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Directorate-General for Research

WORKING PAPER

WTO NEGOTIATIONS IN THE FIELD OF AGRICULTURE

NEGOTIATION STRATEGIES

Agriculture, Forestry and Rural Development Series

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SUMMARY

Multilateral trade negotiations limited to agriculture started again in March 2000. Set out in Article 20 of the Agreement on Agriculture, they are among the WTO's built-in agenda commitments which Member countries entered into when signing the Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations in Marrakech on 15 April 1994.

By the end of the first phase of the negotiations, which continued to March 2001, 45 proposals and three technical submissions had been lodged. They address the main trade and non-trade concerns raised by the multilateral liberalisation of agricultural trade for which the WTO Agreement on Agriculture provides a framework.

Despite this heavy output, discussions have so far made only measured progress. This wait-and-see approach has been shaped by various factors, among which the most important are the EU's wish to launch a broad negotiating round, the waiting game played to some extent by the Americans until the result of the Presidential elections in November 2000 was known, mistrust on the part of the developing countries, the existence of a whole range of trade disputes and, not least, the lack of an agreed conclusion date. While many countries, and in particular the developed countries, share a manifest interest in pursuing the liberalisation of trade in agricultural products, reconciling their points of view continues to be problematic. This has much to do with one of the main challenges of these negotiations, i.e. finding a balance between the control of agricultural policies and the appropriate inclusion of concerns that are not strictly trade-related. It also has to do with the play of oppositions and alliances that vary depending on the interests involved, the focal points of which are the 'Friends of Multifunctionality', led by the EU, the 'anti-subsidy' front led by the Cairns Group and the United States, and the developing world.

At the end of the first phase, there was continuing disagreement in four main areas:

- between Members in favour of a broad negotiating round (led by the EU, supported chiefly by Japan and the Republic of Korea) and Members which would like to keep strictly to the Agreement on Agriculture (such as the Cairns Group and the developing countries, in particular India and Pakistan);
- between countries (in particular the Cairns Group) which, in order to achieve a better organised and more equitable multilateral trade system, attach priority to further trade liberalisation, and countries which consider that no progress can be made with liberalisation unless the agricultural exception is respected. The EU, in particular, considers that trade rules separate from those for the industrial sector need to be maintained under this exception because of the particular place that agriculture occupies in the identity of every nation and the notion of goods of public interest (better environment, biological diversity, living rural economy) that underpins it.

- between States, depending on the approach that they are taking to the inclusion of non-trade concerns (in particular those relating to environmental sustainability, food security, rural development, product health safety), the scope and place that should be attached to them in the Agreement on Agriculture and the way in which the policies implemented to achieve them can be made compatible with the process of multilateral trade liberalisation. Rather than limiting negotiations to the traditional ‘tripod’ (market access, export competition and domestic support), the EU and the countries that are most in favour of its proposals would like to tackle the question of multilateral trade in agricultural products from angles that are not strictly trade-related in order to respond not just to the aspirations of the developing countries but also to those of civil society. The Cairns Group countries, by contrast, feel that finding this balance is unnecessary and consider that it merely needs to be taken into account in order to achieve the objective of establishing a fair and market-oriented trading system for agricultural products.

While the Republic of Korea, Norway and the countries with transition economies (some of which are awaiting accession to the EU) agree with the main points of view put forward by the EC, many other Members are critical of the attempt to preserve the status quo evident from Community proposals. Although less isolated, largely as a result of efforts to open up the European market to almost all products from the poorest countries, the EU continues to be alert to criticisms and to proposals that run counter to its interests, in particular as regards:

- agricultural subsidies that all Members, including Japan, would like to abolish;
- blue box aid - indispensable if the reform of the CAP is to be successfully pursued - whose abolition is being proposed by the United States, which has made more progress with decoupling;
- the principles of the CAP that the developing countries, long marginalised from decision-making procedures and disappointed by the results of recent trade liberalisation, consider to have destabilising effects on local production, regional integration and consumption.

These differences are fuelling various disagreements in the detailed proposals:

- **In the area of market access**, the European Communities are among the few Members to defend the *status quo* in the approach to tariff liberalisation, i.e. an overall average reduction of bound tariffs together with a minimum reduction per tariff line using the same methods as in the Uruguay Round. The other Members are in contrast proposing, using different time-scales and different methods, substantial reductions of each tariff line in order to tackle disparities in tariff levels, tariff peaks and tariff escalation. Everyone agrees, however, that tariff regimes and tariff rate quotas need to be simplified and made more transparent. There has been much criticism of the proposal to keep the special safeguard clause put forward by the European Union, Japan, Norway and Switzerland, the ASEAN countries and the Republic of Korea, especially by the United States, on the grounds that this provision had been accepted only as an adjunct to the tariffication process which is now complete. In order to prevent improper use of this clause, some developing countries, supported by the Cairns Group, are calling for an instrument that is more in keeping with their concerns and are keen to prohibit the use of this mechanism by the developed countries.

- **In the area of export competition**, most countries (United States, Cairns Group, Japan, ASEAN, etc.) are not in support of the EC's proposal that new reductions of export subsidies should be linked to an extension of WTO rules to all forms of subsidy in this area. Their aim – with varying degrees of commitment to its achievement – is rather the unconditional elimination of these subsidies. The EC's demand that the focus should not just be on export subsidies but also on the reduction or even abolition of other types of measures that have distorting effects has nevertheless been echoed by other Members (Mercosur and associated countries, Japan, Norway, India, Turkey, Switzerland, Egypt and Poland). As well as abolishing export subsidies and introducing negotiated disciplines for export credits, Members agree overall that stricter conditions need to be agreed on the use of food aid, the activities of state trading enterprises and the maintenance of export restrictions, in a shared concern to ensure that operations are more transparent.
- **In the area of domestic support**, proposals agree that a framework is needed for aid, but differ as to the methods, size and scope of the necessary reductions. The position that the EU, supported by Japan, the Republic of Korea, Poland, Norway and Switzerland, is defending, i.e. maintaining the current framework of rules and disciplines on domestic support and in particular the advantages and utility of blue box measures, has been criticised. Opposition has come from the USA and some developing countries which consider that the rules on domestic support need to be simplified – more drastically in some cases than in others – and the non-exempt support of each Member limited. Opposition has also come from the Cairns Group which would like not just to eliminate disparities between support levels but also completely to eradicate support that distorts trade and production, and from Members such as Canada and India which are also calling for a cap on total support limited, or not limited, to the developed countries. Most Members are critical of the lack of arguments put forward by the EU to justify keeping the blue box and, at the very least, its exemption from precise limits and stricter criteria making it possible to ensure that the measures that it covers are compatible with the reform process. All Members agree, however, that green box criteria need to be reviewed, although there is disagreement about the scope and the purpose of this review. Some Members consider that more account needs to be taken of non-trade concerns (the EC, Japan, the Republic of Korea). Other Members consider that steps need to be taken to ensure that the measures exempted do not have trade-distorting effects (USA, Cairns Group, India) or would like to obtain special criteria geared towards developing countries' needs in the areas of food security, poverty alleviation and rural development in particular (ASEAN, India).
- **In the area of special and differential treatment**, the various proposals highlight the need for an appropriate, flexible and comprehensive system for developing countries, that takes a flexible approach to the implementation of exemptions from reduction commitments, and for differential treatment (in particular stepping up the exemption of domestic support programmes geared towards these countries' development objectives and needs and further improving access opportunities and criteria for their products). Some Members are also calling for targeted contributions by the developed countries, as a token of efficiency and credibility, and for a review of the Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries in order to ensure that it can be effectively implemented. Motivated chiefly by the concern to maintain food security, the vitality of rural areas and rural employment in these countries and to alleviate poverty,

this flexibility could take the form of granting them more autonomy as regards methods of action (ASEAN) and more flexibility as regards their implementation (EC, Poland, Japan). With the same concern for better protection in terms of security of access and food security, some of the smaller, more vulnerable or island developing countries would like to go much further and are calling for supplementary provisions in keeping with their situation that would take account of their structural weaknesses and the efforts that some of them have made in the area of trade liberalisation.

- **In the area of non-trade concerns**, these small countries often partner the EC, Norway, Japan and Switzerland in supporting the multifunctional role of agriculture. They are not supported, however, by the other developing countries which take a more guarded view of the validity of such measures in the developed countries. India, in addition to pointing to the need for clarification of the relevant concepts, has in particular cautioned its developed partners about any improper attempts to erase the basic differences that exist between the non-trade concerns of the developing countries – food and subsistence security and the development of genuine food autonomy being at the top of the list – and those put forward by other developed countries under the pretext, in particular, of the multifunctional role of agriculture. The same reservations greeted Community proposals on the quality of food products and animal welfare. The EC's concern to step up the legal protection of products and to gain recognition for the use of the precautionary principle as a way of satisfying consumers' legitimate concerns and needs in the areas of food safety and information has been assessed in different ways. A number of countries, including Argentina, Malaysia and Thailand in the Cairns Group, also consider that issues connected with geographical designations or labelling should not be among the issues to be included in these negotiations.

The EU has opted for a 'firm, but constructive' stance in order to find the right balance between further liberalisation of agriculture, the inclusion of non-trade concerns and the defence of the European model which was given substance by the last Agenda 2000 reform of the CAP. Its comprehensive proposal intentionally took a middle line, moreover, in order to rally the developing countries. The fact that many of these countries have welcomed new commitments in their favour, especially in the area of market access, does not mean that their support can be taken for granted as these countries are far from a homogeneous group. Many, supporting the proposals of the Cairns Group or India, still have reservations about the line that the Community is taking. Their support for non-trade concerns is shaped by their desire better to justify the special and differential treatment that they are expecting from the Agreement on Agriculture and to find answers to the non-trade concerns that they consider to be important on the basis of the context of their agriculture and their economic and social priorities.

The second phase of the negotiations therefore seems set to be more challenging. The EC will have to take a firm negotiating stance, bearing in mind that there is also no consensus as to whether the peace clause, which the EC are very keen to retain, should be retained or abolished. The timetable could nevertheless work in their favour. It seems likely, in view of the differing stances and perceptions of the reform process, that these agriculture negotiations will become harder-hitting and take more time; the timetable of these sectoral negotiations could well be disrupted by the timetable of a new negotiating round if such a round is actually decided at the forthcoming WTO Ministerial Conference scheduled for 9-13 November 2001 in Doha in Qatar.

INTRODUCTION

New multilateral trade negotiations limited to agriculture and services began again in March 2000. Set out respectively in Article 20 of the Agreement on Agriculture and Article XIX of the General Agreement on Trade in Services (GATS), these sectoral negotiations are among the WTO's built-in agenda commitments which Member countries entered into when signing the Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations in Marrakech on 15 April 1994. They are taking place independently from the consultations that the WTO is holding on the various questions left in abeyance following the failure of the third WTO Ministerial Conference, held in Seattle in the USA from 30 November to 3 December 1999, on the launch of a new comprehensive round of multilateral trade negotiations.

In the case of agriculture, as it proved impossible to draw up a precise negotiating mandate at the Seattle Conference, the objective of the negotiations is shaped by the framework set out in Article 20 mentioned above¹, i.e. to continue the ongoing reform process on the basis of the programme of progressive liberalisation of the sector implemented since 1995. While recognising that Members can take account of 'non-trade concerns' and special and differential treatment for developing countries, the Article sets up two safeguards for the continuation of the process: on the one hand, account has to be taken of the results obtained in the area of agricultural trade liberalisation and, on the other hand, a fair and market-oriented agricultural trading system has to be sought.

Multilateral agricultural trade negotiations take place in Geneva at the Special Sessions of the Committee on Agriculture which are held following the Committee's Ordinary Sessions. The timetable of discussions has been split into two phases: the presentation of Members' negotiating proposals, followed by detailed discussion of these proposals. At the end of the first phase, which was completed in March 2001, 45 negotiating proposals and three technical submissions had been lodged (Annex 1). They came chiefly from the USA, the Cairns Group, Canada, Japan and various developing countries and dealt chiefly with trade and non-trade concerns connected with the multilateral liberalisation of agricultural trade (market access, domestic support, export competition and subsidies, special and differential treatment for developing countries and non-trade concerns).

