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AND  
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## **PREFACE**

The 2004 volume of the WTO Basic Instruments and Selected Documents (BISD) contains Protocols, Decisions and Reports adopted in 2004. Certain documents have been numbered or renumbered to simplify indexing. WTO panel and Appellate Body reports, as well as arbitration awards, can be found in the Dispute Settlement Reports (DSR) series co-published by the WTO and Cambridge University Press.



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## WTO MEMBERS AND OBSERVERS

(as at 31 December 2004)

### A. MEMBERS (148)

Albania	Denmark	Jordan
Angola	Djibouti	Kenya
Antigua and Barbuda	Dominica	Korea, Republic of
Argentina	Dominican Republic	Kuwait
Armenia	Ecuador	Kyrgyz Republic
Australia	Egypt	Latvia
Austria	El Salvador	Lesotho
Bahrain	Estonia	Liechtenstein
Bangladesh	European Communities	Lithuania
Barbados	Fiji	Luxembourg
Belgium	Finland	Macau, China
Belize	Former Yugoslav	Madagascar
Benin	Rep. of Macedonia	Malawi
Bolivia	France	Malaysia
Botswana	Gabon	Maldives
Brazil	The Gambia	Mali
Brunei Darussalam	Georgia	Malta
Bulgaria	Germany	Mauritania
Burkina Faso	Ghana	Mauritius
Burundi	Greece	Mexico
Cambodia	Grenada	Moldova
Cameroon	Guatemala	Mongolia
Canada	Guinea-Bissau	Morocco
Central African Republic	Guinea, Republic of	Mozambique
Chad	Guyana	Myanmar
Chile	Haiti	Namibia
China	Honduras	Nepal
Colombia	Hong Kong, China	Netherlands
Congo	Hungary	New Zealand
Costa Rica	Iceland	Nicaragua
Côte d'Ivoire	India	Niger
Croatia	Indonesia	Nigeria
Cuba	Ireland	Norway
Cyprus	Israel	Oman
Czech Republic	Italy	Pakistan
Democratic Republic of the Congo	Jamaica	Panama
	Japan	Papua New Guinea

## WTO MEMBERS AND OBSERVERS

(as at 31 December 2003)

Paraguay	Singapore	Togo
Peru	Slovak Republic	Trinidad and Tobago
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Poland	Solomon Islands	Turkey
Portugal	South Africa	Uganda
Qatar	Spain	United Arab Emirates
Romania	Sri Lanka	United Kingdom
Rwanda	Suriname	United States
Saint Kitts and Nevis	Swaziland	Uruguay
Saint Lucia	Sweden	Venezuela
Saint Vincent and the Grenadines	Switzerland	Zambia
Senegal	Chinese Taipei	Zimbabwe
Sierra Leone	Tanzania	
	Thailand	

### B. OBSERVERS (31)

Afghanistan	Holy See	Seychelles
Algeria	Iraq	Sudan
Andorra	Kazakhstan	Tajikistan
Azerbaijan	Laos, P.D.R. of	Tonga
Bahamas	Lebanon	Ukraine
Belarus	Libya	Uzbekistan
Bhutan	Russian Federation	Vanuatu
Bosnia and Herzegovina	Samoa	Viet Nam
Cape Verde	Sao Tome and Principe	Yemen
Equatorial Guinea	Saudi Arabia	
Ethiopia	Serbia and Montenegro <sup>1</sup>	

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<sup>1</sup> Formerly Yugoslavia, Federal Rep.of.

## OFFICERS OF WTO BODIES (2004)

<i>General Council</i>	Mr Shotaro Oshima (Japan)
<i>Dispute Settlement Body</i>	Ms Amina Chawahir Mohamed (Kenya)
<i>Trade Policy Review Body</i>	Mrs Puangrat Asavapisit (Thailand)
<i>Council for Trade in Goods</i>	Mr Alfredo Chiaradia (Argentina) followed by Mr CHOI Hynck (Korea)
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- Committee on Anti-Dumping Practices	Mr Ernesto Fernández (Costa Rica)
- Committee on Customs Valuation	Mr Robin Twyman (United Kingdom)
- Committee on Import Licensing	Ms Victoria Campeanu (Romania)
- Committee on Market Access	Dr. Magdi Farahat (Egypt)
- Committee on Rules of Origin	Ms Vera Thorstensen (Brazil)
- Committee on Safeguards	Mr Hervé Drouet (France)
- Committee on Sanitary and Phytosanitary Measures	Mr Gregg Young (United States)
- Committee on Subsidies and Countervailing Measures	Mr Naoshi Hirose (Japan)
- Committee on Technical Barriers to Trade	Mr Sudhakar Dalela (India)
- Committee on Trade-Related Investment Measures	Mr Sivaramen Palayathan (Mauritius)
- Working Party on State Trading Enterprises	Mr R. Mosisili (Lesotho)
- Committee of Participants on the Expansion of Trade in Information Technology Products	Mr F. Seppey (Canada)
<i>Council for Trade in Services</i>	Mr Peter Brño (Slovak Republic)
- Committee on Specific Commitments	Mr Roberto Bosch (Argentina)
- Committee on Trade in Financial Services	Ms Mi-yon Lee (Republic of Korea)
- Working Party on GATS Rules	Ms Clare Kelly (New Zealand)
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<i>Council for Trade-Related Aspects of Intellectual Property Rights</i>	Mr Joshua C.K. Law (Hong Kong, China) followed by Mr Tony Miller (Hong Kong, China)
<i>Committee on Balance-of-Payments Restrictions</i>	Mr Giulio Tonini (Italy)

<i>Committee on Budget, Finance and Administration</i>	Mr Henrik Rée Iversen (Denmark)
<i>Committee on Regional Trade Agreements</i>	Mr Ronald Saborío Soto (Costa Rica)
<i>Committee on Trade and Development</i>	Mr Trevor Clarke (Barbados)
- Dedicated Session of the Committee on Trade and Development	Mr Trevor Clarke (Barbados)
- Sub-Committee on Least-Developed Countries	Mr Ian M. de Jong (Netherlands)
<i>Committee on Trade and Environment</i>	Mrs Naéla Gabr (Egypt)
<i>Working Group on Trade, Debt and Finance</i>	Mr Péter Balás (Hungary)
<i>Working Group on Trade and Transfer of Technology</i>	M Mr Jaynarain Meetoo (Mauritius) followed by Mr Chitsaka Chipaziwa (Zimbabwe)
<i>Trade Negotiations Committee</i>	Dr. Supachai Panitchpakdi (WTO Director-General)
- Special Session of the Council for Trade in Services	Mr Alejandro Jara (Chile)
- Special Session of the Council for TRIPS	Mr Manzoor Ahmad (Pakistan)
- Special Session of the Dispute Settlement Body	Mr David Spencer (Australia)
- Special Session of the Committee on Agriculture	Mr Tim Groser (New Zealand)
- Sub-Committee on Cotton	Mr Tim Groser (New Zealand)
- Special Session of the Committee on Trade and Development	Mr Faizel Ismail (South Africa)
- Special Session of the Committee on Trade and Environment	Mr Toufiq Ali (Bangladesh)
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- Negotiating Group on Rules	Mr Eduardo Pérez Motta (Mexico) followed by Mr Guillermo Valles Galmés (Uruguay)
- Negotiating Group on Trade Facilitation	Mr Muhamad Noor (Malaysia)
Plurilateral Trade Agreements:	
<i>Committee on Government Procurement</i>	Mr Niklas Bergström (Sweden)
<i>Committee on Trade in Civil Aircraft</i>	Mr Didier Chambovey (Switzerland)
- Sub-Committee of the Committee on Trade in Civil Aircraft	Mr Didier Chambovey (Switzerland)
- Technical Sub-Committee of the Committee on Trade in Civil Aircraft	Mr Didier Chambovey (Switzerland)

## LEGAL INSTRUMENTS

### CERTIFICATIONS OF MODIFICATIONS AND RECTIFICATIONS OF SCHEDULES OF CONCESSIONS AND COMMITMENTS TO GATT 1994

The following table lists all the modifications and rectifications to Schedules of Concessions and Commitments to GATT 1994 certified in 2004. Modifications resulting from the introduction of the Harmonized System (HS) and commitments undertaken in the context of the Ministerial Declaration on Trade in Information Technology Products (IT) have been indicated in brackets after the date of certification.

<b>Member</b>	<b>Type</b>	<b>Date of certification</b>	<b>Document</b>
Brazil	Certification of Modifications and Rectifications to Schedule III	14 April 2004 (HS96)	WT/Let/468
Costa Rica	Certification of Modifications and Rectifications to Schedule XXXV	5 March 2004 (IT)	WT/Let/462
Egypt	Certification of Modifications and Rectifications to Schedule LXIII	5 March 2004 (IT)	WT/Let/459
El Salvador	Certification of Modifications and Rectifications to Schedule LXXXVII	14 April 2004 (HS96)	WT/Let/467
Iceland	Certification of Modifications and Rectifications to Schedule LXII	1 October 2004 (HS96)	WT/Let/477
New Zealand	Certification of Modifications and Rectifications to Schedule XIII	12 March 2004 (HS96)	WT/Let/458 and Corr.1
Nicaragua	Certification of Modifications and Rectifications to Schedule XXIX	12 March 2004 (HS96)	WT/Let/460
Norway	Certification of Modifications and Rectifications to Schedule XIV	14 April 2004 (HS96) 1 October 2004	WT/Let/466 WT/Let/479
Switzerland-Liechtenstein	Certification of Modifications and Rectifications to Schedule LIX	14 April 2004 (HS96)	WT/Let/465
United States	Certification of Modifications and Rectifications to Schedule XX	5 March 2004	WT/Let/461

**CERTIFICATIONS OF MODIFICATIONS AND RECTIFICATIONS  
TO APPENDICES I-IV OF THE AGREEMENT ON GOVERNMENT  
PROCUREMENT (1994)**

The following table lists all the modifications and rectifications to the Appendices to the Agreement on Government Procurement (1994) certified in 2004. The Appendices are in the form of a loose-leaf system which was given legal effect pursuant to the Decision of the Committee on Government Procurement of 4 June 1996 (GPA/M/2).

<b>Party</b>	<b>Type</b>	<b>Date of certification</b>	<b>Document</b>
Canada	Certification of replacement pages to Appendix I– Annex 1	16 January 2004	WT/Let/454
European Communities	Certification of replacement pages to Appendices I, II and IV	10 May 2004	WT/Let/472
Hong Kong, China	Certification of replacement pages to Appendix I– Annex 1	17 August 2004	WT/Let/476
Japan	Certification of replacement pages to Appendix I– Annexes 3 and 5, and the General Notes	19 January 2004	WT/Let/452/Rev.1
		24 March 2004	WT/Let/463
		30 April 2004	WT/Let/469
		5 May 2004	WT/Let/470
		5 May 2004	WT/Let/471
		24 May 2004	WT/Let/473
		5 June 2004	WT/Let/475
		1 October 2004	WT/Let/478
Korea	Certification of replacement pages to Appendix I– Annex 1	9 October 2004	WT/Let/483
		9 October 2004	WT/Let/483
Korea	Certification of replacement pages to Appendices II, III and IV	23 January 2004	WT/Let/455
		5 February 2004 20 October 2004	WT/Let/456 WT/Let/481 and Rev.1
United States	Certification of replacement pages to Appendix I– Annex 1	4 March 2004	WT/Let/457
		20 October 2004	WT/Let/482 and Rev.1



**DECISIONS AND REPORTS**

**ACCESSIONS**

**ACCESSION OF CAMBODIA**

**EXTENSION OF TIME-LIMIT FOR ACCEPTANCE OF THE PROTOCOL FOR  
THE ACCESSION OF CAMBODIA**

*Decision of the General Council on 11 February 2004  
(WT/L/561)*

*Considering* that the Government of Cambodia has notified the Director-General of the World Trade Organization that the acceptance of the Protocol for the Accession of Cambodia to the Marrakesh Agreement Establishing the World Trade Organization may not be concluded within the time-limit prescribed in paragraph 7 thereof and has requested that the aforesaid time-limit be extended to 30 September 2004,

The General Council,

*Decides* to extend the time-limit for acceptance by the Government of Cambodia of the Protocol for the Accession of Cambodia to the Marrakesh Agreement Establishing the World Trade Organization until 30 September 2004.

## GENERAL COUNCIL

### DOHA WORK PROGRAMME

*Decision Adopted by the General Council on 1 August 2004  
(WT/L/579)*

1. The General Council reaffirms the Ministerial Declarations and Decisions adopted at Doha and the full commitment of all Members to give effect to them. The Council emphasizes Members' resolve to complete the Doha Work Programme fully and to conclude successfully the negotiations launched at Doha. Taking into account the Ministerial Statement adopted at Cancún on 14 September 2003, and the statements by the Council Chairman and the Director-General at the Council meeting of 15-16 December 2003, the Council takes note of the report by the Chairman of the Trade Negotiations Committee (TNC) and agrees to take action as follows:

a. Agriculture: the General Council adopts the framework set out in Annex A to this document.

b. Cotton: the General Council reaffirms the importance of the Sectoral Initiative on Cotton and takes note of the parameters set out in Annex A within which the trade-related aspects of this issue will be pursued in the agriculture negotiations. The General Council also attaches importance to the development aspects of the Cotton Initiative and wishes to stress the complementarity between the trade and development aspects. The Council takes note of the recent Workshop on Cotton in Cotonou on 23-24 March 2004 organized by the WTO Secretariat, and other bilateral and multilateral efforts to make progress on the development assistance aspects and instructs the Secretariat to continue to work with the development community and to provide the Council with periodic reports on relevant developments.

