MULTILATERAL TRADE NEGOTIATIONS
THE URUGUAY ROUND

Trade Negotiations Committee

FINAL ACT EMBODYING THE RESULTS OF THE URUGUAY ROUND OF MULTILATERAL TRADE NEGOTIATIONS

RECTIFICATIONS PROPOSED BY THE SECRETARIAT

This document presents the rectifications proposed by the Secretariat to the 15 December 1993 English-language version of the Final Act, taking into account proposals received from delegations.

General considerations

1. Presentation

The rectifications in this text have been presented as computer-generated "redline-strikeout" texts, in which any text added is shaded, and any text deleted is struck out.

2. Rectifications made in the texts

Certain of the rectifications proposed herein result from decisions made on a horizontal basis across all texts, such as incorporation of MTN/FA/Corr. 1, adopted on 15 December 1993, which provided for a change of all Final Act references to "Multilateral Trade Organization" and "MTO" to "World Trade Organization" and "WTO". A list of points of a horizontal nature follows. They were adopted so as to achieve uniformity and consistency in the Final Act from a drafting standpoint.

Rectifications which simply implement these horizontal points, or correct typographical errors, have not been specially explained. Explanations of other rectifications appear in notes following each text, which may be keyed to hand-written numbers in the margin.

3. Matters of editorial style reflected in rectifications in this document

These points are based on the GATT Secretarial Handbook and the United Nations Editorial Manual.

(a) Punctuation: Punctuation has been conformed to the GATT Secretarial Manual. When a subparagraph depends on an introductory phrase, all but the last subparagraph are followed by a
semicolon even if there is a full stop in the middle of the subparagraph. The final subparagraph is followed by a full stop unless the sentence returns to the margin and continues after the last subparagraph. No punctuation follows items in a list. Footnotes appear directly after the full stop if at the end of a sentence, otherwise before any other punctuation, with the exception of quoted citations within quotation marks.

(b) **Spelling, capitalization, compounding, italicization:** Decisions in these matters follow the *Concise Oxford Dictionary*, the GATT Secretarial Manual, and the practice of the UN Translation Division. Marrakesh is spelled with an *s* in English, and is spelled “Marrakech” in French.

(c) **Hyphenation:**

(i) Cardinal and ordinal numbers are hyphenated such as twenty-five, twenty-fifth. When a cardinal number is combined with a unit of measurement it is hyphenated, except when referring to percentages.

(ii) Compound expressions are hyphenated when one component has a cardinal number and the other a noun or adjective, but only when the compound expression is adjectival; however, in compound expressions used adjectivally, compounds composed of an adverb ending in -ly plus a participle or adjective are not hyphenated.

(iii) Fractions are hyphenated when they are used as adjectives (unless the numerator or denominator is itself hyphenated), but not when they are used as nouns.

(d) **Names, terms and references**

(i) The *Uruguay Round* is referred to formally as the Uruguay Round of Multilateral Trade Negotiations. Initial capitals are used for “Multilateral Trade Negotiations” in this context but not generally, e.g. “participation in rounds of multilateral trade negotiations”.

(ii) *Names of governments* correspond to the latest terminology bulletin on names of members issued by the United Nations, supplemented by GATT usage in some cases.

(iii) *Date of entry into force references* are generally to “the date of entry into force of the WTO Agreement”.

(iv) *References to Members which are developing countries:* Members which are developing countries or least-developed countries are referred to as “developing country Members” and “least-developed country Members”, respectively.

(v) *References to articles, paragraphs or sub-paragraphs:* The following form is generally observed:

... paragraph 4(a) of Article XII ...

In this case “paragraph 4(a)” is used, not “subparagraph 4(a)”, unless special emphasis is being placed on the subparagraph. Where reference is made to articles, it is generally assumed that such references are to the same agreement. Thus, in the case of references to articles in the same agreement, references are i.e. to “Article XI”, not “Article XI of this Agreement”. Where reference is made to paragraphs,
it is generally assumed that such references are to the same article; duplicative references have generally been eliminated unless necessary to avoid confusion. In certain cases references to paragraphs or Articles as "above" or "below" have been deleted as superfluous.

(vi) References to terms singled out as terms are in quotation marks.

(vii) Numbers: Numbers written out in words: Whole numbers (ordinal or cardinal) from one to nine inclusive, except in tables, or referring to weights and measures or percentages; fractions; numerical adjectives referring to States or persons; numbers that form the first word of a sentence, with the exception of years. Numbers for which figures are used: Numbers of 10 or more; percentages, weights and measures, numbers in tables; sums of money.

(viii) Abbreviations: Titles that recur are written out in full the first time they appear, followed by the phrase "(hereinafter referred to as "[ abbreviation ]"). Abbreviated titles established in the WTO Agreement are used in the Multilateral Trade Agreements without further introduction; the abbreviated title of "WTO Agreement" used in the Headnote to Annex 1A is used without further introduction in the Annex 1A agreements on goods.

4. Numbering of texts

The numbering in the Final Act texts has been made internally consistent within each text or group of texts. Those few agreement texts which for historical reasons were presented in paragraph format in the 15 December version of the Final Act have been put into article format, as can be seen in the Agreement on Sanitary and Phytosanitary Measures in this corrigendum.

5. Other drafting issues

In a number of cases, it has been clarified in response to comments received from delegations that the obligations undertaken under certain agreements are those of individual Members and not the collectivity, and the texts have been put into the active voice instead of the passive voice.
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I. TITLE PAGE AND TABLE OF CONTENTS OF THE FINAL ACT

1. The title page of the Final Act will be immediately followed by the text of the Final Act itself. This will be followed by a table of contents of the instruments in the Final Act. This table of contents will be compiled by the Secretariat at a later date and will reflect the instruments agreed to be included, their agreed titles, and their page numbers in the Final Act text, which will be continuously paginated.

2. The note to participants which appeared on the cover of the 15 December version of the Final Act will be deleted in further versions.

3. A glossary of abbreviations with no legal status will accompany the text of the Final Act prepared for general public distribution. This glossary will be compiled on the basis of those abbreviations used in the Final Act text.

II. FINAL ACT TEXT

FINAL ACT EMBODYING THE RESULTS OF THE URUGUAY ROUND OF MULTILATERAL TRADE NEGOTIATIONS

1. Having met in order to conclude the Uruguay Round of Multilateral Trade Negotiations, the representatives of the Governments and of the European Communities, members of the Trade Negotiations Committee agree that the Agreement Establishing the World Trade Organization (hereinafter referred to as "participants"), agree that the Agreement Establishing the Multilateral Trade Organization and the Ministerial Declarations and Decisions and the Understanding, as set out in the annexes attached hereto (hereinafter referred to as "instruments"), embody the results of their negotiations and form an integral part of this Final Act.

2. By adopting the present Final Act, participants agree

(a) to submit, as appropriate, the WTO Agreement Establishing the Multilateral Trade Organization for the consideration of their respective competent authorities with a view to seeking approval of this Agreement in accordance with appropriate procedures of the participant concerned; and

(b) to adopt the Ministerial Declarations, Decisions and the Understanding.

3. Participants agree on the desirability of acceptance of the WTO Agreement Establishing the Multilateral Trade Organization by all participants in the Uruguay Round of Multilateral Trade Negotiations (hereinafter referred to as "participants") with a view to its entry into force as early as possible and not later than [1 July 1995]. Not later than [early 1995], Ministers will meet, in accordance with the final paragraph of the Punta del Este Ministerial Declaration, to decide on the international implementation of the results including the timing of their entry into force.

4. Participants agree that the WTO Agreement Establishing the Multilateral
Trade Organization shall be open for acceptance as a whole, by signature or otherwise, by all participants in the Uruguay Round of Multilateral Trade Negotiations pursuant to Article XIV of the Agreement Establishing the Multilateral Trade Organization thereof. The acceptance and entry into force of a Plurilateral Trade Agreement included in Annex 4 of the WTO Agreement Establishing the Multilateral Trade Organization, shall be governed by the provisions of that Plurilateral Trade Agreement.

5. Before accepting the WTO Agreement Establishing the Multilateral Trade Organization, participants who which are not contracting parties to the GATT 1947 must first have concluded negotiations for their accession to the GATT 1947 and become contracting parties thereto. For participants who which are not contracting parties to the GATT 1947 as of the date of the Final Act, the Schedules are not definitive and shall be subsequently completed for the purpose of their accession to GATT 1947 and acceptance of the WTO Agreement establishing the MTO.

6. This Final Act and the texts of the instruments set out in the Annexes shall be deposited with the Director-General to the CONTRACTING PARTIES to the General Agreement on Tariffs and Trade who shall promptly furnish to each participant in the Uruguay Round of Multilateral Trade Negotiations a certified copy thereof.

DONE at [........] Marrakesh this [........] fifteenth day of [......] April one thousand nine hundred and ninety-four, in a single copy, in the English, French and Spanish languages, each text being authentic.

[List of signatures to be included in the original version of the treaty for signature]

NOTE TO THE RECTIFIED DRAFT:

It is proposed to remove the brackets from the dates in paragraph 3.
III. AGREEMENT ESTABLISHING THE WORLD TRADE ORGANIZATION

A. TEXT OF THE AGREEMENT

AGREEMENT ESTABLISHING THE MULTILATERAL WORLD TRADE ORGANIZATION

The Parties to this Agreement,

Recognizing that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development,

Recognizing further that there is need for positive efforts designed to ensure that developing countries, and especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development,

Being desirous of contributing to these objectives by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international trade relations,

Resolved, therefore, to develop an integrated, more viable and durable multilateral trading system encompassing the General Agreement on Tariffs and Trade, the results of past trade liberalization efforts, and all of the results of the Uruguay Round of Multilateral Trade Negotiations,

Determined to preserve the basic principles and to further the objectives underlying this multilateral trading system,

Agree as follows:

Article I
Establishment of the Organization

The Multilateral World Trade Organization (hereinafter referred to as "the MTO WTO") is hereby established.

Article II
Scope of the MTO WTO

1. The MTO WTO shall provide the common institutional framework for the conduct of trade relations among its Members in matters related to the agreements and associated legal instruments
included in the Annexes to this Agreement.

2. The agreements and associated legal instruments included in Annexes 1, 2 and 3 (hereinafter referred to as "Multilateral Trade Agreements") are integral parts of this Agreement, binding on all Members.

3. The agreements and associated legal instruments included in Annex 4 (hereinafter referred to as "Plurilateral Trade Agreements") are also part of this Agreement for those Members that have accepted them, and are binding on those Members. The Plurilateral Trade Agreements do not create either obligations or rights for Members that have not accepted them.

4. The General Agreement on Tariffs and Trade 1994 as specified in Annex 1A (hereinafter referred to as "GATT 1994") is legally distinct from the General Agreement on Tariffs and Trade, dated 30 October 1947, annexed to the Final Act Adopted at the Conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, as subsequently rectified, amended or modified by the terms of the legal instruments which have entered into force before the date of entry into force of this Agreement (hereinafter referred to as "GATT 1947").

**Article III**

*Functions of the WTO*

1. The WTO shall facilitate the implementation, administration, and operation, and further the objectives, of this Agreement and of the Multilateral Trade Agreements, and shall also provide the framework for the implementation, administration and operation of the Plurilateral Trade Agreements.

2. The WTO shall provide the forum for negotiations among its Members concerning their multilateral trade relations in matters dealt with under the agreements in the Annexes to this Agreement. The WTO may also provide a forum for further negotiations among its Members concerning their multilateral trade relations, and a framework for the implementation of the results of such negotiations, as may be decided by the Ministerial Conference.

3. The WTO shall administer the Understanding on Rules and Procedures Governing the Settlement of Disputes (hereinafter referred to as the "Dispute Settlement Understanding" or "DSU") in Annex 2 to this Agreement.

4. The WTO shall administer the Trade Policy Review Mechanism (hereinafter referred to as the "TPRM") provided for in Annex 3 to this Agreement.

5. With a view to achieving greater coherence in global economic policy-making, the WTO shall cooperate, as appropriate, with the International Monetary Fund and with the International Bank for Reconstruction and Development and its affiliated agencies.

**Article IV**

*Structure of the WTO*

1. There shall be a Ministerial Conference composed of representatives of all the Members, which shall meet at least once every two years. The Ministerial Conference shall carry out the functions
of the MTO, WTO and take actions necessary to this effect. The Ministerial Conference shall have the authority to take decisions on all matters under any of the Multilateral Trade Agreements, if so requested by a Member, in accordance with the specific requirements for decision-making in this Agreement and in any the relevant Multilateral Trade Agreement.

2. There shall be a General Council composed of representatives of all the Members, which shall meet as appropriate. In the intervals between meetings of the Ministerial Conference, its functions shall be conducted by the General Council. The General Council shall also carry out the functions assigned to it by this Agreement. The General Council shall establish its rules of procedure and approve the rules of procedure for the Committees provided for in paragraph 7.

3. The General Council shall convene as appropriate to discharge the responsibilities of the Dispute Settlement Body provided for in the Dispute Settlement Understanding on Rules and Procedures Governing the Settlement of Disputes in Annex 2. The Dispute Settlement Body may have its own chairman and shall establish such rules of procedure as it deems necessary for the fulfilment of those responsibilities.

4. The General Council shall convene as appropriate to discharge the responsibilities of the Trade Policy Review Body provided for in the Trade Policy Review Mechanism in Annex 3. The Trade Policy Review Body may have its own chairman and shall establish such rules of procedure as it deems necessary for the fulfilment of those responsibilities.

5. There shall be a Council for Trade in Goods, a Council for Trade in Services and a Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS) (hereinafter referred to as the "Council for TRIPS"), which shall operate under the general guidance of the General Council. The Council for Trade in Goods shall oversee the functioning of the Multilateral Trade Agreements in Annex 1A, the Council for Trade in Services shall oversee the functioning of the Multilateral Trade Agreement in Annex 1B, and the Council for Trade Related Aspects of Intellectual Property Rights General Agreement on Trade in Services (hereinafter referred to as "GATS"). The Council for TRIPS shall oversee the functioning of the Multilateral Trade Agreement in Annex 1C Agreement on Trade-Related Aspects of Intellectual Property Rights (hereinafter referred to as the "Agreement on TRIPS"). These Councils shall carry out the functions assigned to them by their respective agreements and by the General Council. They shall establish their respective rules of procedure subject to the approval of the General Council. Membership in these Councils shall be open to representatives of all Members. These Councils shall meet as necessary to carry out their functions.

6. The Council for Trade in Goods, the Council for Trade in Services and the Council for Trade-Related Aspects of Intellectual Property Rights TRIPS shall establish subsidiary bodies as required. These subsidiary bodies shall establish their respective rules of procedure subject to the approval of their respective Councils.

7. The Ministerial Conference shall establish a Committee on Trade and Development, a Committee on Balance-of-Payments Restrictions and a Committee on Budget, Finance and Administration, which shall carry out the functions assigned to them by this Agreement and by the Multilateral Trade Agreements, and any additional functions assigned to them by the General Council, and may establish such additional Committees with such functions as it may deem appropriate. As part of its functions, the Committee on Trade and Development shall periodically review the special provisions in the Multilateral Trade Agreements in favour of the least-developed countries country Members and report to the General Council for appropriate action. Membership in these Committees shall be open to
representatives of all Members.

8. The bodies provided for under the Plurilateral Trade Agreements shall carry out the functions assigned to them under those Agreements and shall operate within the institutional framework of the MTO WTO. These bodies shall keep the General Council informed of their activities on a regular basis.

Article V
Relations with other Organizations

1. The General Council Ministerial Conference shall make appropriate arrangements for effective cooperation with other intergovernmental organizations that have responsibilities related to those of the MTO WTO.

2. The General Council Ministerial Conference may make appropriate arrangements for consultation and cooperation with non-governmental organizations concerned with matters related to those of the MTO WTO.

Article VI
The Secretariat

1. There is established a Secretariat of the MTO WTO headed by a Director-General.

2. The Ministerial Conference shall appoint the Director-General and adopt regulations setting out the powers, duties, conditions of service and terms of office of the Director-General.

3. The Director-General shall appoint the members of the staff of the Secretariat and determine their duties and conditions of service in accordance with regulations adopted by the Ministerial Conference.

4. The responsibilities of the Director-General and of the staff of the Secretariat shall be exclusively international in character. In the discharge of their duties, the Director-General and the staff of the Secretariat shall not seek or accept instructions from any government or any other authority external to the MTO WTO. They shall refrain from any action which might adversely reflect on their position as international officials. The Members of the MTO WTO shall respect the international character of the responsibilities of the Director-General and of the staff of the Secretariat and shall not seek to influence them in the discharge of their duties.

Article VII
Budget and Contributions

1. The Director-General shall present to the Committee on Budget, Finance and Administration the annual budget estimate and financial statement of the MTO WTO. The Committee on Budget, Finance and Administration shall review the annual budget estimate and the financial statement presented by the Director-General and make recommendations thereon to the General Council. The annual budget estimate shall be subject to approval by the General Council.
2. The Committee on Budget, Finance and Administration shall propose to the General Council financial regulations which shall include provisions setting out:

   (a) the scale of contributions apportioning the expenses of the WTO among its Members; and

   (b) the measures to be taken in respect of Members in arrears.

The financial regulations shall be based, as far as practicable, on the regulations and practices of the GATT 1947.

3. The General Council shall adopt the financial regulations and the annual budget estimates by a two-thirds majority comprising more than half of the Members of the WTO.

4. Each Member shall promptly contribute to the WTO its share in the expenses of the WTO in accordance with the financial regulations adopted by the General Council.

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Article VIII

Status of the WTO

1. The WTO shall have legal personality, and shall be accorded by each of its Members such legal capacity as may be necessary for the exercise of its functions.

2. The WTO shall be accorded by each of its Members such privileges and immunities as are necessary for the exercise of its functions.

3. The officials of the WTO and the representatives of the Members shall similarly be accorded by each of its Members such privileges and immunities as are necessary for the independent exercise of their functions in connection with the WTO.

4. The privileges and immunities to be accorded by a Member to the WTO, its officials, and the representatives of its Members shall be similar to the privileges and immunities stipulated in the Convention on the Privileges and Immunities of the Specialized Agencies, approved by the General Assembly of the United Nations on 21 November 1947.

5. The WTO may conclude a headquarters agreement.
Article IX
Decision-Making

1. The MTOWTO shall continue the practice of decision-making by consensus followed under the GATT 1947. Except as otherwise provided, where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting. At meetings of the Ministerial Conference and the General Council, each Member of the MTOWTO shall have one vote. Where the European Communities exercise their right to vote, they shall have a number of votes equal to the number of their Member States which are Members of the MTOWTO. Decisions of the Ministerial Conference and the General Council shall be taken by a majority of the votes cast, unless otherwise provided for in this Agreement or in the relevant Multilateral Trade Agreements.

2. The Ministerial Conference and the General Council shall have the exclusive authority to adopt interpretations of this Agreement and of the Multilateral Trade Agreements. In the case of an interpretation of a Multilateral Trade Agreement in Annex 1, they shall exercise their authority on the basis of a recommendation by the Council overseeing the functioning of that Agreement. The decision to adopt an interpretation shall be taken by a three-fourths majority of the Members. This paragraph shall not be used in a manner that would undermine the amendment provisions in Article X.

3. In exceptional circumstances, the Ministerial Conference may decide to waive an obligation imposed on a Member by this Agreement or any of the Multilateral Trade Agreements, provided that any such decision shall be approved by three-fourths of the Members, unless otherwise provided for in this Article.

(iii)(a) A request for a waiver concerning this Agreement shall be submitted to the Ministerial Conference for consideration pursuant to the practice of decision-making by consensus. The Ministerial Conference shall establish a time-period which shall not exceed ninety days to consider the request. If consensus is not reached during the time-period, any decision to grant a waiver shall be taken by three-fourths of the Members.

(ii)(b) A request for a waiver concerning the Multilateral Trade Agreements in Annexes 1A or 1B or 1C and their annexes, shall be submitted initially to the Council for Trade in Goods, the Council for Trade in Services or the Council for TRIPS, respectively, for consideration during a time-period which shall not exceed ninety

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1 The body concerned shall be deemed to have decided by consensus on a matter submitted for its consideration, if no Member, present at the meeting when the decision is taken, formally objects to the proposed decision.

2 The number of votes of the European Communities and their Member States shall in no case exceed the number of the Member States of the European Communities.

3 Decisions by the General Council when convened as the Dispute Settlement Body shall be taken only in accordance with the provisions of paragraph 2.4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes.

4 References to the Ministerial Conference include the General Council.

5 A decision to grant a waiver in respect of any obligation subject to a transition period or a period for staged implementation that the requesting Member has not performed by the end of the relevant period, shall be taken only by consensus.
days. At the end of the time-period, the relevant Council shall submit a report to the Ministerial Conference.

4. A decision by the Ministerial Conference granting a waiver shall state the exceptional circumstances justifying the decision, the terms and conditions governing the application of the waiver, and the date on which the waiver shall terminate. Any waiver granted for a period of more than one year shall be reviewed by the Ministerial Conference not later than one year after it is granted, and thereafter annually until the waiver terminates. In each review, the Ministerial Conference shall examine whether the exceptional circumstances justifying the waiver still exist and whether the terms and conditions attached to the waiver have been met. The Ministerial Conference, on the basis of the annual review, may extend, modify or terminate the waiver.

5. Decisions under a Plurilateral Trade Agreement, including any decisions on interpretations and waivers, shall be governed by the provisions of that Agreement.

Article X
Amendments

1. Any Member of the WTO may initiate a proposal to amend the provisions of this Agreement or the Multilateral Trade Agreements in Annex 1 by submitting such proposal to the Ministerial Conference. The Councils listed in paragraph 5 of Article IV may also submit to the Ministerial Conference proposals to amend the provisions of the corresponding Multilateral Trade Agreements in Annex 1 whose functioning they oversee. For a period of ninety days, any decision by the Ministerial Conference to submit the proposed amendment to the Members for acceptance shall be taken only by consensus. Unless the provisions of paragraphs 2, 5 or 6 apply, that decision shall specify whether the provisions of paragraphs 3 or 4 shall apply. If consensus is reached, the Ministerial Conference shall forthwith submit the proposed amendment to the Members for acceptance. If consensus is not reached at a meeting of the Ministerial Conference within the established period, the Ministerial Conference shall decide by a two-thirds majority of the Members whether to submit the proposed amendment to the Members for acceptance. Except as provided in paragraphs 2, 5 and 6, the provisions of paragraph 3 shall apply to the proposed amendment, unless the Ministerial Conference decides by a three-fourths majority of the Members that the provisions of paragraph 4 shall apply.

2. Amendments to the provisions of this Article and to the provisions of the following enumerated Articles shall take effect only upon acceptance by all Members:

   - Article IX of this Agreement;
   - Articles I and II of the GATT 1994, in Annex 1A;
   - Article II:1 of the General Agreement on Trade in Services, in Annex 1B GATS;
   - Article 4 of the Agreement on Trade-Related Aspects of Intellectual Property Rights, including Trade in Counterfeit Goods, in Annex 1C TRIPS.

3. Amendments to provisions of this Agreement, or of the Multilateral Trade Agreements in

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References to the Ministerial Conference include the General Council.
Annexes 1A and 1C, other than those listed in paragraphs 2 and 6, of a nature that would alter the rights and obligations of the Members, shall take effect for the Members that have accepted them upon acceptance by two-thirds of the Members and thereafter for each other Member upon acceptance by it. The Ministerial Conference may decide by a three-fourths majority of the Members that any amendment made effective under this paragraph is of such a nature that any Member which has not accepted it within a period specified by the Ministerial Conference in each case shall be free to withdraw from the MTO WTO or to remain a Member with the consent of the Ministerial Conference.

4. Amendments to provisions of this Agreement or of the Multilateral Trade Agreements in Annexes 1A and 1C, other than those listed in paragraphs 2 and 6, of a nature that would not alter the rights and obligations of the Members, shall take effect for all Members upon acceptance by two-thirds of the Members.

5. Except as provided in paragraph 2 above, amendments to Parts I, II and III of the General Agreement on Trade in Services, in Annex 1B, GATS and the respective annexes shall take effect for the Members that have accepted them upon acceptance by two-thirds of the Members and thereafter for each Member upon acceptance by it. The Ministerial Conference may decide by a three-fourths majority of the Members that any amendment made effective under the preceding provision is of such a nature that any Member which has not accepted it within a period specified by the Ministerial Conference in each case shall be free to withdraw from the MTO WTO or to remain a Member with the consent of the Ministerial Conference. Amendments to Parts IV, V and VI of the General Agreement on Trade in Services, in Annex 1B, GATS and the respective annexes shall take effect for all Members upon acceptance by two-thirds of the Members.

6. Notwithstanding the other provisions of this Article, amendments to the Agreement on Trade-Related Aspects of Intellectual Property Rights, including Trade in Counterfeit Goods, in Annex 1C, TRIPS meeting the requirements of paragraph 2 of Article 71 thereof may be adopted by the Ministerial Conference and shall take effect for all Members without further formal acceptance process.

7. Any Member accepting an amendment to this Agreement or to a Multilateral Trade Agreement in Annex 1 shall deposit an instrument of acceptance with the Director-General of the MTO WTO within the period of acceptance specified by the Ministerial Conference.

8. Any Member of the MTO WTO may initiate a proposal to amend the provisions of the Multilateral Trade Agreements in Annexes 2 and 3 by submitting such proposal to the Ministerial Conference. The decision to approve amendments to the Multilateral Trade Agreement in Annex 2 shall be made only by consensus and these amendments shall take effect for all Members upon approval by the Ministerial Conference. Decisions to approve amendments to the Multilateral Trade Agreement in Annex 3 shall take effect for all Members upon approval by the Ministerial Conference.

9. The Ministerial Conference, upon the request of the Members parties to a trade Agreement, may decide exclusively by consensus to add that Agreement to Annex 4. The Ministerial Conference, upon the request of the Members parties to a Plurilateral Trade Agreement in Annex 4, may decide to delete that Agreement from Annex 4.

10. Amendments to a Plurilateral Trade Agreement in Annex 4 shall be governed by the provisions of that Agreement.
Article XI
Original Membership

1. The contracting parties to the GATT 1947 as of the date of entry into force of this Agreement, and the European Communities, which accept this Agreement and the Multilateral Trade Agreements and for which Schedules of Concessions and Commitments are annexed to the GATT 1994 and for which Schedules of Specific Commitments are annexed to the General Agreement on Trade in Services in Annex 1B GATS shall become original Members of the WTO.

2. The least-developed countries recognized as such by the United Nations will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities.

Article XII
Accession

1. Any state or separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement and the Multilateral Trade Agreements may accede to this Agreement, on terms to be agreed between it and the WTO. Such accession shall apply to this Agreement and the Multilateral Trade Agreements annexed thereto.

2. Decisions on accession shall be taken by the Ministerial Conference. The Ministerial Conference shall approve the agreement on the terms of accession by a two-thirds majority of the Members of the WTO.

3. Accession to a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement.

Article XIII
Non-Application of Multilateral Trade Agreements between Particular Members

1. This Agreement and the Multilateral Trade Agreements in Annexes 1 and 2 shall not apply as between any Member and any other Member if either of the Members, at the time either becomes a Member, does not consent to such application.

2. Paragraph 1 may be invoked between original Members of the WTO who were contracting parties to the General Agreement on Tariffs and Trade GATT 1947 only where Article XXXV of that Agreement had been invoked earlier and was effective as between those contracting parties at the time of entry into force for them of this Agreement.

3. Paragraph 1 shall apply between a Member and another Member which has acceded under Article XII only if the Member not consenting to the application has so notified the Ministerial Conference before the approval of the agreement on the terms of accession by the Ministerial Conference.

4. The Ministerial Conference may review the operation of this Article in particular cases at the
request of any Member and make appropriate recommendations.

5. Non-application of a Plurilateral Trade Agreement between parties to that Agreement shall be governed by the provisions of that Agreement.

_Article XIV_

_Acceptance, Entry into Force and Deposit_

1. This Agreement shall be open for acceptance, by signature or otherwise, by contracting parties to the GATT 1947 and the European Communities which are eligible to become original Members of the WTO in accordance with Article XI of this Agreement. Such acceptance shall apply to this Agreement and the Multilateral Trade Agreements annexed thereto hereof. This Agreement and the Multilateral Trade Agreements annexed thereto hereof shall enter into force on the date determined by Ministers in accordance with paragraph 3 of the Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations and shall remain open for acceptance for a period of two years following that date unless the Ministers decide otherwise. An acceptance following the entry into force of this Agreement shall enter into force on the thirtieth day following the deposit of the instrument of acceptance.

2. A Member which accepts this Agreement after its entry into force shall implement those concessions and obligations in the Multilateral Trade Agreements that are to be implemented over a period of time starting with the entry into force of this Agreement as if it had accepted this Agreement on the date of its entry into force.