At the initiative of Mr Cunha, rapporteur for WTO negotiations, the Committee on Agriculture and Rural Development asked the Directorate-General for Research to draw up a study of 'Strategies of the main Members of the World Trade Organization in connection with the forthcoming agriculture negotiations'. This working document is the outcome. It comes halfway through the timetable laid down by the Committee on Agriculture, i.e. after the presentation of Members' comprehensive or specific proposals and prior to the more political discussions of the content and scope of the negotiations. After looking briefly at the legal framework surrounding the current negotiations and introducing the forces involved, the

¹ Article 20 'Continuation of the Reform Process' of the Agreement on Agriculture: 'Recognizing that the long-term objective of substantial progressive reductions in support and protection resulting in fundamental reform is an ongoing process, Members agree that negotiations for continuing the process will be initiated one year before the end of the implementation period, taking into account:

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

WTO agricultural negotiations
report endeavours to pinpoint what strategic approaches are being taken in the main proposals submitted to the WTO and to assess the force of conviction of Community proposals from the reactions that they are causing.

1. THE LEGAL FRAMEWORK OF THE NEGOTIATIONS

1.1. The agreement on agriculture

All the WTO agreements and understandings on trade in goods apply to agriculture which is also covered by certain provisions of the WTO Agreements on Trade in Services (GATS) and on Trade-Related Aspects of Intellectual Property Rights (TRIPS). A particular feature of agriculture is that it has a specific agreement, the Agreement on Agriculture, whose provisions take precedence.

The Agreement on Agriculture came into force on 1 January 1995. It is one of the supplementary agreements annexed to the General Agreement on Tariffs and Trade (GATT) for goods. It takes account of the general principles (non-discriminatory, transparent and predictable trade) and specific provisions (such as special treatment for developing countries) set out in GATT. It also relies on the commitments made by each country in the Schedules annexed to the Marrakech Protocol which is an integral part of the GATT Agreement. It is supplemented in particular by the Ministerial Decision on 'Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries' and the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS).

The Agreement on Agriculture implements, over a six-year period², a programme to reform trade in agriculture whose aim is to establish order in this trade and to create a more competitive environment. It therefore represents a turning point in international trade negotiations since it makes the agricultural sector genuinely subject to multilateral rules. It sets out binding and specific commitments in three main areas, market access, domestic support and export competition, to be achieved in practice through a twofold obligation to reduce market protection and to reduce aid to agriculture. It does, however, allow for some flexibility in the implementation of these commitments by the WTO's developing country Members, for which it makes provision for special and differential treatment, and for LDCs and net food-importing developing countries, for which there are special provisions. Finally, the Agreement contains a due restraint clause intended to curb any risks of differences or disputes.

1.2. The measures in question

1.2.1. Market access

The provisions of the Agreement are intended to improve market access. To achieve this, they impose:

- a tariffication programme under which it is mandatory for WTO Members to convert existing non-tariff trade barriers into tariff equivalents – bound customs duties;
- a reduction of the tariff equivalents obtained in this way;

² From 1995 to 2000 for developed countries; 10 years (1995-2004) for developing countries.

- a ban on the re-introduction of any new non-tariff protection measures (Article 4.2).

Two remedies, the special safeguard clause and special treatment, set out respectively in Article 5 and Annex 5 of the Agreement, moderate its binding nature. In order to maintain imports existing prior to the entry into force of the Agreement and in order to provide opportunities for additional imports up to a certain level and at non-prohibitive rates, commitments also make provision for the maintenance of current and minimum market access opportunities for products subject to tariffication.

The tariff concessions (or bound rates) contained in the national Schedules of commitments annexed to the Marrakech Protocol have been calculated on the basis of an average reduction of customs duties of 36% for the 1995-2000 implementation period, together with a minimum reduction of 15% per tariff line. These reduction objectives have been made more flexible for developing countries and were not required for the LDCs (see Special and differential treatment).

The special safeguard clause makes it possible, in some circumstances (falling prices or increasing imports) and according to certain methods, to apply additional duties to products subject to tariffication. Special treatment makes it possible, under certain circumstances, for a country to maintain import restrictions up to the end of the implementation period (Annex 5, Section A) and to exempt a basic agricultural product that is the predominant staple in the traditional diet of a developing country from the provisions of Article 4 (Annex 5, Section B). Four countries have already used this mechanism: Japan, the Republic of Korea and the Philippines for rice and Israel for sheepmeat, wholemilk powder and certain cheeses³.

Although the Uruguay Round measures, and in particular those relating to tariffication, have been implemented⁴, the expected improvements in market access have failed to materialise.

- In contrast to the duties applied to industrial products, tariff duties for agricultural products have remained high. Far from reducing the level of tariff protection, the conversion of all non-tariff quantitative restrictions into customs duties has led to an increase in duties, often of more than 15%, to the detriment of products exported from developing countries. The main agricultural staple products (meat, sugar, milk and milk products, for which duties often exceed 100%; fruit and vegetables, and agri-food products, for which rates exceed 30% in a number of markets) continue therefore to be among the products to which the highest customs duties are applied.
- The fact that tariff rate quotas have been administered and allocated in ways that are not very transparent has also played a part in lessening the effects of the reform. Data from the WTO Secretariat highlight the unequal distribution of quotas by country and by product and, in some cases, their evident under-fill. The fact that this under-fill is more substantial for some Members or some products has raised concerns about the potential impact of the different methods by which they are administered.

³ In addition to these specific provisions, Member countries may have recourse to the general measures of GATT or of other WTO agreements that apply to marketed products (in particular the SPS Agreement and the Agreement on Technical Barriers to Trade), by invoking the 'balance-of-payment', 'safeguard' or 'general exception' measures (in the latter case, specifically paragraph b on the protection of human, animal or plant life or health or paragraph g on the conservation of exhaustible natural resources) set out respectively in Articles XII, XIX and XX of GATT.

⁴ The percentage of agricultural products subject to bound duties increased from 18% prior to the Agreement to close on 100% by the end of 2000.

- Concentration of the use of the special safeguard clause among a small core of Members and products has elicited similar comments together with frequent criticisms of tariff peaks and tariff escalation – which curb the development of the processing and export industries of other countries – the complexity of import regimes, the restrictive effect of non-tariff measures and the actual methods by which tariff reductions are implemented.

As regards tariff rate quotas and the safeguard clause, the Secretariat's background papers show that:

- 37 countries offer market access opportunities at low rates of duty for a specific quantity of imported products and that the 1371 tariff rate quotas notified cover certain types of product in particular, including fruit and vegetables, meat products, grains and milk products which account respectively for 26, 18, 16 and 13% of quota totals;
- the breakdown between countries is also uneven: Norway (232), Iceland (90) and the European Communities (87) are among the group notifying the most in contrast to Australia (2) and New Zealand (3);
- average quota fill was between 50 and 66% between 1995 and 1999;
- 38 Members have reserved the right in their Schedules to use the special safeguard clause for designated products but this mechanism has been used by only four to six Members, in different years: the EC, the Republic of Korea, the USA, Japan, Poland, Hungary and Switzerland for price-based measures covering milk products (27% of cases), livestock and livestock products (26%), sugar (16%) and coffee (14%); the EC, Japan, the USA, the Republic of Korea, Poland and the Slovak Republic for volume-based measures covering fruit and vegetables (57% of cases), livestock and livestock products (23%) and milk products (11%).

1.2.2. Export competition

The export subsidies as listed in Article 9(1) of the Agreement are subject to controls. The general rule under this control is that new export subsidies are prohibited (when no subsidy has been granted during the base period) and that existing subsidies are to be reduced (Annex 2, Table 1: Exempt subsidies). Article 10 of the Agreement also sets out disciplines regulating the provision of food aid and the use of export credits which are intended to prevent any circumvention of the commitments specified in Part IV of each Member's Schedule.

The value of export subsidies and the volume of exports concerned must be reduced, in equal annual tranches over a six-year period, by 36% and 21% respectively with respect to the average level of the 1986-1990 base period, although more flexible provisions are set out for the LDCs and developing countries (see Special and differential treatment) and in certain circumstances.

Export subsidies cover a very wide range of products, including the wheat, bovine meat, coarse grain, milk product and sugar markets in the developed countries and rice, vegetables and sugar in the developing countries concerned.

- Only a very small number of Members (25 of the WTO's 140 Members), in particular the European Communities (EC), use them (see Annex 2, Table 2: Summary of EU data on export subsidies).
- They are also being replaced in some countries by other forms of subsidy (such as export credits, export credit guarantees or insurance programmes) for which commitments have yet to be bound in relation to the terms of internationally agreed disciplines.

1.2.3. Domestic support

The provisions on domestic support lay the foundations for controls of aid that limit some domestic subsidies likely to distort production and trade in agricultural products.

The measures concerned are subject to a 20% reduction over six years (see Special and differential treatment). The relevant commitments, which are included in Part IV of each Member's Schedule, and, therefore, the real level of support are monitored using an indicator of the monetary value of aid, i.e. the 'total aggregate measurement of support' (Total AMS) defined in Article 1(a) and (h) of the Agreement on Agriculture and using a calculation method specified in its Annexes 3 and 4. Thirty of the WTO's 140 current Members have included Total AMS reduction commitments in Part IV of their Schedules.

The Agreement differentiates between various types of support measures chiefly on the basis of their effects on trade and their exemption or non-exemption from reduction commitments; the green box, the blue box, exempted measures for developing countries, measures below the *de minimis* threshold, the amber box (Annex 2, Table 3: Domestic support measure boxes). The first four types of measure, provided that they satisfy certain conditions, are exempt from reduction commitments. The last measure in most cases covers price support measures; it is taken into account in the Total AMS.

As in the case of market access, the results of the provisions of the Agreement have been perceived in different ways.

- As the total aggregate measurement of support had to be reduced globally, some sensitive sectors, such as rice in Japan, sugar in the EU and the USA and milk products in most of the Member countries of the Organization for Economic Cooperation and Development (OECD) have escaped the reform.
- The calculation methods used have also played a part in lessening the real impact of the promised reductions. It has for instance been pointed out that:
 - the AMS was calculated on the basis of the levels of support granted between 1986 and 1988, when the international prices of agricultural products were relatively low and levels of support for farmers were high;
 - the reference support levels included blue box aid which is, however, exempt from reduction and therefore excluded from the current AMS;
 with the result that the domestic support levels notified for the 1995-1998 period were substantially lower than the commitment levels specified (Annex 2, Table 4: Comparison of the Total AMS commitments specified and notified by the EC and the United States).
- Analysis of support overall shows a wide range of situations depending on agricultural structures and substantial differences in levels of aid in different countries. Although the level of support, and in particular market price support, fell in the OECD, the aggregate data continue to mask very different situations in terms both of the size and the actual value of the reduction: over the last ten years, the producer support estimate (PSE), expressed as a percentage of the value of agricultural production, fell in practice from 41 to 33%, but the lowest rate is close to zero while the highest rate is close to 70% (Annex 2, Table 5: Proportion of total domestic support for which green box measures account in some developed countries; Table 6: Producer support estimate (PSE): level and composition in the main OECD countries).

- Many delegations question shortcomings in the current provisions on aid boxes in terms of their precision, inclusiveness and structure as well as a lack of adequate definitions, appropriate criteria and sufficient assessment of the effects of exempted aid on trade. The lack of a cap on support has also been called into question especially as exemption from reduction commitments has made some measures much more attractive. The expansion of green box measures to the detriment of non-exempt aid is leading some Members to ask whether they actually have no or only minimal effects on production and trade.