Members should work on related issues of development multilaterally with the international financial institutions, continue their bilateral programmes, and all developed countries are urged to participate. In this regard, the General Council instructs the Director General to consult with the relevant international organizations, including the Bretton Woods Institutions, the Food and Agriculture Organization and the International Trade Centre to direct effectively existing programmes and any additional resources towards development of the economies where cotton has vital importance.

c. Non-agricultural Market Access: the General Council adopts the framework set out in Annex B to this document.

d. Development:

**Principles:** development concerns form an integral part of the Doha Ministerial Declaration. The General Council rededicates and recommits Members to fulfilling the development dimension of the Doha Development Agenda, which places the needs and interests of developing and least-developed countries at the heart of the Doha Work Programme. The Council reiterates the important role that enhanced market access, balanced rules, and well targeted, sustainably financed technical assistance and capacity building programmes can play in the economic development of these countries.

**Special and Differential Treatment:** the General Council reaffirms that provisions for special and differential (S&D) treatment are an integral part of the WTO Agreements. The Council recalls Ministers' decision in Doha to review all S&D treatment provisions with a view to strengthening them and making them more precise, effective and operational. The Council recognizes the progress that has been made so far. The Council instructs the Committee on Trade and Development in Special Session to expeditiously complete the review of all the outstanding Agreement-specific proposals and report to the General Council, with clear recommendations for a decision, by July 2005. The Council further instructs the Committee, within the parameters of the Doha mandate, to address all other outstanding work, including on the cross-cutting issues, the monitoring mechanism and the incorporation of S&D treatment into the architecture of WTO rules, as referred to in TN/CTD/7 and report, as appropriate, to the General Council.

The Council also instructs all WTO bodies to which proposals in Category II have been referred to expeditiously complete the consideration of these proposals and report to the General Council, with clear recommendations for a decision, as soon as possible and no later than July 2005. In doing so these bodies will ensure that, as far as possible, their meetings do not overlap so as to enable full and effective participation of developing countries in these discussions.

**Technical Assistance:** the General Council recognizes the progress that has been made since the Doha Ministerial Conference in expanding Trade-Related Technical Assistance (TRTA) to developing countries and low-income countries in transition. In furthering this effort the Council affirms that such countries, and in particular least-developed countries, should be provided with enhanced TRTA and capacity building, to increase their effective participation in the negotiations, to facilitate their implementation of WTO rules, and to enable them to adjust and diversify their economies. In this context the Council welcomes and further encourages the improved coordination with other agencies, including under the Integrated Framework for TRTA for the LDCs (IF) and the Joint Integrated Technical Assistance Programme (JITAP).

**Implementation:** concerning implementation-related issues, the General Council reaffirms the mandates Ministers gave in paragraph 12 of the Doha Ministerial Declaration and the Doha Decision on Implementation-Related Issues and Concerns, and renews Members' determination to find appropriate solutions to outstanding issues. The Council instructs the Trade Negotiations Committee, negotiating bodies and other WTO bodies concerned to redouble their efforts to find appropriate solutions as a priority. Without prejudice to the positions of Members, the Council requests the Director-General to continue with his consultative process on all outstanding implementation issues under paragraph 12(b) of the Doha Ministerial Declaration, including on issues related to the extension of the protection of geographical indications provided for in Article 23 of the TRIPS Agreement to products other than wines and spirits, if need be by appointing Chairpersons of concerned WTO bodies as his Friends and/or by holding dedicated consultations. The Director-General shall report to the TNC and the General Council no later than May 2005. The Council shall review progress and take any appropriate action no later than July 2005.

**Other Development Issues:** in the ongoing market access negotiations, recognising the fundamental principles of the WTO and relevant provisions of GATT 1994, special attention shall be given to the specific trade and development related needs and concerns of developing countries, including capacity constraints. These particular concerns of developing countries, including relating to food security, rural development, livelihood, preferences, commodities and net food imports, as well as prior unilateral liberalisation, should be taken into consideration, as appropriate, in the course of the Agriculture and NAMA negotiations. The trade-related issues identified for the fuller integration of small, vulnerable economies into the multilateral trading system, should also be addressed, without creating a sub-category of Members, as part of a work programme, as mandated in paragraph 35 of the Doha Ministerial Declaration.

**Least-Developed Countries:** the General Council reaffirms the commitments made at Doha concerning least-developed countries and renews its determination to fulfil these commitments. Members will continue to take due account of the concerns of least-developed countries in the negotiations. The Council confirms that nothing in this Decision shall detract in any way from the special provisions agreed by Members in respect of these countries.

e. **Services:** the General Council takes note of the report to the TNC by the Special Session of the Council for Trade in Services<sup>1</sup> and reaffirms Members'

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<sup>1</sup> This report is contained in document TN/S/16.

commitment to progress in this area of the negotiations in line with the Doha mandate. The Council adopts the recommendations agreed by the Special Session, set out in Annex C to this document, on the basis of which further progress in the services negotiations will be pursued. Revised offers should be tabled by May 2005.

f. Other negotiating bodies:

Rules, Trade & Environment and TRIPS: the General Council takes note of the reports to the TNC by the Negotiating Group on Rules and by the Special Sessions of the Committee on Trade and Environment and the TRIPS Council.<sup>2</sup> The Council reaffirms Members' commitment to progress in all of these areas of the negotiations in line with the Doha mandates.

Dispute Settlement: the General Council takes note of the report to the TNC by the Special Session of the Dispute Settlement Body<sup>3</sup> and reaffirms Members' commitment to progress in this area of the negotiations in line with the Doha mandate. The Council adopts the TNC's recommendation that work in the Special Session should continue on the basis set out by the Chairman of that body in his report to the TNC.

g. Trade Facilitation: taking note of the work done on trade facilitation by the Council for Trade in Goods under the mandate in paragraph 27 of the Doha Ministerial Declaration and the work carried out under the auspices of the General Council both prior to the Fifth Ministerial Conference and after its conclusion, the General Council decides by explicit consensus to commence negotiations on the basis of the modalities set out in Annex D to this document.

Relationship between Trade and Investment, Interaction between Trade and Competition Policy and Transparency in Government Procurement: the Council agrees that these issues, mentioned in the Doha Ministerial Declaration in paragraphs 20-22, 23-25 and 26 respectively, will not form part of the Work Programme set out in that Declaration and therefore no work towards negotiations on any of these issues will take place within the WTO during the Doha Round.

h. Other elements of the Work Programme: the General Council reaffirms the high priority Ministers at Doha gave to those elements of the Work Programme

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<sup>2</sup> The reports to the TNC referenced in this paragraph are contained in the following documents: Negotiating Group on Rules - TN/RL/9; Special Session of the Committee on Trade and Environment - TN/TE/9; Special Session of the Council for TRIPS - TN/IP/10.

<sup>3</sup> This report is contained in document TN/DS/10.

which do not involve negotiations. Noting that a number of these issues are of particular interest to developing-country Members, the Council emphasizes its commitment to fulfil the mandates given by Ministers in all these areas. To this end, the General Council and other relevant bodies shall report in line with their Doha mandates to the Sixth Session of the Ministerial Conference. The moratoria covered by paragraph 11.1 of the Doha Ministerial Decision on Implementation-related Issues and Concerns and paragraph 34 of the Doha Ministerial Declaration are extended up to the Sixth Ministerial Conference.

2. The General Council agrees that this Decision and its Annexes shall not be used in any dispute settlement proceeding under the DSU and shall not be used for interpreting the existing WTO Agreements.

3. The General Council calls on all Members to redouble their efforts towards the conclusion of a balanced overall outcome of the Doha Development Agenda in fulfilment of the commitments Ministers took at Doha. The Council agrees to continue the negotiations launched at Doha beyond the timeframe set out in paragraph 45 of the Doha Declaration, leading to the Sixth Session of the Ministerial Conference. Recalling its decision of 21 October 2003 to accept the generous offer of the Government of Hong Kong, China to host the Sixth Session, the Council further agrees that this Session will be held in December 2005.

## Annex A

### Framework for Establishing Modalities in Agriculture

1. The starting point for the current phase of the agriculture negotiations has been the mandate set out in Paragraph 13 of the Doha Ministerial Declaration. This in turn built on the long-term objective of the Agreement on Agriculture to establish a fair and market-oriented trading system through a programme of fundamental reform. The elements below offer the additional precision required at this stage of the negotiations and thus the basis for the negotiations of full modalities in the next phase. The level of ambition set by the Doha mandate will continue to be the basis for the negotiations on agriculture.

2. The final balance will be found only at the conclusion of these subsequent negotiations and within the Single Undertaking. To achieve this balance, the modalities to be developed will need to incorporate operationally effective and meaningful provisions for special and differential treatment for developing country Members. Agriculture is of critical importance to the economic development of developing country Members and they must be able to pursue agricultural policies that are supportive of their development goals, poverty reduction strategies, food

security and livelihood concerns. Non-trade concerns, as referred to in Paragraph 13 of the Doha Declaration, will be taken into account.

3. The reforms in all three pillars form an interconnected whole and must be approached in a balanced and equitable manner.

4. The General Council recognizes the importance of cotton for a certain number of countries and its vital importance for developing countries, especially LDCs. It will be addressed ambitiously, expeditiously, and specifically, within the agriculture negotiations. The provisions of this framework provide a basis for this approach, as does the sectoral initiative on cotton. The Special Session of the Committee on Agriculture shall ensure appropriate prioritization of the cotton issue independently from other sectoral initiatives. A subcommittee on cotton will meet periodically and report to the Special Session of the Committee on Agriculture to review progress. Work shall encompass all trade-distorting policies affecting the sector in all three pillars of market access, domestic support, and export competition, as specified in the Doha text and this Framework text.

5. Coherence between trade and development aspects of the cotton issue will be pursued as set out in paragraph 1.b of the text to which this Framework is annexed.

#### DOMESTIC SUPPORT

6. The Doha Ministerial Declaration calls for “substantial reductions in trade-distorting domestic support”. With a view to achieving these substantial reductions, the negotiations in this pillar will ensure the following:

- Special and differential treatment remains an integral component of domestic support. Modalities to be developed will include longer implementation periods and lower reduction coefficients for all types of trade-distorting domestic support and continued access to the provisions under Article 6.2.
- There will be a strong element of harmonisation in the reductions made by developed Members. Specifically, higher levels of permitted trade-distorting domestic support will be subject to deeper cuts.
- Each such Member will make a substantial reduction in the overall level of its trade-distorting support from bound levels.
- As well as this overall commitment, Final Bound Total AMS and permitted

*de minimis* levels will be subject to substantial reductions and, in the case of the Blue Box, will be capped as specified in paragraph 15 in order to ensure results that are coherent with the long-term reform objective. Any clarification or development of rules and conditions to govern trade distorting support will take this into account.

*Overall Reduction: A Tiered Formula*

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

8. The following parameters will guide the further negotiation of this tiered formula:

- This commitment will apply as a minimum overall commitment. It will not be applied as a ceiling on reductions of overall trade-distorting domestic support, should the separate and complementary formulae to be developed for Total AMS, *de minimis* and Blue Box payments imply, when taken together, a deeper cut in overall trade-distorting domestic support for an individual Member.
- The base for measuring the Blue Box component will be the higher of existing Blue Box payments during a recent representative period to be agreed and the cap established in paragraph 15 below.

*Final Bound Total AMS: A Tiered Formula*

9. To achieve reductions with a harmonizing effect:

- Final Bound Total AMS will be reduced substantially, using a tiered approach.
- Members having higher Total AMS will make greater reductions.



- To prevent circumvention of the objective of the Agreement through transfers of unchanged domestic support between different support categories, product-specific AMSs will be capped at their respective average levels according to a methodology to be agreed.
- Substantial reductions in Final Bound Total AMS will result in reductions of some product-specific support.

10. Members may make greater than formula reductions in order to achieve the required level of cut in overall trade-distorting domestic support.

*De Minimis*

11. Reductions in *de minimis* will be negotiated taking into account the principle of special and differential treatment. Developing countries that allocate almost all *de minimis* support for subsistence and resource-poor farmers will be exempt.

12. Members may make greater than formula reductions in order to achieve the required level of cut in overall trade-distorting domestic support.

*Blue Box*

13. Members recognize the role of the Blue Box in promoting agricultural reforms. In this light, Article 6.5 will be reviewed so that Members may have recourse to the following measures:

- Direct payments under production-limiting programmes if:
  - such payments are based on fixed and unchanging areas and yields; or
  - such payments are made on 85% or less of a fixed and unchanging base level of production; or
  - livestock payments are made on a fixed and unchanging number of head.

Or

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

- such payments are made on 85% or less of a fixed and unchanging base level of production.

14. The above criteria, along with additional criteria will be negotiated. Any such criteria will ensure that Blue Box payments are less trade-distorting than AMS measures, it being understood that:

- Any new criteria would need to take account of the balance of WTO rights and obligations.
- Any new criteria to be agreed will not have the perverse effect of undoing ongoing reforms.

15. Blue Box support will not exceed 5% of a Member's average total value of agricultural production during an historical period. The historical period will be established in the negotiations. This ceiling will apply to any actual or potential Blue Box user from the beginning of the implementation period. In cases where a Member has placed an exceptionally large percentage of its trade-distorting support in the Blue Box, some flexibility will be provided on a basis to be agreed to ensure that such a Member is not called upon to make a wholly disproportionate cut.

#### *Green Box*

16. Green Box criteria will be reviewed and clarified with a view to ensuring that Green Box measures have no, or at most minimal, trade-distorting effects or effects on production. Such a review and clarification will need to ensure that the basic concepts, principles and effectiveness of the Green Box remain and take due account of non-trade concerns. The improved obligations for monitoring and surveillance of all new disciplines foreshadowed in paragraph 48 below will be particularly important with respect to the Green Box.