3. Until the entry into force of this Agreement, the text of this Agreement and the Multilateral Trade Agreements shall be deposited with the Director-General to the CONTRACTING PARTIES to the GATT 1947. The Director-General shall promptly furnish a certified true copy of this Agreement and the Multilateral Trade Agreements, and a notification of each acceptance thereof, to each signatory of this Agreement Member. This Agreement and the Multilateral Trade Agreements, and any amendments thereto, shall, upon the entry into force of this Agreement, be deposited with the Director-General of the WTO.

4. The acceptance and entry into force of a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement. Such Agreements shall be deposited with the Director-General of the WTO to the CONTRACTING PARTIES to GATT 1947. Upon the entry into force of this Agreement, such Agreements shall be deposited with the Director-General of the WTO.
**Article XV**

**Withdrawal**

1. Any Member may withdraw from this Agreement. Such withdrawal shall apply both to this Agreement and the Multilateral Trade Agreements and shall take effect upon the expiration of six months from the date on which written notice of withdrawal is received by the Director-General of the WTO.

2. Withdrawal from a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement.

**Article XVI**

**Miscellaneous Provisions**

1. Except as otherwise provided for under this Agreement or the Multilateral Trade Agreements, the WTO shall be guided by the decisions adopted and the procedures and customary practices followed by the CONTRACTING PARTIES to the GATT 1947 and the bodies established in the framework of the GATT 1947.

2. To the extent practicable, the Secretariat of the GATT 1947 shall become the Secretariat of the WTO, and the Director-General to the CONTRACTING PARTIES to the GATT 1947, until such time as the Ministerial Conference has appointed a Director-General in accordance with Article VI:2 of this Agreement, shall serve as Director-General of the WTO.

3. In the event of a conflict between the provisions of this Agreement or any of the Multilateral Trade Agreements, the provisions of this Agreement shall prevail to the extent of the conflict.

4. Each Member shall ensure the conformity of its laws, regulations and administrative procedures with its obligations as provided in the annexed Multilateral Trade Agreements.

5. No reservations may be made in respect of any provision of this Agreement. Reservations in respect of any of the provisions of the Multilateral Trade Agreements may only be made in accordance with the provisions set out to the extent provided for in those Agreements. Reservations in respect of a provision of a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement.

6. This Agreement shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

Done at Marrakesh this fifteenth day of April one thousand nine hundred and ninety-four, in a single copy, in the English, French and Spanish languages, each text being authentic.
Explanatory Notes:

The terms "country" or "countries" as used in this Agreement and the Multilateral Trade Agreements are to be understood to include any separate customs territory Member of the WTO.

In the case of a separate customs territory Member of the WTO, where an expression in this Agreement and the Multilateral Trade Agreements is qualified by the term "national", such expression shall be read as pertaining to that customs territory, unless otherwise specified.

LIST OF ANNEXES

ANNEX IA: Multilateral Trade Agreements on Goods

General Agreement on Tariffs and Trade 1994

- Understanding on the Interpretation of Article 11:1(b)
- Understanding on the Interpretation of Article XVII
- Understanding on Balance-of-Payments Provisions
- Understanding on the Interpretation of Article XXIV
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Agreement on Agriculture
Agreement on Sanitary and Phytosanitary Measures
Agreement on Textiles and Clothing
Agreement on Technical Barriers to Trade
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Agreement on Customs Valuation
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ANNEX 1B: General Agreement on Trade in Services and Annexes

ANNEX 1C: Agreement on Trade-Related Aspects of Intellectual Property Rights

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ANNEX 3: Trade Policy Review Mechanism

ANNEX 4: Plurilateral Trade Agreements

Agreement on Trade in Civil Aircraft
Agreement on Government Procurement
International Dairy Agreement
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B. ANNEX 1A

ANNEX Annex 1A

MULTILATERAL TRADE AGREEMENTS ON GOODS

General interpretative note to Annex 1A:

In the event of conflict between a provision of the General Agreement on Tariffs and Trade 1994 and a provision of another agreement in Annex 1A to the Agreement Establishing the World Trade Organization (hereinafter referred to as the "WTO Agreement"), the provision of the other agreement shall take precedence to the extent of the conflict.
1. General Agreement on Tariffs and Trade 1994

GENERAL AGREEMENT ON TARIFFS AND TRADE 1994

1. General Agreement on Tariffs and Trade

1. The provisions of the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as "GATT 1994") shall be the GATT 1994 consisting of: The provisions in: of the General Agreement on Tariffs and Trade, dated 30 October 1947, annexed to the Final Act of the second session adopted at the Conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment (excluding the Protocol of Provisional Application), as rectified, amended or otherwise modified by the terms of the legal instruments which have entered into force before the date of entry into force of the Agreement Establishing the Multilateral Trade Organization. Agreement are hereby made an integral part of this Annex. WTO Agreement.

b. 2. The provisions of the legal instruments set forth below that have entered into force under the GATT 1947 before the date of entry into force of the Agreement Establishing the MTO are set forth below: WTO Agreement shall be deemed to have become effective under the GATT 1994.

i. (a) protocols and certifications relating to tariff concessions;

ii. (a) protocols of accession (excluding the provisions (a) concerning provisional application and withdrawal of provisional application and (b) providing that Part II of the GATT 1947 shall be applied provisionally to the fullest extent not inconsistent with legislation existing on the date of the Protocol);

iii. (c) decisions on waivers granted under Article XXV of the GATT 1947 and still in force on the date of entry into force of the WTO Agreement establishing the MTO; and

iv.-(d) other decisions of the CONTRACTING PARTIES to the GATT 1947.

e 3. The Understandings set out in sub-paragraphs (a) through (f) below shall be deemed to be an integral part of the GATT 1994.

i.-(a) Understanding on the Interpretation of Article II: 1(b) of the General Agreement on Tariffs and Trade (text) GATT 1994

ii.-(b) Understanding on the Interpretation of Article XVII of the General Agreement on Tariffs and Trade (text) GATT 1994

iii.-(c) Understanding on Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade (text) GATT 1994

iv.-(d) Understanding on the Interpretation of Article XXIV of the General Agreement on Tariffs and Trade (text) GATT 1994

v.-(e) Understanding in Respect of Waivers of Obligations under the General Agreement on Tariffs and Trade (text) GATT 1994

vi.-(f) Understanding on the Interpretation of Article XXVIII of the General Agreement on Tariffs and Trade (text) GATT 1994

vii.-(g) Understanding on the Interpretation of Article XXXV of the General Agreement on Tariffs and Trade (text) GATT 1947

2. 4. The Uruguay Round Marrakech Protocol to the General Agreement on Tariffs and Trade GATT 1994 shall also be deemed to be an integral part of the GATT 1994.

d 5. Explanatory Notes:

i.-(a) The references to "contracting party" in the provisions of the GATT 1994 shall be deemed to read "Member". The references to "less-developed contracting party" and "developed contracting party" shall be deemed to read "developing country Member" and "developed country Member". The references to "Executive Secretary" shall be deemed to read "Director-General of the WTO".

ii.-(b) The references to the CONTRACTING PARTIES acting jointly in Articles XV:1, XV:2, XV:8, XXXVIII and the Notes Ad Article XII and XVIII; and in the provisions on special exchange agreements in Articles XV:2, XV:3, XV:6, XV:7 and XV:9 of the GATT 1994 shall be deemed to be references to the WTO. The other functions that the provisions of the GATT 1994 assign to the CONTRACTING PARTIES acting jointly shall be allocated by the Ministerial
6. (a) The provisions of Part II of the GATT 1994 shall not apply to measures taken by a Member under specific mandatory legislation, enacted by that Member before it became a contracting party to the GATT 1947, that prohibits the use, sale or lease of foreign-built or foreign-reconstructed vessels in commercial applications between points in national waters or the waters of an exclusive economic zone. This exemption applies to: (a) the continuation or prompt renewal of a non-conforming provision of such legislation; and (b) the amendment to a non-conforming provision of such legislation to the extent that the amendment does not decrease the conformity of the provision with Part II of the GATT 1947. This exemption is limited to measures taken under legislation described above that is notified and specified prior to the date of entry into force of the WTO Agreement Establishing the MTO. If such legislation is subsequently modified to decrease its conformity with Part II of the GATT 1994, it will no longer qualify for coverage under this paragraph.

(b) The Ministerial Conference shall review this exemption not later than five years after the date of entry into force of the WTO Agreement Establishing the MTO and thereafter every two years for as long as the exemption is in force for the purpose of examining whether the conditions which created the need for the exemption still prevail.

(c) A Member whose measures are covered by this exemption shall annually submit a detailed statistical notification consisting of a five-year moving average of actual and expected deliveries of relevant vessels as well as additional information on the use, sale, lease or repair of relevant vessels covered by this exemption.

(d) A Member that considers that this exemption operates in such a manner as to justify a reciprocal and proportionate limitation on the use, sale, lease or repair of vessels constructed in the territory of the Member invoking the exemption shall be free to introduce such a limitation subject to prior notification to the Ministerial Conference.

(e) This exemption is without prejudice to solutions concerning specific aspects of the legislation covered by this exemption negotiated in sectoral agreements or in other fora.

[NOTE: Names of agreements which appeared in this place in the 15 December Final Act have been deleted; the List of Annexes immediately following the WTO Agreement will identify those texts included in the Agreement.]
GENERAL NOTE TO THE RECTIFIED TEXTS OF THE UNDERSTANDINGS ON GATT 1994 ARTICLES: The texts of these Understandings have been rectified to align the formats of the preambles.

(a) Understanding on the Interpretation of Article II:1(b)

UNDERSTANDING ON THE INTERPRETATION OF ARTICLE II:1(b) OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE GATT 1994

Members agree as follows:

1. It is agreed that in order to ensure transparency of the legal rights and obligations deriving from paragraph 1(b) of Article II:1(b), the nature and level of any "other duties or charges" levied on bound tariff items, as referred to in that provision, shall be recorded in the Schedules of tariff concessions annexed to GATT 1994 against the tariff item to which they apply. It is understood that such recording does not change the legal character of "other duties or charges".

2. The date as of which "other duties or charges" are bound, for the purposes of Article II, shall be the date of entry into force of the Agreement Establishing the WTO. 15 April 1994. "Other duties or charges" shall therefore be recorded in the Schedules of concessions at the levels applying on this date. At each subsequent renegotiation of a concession or negotiation of a new concession the applicable date for the tariff item in question shall become the date of the incorporation of the new concession in the Schedules of concessions appropriate Schedule. However, the date of the instrument by which a concession on any particular tariff item was first incorporated into the GATT 1947 or GATT 1994 shall also continue to be recorded in column 6 of the Loose-Leaf Schedules.

3. "Other duties or charges" shall be recorded in respect of all tariff bindings.

4. Where a tariff item has previously been the subject of a concession, the level of "other duties or charges" recorded in the Schedules of concessions appropriate Schedule shall not be higher than the level obtaining at the time of the first incorporation of the concession in the Schedules that Schedule. It will be open to any Member to challenge the existence of an "other duty or charge", on the ground that no such "other duty or charge" existed at the time of the original binding of the item in question, as well as the consistency of the recorded level of any "other duty or charge" with the previously bound level, for a period of three years after the date of entry into force of the WTO Agreement Establishing the WTO or three years after the date of deposit of the Schedule in question with the Director-General of the WTO WTO of the instrument incorporating the Schedule in question into GATT 1994, if that is a later date.

5. It is agreed that the recording of "other duties or charges" in the Schedules of concessions is without prejudice to their consistency with rights and obligations under the GATT 1994 other than those affected by paragraph 4 above. All Members retain the right to challenge, at any time, the consistency of any "other duty or charge" with such obligations.

6. For the purposes of this Understanding, the provisions of Articles XXII and XXIII of the GATT 1994 as elaborated and applied by the Understanding on Rules and Procedures Governing the Settlement of Disputes will Dispute Settlement Understanding shall apply.
7. It is agreed that "other duties or charges" omitted from a Schedule at the time of its deposit with, until the deposit of the instrument incorporating the Schedule in question into GATT 1994 with, until the date of entry into force of the WTO Agreement Establishing the MTO, the Director-General to the CONTRACTING PARTIES to the GATT 1947 or, thereafter, with the Director-General of the MTO WTO shall not subsequently be added to it and that any "other duty or charge" recorded at a level lower than that prevailing on the applicable date shall not be restored to that level unless such additions or changes are made within six months of the deposit of the Schedule date of entry into force of the WTO Agreement or within six months of the date of deposit of the instrument, if that is a later date.

8. The decision in paragraph 2 above regarding the date applicable to each concession for the purposes of paragraph 1(b) of Article II :1(b) of GATT 1994 supersedes the decision regarding the applicable date taken by the GATT 1947 Council on 26 March 1980 (BISD 27S/22) 27S/24).

NOTE TO THE RECTIFIED TEXT:

Throughout the text references to "Schedules" have been harmonized and made compatible with the language in Article II:1(b) itself.

The modification to the date in the first sentence of paragraph 2 is designed to bring this into line with what had been agreed in the legal drafting process in December 1993 and had been gavelled by the Heads of Delegations in the green-covered document dated 3 December 1993, reference number 2660. This had given the date as "the date of the Uruguay Round Protocol to the GATT 1994", essentially the same language as in the draft Final Act. This date was replaced in the Final Act, due to a Secretariat error, by the "date of entry into force of the Agreement Establishing the MTO". The proposed substitution of the date "15 April 1994" for "the date of the Uruguay Round Protocol to the GATT 1994" would not entail any change in substance, the two dates being the same, and reflects the general way in which it is being suggested that such dates be referred to in the Final Act.

In paragraphs 4 and 7 references to the "date of deposit" of a Schedule have been made more precise by referring to the date of deposit of the instrument incorporating the Schedule in question into GATT. Since the word "deposit" has been used in a somewhat different sense in connection with Schedules in the work on the Harmonized System, there would otherwise be a risk of confusion.

Paragraph 7 provides for a six-month period in which to correct errors and omissions in the recording of "other duties or charges" in Schedules. Since the Understanding and therefore this period will not come into force until after the entry into force of the WTO, the drafting has been changed to preserve this period even where the date of the instrument incorporating the Schedule predates the entry into force of the WTO. This proposed change parallels that already made in paragraph 4 during the autumn 1993 legal drafting work to enable the full three-year window of opportunity for challenging other countries' recording of "other duties or charges" to be preserved.
(b) Understanding on the Interpretation of Article XVII

UNDERSTANDING ON THE INTERPRETATION OF ARTICLE XVII OF GATT
THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994

 Members,

Noting that Article XVII provides for obligations on Members in respect of the activities of the state trading enterprises referred to in paragraph 1 of Article XVII-1, which are required to be consistent with the general principles of non-discriminatory treatment prescribed in the GATT 1994 for governmental measures affecting imports or exports by private traders;

Noting further that Members are subject to their GATT 1994 obligations in respect of those governmental measures affecting state trading enterprises;

Recognizing that this Understanding is without prejudice to the substantive disciplines prescribed in Article XVII;

Agree as follows:

1. It is agreed that in order to ensure the transparency of the activities of state trading enterprises, such enterprises shall be notified to the Council for Trade in Goods, for review by the working party to be set up under paragraph 5 below, in accordance with the following working definition:

"Governmental and non-governmental enterprises, including marketing boards, which have been granted exclusive or special rights or privileges, including statutory or constitutional powers, in the exercise of which they influence through their purchases or sales the level or direction of imports or exports."

This notification requirement does not apply to imports of products for immediate or ultimate consumption in governmental use or in use by an enterprise as specified above and not otherwise for resale or use in the production of goods for sale.

2. It is agreed that each Member shall conduct a review of its policy with regard to the submission of notifications on state trading enterprises to the Council for Trade in Goods, taking account of the provisions of this Understanding. In carrying out such a review, each Member should have regard to the need to ensure the maximum transparency possible in its notifications so as to permit a clear appreciation of the manner of operation of the enterprises notified and the effect of their operations on international trade.

3. Notifications shall be made in accordance with the 1960 questionnaire on State trading approved on 24 May 1960 (BISD, 9S/184), it being understood that Members shall notify the enterprises referred to in paragraph 1 above whether or not imports or exports have in fact taken place.

4. Any Member which has reason to believe that another Member has not adequately met its notification obligation may raise the matter with the Member concerned. If the matter is not satisfactorily
resolved it may make a counter-notification to the Council for Trade in Goods, for consideration by the working party set up under paragraph 5 below, simultaneously informing the Member concerned.

5. A working party shall be set up, on behalf of the Council for Trade in Goods, to review notifications and counter-notifications. In the light of this review and without prejudice to Article XVII:4(c), the Council for Trade in Goods may make recommendations with regard to the adequacy of notifications and the need for further information. The working party shall also review, in the light of the notifications received, the adequacy of the above-mentioned questionnaire on state trading and the coverage of state trading enterprises notified under paragraph 1 above. It shall also develop an illustrative list showing the kinds of relationships between governments and enterprises, and the kinds of activities, engaged in by these enterprises, which may be relevant for the purposes of Article XVII. In the light of this review and without prejudice to paragraph 4(c) of Article XVII, the Council for Trade in Goods may make recommendations with regard to the adequacy of notifications and the need for further information. It is understood that the WTO Secretariat will provide a general background paper for the working party on the operations of state trading enterprises as they relate to international trade. Membership of the working party shall be open to all Members indicating their wish to serve on it. It shall meet within a year of the date of entry into force of the WTO Agreement Establishing the WTO and thereafter at least once a year. It shall report annually to the Council for Trade in Goods.¹

NOTE TO THE RECTIFIED TEXT: The proposed change in the position of the old second sentence of paragraph 5 seems to put the sentences of this paragraph into a more logical order.

¹The activities of this working party shall be co-ordinated with those of the working group provided for in section III of the Ministerial Decision on Notification Procedures adopted on 15 April 1994.
Understanding on Balance-of-Payments Provisions

UNDERSTANDING ON THE BALANCE-OF-PAYMENTS PROVISIONS OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE GATT 1994

Members,

Recognizing the provisions of Articles XII and XVIII:B of the GATT 1994 and of the 1979 Declaration on Trade Measures taken for Balance-of-Payments Purposes (hereafter adopted on 28 November 1979 (BISD 26S/205-209, hereinafter referred to as the "1979 Declaration") and in order to clarify such provisions:

Hereby agree as follows:

Application of Measures

1. Members confirm their commitment to announce, as soon as possible, time-schedules for the removal of restrictive import measures taken for balance-of-payments purposes. It is understood that such time-schedules may be modified as appropriate to take into account changes in the balance-of-payments situation. Wherever a time-schedule is not publicly announced, justification shall be provided by a Member, the Member shall provide justification as to the reasons therefor.

2. Members confirm their commitment to give preference to those measures which have the least disruptive effect on trade. Such measures shall be understood to include import surcharges, import deposit requirements or other equivalent trade measures with an impact on the price of imported goods. It is understood that, notwithstanding the provisions of Article II, price-based measures taken for balance-of-payments purposes may be applied by a Member in excess of the duties inscribed in the schedule of that Member. Furthermore, the Member shall indicate the amount by which the price-based measure exceeds the bound duty.

3. Members shall seek to avoid the imposition of new quantitative restrictions for balance-of-payments purposes unless, because of a critical balance-of-payments situation, price-based measures cannot arrest a sharp deterioration in the external payments position. In those cases in which a Member applies quantitative restrictions, justification shall be provided as to the reasons why price-based measures are not an adequate instrument to deal with the balance-of-payments situation. A Member maintaining quantitative restrictions shall indicate in successive consultations the progress made in significantly reducing the incidence and restrictive effect of such measures. It is understood that not more than one type of restrictive import measure taken for balance-of-payments reasons may be applied on the same product.

1Nothing in this Understanding is intended to modify the rights and obligations of Members under Articles XII or XVIII:B of the GATT 1994. The provisions of Articles XXII and XXIII of the GATT 1994 as elaborated and applied by the Dispute Settlement Understanding on Rules and Procedures Governing the Settlement of Disputes may be invoked with respect to any matters arising from the application of restrictive import measures taken for balance-of-payments reasons.
4. Members confirm that restrictive import measures taken for balance-of-payments purposes may only be applied to control the general level of imports and may not exceed what is necessary to address the balance-of-payments situation. In order to minimize any incidental protective effects, restrictions shall be administered in a transparent manner. The authorities of the importing Member shall provide adequate justification as to the criteria used to determine which products are subject to restriction. As provided in Articles XII:3 and XVIII:B:10, Members may, in the case of certain essential products, exclude or limit the application of surcharges applied across the board or other measures applied for balance-of-payments purposes. The term "essential products" shall be understood to mean products which meet basic consumption needs or which contribute to the Member's effort to improve its balance-of-payments situation, such as capital goods or inputs needed for production. In the administration of quantitative restrictions, a Member shall use discretionary licensing shall be used only when unavoidable and be progressively phased out. Appropriate justification shall be provided as to the criteria used to determine allowable import quantities or values.

Procedures for Balance-of-Payments Consultations

5. The Committee on Balance-of-Payments Restrictions shall carry out consultations in order to review all restrictive import measures taken for balance-of-payments purposes. The membership of the Committee is open to all Members indicating their wish to serve on it. The Committee shall follow the procedures for consultations on balance-of-payments restrictions approved by the GATT 1947 Council on 28 April 1970 and set out in BISD, Eighteenth Supplement, pages 48-53 (hereinafter referred to as "Full consultation Procedures"), subject to the provisions set out below.

6. A Member applying new restrictions or raising the general level of its existing restrictions by a substantial intensification of the measures shall enter into consultations with the Committee within four months of the adoption of such measures. The Member adopting such measures may request that a consultation be held under paragraph 4(a) of Article XII or paragraph 12(a) of Article XVIII as appropriate. If no such request has been made, the Chairman of the Committee shall invite the Member to hold such a consultation. Factors that may be examined in the consultation would include, inter alia, the introduction of new types of restrictive measures for balance-of-payments purposes, or an increase in the level or product coverage of restrictions.

7. All restrictions applied for balance-of-payments purposes shall be subject to periodic review in the Committee under paragraph 4(b) of Article XII or under paragraph 12(b) of Article XVIII, subject to the possibility of altering the periodicity of consultations in agreement with the consulting Member or pursuant to any specific review procedure that may be recommended by the General Council.

8. Consultations may be held under the simplified procedures approved on 19 December 1972 in the case of least-developed country Members or in the case of developing country Members which are pursuing liberalization efforts in conformity with the schedule presented to the Committee in previous consultations. Simplified consultation procedures may also be used when the Trade Policy Review of a developing country Member is scheduled for the same calendar year as the date fixed for the consultations. In such cases the decision as to whether a full consultation procedures should be held will be made on the basis of the factors enumerated in paragraph 8 of the 1979 Declaration. Except in the case of least-developed country Members, no more than two successive
consultations may be held under simplified consultation procedures.

Notification and Documentation

9. A Member shall notify to the General Council the introduction of or any changes in the application of restrictive import measures taken for balance-of-payments purposes, as well as any modifications in time schedules for the removal of such measures as announced under paragraph 1. Significant changes shall be notified to the General Council prior to or not later than 30 days after their announcement. A on a yearly basis, each Member shall make available to the WTO Secretariat a consolidated notification, including all changes in laws, regulations, policy statements or public notices, shall be made available to the WTO Secretariat on a yearly basis for examination by Members. Notifications shall include full information, as far as possible, at the tariff line level, on the type of measures applied, the criteria used for their administration, product coverage and trade flows affected.

10. At the request of any Member, notifications may be reviewed by the Committee. Such reviews would be limited to the clarification of specific issues raised by a notification or examination of whether a consultation under paragraph 4(a) of Article XII or paragraph 12(a) of Article XVIII is required. Members which have reasons to believe that a restrictive import measure applied by another Member was taken for balance-of-payments purposes may bring the matter to the attention of the Committee. The Chairman of the Committee shall request information on the measure and make it available to all Members. Without prejudice to the right of any member of the Committee to seek appropriate clarifications in the course of consultations, questions may be submitted in advance for consideration by the consulting Member.

11. The consulting Member shall prepare a Basic Document for the consultations which, in addition to any other information considered to be relevant, should include: (a) an overview of the balance-of-payments situation and prospects, including a consideration of the internal and external factors having a bearing on the balance-of-payments situation and the domestic policy measures taken in order to restore equilibrium on a sound and lasting basis; (b) a full description of the restrictions applied for balance-of-payments purposes, their legal basis and steps taken to reduce incidental protective effects; (c) measures taken since the last consultation to liberalize import restrictions, in the light of the conclusions of the Committee; (d) a plan for the elimination and progressive relaxation of remaining restrictions. References may be made, when relevant, to the information provided in other notifications or reports made to the WTO. Under simplified consultation procedures, the consulting Member shall submit a written statement containing essential information on the elements covered by the Basic Document.

12. The WTO Secretariat shall, with a view to facilitating the consultations in the Committee, prepare a factual background paper dealing with the different aspects of the plan for consultations. In the case of developing country Members, the Secretariat document will include relevant background and analytical material on the incidence of the external trading environment on the balance-of-payments situation and prospects of the consulting Member. The technical assistance services of the WTO Secretariat shall, at the request of a developing country Member, assist in preparing the documentation for the consultations.

Conclusions of Balance-of-Payments Consultations

13. The Committee shall report on its consultations to the General Council. When full consultation procedures have been used, the report should indicate the
Committee's conclusions on the different elements of the plan for consultations, as well as the facts and reasons on which they are based. The Committee shall endeavour to include in its conclusions proposals for recommendations aimed at promoting the implementation of Articles XII and XVIII:B, the 1979 Declaration and this Understanding. In those cases in which a time-schedule has been presented for the removal of restrictive measures taken for balance-of-payments purposes, the General Council may recommend that, in adhering to such a time-schedule, a Member shall be deemed to be in compliance with its GATT 1994 obligations. Whenever the General Council has made specific recommendations, the rights and obligations of Members shall be assessed in the light of such recommendations. In the absence of specific proposals for recommendations by the General Council, the Committee's conclusions should record the different views expressed in the Committee. In the case of simplified consultations, full consultation procedures have been used, the report shall include a summary of the main elements discussed in the Committee and a decision on whether full consultation procedures are required.
(d) **Understanding on the Interpretation of Article XXIV**

UNDERSTANDING ON THE INTERPRETATION OF ARTICLE XXIV OF GATT
THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994

Members,

*Having regard* to the provisions of Article XXIV of the GATT 1994;

*Recognizing* that customs unions and free trade areas have greatly increased in number and importance since the establishment of the GATT 1947 and today cover a significant proportion of world trade;

*Recognizing* the contribution to the expansion of world trade that may be made by closer integration between the economies of the parties to such agreements;

*Recognizing* also that such contribution is increased if the elimination between the constituent territories of duties and other restrictive regulations of commerce extends to all trade, and diminished if any major sector of trade is excluded;

*Reaffirming* that the purpose of such agreements should be to facilitate trade between the constituent territories and not to raise barriers to the trade of other Members with such territories; and that in their formation or enlargement the parties to them should to the greatest possible extent avoid creating adverse effects on the trade of other Members;

*Convinced* also of the need to reinforce the effectiveness of the role of the Council for Trade in Goods in reviewing agreements notified under Article XXIV, by clarifying the criteria and procedures for the assessment of new or enlarged agreements, and improving the transparency of all Article XXIV agreements;

*Recognizing* the need for a common understanding of the obligations of Members under paragraph 12 of Article XXIV;

Hereby agree as follows:

1. Customs unions, free trade areas, and interim agreements leading to the formation of a customs union or free trade area, to be consistent with Article XXIV, must satisfy, *inter alia*, the provisions of its paragraphs 5, 6, 7 and 8 *inter alia* of that Article.

Article XXIV: 5

2. The evaluation under paragraph 5(a) of Article XXIV: 5(a) of the general incidence of the duties and other regulations of commerce applicable before and after the formation of a customs union shall in respect of duties and charges be based upon an overall assessment of weighted average tariff rates and of customs duties collected. This assessment shall be based on import statistics for a previous representative period to be supplied by the customs union, on a tariff-line basis and in values and quantities, broken down by MTO WTO country of origin. The MTO WTO Secretariat shall compute
the weighted average tariff rates and customs duties collected in accordance with the methodology used in the assessment of tariff offers in the Uruguay Round of Multilateral Trade Negotiations. For this purpose, the duties and charges to be taken into consideration shall be the applied rates of duty. It is recognised that for the purpose of the overall assessment of the incidence of other regulations of commerce for which quantification and aggregation are difficult, the examination of individual measures, regulations, products covered and trade flows affected may be required.

3. The "reasonable length of time" referred to in paragraph 5(c) of Article XXIV should exceed ten years only in exceptional cases. In cases where Members parties to an interim agreement believe that ten years would be insufficient they shall provide a full explanation to the Council for Trade in Goods of the need for a longer period.

Article XXIV:6

4. Paragraph 6 of Article XXIV establishes the procedure to be followed when a Member forming a customs union proposes to increase a bound rate of duty. In this regard it is reaffirmed Members reaffirm that the procedure set forth in Article XXVIII, as elaborated in the guidelines adopted by the GATT 1947 CONTRACTING PARTIES on 10 November 1980 (27S/26, BISD 27S/26-28) and in the Understanding on the Interpretation of Article XXVIII of the General Agreement on Tariffs and Trade GATT 1994, must be commenced before tariff concessions are modified or withdrawn upon the formation of a customs union or an interim agreement leading to the formation of a customs union.