Data analysed by the WTO Secretariat also show that:

- exempted domestic support breaks down on average as follows:
 - . 40% in the form of 'general services' measures;
 - . 35% in the form of 'public stockholding for food security purposes and domestic food aid' measures;
 - . 24% in the form of 'direct payments';
 - . and 1% in the form of 'other measures';
- three Members, the USA, Japan and the EC, make most use of this and alone notify over 80% of aid in this category;
- the proportion of total domestic support accounted for by green box aid varies greatly in different countries (Annex 2, Table 5: Proportion of total domestic support accounted for by green box measures in some developed countries).

1.2.4. Special and differential treatment for developing countries

In order to take full account of the needs and situations of poor countries, the Agreement sets out special and differential treatment for developing countries as regards commitments (see Annex 2, Table 7: Special and differential treatment for developing countries). In practice, this takes the form of:

- reduced constraints in terms of reductions or implementation periods;
- the exemption of the LDCs from reduction commitments;
- specific provisions on food security;
- a significant improvement of access opportunities and criteria for agricultural products of particular interest to these countries, including the liberalisation of trade in tropical agricultural products.

Bearing in mind the risks that the process of reform of trade in agricultural products could entail for poor countries heavily dependent on imports of food products, Ministers agreed to establish various mechanisms to remedy such risks which are set out in a special Ministerial Decision on 'Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries'. This Decision sets out the objectives and certain measures concerning the provision of food aid and development aid as well as the possible assistance that the International Monetary Fund and the World Bank could provide as regards the short-term financing of imports of food products.

Ten Members⁵, including the EC and the USA, have taken measures under this Ministerial Decision:

- the EC channelled a budget of ECU 1 billion (representing over 3 million tonnes) into food aid – given wholly in gift form – in 1995, ECU 413 million in 1996 and ECU 409.5 million in 1997;

⁵ Argentina, Australia, Canada, the European Communities, Japan, New Zealand, Norway, South Africa, Switzerland and the USA – Secretariat Background Paper G/AG/NG/S/4.

- the USA notified that it had provided, chiefly in gift form, 1.3 million tonnes of food aid from 1 July 1995 to 30 June 1996 and 1.1, 1.3 and 2.2 million tonnes respectively in the following three periods.

1.2.5. The due restraint clause

The due restraint (or peace) clause is contained in Article 13 of the Agreement. Applicable for a period of nine years (i.e. up to 2003), it regulates the application of the provisions of the other WTO Agreements to agricultural subsidies from the point of view of grounds for actions: overall, it exempts support measures implemented under the reform from actions before the WTO and its Dispute Settlement Body (DSB).

In particular it exempts green box domestic support measures from countervailing duty actions based on the provisions on subsidies or on non-violation nullification or impairment of tariff concessions set out in GATT. It also recommends that Members exercise due restraint in initiating countervailing duty investigations in respect of other domestic support measures complying with the provisions on domestic support commitments (Article 13(b, i)). It also exempts such measures from other actions based on the nullification or impairment of tariff concessions (Article 13(b, ii and iii)) when the support granted for a specific commodity is not in excess of that decided during the 1992 marketing year.

Similar provisions protect export subsidies complying with the provisions of the Agreement on Agriculture (recommendation of due restraint in relation to the implementation of countervailing duties and exemption from actions based on the provisions of GATT or the Subsidies Agreement).

2. WHAT STAGE HAVE THE NEGOTIATIONS REACHED?

2.1. Common challenges

Only measured progress has so far been made in the negotiations. This wait-and-see approach has been shaped by various factors, among which the most important are the EU's wish to launch a broad negotiating round, the waiting game played to some extent by the Americans until the result of the Presidential elections in November 2000 was known, mistrust on the part of the developing countries which are taking a very defensive stance, the existence of a whole range of trade disputes and, not least, the lack of an agreed conclusion date. These talks, in which negotiating positions continue to be very entrenched, have nevertheless been given some coherence by a number of common denominators.

To the extent that the abolition of border duties has now been achieved overall, in particular as a result of the GATT system, Members are looking less for a new reduction of customs duties than for the abolition of the large number of high duties and non-tariff barriers that continue to exist and to highlight new concerns, depending on their own interests. Agriculture is no exception to this trend, for two main reasons.

The first undoubtedly has to do with the slow progress that has been made with trade liberalisation in the agricultural sector. Although covered by GATT, agricultural products have long benefited, in comparison with industrial products, from official or merely informally accepted exceptions (the prohibition of export subsidies or quantitative restrictions for instance). As the issue of agriculture's inclusion has long soured negotiations, the agricultural sector was excluded overall from multilateral trade rules until the last negotiating round. It has only been included, moreover, in a partial way as long, comprehensive and sectoral talks have led to reforms, felt by some to be too moderate, taking the form of a specific agreement exempting trade in agricultural products from the common GATT rules. Fervent supporters of free trade would now like to remedy this situation.

The second reason has to do with the enlargement of the scope of agriculture negotiations. These now go beyond the traditional discussions of market access, domestic support and export competition as a result of new concerns of world importance that more intense globalisation is tending to place in the foreground. Globalisation is an inevitable, multi-dimensional and multi-sectoral development that has gradually made states and economic actors more dependent on world markets, and has meant that priority is now being attached to new issues, or if these issues are not new, has modified their position among the international community's priorities. The new outlook that globalisation requires in areas such as the treatment of food security, the environment, health, social standards, competition and the right to defend specific cultural and traditional values makes an extension of the scope of action of regulations inevitable. Agriculture, which is the lynchpin of the economic and cultural life of many Member Countries, is obviously very much in the foreground, in a context where unilateral trade action is becoming increasingly ineffective.

The developed countries in particular have much to gain from a further liberalisation of agricultural trade. The process by which this can be achieved has yet to be decided. The

control of agricultural policies has, for this purpose, to be balanced against the appropriate inclusion of concerns that are not strictly trade-related. Finding this balance is one of the challenges of the current negotiations.

2.2. The forces involved

At the last Ministerial Conference, the working party on agriculture responsible for negotiations in this field highlighted two fundamental conceptions of agricultural trade. According to the first, agricultural products should be treated and disciplined in exactly the same way as industrial products. According to the second, diametrically opposed, concept, this trade has a specific nature and account must be taken of the multifunctional nature of agriculture. This far-reaching divergence of views is fuelling discussions and helping to forge opposition groups and alliances, whose geometry varies depending on the interests involved, the main focal points of which are the 'Friends of Multifunctionality' (led by the EC), the 'anti-subsidy' front (led by the Cairns Group and the USA), and the developing world.

2.2.1. How important is trade in agriculture?

Trade in agricultural products totalled USD 553 billion in 1998. Although there has been a downward trend for some years, agriculture accounts, in terms of exports and imports, for 10.5% of world trade. It also accounts for a significant proportion of the economic activity of a large number of countries where it plays a paramount role in agricultural output and employment. Finally, it is crucial from the point of view of world food security in that it makes it possible to prevent, or even to remedy, food shortages. The Table in Annex 3 gives an overview of the main players in agricultural trade.

2.2.2. Positions and alliances

The protagonists leading talks in the agricultural field are more or less the same as those in the previous round. There is now, however, more of a challenge to the industrialised countries' monopoly on the negotiations. The developing countries are trying to play a more active part in the talks, especially as the failure of the Seattle Ministerial Conference that they had precipitated has given them the opportunity to do so. Less marginalised, the latter could, if they maintain a united front, play a key part in the success of the negotiations. Divisions between the parties have also become more finely shaded. While countries' interests differ depending on whether they are net importers or net exporters of agri-food products, the former being more in favour of liberalising trade than the latter, and depending on whether or not agriculture is subject to government intervention policies, countries are forging alliances on a case-by-case basis in relation to particular issues and their impact.

The last agriculture negotiations during the Uruguay Round proved particularly difficult largely as a result of the trade stand-off between the USA and the European Communities. Not enough progress has been made in the current negotiations to be able to pinpoint the extent of reconciliation and rapprochement. Negotiations limited solely to agriculture make the alliance game different. Some aspects, however, undoubtedly call to mind the scenario of previous negotiations: the lack of agreement about the negotiating timetable and the problems that finding a consensus about the actual purpose of the negotiations have already raised may well mean that they are difficult to get off the ground and, lastly, the speed with which the United States submitted a comprehensive strategy proposal.

The European Communities

The European Communities have continued to stress that they would prefer a global negotiating round.

- Extension of the agenda would give them a greater margin of manoeuvre to negotiate a balanced agreement, as the EC stressed in a document submitted on 12 October 2000 to the WTO General Council. This point of view is shared by a number of countries such as Japan and the Republic of Korea which acknowledge that it is difficult to pursue the process of agricultural reform without incorporating it in a broader negotiating round.
- The EC also stress that the issue of agricultural trade cannot be resolved solely by revising the Agreement on Agriculture as key problems for the sector depend on negotiations which go beyond its framework. They consider for instance that the precautionary principle set out in the SPS Agreement⁶ needs to be examined in order to find an appropriate solution to the hormone problem, that the TBT Agreement needs to be overhauled so that adequate regulation of the use of transgenics, biological products and animal welfare can be included in it and that certain provisions of the TRIPS Agreement, felt to be too restrictive, on geographical indications for wines and spirits (Articles 23 and 24), products linked to the territory and rights in respect of biodiversity (Article 27.3.b)⁷ need to be improved.
- The EC, as the second exporter of agricultural products and the leading exporter of processed food commodities, are keen to improve the operation of trade. They are calling, in this respect, for a multilateral trade system that is better organised and further liberalised in order to find a solution to the growing globalisation of economic and agricultural activities. A further goal is to establish a fair trading system – able to provide major gains for the world economy, play an efficient part in sustainable development, ensure better integration of developing countries and a more equitable distribution of the benefits of liberalised trade – which would be both more market-oriented and better geared to non-trade concerns. It is for this reason that, if there is to be further liberalisation, it can be envisaged only within the framework of the agricultural exception under which trading rules separate from those applied to the industrial sector are maintained because of the particular place that this sector occupies in the identity of every nation and the notion of agriculture as a provider of public goods (better environment, biological diversity, vital rural economy, etc.) that the EC defend.

⁶ Under the SPS Agreement all WTO Members can set the level of sanitary protection that they deem appropriate with the threefold proviso that the acceptable level is defined in a consistent way for the various products, that there is no discrimination between national and foreign products and that the measures taken to protect the health and well-being of the population are scientifically justified. The main problem that application of this Agreement raises lies in the lack of a clear answer in cases where the current state of scientific knowledge makes it difficult to assess risks. Where pertinent scientific evidence is inadequate, the Agreement explicitly authorises provisional measures under the precautionary principle, although the relationship between multilateral trade rules and the application of this principle needs to be further clarified.

⁷ The TRIPS Agreement on trade-related aspects of intellectual property rights also has a part to play in the control of genetic resources in particular though property rights to seeds. In the area of biodiversity, discussions of the Agreement often founder on the question of the rights that Member should accord to micro-organisms and plant varieties, whose forms have yet to be clarified (patents or an alternative *sui generis* system). Under the Agreement it has up to now been possible for States to rule that plants and animals other than micro-organisms and essentially biological processes for obtaining plants or animals are not patentable provided, however, that they find ways of protecting them. The developing countries which would like to exclude biodiversity from the legal scope of the Agreement oppose the developed countries which reject this approach and are calling by contrast for a strengthening of the relative provisions.

- As far as agriculture is concerned, the EC are in favour of reducing export aid and subsidies. They have nevertheless laid down conditions: aid required for the furtherance of the Agenda 2000 reform process must be maintained, account must be taken of aid that would help agriculture better to respond to the expectations of society and all forms of distortion of export competition must be dismantled. Franz Fischler, the European Commissioner for Agriculture and Fisheries, has said that the EU will take a 'firm, but constructive' stance in order to find a fair balance between further liberalisation of agriculture, the inclusion of non-trade concerns, already recognised by Article 20 of the Uruguay Round Agreement on Agriculture, and the defence of the European model to which the last Agenda 2000 reform of the CAP gave substance.