#### EXPORT COMPETITION

17. The Doha Ministerial Declaration calls for "reduction of, with a view to phasing out, all forms of export subsidies". As an outcome of the negotiations, Members agree to establish detailed modalities ensuring the parallel elimination of all forms of export subsidies and disciplines on all export measures with equivalent effect by a credible end date.

*End Point*

18. The following will be eliminated by the end date to be agreed:
- Export subsidies as scheduled.
  - Export credits, export credit guarantees or insurance programmes with repayment periods beyond 180 days.
  - Terms and conditions relating to export credits, export credit guarantees or insurance programmes with repayment periods of 180 days and below which are not in accordance with disciplines to be agreed. These disciplines will cover, *inter alia*, payment of interest, minimum interest rates, minimum premium requirements, and other elements which can constitute subsidies or otherwise distort trade.
  - Trade distorting practices with respect to exporting STEs including eliminating export subsidies provided to or by them, government financing, and the underwriting of losses. The issue of the future use of monopoly powers will be subject to further negotiation.
  - Provision of food aid that is not in conformity with operationally effective disciplines to be agreed. The objective of such disciplines will be to prevent commercial displacement. The role of international organizations as regards the provision of food aid by Members, including related humanitarian and developmental issues, will be addressed in the negotiations. The question of providing food aid exclusively in fully grant form will also be addressed in the negotiations.
19. Effective transparency provisions for paragraph 18 will be established. Such provisions, in accordance with standard WTO practice, will be consistent with commercial confidentiality considerations.

*Implementation*

20. Commitments and disciplines in paragraph 18 will be implemented according to a schedule and modalities to be agreed. Commitments will be implemented by annual instalments. Their phasing will take into account the need for some coherence with internal reform steps of Members.
21. The negotiation of the elements in paragraph 18 and their implementation will ensure equivalent and parallel commitments by Members.

*Special and Differential Treatment*

22. Developing country Members will benefit from longer implementation periods for the phasing out of all forms of export subsidies.

23. Developing countries will continue to benefit from special and differential treatment under the provisions of Article 9.4 of the Agreement on Agriculture for a reasonable period, to be negotiated, after the phasing out of all forms of export subsidies and implementation of all disciplines identified above are completed.

24. Members will ensure that the disciplines on export credits, export credit guarantees or insurance programs to be agreed will make appropriate provision for differential treatment in favour of least-developed and net food-importing developing countries as provided for in paragraph 4 of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries. Improved obligations for monitoring and surveillance of all new disciplines as foreshadowed in paragraph 48 will be critically important in this regard. Provisions to be agreed in this respect must not undermine the commitments undertaken by Members under the obligations in paragraph 18 above.

25. STEs in developing country Members which enjoy special privileges to preserve domestic consumer price stability and to ensure food security will receive special consideration for maintaining monopoly status.

*Special Circumstances*

26. In exceptional circumstances, which cannot be adequately covered by food aid, commercial export credits or preferential international financing facilities, ad hoc temporary financing arrangements relating to exports to developing countries may be agreed by Members. Such agreements must not have the effect of undermining commitments undertaken by Members in paragraph 18 above, and will be based on criteria and consultation procedures to be established.

MARKET ACCESS

27. The Doha Ministerial Declaration calls for “substantial improvements in market access”. Members also agreed that special and differential treatment for developing Members would be an integral part of all elements in the negotiations.

*The Single Approach: a Tiered Formula*

28. To ensure that a single approach for developed and developing country Members meets all the objectives of the Doha mandate, tariff reductions will be made through a tiered formula that takes into account their different tariff structures.

29. To ensure that such a formula will lead to substantial trade expansion, the following principles will guide its further negotiation:

- Tariff reductions will be made from bound rates. Substantial overall tariff reductions will be achieved as a final result from negotiations.
- Each Member (other than LDCs) will make a contribution. Operationally effective special and differential provisions for developing country Members will be an integral part of all elements.
- Progressivity in tariff reductions will be achieved through deeper cuts in higher tariffs with flexibilities for sensitive products. Substantial improvements in market access will be achieved for all products.

30. The number of bands, the thresholds for defining the bands and the type of tariff reduction in each band remain under negotiation. The role of a tariff cap in a tiered formula with distinct treatment for sensitive products will be further evaluated.

*Sensitive Products*

Selection

31. Without undermining the overall objective of the tiered approach, Members may designate an appropriate number, to be negotiated, of tariff lines to be treated as sensitive, taking account of existing commitments for these products.

Treatment

32. The principle of 'substantial improvement' will apply to each product.

33. 'Substantial improvement' will be achieved through combinations of tariff quota commitments and tariff reductions applying to each product. However, balance in this negotiation will be found only if the final negotiated result also reflects the sensitivity of the product concerned.

34. Some MFN-based tariff quota expansion will be required for all such products. A base for such an expansion will be established, taking account of coherent and equitable criteria to be developed in the negotiations. In order not to undermine the objective of the tiered approach, for all such products, MFN based tariff quota expansion will be provided under specific rules to be negotiated taking into account deviations from the tariff formula.

*Other Elements*

35. Other elements that will give the flexibility required to reach a final balanced result include reduction or elimination of in-quota tariff rates, and operationally effective improvements in tariff quota administration for existing tariff quotas so as to enable Members, and particularly developing country Members, to fully benefit from the market access opportunities under tariff rate quotas.

36. Tariff escalation will be addressed through a formula to be agreed.

37. The issue of tariff simplification remains under negotiation.

38. The question of the special agricultural safeguard (SSG) remains under negotiation.

*Special and differential treatment*

39. Having regard to their rural development, food security and/or livelihood security needs, special and differential treatment for developing countries will be an integral part of all elements of the negotiation, including the tariff reduction formula, the number and treatment of sensitive products, expansion of tariff rate quotas, and implementation period.

40. Proportionality will be achieved by requiring lesser tariff reduction commitments or tariff quota expansion commitments from developing country Members.

41. Developing country Members will have the flexibility to designate an appropriate number of products as Special Products, based on criteria of food security, livelihood security and rural development needs. These products will be eligible for more flexible treatment. The criteria and treatment of these products will be further specified during the negotiation phase and will recognize the fundamental importance of Special Products to developing countries.

42. A Special Safeguard Mechanism (SSM) will be established for use by developing country Members.

43. Full implementation of the long-standing commitment to achieve the fullest liberalisation of trade in tropical agricultural products and for products of particular importance to the diversification of production from the growing of illicit narcotic crops is overdue and will be addressed effectively in the market access negotiations.

44. The importance of long-standing preferences is fully recognised. The issue of preference erosion will be addressed. For the further consideration in this regard, paragraph 16 and other relevant provisions of TN/AG/W/1/Rev.1 will be used as a reference.

#### LEAST- DEVELOPED COUNTRIES

45. Least-Developed Countries, which will have full access to all special and differential treatment provisions above, are not required to undertake reduction commitments. Developed Members, and developing country Members in a position to do so, should provide duty-free and quota-free market access for products originating from least-developed countries.

46. Work on cotton under all the pillars will reflect the vital importance of this sector to certain LDC Members and we will work to achieve ambitious results expeditiously.

#### RECENTLY ACCEDED MEMBERS

47. The particular concerns of recently acceded Members will be effectively addressed through specific flexibility provisions.

#### MONITORING AND SURVEILLANCE

48. Article 18 of the Agreement on Agriculture will be amended with a view to enhancing monitoring so as to effectively ensure full transparency, including through timely and complete notifications with respect to the commitments in market access, domestic support and export competition. The particular concerns of developing countries in this regard will be addressed.

## OTHER ISSUES

49. Issues of interest but not agreed: sectoral initiatives, differential export taxes, GIs.
50. Disciplines on export prohibitions and restrictions in Article 12.1 of the Agreement on Agriculture will be strengthened.

### Annex B

#### Framework for Establishing Modalities in Market Access for Non-Agricultural Products

1. This Framework contains the initial elements for future work on modalities by the Negotiating Group on Market Access. Additional negotiations are required to reach agreement on the specifics of some of these elements. These relate to the formula, the issues concerning the treatment of unbound tariffs in indent two of paragraph 5, the flexibilities for developing-country participants, the issue of participation in the sectorial tariff component and the preferences. In order to finalize the modalities, the Negotiating Group is instructed to address these issues expeditiously in a manner consistent with the mandate of paragraph 16 of the Doha Ministerial Declaration and the overall balance therein.
2. We reaffirm that negotiations on market access for non-agricultural products shall aim to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. We also reaffirm the importance of special and differential treatment and less than full reciprocity in reduction commitments as integral parts of the modalities.
3. We acknowledge the substantial work undertaken by the Negotiating Group on Market Access and the progress towards achieving an agreement on negotiating modalities. We take note of the constructive dialogue on the Chair's Draft Elements of Modalities (TN/MA/W/35/Rev.1) and confirm our intention to use this document as a reference for the future work of the Negotiating Group. We instruct the Negotiating Group to continue its work, as mandated by paragraph 16 of the Doha Ministerial Declaration with its corresponding references to the relevant provisions of Article XXVIII *bis* of GATT 1994 and to the provisions cited in paragraph 50 of the Doha Ministerial Declaration, on the basis set out below.



4. We recognize that a formula approach is key to reducing tariffs, and reducing or eliminating tariff peaks, high tariffs, and tariff escalation. We agree that the Negotiating Group should continue its work on a non-linear formula applied on a line-by-line basis which shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments.

5. We further agree on the following elements regarding the formula:

- product coverage shall be comprehensive without *a priori* exclusions;
- tariff reductions or elimination shall commence from the bound rates after full implementation of current concessions; however, for unbound tariff lines, the basis for commencing the tariff reductions shall be [two] times the MFN applied rate in the base year;
- the base year for MFN applied tariff rates shall be 2001 (applicable rates on 14 November);
- credit shall be given for autonomous liberalization by developing countries provided that the tariff lines were bound on an MFN basis in the WTO since the conclusion of the Uruguay Round;
- all non-*ad valorem* duties shall be converted to *ad valorem* equivalents on the basis of a methodology to be determined and bound in *ad valorem* terms;
- negotiations shall commence on the basis of the HS96 or HS2002 nomenclature, with the results of the negotiations to be finalized in HS2002 nomenclature;
- the reference period for import data shall be 1999-2001.

6. We furthermore agree that, as an exception, participants with a binding coverage of non-agricultural tariff lines of less than [35] percent would be exempt from making tariff reductions through the formula. Instead, we expect them to bind [100] percent of non-agricultural tariff lines at an average level that does not exceed the overall average of bound tariffs for all developing countries after full implementation of current concessions.

7. We recognize that a sectorial tariff component, aiming at elimination or harmonization is another key element to achieving the objectives of paragraph 16 of the Doha Ministerial Declaration with regard to the reduction or elimination of tariffs, in particular on products of export interest to developing countries. We

recognize that participation by all participants will be important to that effect. We therefore instruct the Negotiating Group to pursue its discussions on such a component, with a view to defining product coverage, participation, and adequate provisions of flexibility for developing-country participants.

8. We agree that developing-country participants shall have longer implementation periods for tariff reductions. In addition, they shall be given the following flexibility:

- a) applying less than formula cuts to up to [10] percent of the tariff lines provided that the cuts are no less than half the formula cuts and that these tariff lines do not exceed [10] percent of the total value of a Member's imports; or
- b) keeping, as an exception, tariff lines unbound, or not applying formula cuts for up to [5] percent of tariff lines provided they do not exceed [5] percent of the total value of a Member's imports.

We furthermore agree that this flexibility could not be used to exclude entire HS Chapters.

9. We agree that least-developed country participants shall not be required to apply the formula nor participate in the sectorial approach, however, as part of their contribution to this round of negotiations, they are expected to substantially increase their level of binding commitments.

10. Furthermore, in recognition of the need to enhance the integration of least-developed countries into the multilateral trading system and support the diversification of their production and export base, we call upon developed-country participants and other participants who so decide, to grant on an autonomous basis duty-free and quota-free market access for non-agricultural products originating from least-developed countries by the year [...].

11. We recognize that newly acceded Members shall have recourse to special provisions for tariff reductions in order to take into account their extensive market access commitments undertaken as part of their accession and that staged tariff reductions are still being implemented in many cases. We instruct the Negotiating Group to further elaborate on such provisions.

12. We agree that pending agreement on core modalities for tariffs, the possibilities of supplementary modalities such as zero-for-zero sector elimination, sectorial harmonization, and request & offer, should be kept open.

13. In addition, we ask developed-country participants and other participants who so decide to consider the elimination of low duties.

14. We recognize that NTBs are an integral and equally important part of these negotiations and instruct participants to intensify their work on NTBs. In particular, we encourage all participants to make notifications on NTBs by 31 October 2004 and to proceed with identification, examination, categorization, and ultimately negotiations on NTBs. We take note that the modalities for addressing NTBs in these negotiations could include request/offer, horizontal, or vertical approaches; and should fully take into account the principle of special and differential treatment for developing and least-developed country participants.

15. We recognize that appropriate studies and capacity building measures shall be an integral part of the modalities to be agreed. We also recognize the work that has already been undertaken in these areas and ask participants to continue to identify such issues to improve participation in the negotiations.

16. We recognize the challenges that may be faced by non-reciprocal preference beneficiary Members and those Members that are at present highly dependent on tariff revenue as a result of these negotiations on non-agricultural products. We instruct the Negotiating Group to take into consideration, in the course of its work, the particular needs that may arise for the Members concerned.

17. We furthermore encourage the Negotiating Group to work closely with the Committee on Trade and Environment in Special Session with a view to addressing the issue of non-agricultural environmental goods covered in paragraph 31 (iii) of the Doha Ministerial Declaration.