5. It is agreed that these negotiations will be entered into in good faith with a view to achieving mutually satisfactory compensatory adjustment. In such negotiations, as required by paragraph 6 of Article XXIV:6, due account shall be taken of reductions of duties on the same tariff line made by other constituents of the customs union upon its formation. Should such reductions not be sufficient to provide the necessary compensatory adjustment, the customs union would offer compensation, which may take the form of reductions of duties on other tariff lines. Such an offer shall be taken into consideration by the Members having negotiating rights in the binding being modified or withdrawn. Should the compensatory adjustment remain unacceptable, negotiations should be continued. Where, despite such efforts, agreement in negotiations on compensatory adjustment under Article XXVIII as elaborated by the Understanding on the Interpretation of Article XXVIII of the General Agreement on Tariffs and Trade GATT 1994 cannot be reached within a reasonable period from the initiation of negotiations, the customs union shall, nevertheless, be free to modify or withdraw the concessions; affected Members shall then be free to withdraw substantially equivalent concessions in accordance with Article XXVIII.

6. The GATT 1994 imposes no obligation on Members benefiting from a reduction of duties consequent upon the formation of a customs union, or an interim agreement leading to the formation of a customs union, to provide compensatory adjustment to its constituents.

Review of Customs Unions and Free Trade Areas

7. All notifications made under paragraph 7(a) of Article XXIV shall be examined by a working party in the light of the relevant provisions of the GATT 1994 and of paragraph 1 of this Understanding. The working party shall submit a report to the Council for Trade in Goods on its findings in this regard. The Council for Trade in Goods may make such recommendations to Members as it deems appropriate.
8. In regard to interim agreements, the working party may in its report make appropriate recommendations on the proposed timeframe and on measures required to complete the formation of the customs union or free-trade area. It may if necessary provide for further review of the agreement.

9. **Substantial** The parties to an interim agreement shall notify substantial changes in the plan and schedule included in the agreement, and shall be examined by the Council for Trade in Goods and, if so requested, the Council shall examine the changes.

10. Should an interim agreement notified under paragraph 7(a) of Article XXIV not include a plan and schedule, contrary to paragraph 5(c) of Article XXIV, the working party shall in its report recommend such a plan and schedule. The parties shall not maintain or put into force, as the case may be, such agreement if they are not prepared to modify it in accordance with these recommendations. Provision shall be made for subsequent review of the implementation of the recommendations.

11. Customs unions and constituents of free-trade areas shall report periodically to the Council for Trade in Goods, as envisaged by the GATT 1947 CONTRACTING PARTIES to GATT 1947 in their instruction to the GATT 1947 Council concerning reports on regional agreements (BISD 185/38), on the operation of the relevant agreement. Any significant changes and/or developments in the agreements should be reported as they occur.

**Dispute Settlement**

12. The provisions of Articles XXII and XXIII of the GATT 1994 as elaborated and applied by the Dispute Settlement Understanding on Rules and Procedures Governing the Settlement of Disputes may be invoked with respect to any matters arising from the application of those provisions of Article XXIV relating to customs unions, free-trade areas or interim agreements leading to the formation of a customs union or free-trade area.

**Article XXIV:12**

13. Each Member is fully responsible under the GATT 1994 for the observance of all provisions of the GATT 1994, and shall take such reasonable measures as may be available to it to ensure such observance by regional and local governments and authorities within its territory.

14. The provisions of Articles XXII and XXIII of the GATT 1994 as elaborated and applied by the Dispute Settlement Understanding on Rules and Procedures Governing the Settlement of Disputes may be invoked in respect of measures affecting its observance taken by regional or local governments or authorities within the territory of a Member. When the Dispute Settlement Body has ruled that a provision of the GATT 1994 has not been observed, the responsible Member shall take such reasonable measures as may be available to it to ensure its observance. The provisions relating to compensation and suspension of concessions or other obligations apply in cases where it has not been possible to secure such observance.

15. Each Member undertakes to accord sympathetic consideration to and afford adequate opportunity for consultation regarding any representations made by another Member concerning measures affecting the operation of the GATT 1994 taken within the territory of the former.
(e) Understanding in Respect of Waivers of Obligations under GATT 1994

UNDERSTANDING IN RESPECT OF WAIVERS OF OBLIGATIONS UNDER THE GENERAL AGREEMENT ON TARIFFS AND TRADE GATT 1994

Members agree as follows:

1. It is agreed that a request for a waiver or for an extension of an existing waiver shall describe the measures which the Member proposes to take, the specific policy objectives which the Member seeks to pursue and the reasons which prevent the Member from achieving its policy objectives by measures consistent with its obligations under the GATT 1994.

2. Any waiver in effect on the date of entry into force of the WTO Agreement Establishing the WTO shall terminate, unless extended in accordance with the procedures above and those of Article IX of the WTO Agreement Establishing the WTO, on the date of its expiry or two years from the date of entry into force of the WTO Agreement Establishing the WTO, whichever is earlier.

3. Any Member considering that a benefit accruing to it under the GATT 1994 is being nullified or impaired as a result of

   (a) the failure of the Member to whom a waiver was granted to observe the terms or conditions of the waiver, or

   (b) the application of a measure consistent with the terms and conditions of the waiver

may invoke the provisions of Article XXIII of the GATT 1994 as elaborated and applied by the Dispute Settlement Understanding on Rules and Procedures Governing the Settlement of Disputes.
Understanding on the Interpretation of Article XXVIII of GATT 1994

UNDERSTANDING ON THE INTERPRETATION OF ARTICLE XXVIII OF GATT
THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994

Members agree as follows:

1. For the purposes of modification or withdrawal of a concession, the Member which has the highest ratio of exports affected by the concession (i.e., exports of the product to the market of the Member modifying or withdrawing the concession) to its total exports shall be deemed to have a principal supplying interest if it does not already have an initial negotiating right or a principal supplying interest as provided for in paragraph 1 of Article XXVIII-1. It is however agreed that this paragraph will be reviewed by the Council for Trade in Goods five years from the date of the entry into force of the WTO Agreement Establishing the WTO with a view to deciding whether this criterion has worked satisfactorily in securing a redistribution of negotiating rights in favour of small and medium-sized exporting Members. If this is not the case, consideration will be given to possible improvements, including, in the light of the availability of adequate data, the adoption of a criterion based on the ratio of exports affected by the concession to exports to all markets of the product in question.

2. Where a Member considers that it has a principal supplying interest in terms of paragraph 1 above, it should communicate its claim in writing, with supporting evidence, to the Member proposing to modify or withdraw a concession, and at the same time inform the WTO Secretariat. Paragraph 4 of the "Procedures for Negotiations under Article XXVIII" adopted on 10 November 1980 (BISD 27S/26) shall apply in these cases.

3. In the determination of which Members will have a principal supplying interest (whether as provided for in paragraph 1 above or in paragraph 1 of Article XXVIII-1) or substantial interest, it is agreed that only trade in the affected product which has taken place on an m.f.n. MFN basis shall be taken into consideration. However, trade in the affected product which has taken place under non-contractual preferences shall also be taken into account if the trade in question has ceased to benefit from such preferential treatment, thus becoming MFN trade, at the time of the renegotiation negotiation for the modification or withdrawal of the concession, or will do so by the conclusion of that negotiation.

4. When a tariff concession is modified or withdrawn on a new product (i.e., a product for which three years' trade statistics are not available) the Member possessing initial negotiating rights on the tariff line where the product is or was formerly classified shall be deemed to have an initial negotiating right in the concession in question. The determination of principal supplying and substantial interests and the calculation of compensation shall take into account, inter alia, production capacity and investment in the affected product in the exporting Member and estimates of export growth, as well as forecasts of demand for the product in the importing Member. For the purposes of this paragraph, "new product" is understood to include a tariff item created by means of a breakout from an existing tariff line.

5. Where a Member considers that it has a principal supplying or a substantial interest in terms of paragraph 4 above, it should communicate its claim in writing, with supporting evidence, to the Member proposing to modify or withdraw a concession, and at the same time inform the WTO Secretariat. Paragraph 4 of the above-mentioned "Procedures for Negotiations under Article XXVIII"
(BISD-278/26) shall apply in these cases.

6. When an unlimited tariff concession is replaced by a tariff rate quota, the amount of compensation provided should exceed the amount of the trade actually affected by the modification of the concession. The basis for the calculation of compensation should be the amount by which future trade prospects exceed the level of the quota. It is understood that the calculation of future trade prospects should be based on the greater of:

   (i) the average annual trade in the most recent representative three-year period, increased by the average annual growth rate of imports in that same period, or by ten per cent, whichever is the greater; or

   (ii) trade in the most recent year increased by ten per cent.

In no case shall the Member’s liability for compensation exceed that which would be entailed by complete withdrawal of the concession.

7. Any Member having a principal supplying interest, whether as provided for in paragraph 1 above or in paragraph 1 of Article XXVIII-4, in a concession which is modified or withdrawn shall be accorded an initial negotiating right in the compensatory concessions, unless another form of compensation is agreed by the Members concerned.
(g) Understanding on the Interpretation of Article XXXV of the General Agreement on Tariffs and Trade 1947

UNDERSTANDING ON THE INTERPRETATION OF ARTICLE XXXV OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1947

The CONTRACTING PARTIES,

Having regard to the interlinked provisions of paragraph 1 of Article XXXV of the General Agreement on Tariffs and Trade 1947;

Noting that by invoking Article XXXV a contracting party on the one hand, or a government acceding to GATT 1947 on the other, declines to apply GATT 1947, or alternatively Article II of that Agreement, to the other party;

Desiring to ensure that tariff negotiations between contracting parties and a government acceding to GATT 1947 are not inhibited by unwillingness to accept an obligation to apply GATT 1947 as a consequence of entry into such negotiations;

Agree as follows:

A contracting party and a government acceding to GATT 1947 may engage in negotiations relating to the establishment of a GATT schedule of concessions by the acceding government without prejudice to the right of either to invoke Article XXXV in respect of the other.

NOTE TO RECTIFICATIONS:

It is proposed that this text be deleted from the Final Act. The text is redundant in that its purpose - to enable a Member and a government acceding to the WTO to invoke non-application in respect of the other even after having engaged in negotiations on a tariff schedule - is already achieved by Article XIII of the WTO Agreement. Article XIII does not limit the right to invoke non-application in a situation where tariff negotiations with an acceding government have already been held. By virtue of paragraph 3 of Article XVI of the WTO Agreement, it is clear that this provision would prevail notwithstanding the incorporation in Annex 1A of GATT 1994, including its Article XXXV.

The deletion of this text from the Final Act would of course be without prejudice to the possibility of a GATT 1947 Council Decision along the same lines.

URUGUAY ROUND MARRAKESH PROTOCOL TO GATT
THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994

Members,

Having carried out negotiations within the framework of the General Agreement on Tariffs and Trade GATT 1947, pursuant to the Ministerial Declaration on the Uruguay Round,

Hereby agree as follows:

1. The schedule annexed to this Protocol relating to a Member shall become a Schedule to the GATT 1994 relating to that Member on the day on which the WTO Agreement Establishing the MTO enters into force for that Member. Any schedule submitted in accordance with the Ministerial Decision on measures in favour of least-developed countries shall be deemed to be annexed to this Protocol.

2. The tariff reductions agreed upon by each Member shall be implemented in five equal rate reductions, except as may be otherwise specified in a Member’s Schedule. The first such reduction shall be made effective on the date of entry into force of the WTO Agreement Establishing the MTO, each successive reduction shall be made effective on 1 January of each of the following years, and the final rate shall become effective no later than the date four years after the date of entry into force of the WTO Agreement Establishing the MTO, except as may be otherwise specified in that Member’s Schedule. Unless otherwise specified in its Schedule, a Member that accepts the WTO Agreement Establishing the MTO after its entry into force shall, on the date this Agreement enters into force for it, make effective all rate reductions that have already taken place together with the reductions which it would under the preceding sentence have been obligated to make effective on 1 January of the year following, and shall make effective all remaining rate reductions on the schedule specified in the previous sentence. The reduced rate should in each stage be rounded off to the first decimal. For agricultural products, as defined in Article 2 of the Agreement on Agriculture, the staging of reductions shall be implemented as specified in the relevant parts of the schedules.

3. The implementation of the concessions and commitments contained in the schedules annexed to this Protocol shall, upon request, be subject to multilateral examination by the Members. This would be without prejudice to the rights and obligations of Members under Agreements in Annex 1A of the Agreement Establishing the MTO.

4. After the schedule annexed to this Protocol relating to a Member has become a Schedule to the GATT 1994 pursuant to the provisions of paragraph 1, such Member shall be free at any time to withhold or to withdraw in whole or in part the concession in such Schedule with respect to any product for which the principal supplier is any other Uruguay Round participant the schedule of which has not yet become a Schedule to the GATT 1994. Such action can, however, only be taken after written notice of any such withholding or withdrawal of a concession has been given to the Council for Trade in Goods and after consultations have been held, upon request, with any Member, the relevant Schedule relating to which has become a Schedule to the GATT 1994 and which has a substantial interest in the product involved. Any concessions so withheld or withdrawn shall be applied on and after the day on which the schedule of the Member which has the principal supplying interest becomes a Schedule
5. (a) Without prejudice to the provisions of paragraph 2 of Article 4 of the Agreement on Agriculture, for the purpose of the reference in Article II-1(b) paragraphs 1(b) and (e) of the Article II of GATT 1994 to the date of that Agreement, the applicable date in respect of each product which is the subject of a concession provided for in a schedule of concessions annexed to this Protocol shall be the date of this Protocol.

(b) For the purpose of the reference in paragraph 6(a) of Article II of the GATT 1994 to the date of that Agreement, the applicable date in respect of a schedule of concessions annexed to this Protocol shall be the date of this Protocol.

6. In cases of modification or withdrawal of concessions relating to non-tariff measures as contained in Part III of the schedules, the provisions of Article XXVIII of the GATT 1994 and the "Procedures for Negotiations under Article XXVIII" approved by the GATT 1947 Council on 10 November 1980 (BISD 27S/26) shall apply. This would be without prejudice to the rights and obligations of Members under the GATT 1994.

7. In each case in which a schedule annexed to this Protocol results for any product in treatment less favourable than was provided for such product in the Schedules of the General Agreement GATT 1947 prior to the entry into force of this Protocol, the Member to whom the schedule relates shall be deemed to have taken appropriate action as would have been otherwise necessary under the relevant provisions of Article XXVIII of the GATT 1947 or 1994. The provisions of this paragraph shall apply to the Schedules of Members listed by agreement in the Annex to this Protocol only to [Nicaragua, Peru and Uruguay].

8. The Schedules annexed hereto are authentic in the English, French and Spanish language as specified in each Schedule.

9. The date of this Protocol shall be the date of the adoption of the Final Act Embodying the Results of the Uruguay Round Multilateral Trade Negotiations, i.e. 15 April 1994.

ANNEX

NOTES TO THE RECTIFIED TEXT:

1. The schedule formats which were appended to the Uruguay Round Protocol in the 15 December version of the Final Act will not appear in the 15 April Final Act, as they will be replaced by the Schedules of concessions, which will be physically annexed to the treaty copy of the WTO Agreement opened for acceptance at Marrakesh.

2. The list of Members to which paragraph 7 will apply is being finalized during the process of verification of market access schedules.
3. Agreement on Agriculture

AGREEMENT ON AGRICULTURE

Members,

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

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

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

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

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

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

Hereby agree, as follows:
Part I

Article 1

Definition of Terms

In this Agreement, unless the context otherwise requires:

(a) "Aggregate Measurement of Support" and "AMS" mean the annual level of support, expressed in monetary terms, provided for an agricultural product in favour of the producers of the basic agricultural product or non-product-specific support provided in favour of agricultural producers in general, other than support provided under programmes that qualify as exempt from reduction under Annex 2 to this Agreement, which is:

(i) with respect to support provided during the base period, specified in the relevant tables of supporting material incorporated by reference in Part IV of a Member's Schedule; and

(ii) with respect to support provided during any year of the implementation period and thereafter, calculated in accordance with the provisions of Annex 3 of this Agreement and taking into account the constituent data and methodology used in the tables of supporting material incorporated by reference in Part IV of the Member's Schedule;

(b) "basic agricultural product" in relation to domestic support commitments is defined as the product as close as practicable to the point of first sale as specified in a Member's Schedule and in the related supporting material;

(c) "budgetary outlays" or "outlays" include revenue foregone;

(d) "Equivalent Measurement of Support" means the annual level of support, expressed in monetary terms, provided to producers of a basic agricultural product through the application of one or more measures, the calculation of which in accordance with the AMS methodology is impracticable, other than support provided under programmes that qualify as exempt from reduction under Annex 2 to this Agreement, and which is:

(i) with respect to support provided during the base period, specified in the relevant tables of supporting material incorporated by reference in Part IV of a Member's Schedule; and

(ii) with respect to support provided during any year of the implementation period and thereafter, calculated in accordance with the provisions of Annex 4 of this Agreement and taking into account the constituent data and methodology used in the tables of supporting material incorporated by reference in Part IV of the Member's Schedule;

(e) "export subsidies" refer to subsidies contingent upon export performance, including the export subsidies listed in Article 9 of this Agreement;
(f) "implementation period" means the six-year period commencing in the year 1995, except that, for the purposes of Article 13, it means the nine-year period commencing in 1995;

(g) "market access concessions" include all market access commitments undertaken pursuant to this Agreement;

(h) "Total Aggregate Measurement of Support" and "Total AMS" mean the sum of all domestic support provided in favour of agricultural producers, calculated as the sum of all aggregate measurements of support for basic agricultural products, all non-product-specific aggregate measurements of support and all equivalent measurements of support for agricultural products, and which is:

(i) with respect to support provided during the base period (i.e., the "Base Total AMS") and the maximum support permitted to be provided during any year of the implementation period or thereafter (i.e., the "Annual and Final Bound Commitment Levels"), as specified in Part IV of a Member's Schedule; and

(ii) with respect to the level of support actually provided during any year of the implementation period and thereafter (i.e., the "Current Total AMS"), calculated in accordance with the provisions of this Agreement, including Article 6, and with the constituent data and methodology used in the tables of supporting material incorporated by reference in Part IV of the Member's Schedule;

(i) "year" in paragraph (f) above and in relation to the specific commitments of a Member refers to the calendar, financial or marketing year specified in the Schedule relating to that Member.

Article 2

Product Coverage

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

Part II

Article 3

Incorporation of Concessions and Commitments

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

2. Subject to the provisions of Article 6 of this Agreement, a Member shall not provide support in favour of domestic producers in excess of the commitment levels specified in Section I of Part IV of its Schedule.
Subject to the provisions of paragraphs 2(b) and 4 of Article 9 of this Agreement, a Member shall not provide export subsidies listed in paragraph 1 of Article 9 in respect of the agricultural products or groups of products specified in Section II of Part IV of its Schedule in excess of the budgetary outlay and quantity commitment levels specified therein and shall not provide such subsidies in respect of any agricultural product not specified in that Section of its Schedule.

Part III

Article 4

Market Access

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

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

Article 5

Special Safeguard Provisions

1. Notwithstanding the provisions of paragraph 1(b) of Article II of the GATT 1994, any Member may take recourse to the provisions of paragraphs 4 and 5 below in connection with the importation of an agricultural product, in respect of which measures referred to in paragraph 2 of Article 4 of this Agreement have been converted into an ordinary customs duty and which is designated in its Schedule with the symbol "SSG" as being the subject of a concession in respect of which the provisions of this Article may be invoked, if:

   (i)(a) the volume of imports of that product entering the customs territory of the Member granting the concession during any year exceeds a trigger level which relates to the existing market access opportunity as set out in paragraph 4 below; or, but not concurrently:

   (ii)(b) the price at which imports of that product may enter the customs territory of the Member granting the concession, as determined on the basis of the c.i.f. import price of the shipment concerned expressed in terms of its domestic currency, falls

¹These measures include quantitative import restrictions, variable import levies, minimum import prices, discretionary import licensing, non-tariff measures maintained through state-trading enterprises, voluntary export restraints, and similar border measures other than ordinary customs duties, whether or not the measures are maintained under country-specific derogations from the provisions of the GATT 1947, but not measures maintained under balance-of-payments provisions or under other general, non-agriculture-specific provisions of the GATT 1994 or of the other Multilateral Trade Agreements in Annex 1A to the WTO Agreement.
below a trigger price equal to the average 1986 to 1988 reference price\(^2\) for the product concerned.

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

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

4. Any additional duty imposed under sub-paragraph 1(i) above subparagraph 1(a) shall only be maintained until the end of the year in which it has been imposed, and may only be levied at a level which shall not exceed one third of the level of the ordinary customs duty in effect in the year in which the action is taken. The trigger level shall be set according to the following schedule based on market access opportunities defined as imports as a percentage of the corresponding domestic consumption\(^3\) during the three preceding years for which data are available:

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

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

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

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

\(^3\) Where domestic consumption is not taken into account, the base trigger level under (a) below shall apply.
(a) if the difference between the c.i.f. import price of the shipment expressed in terms of the domestic currency (hereinafter referred to as the "import price") and the trigger price as defined under that subparagraph is less than or equal to 10 per cent of the trigger price, no additional duty shall be imposed;

(b) if the difference between the import price and the trigger price (hereinafter referred to as the "difference") is greater than 10 per cent but less than or equal to 40 per cent of the trigger price, the additional duty shall equal not exceed 30 per cent of the amount by which the difference exceeds 10 per cent;

(c) if the difference is greater than 40 per cent but less than or equal to 60 per cent of the trigger price, the additional duty shall equal not exceed 50 per cent of the amount by which the difference exceeds 40 per cent, plus the additional duty allowed under (b);

(d) if the difference is greater than 60 per cent but less than or equal to 75 per cent, the additional duty shall equal not exceed 70 per cent of the amount by which the difference exceeds 60 per cent of the trigger price, plus the additional duties allowed under (b) and (c);

(e) if the difference is greater than 75 per cent of the trigger price, the additional duty shall equal not exceed 90 per cent of the amount by which the difference exceeds 75 per cent, plus the additional duties allowed under (b), (c) and (d).

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

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

8. Where measures are taken with respect to an agricultural product in conformity with paragraphs 1 through 7 above, Members undertake the Member shall not to have recourse, in respect of such measures product, to the provisions of Article XIX: paragraphs 1(a) and 1: 3 of the Article XIX of GATT 1994 or paragraph 17 of the Agreement on Safeguards.
9. The provisions of this Article shall remain in force for the duration of the reform process as determined under Article 20.

Part IV

Article 6

Domestic Support Commitments

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

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

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

4. (a) A Member shall not be required to include in the calculation of its Current Total AMS and shall not be required to reduce:

(i) product-specific domestic support which would otherwise be required to be included in a Member's calculation of its Current AMS where such support does not exceed 5 per cent of that Member's total value of production of a basic agricultural product during the relevant year; and

(ii) non-product-specific domestic support which would otherwise be required to be included in a Member's calculation of its Current AMS where such support does not exceed 5 per cent of the value of that Member's total agricultural production.

(b) For developing country Members, the de minimis percentage under this paragraph shall be 10 per cent.

5. (a) Direct payments under production-limiting programmes shall not be subject to the commitment to reduce domestic support if:
(i) such payments are based on fixed area and yields; or

(ii) such payments are made on 85 per cent or less of the base level of production; or

(iii) in the case of direct livestock payments, such payments are made on a fixed number of head of livestock.

(b) The exemption from the reduction commitment for direct payments meeting the above criteria shall be reflected by the exclusion of the value of those direct payments in a Member’s calculation of its Current Total AMS.

Article 7

General Disciplines on Domestic Support

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

2. (a) Any domestic support measure in favour of agricultural producers, including any modification to such measure, and any measure that is subsequently introduced that cannot be shown to satisfy the criteria in Annex 2 to this Agreement or to be exempt from reduction by reason of any other provision of this Agreement shall be included in the Member’s calculation of its Current Total AMS.

(b) Where no Total AMS commitment exists in Part IV of a Member’s Schedule, the Member shall not provide support to agricultural producers in excess of the relevant de minimis level set out in paragraph 4 of Article 6.

Part V

Article 8

Export Competition Commitments

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

Article 9

Export Subsidy Commitments

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

(a) The provision by governments or their agencies of direct subsidies, including payments-in-kind, to a firm, to an industry, to producers of an agricultural product, to
a co-operative or other association of such producers, or to a marketing board, contingent on export performance.

(b) The sale or disposal for export by governments or their agencies of non-commercial stocks of agricultural products at a price lower than the comparable price charged for the like product to buyers in the domestic market.

(c) Payments on the export of an agricultural product that are financed by virtue of governmental action, whether or not a charge on the public account is involved, including payments that are financed from the proceeds of a levy imposed on the agricultural product concerned or on an agricultural product from which the exported product is derived.

(d) The provision of subsidies to reduce the costs of marketing exports of agricultural products (other than widely available export promotion and advisory services) including handling, upgrading and other processing costs, and the costs of international transport and freight.

(e) Internal transport and freight charges on export shipments, provided or mandated by governments, on terms more favourable than for domestic shipments.

(f) Subsidies on agricultural products contingent on their incorporation in exported products.

2. (a) Except as provided in subparagraph (b), the export subsidy commitment levels for each year of the implementation period, as specified in a Member’s Schedule, represent with respect to the export subsidies listed in paragraph 1 of this Article:

(i) in the case of budgetary outlay reduction commitments, the maximum level of expenditure for such subsidies that may be allocated or incurred in that year in respect of the agricultural product or group of products concerned; and

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

(b) In any of the second through fifth years of the implementation period, a Member may provide export subsidies listed in paragraph 1 above in a given year in excess of the corresponding annual commitment levels in respect of the products or groups of products specified in Part IV of the Member’s Schedule, provided that:

(i) the cumulative amounts of budgetary outlays for such subsidies, from the beginning of the implementation period through the year in question, does not exceed the cumulative amounts that would have resulted from full compliance with the relevant annual outlay commitment levels specified in the Member’s Schedule by more than 3 per cent of the base period level of such budgetary outlays;

(ii) the cumulative quantities exported with the benefit of such export subsidies, from the beginning of the implementation period through the year in question, does not
exceed the cumulative quantities that would have resulted from full compliance with the relevant annual quantity commitment levels specified in the Member’s Schedule by more than 1.75 per cent of the base period quantities;

(iii) the total cumulative amounts of budgetary outlays for such export subsidies and the quantities benefiting from such export subsidies over the entire implementation period are no greater than the totals that would have resulted from full compliance with the relevant annual commitment levels specified in the Member’s Schedule; and

(iv) the Member’s budgetary outlays for export subsidies and the quantities benefiting from such subsidies, at the conclusion of the implementation period, are no greater than 64 per cent and 79 per cent of the 1986-1990 base period levels, respectively. For developing country Members these percentages shall be 76 and 86 per cent, respectively.

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

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

**Article 10**

*Prevention of Circumvention of Export Subsidy Commitments*

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

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

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

4. Members donors of international food aid shall ensure:

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

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

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

**Article 11**

**Incorporated Products**

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

**Part VI**

**Article 12**

**Disciplines on Export Prohibitions and Restrictions**

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

**(1)(a)** the Member instituting the export prohibition or restriction shall give due consideration to the effects of such prohibition or restriction on importing Members' food security;

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

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

**Part VII**

**Article 13**

**Due Restraint**

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

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

   (a)(i) non-actionable subsidies for purposes of countervailing duties;  

   (b)(ii) exempt from actions based on Article XVI of the GATT 1994 and Part III of the SubsidiesSCM Agreement; and  

   (c)(iii) exempt from actions based on non-violation nullification or impairment of the benefits of tariff concessions accruing to another Member under Article II of the GATT 1994, in the sense of paragraph 1(b) of Article XXIII 4(b) of the GATT 1994.

2.- (b) Domestic support measures that conform fully to the provisions of Article 6 of this Agreement including direct payments that conform to the requirements of paragraph 5 thereof, as reflected in each Member’s Schedule, as well as domestic support within de minimis levels and in conformity with paragraph 2 of Article 6, shall be:

   (a)(i) exempt from the imposition of countervailing duties unless a determination of injury or threat thereof is made in accordance with Article VI of the GATT 1994 and Part V of the SubsidiesSCM Agreement, and due restraint shall be shown in initiating any countervailing duty investigations;  

   (b)(ii) exempt from actions based on paragraph 1 of Article XVI 4 of the GATT 1994 or Articles 5 and 6 of the SubsidiesSCM Agreement, provided that such measures do not grant support to a specific commodity in excess of that decided during the 1992 marketing year; and  

   (c)(iii) exempt from actions based on non-violation nullification or impairment of the benefits of tariff concessions accruing to another Member under Article II of the GATT 1994, in the sense of paragraph 1(b) of Article XXIII 4(b) of the GATT 1994, provided that such measures do not grant support to a specific commodity in excess of that decided during the 1992 marketing year.