This reform which, according to the Conclusions of the Berlin European Council of 24 and 25 May 1999, is intended to ensure that agriculture is 'multifunctional, sustainable, competitive and spread throughout Europe, including regions with specific problems, that it is capable of maintaining the countryside, conserving nature and making a key contribution to the vitality of rural life, and that it responds to consumer concerns and demands as regards food quality and safety, environmental protection and the safeguarding of animal welfare', in practice laid the foundations for this model's viable existence. Based on EU negotiation, it highlights the multifunctional role of agriculture in order to stress that this activity does not just produce commercial consumer goods but provides society with a whole range of services, in terms of conserving the environment and preserving rural areas, that must be protected by the public authorities.

- The EC are also taking the opportunity offered by the new negotiations to make the WTO fully aware of the process of enlargement that is under way in respect of the countries of Central and Eastern Europe in order to prevent new constraints from being imposed on agriculture in the enlarged Community.

To convince their partners, the EC are stressing the far-reaching changes that have been made to agricultural policy over the last ten years and in particular the change of direction from a price support system to a system of income support combined with production restrictions leading, according to the Agriculture Commissioner, to far fewer distortions of trade. In support of this, the Communities point to the price reductions that have been made, partially offset by support independent from the yields obtained, the substantial reduction of market support measures and the no less significant drop in export refunds⁸. To improve the participation of the developing countries in world trade, the European Communities have also revived the notion of further liberalisation of market access for essentially all products from the LDCs. Under this initiative, generally known as 'Everything but Arms', European markets have been opened up since March 2001 to all exports from the 48 LDCs on a duty-free basis and without restrictions on quantity⁹. A number of countries, including Japan, Chile and New Zealand, support this initiative and have introduced significant market access improvement measures. The European Commissioner for External Trade, Pascal Lamy, has gone out of his way to rally other countries to the cause. His diary has been full of visits to countries that are more cautious (including the USA in February 2000; Brazil and India in March; Senegal and South Africa in June; Uruguay, Chile and Argentina in September; South-East Asia in October; Africa in November; the Republic of Korea in February 2001; Egypt in March, etc.) but would like to place trade with the EU on a more dynamic footing

⁸ According to the European Commission, market support measures, which accounted for 91% of total support in 1992, will have fallen to 21% in 2006, while export refunds, accounting for 25% of CAP expenditure in 1992, currently account for no more than 9% of this expenditure.

⁹ With the exception of arms and subject to phased liberalisation, during transitional periods, for three sensitive products: rice, bananas and sugar.

through improved bilateral cooperation such as Mercosur, Chile, the Andean Pact¹⁰, the Association of South-East Asian Nations (ASEAN) and the African, Caribbean and Pacific (ACP) countries.

Despite all these efforts to offer explanations and gestures of goodwill, the EU continues to be isolated and the main target of criticism. There seem at this stage to be two reasons for this situation, which is very redolent of the events of the Uruguay Round negotiations: a lack of credibility and a strategic approach that is not innovative enough. As in the previous Round, the EC are taking a largely defensive stance in an attempt to protect and preserve the aid system (in particular those blue-box measures that are indispensable if the current reform of the CAP is to be successfully pursued) and the Community preference (maintaining the special safeguard clause in cases of serious crisis). European discourse invoking the fair compensation that is the due of the whole range of functions that agriculture fulfils and defending the importance of cultural identity is not without attraction. These arguments are not convincing enough on their own, however, especially for those developing countries that are agricultural product exporters which all too readily pick up on the inconsistencies between Community discourse and policy on export subsidies which place their products at an unfair disadvantage, the limits of the current reform as regards the re-orientation of public support and inconsistencies with the priorities of Community development policy. In the area of export subsidies, the EU is facing a genuine united front that it is trying to counter by proposing that all forms of distortion of export competition should be dismantled and by censuring American, New Zealand and Canadian practices involving the use of indirect public support (advantageous export credits for purchasers, food gifts linked to purchases or State trading companies with an export monopoly) to keep prices artificially low.

The EC have nevertheless become one of the main leaders of the Friends of Multifunctionality, alongside Japan, the Republic of Korea, Norway and Switzerland. These countries, rallying to defend the various roles that agriculture plays in preserving the countryside, employment and the environment¹¹, are at odds with the Cairns Group (especially New Zealand, Australia, South Africa and Argentina) and the United States in particular. These countries consider that the concept is artificial and designed merely to justify the continuation of high levels of support. They also stress that:

- the concept of multifunctionality is not specific to agriculture;
- while countries may have non-trade concerns, these concerns, however legitimate they may be, must not take priority over the objective of the reform;
- national support and protection policies do not just run counter to national objectives of multifunctionality but may also have repercussions on other countries.

The Cairns Group

The Cairns Group is made up of 18 developed and developing agricultural exporting countries (Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Fiji, Guatemala, Indonesia, Malaysia, New Zealand, Paraguay, Philippines, South Africa, Thailand, Uruguay) that joined forces to defend agricultural trade liberalisation. Set up on 3 August 1986, just prior to the Punta del Este Ministerial Conference, the Group had 14 members during previous negotiating rounds.

¹⁰ Bolivia, Colombia, Ecuador, Peru and Venezuela.

¹¹ Submission on 'Non-trade concerns' G/AG/NG/W/36/rev.1.

- These countries, where public support is negligible and agricultural exports are not subsidised, are calling for the abolition of export subsidies. Threatening to challenge agricultural subsidy programmes when the peace clause expires unless considerable progress has been made in the negotiations by that time, they are, together with the USA, the EC's fiercest opponents. The Group argues that these subsidies distort trade by making their own products less competitive in world markets and by creating artificially high prices for consumers in some domestic markets.
- The Group also rejects the notion of the multifunctional nature of agriculture on the grounds that trade in agricultural products must be covered by the same disciplines as for other products.

The Cairns Group has therefore joined forces with the United States and Japan in particular to censure the EU's export subsidies which it considers to be prejudicial to the capacities of developing countries. It has managed to rally the Members of the Asia-Pacific Economic Cooperation Forum (i.e. 21 countries), Mexico and a number of other developing countries to its cause. It also shares the American objective of reducing and reforming domestic support. Its shared interests with the USA go no further than this, however, as the Group challenges the American export credit programmes which it considers to be disguised subsidies.

During previous negotiations, the Group presented a united front throughout the whole of the first phase of negotiations but, following internal differences, gradually lost cohesion. Launching the offensive at an early stage, the Group submitted three proposals on the pillars of the reform for the Sessions in June, September and November 2000. Although it is impossible to predict how solid the alliance will be in the forthcoming negotiations, it should be noted that Canada has already distanced itself from the submission on market access and has submitted its own negotiating proposal on this issue.

While Canada has often led the offensive against the EC and the USA, censuring the record levels of US agricultural subsidies, it has not been free from criticism itself. The last WTO report on trade policy, which praises Canada's improved transparency and openness to trade, is nevertheless critical of the failure to put an end to major trade barriers. In the agri-food industry in particular, these continuing barriers take the form of high duties on sensitive products, quantitative restrictions and sanitary and phytosanitary concerns¹².

Other countries of the Group often support Canada's criticisms. Brazil, for instance, has insistently demanded the abolition of the Community system of agricultural subsidies, has not been very receptive to the notion of the multifunctional nature of agriculture and clumsily handled negotiations on the association and trade liberalisation agreements between the EC and the South American Common Market (Mercosur) of which it is part. Very keen to strengthen its position as an agricultural exporter (agriculture already accounting for 34% of its exports), Brazil is also critical of the European market access problems encountered by its products, such as sugar, beef, fruit and poultry, soluble coffee and soya oil, that are subject to high customs duties. To step up support for its views in the area of food security, it has joined forces with its Mercosur partners (Argentina, Paraguay, Uruguay, Chile and Bolivia) and Costa Rica to draw up targeted proposals in this area.

¹² The report points out in particular that the duties applied to products subject to tariff rate quotas, which are in excess of 300% in the dairy and poultry industries, are *de facto* quantitative restrictions and that sanitary and phytosanitary concerns mean that imports of meat are coming at present from only four countries.

The United States

Its major power and capacity for trade sanctions make the United States one of the most influential actors in the WTO. Its points of view, which are very different from those of the EU, and not just on agricultural issues, have been presented in three negotiating proposals which have a reforming bent: the long-term reform of agricultural trade, the reform of domestic support and the reform of tariff rate quotas.

- Having taken the lead in decoupling agricultural support (following the replacement of the old system of ‘deficiency payments’¹³ by a mechanism of fixed direct support decoupled from production volumes and prices), the United States is opposing the EU and proposing the abolition of blue-box aid for which it no longer has any use. The USA is also threatening to increase its own subsidies substantially and has decided, if there is no new agreement, not to extend the peace clause.

This strategy has been condemned, in particular by the EC, which are critical of the extent of the support measures that the USA has recently made available for farmers¹⁴. This support increases direct payments from the Federal Administration to close on USD 16 000 per farmer, i.e. three times the amount of Community support.

The repeated payment of additional subsidies that are felt by the American authorities to come within the green box, makes any discourse about the need for a global reduction of support for the agricultural sector less credible. It also raises questions as to whether domestic support has actually been reduced in the USA and, as a result, whether it has complied with its Uruguay Round commitments. These questions are being fuelled by the rumours surrounding the preparations for the new Farm Bill which is to replace the Federal bill on agricultural improvement and reform (the 1966 Fair Act), whose outcome must be decided by 2002. According to these rumours, a new system of ‘market-coupled’ subsidies is being planned for 2002. President Clinton was himself keen to explain that one of the purposes of the overhaul of the income support programme was better to target family concerns by taking account of losses of revenue in respect of current production and not just large enterprises on the basis of their past production. A policy of this type is undoubtedly a cause for concern. Some might see the beginnings of a return to the coupling of support at a time when the EU is in the midst of its own reform.

Like the EC, the United States forges alliances of convenience that the recent changes of direction in its agricultural policy and in particular the repeated award of *ad hoc* subsidies could call into question. The USA relies in particular on the support of the Cairns Group for further liberalisation of the agricultural sector and to gain recognition for the reforms that it is proposing. It is also trying to ally itself with the developing countries by highlighting the repercussions of the CAP and Community agricultural subsidies on their economies.

¹³ Under the ‘deficiency payment’ system for which certain products, and farmers who applied for it, were eligible, the majority of support for agriculture was financed from the budget by offsetting the difference between a market price or loan rate fixed in advance for each year and a target price corresponding to the income level desirable for farmers set every year by the American Agriculture Department. Together with a land-freeze programme, the system offered farmers two types of advantage:

- on the one hand, advance payment of the harvest amount in the form of a loan set at the level of the loan rate as a counterpart for the delivery of the harvest to a public intervention agency;
- on the other hand, a deficiency payment in respect of the quantities covered by the contract and up to certain thresholds.

¹⁴ The grant, in June 2000, of USD 7.1 billion of direct additional support, supplementing the USD 8.2 billion spread over five years for crop insurance and a new supplement of USD 23 billion in the form of direct and production-related subsidies set out in the American bill on agricultural expenditure for 2001.

The developing countries

Long on the fringes of the decision-making process, the attitude of the developing countries towards their developed trading partners has been one of overall mistrust.

- As recent trade liberalisation has proved more constraining than expected and has not provided them with the gains for which they had hoped, they are not at all keen on the idea of a new comprehensive negotiating round, especially as they would have no control over its agenda. They are not systematically opposed to the re-launch of the negotiating process, however, because it would provide them with more of an opportunity to put forward the demands and concerns that they consider to be important, such as the extension of transitional periods and the amendment of some existing rules. Many developing countries are also opposed to the inclusion of any new item in the WTO's built-in agenda until an agreement taking account of the imbalances in the WTO's current rules and provisions is reached. Their view is that there should be a moratorium on any new negotiations until there is due compliance with the procedures and criteria for transparency, publicity and participation ensuring results that appropriately balance the interests of all the Member countries.