### Annex C

#### Recommendations of the Special Session of the Council for Trade in Services

- (a) Members who have not yet submitted their initial offers must do so as soon as possible.
- (b) A date for the submission of a round of revised offers should be established as soon as feasible.
- (c) With a view to providing effective market access to all Members and in order to ensure a substantive outcome, Members shall strive to ensure a

high quality of offers, particularly in sectors and modes of supply of export interest to developing countries, with special attention to be given to least-developed countries.

- (d) Members shall aim to achieve progressively higher levels of liberalization with no a priori exclusion of any service sector or mode of supply and shall give special attention to sectors and modes of supply of export interest to developing countries. Members note the interest of developing countries, as well as other Members, in Mode 4.
- (e) Members must intensify their efforts to conclude the negotiations on rule-making under GATS Articles VI:4, X, XIII and XV in accordance with their respective mandates and deadlines.
- (f) Targeted technical assistance should be provided with a view to enabling developing countries to participate effectively in the negotiations.
- (g) For the purpose of the Sixth Ministerial meeting, the Special Session of the Council for Trade in Services shall review progress in these negotiations and provide a full report to the Trade Negotiations Committee, including possible recommendations.

## Annex D

### Modalities for Negotiations on Trade Facilitation

1. Negotiations shall aim to clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 with a view to further expediting the movement, release and clearance of goods, including goods in transit.<sup>1</sup> Negotiations shall also aim at enhancing technical assistance and support for capacity building in this area. The negotiations shall further aim at provisions for effective cooperation between customs or any other appropriate authorities on trade facilitation and customs compliance issues.

2. The results of the negotiations shall take fully into account the principle of special and differential treatment for developing and least-developed countries. Members recognize that this principle should extend beyond the granting of traditional transition periods for implementing commitments. In particular, the extent

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<sup>1</sup> It is understood that this is without prejudice to the possible format of the final result of the negotiations and would allow consideration of various forms of outcomes.

and the timing of entering into commitments shall be related to the implementation capacities of developing and least-developed Members. It is further agreed that those Members would not be obliged to undertake investments in infrastructure projects beyond their means.

3. Least-developed country Members will only be required to undertake commitments to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities.

4. As an integral part of the negotiations, Members shall seek to identify their trade facilitation needs and priorities, particularly those of developing and least-developed countries, and shall also address the concerns of developing and least-developed countries related to cost implications of proposed measures.

5. It is recognized that the provision of technical assistance and support for capacity building is vital for developing and least-developed countries to enable them to fully participate in and benefit from the negotiations. Members, in particular developed countries, therefore commit themselves to adequately ensure such support and assistance during the negotiations.<sup>2</sup>

6. Support and assistance should also be provided to help developing and least-developed countries implement the commitments resulting from the negotiations, in accordance with their nature and scope. In this context, it is recognized that negotiations could lead to certain commitments whose implementation would require support for infrastructure development on the part of some Members. In these limited cases, developed-country Members will make every effort to ensure support and assistance directly related to the nature and scope of the commitments in order to allow implementation. It is understood, however, that in cases where required support and assistance for such infrastructure is not forthcoming, and where a developing or least-developed Member continues to lack the necessary capacity, implementation will not be required. While every effort will be made to ensure the necessary support and assistance, it is understood that the commitments by developed countries to provide such support are not open-ended.

7. Members agree to review the effectiveness of the support and assistance provided and its ability to support the implementation of the results of the negotiations.

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<sup>2</sup> In connection with this paragraph, Members note that paragraph 38 of the Doha Ministerial Declaration addresses relevant technical assistance and capacity building concerns of Members.

8. In order to make technical assistance and capacity building more effective and operational and to ensure better coherence, Members shall invite relevant international organizations, including the IMF, OECD, UNCTAD, WCO and the World Bank to undertake a collaborative effort in this regard.

9. Due account shall be taken of the relevant work of the WCO and other relevant international organizations in this area.

10. Paragraphs 45-51 of the Doha Ministerial Declaration shall apply to these negotiations. At its first meeting after the July session of the General Council, the Trade Negotiations Committee shall establish a Negotiating Group on Trade Facilitation and appoint its Chair. The first meeting of the Negotiating Group shall agree on a work plan and schedule of meetings.

**DISPUTE SETTLEMENT BODY****EUROPEAN COMMUNITIES – EXPORT SUBSIDIES ON SUGAR  
PROCEDURAL AGREEMENT BETWEEN AUSTRALIA, BRAZIL,  
THAILAND AND THE EUROPEAN COMMUNITIES  
REGARDING THE TIME-PERIOD UNDER ARTICLE 16.4 OF THE DSU**

*(Extract from WT/DSB/M/179)*

The Chairperson recalled that this item was on the agenda of the present meeting at the request of Australia, Brazil, Thailand and the European Communities. She drew attention to a communication contained in document WT/DS265/24 – WT/DS266/24 – WT/DS283/5, which had been circulated at the request of Australia, Brazil, Thailand and the European Communities. She then invited the representatives of the respective delegations to speak.

The representative of Australia thanked the Chairperson for convening the present meeting at the request of Australia, Brazil, Thailand and the European Communities. She recalled that the Panel Reports in the complaints brought by Australia, Brazil and Thailand in “European Communities – Export Subsidies on Sugar” (WT/DS265/R, WT/DS266/R and WT/DS283/R) had been circulated to Members on 15 October 2004. That meant that the end of the 60-day time-period under Article 16.4 of the DSU would be 14 December 2004. Australia welcomed the conclusions and recommendation of the Panel in this dispute and would be happy to see the Panel Reports adopted by the DSB. Australia noted, however, that the EC had publicly stated its intention to appeal these Panel Reports. She said that the four parties had reached a procedural agreement regarding the time-period under Article 16.4 of DSU, which had been circulated to Members in document WT/DS265/24 – WT/DS266/24 – WT/DS283/5. Australia confirmed that it remained agreeable to that procedure. Australia requested the DSB, at the present meeting, to agree to postpone the consideration of the Panel Reports in “European Communities – Export Subsidies on Sugar” and to the extension of the corresponding time-period in Article 16.4 of the DSU until 31 January 2005. That extension would be agreed on the understanding that the rights of the parties to the disputes with respect to adoption or appeal of the Panel Reports were preserved, as if such adoption or appeal had been requested within the 60 days specified in Article 16.4 of the DSU.

The representative of Brazil recalled that on 1 December 2004, Australia, Brazil, Thailand and the European Communities, the parties to the “Sugar” dispute, had reached a procedural agreement regarding the time-period under Article 16.4 of the DSU. The procedural agreement had been circulated to Members on 3 December 2004 in document WT/DS265/24 – WT/DS266/24 – WT/DS283/5.

The sixtieth day for adoption or appeal of the Reports in the present case would expire on 14 December. He said that Members engaged in disputes under the DSU were familiar with inconveniences that could arise in procedures running over the months of August and December/January. In fact, the Appellate Body itself had also called the attention to that matter several times, most recently during discussions on possible amendments to the Working Procedures for Appellate Review (WT/AB/WP/W/9, pp.7-9). Brazil, therefore, together with the other parties to this dispute, requested that the DSB agree to postpone the consideration of the Panel Reports in “European Communities – Export Subsidies on Sugar” (WT/DS265/R, WT/DS266/R and WT/DS283/R) and to extend the corresponding time-period in Article 16.4 of the DSU until 31 January 2005. (...)

The representative of Thailand said that, like Australia and Brazil, his country wished to confirm the procedural agreement that had been reached with all the parties to this dispute, as contained in the joint request to which the Chairperson had just referred. (...)

The representative of the European Communities recalled that the Panel had circulated its final Reports in this dispute on 15 October 2004. The 60-day period within which the DSB was obliged to decide on the adoption of panel reports that were not appealed (Article 16.4 of the DSU) would expire on 14 December 2004. In order to take account of the end of year period, and to avoid inconveniencing the appeal procedure, the parties to the dispute had agreed that the 60-day time-period, as applicable to these disputes, would be extended until 31 January 2005. The parties had also reached an understanding that the agreement of the DSB to that extension would be sought at the present meeting. Furthermore, the extension had been agreed between the parties on the understanding that the rights of the parties to the disputes with respect to adoption or appeal of the Panel Reports were preserved, as if such adoption or appeal had been requested within 60 days specified in Article 16.4 of the DSU. This was without prejudice to the question of whether these rights would not be preserved without such extension. The EC would be grateful if the DSB could accede to the joint request of the parties to agree to the extension of the 60-day time-period.

The representative of Norway said that his country had noted the procedural agreement between Australia, Brazil, Thailand and the European Communities, as set out in the document referred to by the Chairperson. (...)

[He stated that] while Norway could go along in this particular case and because it was the DSB itself that would take a decision at the present meeting, Norway considered that this case should not, in any way, create a precedent for future cases. In Norway’s view, the rule in Article 16.4 of the DSU was of systemic importance



in order to safeguard a system that secured a proper adoption of panel reports, or an appeal, within a strict time-limit. The adoption of that rule was one of the most important developments in the DSU that had resulted from the Uruguay Round negotiations. Its functioning ensuring that reports of panels were adopted must not be disturbed.

The representative of the United States said that his country was pleased that the present meeting was able to consider the procedural agreement that the parties had put forward. As Members were aware, the United States was supportive of the principle that parties to a dispute should be able to resolve procedural problems amongst themselves for the good of themselves, of the dispute and of the system. The United States had also had an opportunity to take a look at the procedural agreement and to discuss the issues with the parties concerned. The United States was generally supportive of the solution that the parties to the dispute had reached in the dispute under consideration and looked forward to the DSB taking an appropriate decision at the present meeting.

The *Chairperson* proposed that the DSB *take note* of the request in WT/DS265/24 – WT/DS266/24 – WT/DS283/5 and *agree* that it will adopt the Panel Reports, upon request, on or before 31 January 2005, unless the DSB decides by consensus not to do so or a party notifies the DSB of its decision to appeal.

#### AMENDMENTS TO THE WORKING PROCEDURES FOR APPELLATE REVIEW

*(Extract from WT/DSB/M/177)*

The Chairperson, speaking under “Other Business”, drew Member’s attention to a communication from the Appellate Body concerning amendments to the *Working Procedures for Appellate Review*. She said that that communication, which had been circulated on 7 October 2004 in document WT/AB/WP/W/9 was available in the meeting room at the present meeting. As indicated in that communication, having taken into account the comments made by delegations on the proposed amendments, set out in document WT/AB/WP/8, and having completed consultations with the Director-General and the Chairperson of the DSB, pursuant to Article 17.9 of the DSU, the Appellate Body had prepared the final version of these amendments. In that context, she thanked Members for the interest shown in this matter and for their detailed comments, which she had transmitted to the Appellate Body. It was her understanding that the Appellate Body had considered all of these comments and had taken them into account in preparing the final version of the amendments. As specified in that communication, these amendments would

enter into effect for appeals initiated after 1 January 2005. Appeals initiated before that date would be unaffected by the new rules. The Appellate Body would circulate a revised, consolidated version of the *Working Procedures* immediately after they had come into effect.<sup>1</sup>

The DSB *took note* of the statement.

UNITED STATES – CONTINUED DUMPING  
AND SUBSIDY OFFSET ACT OF 2000  
RECOURSE TO ARTICLE 22.7 OF THE DSU BY BRAZIL,  
THE EUROPEAN COMMUNITIES, INDIA, JAPAN,  
KOREA, CANADA AND MEXICO

*(Extract from WT/DSB/M/178)*

As provided in Article 22.7 of the DSU, and in response to the requests by Brazil, the European Communities, India, Japan, Korea, Canada and Mexico contained in documents WT/DS217/38; WT/DS217/39; WT/DS217/40; WT/DS217/41; WT/DS217/42; WT/DS234/31 and WT/DS234/32, the Chair proposed that the DSB *agree* to grant authorization to suspend the application to the United States of tariff concessions and other obligations, as provided in the Decisions by the Arbitrators contained in documents: WT/DS217/ARB/BR; WT/DS217/ARB/EEC; WT/DS217/ARB/IND; WT/DS217/ARB/JPN; WT/DS217/ARB/KOR; WT/DS234/ARB/CAN and WT/DS234/ARB/MEX.

[...]

[...] The DSB so *agreed*.

RECOURSE TO ARTICLE 22.7 OF THE DSU BY CHILE

*(Extract from WT/DSB/M/180)*

The DSB *took note* of the statements and, pursuant to the request by Chile under Article 22.7 of the DSU contained in document WT/DS217/43, *agreed* to grant authorization to suspend the application to the United States of tariff concessions or other obligations consistent with the Arbitrator's decision contained in document WT/DS217/ARB/CHL.

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<sup>1</sup> WT/AB/WP/5.

## COUNCIL FOR TRADE IN GOODS

### COMMITTEE ON SANITARY AND PHYTOSANITARY MEASURES

#### REVISION OF THE PROCEDURE TO MONITOR THE PROCESS OF INTERNATIONAL HARMONIZATION

*Decision of the Committee on Sanitary and Phytosanitary Measures  
on 27 October 2004  
(G/SPS/11/Rev.1)*

#### Introduction

1. Articles 3.5 and 12.4 of the SPS Agreement require the Committee to develop a procedure to monitor the process of international harmonization and the use of international standards, guidelines or recommendations. With the aim of encouraging Members to use international standards, guidelines and recommendations, the underlying purpose of this procedure is to identify where there is a major impact on trade resulting from the non-use of those international standards, guidelines or recommendations and to determine the reasons for the non-use of the standard, guideline or recommendation concerned. Moreover, it should also help to identify, for the benefit of the relevant international organizations, where a standard, guideline or recommendation was needed or was not appropriate for its purpose and use. This requires (a) identification of the international standards, guidelines or recommendations of concern or an identification of the cases where an international standard, guideline or recommendation was required; and (b) information from Members on their use or non-use of the identified standards, guidelines or recommendations, and the reasons therefore. In the light of Members' reasons for non-use, the SPS Committee might want to invite the relevant international standard-setting body to consider reviewing the existing standard, guideline or recommendation.