(c)3.- Export subsidies that conform fully to the provisions of Part V of this Agreement, as reflected in each Member’s Schedule of Commitments, shall be:

   (a)(i) subject to countervailing duties only upon a determination of injury or threat thereof based on volume, effect on prices, or consequent impact in accordance with Article VI of the GATT 1994 and Part V of the SubsidiesSCM Agreement, and due restraint shall be shown in initiating any countervailing duty investigations; and  

   (b)(ii) exempt from actions based on Article XVI of the GATT 1994 or Articles 3, 5 and 6 of the SubsidiesSCM Agreement.

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

Article 14

Sanitary and Phytosanitary Measures

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

Part IX

Article 15

Special and Differential Treatment

1. In keeping with the recognition that differential and more-favourable treatment for developing country Members is an integral part of the negotiation, special and differential treatment in respect of commitments shall be provided as set out in the relevant provisions of this Agreement and embodied in the Schedules of concessions and commitments.

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

Part X

Article 16

Least-developed Developed and Net Food-Importing Developing Countries

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

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

Part XI

Article 17

Committee on Agriculture

A Committee on Agriculture shall be established.
Article 18

Review of the Implementation of Commitments

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

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

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

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

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

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

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

Article 19

Consultation and Dispute Settlement

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

Part XII

Article 20

Continuation of the Reform Process

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

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

**Part XIII**

**Article 21**

**Final Provisions**

1. The provisions of the GATT 1994 and of other Multilateral Trade Agreements in Annex 1A to the MTF WTO Agreement shall apply subject to the provisions of this Agreement.

2. The Annexes to this Agreement are hereby made an integral part of this Agreement.
ANNEX 1

PRODUCT COVERAGE

1. This Agreement shall cover the following products:

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

(ii) HS Code 29.05.43 2905.43 (mannitol)
     HS Code 29.05.44 2905.44 (sorbitol)
     HS Heading 33.01 (essential oils)
     HS Headings 35.01 to 35.05 (albuminoidal substances, modified starches, glues)
     HS Code 38.09.10 3809.10 (finishing agents)
     HS Code 38.23.60 3823.60 (sorbitol n.e.p.)
     HS Headings 41.01 to 41.03 (hides and skins)
     HS Heading 43.01 (raw furskins)
     HS Headings 50.01 to 50.03 (raw silk and silk waste)
     HS Headings 51.01 to 51.03 (wool and animal hair)
     HS Headings 52.01 to 52.03 (raw cotton, waste and cotton carded or combed)
     HS Heading 53.01 (raw flax)
     HS Heading 53.02 (raw hemp)

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

\(*The product descriptions in round brackets are not necessarily exhaustive.*
ANNEX 2

DOMESTIC SUPPORT: THE BASIS FOR EXEMPTION FROM THE REDUCTION COMMITMENTS

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

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

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

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

Government Service Programmes

2. General services

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

   (i)(a) research, including general research, research in connection with environmental programmes, and research programmes relating to particular products;

   (ii)(b) pest and disease control, including general and product-specific pest and disease control measures, such as early-warning systems, quarantine and eradication;

   (iii)(c) training services, including both general and specialist training facilities;

   (iv)(d) extension and advisory services, including the provision of means to facilitate the transfer of information and the results of research to producers and consumers;

   (v)(e) inspection services, including general inspection services and the inspection of particular products for health, safety, grading or standardization purposes;

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

3. Public stockholding for food security purposes

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

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

4. Domestic food aid

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

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

5. Direct payments to producers

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

3 For the purposes of paragraph 3 of this Annex, governmental stockholding programmes for food security purposes in developing countries whose operation is transparent and conducted in accordance with officially published objective criteria or guidelines shall be considered to be in conformity with the provisions of this paragraph, including programmes under which stocks of foodstuffs for food security purposes are acquired and released at administered prices, provided that the difference between the acquisition price and the external reference price is accounted for in the AMS.

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

(a) Eligibility for such payments shall be determined by clearly-defined criteria such as income, status as a producer or landowner, factor use or production level in a defined and fixed base period.

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

(c) The amount of such payments in any given year shall not be related to, or based on, the prices, domestic or international, applying to any production undertaken in any year after the base period.

(d) The amount of such payments in any given year shall not be related to, or based on, the factors of production employed in any year after the base period.

(e) No production shall be required in order to receive such payments.

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

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

(b) The amount of such payments shall compensate for less than 70 per cent of the producer's income loss in the year the producer becomes eligible to receive this assistance.

(c) The amount of any such payments shall relate solely to income; it shall not relate to the type or volume of production (including livestock units) undertaken by the producer; or to the prices, domestic or international, applying to such production; or to the factors of production employed.

(d) Where a producer receives in the same year payments under this paragraph and under paragraph 8 below (relief from natural disasters), the total of such payments shall be less than 100 per cent of the producer's total loss.

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

(a) Eligibility for such payments shall arise only following a formal recognition by government authorities that a natural or like disaster (including disease outbreaks, pest infestations, nuclear accidents, and war on the territory of the Member concerned) has occurred or is occurring; and shall be determined by a production loss which exceeds 30 per cent of the average of production in the preceding
three-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry.

(ii)(b) Payments made following a disaster shall be applied only in respect of losses of income, livestock (including payments in connection with the veterinary treatment of animals), land or other production factors due to the natural disaster in question.

(iii)(c) Payments shall compensate for not more than the total cost of replacing such losses and shall not require or specify the type or quantity of future production.

(iv)(d) Payments made during a disaster shall not exceed the level required to prevent or alleviate further loss as defined in criterion (ii)(b) above.

(v)(e) Where a producer receives in the same year payments under this paragraph and under paragraph 7 above (income insurance and income safety-net programmes), the total of such payments shall be less than 100 per cent of the producer’s total loss.

9. Structural adjustment assistance provided through producer retirement programmes

(i)(a) Eligibility for such payments shall be determined by reference to clearly-defined criteria in programmes designed to facilitate the retirement of persons engaged in marketable agricultural production, or their movement to non-agricultural activities.

(ii)(b) Payments shall be conditional upon the total and permanent retirement of the recipients from marketable agricultural production.

10. Structural adjustment assistance provided through resource retirement programmes

(i)(a) Eligibility for such payments shall be determined by reference to clearly-defined criteria in programmes designed to remove land or other resources, including livestock, from marketable agricultural production.

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

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

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

11. Structural adjustment assistance provided through investment aids

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

(ii)(b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production (including livestock units) undertaken by the producer in any year after the base period other than as provided for under (v) criterion (e) below.

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

(iv)(d) The payments shall be given only for the period of time necessary for the realization of the investment in respect of which they are provided.

(v)(e) The payments shall not mandate or in any way designate the agricultural products to be produced by the recipients except to require them not to produce a particular product.

(vi)(f) The payments shall be limited to the amount required to compensate for the structural disadvantage.

12. Payments under environmental programmes

(i)(a) Eligibility for such payments shall be determined as part of a clearly-defined government environmental or conservation programme and be dependent on the fulfilment of specific conditions under the government programme, including conditions related to production methods or inputs.

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

13. Payments under regional assistance programmes

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

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

(iii)(c) The amount of such payments in any given year shall not be related to, or based on, the prices, domestic or international, applying to any production undertaken in any year after the base period.

(iv)(d) Payments shall be available only to producers in eligible regions, but generally
available to all producers within such regions.

(v)(e) Where related to production factors, payments shall be made at a degressive rate above a threshold level of the factor concerned.

(vi)(f) The payments shall be limited to the extra costs or loss of income involved in undertaking agricultural production in the prescribed area.
DOMESTIC SUPPORT: CALCULATION OF AGGREGATE MEASUREMENT OF SUPPORT

1. Subject to the provisions of Article 6, an Aggregate Measurement of Support (AMS) shall be calculated on a product-specific basis for each basic agricultural product (defined as the product as close as practicable to the point of first sale) receiving market price support, non-exempt direct payments, or any other subsidy not exempted from the reduction commitment ("other non-exempt policies"). Support which is non-product specific shall be totalled into one non-product-specific AMS in total monetary terms.

2. Subsidies under paragraph 1 shall include both budgetary outlays and revenue foregone by governments or their agents.

3. Support at both the national and sub-national level shall be included.

4. Specific agricultural levies or fees paid by producers shall be deducted from the AMS.

5. The AMS calculated as outlined below for the base period shall constitute the base level for the implementation of the reduction commitment on domestic support.

6. For each basic agricultural product, a specific AMS shall be established, expressed in total monetary value terms.

7. The AMS shall be calculated as close as practicable to the point of first sale of the basic agricultural product concerned. Policies measures directed at agricultural processors shall be included to the extent that such policies measures benefit the producers of the basic agricultural products.

8. Market price support: market price support shall be calculated using the gap between a fixed external reference price and the applied administered price multiplied by the quantity of production eligible to receive the applied administered price. Budgetary payments made to maintain this gap, such as buying-in or storage costs, shall not be included in the AMS.

9. The fixed external reference price shall be based on the years 1986 to 1988 and shall generally be the average f.o.b. unit value for the basic agricultural product concerned in a net exporting country and the average c.i.f. unit value for the basic agricultural product concerned in a net importing country in the base period. The fixed reference price may be adjusted for quality differences as necessary.

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

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

12. Non-exempt direct payments which are based on factors other than price shall be measured using budgetary outlays.
13. Other non-exempt policies, including input subsidies and other policies such as marketing/cost reduction measures: the value of such policies shall be measured using government budgetary outlays or, where the use of budgetary outlays does not reflect the full extent of the subsidy concerned, the basis for calculating the subsidy shall be the gap between the price of the subsidised good or service and a representative market price for a similar good or service multiplied by the quantity of the good or service.
ANNEX 4

DOMESTIC SUPPORT: CALCULATION OF EQUIVALENT MEASUREMENT OF SUPPORT

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

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

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

4. Equivalent measurements of support shall be calculated on the amount of subsidy as close as practicable to the point of first sale of the basic agricultural product concerned. Policies directed at agricultural processors shall be included to the extent that such policies benefit the producers of the basic agricultural products. Specific agricultural levies or fees paid by producers shall reduce the equivalent measurements of support by a corresponding amount.
ANNEX 5

SPECIAL TREATMENT UNDER ARTICLE 4:2
WITH RESPECT TO PARAGRAPH 2 OF ARTICLE 4

Section A

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

(a) imports of the designated products comprised less than 3 per cent of corresponding domestic consumption in the base period 1986-1988 ("the base period");

(b) no export subsidies have been provided since the beginning of the base period for the designated products;

(c) effective production-restricting measures are applied to the primary agricultural product;

(d) such products are designated with the symbol "ST-Annex 5" in Section 1B 1-B of Part I of a Member's Schedule annexed to the Uruguay Round (1994) Marrakesh Protocol, as being subject to special treatment reflecting factors of non-trade concerns, such as food security and environmental protection; and

(e) minimum access opportunities in respect of the designated products correspond, as specified in Section 1B 1-B of Part I of the Schedule of the Member concerned, to 4 per cent of base period domestic consumption of the designated products from the beginning of the first year of the implementation period and, thereafter, are increased by 0.8 per cent of corresponding domestic consumption in the base period per year for the remainder of the implementation period.

2. At the beginning of any year of the implementation period a Member may cease to apply special treatment in respect of the designated products by complying with the provisions of paragraph 6 below. In such a case, the Member concerned shall maintain the minimum access opportunities already in effect at such time and increase the minimum access opportunities by 0.4 per cent of corresponding domestic consumption in the base period per year for the remainder of the implementation period. Thereafter, the level of minimum access opportunities resulting from this formula in the final year of the implementation period shall be maintained in the Schedule of the Member concerned.

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

4. If it is agreed as a result of the negotiation referred to in paragraph 3 above that a Member may continue to apply the special treatment, such Member shall confer additional and acceptable concessions as determined in that negotiation.
5. Where the special treatment is not to be continued at the end of the implementation period, the Member concerned shall implement the provisions of paragraph 6 below. In such a case, after the end of the implementation period the minimum access opportunities for the designated products shall be maintained at the level of 8 per cent of corresponding domestic consumption in the base period in the Schedule of the Member concerned.

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

Section B

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

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

-(b) appropriate market access opportunities have been provided for in other products under this Agreement.

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

9. If it is agreed as a result of the negotiation referred to in paragraph 8 above that a Member may continue to apply the special treatment, such Member shall confer additional and acceptable concessions as determined in that negotiation.
10. In the event that special treatment under paragraph 7 above is not to be continued beyond the tenth year following the beginning of the implementation period, the products concerned shall be subject to ordinary customs duties, established on the basis of a tariff equivalent to be calculated in accordance with the guidelines prescribed in the attachment hereto, which shall be bound in the Schedule of the Member concerned. In other respects, the provisions of paragraph 6 above shall apply as modified by the relevant special and differential treatment accorded to developing country Members under this Agreement.
Guidelines for the Calculation of Tariff Equivalents for the Specific Purpose Specified in Paragraphs 6 and 10 of this Annex

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

   (i)(a) shall primarily be established at the four-digit level of the HS;

   (ii)(b) shall be established at the six-digit or a more detailed level of the HS wherever appropriate;

   (iii)(c) shall generally be established for worked and/or prepared products by multiplying the specific tariff equivalent(s) for the primary agricultural product(s) by the proportion(s) in value terms or in physical terms as appropriate of the primary agricultural product(s) in the worked and/or prepared products, and take account, where necessary, of any additional elements currently providing protection to industry.

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

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

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

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

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

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

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

7. Where an adjustment is made to the level of a tariff equivalent which would have resulted from the above guidelines, the Member concerned shall afford, on request, full opportunities for consultation with a view to negotiating appropriate solutions.
NOTES TO THE RECTIFIED TEXT:

Article 1 (b)  "agricultural" inserted in definition to clarify subsequent references to "basic agricultural product". Throughout the text references to "basic product" now appear as "basic agricultural products", in particular in Annexes 3 and 4.

Article 5:2  Introduction of references to sub-paragraphs 1 (a) and 1 (b) under which an additional duty may be imposed.

Article 5:5  "Shall not exceed" replaces "shall equal" throughout sub-paragraphs (b) to (e) in order to avoid implication that additional duty must be imposed in full.

Article 5:8  Original text corrected to refer to "product" instead of "measures", since action under Article XIX would be taken in relation to products.

Article 6:4 (a)  "Current" deleted before "AMS", where it appears in sub-paragraphs (i) and (ii), as being superfluous.

Article 6:5 (a) (iii)  Clarification of text and alignment with sub-paragraphs (i) and (ii) ("such payments").

Article 9:2 (a) (i)  Alignment of text with sub-paragraph (ii) ("product or group of products").

Article 11  Standardized reference to "primary agricultural product".

Article 13  References to "Subsidies Agreement" replaced by reference to "SCM Agreement".

Annex 1  Footnote introduced to clarify status of product descriptions in brackets.

Annex 2  References to "policies" replaced by references to "measures", in line with terminology used elsewhere in the Agreement in relation to domestic support commitments. "Trade-distorting effects" replaces "trade-distortion effects" (editorial).

Annex 3  References to "policies" replaced by references to "measures" (see comments above on same point in relation to Annex 2). Definition of "basic agricultural product" in brackets in paragraph 1 deleted as being superfluous (already covered by Article 1 (b) of the Agreement).

Annex 4  References to "Policies" replaced by references to "Measures". The term "basic products" in brackets in paragraph 2 deleted as being superfluous.

Annex 5  Grammatical revision: title amended to read "Special Treatment with respect to paragraph 2 of Article 4".
4. Agreement on Sanitary and Phytosanitary Measures

AGREEMENT ON THE APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES

Members,

Reaffirming that no Member should be prevented from adopting or enforcing measures necessary to protect human, animal or plant life or health, subject to the requirement that they are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between Members where the same conditions prevail or a disguised restriction on international trade;

Desiring to improve the human health, animal health and phytosanitary situation in all Members;

Noting that sanitary and phytosanitary measures are often applied on the basis of bilateral agreements or protocols;

Desiring the establishment of a multilateral framework of rules and disciplines to guide the development and enforcement of sanitary and phytosanitary measures in order to minimize their negative effects on trade;

Recognizing the important contribution that international standards, guidelines and recommendations can make in this regard;

Desiring to further the use of harmonized sanitary and phytosanitary measures between Members, on the basis of international standards, guidelines and recommendations developed by the relevant international organizations, including the Codex Alimentarius Commission, the International Office of Epizootics, and the relevant international and regional organizations operating within the framework of the International Plant Protection Convention, without requiring any Member to change its appropriate level of protection of human, animal or plant life or health;

Recognizing that developing country Members may encounter special difficulties in complying with the sanitary or phytosanitary measures of importing Members, and as a consequence in access to markets, and also in the formulation and application of sanitary or phytosanitary measures in their own territories, and desiring to assist them in their endeavours in this regard;

Desiring therefore to elaborate rules for the application of the provisions of the GATT 1994 which relate to the use of sanitary or phytosanitary measures, in particular the provisions of Article XX(b);  

Agree as follows:

1In this Agreement, reference to Article XX(b) includes also the chapeau of that Article.
Article 1

General Provisions

1. This Agreement applies to all sanitary and phytosanitary measures which may, directly or indirectly, affect international trade. Such measures shall be developed and applied in accordance with the provisions of this Agreement.

2. For the purposes of this Agreement, the definitions provided in Annex A shall apply.

3. The annexes are an integral part of this Agreement.

4. Nothing in this Agreement shall affect the rights of any Members under the Agreement on Technical Barriers to Trade with respect to measures not within the scope of this Agreement.

Article 2

Basic Rights and Obligations

5. Each Member has the right to take sanitary and phytosanitary measures necessary for the protection of human, animal or plant life or health, provided that such measures are not inconsistent with the provisions of this Agreement.

6. Each Member shall ensure that any sanitary or phytosanitary measure is applied only to the extent necessary to protect human, animal or plant life or health, is based on scientific principles and is not maintained without sufficient scientific evidence, except as provided for in paragraph 227 of Article 3.

7. A Member shall ensure that its sanitary and phytosanitary measures do not arbitrarily or unjustifiably discriminate between Members where identical or similar conditions prevail, including between its own territory and that of another Member. Sanitary and phytosanitary measures shall not be applied in a manner which would constitute a disguised restriction on international trade.

8. Sanitary or phytosanitary measures which conform to the relevant provisions of this Agreement shall be presumed to be in accordance with the obligations of the Member under the provisions of the GATT 1994 which relate to the use of sanitary or phytosanitary measures, in particular the provisions of Article XX(b).

Article 3

Harmonization

9. To harmonize sanitary and phytosanitary measures on as wide a basis as possible, a Member shall base its sanitary or phytosanitary measures on international standards, guidelines or recommendations, where they exist, except as otherwise provided for in this Agreement, and in particular in paragraph 4 of this Article.
40. Sanitary or phytosanitary measures which conform to international standards, guidelines or recommendations shall be deemed to be necessary to protect human, animal or plant life or health, and presumed to be consistent with the relevant provisions of this Agreement and of the GATT 1994.

41. Members may introduce or maintain sanitary or phytosanitary measures which result in a higher level of sanitary or phytosanitary protection than would be achieved by measures based on the relevant international standards, guidelines or recommendations, if there is a scientific justification, or as a consequence of the level of sanitary or phytosanitary protection a Member determines to be appropriate in accordance with the relevant provisions of paragraphs 16 through 23 of Article 5. Notwithstanding the above, all measures which result in a level of sanitary or phytosanitary protection different from that which would be achieved by measures based on international standards, guidelines or recommendations shall not be inconsistent with any other provision of this Agreement.

42. Members shall play a full part, within the limits of their resources, in the relevant international organizations and their subsidiary bodies, in particular the Codex Alimentarius Commission, the International Office of Epizootics, and in the international and regional organizations operating within the framework of the International Plant Protection Convention, to promote within these organizations the development and periodic review of standards, guidelines and recommendations with respect to all aspects of sanitary and phytosanitary measures.

43. The Committee on Sanitary and Phytosanitary Measures (hereinafter referred to as the "SPS Committee"), as provided for in paragraphs 38 and 41 of Article 12, shall develop a procedure to monitor the process of international harmonization and coordinate efforts in this regard with the relevant international organizations.

**Article 4**

Equivalence

44. Members shall accept the sanitary or phytosanitary measures of another Member as equivalent, even if these measures differ from their own or from those used by other Members trading in the same product, if the exporting Member objectively demonstrates to the importing Member that its measures achieve the importing Member's appropriate level of sanitary or phytosanitary protection. For this purpose, reasonable access shall be given, upon request, to the importing Member for inspection, testing and other relevant procedures.

45. Members shall, upon request, enter into consultations with the aim of achieving bilateral and multilateral agreements on recognition of the equivalence of specified sanitary or phytosanitary measures.

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2For the purposes of paragraph 44 of Article 3, there is a scientific justification if, on the basis of an examination and evaluation of available scientific information in conformity with the relevant provisions of this Agreement, a Member determines that the relevant international standards, guidelines or recommendations are not sufficient to achieve its appropriate level of sanitary or phytosanitary protection.
Article 5
Assessment of Risk and Determination of the Appropriate Level of Sanitary or Phytosanitary Protection

46. Each Members shall ensure that their sanitary or phytosanitary measures are based on an assessment, as appropriate to the circumstances, of the risks to human, animal or plant life or health, taking into account risk assessment techniques developed by the relevant international organizations.

47. In the assessment of risks, a Members shall take into account available scientific evidence; relevant processes and production methods; relevant inspection, sampling and testing methods; prevalence of specific diseases or pests; existence of pest- or disease-free areas; relevant ecological and environmental conditions; and quarantine or other treatment.

48. In assessing the risk to animal or plant life or health and determining the measure to be applied for achieving the appropriate level of sanitary or phytosanitary protection from such risk, a Members shall take into account as relevant economic factors: the potential damage in terms of loss of production or sales in the event of the entry, establishment or spread of a pest or disease; the costs of control or eradication in the territory of the importing Member; and the relative cost-effectiveness of alternative approaches to limiting risks.

49. Each Members should, when determining the appropriate level of sanitary or phytosanitary protection, take into account the objective of minimizing negative trade effects.

50. With the objective of achieving consistency in the application of the concept of the appropriate level of sanitary and/or phytosanitary protection against risks to human life or health, or to animal and plant life or health, each Member shall avoid arbitrary or unjustifiable distinctions in the levels it considers to be appropriate in different situations, if such distinctions result in discrimination or a disguised restriction on international trade. Members shall cooperate in the SPS Committee on Sanitary and Phytosanitary Measures in accordance with paragraphs 38, 39 and 40 of this Agreement 1, 2 and 3 of Article 12, to develop guidelines, to further the practical implementation of this provision. In developing the guidelines, the SPS Committee shall take into account all relevant factors, including the exceptional character of human health risks to which people voluntarily expose themselves.

51. Without prejudice to paragraph 40.2 of Article 3, when establishing or maintaining sanitary or phytosanitary measures to achieve the appropriate level of sanitary or phytosanitary protection, a Members shall ensure that such measures are not more trade-restrictive than required to achieve their appropriate level of sanitary or phytosanitary protection, taking into account technical and economic feasibility.

52. In cases where relevant scientific evidence is insufficient, a Member may provisionally adopt sanitary or phytosanitary measures on the basis of available pertinent information, including that from the relevant international organizations as well as from sanitary or phytosanitary measures applied by other Members. In such circumstances, a Members shall seek to obtain the additional information necessary for a more objective assessment of risk and review the sanitary or phytosanitary measure:

1For purposes of paragraph 51.6 of Article 5, a measure is not more trade-restrictive than required unless there is another measure, reasonably available taking into account technical and economic feasibility, that achieves the appropriate level of sanitary or phytosanitary protection and is significantly less restrictive to trade.
23. When a Member has reason to believe that a specific sanitary or phytosanitary measure introduced or maintained by another Member is constraining, or has the potential to constrain, its exports and the measure is not based on the relevant international standards, guidelines or recommendations, or such standards, guidelines or recommendations do not exist, an explanation of the reasons for such sanitary or phytosanitary measure may be requested and shall be provided by the Member maintaining the measure.

Article 6

Adaptation to Regional Conditions, Including Pest- or Disease-Free Areas and Areas of Low Pest or Disease Prevalence

24. Each Member shall ensure that its sanitary or phytosanitary measures are adapted to the sanitary or phytosanitary characteristics of the area - whether all of a country, part of a country, or areas all or parts of several countries - from which the product originated and to which the product is destined. In assessing the sanitary or phytosanitary characteristics of a region, Members shall take into account, inter alia, the level of prevalence of specific diseases or pests, the existence of eradication or control programmes, and appropriate criteria or guidelines which may be developed by the relevant international organizations.

25. A Member shall, in particular, recognize the concepts of pest- or disease-free areas and areas of low pest or disease prevalence. Determination of such areas shall be based on factors such as geography, ecosystems, epidemiological surveillance, and the effectiveness of sanitary or phytosanitary controls.

26. Exporting Members claiming that areas within their territories are pest- or disease-free areas or areas of low pest or disease prevalence shall provide the necessary evidence thereof in order to objectively demonstrate to the importing Member that such areas are, and are likely to remain, pest- or disease-free areas or areas of low pest or disease prevalence, respectively. For this purpose, reasonable access shall be given, upon request, to the importing Member for inspection, testing and other relevant procedures.

Article 7

Transparency

27. A Member shall notify changes in its sanitary or phytosanitary measures and shall provide information on its sanitary or phytosanitary measures in accordance with the provisions of Annex B.
Article 8

Control, Inspection and Approval Procedures

28. A Member shall observe the provisions of Annex C in the operation of control, inspection and approval procedures, including national systems for approving the use of additives or for establishing tolerances for contaminants in foods, beverages or feedstuffs, and otherwise ensure that their procedures are not inconsistent with the provisions of this Agreement.

Article 9

Technical Assistance

29. Members agree to facilitate the provision of technical assistance to other Members, especially developing country Members, either bilaterally or through the appropriate international organizations. Such assistance may be, inter alia, in the areas of processing technologies, research and infrastructure, including in the establishment of national regulatory bodies, and may take the form of advice, credits, donations and grants, including for the purpose of seeking technical expertise, training and equipment to allow such countries to adjust to, and comply with, sanitary or phytosanitary measures necessary to achieve the appropriate level of sanitary or phytosanitary protection in their export markets.

30. Where substantial investments are required in order for an exporting developing country Member to fulfil the sanitary or phytosanitary requirements of an importing Member, the latter shall consider providing such technical assistance as will permit the developing country Member to maintain and expand its market access opportunities for the product involved.

Article 10

Special and Differential Treatment

34. In the preparation and application of sanitary or phytosanitary measures, Members shall take account of the special needs of developing country Members, and in particular of the least-developed ones.

32. Where the appropriate level of sanitary or phytosanitary protection allows scope for the phased introduction of new sanitary or phytosanitary measures, longer time-frames for compliance should be accorded on products of interest to developing country Members so as to maintain opportunities for their exports.

33. With a view to ensuring that developing country Members are able to comply with the provisions of this Agreement, the SPS Committee on Sanitary and Phytosanitary Measures provided for in paragraph 1 of Article 12, is enabled to grant to such countries, upon request, specified, time-limited exceptions in whole or in part from obligations under this Agreement, taking into account their financial, trade and development needs.

34. Members should encourage and facilitate the active participation of developing country Members in the relevant international organizations.
Consultations and Dispute Settlement

35. The provisions of Articles XXII and XXIII of the GATT 1994 as elaborated and applied by the MT-0 Dispute Settlement Understanding on Rules and Procedures Governing the Settlement of Disputes shall apply to consultations and the settlement of disputes under this Agreement, except as otherwise specifically provided herein.

36. In a dispute under this Agreement involving scientific or technical issues, a panel should seek advice from experts chosen by the panel in consultation with the parties to the dispute. To this end, the panel may, when it deems it appropriate, establish an advisory technical experts group, or consult the relevant international organizations, at the request of either party to the dispute or on its own initiative.

37. Nothing in this Agreement shall impair the rights of any Members under other international agreements, including the right to resort to the good offices or dispute settlement mechanisms of other international organizations or established under any international agreement.

Administration

38. A Committee on Sanitary and Phytosanitary Measures shall be established to provide a regular forum for consultations. It shall carry out the functions necessary to implement the provisions of this Agreement and the furtherance of its objectives, in particular with respect to harmonization. The SPS Committee shall reach its decisions by consensus.

39. The SPS Committee shall encourage and facilitate ad hoc consultations or negotiations among its Members on specific sanitary or phytosanitary issues. The SPS Committee shall encourage the use of international standards, guidelines or recommendations by all Members and, in this regard, shall sponsor technical consultation and study with the objective of increasing coordination and integration between international and national systems and approaches for approving the use of food additives or for establishing tolerances for contaminants in foods, beverages and feedstuffs.