All the implications of the agriculture negotiations are of particular concern to the developing countries. This sector is in practice a source of employment for 50% to 80% of their population, in comparison with only 5% to 10% in the developed countries. They do not therefore see agriculture in the same way as the developed countries. This explains why they are so critical of the agricultural support policies and subsidies that some industrialised countries have implemented.

- The developing countries are in particular critical of the destabilising effects of the CAP on local production, regional integration and the consumption model.
- They also complain that the Agreement on Agriculture places them in a disadvantaged position by depriving them of the right to implement subsidies and by forcing them to reduce protection of their products when they cannot see any concomitant reduction of import barriers in the developed countries.
- They also question problems of access to international and European markets and the lack of consistency of some objectives of the CAP and common market organisations with the development objectives that are being put forward. They are supported in this respect by a recent OECD study¹⁵ which shows that the emerging economies and the countries in transition have been hit by the continuing protection of agricultural trade in the industrialised countries (lack of gains in terms of agricultural market shares, downward trend in agricultural support, which was already lower than the average for the OECD countries, at a time when support in industrialised countries was increasing).
- Increasingly concerned to preserve their agricultural production, they are demanding greater freedom of action in respect of agricultural policies geared towards development. Keen to protect food security and rural employment, they are looking to increase green-box agricultural subsidies.

¹⁵ OECD report on 'Agricultural Policies in Emerging and Transition Economies: 2000'.

Japan

The recent economic and financial crisis has led Japan to introduce a number of structural reforms and to take measures to stimulate competition and further to liberalise the foreign trade system. Measures likely to have a major distorting effect on competition are still in existence, however, in the agricultural sector where import tariff duties are still high and complex methods are used to administer tariff rate quotas. OECD data also show an overall level of support for agriculture that is above average, despite the introduction of a reform that moves away from a price support to an income support system.

- In agriculture, Japan's alliances differ depending on the issues involved. Japan supports the European Communities in defending the multifunctional nature of agriculture which it promoted itself in July 1999 in its own agricultural legislation. The multifunctional nature of agriculture is in practice one of the four principles of the new fundamental law on food products, agriculture and rural areas, on a par with the stable procurement of food commodities, the sustainable development of agriculture and the development of rural areas.
- Japan is aligned, however, with the American and Cairns Group proposals criticising Community export subsidies.

2.2.5. Current disputes

Many disputes are souring trade relations. Some have already been brought before the WTO's Dispute Settlement Body (DSB) and rulings have been given. Others are latent and ready to boil over. These disputes, giving rise to considerable tensions, highlight far-reaching disagreements between countries, for instance between Europe and the United States in the area of sanitary issues. There is little doubt that they will have a major impact on the renegotiation of the agreements concerned and on the review of the operation of the Understanding on Rules and Procedures Governing the Settlement of Disputes. An examination of pending cases connected directly or indirectly with agriculture or the Agreement on Agriculture shows that eight of the 13 cases involve complaints brought by the United States.

Two of these concern the EC: bananas and hormone-treated meat. The EC have brought two major complaints against the United States, the first in relation to Sections 301 to 310 of the American bill of 1974, and the second in relation to the tax treatment of foreign sales corporations, and have also requested consultations, in June 2000, on the use by the United States of rotating sanctions against countries that do not comply with WTO decisions. A summary of the state of play of these disputes is given in Annex 4.

3. KEY STRATEGIES IN THE PROPOSALS

By the end of March 2001, when the deadline set by the WTO's Committee on Agriculture for the submission of proposals expired, 110 governments had submitted negotiating proposals, technical submissions and documents in the agricultural field. The 48 documents in question cover six main issues:

- market access;
- domestic support;
- export competition;
- special and differential treatment for developing countries;
- non-trade concerns;
- the restraint clause.

3.1. Market access

This issue is addressed in 27 comprehensive or specific proposals. Focusing on customs tariffs, tariff rate quotas, competition policy, the safeguard clause and the terms of special and differential treatment for developing countries, they highlight major differences of opinion as to the extent of the reform and the methods by which it is to be pursued.

3.1.1. Customs tariffs

In the area of customs tariffs, the European Communities are among the few Members to defend the *status quo* as regards tariff liberalisation, i.e. an overall average reduction of bound tariffs together with a minimum reduction per tariff line, using the same methods as in the Uruguay Round. They should, however, be able to rely on Switzerland, the Republic of Korea, Japan, Poland and Turkey. Switzerland is arguing a fairly similar case and has proposed a progressive reduction of customs duties (taking account of non-trade concerns and special and differential treatment for developing countries) based on product-by-product and case-by-case tariff negotiation. For their part, Japan and the Republic of Korea have also demonstrated that they are keen to defend a flexible approach to tariff protection.

The other Members or groups of Members (United States, Cairns Group, Canada, Grouping of 11 Developing Countries¹⁶, ASEAN, Caribbean Community – CARICOM, India, Turkey) have in contrast proposed substantial reductions of each tariff line to tackle disparities in tariff levels, which they would like to reduce, and tariff peaks and escalation, which they would like to eliminate. Several methods have been put forward: the introduction of reductions from applied rates (United States), caps on tariff bindings (India) and a maximum bound rate coupled with a minimum total reduction per tariff line (Canada).

There are differences of opinion nevertheless as to the pace of the proposed reductions, in particular between the United States, which is arguing for progressive annual reductions, and other countries (Cairns Group, India, Morocco) which are arguing in contrast for rapid tariff dismantling and a substantial reduction of tariffs during the first year of implementation.

¹⁶ Cuba, Dominican Republic, El Salvador, Honduras, India, Kenya, Nigeria, Pakistan, Sri Lanka, Uganda and Zimbabwe.

India is arguing, moreover, that the tariff reduction commitments of the developing countries must be conditional upon the actual reduction of the developed countries' tariffs within the three pillars of the reform.

Apart from the European Communities, which have not dealt with this aspect specifically, everyone agrees that tariff systems must be simplified and made more transparent, putting forward a range of methods, albeit with a marked preference for bound *ad valorem* duties (United States, Cairns Group, Grouping of Developing Countries, Caricom, Turkey). To make trade preferences more stable, transparent and predictable, the Caricom countries are also proposing the binding of preferential regimes and arrangements within the framework of the Agreement on Agriculture, the extension of negotiations to non-tariff measures and the introduction of a mechanism for the regular review of actual market access opportunities.

3.1.2. Tariff rate quotas

In the case of tariff rate quotas, all Members agree that the relevant rules need to be strengthened in order to improve disciplines and general methods of administration, which should be simpler, more transparent and less restrictive.

Some Members, however, have reservations in this area:

- Japan is arguing that the tariff rate quota administration methods used should be based on specific national circumstances that are shaped by the characteristics of products and their methods of distribution;
- the Republic of Korea is supporting a flexible approach to tariff rate quota administration, provided that administration methods are transparent;
- Norway is arguing that account should be taken of the sensitive nature of domestic production of staple agricultural products when deciding on methods for minimum access quotas.

As regards the principle of the quota itself, there are differences of opinion between the countries of the Cairns Group, apart from Canada, which are arguing for an increase in quotas by volume (with a substantial initial effort), Canada, which is envisaging their conditional preservation¹⁷, and the United States, India and Turkey, which have put forward radical proposals for their abolition.

In addition to the progressive and complete abolition of tariff rate quotas, the United States is advocating, during the transitional phase needed for this, the modulation of within-quota rates depending on actual quota fill (based on a mechanism triggering quantitative reduction in cases of quota under-fill).

¹⁷ Canada sets four preconditions for the preservation of quotas: eliminating within-quota tariffs, increasing the size of quotas to a common minimum threshold set by product and expressed as a percentage of the consumption of this product during a recent period, guaranteeing equal access to products and, lastly, setting over-quota customs duties depending on the extent of liberalisation of tariff rate quotas.

3.1.3. Competition policy

A number of Members have examined the issue of competition policy, from various different points of view:

- the EC are keen to defend the formulation of appropriate provisions ensuring fair competition for high-quality products (protection against usurpation of names, protection of geographical indications or designations of origin and regulations on labelling);
- according to the United States, the stress should be on the abolition of the exclusive import rights of importing State-trading enterprises and the adoption of new WTO provisions to ensure that their operations are more transparent. Other countries have put forward similar arguments in an attempt to extend the scope of regulated activities to cover the activities of non-governmental organisations and marketing agencies which have import and export monopoly rights, or even, in the case of Nigeria and Mexico, those of multinational companies;
- Japan, in contrast, is arguing for the preservation of State import trading as a system that stabilises the food product supply.

3.1.4. The special safeguard clause

The European Union, Japan, Norway and Switzerland are the only developed country Members explicitly arguing for the preservation of the special safeguard clause. Their proposal is supported by the ASEAN countries and the Republic of Korea. Most of them have, however, introduced fine shading:

- the introduction of a similar mechanism, accompanied by special conditions, for seasonal or perishable agricultural products (Japan, Republic of Korea);
- amended provisions, in particular as regards the reference period and the additional customs duty system, in the special clause based on prices (Switzerland);
- extension of the right to implement the special safeguard clause to all developing countries that do not as yet possess this right (Norway).

These views run counter, however, to the preferences of other WTO Members: the Grouping of 11 Developing Countries which, with the Cairns Group, is demanding that this clause should be reserved solely for them, and the United States (supported by Poland, Turkey and Egypt) which is calling for its abolition.

India, which is in favour of preserving the clause only for the developing countries since it shares their concern to guarantee food and subsistence security, is proposing a separate safeguard mechanism for its peers which is more in keeping with their situation. Similar to the special safeguard clause, this mechanism would make it possible, in specific circumstances and in cases of abruptly increasing imports or falling prices, to impose quantity restrictions, irrespective of tariffication, for all products deemed sensitive. India has also indicated that it would like to abolish the special treatment set out in Section A of Annex 5 of the Agreement.

3.1.5. Special and differential treatment for developing countries

Most countries accept the validity of the principle of special and differential treatment for developing countries as regards market access. Their objectives in this area are often similar: substantial improvement of the access opportunities and criteria for these countries' products. There are, however, slight differences of opinion as to the extent of this treatment:

- the European Communities, supported by Norway, are committed to providing duty-free access for essentially all products from the LDCs. They also propose that the developed countries and the wealthiest developing countries should provide significant trade preferences to the developing countries, in particular to the least-developed;
- the Cairns Group is calling for more rapid and substantial tariff reductions and the abolition of duties on local agricultural products. It is also arguing that rules for administering tariff rate quotas offering them better export opportunities should be drawn up and that only the developing countries should be entitled to use the special safeguard clause.

The other proposals from the developed countries are less radical and not as detailed as regards the measures envisaged; the US proposals, for instance, merely mention that the interests of the developing countries, and in particular the interests of the LDCs, should be taken into account in the implementation of tariff reductions and Japan, which defends the principle of flexible rules and disciplines in this field in order better to guarantee the food security of these countries.

Most of the developing countries, in particular India, Turkey, Egypt, the Republic of Korea, the ASEAN countries and the smallest developing countries¹⁸ agree that preferential market access agreements should be maintained. Some consider that various other methods should be made available:

- maintaining appropriate levels of tariff binding, depending on the trade distortions that can be attributed to the developed countries, and the ability to raise the level of low tariff binding which it has not been possible to rationalise during prior negotiations (India);
- special consideration for some products (sensitive, essential for food security or linked to non-trade concerns) with the right, in certain circumstances, to adjust the related tariff binding (India and Egypt) or to provide greater flexibility as regards the reduction of border protection measures either through an alleviation of reduction commitments (Republic of Korea) or through exclusion from these commitments (Egypt);
- other provisions such as the binding of non-reciprocal preferential rates of duty, exemption from the obligation to ensure minimum market access, the allocation of minimum access to the small island developing states, flexibility for countries which set up and implement regional trade arrangements and preservation of the special safeguard clause.