2. The development of a monitoring procedure was discussed at every formal meeting of the SPS Committee from 1995 to October 1997. Three submissions from Members suggested possible approaches: G/SPS/W/51 from the European Communities (March 1996), G/SPS/W/76 from the United States (October 1996) and G/SPS/W/81 from the United States (March 1997). During the discussion of these various submissions participants made it clear that they did not want a burdensome procedure, that duplication of the work undertaken by the relevant standard-setting bodies must be avoided, and that the monitoring procedure should focus on those standards, guidelines or recommendations that have a major impact on trade. On the basis of these concerns, and to avoid further delays, in July 1997

the Chairperson proposed a provisional procedure (G/SPS/W/82) and requested comments on this (reflected in G/SPS/W/82/Rev.1 and G/SPS/W/85).

3. At its meeting of 15-16 October 1997, the Committee agreed to implement the following monitoring procedure on a provisional basis. The proposal is drawn from the submissions by the Members mentioned above, as well as from the discussion in the Committee on these submissions. The Committee also agreed to review the operation of the provisional monitoring procedure 18 months after its implementation, with a view to deciding at that time whether to continue with the same procedure, amend it or develop another one.<sup>1</sup>

#### Monitoring Procedure

4. In the initial stages, the scope of the monitoring system will be limited to the standards, guidelines or recommendations developed by the international organizations specifically cited in the SPS Agreement.<sup>2</sup> The Committee may, at a subsequent stage and if the need arises, consider standards, guidelines or recommendations produced by other relevant international organizations.

5. The international standards, guidelines or recommendations proposed by a Member to be monitored (see paragraph 6), on the basis of the lists available to the Committee<sup>3</sup>, should be limited to those which have a major trade impact. The trade impact of an international standard, guideline or recommendation should be determined primarily on the basis of the extent to which Members use the standard (apply it to imports) and the frequency or severity of problems experienced in the trade of the goods covered by the standard.

6. Members should submit, at least ten days in advance of each regular meeting of the Committee, concrete examples of what they consider to be problems with a significant trade impact which they believe are related to the use or non-use of relevant international standards, guidelines or recommendations.<sup>4</sup> In their submissions, Members should describe the nature of each of these trade problems and note whether it is the result of:

- (a) the non-use of an appropriate existing international standard, guideline or recommendation; or

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<sup>1</sup> Through Decisions of the Committee in July 1999 (G/SPS/14), July 2001 (G/SPS/17) and July 2003 (G/SPS/25), the Committee has extended the provisional procedure until July 2006.

<sup>2</sup> Codex, OIE and IPPC.

<sup>3</sup> G/SPS/GEN/512 (OIE), G/SPS/GEN/513 (IPPC) and G/SPS/GEN/514 (Codex).

<sup>4</sup> Although no format has been adopted by the Committee, the format proposed in G/SPS/W/87 received considerable support from Members and has been widely used.

- (b) the non-existence or inappropriateness of an existing international standard, guideline or recommendation, i.e. that it is out-dated, technically flawed, etc.

7. The standards, guidelines or recommendations identified by Members as above will be identified on the proposed agenda for the Committee meeting. The Secretariat should circulate the submissions it has received to all Members, as much in advance of the Committee's meeting as possible, in order to provide Members with the opportunity to prepare comments on their use or non-use of the standards, guidelines or recommendations and the reasons therefore. Should any Member so request, the Secretariat will not include in its annual report on this monitoring procedure (see paragraph 10) any specific issue raised in these submissions until Members have had the opportunity to provide further comments and to discuss those comments in one additional Committee meeting subsequent to the meeting in which the issue is first raised.

8. Based on the information provided by Members, and in the light of discussion in the Committee, a list of standards, guidelines or recommendations which have a major impact on international trade shall be established by the Committee. This list shall be reviewed at each meeting of the Committee. Members should provide information, for each of the standards, guidelines or recommendations identified, of any relevant trade impact, and on their use or non-use of the standard, guideline or recommendation and the reasons therefore.<sup>5</sup> The Committee may invite the relevant international standard-setting body to consider reviewing the existing standard, guideline or recommendation.

9. The Committee may invite the relevant standard-setting body to provide information, either in writing or through presentations at the relevant regular meeting of the Committee, on any standard, guideline or recommendation under consideration, including with regard to any changes or on-going revisions.

10. The Secretariat should prepare an annual report to the Committee on the list of standards, guidelines or recommendations established under paragraph 8, the major trade impacts identified by Members and their comments regarding the use or non use of the identified international standards, guidelines or recommendations and of those cases identified where there was no international standard, guideline or recommendation, and any conclusions drawn by the Committee. The Committee will transmit this report to the international organizations responsible for developing the relevant sanitary and phytosanitary standards, guidelines or recommendations.

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<sup>5</sup> See G/SPS/W/100.

It is expected that Members will take this information into account, through their participation in these international organizations, in establishing those organizations' work priorities.

#### Further Action

11. Following the review noted in paragraph 3 of the operation of this provisional monitoring procedure, the Committee may want at a later stage to consider the need for a more focused monitoring procedure. In particular, the Committee may wish to consider developing standard formats for the supply of information under paragraphs 6-8<sup>6</sup>, and using those standards, guidelines or recommendations which have been identified as having a major impact on international trade and are of widespread concern to Members (paragraph 8 refers) as the basis for a pilot project to obtain additional information as to how Members are dealing with the standards, guidelines or recommendations of concern.

### DECISION ON THE IMPLEMENTATION OF ARTICLE 4 OF THE AGREEMENT ON THE APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES

Revision<sup>1</sup>

(G/SPS/19/Rev. 2)

The Committee on Sanitary and Phytosanitary Measures,

*Having regard* to paragraph 1 of Article 12 of the Agreement on the Application of Sanitary and Phytosanitary Measures;

*In response* to the request from the General Council that the Committee examine the concerns of developing country Members regarding the equivalence of sanitary or phytosanitary measures and develop concrete options as to how to deal with them;

*Reaffirming* the right of Members to establish sanitary and phytosanitary measures necessary to ensure the protection of human, animal and plant life or health and the

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<sup>6</sup> See footnote 4.

<sup>1</sup> This revision provides updated information with respect to actions taken pursuant to the Decision as adopted on 26 October 2001. This information is provided in footnotes to the relevant provisions in the Decision.

protection of their territory from other damage caused by the entry, establishment or spread of pests, in accordance with the Agreement on the Application of Sanitary and Phytosanitary Measures;

*Desiring* to make operational the provisions of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures;

*Noting* that equivalence of sanitary or phytosanitary measures does not require duplication or sameness of measures, but the acceptance of alternative measures that meet an importing Member's appropriate level of sanitary or phytosanitary protection;

*Recognizing* that equivalence can be applied between all Members, irrespective of their level of development;

*Noting* that Members have faced difficulties applying the provisions of Article 4 recognizing the equivalence of sanitary and phytosanitary measures;

*Taking into account* the specific concerns raised by developing country Members, and particularly the least developed among them, regarding their difficulties in having the equivalence of their sanitary or phytosanitary measures accepted by importing Members;

*Recognizing* the importance of minimizing possible negative effects of sanitary or phytosanitary measures on trade and of improving market access opportunities, particularly for products of interest to developing country Members;

*Recognizing* that transparency, exchange of information and confidence-building by both the importing and exporting Member are essential to achieving an agreement on equivalence;

*Recognizing* that there may be other less resource-intensive and time-consuming means for Members to enhance trade opportunities;

*Decides as follows:*

1. Equivalence can be accepted for a specific measure or measures related to a certain product or categories of products, or on a systems-wide basis. Members shall, when so requested, seek to accept the equivalence of a measure related to a certain product or category of products. An evaluation of the product-related infrastructure and programmes within which the measure is being applied may also

be necessary.<sup>2</sup> Members may further, where necessary and appropriate, seek more comprehensive and broad-ranging agreements on equivalence. The acceptance of the equivalence of a measure related to a single product may not require the development of a systems-wide equivalence agreement.

2. In the context of facilitating the implementation of Article 4, on request of the exporting Member, the importing Member should explain the objective and rationale of the sanitary or phytosanitary measure and identify clearly the risks that the relevant measure is intended to address. The importing Member should indicate the appropriate level of protection which its sanitary or phytosanitary measure is designed to achieve.<sup>3</sup> The explanation should be accompanied by a copy of the risk assessment on which the sanitary or phytosanitary measure is based or a technical justification based on a relevant international standard, guideline or recommendation. The importing Member should also provide any additional information which may assist the exporting Member to provide an objective demonstration of the equivalence of its own measure.

3. An importing Member shall respond in a timely manner to any request from an exporting Member for consideration of the equivalence of its measures, normally within a six-month period of time.

4. The exporting Member shall provide appropriate science-based and technical information to support its objective demonstration that its measure achieves the appropriate level of protection identified by the importing Member. This information may include, *inter alia*, reference to relevant international standards, or to relevant risk assessments undertaken by the importing Member or by another Member. In addition, the exporting Member shall provide reasonable access, upon request, to the importing Member for inspection, testing and other relevant procedures for the recognition of equivalence.

5. The importing Member should accelerate its procedure for determining equivalence in respect of those products which it has historically imported from the exporting Member.

*The Committee agrees that historic trade provides an opportunity for an importing Member to become familiar with*

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<sup>2</sup> Product-related infrastructure and programmes is in reference to testing, inspection and other relevant requirements specific to product safety.

<sup>3</sup> In doing so, Members should take into account the *Guidelines to Further the Practical Implementation of Article 5.5* adopted by the Committee on Sanitary and Phytosanitary Measures at its meeting of 21-22 June 2000 (document G/SPS/15, dated 18 July 2000).



*the infrastructure and measures of an exporting Member, and to develop confidence in the regulatory procedures of that Member. This information and experience, if directly relevant to the product and measure under consideration, should be taken into account in the recognition of equivalence of measures proposed by the exporting Member. In particular, information already available to the importing Member should not be sought again with respect to procedures to determine the equivalence of measures proposed by the exporting Member.*

*An importing Member should consider the relevant information and experience that the sanitary and phytosanitary services have on the measure(s) for which recognition of equivalence is requested as applied to the product for which that request relates.*

*This information and experience refers to:*

- (i) The historic knowledge and confidence that the competent authority of the importing Member has of the competent authority of the exporting Member.*
- (ii) The existence of an evaluation and recognition of the products-related system of inspection and certification of the exporting Member by the importing Member.*
- (iii) The available scientific information supporting the request for the recognition of equivalence.*

*The more such relevant information and experience is available to the importing Member, the more rapid should be the procedure for recognition of equivalence by that Member.*

*A Member should consider the existence of information between competent authorities related to sanitary and phytosanitary measures of other products (different from the one for which equivalence is requested) when this information is useful.*

*A Member should consider the risk of the product to which the sanitary and phytosanitary measures are applied, in order to reduce requirements and accelerate the procedure in cases of low risk.*

*The importing Member should not seek again information already available with respect to the determination of the equivalence of sanitary and phytosanitary measures proposed by the exporting Member, unless this information needs to be updated.*

*For accelerated procedures, the importing Member should estimate the steps that the demonstration of equivalence will require, and inform the exporting Member, when it is possible, of an estimated time schedule for the whole process. These steps should be considered between the exporting and importing Members, on an issue-by-issue basis, in order to give predictability to the process of determination of equivalence.*

*When more than one agency is involved, the relevant requirements of all of these agencies must be taken into account and included in the steps and timetable identified above.*

*The Committee notes that the importance of this knowledge based on historic trade has been fully recognized in the draft FAO/WHO Joint Codex Alimentarius Commission Guidelines on the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems.<sup>4</sup> The Committee further notes that the importance of such prior experience is also recognized in the draft paper of the World Organization for Animal Health (OIE) on the Judgement of Equivalence of Sanitary Measures relating to International Trade in Animals and Animal Products.<sup>5</sup> The Committee encourages that further elaboration of specific guidance by these organizations should ensure that such recognition is maintained.*

*The Committee draws the attention of the Interim Commission on Phytosanitary Measures (ICPM) to the Decision on Equivalence (G/SPS/19), and to the above clarification with respect to Paragraph 5 of the Decision. The Committee requests that the ICPM take into consideration the Decision and this clarification in its future work on judgement of equivalence with regard to*

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<sup>4</sup> The Codex Alimentarius Commission adopted the Guidelines for the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems at its 26<sup>th</sup> Session held in Rome, Italy, from 30 June to 7 July 2003.

<sup>5</sup> The International Committee of the OIE adopted the Guidelines for Reaching a Judgement on Equivalence of Sanitary Measures at its 71<sup>st</sup> General Session held in Paris, France, from 18 to 23 May 2003.

*sanitary measures to address plant pests and diseases.*<sup>6</sup>

6. The consideration by an importing Member of a request by an exporting Member for recognition of the equivalence of its measures with regard to a specific product shall not be in itself a reason to disrupt or suspend on-going imports from that Member of the product in question.