40. The SPS Committee shall maintain close contact with the relevant international organizations in the field of sanitary and phytosanitary protection, especially with the Codex Alimentarius Commission, the International Office of Epizootics, and the Secretariat of the International Plant Protection Convention, with the objective of securing the best available scientific and technical advice for the administration of this Agreement and in order to ensure that unnecessary duplication of effort is avoided.

41. The SPS Committee shall develop a procedure to monitor the process of international harmonization and the use of international standards, guidelines or recommendations. For this purpose, the SPS Committee should, in conjunction with the relevant international organizations, establish a list of international standards, guidelines or recommendations relating to sanitary or phytosanitary measures which the SPS Committee determines to have a major trade impact. The list should include an indication by Members of those international standards, guidelines or recommendations which they
apply as conditions for import or on the basis of which imported products conforming to these standards can enjoy access to their markets. For those cases in which a Member does not apply an international standard, guideline or recommendation as a condition for import, the Member should provide an indication of the reason thereof, and, in particular, if it considers that the standard is not stringent enough to provide the appropriate level of sanitary or phytosanitary protection. If a Member revises its position, following its indication of the use of a standard, guideline or recommendation as a condition for import, it should provide an explanation for its change and so inform the WTO Secretariat as well as the relevant international organizations, unless such notification and explanation is given according to the procedures of Annex B.

42. In order to avoid unnecessary duplication, the SPS Committee may decide, as appropriate, to use the information generated by the procedures, particularly for notification, which are in operation in the relevant international organizations.

43. The SPS Committee may, on the basis of an initiative from one of the Members, through appropriate channels invite the relevant international organizations or their subsidiary bodies to examine specific matters with respect to a particular standard, guideline or recommendation, including the basis of explanations for non-use given according to paragraph 41 above 4 of this Article.

44. The SPS Committee shall review the operation and implementation of this Agreement three years after the date of entry into force of the WTO Agreement Establishing the WTO, and thereafter as the need arises. Where appropriate, the SPS Committee may submit to the Council for Trade in Goods proposals to amend the text of this Agreement having regard, inter alia, to the experience gained in its implementation.

Article 13
Implementation

45. Each Member is fully responsible under this Agreement for the observance of all obligations set forth herein. A Member shall formulate and implement positive measures and mechanisms in support of the observance of the provisions of this Agreement by other than central government bodies. A Member shall take such reasonable measures as may be available to them to ensure that non-governmental entities within their territory comply with the relevant provisions of this Agreement. In addition, a Member shall not take measures which have the effect of, directly or indirectly, requiring or encouraging such regional or non-governmental entities, or local governmental bodies, to act in a manner inconsistent with the provisions of this Agreement. A Member shall ensure that they rely on the services of non-governmental entities for implementing sanitary or phytosanitary measures only if these entities comply with the provisions of this Agreement.

Article 14
Final Provisions

46. The least-developed country Members may delay application of the provisions of this Agreement for a period of five years following the date of entry into force of the WTO Agreement with
respect to their sanitary or phytosanitary measures affecting importation or imported products. Other developing country Members may delay application of the provisions of this Agreement, other than paragraphs 23 and 27 of Article 5 and Article 7, for two years following the date of entry into force of the MTO WTO Agreement establishing the MTO with respect to their existing sanitary or phytosanitary measures affecting importation or imported products, where such application is prevented by a lack of technical expertise, technical infrastructure or resources.
For the purposes of this Agreement, the following definitions shall apply:

1. **Sanitary or phytosanitary measure** - Any measure applied:

   - to protect animal or plant life or health within the territory of the Member from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms;

   - to protect human or animal life or health within the territory of the Member from risks arising from additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs;

   - to protect human life or health within the territory of the Member from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests; or

   - to prevent or limit other damage within the territory of the Member from the entry, establishment or spread of pests.

Sanitary or phytosanitary measures include all relevant laws, decrees, regulations, requirements and procedures including, *inter alia*, end product criteria; processes and production methods; testing, inspection, certification and approval procedures; quarantine treatments including relevant requirements associated with the transport of animals or plants, or with the materials necessary for their survival during transport; provisions on relevant statistical methods, sampling procedures and methods of risk assessment; and packaging and labelling requirements directly related to food safety.

2. **Harmonization** - The establishment, recognition and application of common sanitary and phytosanitary measures by different Members.

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*For the purpose of these definitions, "animal" includes fish and wild fauna; "plant" includes forests and wild flora; "pests" include weeds; and "contaminants" include pesticide and veterinary drug residues and extraneous matter.*
3. **International standards, guidelines and recommendations**

- for food safety, the standards, guidelines and recommendations established by the Codex Alimentarius Commission relating to food additives, veterinary drug and pesticide residues, contaminants, methods of analysis and sampling, and codes and guidelines of hygienic practice;

- for animal health and zoonoses, the standards, guidelines and recommendations developed under the auspices of the International Office of Epizootics;

- for plant health, the international standards, guidelines and recommendations developed under the auspices of the Secretariat of the International Plant Protection Convention in cooperation with regional organizations operating within the framework of the International Plant Protection Convention; and

- for matters not covered by the above organizations, appropriate standards, guidelines and recommendations promulgated by other relevant international organizations open for membership to all Members, as identified by the Committee on Sanitary and Phytosanitary Measures.

4. **Risk assessment** - The evaluation of the likelihood of entry, establishment or spread of a pest or disease within the territory of an importing Member according to the sanitary or phytosanitary measures which might be applied, and of the associated potential biological and economic consequences; or the evaluation of the potential for adverse effects on human or animal health arising from the presence of additives, contaminants, toxins or disease-causing organisms in food, feedstuffs and beverages.

5. **Appropriate Level of Sanitary or Phytosanitary Protection** - The level of protection deemed appropriate by the Member establishing a sanitary or phytosanitary measure to protect human, animal or plant life or health within its territory.

NOTE: Many Members otherwise refer to this concept as the "acceptable level of risk".

6. **Pest- or Disease-Free Area** - An area, whether all of a country, part of a country, or all or parts of several countries, as identified by the competent authorities, in which a specific pest or disease does not occur.

NOTE: A pest- or disease-free area may surround, be surrounded by, or be adjacent to an area - whether within part of a country or in a geographic region which includes parts of or all of several countries - in which a specific pest or disease is known to occur but is subject to regional control measures such as the establishment of protection, surveillance and buffer zones which will confine or eradicate the pest or disease in question.

7. **Area of low pest or disease prevalence** - An area, whether all of a country, part of a country, or all or parts of several countries, as identified by the competent authorities, in which a specific pest or disease occurs at low levels and which area is subject to effective surveillance, control or eradication measures.
ANNEX B

TRANSPARENCY OF SANITARY AND PHYTOSANITARY REGULATIONS

1.—Publication of regulations

1.1. Each Member shall ensure that all sanitary and phytosanitary regulations which have been adopted are published promptly in such a manner as to enable interested Members to become acquainted with them.

1.2. Except in urgent circumstances, a Member shall allow a reasonable interval between the publication of a sanitary or phytosanitary regulation and its entry into force in order to allow time for producers in exporting Members, and particularly in developing country Members, to adapt their products and methods of production to the requirements of the importing Member.

2.—Enquiry points

2.1. Each Member shall ensure that one enquiry point exists which is responsible for the provision of answers to all reasonable questions from interested Members as well as for the provision of relevant documents regarding:

(a) any sanitary or phytosanitary regulations adopted or proposed within its territory;

(b) any control and inspection procedures, production and quarantine treatment, pesticide tolerance and food additive approval procedures, which are operated within its territory;

(c) risk assessment procedures, factors taken into consideration, as well as the determination of the appropriate level of sanitary or phytosanitary protection;

(d) the membership and participation of the Member, or of relevant bodies within its territory, in international and regional sanitary and phytosanitary organizations and systems, as well as in bilateral and multilateral agreements and arrangements within the scope of this Agreement, and the texts of such agreements and arrangements.

2.2. A Member shall ensure that where copies of documents are requested by interested Members, they are supplied at the same price (if any), apart from the cost of delivery, as to the nationals of the Member concerned.

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5 Sanitary and phytosanitary measures such as laws, decrees or ordinances which are applicable generally.

6 When "nationals" are referred to in this Agreement, the term shall be deemed, in the case of a separate customs territory Member of the WTO, to mean persons, natural or legal, who are domiciled or who have a real and effective commercial establishment in that customs territory.
3. Notification procedures

3.1. Whenever an international standard, guideline or recommendation does not exist or the content of a proposed sanitary or phytosanitary regulation is not substantially the same as the content of an international standard, guideline or recommendation, and if the regulation may have a significant effect on trade of other Members, a Members shall:

(a) publish a notice at an early stage in such a manner as to enable interested Members to become acquainted with the proposal to introduce a particular regulation;

(b) notify other Members, through the WTO Secretariat, of the products to be covered by the regulation together with a brief indication of the objective and rationale of the proposed regulation. Such notifications shall take place at an early stage, when amendments can still be introduced and comments taken into account;

(c) provide upon request to other Members copies of the proposed regulation and, whenever possible, identify the parts which in substance deviate from international standards, guidelines or recommendations;

(d) without discrimination, allow reasonable time for other Members to make comments in writing, discuss these comments upon request, and take the comments and the results of the discussions into account.

3.2. However, where urgent problems of health protection arise or threaten to arise for a Member, that Member may omit such of the steps enumerated in paragraph 3.1 of this Annex as it finds necessary, provided that the Member:

(a) immediately notifies other Members, through the WTO Secretariat, of the particular regulation and the products covered, with a brief indication of the objective and the rationale of the regulation, including the nature of the urgent problem(s);

(b) provides, upon request, copies of the regulation to other Members;

(c) allows other Members to make comments in writing, discusses these comments upon request, and takes the comments and the results of the discussions into account.

3.3. Notifications to the WTO Secretariat shall be in English, French or Spanish.

3.4. Developed country Members shall, if requested by other Members, provide copies of the documents or, in case of voluminous documents, summaries of the documents covered by a specific notification in English, French or Spanish.

3.5. The WTO Secretariat shall promptly circulate copies of the notification to all Members and interested international organizations and draw the attention of developing country Members to any notifications relating to products of particular interest to them.

3.6. Each Members shall designate one a single central government authority as responsible for the implementation, on the national level, of the provisions concerning notification procedures according to paragraphs 3.1, 3.2, 3.3 and 3.4 of this Annex.
4. —— General reservations

4.1 Nothing in this Agreement shall be construed as requiring:

(a) the provision of particulars or copies of drafts or the publication of texts other than in the language of the Member except as stated in paragraph 3.4 8 of this Annex; or

(b) a Member to disclose confidential information which would impede enforcement of sanitary or phytosanitary legislation or which would prejudice the legitimate commercial interests of particular enterprises.
ANNEX C

CONTROL, INSPECTION AND APPROVAL PROCEDURES

1. **Each** Members shall ensure, with respect to any procedure to check and ensure the fulfilment of sanitary or phytosanitary measures, that:

   (a) such procedures are undertaken and completed without undue delay and in no less favourable manner for imported products than for like domestic products;

   (b) the standard processing period of each procedure is published or that the anticipated processing period is communicated to the applicant upon request; when receiving an application, the competent body promptly examines the completeness of the documentation and informs the applicant in a precise and complete manner of all deficiencies; the competent body transmits as soon as possible the results of the procedure in a precise and complete manner to the applicant so that corrective action may be taken if necessary; even when the application has deficiencies, the competent body proceeds as far as practicable with the procedure if the applicant so requests; and that upon request, the applicant is informed of the stage of the procedure, with any delay being explained;

   (c) information requirements are limited to what is necessary for appropriate control, inspection and approval procedures, including for approval of the use of additives or for the establishment of tolerances for contaminants in food, beverages or feedstuffs;

   (d) the confidentiality of information about imported products arising from or supplied in connection with control, inspection and approval is respected in a way no less favourable than for domestic products and in such a manner that legitimate commercial interests are protected;

   (e) any requirements for control, inspection and approval of individual specimens of a product are limited to what is reasonable and necessary;

   (f) any fees imposed for the procedures on imported products are equitable in relation to any fees charged on like domestic products or products originating in any other Member and should be no higher than the actual cost of the service;

   (g) the same criteria should be used in the siting of facilities used in the procedures and the selection of samples of imported products as for domestic products so as to minimize the inconvenience to applicants, importers, exporters or their agents;

   (h) whenever specifications of a product are changed subsequent to its control and inspection in light of the applicable regulations, the procedure for the modified product is limited to what is necessary to determine whether adequate confidence exists that the product still meets the regulations concerned; and

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*Control, inspection and approval procedures include, *inter alia*, procedures for sampling, testing and certification.*
(i) a procedure exists to review complaints concerning the operation of such procedures and to take corrective action when a complaint is justified.

Where an importing Member operates a system for the approval of the use of food additives or for the establishment of tolerances for contaminants in food, feedstuffs and beverages which prohibits or restricts access to its domestic markets for products based on the absence of an approval, the importing Member shall consider the use of a relevant international standard as the basis for access until a final determination is made.

2. Where a sanitary or phytosanitary measure specifies control at the level of production, the Member in whose territory the production takes place shall provide the necessary assistance to facilitate such control and the work of the controlling authorities.

3. Nothing in this Agreement shall prevent a Member from carrying out reasonable inspection within its own territory.
NOTES ON THE RECTIFIED TEXT:

Throughout text:

Change of statements of obligations to the singular case, where appropriate.

Change in presentation of Agreement, division into Articles and subsequent changes in paragraph numbers.

Change in title:

simplification of title to complement change of form of text from Decision to Agreement.

Preamble, 4th tiré:

More logical order of presentation.

Article 3:3, 5:6 footnotes 2 and 3:

Insertion of "sanitary or phytosanitary" to make consistent with definition and use elsewhere in text (see Articles 3:3, 4:1, 5:3, 5:4, 5:6, 9:1, 10:2, 12:4 and Annex A - definition 5).

Art. 6:1 and 6:3:

Make consistent with the definition of the concept of pest- or disease-free areas. (see Annex A - definitions 6 and 7).

Annex A, defn. 4, Annex C, para. 1:

Make order of presentation consistent with use elsewhere in text (see Articles 8, 12:2 and Annex A - definition 1.)

Annex C, 1(c):

Make term consistent with use elsewhere in Agreement (see Article 8, 12:2 and Annex C - end of paragraph 1).
5. Agreement on Textiles and Clothing

AGREEMENT ON TEXTILES AND CLOTHING

Members,

Recalling that Ministers agreed at Punta del Este that "negotiations in the area of textiles and clothing shall aim to formulate modalities that would permit the eventual integration of this sector into GATT on the basis of strengthened GATT rules and disciplines, thereby also contributing to the objective of further liberalization of trade";

Recalling also that in the April 1989 Decision of the Trade Negotiations Committee it was agreed that the process of integration should commence following the conclusion of the Uruguay Round of Multilateral Trade Negotiations and should be progressive in character—;

Recalling further that it was agreed that special treatment should be accorded to the least-developed country Members;

Members hereby agree as follows:

Article 1

1. This Agreement sets out provisions to be applied by Members during a transition period for the integration of the textiles and clothing sector into the GATT 1994.

2. Members agree to use the provisions of paragraph 18 of Article 2 and paragraph 6(b) of Article 6 of this Agreement in such a way as to permit meaningful increases in access possibilities for small suppliers and the development of commercially significant trading opportunities for new entrants in the field of textiles and clothing trade.¹

3. Members shall have due regard to the situation of those Members which have not participated in accepted the Protocols extending the Arrangement Regarding International Trade in Textiles (MFA) (hereinafter referred to as the "MFA") since 1986 and, to the extent possible, shall afford them special treatment in applying the provisions of this Agreement.

4. Members agree that the particular interests of the cotton-producing exporting Members should, in consultation with them, be reflected in the implementation of the provisions of this Agreement.

5. In order to facilitate the integration of the textiles and clothing sector into the GATT 1994, Members should allow for continuous autonomous industrial adjustment and increased competition in their markets.

6. Unless otherwise provided in this Agreement, its provisions shall not affect the rights and obligations of Members under the provisions of the Agreement Establishing the MTO and the multilateral

¹To the extent possible, exports from a least-developed country Member may also benefit from this provision.
trade agreements annexed thereto WTO Agreement and the Multilateral Trade Agreements.

7. The textile and clothing products to which this Agreement applies are set out in the Annex to this Agreement (hereafter referred to as the Annex).

**Article 2**

1. All quantitative restrictions within bilateral agreements maintained under Article 4 or notified under Article 7 or 8 of the MFA in force on the day before the entry into force of this the WTO Agreement shall, within 60 days following its such entry into force, be notified in detail, including the restraint levels, growth rates and flexibility provisions, by the Members maintaining such restrictions, to the Textiles Monitoring Body (herein referred to as the TMB) established under Article 8. Members agree that as of the date of entry into force of this the WTO Agreement, all such restrictions maintained between GATT 1947 contracting parties, and in place on the day before its such entry into force, shall be governed by the provisions of this Agreement.

2. The TMB shall circulate these notifications to all Members for their information. It is open to any Member to bring to the attention of the TMB, within 60 days of the circulation of the notifications, any observations it deems appropriate with regard to such notifications. Such observations shall be circulated to the other Members for their information. The TMB may make recommendations, as appropriate, to the Members concerned.

3. When the twelve 12-month period of restrictions to be notified under paragraph 1 above does not coincide with the 12-month period immediately preceding the date of entry into force of this the WTO Agreement, the Members concerned should mutually agree on arrangements to bring the period of restrictions into line with the agreement year, and to establish notional base levels of such restrictions in order to implement the provisions of this Article. Concerned Members agree to enter into consultations promptly upon request with a view to reaching such mutual agreement. Any such arrangements shall take into account, inter alia, seasonal patterns of shipments in recent years. The results of these consultations shall be notified to the TMB, which shall make such recommendations as it deems appropriate to the Members concerned.

4. The restrictions notified under paragraph 1 above shall be deemed to constitute the totality of such restrictions applied by the respective Members on the day before the entry into force of this the WTO Agreement. No new restrictions in terms of products or Members shall be introduced except under the provisions of this Agreement or relevant GATT 1994 provisions. Restrictions not notified within 60 days of the date of entry into force of this the WTO Agreement shall be terminated forthwith.

5. Any unilateral measure taken under Article 3 of the MFA prior to the date of entry into force of this the WTO Agreement may remain in effect for the duration specified therein, but not exceeding 12 months, if it has been reviewed by the Textiles Surveillance Body (herein referred to as the "TSB") established under the MFA. Should the TSB not have had the opportunity to review

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2The agreement year is defined to mean a 12-month period beginning from the date of entry into force of this the WTO Agreement and at the subsequent 12-month intervals.

3The relevant GATT 1994 provisions shall not include Article XIX in respect of products not yet integrated into GATT 1994, except as specifically provided in the Note to the Annex.
any such unilateral measure, it shall be reviewed by the TMB in accordance with the rules and procedures governing Article 3 measures under the MFA. Any measure applied under an MFA Article 4 agreement prior to the date of entry into force of this the WTO Agreement that is the subject of a dispute which the TSB has not had the opportunity to review shall also be reviewed by the TMB in accordance with the MFA rules and procedures applicable for such a review.

6. On the date of entry into force of this the WTO Agreement, each Member shall integrate into GATT 1994 products which, in 1990, accounted for not less than 16 per cent of the total volume of imports in the Member’s 1990 imports of the products in the Annex, in terms of HS lines or categories. The products to be integrated shall encompass products from each of the following four groups: tops and yarns, fabrics, made-up textile products, and clothing.

7. Full details of the actions to be taken pursuant to paragraph 6 above shall be notified by the Members concerned according to the following:

(a) Members maintaining restrictions falling under paragraph 1 above undertake, notwithstanding the date of the entry into force of this Agreement, the WTO Agreement, and pursuant to the Ministerial Decision of 15 April 1994, to notify such details to the GATT Secretariat not later than 1 October 1994. The GATT Secretariat shall promptly circulate these notifications to the other Members participants for information. These notifications will be made available to the TMB, when established, for the purposes of paragraph 21 below;

(b) Members which have, pursuant to paragraph 1 of Article 6, retained the right to use the provisions of Article 6, shall notify such details to the TMB not later than 60 days following the entry into force of this the WTO Agreement, or, in the case of those Members covered by paragraph 3 of Article 1, not later than at the end of the twelfth 12th month that this Agreement is in effect. The TMB shall circulate these notifications to the other Members for information and review them as provided in paragraph 21 below.

8. Each Member shall integrate into GATT 1994 the remaining products, i.e. the products not integrated into GATT 1994 under paragraph 6 above, shall be integrated, in terms of HS lines or categories, in three stages, as follows:

(a) On the first day of the 37th month that this Agreement is in effect, products which, in 1990, accounted for not less than 17 per cent of the total volume of the Member’s 1990 imports of the products in the Annex. The products to be integrated by the Members shall encompass products from each of the following four groups: tops and yarns, fabrics, made-up textile products, and clothing.

(b) On the first day of the 85th month that this Agreement is in effect, products which, in 1990, accounted for not less than 18 per cent of the total volume of the Member’s 1990 imports of the products in the Annex. The products to be integrated by the Members shall encompass products from each of the following four groups: tops and yarns, fabrics, made-up textile products, and clothing.

*Participants agreed to examine, in the first quarter of 1994, the date and the technical and administrative aspects related to the implementation of this provision.*
On the first day of the 121st month that the WTO Agreement Establishing the WTO is in effect, the textiles and clothing sector shall stand integrated into GATT 1994, all restrictions under this Agreement having been eliminated.

9. Members which have notified, pursuant to paragraph 1 of Article 6, their intention not to retain the right to use the provisions of Article 6 shall, for the purposes of this Agreement, be deemed to have integrated their textiles and clothing products into the GATT 1994. Such Members shall, therefore, be exempted from complying with the provisions of paragraphs 6 to 8 above and 11 below.

10. Nothing in this Agreement shall prevent a Member which has submitted an integration programme pursuant to paragraph 6 or 8 above from integrating products into the GATT 1994 earlier than provided for in such a programme. However, any such integration of products shall take effect at the beginning of an agreement year, and details shall be notified to the TMB at least three months prior thereto for circulation to all Members.

11. Each Member shall notify to the TMB its respective programme of integration, in pursuance of paragraph 8 above, shall be notified in detail to the TMB at least 12 months before its coming into effect, and circulated by the TMB shall circulate the programmes to all Members.

12. The base levels of the restrictions on the remaining products, mentioned in paragraph 8 above, shall be the restraint levels referred to in paragraph 1 above.

13. During Stage 1 of this Agreement (from the date of entry into force of this Agreement to the 36th month that it is in effect, inclusive) the level of each restriction under MFA bilateral agreements in force for the 12-month period prior to its entry into force of the WTO Agreement shall be increased annually by not less than the growth rate established for the respective restrictions, increased by 16 per cent.

14. Except where the Council for Trade in Goods or the Dispute Settlement Body decides otherwise under paragraph 12 of Article 8, the level of each remaining restriction shall be increased annually during subsequent stages of this Agreement by not less than the following:

   (i)(a) for Stage 2 (from the 37th to the 84th month that this Agreement is in effect, inclusive), the growth rate for the respective restrictions during Stage 1, increased by 25 per cent;

   (ii)(b) for Stage 3 (from the 85th to the 120th month that this Agreement is in effect, inclusive), the growth rate for the respective restrictions during Stage 2, increased by 27 per cent.

15. Nothing in this Agreement shall prevent a Member from eliminating any restriction maintained pursuant to this Article, effective at the beginning of any agreement year during the transition period, provided the exporting Member concerned and the TMB are notified at least three months prior to the elimination coming into effect. The period for prior notification might be shortened to 30 days with the agreement of the restrained Member. The TMB shall circulate such notifications to all Members. In considering the elimination of restrictions as envisaged in this paragraph, the Members concerned shall take into account the treatment of similar exports from other Members.

16. Flexibility provisions, i.e. swing, carryover and carry forward, applicable to all quantitative
restrictions in force in accordance with the provisions maintained pursuant to this Article, shall be the same as those provided for in MFA bilateral agreements for the 12-month period prior to the entry into force of this the WTO Agreement. No quantitative limits shall be placed or maintained on the combined use of swing, carryover and carry forward.

17. Administrative arrangements, as deemed necessary in relation to the implementation of any provision of this Article, shall be a matter for agreement between the Members concerned. Any such arrangements shall be notified to the TMB.

18. As regards those Members whose exports are subject to restrictions on the day before the entry into force of this the WTO Agreement and whose restrictions represent 1.2 per cent or less of the total volume of the restrictions applied by an importing Member as of 31 December 1991 and notified under this Article, meaningful improvement in access for their exports shall be provided, at the entry into force of the WTO Agreement and for the duration of this Agreement, through advancement by one stage of the growth rates set out in paragraphs 13 and 14 above, or through at least equivalent changes as may be mutually agreed with respect to a different mix of base levels, growth and flexibility provisions. Such improvements shall be notified to the TMB.

19. In any case, during the validity duration of this Agreement, in which a safeguard measure is initiated by a Member under Article XIX of the GATT 1994 in respect of a particular product during a period of one year immediately following the integration of that product into GATT 1994 in accordance with the provisions of this Article, the provisions of Article XIX, as interpreted by the Agreement on Safeguards, will apply, save as set out in paragraph 20 below.

20. Where such a measure is applied using non-tariff means, the importing Member concerned shall apply the measure in a manner as set forth in paragraph 2(d) of Article XIII of the GATT 1994 at the request of any exporting Member whose exports of such products were subject to restrictions under this Agreement at any time in the one-year period immediately prior to the initiation of the safeguard measure. The concerned exporting Member concerned shall administer such a measure. The applicable level shall not reduce the relevant exports below the level of a recent representative period, which shall normally be the average of exports from the Member concerned in the last three representative years for which statistics are available. Furthermore, when the safeguard measure is applied for more than one year, the applicable level shall be progressively liberalized at regular intervals during the period of application. In such cases the concerned exporting Member concerned shall not exercise the right of suspending substantially equivalent concessions or other obligations under the GATT 1994 as provided for under paragraph 3(a) of Article XIX of the GATT 1994.

21. The TMB shall keep under review the implementation of this Article. It shall, at the request of any Member, review any particular matter with reference to the implementation of the provisions of this Article. It shall make appropriate recommendations or findings within 30 days to the Member or Members concerned, after inviting the participation of such Members.
Article 3

1. Within 60 days following the entry into force of this WTO Agreement, Members maintaining restrictions\(^5\) on textile and clothing products (other than restrictions maintained under the MFA and covered by the provisions of Article 2), whether consistent with GATT 1994 or not, shall (a) notify them in detail to the TMB, or (b) provide to the TMB notifications with respect to them which have been submitted to any other WTO body. The notifications should, wherever applicable, provide information with respect to any GATT 1994 justification for the restrictions, including GATT 1994 provisions on which they are based.

2. Members maintaining all restrictions falling under paragraph 1 above, except those justified under a GATT 1994 provision, shall be either:

   (a) brought into conformity with the GATT 1994 within one year following the entry into force of this WTO Agreement, and notify this action to the TMB for its information; or

   (b) phased out progressively according to a programme to be presented to the TMB by the Member maintaining the restrictions not later than six months after the date of entry into force of this WTO Agreement. This programme shall provide for all restrictions to be phased out within a period not exceeding the duration of this Agreement. The TMB may make recommendations to the Member concerned with respect to such a programme.

3. During the validity duration of this Agreement, Members shall provide to the TMB, for its information, notifications submitted to any other WTO bodies with respect to any new restrictions or changes in existing restrictions on textile and clothing products, taken under any GATT 1994 provision, within 60 days of their coming into effect.

4. It shall be open to any Member to make reverse notifications to the TMB, for its information, in regard to the GATT 1994 justification, or in regard to any restrictions that may not have been notified under the provisions of this Article. Actions with respect to such notifications may be pursued by any Member under relevant GATT 1994 provisions or procedures in the appropriate WTO body.

5. The TMB shall circulate the notifications made pursuant to this Article to all Members for their information.

Article 4

1. Restrictions referred to in Article 2, and those applied under Article 6, shall be administered by the exporting Members. Importing Members shall not be obliged to accept shipments in excess of the restrictions notified under Article 2, and or of restrictions applied pursuant to Article 6.

2. Members agree that the introduction of changes, such as changes in practices, rules, procedures and categorization of textile and clothing products, including those changes relating to the Harmonized

\(^5\)Restrictions denote all unilateral quantitative restrictions, bilateral arrangements and other measures having a similar effect.
System, in the implementation or administration of those restrictions notified or applied under this Agreement should not: upset the balance of rights and obligations between the Members concerned under this Agreement; adversely affect the access available to a Member; impede the full utilization of such access; or disrupt trade under this Agreement.

3. If a product which constitutes only part of a restriction is notified for integration pursuant to the provisions of Article 2, Members agree that any change in the level of that restriction shall not upset the balance of rights and obligations between the Members concerned under this Agreement.

