm management strategies. An Exceptional Circumstances event must be demonstrated to be: rare (i.e., once in every 20 to 25 years on average); result in a rare and severe downturn in farm income over a prolonged period of time for a significant number of farmers in a region or industry; and a discrete event that is not part of long-term structural adjustment processes or of normal fluctuations in commodity prices.

Therefore, to be eligible for an Exceptional Circumstances declaration the impact of the event on production must be rare, severe and prolonged. Production losses are required to occur less than once in 20 to 25 years for that region. The production loss was measured against production levels immediately preceding the event and each rebate was limited to a maximum of \$A3,000.

#### Victorian Government Concessional Loans 2006/07

This six-month scheme (January – June 2007) provided assistance in the form of concessional loans to farmers who suffered losses as a result of physical bushfire damage. Applicants were required to provide historical financial data and information on past production activities at time of assessment in order to be eligible for concessional financial assistance under these arrangements. In particular, applicants had to demonstrate losses incurred and the need for financial assistance. Cash and other viable assets were also considered as part of the assessment process.

In general, the loans were limited to \$A100,000 for any single advance and, where more than one advance was made, the aggregate limit was \$A150,000. The interest rate on the concessional



loans is for a term of five years with repayments spread over terms up to 15 years. The interest rate after the initial five-year period will be set at, or close to, commercial interest rates prevailing at that time. Furthermore, the total cost of the scheme was small – amounting to only \$A50,000.

#### South Australian Government Planning for Recovery Programme

The Planning for Recovery Programme is available to eligible recipients located in certain areas of the state of South Australia declared by the Federal Government as suffering from 'Exceptional Circumstances'.

Exceptional Circumstances is defined as a rare and severe event that is outside those a farmer could normally be expected to manage using responsible farm management strategies. An Exceptional Circumstances event must be demonstrated to be: rare (i.e., once in every 20 to 25 years on average); result in a rare and severe downturn in farm income over a prolonged period of time for a significant number of farmers in a region or industry; and a discrete event that is not part of long-term structural adjustment processes or of normal fluctuations in commodity prices.

Therefore, to be eligible for an Exceptional Circumstances declaration the impact of the event on production must be rare, severe and prolonged. Production losses are required to occur less than once in 20 to 25 years for that region. The production loss was measured against production levels immediately preceding the event.

Limits are placed on the grants of up to \$A4,000 for business planning grants and up to \$A10,000 for business recovery grants. Furthermore, the total cost of the scheme is small – amounting to only \$A35,000.

#### South Australian Government Storm Damage Relief 2007 — Farm Business Assistance Grants

Storms on 6 January 2007 caused extensive damage to the Renmark district in the state of South Australia. Significant production losses were incurred by farmers and irrigators in the affected area. This very short programme was available for only three months to farmers who could demonstrate damage caused as a result of the storm.

In order to be eligible for assistance under these arrangements, farmers had to meet a number of strict criteria. Applicants were required to provide financial and production data at time of assessment and had to have demonstrated losses to infrastructure and plantings such as vines, fruit trees, trellising, and not recoverable through insurance coverage.

The assistance packages were capped at \$A15,000. Supporting invoices/receipts were required for any immediate emergency expenditure which had been incurred. The total cost of the scheme was small, amounting to only \$A310,000.

Follow-up comments: Canada noted that, like Australia, it took monitoring and surveillance very seriously, and that it also took Green Box criteria very seriously. In Canada's view, what mattered in a review was not the policy intent of the programmes and whether or not they were consistent with the Green Box but the meeting of the specific criteria. While Australia mentioned an assessment process to look at the production loss, there was no clear answer as to whether or not production loss met the policy-specific requirements of Annex 2 for the paragraph concerned. Australia's responses would be referred back to capital for review and possible follow-up questions.