*The Committee agrees that since a request for recognition of equivalence does not in itself alter the way in which trade is occurring, there is no justification for disruption or suspension of trade. If an importing Member were to disrupt or suspend trade solely because it had received a request for an equivalence determination, it would be in apparent violation of its obligations under the SPS Agreement (e.g. under Article 2).*

*At the same time, a request for recognition of equivalence does not impede the right of an importing Member to take any measure it may decide is necessary to achieve its appropriate level of protection, including in response to an emergency situation. However, if the decision to impose some additional control measure were to coincide with consideration by the same Member of a request for recognition of equivalence, this might lead an exporting Member whose trade is affected to suspect that the two events were linked. To avoid any misinterpretation of this kind, the Committee recommends that the importing Member should give an immediate and comprehensive explanation of the reasons for its action in restricting trade to any other Members affected, and that it should also follow the normal or emergency notification procedures established under the SPS Agreement.*

*The Committee notes that this issue has been addressed also in the draft Codex Guidelines on the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems<sup>4</sup>, and should encourage the maintenance of such a provision in the further elaboration of specific guidance by the Codex. The Committee draws the attention of the World Organization for Animal Health (OIE) and the Interim Commission on Phytosanitary Measures (ICPM) to the above clarification*

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<sup>6</sup> The Interim Commission on Phytosanitary Measures (ICPM) noted the request of the SPS Committee at its 5<sup>th</sup> Session held in Rome, Italy, from 7 to 11 April 2003. The ICPM agreed to include Equivalence and Efficacy of Measures, considered a pre-requisite to an ISPM on Equivalence, as priorities in its work programme. Work on these two issues is currently underway.

*with respect to Paragraph 6 of the Decision on Equivalence, and requests that the OIE and the ICPM take this clarification into consideration in their future work on equivalence with regard to sanitary or phytosanitary measures.*<sup>5,6</sup>

7. When considering a request for recognition of equivalence, the importing Member should analyze the science-based and technical information provided by the exporting Member on its sanitary or phytosanitary measures with a view to determining whether these measures achieve the level of protection provided by its own relevant sanitary or phytosanitary measures.

*The Committee notes that conscientious implementation of the Guidelines to Further the Practical Implementation of Article 5.5 (G/SPS/15) will assist Members in determining equivalence.*

*The Committee further notes that the relationship between the level of protection provided by the importing Member's own measures and what it requires from imported products has been explicitly addressed in the draft Codex Guidelines on the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems.<sup>4,7</sup> The Committee notes that the OIE Guidelines for Reaching a Judgement of Equivalence of Sanitary Measures also recognizes the importance of facilitating comparison of the exporting and importing Members' measures. The Committee agrees that Members should consider the Codex approach of establishing an objective basis for comparison or the similar OIE approach when determining the equivalence of sanitary measures.*

*The Committee encourages the FAO/WHO Codex Alimentarius Commission and the World Organization for Animal Health to ensure that the recognition of the importance of facilitating comparison of the exporting and importing Members' measures is maintained in any elaboration of guidance by these organizations.*

*The Committee requests that the Interim Commission on Phytosanitary Measures (ICPM) take into consideration the Decision on Equivalence and this clarification in its future work*

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<sup>7</sup> The Committee recognizes that the Codex Guidelines for the Development of Equivalence Agreements Regarding Food Import and Export Inspection and Certification Systems are also relevant in this regard.

*on judgement of equivalence with regard to measures to address plant pests and diseases.*

*The Committee agrees that where the objective basis for comparison, or a similar approach established by a relevant international organization, demonstrates that the level of protection achieved by the importing Member's sanitary or phytosanitary measure differs from its appropriate level of protection, the importing Member should resolve this difference independently of the procedure for determination of equivalence.*

*If the exporting Member demonstrates by way of an objective basis of comparison or similar approach established by a relevant international organization that its measure has the same effect in achieving the objective as the importing Member's measure, the importing Member should recognize both measures as equivalent.*

8. In accordance with Article 9 of the Agreement on the Application of Sanitary and Phytosanitary Measures, a Member shall give full consideration to requests by another Member, especially a developing country Member, for appropriate technical assistance to facilitate the implementation of Article 4. This assistance may, *inter alia*, be to help an exporting Member identify and implement measures which can be recognized as equivalent, or to otherwise enhance market access opportunities. Such assistance may also be with regard to the development and provision of the appropriate science-based and technical information referred to in paragraph 4, above.

9. Members should actively participate in the ongoing work in the Codex Alimentarius Commission on the issue of equivalence, and in any work related to equivalence undertaken by the World Organization for Animal Health and in the framework of the International Plant Protection Convention. Bearing in mind the difficulties faced by developing country Members to participate in the work of these bodies, Members should consider providing assistance to facilitate their participation.

10. The Committee on Sanitary and Phytosanitary Measures recognizes the urgency for the development of guidance on the judgement of equivalence and shall formally encourage the Codex Alimentarius Commission to complete its work with regard to equivalence as expeditiously as possible.<sup>4</sup> The Committee on Sanitary and Phytosanitary Measures shall also formally encourage the World Organization for Animal Health and the Interim Commission on Phytosanitary Measures to elaborate

guidelines, as appropriate, on equivalence of sanitary and phytosanitary measures and equivalence agreements in the animal health and plant protection areas.<sup>5,6</sup> The Codex Alimentarius Commission, the World Organization for Animal Health and the Interim Commission on Phytosanitary Measures shall be invited to keep the Committee on Sanitary and Phytosanitary Measures regularly informed regarding their activities relating to equivalence.

11. The Committee on Sanitary and Phytosanitary Measures shall revise its recommended notification procedures to provide for the notification of the conclusion of agreements between Members which recognize the equivalence of sanitary and phytosanitary measures.<sup>8</sup> Furthermore, the procedures shall reinforce the existing obligation in paragraph 3(d) of Annex B of the Agreement on the Application of Sanitary and Phytosanitary Measures for national Enquiry Points to provide information, upon request, on the participation in any bilateral or multilateral equivalence agreements of the Member concerned.

12. Members should regularly provide to the Committee on Sanitary and Phytosanitary Measures information on their experience regarding the implementation of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures. In particular, Members are encouraged to inform the Committee on Sanitary and Phytosanitary Measures of the successful conclusion of any bilateral equivalence agreement or arrangement. The Committee on Sanitary and Phytosanitary Measures shall consider establishing a standing agenda item for its regular meetings for this purpose.

13. The Committee on Sanitary and Phytosanitary Measures shall develop a specific programme to further the implementation of Article 4, with particular consideration of the problems encountered by developing country Members.<sup>9</sup> In this respect, the Committee on Sanitary and Phytosanitary Measures shall review this decision in light of the relevant work undertaken by the Codex Alimentarius Commission, the World Organization for Animal Health and the Interim Commission on Phytosanitary Measures, as well as the experience of Members.

14. The Committee on Sanitary and Phytosanitary Measures requests that the General Council take note of this decision.

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<sup>8</sup> G/SPS/7/Rev.2 and Rev.2/Add.1.

<sup>9</sup> In the light of this paragraph and the decision at the Fourth Ministerial Conference regarding implementation-related issues and concerns (WT/MIN(01)17, paragraph 3.3), the SPS Committee adopted a programme for further work on equivalence at its meeting of 19-21 March 2002 (G/SPS/20). The Committee completed this work programme in March 2004 but agreed that equivalence would be a standing agenda item for its regular meetings.

PROCESS FOR THE REVIEW OF THE OPERATION AND  
IMPLEMENTATION OF THE AGREEMENT

*Decision of the Committee of Sanitary and Phytosanitary Measures  
on 23 June 2004  
(G/SPS/32)*

At the Fourth Session of the Ministerial Conference, Ministers instructed the Committee to review the operation and implementation of the SPS Agreement at least once every four years, pursuant to the provisions of Article 12.7 of the Agreement.<sup>1</sup> The report of the next such review should be prepared for the Sixth Session of the Ministerial Conference. At its meeting of 22-23 June 2004, the Committee adopted the following process for the Review.

1. The Review will initially be conducted through open-ended informal meetings of the Committee. The informal meetings will normally be scheduled back-to-back with the regular meetings of the Committee. If necessary, further informal and special meetings of the Committee may be scheduled.

2. Members will be invited to identify issues for discussion as part of the Review. On the basis of the issues identified, the Chairperson will propose which issues will be considered at each informal meeting of the Committee. For each meeting, Members will be invited to submit papers on the issues proposed for consideration at least 15 days in advance of the meeting.

3. An item relating to the Review will be included in the agenda of each regular meeting of the Committee during the Review period, at which the Chairperson will present orally a brief factual report on the informal Review process. Upon completion of the informal process, the Chairperson will submit a summary report to the Committee identifying issues discussed and conclusions reached. On the basis of this report, the SPS Committee will consider what further action may be appropriate.

4. The Review process will be conducted on the basis of the following calendar:

*30 July 2004*

- Submission by Members to the Secretariat of issues they wish to be considered during the Review.

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<sup>1</sup> Implementation-Related Issues and Concerns, Decision of 14 November 2001, WT/MIN(01)/17, paragraph 3.4.

- Submission by Members of any written comments on the background paper prepared by the Secretariat and/or requests for background information on additional specific issues.

*12 October 2004*

- Submission by Members of papers on the issues proposed for consideration.
- Identification by Members of any further issues for consideration during the Review.

*14 October 2004*

- Proposal by Chairperson of the order in which issues will be considered, in light of the proposals and submissions received.
- Circulation of updated background document.

*Informal meeting of 25 October 2004*

- Initial discussions on issues identified.

*Before 19 December 2004*

- Submission by Members, in writing, of any further papers on issues proposed for consideration.

*Informal meeting of 7-8 March 2005*

- Further discussion on issues identified.
- Identification of issues for further work by the Committee.

*Mid-April 2005*

- Circulation of first draft of report of the Review.

*10 June 2005*

- Submission of written comments by Members on the draft report of the Review.



*Informal meeting of 27 June 2005*

- Consideration and, if possible, finalization of the report on the Review.

*Formal meeting of 29-30 June 2005*

- Adoption of the report on the Review.

PROCEDURE TO ENHANCE TRANSPARENCY OF SPECIAL AND  
DIFFERENTIAL TREATMENT IN FAVOUR OF DEVELOPING COUNTRY  
MEMBERS

*Decision by the Committee on Sanitary and Phytosanitary Measures  
on 27 October 2004  
(G/SPS/33)*

1. At its meeting of 2-3 April 2003, the Committee on Sanitary and Phytosanitary Measures (“the Committee”) adopted, in principle, the Canadian proposal to enhance transparency of special and differential treatment within the Agreement on the Application of Sanitary and Phytosanitary Measures (the “SPS Agreement”) (G/SPS/W/127), as one step for immediate implementation by Members, subject to further elaboration of the procedures to be followed. This proposal builds upon a proposal by Egypt for enhanced transparency through modification of the notification formats (G/SPS/GEN/358).
2. The Committee hereby agrees on the procedures to be followed.
3. The proposed procedure essentially follows the relevant current practices and recommendations regarding the submission and handling of notifications as described in G/SPS/7/Rev.2, with new actions included as Steps 5, 6 and 7.
4. Following one year of the adoption of this procedure, the Committee shall review the proposed notification process to evaluate its implementation, and determine whether changes are required and/or its continuance is warranted.
5. This procedure is without prejudice to the rights and obligations of Members under Article 10.1 of the SPS Agreement. In adopting the Canadian proposal, Members reaffirmed that in the preparation and application of sanitary and phytosanitary (SPS) measures, Members shall take account of the special needs

of developing country Members and in particular of the least-developed country Members. The Committee recognized that this would not fully resolve the issue of special and differential treatment, but that this was one step in addressing the problem of implementation of the special and differential treatment provisions of the Agreement. The Committee also agreed to consider other proposals and possible actions.

Step 1. A Member preparing a new or a revision to an existing SPS regulation shall submit a notification to the WTO Secretariat, following the guidance provided in G/SPS/7/Rev.2. The notification should be made when a draft with the complete text of the proposed regulation is available, and when amendments can still be introduced and comments taken into account. The notifying Member should provide in Box 3 of the notification format a clear description of the products covered, including tariff item numbers where possible. The notifying Member should also complete Box 4, identifying the geographical regions or countries likely to be affected by the notified regulation to the extent relevant or practicable. The notifying Member should identify in Box 12 the final date for receiving comments and the agency responsible for handling comments. The Member shall normally allow a period of at least 60 days for comment, except for proposed measures which facilitate trade. Any Member which is able to provide a time-limit beyond 60 days is encouraged to do so.

Step 2. The Secretariat will circulate the notification with the minimal delay possible. The Secretariat will provide paper copies of the notification to the permanent missions of all WTO Members, and mail paper copies to one other designated address if so requested by a Member. The notification will be posted on both the “Members’ Only” and the public web sites of the WTO, and will be electronically sent within one week of circulation to all addresses on the SPS self-subscribing electronic mailing list (in the language received by the Secretariat). The notification will be included in the monthly summary of SPS notifications circulated by the Secretariat. If a developing country Member has difficulties in receiving and distributing notifications after receipt, the Member should inform the Secretariat thereof and propose how the national enquiry point could be improved.

Step 3. If a Member with an interest in exporting the products affected by the notification identifies a concern with the content of the notification, the exporting Member should contact the notifying Member, within the comment period, to seek additional information with respect to the notified measure and to identify their concerns. If the exporting Member requests an extension of the comment period, the notifying Member should grant requests for extension of the comment period wherever practicable, in particular with regard to notifications relating to products of particular interest to developing country Members, where there have been delays in receiving and translating the relevant documents or where there is a need for

further clarification of the measure notified. A 30-day extension should normally be provided.

Step 4. The notifying Member should acknowledge receipt of the request for an extension of the comment period, or for additional information, and explain within a reasonable period of time, and at the earliest possible date before the adoption of the measure, to any Member from which it has received comments, how it will take these comments into account and, where appropriate, provide additional relevant information on the proposed sanitary or phytosanitary regulations.