4. When changes mentioned in paragraphs 2 and 3 above are necessary, however, Members agree that the Member initiating such changes shall inform and, wherever possible, initiate consultations with the affected Member or Members prior to the implementation of such changes, with a view to reaching a mutually acceptable solution regarding appropriate and equitable adjustment. Members further agree that where consultation prior to implementation is not feasible, the Member initiating such changes will, at the request of the affected Member, consult within 60 days if possible, with the Members concerned with a view to reaching a mutually satisfactory solution regarding appropriate and equitable adjustments. If a mutually satisfactory solution is not reached, any Member involved may refer the matter to the TMB for recommendations as provided in Article 8. Should the TSB not have had the opportunity to review a dispute concerning such changes introduced prior to the entry into force of this Agreement, it shall be reviewed by the TMB in accordance with the rules and procedures of the MFA applicable for such a review.

Article 5

1. Members agree that circumvention by transshipment, rerouting, false declaration concerning country or place of origin, and falsification of official documents, frustrates the implementation of this Agreement to integrate the textiles and clothing sector into the GATT 1994. Accordingly, Members should establish the necessary legal provisions and/or administrative procedures to address and take action against such circumvention. Members further agree that, consistent with their domestic laws and procedures, they will cooperate fully to address problems arising from circumvention.

2. Should any Member believe that this Agreement is being circumvented by transshipment, re-routing, false declaration concerning country or place of origin, or falsification of official documents, and that no, or inadequate, measures are being applied to address or and/or to take action against such circumvention, that Member should consult with the Member or Members concerned with a view to seeking a mutually satisfactory solution. Such consultations should be held promptly, and within 30 days when possible. If a mutually satisfactory solution is not reached, the matter may be referred by any Member involved to the TMB for prompt review and recommendations.

3. Members agree to take necessary action, consistent with their domestic laws and procedures, to prevent, to investigate and, where appropriate, to take legal and/or administrative action against circumvention practices within their territory. Members agree to cooperate fully, consistent with their domestic laws and procedures, in instances of circumvention or alleged circumvention of this Agreement, to establish the relevant facts in the places of import, export and, where applicable, transshipment. It is agreed that such cooperation, consistent with domestic laws and procedures, will include; investigation of circumvention practices which increase restrained exports to the Member maintaining such restraints; exchange of documents, correspondence, reports and other relevant information to
the extent available; and facilitation of plant visits and contacts, upon request and on a case-by-case basis. Members should endeavour to clarify the circumstances of any such instances of circumvention or alleged circumvention, including the respective roles of the exporters or importers involved.

4. Where, as a result of investigation, there is sufficient evidence that circumvention has occurred (e.g. where evidence is available concerning the country or place of true origin, and the circumstances of such circumvention), Members agree that appropriate action, to the extent necessary to address the problem, should be taken. Such action may include the denial of entry of goods or, where goods have entered, having due regard to the actual circumstances and the involvement of the country or place of true origin, the adjustment of charges to restraint levels to reflect the true country or place of origin.

Also, where there is evidence of the involvement of the territories of the Members through which the goods have been transshipped, such action may include the introduction of restraints with respect to such Members. Any such actions, together with their timing and scope, may be taken after consultations held with a view to arriving at a mutually satisfactory solution between the concerned Members and shall be notified to the TMB with full justification. The Members concerned may agree on other remedies in consultation. Any such agreement shall also be notified to the TMB, and the TMB may make such recommendations to the Members concerned as it deems appropriate. If a mutually satisfactory solution is not reached, any Member concerned may refer the matter to the TMB for prompt review and recommendations.

5. Members note that some cases of circumvention may involve shipments transiting through countries or places with no changes or alterations made to the goods contained in such shipments in the places of transit. They note that it may not be generally practicable for such places of transit to exercise control over such shipments.

6. Members agree that false declaration concerning fibre content, quantities, description or classification of merchandise also frustrates the objective of this Agreement. Where there is evidence that any such false declaration has been made for purposes of circumvention, Members agree that appropriate measures, consistent with domestic laws and procedures, should be taken against the exporters or importers involved.

Should any Member believe that this Agreement is being circumvented by such false declaration and that no, or inadequate, administrative measures are being applied to address and/or to take action against such circumvention, that Member should consult promptly with the Member involved with a view to seeking a mutually satisfactory solution. If such a solution is not reached, the matter may be referred by any Member concerned to the TMB for prompt review and recommendations. This provision is not intended to prevent Members from making technical adjustments when inadvertent errors in declarations have been made.

Article 6

1. Members recognise that during the transition period it may be necessary to apply a specific transitional safeguard mechanism (hereinafter referred to as "transitional safeguard"). The transitional safeguard may be applied by any Member to products covered by the Annex to this Agreement, except those integrated into the GATT 1994 under the provisions of Article 2. Members not maintaining restrictions falling under Article 2 shall notify the TMB within 60 days following the date of entry into force of this Agreement, as to whether or not they wish to retain the right to use the provisions of this Article. Members which have not participated in the Protocols extending the MFA since 1986 shall make such notification within 6 months following the entry into force of this Agreement. The transitional safeguard should be applied as sparingly as
possible, consistently with the provisions of this Article and the effective implementation of the integration process under this Agreement.

2. Safeguard action may be taken under this Article when, on the basis of a determination by a Member, it is demonstrated that a particular product is being imported into its territory in such increased quantities as to cause serious damage, or actual threat thereof, to the domestic industry producing like and/or directly competitive products. Serious damage or actual threat thereof must demonstrably be caused by such increased quantities in total imports of that product and not by such other factors as technological changes or changes in consumer preference.

3. In making a determination of serious damage, or actual threat thereof, as referred to in paragraph 2 above, the Member shall examine the effect of those imports on the state of the particular industry, as reflected in changes in such relevant economic variables as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits and investment; none of which, either alone or combined with other factors, can necessarily give decisive guidance.

4. Any measure invoked pursuant to the provisions of this Article shall be applied on a Member-by-Member basis. The Member or Members to whom serious damage, or actual threat thereof, referred to in paragraphs 2 and 3 above, is attributed, shall be determined on the basis of a sharp and substantial increase in imports, actual or imminent, from such a Member or Members individually, and on the basis of the level of imports as compared with imports from other sources, market share, and import and domestic prices at a comparable stage of commercial transaction; none of these factors, either alone or combined with other factors, can necessarily give decisive guidance. Such safeguard measure shall not be applied to the exports of any Member whose exports of the particular product are already under restraint under this Agreement.

5. The period of validity of a determination of serious damage or actual threat thereof for the purpose of invoking safeguard action shall not exceed 90 days from the date of initial notification as set forth in paragraph 7 below.

6. In the application of the transitional safeguard, particular account shall be taken of the interests of exporting Members as set out below:

(a) Least developed country Members shall be accorded treatment significantly more favourable than that provided to the other groups of Members referred to in this paragraph, preferably in all its elements but, at least, on overall terms;

(b) Members whose total volume of textile and clothing exports is small in comparison with the total volume of exports of other Members and who account for only a small percentage of total imports of that product into the importing Member shall be accorded differential treatment.

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6A customs union may apply a safeguard measure as a single unit or on behalf of a member State. When a customs union applies a safeguard measure as a single unit, all the requirements for the determination of serious damage or actual threat thereof under this Agreement shall be based on the conditions existing in the customs union as a whole. When a safeguard measure is applied on behalf of a member State, all the requirements for the determination of serious damage, or actual threat thereof, shall be based on the conditions existing in that member State and the measure shall be limited to that member State.

7Such an imminent increase shall be a measurable one and shall not be determined to exist on the basis of allegation, conjecture or mere possibility arising, for example, from the existence of production capacity in the exporting Members.
and more favourable treatment in the fixing of the economic terms provided in paragraphs 8, 13 and 14 below. For those suppliers, due account will be taken, pursuant to paragraphs 2 and 3 of Article 1, of the future possibilities for the development of their trade and the need to allow commercial quantities of imports from them.

(c) With respect to wool products from wool-producing developing country Members whose economy and textiles and clothing trade are dependent on the wool sector, whose total textile and clothing exports consist almost exclusively of wool products, and whose volume of textiles and clothing trade is comparatively small in the markets of the importing Members, special consideration shall be given to the export needs of such Members when considering quota levels, growth rates and flexibility.

(d) More favourable treatment shall be accorded to reimports by a Member of textile and clothing products which that Member has exported to another Member for processing and subsequent reimportation, as defined by the laws and practices of the importing Member, and subject to satisfactory control and certification procedures, when these products are imported from a Member for which this type of trade represents a significant proportion of its total exports of textiles and clothing.

7. The Member proposing to take safeguard action shall seek consultations with the Member or Members which would be affected by such action. The request for consultations shall be accompanied by specific and relevant factual information, as up-to-date as possible, particularly in regard to: (a) the factors, referred to in paragraph 3 above, on which the Member invoking the action has based its determination of the existence of serious damage or actual threat thereof; and (b) the factors, referred to in paragraph 4 above, on the basis of which it proposes to invoke the safeguard action with respect to the Member or Members concerned. In respect of requests made under this paragraph, the information shall be related, as closely as possible, to identifiable segments of production and to the reference period set out in paragraph 8 below. The Member invoking the action shall also indicate the specific level at which imports of the product in question from the Member or Members concerned are proposed to be restrained; such level shall not be lower than the level referred to in paragraph 8 below. The Member seeking consultations shall, at the same time, communicate to the Chairman of the TMB the request for consultations, including all the relevant factual data outlined in paragraphs 3 and 4 above, together with the proposed restraint level. The Chairman shall inform the members of the TMB of the request for consultations, indicating the requesting Member, the product in question and the Member having received the request. The Member or Members concerned shall respond to this request promptly and the consultations shall be held without delay and normally be completed within 60 days of the date on which the request has been received.

8. If, in the consultations, there is mutual understanding that the situation calls for restraint on the exports of the particular product from the Member or Members concerned, the level of such restraint shall be fixed at a level not lower than the actual level of exports or imports from the Member concerned during the twelve-month period terminating two months preceding the month in which the request for consultation was made.

9. Details of the agreed restraint measure shall be communicated to the TMB within 60 days from the date of conclusion of the agreement. The TMB shall determine whether the agreement is justified in accordance with the provisions of this Article. In order to make its determination, the TMB shall have available to it the factual data provided to the Chairman of the TMB, referred to in paragraph 7 above, as well as any other relevant information provided by the Members concerned. The TMB may
make such recommendations as it deems appropriate to the Members concerned.

10. If, however, after the expiry of the period of 60 days from the date on which the request for consultations was received, there has been no agreement between the Members, the Member which proposed to take safeguard action may apply the restraint by date of import or date of export, in accordance with the provisions of this Article, within 30 days following the 60 day period for consultations, and at the same time refer the matter to the TMB. It shall be open to either Member to refer the matter to the TMB before the expiry of the period of 60 days. In either case, the TMB shall promptly conduct an examination of the matter, including the determination of serious damage, or actual threat thereof, and its causes, and make appropriate recommendations to the Members concerned within 30 days. In order to conduct such examination, the TMB shall have available to it the factual data provided to the Chairman of the TMB, referred to in paragraph 7 above, as well as any other relevant information provided by the Members concerned.

11. In highly unusual and critical circumstances, where delay would cause damage which would be difficult to repair, action under paragraph 10 above may be taken provisionally on the condition that the request for consultations and notification to the TMB shall be effected within no more than five working days after taking the action. In the case that consultations do not produce agreement, the TMB shall be notified at the conclusion of consultations, but in any case no later than 60 days from the date of the implementation of the action. The TMB shall promptly conduct an examination of the matter, and make appropriate recommendations to the Members concerned within 30 days. In the case that consultations do produce agreement, Members shall notify the TMB upon conclusion but, in any case, no later than 90 days from the date of the implementation of the action. The TMB may make such recommendations as it deems appropriate to the Members concerned.

12. Measures invoked pursuant to the provisions of this Article may remain in place: (a) for up to three years without extension, or (b) until the product is integrated into GATT 1994, whichever comes first.

13. Should the restraint measure remain in force for a period exceeding one year, the level for subsequent years shall be the level specified for the first year increased by a growth rate of not less than 6 per cent per annum, unless otherwise justified to the TMB. The restraint level for the product concerned may be exceeded in either year of any two subsequent years by carry forward and/or carryover of 10 per cent of which carry forward shall not represent more than 5 per cent. No quantitative limits shall be placed on the combined use of carryover, carry forward and the provision of paragraph 14 below.

14. When more than one product from another Member is placed under restraint under this Article by a Member, the level of restraint agreed, pursuant to the provisions of this Article, for each of these products may be exceeded by 7 per cent, provided that the total exports subject to restraint do not exceed the total of the levels for all products so restrained under this Article, on the basis of agreed common units. Where the periods of application of restraints of these products do not coincide with each other, this provision shall be applied to any overlapping period on a pro rata basis.

15. If a safeguard action is applied under this Article to a product for which a restraint was previously in place under the MFA during the 12-month period prior to the entry into force of this Agreement, or pursuant to the provisions of Article 2 or 6 of this Agreement, the level of the new restraint shall be the level provided for in paragraph 8 of this Article unless the new restraint comes into force within one year of:
(a) the date of notification referred to in paragraph 15 of Article 2 for the elimination of the previous restraint; or

(b) the date of removal of the previous restraint put in place pursuant to the provisions of this Article or of the MFA

in which case the level shall not be less than the higher of (i) the level of restraint for the last twelve 12-month period during which the product was under restraint, or (ii) the level of restraint provided for in paragraph 8 of this Article above.

16. When a Member which is not maintaining a restraint under Article 2 decides to apply a restraint pursuant to the provisions of this Article, it shall establish appropriate arrangements which: (a) take full account of such factors as established tariff classification and quantitative units based on normal commercial practices in export and import transactions, both as regards fibre composition and in terms of competing for the same segment of its domestic market, and (b) avoid over-categorisation. The request for consultations referred to in paragraph 7 or 11 above shall include full information on such arrangements.

**Article 7**

1. As part of the integration process and with reference to the specific commitments undertaken by the Members as a result of the Uruguay Round, all Members shall take such actions as may be necessary to abide by GATT 1994 rules and disciplines so as to:

   (i)(a) achieve improved access to markets for textile and clothing products through such measures as tariff reductions and bindings, reduction or elimination of non-tariff barriers, and facilitation of customs, administrative and licensing formalities;

   (ii)(b) ensure the application of policies relating to fair and equitable trading conditions as regards textiles and clothing in such areas as dumping and anti-dumping rules and procedures, subsidies and countervailing measures, and protection of intellectual property rights; and

   (iii)(c) avoid discrimination against imports in the textiles and clothing sector when taking measures for general trade policy reasons.

Such actions shall be without prejudice to the rights and obligations of Members under GATT 1994.

2. Members shall notify to the TMB the actions referred to in paragraph 1 above which have a bearing on the implementation of this Agreement. To the extent that these have been notified to other MTO committees or WTO bodies, a summary, with reference to the original notification, shall be sufficient to fulfill the requirements under this paragraph. It shall be open to any Member to make reverse notifications to the TMB.

3. Where any Member considers that another Member has not taken the actions referred to in paragraph 1 above, and that the balance of rights and obligations under this Agreement has been upset, that Member may bring the matter before the relevant MTO committees and WTO bodies and inform the TMB. Any subsequent findings or conclusions by the MTO committees and WTO bodies concerned
shall form a part of the TMB's comprehensive report.

Article 8

1. In order to supervise the implementation of this Agreement, to examine all measures taken under its provisions this Agreement and their conformity therewith, and to take the actions specifically required of it in the Articles of this Agreement, there shall be established by the Council for Trade in Goods a Textiles Monitoring Body (TMB). The TMB shall consist of a Chairman and 10 members. Its membership shall be balanced and broadly representative of the Members and shall provide for rotation of its members at appropriate intervals. The members shall be appointed by Members designated by the Council for Trade in Goods to serve on the TMB, discharging their function on an ad personam basis.

2. The TMB shall develop its own working procedures. It is understood, however, that consensus within the TMB does not require the assent or concurrence of members appointed by Members involved in an unresolved issue under review by the TMB.

3. The TMB shall be considered as a standing body and shall meet as necessary to carry out the functions required of it under this Agreement. It shall rely on notifications and information supplied by the Members under the relevant Articles of this Agreement, supplemented by any additional information or necessary details they may submit or it may decide to seek from them. It may also rely on notifications to and reports from other MTO committees and WTO bodies and from such other sources as it may deem appropriate.

4. Members shall afford to each other adequate opportunity for consultations with respect to any matters affecting the operation of this Agreement.

5. In the absence of any mutually agreed solution in the bilateral consultations provided for in this Agreement, the TMB shall, at the request of either Member, and following a thorough and prompt consideration of the matter, make recommendations to the Members concerned.

6. At the request of any Member, the TMB shall review promptly any particular matter which that Member considers to be detrimental to its interests under this Agreement and where consultations between it and the Member or Members concerned have failed to produce a mutually satisfactory solution. On such matters, the TMB may make such observations as it deems appropriate to the Members concerned and for the purposes of the review provided for in paragraph 11 below.

7. Before formulating its recommendations or observations, the TMB shall invite participation of such Members as may be directly affected by the matter in question.

8. Whenever the TMB is called upon to make recommendations or findings, it shall do so, preferably within a period of 30 days, unless a different time period is specified in this Agreement. All such recommendations or findings shall be communicated to the Members directly concerned. All such recommendations or findings shall also be communicated to the Council for Trade in Goods for its information.

9. The Members shall endeavour to accept in full the recommendations of the TMB, which shall exercise proper surveillance of the implementation of such recommendations.
10. If a Member considers itself unable to conform with the recommendations of the TMB, it shall provide the TMB with the reasons therefor not later than one month after receipt of such recommendations. Following thorough consideration of the reasons given, the TMB shall issue any further recommendations it considers appropriate forthwith. If, after such further recommendations, the matter remains unresolved, either Member may bring the matter before the Dispute Settlement Body and invoke paragraph 2 of Article XXIII of GATT 1994 and the relevant provisions of the Dispute Settlement Understanding on Rules and Procedures Governing the Settlement of Disputes.

11. In order to oversee the implementation of this Agreement, the Council for Trade in Goods shall conduct a major review before the end of each stage of the integration process. To assist in this review, the TMB shall, at least five months before the end of each stage, transmit to the Council for Trade in Goods a comprehensive report on the implementation of this Agreement during the stage under review, in particular in matters with regard to the integration process, the application of the transitional safeguard mechanism, and relating to the application of GATT 1994 rules and disciplines as defined in Articles 2, 3, 6 and 7 of this Agreement, respectively. The TMB's comprehensive report may include any recommendation as deemed appropriate by the TMB to the Council for Trade in Goods.

12. In the light of its review the Council for Trade in Goods shall by consensus take such decisions as it deems appropriate to ensure that the balance of rights and obligations embodied in this Agreement is not being impaired. For the resolution of any disputes that may arise with respect to matters referred to in Article 7 of this Agreement, the Dispute Settlement Body may authorize, without prejudice to the final dates set out under Article 9 of this Agreement, an adjustment to paragraph 14 of Article 2, for the stage subsequent to the review, with respect to any Member found not to be complying with its obligations under this Agreement.

Article 9

1. This Agreement and all restrictions thereunder shall stand terminated on the first day of the 121st month that the WTO Agreement Establishing the WTO is in effect, on which date the textiles and clothing sector shall be fully integrated into the GATT 1994. There shall be no extension of this Agreement.
ANNEX

LIST OF PRODUCTS COVERED BY THIS AGREEMENT

1. This Annex lists textile and clothing products identified by Harmonised Commodity Description and Coding System (HS) codes at the six-digit level.

2. Actions under the safeguard provisions in Article 6 will be taken on particular textile and clothing products and not on the basis of the HS lines per se.

Note:

Actions under the safeguard provisions in Article 6 of this Agreement shall not apply to:

1-(a) developing country Members' exports of handloom fabrics of the cottage industry, or hand-made cottage industry products made of such handloom fabrics, or traditional folklore handicraft textile and clothing products, provided that such products are properly certified under arrangements established between the Members concerned;

2-(b) historically traded textile products which were internationally traded in commercially significant quantities prior to 1982, such as bags, sacks, carpetbacking, cordage, luggage, mats, mattings and carpets typically made from fibres such as jute, coir, sisal, abaca, maguey and henequen;

3-(c) products made of pure silk.

For such products, the provisions of Article XIX of the GATT 1994, as interpreted by the Agreement on Safeguards, shall be applicable.

NOTE TO THE RECTIFIED TEXT:

It is proposed to delete the original Annex and substitute the following, which includes all HS positions (six-digit code numbers and ex-positions) in the Annex which appeared in the 15 December 1993 version of the Final Act. Please see the note on this on page 116.
Products within Section XI (Textiles and Textile Articles) of the Harmonized Commodity Description and Coding System Nomenclature

| Chapter 50  | Silk          | 5205 12 | 5205 13 | 5208 21 |
|            |              | 5205 14 | 5205 15 | 5208 22 |
| 5004 00    |              | 5205 16 | 5205 17 | 5208 23 |
| 5005 00    |              | 5205 21 | 5205 22 | 5208 29 |
| 5006 00    |              | 5205 23 | 5205 24 | 5208 31 |
| 5007 10    |              | 5205 25 | 5205 26 | 5208 32 |
| 5007 20    |              | 5205 27 | 5205 28 | 5208 33 |
| 5007 90    |              | 5205 29 | 5205 30 | 5208 39 |

| Chapter 51 | Wool, fine or coarse | 5205 31 | 5205 32 | 5208 41 |
|            | animal hair; horsehair | 5205 33 | 5205 34 | 5208 42 |
|            | yarn and woven fabric | 5205 35 | 5205 36 | 5208 43 |
|            |              | 5205 37 | 5205 38 | 5208 49 |
| 5105 10    |              | 5205 39 | 5205 40 | 5208 51 |
| 5105 21    |              | 5205 41 | 5205 42 | 5208 52 |
| 5105 29    |              | 5205 43 | 5205 44 | 5208 53 |
| 5105 30    |              | 5205 45 | 5205 46 | 5208 54 |
| 5106 10    |              | 5206 11 | 5206 12 | 5208 55 |
| 5106 20    |              | 5206 13 | 5206 14 | 5209 11 |
| 5107 10    |              | 5206 15 | 5206 16 | 5209 12 |
| 5107 20    |              | 5206 17 | 5206 18 | 5209 13 |
| 5108 10    |              | 5206 19 | 5206 20 | 5209 14 |
| 5108 20    |              | 5206 21 | 5206 22 | 5209 15 |
| 5109 10    |              | 5206 23 | 5206 24 | 5209 16 |
| 5109 20    |              | 5206 25 | 5206 26 | 5209 17 |
| 5111 20    |              | 5206 27 | 5206 28 | 5209 18 |
| 5111 30    |              | 5206 29 | 5206 30 | 5209 19 |
| 5111 90    |              | 5206 31 | 5206 32 | 5209 20 |
| 5112 11    |              | 5206 33 | 5206 34 | 5209 21 |
| 5112 19    |              | 5206 35 | 5206 36 | 5209 22 |
| 5112 20    |              | 5206 37 | 5206 38 | 5209 23 |
| 5112 30    |              | 5206 39 | 5206 40 | 5209 24 |
| 5113 00    |              | 5206 41 | 5206 42 | 5209 25 |

| Chapter 52 | Cotton        | 5207 10 | 5207 11 | 5210 32 |
|            |              | 5207 12 | 5207 13 | 5210 39 |
| 5204 11    |              | 5207 14 | 5207 15 | 5210 41 |
| 5204 19    |              | 5207 16 | 5207 17 | 5210 42 |
| 5204 20    |              | 5207 18 | 5207 19 | 5210 49 |
| 5205 11    |              | 5207 20 | 5207 21 | 5210 51 |
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5407 72
Chapter 54
Man-made filaments
5407 73
5407 74
5407 81
5407 82
5407 83
5407 84
5407 91
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5407 93
5407 94
5408 10
5408 21
5408 22
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Chapter 55
Man-made staple fibres
5501 10
5501 20
5501 30
5501 90
5502 00
5503 10
5503 20
5503 30
5503 40
5503 90
5504 10
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| 5509 91 | 5515 11 |
| 5509 92 | 5515 12 |
| 5509 99 | 5515 13 |
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| 5513 49 |
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| 5514 21 |
| 5514 22 |

**Chapter 56**

Wadding, felt and nonwovens; special yarns; twine, cordage, ropes and cables and articles thereof

| 5601 10 |
| 5601 21 |
| 5601 22 |
| 5601 29 |
| 5601 30 |
| 5602 10 |
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| 5605 00 |
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| 5609 00 |

**Chapter 57**

Carpets and other textile floor coverings

| 5701 10 |
| 5701 90 |
| 5702 10 |
| 5702 20 |
| 5702 31 |
| 5702 32 |
| 5702 39 |
| 5702 41 |
| 5702 42 |
| 5702 49 |
| 5702 51 |
Chapter 58
Special woven fabrics; tufted textile fabrics; lace; tapestries; trimmings; embroidery

Chapter 59
Impregnated, coated, covered or laminated textile fabrics; textile articles of a kind suitable for industrial use

Chapter 60
Knitted or crocheted fabrics

Chapter 61
Articles of apparel and clothing accessories, knitted or crocheted
Chapter 62
Articles of apparel and clothing accessories, not knitted or crocheted

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6201 13
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Textile and clothing products in Chapters 30-49, 64-96

3005 90
ex 3921 12} {
ex 3921 13} { Woven, knitted or non-woven fabrics coated, covered or laminated with plastics
ex 3921 90} {

ex 4202 12} {
ex 4202 22} {Luggage, handbags and flatgoods with an outer surface predominantly of textile
ex 4202 32} {materials
ex 4202 92} {

ex 6405 20 Footwear with soles and uppers of wool felt
ex 6406 10 Footwear uppers of which 50% or more of the external surface area is textile material
ex 6406 99 Leg warmers and gaiters of textile material
6501 00
6502 00
6503 00
6504 00
6505 90
6601 10
6601 91
6601 99
ex 7019 10 Yarns of fibre glass
ex 7019 20 Woven fabrics of fibre glass
8708 21
8804 00
9113 90
ex 9404 90 Pillow and cushions of cotton; quilts; eiderdowns; comforters and similar articles of textile materials
9502 91
ex 9612 10 Woven ribbons, of man-made fibres, other than those measuring less than 30 mm in width and permanently put up in cartridges
NOTES TO THE RECTIFIED TEXT:

Preamble:

Para. 2, line 2: after "Uruguay Round" add "of Multilateral Trade Negotiations".
Explanation: For consistency in style.

Para. 2, line 3: replace period at end of sentence with semi-colon.
Explanation: For consistency in punctuation.

Article 1:

Para. 3, line 1: replace "participated in" with "accepted".
Explanation: To improve legal terminology.

Para. 3, line 2: replace "(MFA)" with "(hereinafter referred to as the "MFA")".
Explanation: For consistency in style in first reference in the text to an abbreviation.

Para. 4, line 1: add hyphen to "cotton-producing".
Explanation: For consistency in style.

Para. 6, lines 2 and 3: replace "and the multilateral trade agreements annexed thereto" with "and the Multilateral Trade Agreements."
Explanation: For consistency in style and to remove superfluous words.

Para. 7, line 2: delete "to this Agreement (hereafter referred to as the Annex)."
Explanation: To remove superfluous words.

Article 2

Para. 1, line 3: delete the comma between "Agreement" and "shall".
Explanation: For consistency in punctuation.

Para. 1, lines 3 and 8: replace "its" with "such".
Explanation: For grammatical consistency when referring to previously mentioned Agreement.

Para. 1, line 5: delete the comma between "restrictions" and "to the".
Explanation: For consistency in punctuation.

Para. 1, line 5: replace "(herein referred to as the TMB)" with "(hereinafter referred to as the "TMB")".
Explanation: For consistency in style in first reference in the text to an abbreviation.

Para. 3, line 1: replace "twelve-month" with "12-month".
Explanation: For consistency in style.

Para. 3, line 2: add "date of" between "the" and "entry".
Explanation: For consistency in style.
Para. 3, lines 5 and 6: add "into" between "enter" and "consultations".
Explanation: For consistency in style.

Para. 3, line 8: add a comma after "TMB".
Explanation: For consistency in punctuation.

Para. 4, line 5: add "date of" between "the" and "entry".
Explanation: For consistency in style.

Para. 5, line 3: replace "(TSB)" with "(hereinafter referred to as the "TSB")".
Explanation: For consistency in style in first reference in the text to an abbreviation.

Para. 6, lines 2 and 3: replace "in 1990, accounted for not less than 16 per cent of the total volume of imports in 1990" with "accounted for not less than 16 per cent of the total volume of the Member's 1990 imports".
Explanation: To remove redundant wording and to clarify the sentence (see also paragraph 8, first and second sub-paragraphs below).

Para. 7: replace hyphens in margin with "(a)" and "(b)".
Explanation: For consistency in numbering sub-paragraphs (see also paragraphs 8 and 14 of Article 2 below).

Para. 7, first sub-paragraph, line 2: delete "this Agreement" and add "the WTO Agreement, and pursuant to the Ministerial Decision of 15 April 1994,"
Explanation: Text developed through consultations held pursuant to footnote to this Article, i.e., "Participants agreed to examine, in the first quarter of 1994, the date and the technical and administrative aspects related to the implementation of this provision".