(iv) **Tables ES:1 to ES:3 (export subsidy commitments)**

European Communities G/AG/N/EEC/55

10. **Questions by Argentina - In the light of paragraph 14 of document G/AG/1, would the EC please indicate per unit subsidies, within the meaning of Article 11 of the Agreement on Agriculture, for all tariff headings of the "incorporated products" category in Section II of Part IV of its Schedule for the notified periods (2003/04 and 2004/05).**

The EC notification for 2003/4 and 2004/5 includes as required the total value of export subsidies for incorporated products. With respect to Article 11 of the Agreement on Agriculture and paragraph 14 of G/AG/1 on the per-unit subsidy for incorporated products and primary product, the EC publishes each month the applicable export subsidy for incorporated products and also regularly publishes export subsidies applicable to the primary product. Hence Members can regularly monitor the export subsidies applicable to the various products in a number of languages, including Spanish. This information is directly available on our website – also for the period 2003/4 and 2004/5.

11. **Questions by Australia**

**Australia notes that the EC provides its notifications as a single entity to the WTO. Can the EC provide Australia with a breakdown of the volume and expenditure on pigmeat export subsidies by each EC member State for 2003/04 and 2004/05? In addition, can the EC specify this information by tariff line (as opposed to a total figure for all the tariff lines covered under the pigmeat category)? Further, can the EC advise if any export subsidies have been provided to pigmeat after 2004/05?**

Indeed the EC provides its notification as a single entity to the WTO and not for each individual EC member State. The same applies for the notification of each product category such as pigmeat. The EC notification for export subsidies for 2005/06 and 2006/07 will be available to WTO Members shortly. However, the EC can confirm that limited export refunds have been provided for pigmeat in 2005/06 and 2006/07.

**Australia requests clarification of the annual commitment levels now being applied by the European Communities, in the context of previous advice from the European Communities that it was applying the EC-15 commitments to the EC-25.<sup>1</sup>**

The EC has moved to the application of annual commitments level for EC-25. The methodology used to calculate these commitments is the same that was used for the previous EC enlargement in 1995. These commitment levels have been applied from 2006/07. A notification of EC export refunds for that year is underway.

**Specifically, in the case of sugar, Australia seeks clarification of the annual budgetary outlay and quantity levels which are being applied by the European Commission's market managers: (a) in light of public European Commission documents which refer to levels in excess of the EC-15 scheduled commitments<sup>2</sup>; (b) in regard to footnote (5) to the notification.**

As already stated in our reply to a similar question from Brazil, the EC respects its commitments (see paragraph 28).

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<sup>1</sup> G/AG/R/44 of 25 November 2005, paragraph 3; G/AG/R/47 of 22 December 2006, paragraph 16.

<sup>2</sup> Document de Travail, AGRI C 1, 8 6 5, Point 6, Comité de Gestion Sucre, 26 June 2008, Balance Sheet 2006/07 and Forecast Balance 2007/08-2008/09; sourced from CIRCA website <http://circa.europa.eu>.

**Australia requests the provision of statistical data for sugar in regard to the total annual budgetary outlays and subsidised quantities for the periods 2003/04 and 2004/05. The statistical data provided by the EC on subsidised exports appear to be incomplete.**

The annual notification includes figures on subsidised exports of sugar in outlay and quantity. This information is included in the EC notification.

**Also in regard to sugar, Australia seeks clarification of the reasons for the significant increase in total exports, from 3.9 million tonnes in 2003/04 to 6.3 million tonnes in 2004/05.**

During the period 2003/04 subsidized exports (excluding the re-exports of ACP sugar) only accounts for some 0.663 million tonnes compared with 1.13 million tonnes in the period 2004/05. The period 2004/05 includes for the first time sugar production of EU-25 and this combined with higher sugar production led to an increase in exports.

**12. Question by the United States - Member States of the European Union make contributions to the cause of food assistance worldwide and are individually members of the Food Aid Convention and the WTO. Would the EC confirm whether or not food assistance provided by the member States is reflected in G/AG/N/EEC/55? If not, when and in what form will notification of member State food aid spending take place for the years 2004/05 and prior periods?**

Confirmed.

Follow-up comments: The United States flagged that it might seek additional information as regards the individual member States. The EC was a large food aid donor and this issue was increasingly important, especially in current times of high prices. In its reply, the EC reiterated that it reported as a single entity because the EC was one Member, just like the United States was one Member, and not the individual states. The United States commented that the request, if any, would be made in the spirit of transparency. Also, it took note of the comparison but pointed out that in the United States, individual states did not have international food aid programmes whereas in the case of the EC, individual member States had such operations. Hence, in addition to the total figure for the EC, the individual member State information could sometimes be useful.