Step 5. If an exporting Member identifies significant difficulties with the proposed measure, that Member may, in its comments, request an opportunity to discuss and resolve the potential difficulty with the notifying Member. In response to such a written request, the notifying Member will contact the appropriate officials of the exporting Member and enter into bilateral discussions to attempt to resolve the issue of concern. In the case of such a request from an exporting developing country Member, the notifying Member would in any discussions examine whether and how the identified problem could best be addressed to take into account the special needs of the interested exporting developing country Member. Resolution of the concern identified could include one of the following, or a combination thereof: (1) a change in the measure to be applied on a MFN basis; (2) the provision of technical assistance to the exporting Member; or (3) the provision of special and differential treatment. Should special and differential treatment be provided, it would apply equally to all developing country Members.

Step 6. If, following the entry into force of a new regulation (including an emergency measure), an exporting Member identifies significant difficulties which its exports face in complying with the new regulation, it may request an opportunity to discuss its difficulties with the importing Member to attempt to resolve the issue of concern, especially where no time, or an insufficient period of time, has been provided for comments. In the case of such a request from an exporting developing country Member, the importing Member would, in any discussions, examine whether and how the identified problem could best be addressed to take into account the special needs of the interested exporting developing country Member, so as to enable it to satisfy the requirements of the measure. Resolution of the concern identified could include one of the following, or a combination thereof: (1) a change in the measure to be applied on a MFN basis; (2) the provision of technical assistance to the exporting Member; or (3) the provision of special and differential treatment. Should special and differential treatment be provided, it would apply equally to all developing country Members.

Step 7. When a decision is taken on whether and how special and differential treatment may be provided for a final measure in response to specific

requests, the notifying Member should promptly submit to the WTO Secretariat an Addendum to its original notification. The Addendum shall indicate: (1) if special and differential treatment was requested; (2) the name(s) of Member(s) that requested special and differential treatment; (3) if special and differential treatment was provided, the form of such treatment; and (4) if not provided, the Addendum shall indicate why special and differential treatment was not provided and whether technical assistance or any other solution was found to address the identified concern. A format for the Addendum is contained in Annex 1.

Step 8. The Addendum to the notification shall be circulated by the WTO Secretariat in the same manner as the notification.

#### ANNEX 1

**WORLD TRADE  
ORGANIZATION**

**G/SPS/N/COUNTRY/#/Add.#**  
date of distribution  
(##-####)

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**Committee on Sanitary and  
Phytosanitary Measures**

Original:

#### NOTIFICATION

##### Addendum

The following communication, dated DD/MM/YY has been received from [Member].

\_\_\_\_\_

Title outlining what the SPS measure or product is

[Text describing any modification to the notified measure.]

##### *Special and Differential Treatment*

Text (1) indicating if special and differential treatment was requested;  
(2) providing the name(s) of the Member(s) that requested special and differential

treatment; (3) if special and differential treatment was provided, describing how such treatment was provided, including what form it took; and (4) if special and differential treatment was not provided, indicating why it was not provided and whether technical assistance or any other solution was found to address the identified concern.

Where the notified document can be obtained from – include contact name, agency, full address, telephone, facsimile, and e-mail as appropriate.

## COMMITTEE ON SUBSIDIES AND COUNTERVAILING MEASURES

### EXTENSION UNDER SCM ARTICLE 27.4 OF THE TRANSITION PERIOD UNDER ARTICLE 27.2(b) FOR THE ELIMINATION OF EXPORT SUBSIDIES

The following table lists all decisions adopted in 2004 relating to extensions under the SCM Article 27.4 of the transition period under the SCM Article 27.2(b) for the elimination of export subsidies, pursuant to the procedures in G/SCM/39.

MEMBER	PROGRAMME	DECISION OF	DOCUMENT
Antigua and Barbuda	Fiscal Incentives Act Cap 172	4 November 2004	G/SCM/50/Add. 2
Antigua and Barbuda	Free Trade and Processing Zone Act No. 12 of 1994	4 November 2004	G/SCM/51/Add. 2
Barbados	Fiscal Incentive Programme	4 November 2004	G/SCM/52/Add. 2
Barbados	Export Allowance	4 November 2004	G/SCM/53/Add. 2
Barbados	Research and Development Allowance	4 November 2004	G/SCM/54/Add. 2
Barbados	International Business Incentives	4 November 2004	G/SCM/55/Add. 2
Barbados	Societies with Restricted Liability	4 November 2004	G/SCM/56/Add. 2
Belize	Fiscal Incentives Act	4 November 2004	G/SCM/57/Add. 2
Belize	Export Processing Zone Act	4 November 2004	G/SCM/58/Add. 2
Belize	Commercial Free Zone Act	4 November 2004	G/SCM/59/Add. 2
Belize	Conditional Duty Exemptions Facility under the Treaty of Chaguaramas	4 November 2004	G/SCM/60/Add. 2
Costa Rica	Free Zone Regime	4 November 2004	G/SCM/61/Add. 2

MEMBER	PROGRAMME	DECISION OF	DOCUMENT
Costa Rica	Inward Processing Regime	4 November 2004	G/SCM/62/Add. 2
Dominica	Fiscal Incentives Programme	4 November 2004	G/SCM/63/Add. 2
Dominican Republic	Law No. 8-90 to "Promote the establishment of New Free Zones and Expand Existing Ones	4 November 2004	G/SCM/64/Add. 2
El Salvador	Export Processing Zones and Marketing Act, as amended	4 November 2004	G/SCM/65/Add. 2
Fiji	Short-term Export Profit Deduction	4 November 2004	G/SCM/66/Add. 2
Fiji	Export Processing Factories/ Export Processing Zones Scheme	4 November 2004	G/SCM/67/Add. 2
Fiji	The Income Tax Act (Film Making and Audio Visual Incentive Amendment Decree 2000)	4 November 2004	G/SCM/68/Add. 2
Grenada	Fiscal Incentives Act No. 41 of 1974	4 November 2004	G/SCM/69/Add. 2
Grenada	Statutory Rules and Orders No. 37 of 1999	4 November 2004	G/SCM/70/Add. 2
Grenada	Qualified Enterprises Act No. 18 of 1978	4 November 2004	G/SCM/71/Add. 2
Guatemala	Exemption from Company Tax, Customs Duties and Other Import Taxes for Companies under Special Customs Regimes	4 November 2004	G/SCM/72/Add. 2
Guatemala	Exemption from Company Tax, Customs Duties and Other Import Taxes for the Production Process Relating to Activities of Managers and Users of Free Zones	4 November 2004	G/SCM/73/Add. 2
Guatemala	Exemption from Company Tax, Customs Duties and Other Import Taxes for the Production Process of Commercial and Industrial Enterprises Operating in the Industrial and Free Trade Zone	4 November 2004	G/SCM/74/Add. 2
Jamaica	Export Industry Encouragement Act	4 November 2004	G/SCM/75/Add. 2

MEMBER	PROGRAMME	DECISION OF	DOCUMENT
Jamaica	Jamaica Export Free Zone Act	4 November 2004	G/SCM/76/Add. 2
Jamaica	Foreign Sales Corporation Act	4 November 2004	G/SCM/77/Add. 2
Jamaica	Industrial Incentives (Factory Construction) Act	4 November 2004	G/SCM/78/Add. 2
Jordan	Partial or Total Exemption from Income Tax of Profits Generated from Exports under Law No. 57 of 1985, as amended	4 November 2004	G/SCM/79/Add. 2
Mauritius	Export Enterprise Scheme	4 November 2004	G/SCM/80/Add. 2
Mauritius	Pioneer Status Enterprise Scheme	4 November 2004	G/SCM/81/Add. 2
Mauritius	Export Promotion	4 November 2004	G/SCM/82/Add. 2
Mauritius	Freeport Scheme	4 November 2004	G/SCM/83/Add. 2
Panama	Official Industry Register	4 November 2004	G/SCM/84/Add. 2
Panama	Export Processing Zones	4 November 2004	G/SCM/85/Add. 2
Papua New Guinea	Section 45 of the Income Tax	4 November 2004	G/SCM/86/Add. 2
St. Lucia	Fiscal Incentives Act, No. 15 of 1974	4 November 2004	G/SCM/87/Add. 2
St. Lucia	Free Zone Act, No. 10 of 1999	4 November 2004	G/SCM/88/Add. 2
St. Lucia	Micro and Small Scale Business Enterprises Act, No. 19 of 1998	4 November 2004	G/SCM/89/Add. 2
St. Kitts And Nevis	Fiscal Incentives Act No. 17 of 1974	4 November 2004	G/SCM/90/Add. 2
St. Vincent And The Grenadines	Fiscal Incentives Act No. 5 of 1982, as amended	4 November 2004	G/SCM/91/Add. 2
Uruguay	Automotive Industry Export Promotion Regime	4 November 2004	G/SCM/92/Add. 2

## COMMITTEE ON BUDGET, FINANCE AND ADMINISTRATION

*Abstract of the Report adopted by the General Council on 7 December 2004  
(WT/BFA/75)*

The Director General is authorized to make budgetary expenditures of the World Trade Organization for 2005 (CHF 164,131,000), and for the Appellate Body and its Secretariat for 2005 (CHF 4,572,400) amounting to a total of CHF 168,703,400.

This expenditure is to be financed by contributions amounting to CHF 167,400,000 and miscellaneous income estimated at CHF 1,303,400.

The contributions of the Members shall be assessed in accordance with the attached scale of contributions. Contributions from Members in respect of the 2005 budget are considered as due and payable in full as at 1 January 2005.

PROPOSED REVISED SCALE OF CONTRIBUTIONS FOR 2005  
*(Minimum contribution of 0.015 %)*

MEMBERS	%	CHF
Albania	0.015	25,110
Angola	0.077	128,898
Antigua and Barbuda	0.015	25,110
Argentina	0.409	684,666
Armenia	0.015	25,110
Australia	1.126	1,884,924
Austria	1.377	2,305,098
Bahrain	0.075	125,550
Bangladesh	0.106	177,444
Barbados	0.019	31,806
Belgium	2.648	4,432,752
Belize	0.015	25,110
Benin	0.015	25,110
Bolivia	0.024	40,176
Botswana	0.035	58,590
Brazil	0.913	1,528,362
Brunei Darussalam	0.039	65,286
Bulgaria	0.101	169,074
Burkina Faso	0.015	25,110



MEMBERS	%	CHF
Burundi	0.015	25,110
Cambodia	0.027	45,198
Cameroon	0.034	56,916
Canada	3.921	6,563,754
Central African Republic	0.015	25,110
Chad	0.015	25,110
Chile	0.300	502,200
China, People's Republic of	3.599	6,024,726
Colombia	0.207	346,518
Congo	0.025	41,850
Costa Rica	0.102	170,748
Côte d'Ivoire	0.062	103,788
Croatia	0.139	232,686
Cuba	0.065	108,810
Cyprus	0.063	105,462
Czech Republic	0.536	897,264
Democratic Republic of the Congo	0.015	25,110
Denmark	0.966	1,617,084
Djibouti	0.015	25,110
Dominica	0.015	25,110
Dominican Republic	0.126	210,924
Ecuador	0.081	135,594
Egypt	0.250	418,500
El Salvador	0.061	102,114
Estonia	0.067	112,158
European Communities	0.000	0
Fiji	0.015	25,110
Finland	0.622	1,041,228
Former Yugoslav Republic of Macedonia	0.024	40,176
France	5.152	8,624,448
Gabon	0.034	56,916
Gambia	0.015	25,110
Georgia	0.015	25,110
Germany	8.872	14,851,728
Ghana	0.037	61,938
Greece	0.438	733,212
Grenada	0.015	25,110
Guatemala	0.065	108,810
Guinea	0.015	25,110

MEMBERS	%	CHF
Guinea-Bissau	0.015	25,110
Guyana	0.015	25,110
Haiti	0.015	25,110
Honduras	0.039	65,286
Hong Kong, China	3.122	5,226,228
Hungary	0.501	838,674
Iceland	0.044	73,656
India	0.922	1,543,428
Indonesia	0.773	1,294,002
Ireland	1.246	2,085,804
Israel	0.563	942,462
Italy	4.087	6,841,638
Jamaica	0.054	90,396
Japan	6.125	10,253,250
Jordan	0.064	107,136
Kenya	0.044	73,656
Korea, Republic of	2.387	3,995,838
Kuwait	0.193	323,082
Kyrgyz Republic	0.015	25,110
Latvia	0.051	85,374
Lesotho	0.015	25,110
Liechtenstein	0.025	41,850
Lithuania	0.084	140,616
Luxembourg	0.355	594,270
Macao, China	0.065	108,810
Madagascar	0.015	25,110
Malawi	0.015	25,110
Malaysia	1.277	2,137,698
Maldives	0.015	25,110
Mali	0.015	25,110
Malta	0.047	78,678
Mauritania	0.015	25,110
Mauritius	0.038	63,612
Mexico	2.317	3,878,658
Moldova	0.015	25,110
Mongolia	0.015	25,110
Morocco	0.157	262,818
Mozambique	0.015	25,110

MEMBERS	%	CHF
Myanmar, Union of	0.032	53,568
Namibia	0.022	36,828
Nepal	0.019	31,806
Netherlands, Kingdom of the	3.388	5,671,512
New Zealand	0.244	408,456
Nicaragua	0.019	31,806
Niger	0.015	25,110
Nigeria	0.187	313,038
Norway	0.844	1,412,856
Oman	0.107	179,118
Pakistan	0.153	256,122
Panama	0.110	184,140
Papua New Guinea	0.029	48,546
Paraguay	0.044	73,656
Peru	0.125	209,250
Philippines	0.532	890,568
Poland	0.725	1,213,650
Portugal	0.558	934,092
Qatar	0.091	152,334
Romania	0.188	314,712
Rwanda	0.015	25,110
Saint Lucia	0.015	25,110
Senegal	0.021	35,154
Sierra Leone	0.015	25,110
Singapore	1.995	3,339,630
Slovak Republic	0.184	308,016
Slovenia	0.160	267,840
Solomon Islands	0.015	25,110
South Africa	0.469	785,106
Spain	2.460	4,118,040
Sri Lanka	0.091	152,334
St. Kitts and Nevis	0.015	25,110
St. Vincent and the Grenadines	0.015	25,110
Suriname	0.015	25,110
Swaziland	0.016	26,784
Sweden	1.363	2,281,662
Switzerland	1.452	2,430,648
Chinese Taipei	1.947	3,259,278