Explanation: See above explanation.

Para. 7, first sub-paragraph, line 4: replace "Members" with "participants".
Explanation: See above explanation.

Para. 7, second sub-paragraph, line 4: replace "twelfth" with "12th".
Explanation: For consistency in style.

Para. 8, lines 1 and 2: replace "The remaining products, i.e., the products not integrated into GATT 1994 under paragraph 6 above, shall be integrated", with "Each Member shall integrate into GATT 1994 the remaining products, i.e. the products not integrated into GATT 1994 under paragraph 6 above."
Explanation: For consistency with paragraph 6, lines 1 and 2 above, and to clarify the existence of an obligation on Members.
Para. 8, three sub-paragraphs: change "A", "B", "C" to "(a)", "(b)", "(c)"; also in each sub-paragraph change "On" to "on". Add semi-colons at the end of the first and second sub-paragraphs.
Explanation: For consistency in numbering sub-paragraphs.

Para. 8, first sub-paragraph, lines 1 and 2: replace "which, in 1990, accounted for not less than 17 per cent of the total volume of 1990 imports" with "which accounted for not less than 17 per cent of the total volume of the Member’s 1990 imports".
Explanation: To remove redundant wording and to clarify the sentence (see also paragraph 6, lines 2 and 3 above and the following paragraph).

Para. 8, second sub-paragraph, lines 1 and 2: replace "which, in 1990, accounted for not less than 18 per cent of the total volume of 1990 imports" with "which accounted for not less than 18 per cent of the total volume of the Member’s 1990 imports".
Explanation: To remove redundant wording and to clarify the sentence (see also paragraph above and paragraph 6, lines 1 and 2).

Para. 11: replace existing paragraph with "Each Member shall notify to the TMB its respective programme of integration, in pursuance of paragraph 8 above, in detail at least 12 months before its coming into effect, and the TMB shall circulate the programmes to all Members".
Explanation: To clarify the existence of an obligation on Members.

Para. 13, line 2: replace "it" with "this Agreement".
Explanation: To clarify that reference is to the Textiles Agreement.

Para. 14, line 3: replace "the Agreement" with "this Agreement".
Explanation: To clarify that reference is to the Textiles Agreement.

Para. 14, sub-paragraphs one and two: replace "(i)" and "(ii)" with "(a)" and "(b)".
Explanation: For consistency in numbering sub-paragraphs.

Para. 15, line 4: replace "might" with "may".
Explanation: For grammatical correctness.

Para. 16, line 1: delete the comma after "i.e.".
Explanation: For consistency in punctuation.

Para. 16, lines 1 and 2: replace "quantitative restrictions in force in accordance with the provisions of" with "restrictions maintained pursuant to".
Explanation: For consistency in usage.

Para. 18, line 4: add a comma after "provided".
Explanation: For consistency in punctuation.

Para. 18, lines 4 and 5: after "entry into force" add "of the WTO Agreement and for the duration". Delete "and for its duration".
Explanation: To clarify the sentence.
Para. 19, line 1: replace "validity" with "duration".
Explanation: For greater accuracy.

Para. 19, line 5: add a comma between "apply" and "save".
Explanation: For consistency in punctuation.

Para. 20, lines 5, 8 and 11: move the word "concerned" to follow "Member" i.e. "Member concerned".
Explanation: For grammatical accuracy.

Para. 20, line 9: replace "Further" with "Furthermore".
Explanation: For grammatical accuracy.

Para. 20, line 10: change spelling of "liberalised" to "liberalized".
Explanation: For consistency in style.

Para. 20, line 12: delete "the GATT 1994 as provided for under".
Explanation: To remove superfluous words.

Article 3

Para. 1, line 2: the footnote is re-numbered to "4".
Explanation: Renumbering pursuant to deletion of footnote to paragraph 7 of Article 2.

Para. 2, lines 1 to 5: replace existing language with the following: "Members maintaining restrictions falling under paragraph 1 above, except those justified under a GATT 1994 provision, shall either:

(a) bring them into conformity with GATT 1994 within one year following the entry into force of the WTO Agreement, and notify this action to the TMB for its information; or

(b) phase them out progressively according to a programme to be presented to the TMB by ...".

Explanation: To clarify the existence of an obligation on Members.

Para. 3, line 1: replace "validity" with "duration".
Explanation: For greater accuracy.

Article 4

Para. 1, line 3: replace "and" with "or".
Explanation: For grammatical accuracy.

Para. 2, lines 4 and 5: insert colon between "not" and "upset".
Explanation: Clarifies the structure of the sentence.

Para. 4, lines 6 and 7: insert comma between "consult" and "within".
Explanation: Clarifies that "if possible" refers only to "within 60 days".

Article 5

Para. 1, line 1: change spelling of "rerouting" to "re-routing".
Explanation: For consistency in style.

Para. 2, line 3: replace "or" after "address" with "and/or".
Explanation: For consistency within the Article (see paragraph 6, line 7).

Para. 2, line 7 and Para. 6, lines 9 and 10: add "prompt review and" between "for" and "recommendations".
Explanation: For consistency in usage with paragraph 4 last line.

Para. 3, line 7: insert colon between "include" and "investigation".
Explanation: Clarifies the structure of the sentence.

Para. 4, line 2: delete the comma after "e.g.".
Explanation: For consistency in punctuation.

Para. 4, line 3: add comma between "circumvention" and "Members".
Explanation: For consistency in punctuation.

Article 6

Para. 1, line 1: change spelling of "recognise" to "recognize".
Explanation: For consistency in style.

Para. 1, line 3: delete the comma after "Member".
Explanation: For consistency in punctuation.

Para. 1, line 6: after "Agreement" add "as to".
Explanation: For grammatical accuracy.

Para. 1, line 7: replace "participated in" with "accepted".
Explanation: To improve the legal terminology.

Article 6 (cont’d)

Para. 1, line 8: delete the comma after "since 1986".
Explanation: For consistency in punctuation.

Para. 2, line 2: the footnote is re-numbered "5".
Explanation: Renumbering consequent to deletion of former footnote 4.

Para. 4, line 4: the footnote is re-numbered "6".
Explanation: See above.

Para. 6, sub-paragraphs "(a)," "(c)" and "(d)": replace initial capital letters with small
letters, i.e. "least", "with" and "more". Also end sub-paragraphs "(a)", "(b)" and "(c)" with semi-colons.
Explanation: For consistency in numbering of sub-paragraphs.

Para. 6(c), line 1: add a hyphen to "wool-producing".
Explanation: For consistency in style.

Para. 6(d), line 1: change spelling of "reimports" to "re-imports".
Explanation: For consistency in style.

Para. 7, last line: replace "has been " with "was".
Explanation: For grammatical accuracy.

Para. 8, line 4: change "twelve-month" to "12-month".
Explanation: For consistency in style.

Para. 10, line 4: change "60 days" to "60-day".
Explanation: For consistency in style.

Para. 10, line 7: add a comma between "matter" and "including".
Explanation: For consistency in punctuation.

Para. 11, line 4: change "5" to "five".
Explanation: For consistency in style.

Para. 12, line 1: replace "Measures invoked pursuant to the provisions of this Article may remain in place:" with "A Member may maintain measures invoked pursuant to the provisions of this Article:".
Explanation: To clarify the existence of an obligation on Members.

Para. 15, line 11: change "twelve-month" to "12-month".
Explanation: For consistency in style.

Para. 16, line 6: change the spelling of "categorisation" to "categorization".
Explanation: For consistency in style.
Article 7

Para. 1: change sub-paragraphs "(i)", "(ii)" and "(iii)" to "(a)", "(b)" and "(c)".
Explanation: For consistency in numbering of sub-paragraphs.

Para. 2, line 3, and Para. 3, lines 3 and 4: change "MTO committees or bodies", and "MTO committees and bodies" respectively, to "WTO bodies".
Explanation: To remove superfluous words and to amend terminology.

Article 8

Para. 1, lines 2 and 3: replace "its provisions and their conformity therewith, and to take the actions specifically required of it in the Articles of this Agreement" with "this Agreement and their conformity therewith, and to take the actions specifically required of it by this Agreement"
Explanation: To clarify sentence and to remove superfluous wording.

Para. 2, line 1: change "will" to "shall".
Explanation: For grammatical accuracy.

Para. 2, line 3: change "Body" to "TMB".
Explanation: For consistency in terminology.

Para. 3, line 5: change "MTO committees and bodies" to "WTO bodies".
Explanation: To remove superfluous words and to amend terminology.

Para. 10, line 7: after "of the" add "Dispute Settlement" and after "Understanding" delete "on Rules and Procedures Governing the Settlement of Disputes".
Explanation: For consistency in use of terminology.

Para. 11, line 1: change "the Agreement" to "this Agreement".
Explanation: To clarify that reference is to the Textiles Agreement.

Annex

Para. 1, line 2: add a hyphen between "six" and "digit".
Explanation: For consistency in style.

In the Note: change sub-paragraph numbering from "1", "2" and "3" to "(a)", "(b)" and "(c)".
Explanation: For consistency in numbering of sub-paragraphs.

Annex, list of products:

(1) change title "Section 11" to "Products within Section XI (Textiles and Textile Articles) of the Harmonized Commodity Description and Coding System Nomenclature".

(2) delete all product descriptions with the exception of the "ex positions" on the last page under the heading "Textiles and clothing products in
Chapters 30-49, 64-96".

(3) Align the chapter headings under Section XI with the terminology in the Harmonized System. No change is required in respect of the headings to Chapters 50, 52, 54, 55, 57 and 60. The others will be changed as follows:

"Chapter 51: Wool, fine or coarse animal hair; horsehair yarn and woven fabric."

"Chapter 53: Other vegetable textile fibres; paper yarn and woven fabrics of paper yarn."

"Chapter 56: Wadding, felt and nonwovens; special yarns; twine, cordage, ropes and cables and articles thereof."

"Chapter 58: Special woven fabrics; tufted textile fabrics, lace; tapestries; trimmings; embroidery."

"Chapter 59: Impregnated, coated, covered or laminated textile fabrics; textile articles of a kind suitable for industrial use."

"Chapter 61: Articles of apparel and clothing accessories, knitted or crocheted."

"Chapter 62: Articles of apparel and clothing accessories, not knitted or crocheted."

"Chapter 63: Other made up textile articles; sets; worn clothing and worn textile articles; rags."

Explanation: References to HS 6-digit items are fully sufficient to identify the product coverage and fulfil the need to use internationally accepted identifications. The deletion of the product descriptions is the simplest and safest way of avoiding legal confusion.
6. Agreement on Technical Barriers to Trade

AGREEMENT ON TECHNICAL BARRIERS TO TRADE

Members,

Having regard to the Uruguay Round of Multilateral Trade Negotiations;

Desiring to further the objectives of the GATT 1994;

Recognizing the important contribution that international standards and conformity assessment systems can make in this regard by improving efficiency of production and facilitating the conduct of international trade;

Desiring therefore to encourage the development of such international standards and conformity assessment systems;

Desiring however to ensure that technical regulations and standards, including packaging, marking and labelling requirements, and procedures for assessment of conformity with technical regulations and standards do not create unnecessary obstacles to international trade;

Recognizing that no country should be prevented from taking measures necessary to ensure the quality of its exports, or for the protection of human, animal or plant life or health, of the environment, or for the prevention of deceptive practices, at the levels it considers appropriate, subject to the requirement that they are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail or a disguised restriction on international trade, and are otherwise in accordance with the provisions of this Agreement;

Recognizing that no country should be prevented from taking measures necessary for the protection of its essential security interest;

Recognizing the contribution which international standardization can make to the transfer of technology from developed to developing countries;

Recognizing that developing countries may encounter special difficulties in the formulation and application of technical regulations and standards and procedures for assessment of conformity with technical regulations and standards, and desiring to assist them in their endeavours in this regard;

Members hereby agree as follows:

Article 1

General Provisions

1.1 General terms for standardization and procedures for assessment of conformity shall normally have the meaning given to them by definitions adopted within the United Nations system and by
international standardizing bodies taking into account their context and in the light of the object and purpose of this Agreement.

1.2 However, for the purposes of this Agreement the meaning of the terms given in Annex I applies.

1.3 All products, including industrial and agricultural products, shall be subject to the provisions of this Agreement.

1.4 Purchasing specifications prepared by governmental bodies for production or consumption requirements of governmental bodies are not subject to the provisions of this Agreement but are addressed in the Agreement on Government Procurement, according to its coverage.

1.5 The provisions of this Agreement do not apply to sanitary and phytosanitary measures as defined in Annex A of the Agreement on Sanitary and Phytosanitary Measures.

1.6 All references in this Agreement to technical regulations, standards and conformity assessment procedures shall be construed to include any amendments thereto and any additions to the rules or the product coverage thereof, except amendments and additions of an insignificant nature.

TECHNICAL REGULATIONS AND STANDARDS

Article 2

Preparation, Adoption and Application of Technical Regulations by Central Government Bodies

With respect to their central government bodies:

2.1 Members shall ensure that in respect of technical regulations, products imported from the territory of any Member shall be accorded treatment no less favourable than that accorded to like products of national origin and to like products originating in any other country.

2.2 Members shall ensure that technical regulations are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade. For this purpose, technical regulations shall not be more trade-restrictive than necessary to fulfil a legitimate objective, taking account of the risks non-fulfilment would create. Such legitimate objectives are, *inter alia*, national security requirements; the prevention of deceptive practices; protection of human health or safety, animal or plant life or health, or the environment. In assessing such risks, relevant elements of consideration are, *inter alia*, available scientific and technical information, related processing technology or intended end-uses of products.

2.3 Technical regulations shall not be maintained if the circumstances or objectives giving rise to their adoption no longer exist or if the changed circumstances or objectives can be addressed in a less trade-restrictive manner.

2.4 Where technical regulations are required and relevant international standards exist or their completion is imminent, Members shall use them, or the relevant parts of them, as a basis for their technical regulations except when such international standards or relevant parts would...
be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued, for instance because of fundamental climatic or geographical factors or fundamental technological problems.

2.5 Each Member preparing, adopting or applying a technical regulation which may have a significant effect on trade of other Members shall, upon the request of another Member, explain the justification for that technical regulation in terms of the provisions of paragraphs 2 to 4 of Article 2. Whenever a technical regulation is prepared, adopted or applied for one of the legitimate objectives explicitly mentioned in paragraph 2 of Article 2, and is in accordance with relevant international standards, it shall be rebuttably presumed not to create an unnecessary obstacle to international trade.

2.6 With a view to harmonizing technical regulations on as wide a basis as possible, each Member shall play a full part, within the limits of its resources, in the preparation by appropriate international standardizing bodies of international standards for products for which they have adopted, or expect to adopt, technical regulations.

2.7 Each Member shall give positive consideration to accepting as equivalent technical regulations of other Members, even if these regulations differ from its own, provided they are satisfied that these regulations adequately fulfil the objectives of its own regulations.

2.8 Wherever appropriate, each Member shall specify technical regulations based on product requirements in terms of performance rather than design or descriptive characteristics.

2.9 Whenever a relevant international standard does not exist or the technical content of a proposed technical regulation is not in accordance with the technical content of relevant international standards, and if the technical regulation may have a significant effect on trade of other Members, each Member shall:

2.9.1 publish a notice in a publication at an early appropriate stage, in such a manner as to enable interested parties in other Members to become acquainted with it, that they propose to introduce a particular technical regulation;

2.9.2 notify other Members through the WTO Secretariat of the products to be covered by the proposed technical regulation, together with a brief indication of its objective and rationale, such notifications shall take place at an early appropriate stage, when amendments can still be introduced and comments taken into account;

2.9.3 upon request, provide to other Members particulars or copies of the proposed technical regulation and, whenever possible, identify the parts which in substance deviate from relevant international standards;

2.9.4 without discrimination, allow reasonable time for other Members to make comments in writing, discuss these comments upon request, and take these written comments and the results of these discussions into account.

2.10 Subject to the provisions in the lead-in to Article 2, paragraph 9, where urgent problems of safety, health, environmental protection or national security arise or threaten to arise for a Member, that Member may omit such of the steps enumerated in Article 2, paragraph 9, as it finds necessary, provided that the Member, upon adoption of a technical regulation, shall:
2.10.1 notify immediately other Members through the WTO Secretariat of the particular technical regulation and the products covered, with a brief indication of the objective and the rationale of the technical regulation, including the nature of the urgent problems;

2.10.2 upon request, provide other Members with copies of the technical regulation;

2.10.3 without discrimination, allow other Members to present their comments in writing, discuss these comments upon request, and take these written comments and the results of these discussions into account.

2.11 Members Each Member shall ensure that all technical regulations which have been adopted are published promptly or otherwise made available in such a manner as to enable interested parties in other Members to become acquainted with them.

2.12 Except in those urgent circumstances referred to in Article 2, paragraph 10, Members each Member shall allow a reasonable interval between the publication of a technical regulation and its entry into force in order to allow time for producers in exporting Members, and particularly in developing country Members, to adapt their products or methods of production to the requirements of the importing Member.

Article 3

Preparation, Adoption and Application of Technical Regulations by Local Government Bodies and Non-Governmental Bodies

With respect to their local government and non-governmental bodies within their territories:

3.1 Members Each Member shall take such reasonable measures as may be available to them to ensure compliance by such bodies with the provisions of Article 2, with the exception of the obligation to notify as referred to in paragraphs 9.2 and 10.1 of Article 2.

3.2 Members Each Member shall ensure that the technical regulations of local governments on the level directly below that of the central government in the Member are notified in accordance with the provisions of paragraphs 9.2 and 10.1 of Article 2, noting that notification shall not be required for technical regulations the technical content of which is substantially the same as that of previously notified technical regulations of central government bodies of the Member concerned.

3.3 Members A Member may require contact with other Members, including the notifications, provision of information, comments and discussions referred to in paragraphs 9 and 10 of Article 2, to take place through the central government.

3.4 Members A Member shall not take measures which require or encourage local government bodies or non-governmental bodies within their territories to act in a manner inconsistent with the provisions of Article 2.

3.5 Members are fully responsible under this Agreement for the observance of all provisions of
Article 2. Members Each Member shall formulate and implement positive measures and mechanisms in support of the observance of the provisions of Article 2 by other than central government bodies.

Article 4

Preparation, Adoption and Application of Standards

4.1 Members Each Member shall ensure that their central government standardizing bodies accept and comply with the Code of good practice for the preparation, adoption and application of standards Good Practice for the Preparation, Adoption and Application of Standards in Annex 3 to this Agreement They (hereinafter referred to as the "Code of Good Practice"). Each Member shall take such reasonable measures as may be available to them to ensure that local government and non-governmental standardizing bodies within their territory, as well as regional standardizing bodies of which they or one or more bodies within their territory are members, accept and comply with this Code of good practice Good Practice. In addition, Members a Member shall not take measures which have the effect of, directly or indirectly, requiring or encouraging such standardizing bodies to act in a manner inconsistent with the Code of good practice Good Practice. The obligations of Members with respect to compliance of standardizing bodies with the provisions of the Code of good practice Good Practice shall apply irrespective of whether or not a standardizing body has accepted the Code of good practice Good Practice.

4.2 Standardizing bodies that have accepted and are complying with the Code of good practice Good Practice in Annex 3 Good Practice shall be acknowledged by the Members as complying with the principles of this Agreement.

CONFORMITY WITH TECHNICAL REGULATIONS AND STANDARDS

Article 5

Procedures for Assessment of Conformity by Central Government Bodies

5.1 Members Each Member shall ensure that, in cases where a positive assurance of conformity with technical regulations or standards is required, their central government bodies apply the following provisions to products originating in the territory of another Member:

5.1.1 Conformity assessment procedures are prepared, adopted and applied so as to grant access for suppliers of like products originating in the territory of another Member under conditions no less favourable than those accorded to suppliers of like products of national origin or originating in any other country, in a comparable situation; access entails suppliers' right to an assessment of conformity under the rules of the procedure, including, when foreseen by this procedure, the possibility to have conformity assessment activities undertaken at the site of facilities and to receive the mark of the system;

5.1.2 Conformity assessment procedures are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade. This means,
inter alia, that conformity assessment procedures shall not be more strict or be applied more strictly than is necessary to give the importing Member adequate confidence that products conform with the applicable technical regulations or standards, taking account of the risks non-conformity would create.

5.2 When implementing the provisions of paragraph 1 of Article 5, Members, each Member shall ensure that:

5.2.1 conformity assessment procedures are undertaken and completed as expeditiously as possible and in a no less favourable order for products originating in the territories of other Members than for like domestic products;

5.2.2 the standard processing period of each conformity assessment procedure is published or that the anticipated processing period is communicated to the applicant upon request; when receiving an application, the competent body promptly examines the completeness of the documentation and informs the applicant in a precise and complete manner of all deficiencies; the competent body transmits as soon as possible the results of the assessment in a precise and complete manner to the applicant so that corrective action may be taken if necessary; even when the application has deficiencies, the competent body proceeds as far as practicable with the conformity assessment if the applicant so requests; and that, upon request, the applicant is informed of the stage of the procedure, with any delay being explained;

5.2.3 information requirements are limited to what is necessary to assess conformity and determine fees;

5.2.4 the confidentiality of information about products originating in the territories of other Members arising from or supplied in connection with such conformity assessment procedures is respected in the same way as for domestic products and in such a manner that legitimate commercial interests are protected;

5.2.5 any fees imposed for assessing the conformity of products originating in the territories of other Members are equitable in relation to any fees chargeable for assessing the conformity of like products of national origin or originating in any other country, taking into account communication, transportation and other costs arising from differences between location of facilities of the applicant and the conformity assessment body;

5.2.6 the siting of facilities used in conformity assessment procedures and the selection of samples are not such as to cause unnecessary inconvenience to applicants or their agents;

5.2.7 whenever specifications of a product are changed subsequent to its determination of conformity to the applicable technical regulations or standards, the conformity assessment procedure for the modified product is limited to what is necessary to determine whether adequate confidence exists that the product still meets the technical regulations or standards concerned;

5.2.8 a procedure exists to review complaints concerning the operation of a conformity assessment procedure and to take corrective action when a complaint is justified.
5.3 Nothing in paragraphs 1 and 2 of Article 5 shall prevent a Member from carrying out reasonable spot checks within its territory.

5.4 In cases where a positive assurance is required that products conform with technical regulations or standards, and relevant guides or recommendations issued by international standardizing bodies exist or their completion is imminent, each Member shall ensure that central government bodies use them, or the relevant parts of them, as a basis for their conformity assessment procedures, except where, as duly explained upon request, such guides or recommendations or relevant parts are inappropriate for the Member concerned, for, inter alia, such reasons as national security requirements; the prevention of deceptive practices; protection of human health or safety, animal or plant life or health, or the environment; fundamental climatic or other geographical factors; fundamental technological or infrastructural problems.

5.5 With a view to harmonizing conformity assessment procedures on as wide a basis as possible, each Member shall play a full part within the limits of its resources, in the preparation by appropriate international standardizing bodies of guides and recommendations for conformity assessment procedures.

5.6 Whenever a relevant guide or recommendation issued by an international standardizing body does not exist or the technical content of a proposed conformity assessment procedure is not in accordance with relevant guides and recommendations issued by international standardizing bodies, and if the conformity assessment procedure may have a significant effect on trade of other Members, each Member shall:

5.6.1 publish a notice in a publication at an early appropriate stage, in such a manner as to enable interested parties in other Members to become acquainted with it, that they propose to introduce a particular conformity assessment procedure;

5.6.2 notify other Members through the WTO Secretariat of the products to be covered by the proposed conformity assessment procedure, together with a brief indication of its objective and rationale. Such notifications shall take place at an early appropriate stage, when amendments can still be introduced and comments taken into account;

5.6.3 upon request, provide to other Members particulars or copies of the proposed procedure and, whenever possible, identify the parts which in substance deviate from relevant guides or recommendations issued by international standardizing bodies;

5.6.4 without discrimination, allow reasonable time for other Members to make comments in writing, discuss these comments upon request, and take these written comments and the results of these discussions into account.

5.7 Where urgent problems of safety, health, environmental protection or national security arise or threaten to arise for a Member, that Member may omit such of the steps enumerated in paragraph 6 of Article 5 as it finds necessary provided that the Member, upon adoption of the procedure, shall:

5.7.1 notify immediately other Members through the WTO Secretariat of the particular procedure and the products covered, with a brief indication of the objective and the rationale of the procedure, including the nature of the urgent problems;
5.7.2 upon request, provide other Members with copies of the rules of the procedure;

5.7.3 without discrimination, allow other Members to present their comments in writing, discuss these comments upon request, and take these written comments and the results of these discussions into account.

5.8 Members Each Member shall ensure that all conformity assessment procedures which have been adopted are published promptly or otherwise made available in such a manner as to enable interested parties in other Members to become acquainted with them.

5.9 Except in those urgent circumstances referred to in paragraph 7 of Article 5, Members, each Member shall allow a reasonable interval between the publication of requirements concerning conformity assessment procedures and their entry into force in order to allow time for producers in exporting Members, and particularly in developing country Members, to adapt their products or methods of production to the requirements of the importing Member.

Article 6

Recognition of Conformity Assessment by Central Government Bodies

With respect to their central government bodies:

6.1 Without prejudice to the provisions of Article 6, paragraphs 3 and 4, Members each Member shall ensure, whenever possible, that results of conformity assessment procedures in other Members are accepted, even when those procedures differ from their own, provided they are satisfied that those procedures offer an assurance of conformity with applicable technical regulations or standards equivalent to their own procedures. It is recognized that prior consultations may be necessary in order to arrive at a mutually satisfactory understanding regarding, in particular:

(a) adequate and enduring technical competence of the relevant conformity assessment bodies in the exporting Member, so that confidence in the continued reliability of their conformity assessment results can exist; in this regard, verified compliance, for instance through accreditation, with relevant guides or recommendations issued by international standardizing bodies shall be taken into account as an indication of adequate technical competence;

(b) limitation of the acceptance of conformity assessment results to those produced by designated bodies in the exporting Member.

6.2 Members Each Member shall ensure that their conformity assessment procedures permit, as far as practicable, the implementation of the provisions in paragraph 1 of Article 6.

6.3 Members are encouraged, at the request of other Members, to be willing to enter into negotiations for the conclusion of agreements for the mutual recognition of results of each other’s conformity assessment procedures. Members may require that such agreements fulfil the criteria of Article 6, paragraph 1, and give mutual satisfaction regarding their potential for facilitating trade in the products concerned.
6.4 Members are encouraged to permit participation of conformity assessment bodies located in the territories of other Members in their conformity assessment procedures under conditions no less favourable than those accorded to bodies located within their territory or the territory of any other country.

Article 7

Procedures for Assessment of Conformity by Local Government Bodies

With respect to their local government bodies within their territories:

7.1 Members Each Member shall take such reasonable measures as may be available to them to ensure compliance by such bodies with the provisions of Articles 5 and 6, with the exception of the obligation to notify as referred to in paragraphs 6.2 and 7.1 of Article 5.

7.2 Members Each Member shall ensure that the conformity assessment procedures of local governments on the level directly below that of the central government in Members that Member are notified in accordance with the provisions of paragraphs 6.2 and 7.1 of Article 5, noting that notifications shall not be required for conformity assessment procedures the technical content of which is substantially the same as that of previously notified conformity assessment procedures of central government bodies of the Member concerned.

7.3 Members A Member may require contact with other Members, including the notifications, provision of information, comments and discussions referred to in paragraphs 6 and 7 of Article 5, to take place through the central government.

7.4 Members A Member shall not take measures which require or encourage local government bodies within their territories to act in a manner inconsistent with the provisions of Articles 5 and 6.

7.5 Members are fully responsible under this Agreement for the observance of all provisions of Articles 5 and 6. Members Each Member shall formulate and implement positive measures and mechanisms in support of the observance of the provisions of Articles 5 and 6 by other than central government bodies.

Article 8

Procedures for Assessment of Conformity by Non-Governmental Bodies

8.1 Members Each Member shall take such reasonable measures as may be available to them to ensure that non-governmental bodies within their territories which operate conformity assessment procedures comply with the provisions of Articles 5 and 6, with the exception of the obligation to notify proposed conformity assessment procedures. In addition, Members a Member shall not take measures which have the effect of, directly or indirectly, requiring or encouraging such bodies to act in a manner inconsistent with the provisions of Articles 5 and 6.

8.2 Members Each Member shall ensure that their central government bodies rely on conformity
assessment procedures operated by non-governmental bodies only if these latter bodies comply with the provisions of Articles 5 and 6, with the exception of the obligation to notify proposed conformity assessment procedures.

Article 9

International and Regional Systems

9.1 Where a positive assurance of conformity with a technical regulation or standard is required, Members each Member shall, wherever practicable, formulate and adopt international systems for conformity assessment and become members thereof or participate therein.