¹⁸ Including Swaziland, Mauritius and the coalition of small island developing states (Dominica, Jamaica, Mauritius, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines and Trinidad and Tobago).

3.1.6. Other proposals

Some Members have submitted more specific proposals. These include:

- the United States which would like to tackle the problem of **genetically modified organisms** through targeted disciplines improving the transparency, predictability and implementation of procedures for trade in new-technology products;
- the Grouping of 11 Developing Countries which would like to tackle the problems that the **SPS Agreement** raises for them, and Mauritius which is demanding that application of this Agreement should be more flexible for the developing countries¹⁹, the provision of appropriate technologies and measures to facilitate participation by these countries in international standards organisations;
- the United States and Canada which support the **principle of an extension of sectoral liberalisation**;
- the **countries with transition economies which are calling for specific provisions on flexibility**, in the context of future tariff reduction and commitments relative to market access, exempting them from additional reduction commitments for low tariffs and allowing them to make selective reduction commitments.

3.2. Export competition

The pillar of the reform programme relating to export competition has been addressed more or less comprehensively by the main Members. Although proposals are more particularly concerned with export subsidies, other aspects of competition have been brought to the negotiating table, including export credits, State-trading enterprises, food aid, competition policy and methods of special and differential treatment in this field for developing countries.

3.2.1. Export subsidies

Members which have submitted proposals on export competition have all put forward recommendations in respect of export subsidies, with the one exception of the European Communities.

- The EC have in practice geared their negotiating strategy to the extension of WTO rules and disciplines to all forms of export subsidy, and in particular officially supported export credits, as a precondition for negotiation.
- This has placed them in a difficult position, however, as the EC are facing the united front of other Members calling for their abolition (United States, Cairns Group, Japan, ASEAN, etc.), with varying degrees of commitment to its achievement:
 - progressive reduction of annual commitment levels over a specified period until they are completely abolished by value and by volume (United States);

¹⁹ So as not to be in a position, when a country is not able to conduct detailed risk assessments, where it is not able to refuse, on the pretext of trade concerns, the entry of a product into its territory.

- progressive elimination together with a substantial reduction commitment during the first years of implementation and a strengthening of the anti-circumvention rules in order to prevent the use of other unfair forms of export competition measures (Cairns Group);
 - average reduction by value and by volume coupled with the binding of the unit value of subsidies, with a progressive reduction (Japan);
 - immediately and together with an unconditional prohibition on their use by the developed countries (ASEAN).
- The EC's demand that the focus should not just be on export subsidies, but also on the reduction or even abolition of other types of measures that have distorting effects, has nevertheless been echoed by other Members (Mercosur and associated countries, Japan, Norway, India, Turkey, Switzerland, Egypt and Poland).

More marginally, other WTO partners are in contrast worried at any strengthening of the disciplines on export competition. This is clearly evident from the Mauritian negotiating proposal which highlights the positive impact of export competition measures. As well as preserving the exemptions set out in Article 9.4 of the Agreement on Agriculture, Mauritius is calling for the implementation of measures compensating for any strengthening of the disciplines in the field of export competition for the net food-importing developing countries.

3.2.2. Export credits

The main Members or groups of Members that have addressed this issue, i.e. the European Communities, the United States, Japan, ASEAN, Mercosur (in conjunction with Bolivia, Chile, Costa Rica and Guatemala), India and Malaysia, Mauritius and Turkey, agree that the use of export credits should be disciplined.

- In contrast to the EC, however, which argue that rules should be drawn up following a more detailed examination of their role, forms of use and impact on trade and that the future OECD arrangement should be integrated into the re-negotiated Agreement on Agriculture, the United States would like to abide solely by the OECD negotiations, in accordance with Article 10.2 of the Agreement on Agriculture.
- Mercosur and the countries associated with its proposal stress that a clear approach needs to be taken in order to cover and govern all forms of export credit and to prevent any circumvention of export subsidy commitments. Account also needs to be taken, in this approach, of the needs of developing countries, in practice by providing them with special and differential treatment (ASEAN, Mauritius, Japan).

3.2.3. State-trading enterprises

Only the United States, the European Communities, Japan and the Republic of Korea have submitted recommendations on state-trading enterprises. Sharing a concern to ensure that the operation of these organisations is more transparent, they propose the adoption of clearer and stronger disciplines including:

- the abolition of the exclusive export rights and official support or balancing subsidies (state funds or guarantees) to which some exporting state-trading enterprises are entitled (United States);
- the prohibition of unfair trading practices (cross-subsidisation, price pooling, etc.) which facilitate their intermediation (EC);

- the introduction of a notification system that is mandatory (EC) and complete, covering planned or past activities, coupled with strengthened obligations as regards exports (Japan);
- a system to prevent the circumvention of export competition reduction commitments (Republic of Korea).

Mauritius, however, has cautioned the other Members against any measures in this field that are too strict. Bearing in mind that intervention by state-trading enterprises may be useful in small markets, Mauritius merely proposes a moderate and prudent strengthening of the relevant disciplines²⁰. Other small states have submitted similar sectoral demands, such as Mali for cotton.

3.2.4. Food aid

Pointing to the lack of adequate WTO provisions to prevent abuses of food aid, the European Communities would like the negotiations to cover the forms that this type of aid should take so that the relevant rules can be revised and strengthened. They stress in particular that food aid should be given fully in grant form and in a way that does not damage local production. Their recommendations in this field include devising a code of good conduct and drawing up concrete provisions (including, among other things, the definition of the types of operation covered, a list of recipients and a mandatory notification mechanism). Several countries (including Switzerland, Mercosur and India) support the EC.

Less concerned with reform in this area, the United States has merely reiterated that it is in favour of this system and that the disciplines set out in Article 10.4 of the Agreement on Agriculture should be maintained.

3.2.5. Export restrictions

In order to place the world supply on a more secure footing and make access to commodities more secure, several Members (United States, Cairns Group, Japan, Switzerland) consider, as regards competition policy, that the disciplines on export restrictions (quantitative restrictions and export taxes) need to be strengthened. Their aim is to improve the rules on export restrictions through:

- the provisions of Article 12.1 of the Agreement on Agriculture and special and differential treatment for developing countries (Cairns Group);
- more restrictive measures including the prohibition or even the abolition of certain export taxes (United States, Republic of Korea);
- the zero-binding of all export customs duties for all non-LDC members (Switzerland);
- a more specific system (Japan). This would include the tariffication of all export restrictions, the limitation of export taxes together with exemption quotas, clarification of the disciplines on emergency measures to restrict exports and lastly stricter application conditions.

3.2.6. Special and differential treatment for developing countries

The Cairns Group, the ASEAN countries, the Republic of Korea, India, the Mercosur countries, Bolivia, Chile, Costa Rica, Guatemala, Morocco and Mauritius argue that a differential system should be introduced in the field of export competition. This system could take the practical form of:

²⁰ To be envisaged within the framework of Article XVII of GATT 1994 (State-trading enterprises).

- longer implementation deadlines (Cairns Group);
- the extension of the exemption from export subsidy reduction set out in Article 9.4 of the Agreement on Agriculture until all export subsidies are actually eliminated and prohibited (Cairns Group, ASEAN) and the extension of its scope of application (Republic of Korea);
- reduction commitments that are lighter (Republic of Korea) or suspended for some sensitive products of small island developing states (Mauritius);
- the implementation of special instruments, that are easy to apply, to prevent dumping practices (Morocco) or even the provision of minimum interest rates and longer repayment terms for the LDCs and net food-importing countries (Mercosur and the countries associated with its specific proposal).

3.3. Domestic support

The 22 proposals dealing with domestic support agree in principle that a framework is needed for support and agree, overall, that a new reduction is needed. They differ, however, as to the methods, size and scope of the reductions to be imposed.

3.3.1. The extent and method of the reform

- As with their position on market access, the European Communities have no wish to call into question the approach agreed at the Uruguay Round as regards the classification of support measures and their treatment. The EC will negotiate a new reduction of non-exempt support only if the blue and green boxes are kept. They also propose to apply specific disciplines to amber box subsidies which boost export performance.
- Japan, the Republic of Korea, Poland, Norway and Switzerland also argue that the current framework of rules and disciplines on domestic support should be maintained and in particular that the benefits and utility of blue-box measures should be preserved and recognised. These countries stress that:
 - the level of the AMS should be calculated in a realistic way – which rules out any negotiation of a fixed percentage of total agricultural production (Japan);
 - only AMS measures accorded to export production should be subject to new reductions, while domestic support for agricultural production for the domestic market should be subject to less strict commitments (Norway);
 - a certain level of support should be permitted, even if the measures in question influence production and trade, with the result that the reduction of the level of domestic support can only be gradual, on an aggregate basis and of a scope that is acceptable to each country (Republic of Korea);
 - each Member should have the right to institute and maintain blue-box payments and should have a degree of flexibility as regards the scope and pace of its AMS reduction (Poland);
 - it would be preferable, prior to any new reduction of market-distorting amber-box measures, to reach agreement on the definitions of and instruments applicable to green- and blue-box domestic support, so that better account can be taken of non-trade concerns, the multifunctional nature of agriculture and special and differential treatment (Switzerland).

- The United States have in contrast chosen radically to simplify the disciplines on domestic support. They propose to restructure support measures into two boxes, ‘exempt’ and ‘non-exempt’, and to make the non-exempt support of each Member subject, over a specific period, to annual and progressive reductions up to a specified percentage (identical for everyone) of the value of total agricultural production.
- The Cairns Group, ASEAN and the Grouping of 11 Developing Countries²¹ would like to go further. They are arguing not just for the elimination of disparities between support levels but also for the complete abolition of production and trade-distorting support (AMS and blue box). Some countries are calling for a cap on total support, whether this is limited or not to the developed countries:
 - Canada, for instance, is proposing that a global limit on all types of support should be negotiated, together with substantial reductions of amber- and blue-box support, using a formula and parameters (period, degree of aggregation or disaggregation) to be decided;
 - the Grouping of 11 Developing Countries is calling for all aid boxes to be collapsed into a single box called ‘general subsidies’ and for controls of this support linked to the level of subsidies²².
- India has chosen to distance itself, arguing for a ceiling on non-exempt domestic support, a significant reduction of support in general and the recognition of a ‘food security’ box for developing countries as a supplement to the measures already exempted under the Agreement on Agriculture. In addition to a revision of the scope and methods of reduction of the AMS (so that it includes measures that have up to now been exempt and is returned to a maximum period of three years for the developed countries and five years for the developing countries up to the current *de minimis* level), India is envisaging a cap on product-specific support that it is proposing to set at twice the relative *de minimis* level and the adoption of notification methods that take better account of the impact of inflation and exchange rate fluctuations.

3.3.2. Exempt domestic support

Most of the proposals examined call for a review of green-box criteria, although for different purposes.

- The EC, Japan and the Republic of Korea would like to extend the scheme to other measures so that better account can be taken of non-trade concerns (EC) and the actual production situation (Japan) and the multifunctional nature of agriculture can be correctly reflected (Republic of Korea).
- The other countries are not in favour of this proposal and are in contrast arguing for exemptions limited:
 - to targeted and transparent support measures that have the least possible repercussions on the other Members, in particular the developing countries, on the basis both of the current provisions of the Agreement on Agriculture (food security and the environment) and new objectives that take account of non-trade concerns (United States);

²¹ Cuba, Dominican Republic, El Salvador, Haiti, Honduras, Kenya, Nicaragua, Pakistan, Sri Lanka, Uganda and Zimbabwe.

²² Exemption above a minimum support level that could be set at 10% of production, possibility of action against the developed countries for support that is more than 5% higher than this minimum level coupled with protection for the developing countries under the due restraint clause, prohibition of any support more than 15% higher than this minimum level with the proviso of special provisions for developing countries.