MEMBERS	%	CHF
Tanzania	0.024	40,176
Thailand	0.972	1,627,128
Togo	0.015	25,110
Trinidad and Tobago	0.050	83,700
Tunisia	0.129	215,946
Turkey	0.718	1,201,932
Uganda	0.016	26,784
United Arab Emirates	0.602	1,007,748
United Kingdom of Great Britain and Northern Ireland	5.704	9,548,496
United States of America	15.798	26,445,852
Uruguay	0.050	83,700
Venezuela	0.325	544,050
Zambia	0.016	26,784
Zimbabwe	0.032	53,568
<b>TOTAL</b>	<b>100.000</b>	<b>167,400,000</b>

**COUNCIL FOR TRADE IN SERVICES**

**FIFTH DECISION ON NEGOTIATIONS  
ON EMERGENCY SAFEGUARD MEASURES**

*Adopted by the Council for Trade in Services on 15 March 2004  
(S/L/159)*

The Council for Trade in Services,

*Having* regard to the provisions of Article X of the General Agreement on Trade in Services (GATS),

*Notwithstanding* the Fourth Decision on Negotiations on Emergency Safeguard Measures adopted by the Council for Trade in Services on 15 March 2002 (S/L/102),

*Having* regard to the communication from the Chairperson of the Working Party on GATS Rules (S/C/W/236),

*Decides* as follows:

1. The first sentence of paragraph 1 of Article X shall continue to apply.
2. Subject to the outcome of the mandate in paragraph 1, the results of such negotiations shall enter into effect on a date not later than the date of entry into force of the results of the current round of services negotiations.
3. Notwithstanding paragraph 3 of Article X, until the entry into effect of the results of the negotiations mandated under paragraph 1 of Article X, the provisions of paragraph 2 of that Article shall continue to apply.

## WAIVERS

### WAIVERS UNDER ARTICLE IX OF THE WTO AGREEMENT

During the period under review, the General Council granted the following waivers from obligations under the WTO Agreements, which are still in effect.

MEMBER	TYPE	DECISION OF	EXPIRY	DOCUMENT
Argentina	Introduction of Harmonized System 1996 changes into WTO Schedules of Tariff Concessions - Extension of Time-Limit	20 October 2004	30 April 2005	WT/L/590
Israel	Introduction of Harmonized System 1996 changes into WTO Schedules of Tariff Concessions - Extension of Time-Limit	17 May 2004 20 October 2004	31 October 2004 31 October 2005	WT/L/568 WT/L/589
Malaysia	Introduction of Harmonized System 1996 changes into WTO Schedules of Tariff Concessions - Extension of Time-Limit	17 May 2004	30 April 2005	WT/L/569
Panama	Introduction of Harmonized System 1996 changes into WTO Schedules of Tariff Concessions - Extension of Time-Limit	17 May 2004	30 April 2005	WT/L/570
Argentina, Australia, Brazil, Bulgaria, Canada, China, Croatia, Czech Republic, Estonia, European Communities; Hong Kong, China; Hungary, Iceland, India, Republic of Korea, Latvia, Lithuania; Macao, China; Mexico, Nicaragua, Norway,	Introduction of Harmonized System 2002 changes into WTO Schedules of Tariff Concessions	11 February 2004	31 December 2004	WT/L/562

MEMBER	TYPE	DECISION OF	EXPIRY	DOCUMENT
Romania, Singapore, Slovak Republic, Slovenia, Switzerland, Thailand, United States and Uruguay	Introduction of Harmonized System 2002 changes into WTO Schedules of Tariff Concessions	11 February 2004	31 December 2004	WT/L/562
Argentina, Australia, Brazil, Bulgaria, Canada, China, Costa Rica, Croatia, El Salvador, European Communities; Hong Kong, China; Iceland, India, Republic of Korea; Macao, China; Mexico, New Zealand, Nicaragua, Norway, Romania, Singapore, Switzerland, Chinese Taipei, Thailand, United States and Uruguay	Introduction of Harmonized System 2002 changes into WTO Schedules of Tariff Concessions	13 December 2004	31 December 2005	WT/L/598
Senegal	Minimum values in regard to the Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade 1994	17 May 2004	30 June 2005	WT/L/571
Albania	Implementation of specific commitments in telecommunications services	17 May 2004	31 December 2004	WT/L/567

**TRADE NEGOTIATIONS COMMITTEE  
AND ITS SUBSIDIARY BODIES**

**COMMITTEE ON AGRICULTURE IN SPECIAL SESSION**

**ESTABLISHMENT OF THE SUB-COMMITTEE ON COTTON**

*Decision adopted by the Committee on Agriculture, Special Session  
on 19 November 2004  
(TN/AG/13)*

In accordance with the instruction resulting from the Decision on the Doha Work Programme adopted on 1 August 2004 by the General Council (WT/L/579, refers), the Committee on Agriculture, Special Session agreed on 19 November 2004 to establish a Sub-Committee on Cotton under the following arrangements:

- (a) Terms of reference: "Taking into account the need of coherence between trade and development aspects of the cotton issue and in accordance with the agreement under paragraph 1.b and paragraphs 4 and 5 of Annex A of the Decision adopted by the General Council on 1 August 2004 (WT/L/579 refers) to address cotton ambitiously, expeditiously, and specifically, within the agriculture negotiations, to work on all trade-distorting policies affecting the sector in all three pillars of market access, domestic support, and export competition, as specified in the Doha text and the Framework text."
- (b) While recognizing the great importance of the work of this Sub-Committee to particular Members, the Sub-Committee meetings shall be open to all WTO Members and Observer Governments.
- (c) The Observer International Organizations of the Special Session of the Committee on Agriculture shall have observer status in the Sub-Committee on Cotton.
- (d) The rules of procedure of the Special Session of the Committee on Agriculture shall apply, *mutatis, mutandis*.
- (e) The Sub-Committee shall report periodically to the Special Session of the Committee on Agriculture which, in turn, will report to the TNC, the General Council and the next Ministerial Conference.



**COMMITTEE UNDER THE PLURILATERAL TRADE AGREEMENTS**

**COMMITTEE ON GOVERNMENT PROCUREMENT**

**DECISION PURSUANT TO ARTICLE XXIV:6(a) OF THE AGREEMENT ON  
GOVERNMENT PROCUREMENT**

*Decision of the Committee on Government Procurement on 23 April 2004  
(GPA/78)*

The Committee on Government Procurement,

*Noting* that, with effect from 1 May 2004, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia will join the European Communities;

*Recognizing* that from that date these ten countries will, as member States of the European Communities, form part of the European Communities for the purposes of the Agreement and be bound by the Agreement;

*Considering* that the European Communities has notified, pursuant to Article XXIV:6(a) of the Agreement, modifications to the Appendices, consequent upon these countries joining the European Communities, in order to add lists of entities for each of these ten countries;

*Recognizing* that these modifications and the enlargement of the European Communities will extend the coverage of the Agreement to ten new countries and result in an expansion of reciprocal procurement opportunities under the Agreement;

*Noting* that the European Communities indicated that some minor corrections to these modifications are necessary;

*Noting* the statement of the European Communities further clarifying the content of the modifications;

*Having regard to* Article XXIV:6(a) and agreeing that the conditions specified therein are satisfied;

*Hereby decides* as follows:

*Article 1*

The modifications proposed by the European Communities in document GPA/MOD/EEC/1 are approved with the following additions, corrections and clarifications:

1. The addition of the following two entities to Annex 1 for Poland:
  - (a) Polskie Centrum Badań i Certyfikacji (Polish Centre for Testing and Certification); and
  - (b) Agencja Mienia Wojskowego (Agency for Military Property).

The following footnote will be added to Agencja Mienia Wojskowego (Agency for Military Property): “Non-warlike materials contained in Part (3) of this Annex”.

2. The deletion of “(non-exhaustive)” from Annex 1 for both the Czech Republic and Slovakia.
3. The correction of the translation of Entity No. 29 (Seimo kontrolierių įstaiga) in Annex 1 for Lithuania, by deleting “State Audit Office” and inserting “Ombudsman Office of the Seimas”.

*Article 2*

This decision will become effective on 1 May 2004.

DECISION PURSUANT TO ARTICLE XXIV:6(a) OF THE AGREEMENT ON  
GOVERNMENT PROCUREMENT

*Decision of the Committee on Government Procurement on 16 December 2004  
(GPA/83)*

The Committee on Government Procurement,

*Having regard to the provisions of paragraph 6(a) of Article XXIV of the Agreement on Government Procurement;*

*Noting* that Israel committed in its Note to Appendix 1 to reduce by 1 January 2005 its offsets to 20 per cent of the value of a contract and to submit a report concerning its implementation of that commitment;

*Having considered* Israel's proposal in document GPA/MOD/ISR/1, dated 19 November 2004, on the basis of Article XXIV:6(a), to modify its Note to Appendix I, with a view to extending by five years the period provided to Israel to reduce its offset to 20 per cent;

*Noting* that, on an exceptional basis, other Parties are waiving any rights to compensatory adjustments that they may have, pursuant to Article XXIV:6(a), as a result of the modifications set out below,

*Hereby decides* on an exceptional basis as follows:

*Article I*

Paragraph 1(c) of Israel's Note to Appendix I shall be modified to read as follows:

Offsets in any form may be required up to 35 per cent of the contract going down to 30 per cent after five years and 20 per cent after ten years, beginning from the date Israel implements the Agreement.

*Article II*

Paragraph 2(a) of Israel's Note to Appendix I shall be modified to read as follows:

At the end of each period of five years Israel will submit a report concerning the implementation of this Note.

MODALITIES FOR THE NEGOTIATIONS ON EXTENSION OF COVERAGE  
AND ELIMINATION OF DISCRIMINATORY MEASURES AND PRACTICES

*Decision of the Committee on Government Procurement on 16 July 2004  
(GPA/79)*

The Committee agrees on the following modalities for the negotiations

on the extension of coverage and elimination of discriminatory measures and practices:

### Objectives

In accordance with Article XXIV:7(b) and (c), the negotiations on these matters shall aim at:

- (i) the greatest possible extension of coverage among all Parties on the basis of mutual reciprocity, having regard to the provisions relating to developing countries; and
- (ii) the elimination of discriminatory measures and practices which distort open procurement.

The Parties recognize the interdependence between these two objectives, as well as the need to maximize clarity with regard to coverage and any remaining discriminatory measures and practices.

Matters to be negotiated in the Committee as a whole

The Committee as a whole will address the provisions in the draft revised text of the Agreement referred to as “market access issues”, as well as issues relating to the presentation and structure of the appendices to the Agreement, including:

- whether there should be further harmonization of thresholds;
- whether there should be a uniform level of coverage of the entities covered by the Agreement;
- whether Annex 1 should follow a positive or negative list approach;
- whether there should be greater harmonization of the way entities are described, in particular whether Annexes 2 and 3 should be structured on the basis of categories of entities, for example as defined in the legislation of individual Parties or in terms of lists of individual entities;
- whether, in regard to services coverage in Annexes 4 and 5, further commonality of presentation is desirable and feasible, taking into account coverage and presentation under the GATS;

- whether the General Notes in the Annexes can be simplified and made more easily understandable;
- other issues that may be raised by delegations.

The Committee shall initiate work on the above issues in autumn 2004. Participants are invited to submit initial proposals relating to these matters by 31 August 2004.

Matters to be largely negotiated bilaterally

Negotiations on the extension of coverage of each Party's Appendix I as well as on the elimination of discriminatory measures and practices in such Appendices will be largely pursued bilaterally but subject to monitoring by the Committee as a whole.

These negotiations shall be pursued as follows:

- (i) by 30 November 2004, each Party shall table in writing its initial requests to any other Party and each Party shall aim to table its initial offer by 1 March 2005 but not later than 1 May 2005;
- (ii) provision would then be made for rounds of bilateral negotiations, leading to the presentation of revised and improved offers by the end of October 2005. These rounds of bilateral negotiations will normally be arranged to take place back-to-back with meetings of the Committee.

The basis for these negotiations shall be the existing coverage of Parties as reflected in their respective Appendix I, subject to any rectifications and modifications notified pursuant to Article XXIV:6 of the GPA. Parties concerned will make every effort to resolve pending notifications.

Parties agree on the need to ensure collective monitoring of the above bilateral negotiating process. To this end:

- (i) the Secretariat shall circulate as restricted documents to all other Parties initial official requests and offers as well as subsequent official revisions; and
- (ii) regular stocktaking and review of the bilateral process will take place in the Committee.

Any observer government which has submitted an offer with a view to participating in the revised Agreement may participate in this aspect of the negotiations and receive copies of requests and offers circulated by the Secretariat.

#### Conclusion of the negotiations

Parties agree that the negotiations on extension of coverage and elimination of discriminatory measures as well as other aspects of the Article XXIV:7 negotiations aim to be concluded by the beginning of 2006.

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**DECISIONS AND REPORTS NOT INCLUDED**

<i>General Council</i>	
Annual report (2004)	WT/GC/86
Implementation of the Development Assistance Aspects of the Cotton-Related Decisions in the July Package	WT/GC/83 and Add.1
<i>Dispute Settlement Body</i>	
Annual report (2004)	WT/DSB/37 and Add.1
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<sup>2</sup> WTO panels and Appellate Body reports, as well as arbitration awards, can be found in the Dispute Settlement Reports DSR series co-published by the WTO and Cambridge University Press.



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