9.2 Members Each Member shall take such reasonable measures as may be available to them to ensure that international and regional systems for conformity assessment, in which relevant bodies within their territories are members or participants, comply with the provisions of Articles 5 and 6. In addition, Members a Member shall not take any measures which have the effect of, directly or indirectly, requiring or encouraging such systems to act in a manner inconsistent with any of the provisions of Articles 5 and 6.

9.3 Members Each Member shall ensure that their central government bodies rely on international or regional conformity assessment systems only to the extent that these systems comply with the provisions of Articles 5 and 6, as applicable.

INFORMATION AND ASSISTANCE

Article 10

Information About Technical Regulations, Standards and Conformity Assessment Procedures

10.1 Each Member shall ensure that an enquiry point exists which is able to answer all reasonable enquiries from other Members and interested parties in other Members as well as to provide the relevant documents regarding:

10.1.1 any technical regulations adopted or proposed within its territory by central or local government bodies, by non-governmental bodies which have legal power to enforce a technical regulation, or by regional standardizing bodies of which such bodies are members or participants;

10.1.2 any standards adopted or proposed within its territory by central or local government bodies, or by regional standardizing bodies of which such bodies are members or participants;

10.1.3 any conformity assessment procedures, or proposed conformity assessment procedures, which are operated within its territory by central or local government bodies, or by non-governmental bodies which have legal power to enforce a technical regulation, or by regional bodies of which such bodies are members or participants;
10.1.4 the membership and participation of the Member, or of relevant central or local government bodies within its territory, in international and regional standardizing bodies and conformity assessment systems, as well as in bilateral and multilateral arrangements within the scope of this Agreement; they shall also be able to provide reasonable information on the provisions of such systems and arrangements;

10.1.5 the location of notices published pursuant to this Agreement, or the provision of information as to where such information can be obtained; and

10.1.6 the location of the enquiry points mentioned in paragraph 3 of Article 10.

10.2 If, however, for legal or administrative reasons more than one enquiry point is established by a Member, that Member shall provide to the other Members complete and unambiguous information on the scope of responsibility of each of these enquiry points. In addition, that Member shall ensure that any enquiries addressed to an incorrect enquiry point shall promptly be conveyed to the correct enquiry point.

10.3 Each Member shall take such reasonable measures as may be available to it to ensure that one or more enquiry points exist which are able to answer all reasonable enquiries from other Members and interested parties in other Members as well as to provide the relevant documents or information as to where they can be obtained regarding:

10.3.1 any standards adopted or proposed within its territory by non-governmental standardizing bodies, or by regional standardizing bodies of which such bodies are members or participants; and

10.3.2 any conformity assessment procedures, or proposed conformity assessment procedures, which are operated within its territory by non-governmental bodies, or by regional bodies of which such bodies are members or participants;

10.3.3 the membership and participation of relevant non-governmental bodies within its territory in international and regional standardizing bodies and conformity assessment systems, as well as in bilateral and multilateral arrangements within the scope of this Agreement; they shall also be able to provide reasonable information on the provisions of such systems and arrangements.

10.4 Each Member shall take such reasonable measures as may be available to them to ensure that where copies of documents are requested by other Members or by interested parties in other Members, in accordance with the provisions of this Agreement, they are supplied at an equitable price (if any) which shall, apart from the real cost of delivery, be the same for the nationals of the Member concerned or of any other Member.

10.5 Developed country Members shall, if requested by other Members, provide, in English, French or Spanish, translations of the documents covered by a specific notification or, in case of voluminous documents, of summaries of such documents.

1 Nations' here shall be deemed, in the case of a separate customs territory Member of the WTO, to mean persons, natural or legal, who are domiciled or who have a real and effective industrial or commercial establishment in that customs territory.
10.6 The WTO Secretariat will, when it receives notifications in accordance with the provisions of this Agreement, circulate copies of the notifications to all Members and interested international standardizing and conformity assessment bodies, and draw the attention of developing country Members to any notifications relating to products of particular interest to them.

10.7 Whenever a Member has reached an agreement with any other country or countries on issues related to technical regulations, standards or conformity assessment procedures which may have a significant effect on trade, at least one Member to the agreement shall notify other Members through the WTO Secretariat of the products to be covered by the agreement and include a brief description of the agreement. Members concerned are encouraged to enter, upon request, into consultations with other Members for the purposes of concluding similar agreements or of arranging for their participation in such agreements.

10.8 Nothing in this Agreement shall be construed as requiring:

10.8.1 the publication of texts other than in the language of the Member;

10.8.2 the provision of particulars or copies of drafts other than in the language of the Member except as stated in paragraph 5 of Article 10; or

10.8.3 Members to furnish any information, the disclosure of which they consider contrary to their essential security interests.

10.9 Notifications to the WTO Secretariat shall be in English, French or Spanish.

10.10 Members Each Member shall designate a single central government authority that is responsible for the implementation on the national level of the provisions concerning notification procedures under this Agreement except those included in Annex 3.

10.11 If, however, for legal or administrative reasons the responsibility for notification procedures is divided among two or more central government authorities, the Member concerned shall provide to the other Members complete and unambiguous information on the scope of responsibility of each of these authorities.

Article 11

Technical Assistance to Other Members

11.1 Members Each Member shall, if requested, advise other Members, especially the developing country Members, on the preparation of technical regulations.

11.2 Members Each Member shall, if requested, advise other Members, especially the developing country Members, and shall grant them technical assistance on mutually agreed terms and conditions regarding the establishment of national standardizing bodies, and participation in the international standardizing bodies, and shall encourage their national standardizing bodies to do likewise.

11.3 Members Each Member shall, if requested, take such reasonable measures as may be available to them to arrange for the regulatory bodies within their territories to advise other
Members, especially the developing country Members, and shall grant them technical assistance on mutually agreed terms and conditions regarding:

11.3.1 the establishment of regulatory bodies, or bodies for the assessment of conformity with technical regulations; and

11.3.2 the methods by which their technical regulations can best be met.

11.4 Members Each Member shall, if requested, take such reasonable measures as may be available to them to arrange for advice to be given to other Members, especially the developing country Members, and shall grant them technical assistance on mutually agreed terms and conditions regarding the establishment of bodies for the assessment of conformity with technical regulations; and

11.5 Members Each Member shall, if requested, advise other Members, especially the developing country Members, and shall grant them technical assistance on mutually agreed terms and conditions regarding the establishment of bodies for the assessment of conformity with technical regulations; and

11.6 Members A Member which are members or participants in international or regional systems for conformity assessment shall, if requested, advise other Members, especially the developing country Members, and shall grant them technical assistance on mutually agreed terms and conditions regarding the establishment of institutions and legal framework which would enable them to fulfill the obligations of membership or participation in such systems.

11.7 Members Each Member shall, if so requested, encourage bodies within their territories which are members or participants in international or regional systems for conformity assessment to advise other Members, especially the developing country Members, and should consider requests for technical assistance from them regarding the establishment of the institutions and legal framework which would enable the relevant bodies within their territories to fulfill the obligations of membership or participation.

11.8 In providing advice and technical assistance to other Members in terms of Article 11, paragraphs 1 to 7, Members a Member shall give priority to the needs of the least-developed country Members.

Article 12

Special and Differential Treatment of Developing Country Members

12.1 Members Each Member shall provide differential and more favourable treatment to developing country Members to this Agreement, through the following provisions as well as through the relevant provisions of other Articles of this Agreement.

12.2 Members Each Member shall give particular attention to the provisions of this Agreement concerning developing country Members' rights and obligations and shall take into account the special development, financial and trade needs of developing country Members in the implementation of this Agreement, both nationally and in the operation of this Agreement's institutional arrangements.
12.3 **Members Each Member** shall, in the preparation and application of technical regulations, standards and conformity assessment procedures, take account of the special development, financial and trade needs of developing country Members, with a view to ensuring that such technical regulations, standards and conformity assessment procedures do not create unnecessary obstacles to exports from developing country Members.

12.4 Members recognize that, although international standards, guides or recommendations may exist, in their particular technological and socio-economic conditions, developing country Members adopt certain technical regulations, standards or conformity assessment procedures aimed at preserving indigenous technology and production methods and processes compatible with their development needs. Members therefore recognize that developing country Members should not be expected to use international standards as a basis for their technical regulations or standards, including test methods, which are not appropriate to their development, financial and trade needs.

12.5 **Members Each Member** shall take such reasonable measures as may be available to them to ensure that international standardizing bodies and international systems for conformity assessment are organized and operated in a way which facilitates active and representative participation of relevant bodies in all Members, taking into account the special problems of developing country Members.

12.6 **Members Each Member** shall take such reasonable measures as may be available to them to ensure that international standardizing bodies, upon request of developing country Members, examine the possibility of, and, if practicable, prepare international standards concerning products of special interest to developing country Members.

12.7 **Members Each Member** shall, in accordance with the provisions of Article 11, provide technical assistance to developing country Members to ensure that the preparation and application of technical regulations, standards and conformity assessment procedures do not create unnecessary obstacles to the expansion and diversification of exports from developing country Members. In determining the terms and conditions of the technical assistance, account shall be taken of the stage of development of the requesting Members and in particular of the least-developed country Members.

12.8 It is recognized that developing country Members may face special problems, including institutional and infrastructural problems, in the field of preparation and application of technical regulations, standards and conformity assessment procedures. It is further recognized that the special development and trade needs of developing country Members, as well as their stage of technological development, may hinder their ability to discharge fully their obligations under this Agreement. Members, therefore, shall take this fact fully into account. Accordingly, with a view to ensuring that developing country Members are able to comply with this Agreement, the Committee is enabled to grant, upon request, specified, time-limited exceptions in whole or in part from obligations under this Agreement. When considering such requests the Committee shall take into account the special problems, in the field of preparation and application of technical regulations, standards and conformity assessment procedures, and the special development and trade needs of the developing country Member, as well as its stage of technological development, which may hinder its ability to discharge fully its obligations under this Agreement. The Committee shall, in particular, take into account the special problems of the least-developed country Members.

12.9 During consultations, developed country Members shall bear in mind the special difficulties experienced by developing country Members in formulating and implementing standards and technical regulations and conformity assessment procedures, and in their desire to assist developing country
Members with their efforts in this direction, developed country Members shall take account of the special needs of the former in regard to financing, trade and development.

12.10 The Committee shall examine periodically the special and differential treatment, as laid down in this Agreement, granted to developing country Members on national and international levels.

INSTITUTIONS, CONSULTATION AND DISPUTE SETTLEMENT

Article 13

The Committee on Technical Barriers to Trade

There shall be established under this Agreement:

13.1 A Committee on Technical Barriers to Trade composed of representatives from each of the Members (hereinafter referred to as "the Committee"). The Committee shall elect its own Chairman and shall meet as necessary, but no less than once a year for the purpose of affording Members the opportunity of consulting on any matters relating to the operation of this Agreement or the furtherance of its objectives, and shall carry out such responsibilities as assigned to it under this Agreement or by the Members.3

13.2 Working parties or other bodies as may be appropriate, which shall carry out such responsibilities as may be assigned to them by the Committee in accordance with the relevant provisions of this Agreement.

13.3 It is understood that unnecessary duplication should be avoided between the work under this Agreement and that of governments in other technical bodies. The Committee shall examine this problem with a view to minimizing such duplication.

Article 14

Consultation and Dispute Settlement

14.1 Consultations and the settlement of disputes with respect to any matter affecting the operation of this Agreement shall take place under the auspices of the Dispute Settlement Body and shall follow, mutatis mutandis, the provisions of Articles XXII and XXIII of the GATT 1994, as elaborated and applied by the Understanding Governing the Rules and Procedures for Settlement of Disputes Dispute Settlement Understanding.

14.2 At the request of a party to a dispute, or at its own initiative, a panel may establish a technical expert group to assist in questions of a technical nature, requiring detailed consideration by experts.

14.3 Technical expert groups shall be governed by the procedures of Annex 2.

14.4 The dispute settlement provisions set out above can be invoked in cases where a Member considers that another Member has not achieved satisfactory results under Articles 3, 4, 7, 8 and 9 and its trade interests are significantly affected. In this respect, such results shall be equivalent to those
as if the body in question were a Member.

FINAL PROVISIONS

Article 15

Final Provisions

Reservations

15.1 Reservations may not be entered in respect of any of the provisions of this Agreement without the consent of the other Members.

Review

15.2 Each Member shall, promptly after the date on which the WTO Agreement Establishing the MTO enters into force for it, inform the Committee of measures in existence or taken to ensure the implementation and administration of this Agreement. Any changes of such measures thereafter shall also be notified to the Committee.

15.3 The Committee shall review annually the implementation and operation of this Agreement taking into account the objectives thereof.

15.4 Not later than the end of the third year from the date of entry into force of the WTO Agreement Establishing the MTO and at the end of each three-year period thereafter, the Committee shall review the operation and implementation of this Agreement, including the provisions relating to transparency, with a view to recommending an adjustment of the rights and obligations of this Agreement where necessary to ensure mutual economic advantage and balance of rights and obligations, without prejudice to the provisions of Article 12. Having regard, inter alia, to the experience gained in the implementation of the Agreement, the Committee shall, where appropriate, submit proposals for amendments to the text of this Agreement to the Council for Trade in Goods.

Annexes

15.5 The annexes to this Agreement constitute an integral part thereof.
ANNEX 1

TERMS AND THEIR DEFINITIONS FOR THE PURPOSE OF THIS AGREEMENT

The terms presented in the sixth edition of the ISO/IEC Guide 2: 1991, General Terms and Their Definitions Concerning Standardization and Related Activities, shall, when used in this Agreement, have the same meaning as given in the definitions in the said Guide taking into account that services are excluded from the coverage of this Agreement.

For the purpose of this Agreement, however, the following definitions shall apply:

1. **Technical regulation**

   Document which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method.

   **Explanatory note**

   The definition in ISO/IEC Guide 2 is not self-contained, but based on the so-called "building block" system.

2. **Standard**

   For the term "Standard" the following definition shall apply:

   Document approved by a recognized body, that provides, for common and repeated use, rules, guidelines or characteristics for products or related processes and production methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method.

   **Explanatory note**

   The terms as defined in ISO/IEC Guide 2 cover products, processes and services. This Agreement deals only with technical regulations, standards and conformity assessment procedures related to products or processes and production methods. Standards as defined by ISO/IEC Guide 2 may be mandatory or voluntary. For the purpose of this Agreement standards are defined as voluntary and technical regulations as mandatory documents. Standards prepared by the international standardization community are based on consensus. This Agreement covers also documents that are not based on consensus.

3. **Conformity assessment procedures**

   Any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled.

   **Explanatory note**
Conformity assessment procedures include, *inter alia*, procedures for sampling, testing and inspection; evaluation, verification and assurance of conformity; registration, accreditation and approval as well as their combinations.

4. **International body or system**

Body or system whose membership is open to the relevant bodies of at least all Members.

5. **Regional body or system**

Body or system whose membership is open to the relevant bodies of only some of the Members.

6. **Central government body**

Central government, its ministries and departments or any body subject to the control of the central government in respect of the activity in question.

*Explanatory note:*

In the case of the European Communities the provisions governing central government bodies apply. However, regional bodies or conformity assessment systems may be established within the European Communities, and in such cases would be subject to the provisions of this Agreement on regional bodies or conformity assessment systems.

7. **Local government body**

Government other than a central government (e.g. states, provinces, Länder, cantons, municipalities, etc.), its ministries or departments or any body subject to the control of such a government in respect of the activity in question.

8. **Non-governmental body**

Body other than a central government body or a local government body, including a non-governmental body which has legal power to enforce a technical regulation.
ANNEX 2

TECHNICAL EXPERT GROUPS

The following procedures shall apply to technical expert groups established in accordance with the provisions of Article 14.

1. Technical expert groups are under the panel’s authority. Their terms of reference and detailed working procedures shall be decided by the panel, and they shall report to the panel.

2. Participation in technical expert groups shall be restricted to persons of professional standing and experience in the field in question.

3. Citizens of parties to the dispute shall not serve on a technical expert group without the joint agreement of the parties to the dispute, except in exceptional circumstances when the panel considers that the need for specialized scientific expertise cannot be fulfilled otherwise. Government officials of parties to the dispute shall not serve on a technical expert group. Members of technical expert groups shall serve in their individual capacities and not as government representatives, nor as representatives of any organization. Governments or organizations shall therefore not give them instructions with regard to matters before a technical expert group.

4. Technical expert groups may consult and seek information and technical advice from any source they deem appropriate. Before a technical expert group seeks such information or advice from a source within the jurisdiction of a Member, it shall inform the government of that Member. Any Member shall respond promptly and fully to any request by a technical expert group for such information as the technical expert group considers necessary and appropriate.

5. The parties to a dispute shall have access to all relevant information provided to a technical expert group, unless it is of a confidential nature. Confidential information provided to the technical expert group shall not be released without formal authorization from the government, organization or person providing the information. Where such information is requested from the technical expert group but release of such information by the technical expert group is not authorized, a non-confidential summary of the information will be provided by the government, organization or person supplying the information.

6. The technical expert group shall submit a draft report to the Members concerned with a view to obtaining their comments, and taking them into account, as appropriate, in the final report, which shall also be circulated to the Members concerned when it is submitted to the panel.
ANNEX 3

CODE OF GOOD PRACTICE FOR THE PREPARATION, ADOPTION AND APPLICATION OF STANDARDS

General Provisions

A. For the purposes of this Code the definitions in Annex 1 of this Agreement shall apply.

B. This Code is open to acceptance by any standardizing body within the territory of a Member of the MTO WTO, whether a central government body, a local government body, or a non-governmental body; to any governmental regional standardizing body one or more members of which are Members of the MTO WTO; and to any non-governmental regional standardizing body one or more members of which are situated within the territory of a Member of the MTO (hereafter WTO) (hereinafter collectively called "standardizing bodies" and individually "the standardizing body").

C. Standardizing bodies that have accepted or withdrawn from this Code shall notify this fact to the ISO/IEC Information Centre in Geneva. The notification shall include the name and address of the body concerned and the scope of its current and expected standardization activities. The notification may be sent either directly to the ISO/IEC Information Centre, or through the national member body of ISO/IEC or, preferably, through the relevant national member or international affiliate of ISONET, as appropriate.

SUBSTANTIVE PROVISIONS

D. In respect of standards, the standardizing body shall accord treatment to products originating in the territory of any other Member of the MTO WTO no less favourable than that accorded to like products of national origin and to like products originating in any other country.

E. The standardizing body shall ensure that standards are not prepared, adopted or applied with a view to, or with the effect of, creating unnecessary obstacles to international trade.

F. Where international standards exist or their completion is imminent, the standardizing body shall use them, or the relevant parts of them, as a basis for the standards it develops, except where such international standards or relevant parts would be ineffective or inappropriate, for instance, because of an insufficient level of protection or fundamental climatic or geographical factors or fundamental technological problems.

G. With a view to harmonizing standards on as wide a basis as possible, the standardizing body shall, in an appropriate way, play a full part within the limits of its resources in the preparation by relevant international standardizing bodies of international standards regarding subject matter for which it either has adopted, or expects to adopt, standards. For standardizing bodies within the territory of a Member, participation in a particular international standardization activity shall, whenever possible, take place through one delegation representing all standardizing bodies in the territory that have adopted, or expect to adopt, standards for the subject matter to which the international standardization activity relates.

H. The standardizing body within the territory of a Member shall make every effort to avoid
duplication of, or overlap with, the work of other standardizing bodies in the national territory or with the work of relevant international or regional standardizing bodies. They shall also make every effort to achieve a national consensus on the standards they develop. Likewise the regional standardizing body shall make every effort to avoid duplication of, or overlap with, the work of relevant international standardizing bodies.

I. Wherever appropriate, the standardizing body shall specify standards based on product requirements in terms of performance rather than design or descriptive characteristics.

J. At least once every six months, the standardizing body shall publish a work programme containing its name and address, the standards it is currently preparing and the standards which it has adopted in the preceding period. A standard is under preparation from the moment a decision has been taken to develop a standard until that standard has been adopted. The titles of specific draft standards shall, upon request, be provided in English, French or Spanish. A notice of the existence of the work programme shall be published in a national or, as the case may be, regional publication of standardization activities.

The work programme shall for each standard indicate, in accordance with any ISONET rules, the classification relevant to the subject matter, the stage attained in the standard’s development, and the references of any international standards taken as a basis. No later than at the time of publication of its work programme, the standardizing body shall notify the existence thereof to the ISO/IEC Information Centre in Geneva.

The notification shall contain the name and address of the standardizing body, the name and issue of the publication in which the work programme is published, the period to which the work programme applies, its price (if any), and how and where it can be obtained. The notification may be sent directly to the ISO/IEC Information Centre, or, preferably, through the relevant national member or international affiliate of ISONET, as appropriate.

K. The national member of ISO/IEC shall make every effort to become a member of ISONET or to appoint another body to become a member as well as to acquire the most advanced membership type possible for the ISONET member. Other standardizing bodies shall make every effort to associate themselves with the ISONET member.

L. Before adopting a standard, the standardizing body shall allow a period of at least sixty 60 days for the submission of comments on the draft standard by interested parties within the territory of a Member of the MTO WTO. This period may, however, be shortened in cases where urgent problems of safety, health or environment arise or threaten to arise. No later than at the start of the comment period, the standardizing body shall publish a notice announcing the period for commenting in the publication referred to in paragraph J. Such notification shall include, as far as practicable, whether the draft standard deviates from relevant international standards.

M. On the request of any interested party within the territory of a Member of the MTO WTO, the standardizing body shall promptly provide, or arrange to provide, a copy of a draft standard which it has submitted for comments. Any fees charged for this service shall, apart from the real cost of delivery, be the same for domestic and foreign parties.

N. The standardizing body shall take into account, in the further processing of the standard, the comments received during the period for commenting. Comments received through standardizing bodies
that have accepted this Code of Good Practice shall, if so requested, be replied to as promptly as possible. The reply shall include an explanation why a deviation from relevant international standards is necessary.

O. Once the standard has been adopted, it shall be promptly published.

P. On the request of any interested party within the territory of a Member of the WTO, the standardizing body shall promptly provide or arrange to provide a copy of its most recent work programme or of a standard which it produced. Any fees charged for this service shall, apart from the real costs of delivery, be the same for foreign and domestic parties.

Q. The standardizing body shall afford sympathetic consideration to, and adequate opportunity for, consultation regarding representations with respect to the operation of this Code presented by standardizing bodies that have accepted this Code of Good Practice. It shall make an objective effort to solve any complaints.
7. Agreement on Trade-Related Investment Measures

AGREEMENT ON TRADE-RELATED INVESTMENT MEASURES

Members,

Considering that Ministers agreed in the Punta del Este Declaration that "Following an examination of the operation of GATT Articles related to the trade restrictive and distorting effects of investment measures, negotiations should elaborate, as appropriate, further provisions that may be necessary to avoid such adverse effects on trade";

Desiring to promote the expansion and progressive liberalization of world trade and to facilitate investment across international frontiers so as to increase the economic growth of all trading partners, and particularly developing country Members, while ensuring free competition;

Taking into account the particular trade, development and financial needs of developing country Members, particularly those of the least-developed country Members;

Recognizing that certain investment measures can cause trade-restrictive and distorting effects;

Hereby agree as follows:

Article 1

Coverage

This Agreement applies to investment measures related to trade in goods only (hereinafter referred to as "TRIMs").

Article 2

National Treatment and Quantitative Restrictions

1. Without prejudice to other rights and obligations under the GATT 1994, no Member shall apply any TRIM that is inconsistent with the provisions of Article III or Article XI of the GATT 1994.

2. An illustrative list of TRIMs that are inconsistent with the obligation of national treatment provided for in paragraph 4 of Article III of the GATT 1994 and the obligation of the general elimination of quantitative restrictions provided for in paragraph 1 of Article XI of the GATT 1994 is contained in the Annex to this Agreement.
Article 3

Exceptions

All exceptions under the GATT 1994 shall apply, as appropriate, to the provisions of this Agreement.

Article 4

Developing Country Members

A developing country Member shall be free to deviate temporarily from the provisions of Article 2 above to the extent and in such a manner as Article XVIII of the GATT 1994, the Understanding on the Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade GATT 1994, and the 1979 Declaration on Trade Measures Taken for Balance-of-Payments Purposes adopted on 28 November 1979 (BISD 26S/205-209) permit the Member to deviate from the provisions of Articles III and XI of the GATT 1994.

Article 5

Notification and Transitional Arrangements

1. Each Member, within ninety 90 days of the date of entry into force of the WTO Agreement Establishing the MTO, shall notify the Council for Trade in Goods of all TRIMs they are applying that are not in conformity with the provisions of this Agreement. Such TRIMs of general or specific application shall be notified, along with their principal features.1

2. Each Member shall eliminate all TRIMs which are notified under paragraph 1 above within two years of the date of entry into force of the WTO Agreement Establishing the MTO in the case of a developed country Member, within five years in the case of a developing country Member, and within seven years in the case of a least-developed country Member.

3. On request, the Council for Trade in Goods may extend the transition period for the elimination of TRIMs notified under paragraph 1 above for a developing country Member, including a least-developed country Member, which demonstrates particular difficulties in implementing the provisions of this Agreement. In considering such a request, the Council for Trade in Goods shall take into account the individual development, financial and trade needs of the Member in question.

4. During the transition period, a Member shall not modify the terms of any TRIM which it notifies under paragraph 1 above from those prevailing at the date of entry into force of the WTO Agreement Establishing the MTO so as to increase the degree of inconsistency with the provisions of Article 2 above. TRIMs introduced less than 180 days before the date of entry into force of the WTO Agreement Establishing the MTO shall not benefit from the transitional arrangements provided in paragraph 2 above.

1In the case of TRIMs applied under discretionary authority, each specific application shall be notified. Information that would prejudice the legitimate commercial interests of particular enterprises need not be disclosed.
5. Notwithstanding the provisions of Article 2 above, a Member, in order not to disadvantage established enterprises which are subject to a TRIM notified under paragraph 1 above, may apply during the transition period the same TRIM to a new investment (i) where the products of such investment are like products to those of the established enterprises, and (ii) where necessary to avoid distorting the conditions of competition between the new investment and the established enterprises. Any TRIM so applied to a new investment shall be notified to the Council for Trade in Goods. The terms of such a TRIM shall be equivalent in their competitive effect to those applicable to the established enterprises, and it shall be terminated at the same time.

Article 6

Transparency

1. Each Member reaffirms, with respect to TRIMs, its commitment to obligations on transparency and notification in Article X of the GATT 1994, in the undertaking on "Notification" contained in the 1979 Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance adopted on 28 November 1979 and in the Ministerial Decision on Notification Procedures adopted on 15 April 1994.

2. Each Member shall notify the WTO Secretariat of the publications in which TRIMs may be found, including those applied by regional and local governments and authorities within their territories.

3. Each Member shall accord sympathetic consideration to requests for information, and afford adequate opportunity for consultation, on any matter arising from this Agreement raised by another Member. In conformity with Article X of the GATT 1994 no Member is required to disclose information the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private.

Article 7

Committee on TRIMs Trade-Related Investment Measures

1. A Committee on Trade-Related Investment Measures shall be established, open to all Members, of the WTO (hereinafter referred to as the "Committee") shall be established. The Committee shall elect its own Chairman and Vice-Chairman, and shall meet not less than once a year and otherwise at the request of any Member.

2. The Committee shall carry out responsibilities assigned to it by the Council for Trade in Goods and shall afford Members the opportunity to consult on any matters relating to the operation and implementation of this Agreement.

3. The Committee shall monitor the operation and implementation of this Agreement and shall report thereon annually to the Council for Trade in Goods.
Article 8

Consultation and Dispute Settlement

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

Article 9

Review by the Council for Trade in Goods

Not later than five years after the date of entry into force of the WTO Agreement Establishing the MTO, the Council for Trade in Goods shall review the operation of this Agreement and, as appropriate, propose to the Ministerial Conference amendments to its text. In the course of this review, the Council for Trade in Goods shall consider whether it the Agreement should be complemented with provisions on investment policy and competition policy.
ANNEX

Illustrative List

1. **TRIMs** that are inconsistent with the obligation of national treatment provided for in paragraph 4 of Article III:4 of the GATT 1994 include those which are mandatory or enforceable under domestic law or under administrative rulings, or compliance with which is necessary to obtain an advantage, and which require:

   (a) the purchase or use by an enterprise of products of domestic origin or from any domestic source, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production; or

   (b) that an enterprise’s purchases or use of imported products be limited to an amount related to the volume or value of local products that it exports.

2. **TRIMs** that are inconsistent with the obligation of the general elimination of quantitative restrictions provided for in paragraph 1 of Article XI:4 of the GATT 1994 include those which are mandatory or enforceable under domestic law or under administrative rulings, or compliance with which is necessary to obtain an advantage, and which restrict:

   (a) the importation by an enterprise of products used in or related to its local production, generally or to an amount related to the volume or value of local production that it exports;

   (b) the importation by an enterprise of products used in or related to its local production by restricting its access to foreign exchange to an amount related to the foreign exchange inflows attributable to the enterprise; or

   (c) the exportation or sale for export by an enterprise of products, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production.