- provided that the exempted measures do not have trade-distorting effects or that their effects are zero or at most minimal (Cairns Group) and that the disputed provisions (such as direct payments to producers, decoupled income support and State participation in income guarantee/support programmes) are abolished (India).
- The developing countries are also calling for better account to be taken of the special circumstances (Morocco) and needs of developing countries in the areas of food security (ASEAN, India), poverty alleviation, rural development, rural employment and agricultural diversification (India).

In opposition to countries that support the preservation of the *de minimis* threshold (United States, Cairns Group and the Republic of Korea), a number of Members are keen, some more than others, to call it into question and are proposing:

- its reduction solely for the developed countries (EC and Morocco) or its abolition for these countries (ASEAN);
- an increase in its level, but only for the developing countries (Grouping of 11 Developing Countries²³).

3.3.3. Special and differential treatment for developing countries

Many proposals have been submitted on the content and form of the special and differential treatment that could be accorded to the developing countries under the forthcoming reform of the domestic support pillar. They take a strengthening of the exemption of domestic support programmes that are geared towards these countries' development aims and needs as their starting point.

- The United States is proposing, for instance, to exempt support measures based on supplementary criteria and considered essential for the achievement of the development and food security objectives of developing countries and LDCs.
- The Cairns Group is calling for the implementation of provisions that are more concrete, more in keeping with the concerns of development countries and suitably flexible. These measures could be based on the existing green-box rules covering the needs of developing countries, supplemented by specific measures and differential commitments for these countries. In order to support their agricultural, rural development or food security programmes, the Group is also very keen to intensify technical assistance and international cooperation programmes.
- Several other Members have also stressed that developing countries need to be provided with greater flexibility. This would enable them to:
 - have specific support boxes (a 'development' box covering objectives in keeping with their circumstances – Grouping of 11 Developing Countries²⁴, or a 'food security' box - India);
 - address concerns linked to the vitality of rural areas and food security (EC);
 - promote programmes for agricultural development or diversification (ASEAN, India), poverty alleviation (India) or intended to satisfy their own consumption needs (Japan).

²³ Cuba, Dominican Republic, El Salvador, Haiti, Honduras, Kenya, Nicaragua, Pakistan, Sri Lanka, Uganda and Zimbabwe.

²⁴ Cuba, Dominican Republic, El Salvador, Haiti, Honduras, Kenya, Nicaragua, Pakistan, Sri Lanka, Uganda and Zimbabwe.

Reduction commitment exemption measures could be linked to the revision of the *de minimis* box, the introduction of a due restraint clause solely for the developing countries, better controls of the criteria for and methods of supply of food aid and an intensification of all forms of assistance by the developed countries. The ASEAN countries are also calling for a clear demarcation between domestic measures that lead to overproduction and fuel exports and those geared towards the food security problems of developing countries.

- In addition to the developing countries, the countries with transition economies are asking for exemption from the reduction commitments decided in the area of domestic support and for an increase in the threshold of the *de minimis* box. Poland has specifically asked for authorisation to implement appropriate measures to mitigate the effects of the fall in profitability likely to result from the implementation of the Agreement.

As can be seen from the various proposals discussed above, WTO Members agree that a more satisfactory and more practical system of special and differential treatment would be reasonable and useful. This agreement is nevertheless fragile as some Members could be tempted, along the lines of the 'Friends of Multifunctionality', to broaden the debate by endeavouring to defend the very principle of the right of countries to pursue rural development policies in which agriculture has a key role to play and to make provision, in WTO rules, for enough flexibility for all countries that have decided to see them through.

3.4. Special and differential treatment for developing countries

Two groups of Members, the Grouping of 11 Developing Countries²⁵ and ASEAN, have submitted proposals to the WTO dealing specifically with special and differential treatment for developing countries. The content and methods of strengthened special and differential treatment are often covered, moreover, by other Members' thematic and comprehensive proposals.

3.4.1. The broad lines

The various proposals highlight the importance of an appropriate, flexible and comprehensive system for developing countries, that takes a flexible approach to the implementation of exemptions from reduction commitments, and for differential treatment. Some Members are also calling for targeted contributions by the developed countries, as a token of efficiency and credibility, and for a review of the Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries in order to ensure that it can be effectively implemented.

Motivated chiefly by the concern to preserve food security in these countries, this flexibility could take the form of granting them more autonomy as regards methods of action (ASEAN) and more flexibility as regards their implementation (EC, Poland, Japan). A similar approach could be taken to measures to address other concerns linked to the vitality of rural areas and poverty (EC) and to rural employment (Republic of Korea).

²⁵ Cuba, Dominican Republic, El Salvador, Haiti, Honduras, Kenya, Nicaragua, Pakistan, Sri Lanka, Uganda and Zimbabwe.

Exemption from reduction commitments would cover:

- direct or indirect support measures which are an integral part of development (ASEAN), food security, poverty alleviation, rural development, rural employment and agricultural diversification programmes (India) or programmes which are intended to step up national production or purchases of food products for public stockholding (Nigeria);
- some types of export subsidies (ASEAN, India, Japan, Republic of Korea) or some forms of export competition or State trading (Japan);
- the most sensitive products (Mauritius);
- natural disasters (Small Island Developing States).

Differential treatment would give the developing countries some exclusive rights including:

- the use of the special safeguard clause (Grouping of 11 Developing Countries), the extension of the right to its use to all developing countries that do not already possess this right (Norway) and, in all cases, the right to a mechanism which is similar (Caricom) or specific (India);
- duty-free access for essentially all products of the LDCs and non-reciprocal trade preferences (EC, Norway, Small Island Developing States, Swaziland), revised principles of a general preference system incorporated in the Agreement on Agriculture (ASEAN);
- the maintenance of exempt support measures for the developing countries (Cairns Group, Turkey, Nigeria), or their extension (Norway, India, United States), or the creation of boxes for specific support measures such as a 'development' box covering objectives specific to developing countries (Grouping of 11 Developing Countries) or a 'food security' box based on instruments appropriate for this purpose (India);
- the preservation for these countries of the *de minimis* box (ASEAN), or the raising of its threshold (Grouping of 11 Developing Countries, Small Island Developing States, Norway);
- longer implementation periods in the area of export competition (Cairns Group);
- an intensification of assistance from the developed countries (EC, United States, Small Island Developing States, Republic of Korea, Norway, Egypt) in particular as regards anti-dumping and countervailing duties (Caricom) and the strengthening of bilateral or multilateral food aid programmes through an international food stockholding system (Japan);
- use of the peace clause for a minimum period of 10 years, coupled with limited implementation thereafter (India).

The developing countries point out that these special measures cannot be placed on a concrete footing unless there is an **effective contribution from the developed countries**. This could take the form of:

- more restrictive commitments (higher, more drastic or faster reductions of support or protection for sectors or products of interest to developing countries);
- waiving of a certain number of prerogatives (such as the peace clause, the special safeguard clause, etc.).

Particular cases

Some Members do not just support the principle of special and differential treatment but are also calling for special provisions in keeping with their situation. Swaziland, for instance, considers that the need for special and differential treatment specific to the most vulnerable developing countries should be recognised. In addition to maintaining, for a sufficiently long period, the preferential market access agreements from which small developing countries

benefit (in particular market access at guaranteed prices for sensitive products), Swaziland stresses that small developing countries should be entitled to protect their local production against imports likely to threaten the existence of local industry and that safeguard measures should be retained for that purpose.

The negotiating proposal from the Small Island Developing States takes the same line, i.e. obtaining special provisions that take account of their structural weaknesses and the efforts that some of them have made in the area of trade liberalisation, with two main concerns: better protection from the points of view of security of access and food security.

3.5. Non-trade concerns

The issue of non-trade concerns is addressed in at least ten submissions, including the submission on non-trade concerns from the 'Friends of Multifunctionality'.

The multifunctional nature of agriculture

Support for the multifunctional nature of agriculture has two objectives. First, to maintain special treatment for this sector in the WTO. Second, to provide reasonable flexible multilateral trade rules allowing the various countries, on the basis of their respective situations, to implement policies and measures that satisfactorily address non-trade concerns (in the areas of rural development and food security in particular, and from the environmental and cultural point of view) while ensuring, however, that there is minimal trade distortion.

- The European Communities propose, in this area, that targeted and transparent measures that are no more than minimally trade-distorting should be accommodated in the Agreement in order to protect the environment and promote the sustainable vitality of rural areas and poverty alleviation. They are supported by Norway, Japan (which considers that the reform process cannot be pursued unless the co-existence of the various types of agriculture is respected) and Switzerland. Switzerland has nevertheless pointed out that the rules and disciplines of the Agriculture Agreement need to be clarified and appropriate instruments developed.
- This call for clarification has also been echoed by a number of developing countries (Swaziland, Mauritius, Morocco) which would like to protect their interests by ensuring that the Agreement takes better account of their non-trade concerns and better pinpoints the impact of the non-trade concerns of the developed countries on their agriculture. Having decided, in the absence of concrete measures (such as Morocco's proposal to create a world fund fed by the developed countries for the purposes of financing multifunctionality measures), not to give any ground in this area, they are prepared to reject all measures in support of the multifunctionality of agriculture of the developed countries. India has warned its partners that the non-trade concerns at issue, food and subsistence security and the development of genuine food autonomy being at the top of the list, are not at all the same as those being put forward by some developed countries under the pretext of the multifunctionality of agriculture. India considers that the latter are intended rather to perpetuate trade-distorting subsidies and place them on a legitimate footing.

Product quality

Aspects relating to product quality have been addressed by the EC, Japan, Republic of Korea, Switzerland and the Caricom countries.

- The European Communities argue in this area that the legal protection of products (geographical indications and designations of origin) should be stepped up. They call for effective protection against usurpation of names in the food and beverages sector and for effective market access that enshrines the right to use the name to which a product is entitled. They also propose that the use of precautionary principle should be recognised, after clarifying the way in which it is applied, in order to respond to consumers' legitimate concerns about food safety and to satisfy their need for better information on production and processing (in particular through appropriate regulation of labelling systems and protection against usurpation and deception).
- Switzerland and Caricom are also arguing for the extension of the provisions on geographical indications. Switzerland is calling in particular for close coordination with other WTO bodies addressing this issue (TRIPS). Switzerland feels that a similar approach should be taken to labelling (TBT), food safety (SPS), the environment and other international organisations or bilateral instruments.
- Japan has stressed that better account needs to be taken of concerns connected with food safety. It is proposing, for this purpose, a review of the provisions of the SPS Agreement to establish whether or not they are adequate, an improvement of inspection and quarantine measures, the establishment of a system of information through appropriate labelling of imported and exported products and the adoption of appropriate international rules within the CODEX as regards the labelling of genetically modified organisms (GMOs). It is supported on this issue by the Republic of Korea. In a concern to provide better consumer protection, the Republic of Korea is recommending the adoption of provisions on food quality and safety and on the potential risks of GMOs to human health and the environment, taking due account of the need for consumer precaution and information.

Animal welfare

The European Communities are the only WTO Member to submit a specific proposal on animal welfare. In an attempt to gain recognition for this concern in multilateral trade rules, the EC are proposing:

- the development of multilateral agreements on animal welfare;
- the introduction of appropriate (compulsory or voluntary) labelling;
- an examination to establish whether or not compensation of the additional costs that would be involved can be exempted from reduction commitments.

3.6. The due restraint clause

Ten proposals address the issue of the due restraint clause. Some are in favour of keeping it, while others argue for its revision or even abolition.

- The EU is very keen to keep the due restraint clause. It is supported by Norway, Switzerland and Mauritius, which is calling for the extension of its scope of application.

- The grouping of developing countries composed of Cuba, Dominican Republic, Honduras, Pakistan, Haiti, Nicaragua, Kenya, Uganda, Zimbabwe, Sri Lanka and El Salvador argues that this mechanism should be kept, but only for the developing countries.
- India has taken a more aggressive stance and has called for its immediate abolition for export subsidies and for the rationalisation of its use for other types of subsidy during the transitional period agreed for its abolition.
- Other countries (including Canada) have taken a middle line, and are more keen to review the methods of application of the clause than to abolish its use completely.