Switzerland G/AG/N/CHE/42

**13. Question by Argentina - In the light of paragraph 14 of document G/AG/1, would the Swiss Government please indicate per-unit subsidies, within the meaning of Article 11 of the Agreement on Agriculture, for all tariff headings of the "processed products" category in Section II of Part IV of its Schedule for the notified period (2005 and 2006).**

Once again, we have no translation of the question posed by Argentina. Our response is therefore based on an approximate comprehension of the Spanish language.

As we understand it, Argentina wishes to obtain further details regarding export subsidies for processed agricultural products. Such subsidies are governed by the Order regulating contributions to exports of processed agricultural products (*Ordonnance réglant les contributions à l'exportation de produits agricoles transformés*) and Protocol II to the Free-Trade Agreement between Switzerland and the European Economic Community of 1972. These documents explain how the compensation mechanism operates. To enable us to respond more specifically, we would request the WTO Secretariat to provide us with a translation of the question posed by the Argentine delegation.

14. **Questions by Australia - Australia notes that Switzerland has previously provided export subsidies for processed products at either its maximum entitlement or close to it - for example in 2002 to 2004 the budgetary outlays were 114.9 million Swiss francs (i.e. 100 per cent of its maximum entitlement), and in 2001 and 2005, 98.6 million and 90 million Swiss francs respectively (86 per cent and 78 per cent of its maximum budgetary entitlement respectively).<sup>3</sup> The 2006 notification does not appear to have an entry for processed products. Can Switzerland clarify whether it provided export subsidies for processed products for 2006? Australia notes that Switzerland provides export subsidies on processed products containing milk and dairy products, preserved eggs, flour and other milled products, oils and fats and sugar and molasses. Can Switzerland provide details of the export subsidy arrangements for its processed products, including those basic agricultural products (i.e. dairy, breeding animals, potatoes and fruit) which are also eligible for export subsidies?**

We thank Australia for its question and for drawing our attention to the problem, which is a simple matter of omission on our part for which we apologize to Members. For 2006, export subsidies for processed agricultural products totalled 90 million Swiss francs, i.e. the same amount as in 2005. A corrigendum of notification G/AG/N/CHE/42 has already been sent to the WTO Secretariat.<sup>4</sup>

Export subsidies are based on the Federal Law of 13 December 1974 on the import and export of processed agricultural products (*Loi fédérale du 13 décembre 1974 sur l'importation et l'exportation de produits agricoles transformés*). The purpose of this mechanism is to level the playing field for the export food industry by eliminating the pricing disadvantage facing commodities from Switzerland. This partly offsets the "handicap" suffered by Swiss raw materials.

The processed agricultural product export subsidy programme differs completely from export subsidies for basic agricultural products. The programme is governed by the Order regulating contributions to exports of processed agricultural products (*Ordonnance réglant les contributions à l'exportation de produits agricoles transformés*) and Protocol II to the Free-Trade Agreement between Switzerland and the European Economic Community of 1972. This Protocol is periodically reviewed to take price trends for European and Swiss raw materials into account. The price differential is offset by this mechanism.

Export subsidies for basic agricultural products are regulated separately in respect of each market order. On no account is the same export good eligible for export subsidies both as a commodity and as a processed product.

We would also mention the fact that under its agricultural policy reform programme 2011, Switzerland has decided to eliminate all export subsidies on basic agricultural products up to the end of 2009. This is a major reform which bears witness to Switzerland's resolve to contribute to the favourable outcome of the Doha Round negotiations on agriculture, even if this will make Switzerland, along with the other G10 countries, one of the principal net payers in this Round.

Follow-up comment: Australia reiterated its interest in Switzerland's provision of export subsidies and any future reform and would be following this matter closely. Argentina echoed concerns raised by Australia.

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<sup>3</sup> G/AG/N/CHE/33, G/AG/N/CHE/37 and G/AG/N/CHE/42.

<sup>4</sup> See G/AG/N/CHE/42/Corr.1, dated 16 September 2008.

**15. Question by Canada - With respect to Switzerland's 2005 & 2006 Table ES:3 notification contained in document G/AG/N/CHE/42, could Switzerland please specify through what programme and to what countries the 45.01 tonnes of processed cheese was sent as food aid for the years in question?**

These 45 tonnes of cheese are part of Switzerland's contribution to humanitarian aid for internally displaced persons (IDPs) in Algeria. Switzerland supplies 45 tonnes of cheese annually to the World Food Programme, which is responsible for transporting and distributing the goods among the beneficiaries.

**16. Question by Thailand - Please clarify the meaning of "triangular transactions from developing country to developing country" according to the second footnote of Table ES:3 (Notification of the Total Volume of Food Aid).**

Triangular transactions are food purchases made in a developing country neighbouring on or close to the recipient country. The term is defined in Article XII of the 1999 Food Aid Convention, to which Switzerland is a contracting party. Most of the triangular transactions contained in this notification are carried out by the World Food Programme. "Triangulation" has been judged by numerous scientific studies to be one of the best ways to provide food aid. According to a WFP study, the purchase of food in local and regional markets is an effective way of supplying food aid that helps stimulate regional trade and is better suited to local food habits in the recipient country.

Follow-up comments: Thailand noted that the system mentioned by Switzerland of buying food from neighbouring countries and distributing it as food aid might be a good way to help a country in need.

### ANNEX 3

Notifications subject to review in respect of which no questions have been raised  
in advance of the issuance of the convening airgram

- (i) administration of tariff and other quota commitments (Table MA:1)
- Switzerland G/AG/N/CHE/13/Add.10
- (ii) imports under tariff and other quota commitments (Table MA:2):
- Croatia G/AG/N/HRV/6
  - Dominican Republic G/AG/N/DOM/14 and Corr.1
  - Japan G/AG/N/JPN/134
  - South Africa G/AG/N/ZAF/64
  - Switzerland G/AG/N/CHE/43
  - Chinese Taipei G/AG/N/TPKM/59 and Corr.1
- (iii) special safeguard (Tables MA:3 to MA:5):
- Costa Rica G/AG/N/CRI/21
  - Japan G/AG/N/JPN/135
  - Japan G/AG/N/JPN/136
  - South Africa G/AG/N/ZAF/63
  - Chinese Taipei G/AG/N/TPKM/58
  - Chinese Taipei G/AG/N/TPKM/60
  - Uruguay G/AG/N/URY/34
- (iv) domestic support commitments (Table DS:1):
- Argentina G/AG/N/ARG/26
  - Australia G/AG/N/AUS/69
  - Canada G/AG/N/CAN/49/Corr.1
  - Canada G/AG/N/CAN/53/Corr.1
  - Canada G/AG/N/CAN/60/Corr.1
  - Dominican Republic G/AG/N/DOM/15
  - Hong Kong, China G/AG/N/HKG/24
  - Japan G/AG/N/JPN/21/Corr.2
  - Japan G/AG/N/JPN/34/Corr.1
  - Japan G/AG/N/JPN/47/Corr.1
  - Japan G/AG/N/JPN/61/Corr.1
  - Japan G/AG/N/JPN/72/Corr.1
  - Japan G/AG/N/JPN/98/Corr.1
  - Japan G/AG/N/JPN/124/Corr.1
  - Japan G/AG/N/JPN/129/Corr.1
  - Macao, China G/AG/N/MAC/23
  - Mauritius G/AG/N/MUS/1
  - Oman G/AG/N/OMN/5
  - Oman G/AG/N/OMN/6
  - Singapore G/AG/N/SGP/18
  - South Africa G/AG/N/ZAF/65
  - Uruguay G/AG/N/URY/35

(v) new or modified domestic support measures exempt from reduction (Table DS:2):

- Armenia G/AG/N/ARM/14
- Armenia G/AG/N/ARM/15

(vi) in the context of export subsidy commitments (Tables ES:1 to ES:3):

- Croatia G/AG/N/HRV/7
- Dominican Republic G/AG/N/DOM/16
- Macao, China G/AG/N/MAC/22
- Mauritius G/AG/N/MUS/2
- Singapore G/AG/N/SGP/19
- South Africa G/AG/N/ZAF/66
- Uruguay G/AG/N/URY/33

(vii) in the context of export prohibitions and restrictions (Table ER:1):

- Kyrgyz Republic G/AG/N/KGZ/2
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