4. REACTIONS OF WTO MEMBERS TO THE EC PROPOSALS

4.1. The general reaction

A number of statements show the attention that certain Members have paid to the proposals put forward by the EC. Unsurprisingly, the Republic of Korea, Norway and the countries with transition economies (some of which are awaiting accession to the EU) have confirmed their support for the main points of view put forward. Members which do not support the Community line have found the EC comprehensive proposal constructive but too moderate.

As the United States has not as yet submitted an official statement, most of the comments have come from Cairns Group countries. They can be summarised as follows: a goodwill submission that nevertheless paves the way for a whole range of disagreements and that, overall, lacks the drive needed for a substantive reform of agriculture.

The desire to preserve the *status quo* evident from the EC's proposals is also criticised by some ASEAN countries. The latter complain in particular that the EC submissions take inadequate account of the long-term objective of substantial progressive reductions of support and protection and that too many aspects that are highly trade-distorting remain unchanged. Although they doubt whether the proposals are relevant to the objective of a fair and market-oriented agricultural trade system, these countries are, however, more receptive to the EC's position on special and differential treatment for developing countries.

India, which also censures the EC's defensive position, nevertheless supports the objective of ensuring that all Members, and in particular developing countries, benefit fully from the expansion of world trade. India, which is in favour of introducing conditions to improve developing countries' access to the markets of the industrialised countries and of preserving protection for the most vulnerable countries during their necessary phases of adaptation, is awaiting concrete proposals from the EC.

The Community approach to the continuation of the reform process has also elicited some reactions as to the ways in which non-trade concerns should be taken into account. Different points of view are put forward in the statements depending on the way in which each Member interprets Article 20 which is the basis for the negotiations. The EC and the countries most in favour of the Community proposals share a concern to find a balance between trade and non-trade concerns in the reform process. Rather than limiting negotiations to the traditional 'tripod' (market access, export competition and domestic support), they consider that the issue of multilateral agricultural trade should be tackled from angles that are not strictly trade-related in order to fulfil two expectations: the expectations of developing countries, through proposals for the development of special and differential treatment for such countries, and the expectations of society, through proposals that recognise its main aspirations.

4.2. Reactions to the detailed proposals

Market access

In the area of market access, the EC propose:

- tariff reductions according to the Uruguay Round formula (overall average reduction of bound tariffs and a minimum reduction per tariff line);
- the definition of a set of rules and disciplines to increase the transparency, the reliability and the security of the management of tariff rate quotas in order to optimise their use;
- appropriate provisions to ensure fair competition in respect of high-quality products (protection of consumers against usurpation of names and the right to use geographical indications and designations of origin, by means of regulations on labelling);
- the continuation of the special safeguard clause.

Comments by WTO Members on the EC's proposals in this area reflect a whole range of opinions. Particular criticism has been levelled at the continuation of the Uruguay Round formula. Many countries are disappointed that the EC is taking no account at all of the need to reduce or even eliminate tariff peaks and tariff escalation, in particular for products of interest to the developing countries. Others consider that the continued use of the previous reduction formula would leave certain Members free to make substantial reductions in respect of non-sensitive products and minimal reductions in respect of other products and that it would not place enough checks in the way of countries maintaining tariff peaks.

Most countries agree, however, with the EC's proposal to improve the rules and disciplines on tariff rate quotas. Some countries, for instance Argentina, point out, however, that provision needs to be made for their progressive elimination. India's view is that a clarification of tariff rate quota administration methods, however useful, will not be sufficient to tackle the problems that developing countries are facing unless account is taken of the problems of new or small exporting countries in the negotiations. Other developing countries consider that reductions of in-quota and outside-quota tariff rates, a periodical increase in tariff volumes and the introduction of quotas that are product-specific, and not for aggregate groups of tariff lines, are also indispensable.

The proposal to keep the special safeguard clause is often countered on the grounds that this clause had been accepted only as an adjunct to the tariffication process. As the latter is complete, the clause is no longer relevant. There is criticism of what is seen in some cases as the improper use of the clause by the developed countries in particular. Some developing countries are calling for an instrument that is better geared to their own concerns, in particular food security, and would like to prevent developed countries which still have high levels of protection from using this mechanism. The EC's position is supported, however, by Norway and Mauritius.

In the area of quality, several countries, including Argentina, Malaysia and Thailand of the Cairns Group, consider that issues relating to geographical indications or labelling should not be included among the issues covered by these negotiations. They refer the EC to the discussions underway in the TRIPS Council as regards geographical indications and to the provisions of the TBT Agreement as regards labelling. These countries consider that these

issues should not mask the genuine challenges raised by trade negotiations on market access: the problems of tariff peaks, escalation and disparity, and non-tariff measures, should be tackled as a priority. Mauritius, Sri Lanka and the countries with transition economies do not share this view and are as keen as the EC to address these issues in the current negotiations.

Export competition

In the area of export competition, the EC propose:

- the extension of WTO rules and disciplines to all forms of export subsidies, and in particular officially supported export credits, as a precondition for the negotiation of new export subsidy reductions;
- the revision and strengthening of the rules applicable to food aid;
- the prohibition of unfair trade practices by State-trading enterprises.

Most countries are not in agreement with the Community line. They chiefly dispute the EC's precondition for the negotiation of new export subsidy reductions which they consider unacceptable.

The EU should not use the fact that there are other forms of unfair competition as a pretext not to put an end to the practice of export subsidies which are considered to have the most damaging and the most obvious effects on developing countries. Linking the negotiation of export subsidy reduction commitments to reduction commitments for other types of subsidy would obviously hold up the negotiating process and lead to circumventions of existing commitments.

These countries nevertheless agree that disciplines should be developed for other forms of export subsidy and that the undertaking set out in Article 10.2 of the Agreement on Agriculture and in the Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries, which has yet to be implemented, should be placed on a practical footing. They also favour the introduction of strict rules to prevent abuses of food aid and to ensure that it is more in keeping with the needs of developing countries. The Philippines consider in particular that no form of export support should be prejudicial to local food production or the marketing capacities of recipient countries. If rules need to be developed, they must include special and differential treatment for the net-food importing developing countries and the LDCs.

The main thrust of the principal WTO Members is therefore to ensure continued efforts to reduce and then eliminate export subsidies and effectively to subject export credits to WTO negotiated disciplines. The fact, however, that the EC wish to treat the effects of export subsidies and export credits on an equal footing should not detract from discussions on the elimination of export subsidies or prevent disciplines for export credits from being drawn up.

Domestic support

In the area of domestic support, the EC propose:

- to keep the current framework of provisions on domestic support and to negotiate new reductions in support provided that the concepts of the ‘blue’ and ‘green’ boxes continue;
- a further reduction in the Total AMS starting from the final bound commitment level, by a further strengthening of the rules concerning non-product-specific domestic support and by a reduction of the ‘*de minimis*’ clause for developed countries;
- a specific discipline to be applied to the various ‘amber’ box subsidies which boost export performance by providing compensation for variations in market prices;
- a review of the criteria to be met by ‘green box’ measures to ensure minimal trade distortion while at the same time ensuring appropriate coverage of measures which meet important societal goals.

Many of the statements from WTO Members are critical of the EC’s proposals on domestic support. In particular, they take issue with the fact that:

- the EC would like to keep the current framework of provisions on domestic support when it needs a complete overhaul and, consequently, that the EC are making no attempt to remedy the major imbalances inherent in the obligations and commitments of the Agreement on Agriculture or to propose further efforts to achieve a substantial reduction of support by the developed countries. The EC, which is proposing a review of the green box criteria, is criticised in this respect for its lack of concern to prevent improper uses of some related measures and for its attempt, in contrast, to extend this box somewhat improperly under the pretext that certain non-trade concerns need to be included in it;
- the EC are specifying new conditions while demanding the preservation of the concept of the blue and green boxes solely in order to preserve a compromise box – accepted on a transitional basis – causing major trade distortions and which, moreover, concerns only a small number of countries;
- the EC are putting forward proposals that do not place any real constraints on the developed countries or, according to India, that are nonsensical, especially as regards the reduction of the *de minimis* threshold for these countries since most of the support in question is already exempt from this discipline.

In the face of this united front of criticism, only Norway, Poland and Japan have clearly supported the EC proposal and stressed the importance of keeping the blue box to ensure that the process of agricultural reform continues in the direction set out in the Agreement on Agriculture. Most of the other Members are critical, however, of the EC’s lack of arguments to justify keeping the blue box and, at the very least, its exemption from precise limits and stricter conditions making it possible to ensure that the measures that it covers are compatible with the reform process.

Special and differential treatment for developing countries

In the area of special and differential treatment for developing countries, the EC propose:

- a commitment to provide duty-free access to essentially all products from the LDCs, including agricultural products;
- that the developed and the wealthiest developing countries provide significant trade preferences to developing countries, and in particular the LDCs, and that an examination is undertaken on ways to ensure that these trade preferences are rendered stable and predictable, in order to create the appropriate conditions for investment in, and development of, the agricultural and agri-food sectors in developing countries;
- that these countries are provided with enough flexibility to address concerns connected with the vitality of rural areas and food security (exemption, where appropriate, from reduction commitments or of domestic support measures which help to address these concerns, revision of the *de minimis* clause for these countries and a strengthened framework for food aid supply conditions and methods);
- an intensification by the developed countries of all forms of assistance.

Most of the developing countries have welcomed new commitments in their favour in the area of market access, as these proposals may help better to integrate them into international trade by taking account of their adjustment problems and the high priority that they attach to food security and rural development. They are also attracted by the provision of significant trade preferences and by the examination of ways of ensuring that these preferences are stable and predictable in order to create the appropriate conditions for investment in, and development of, their agricultural and agri-food sectors. Sri Lanka and Mauritius have also pointed out that the key here is to implement conditions that improve the access of developing countries to agricultural product markets so that they can benefit fully from the expansion of world trade, while accepting that it may be necessary to retain protection for the most vulnerable developing countries to allow them adequate time for adaptation. The Cairns Group has also indicated in its proposals that it would like to support more substantial improvements in market access for products of interest to the developing countries.

The support of some countries, although receptive to these proposals, has been less clear-cut. It is felt, for instance, that the need to make preferences stable and predictable in order to create the appropriate conditions for investment in, and development of, the agricultural and agri-food sectors of the developing countries should be met only within the framework of principles of non-discrimination and non-reciprocity (Philippines). Preferences should be free from implementation conditions (Indonesia) and should be bound (Sri Lanka). The Community proposals, felt to be overly geared towards the provision of trade preferences, should not impose obligations on the wealthiest developing countries (Dominican Republic, Honduras, Cuba, El Salvador and Philippines) since it is the task of the developed countries to eliminate trade-distorting measures through significant tariff reductions and the abolition of subsidies. Others also argue that trade preferences for the LDCs could worsen the access of all the developing countries to the developed countries' markets and that, rather than creating new categories of recipient countries not recognised by the WTO, care should be taken to ensure that the advantages offered to some countries do not run counter to the interests of others.

The EC's proposals in the area of domestic support have been welcomed, especially those advocating the exemption from reduction commitments of domestic support measures promoting, within the framework of poverty alleviation, the sustainable vitality of rural areas

and food security concerns. Recipients consider, however, that the flexibility needed to address these concerns can be provided only within the context of comprehensive special and differential treatment and not just within the framework of the green box.

As regards technical assistance for the developing countries, reactions to the EC's proposal to intensify this kind of aid have been positive. Some potential recipient countries stress, however, that the provisions of WTO agreements must be placed on an effective footing and that the provision of affordable access to technology is becoming one of the main factors involved. Aid should also play its part in ensuring that genuine benefits can be gained from the opening up of the markets in question, in particular aid under the Community 'Everything but Arms' initiative as, without adequate technical resources, the developing, and especially the poorest, countries will not be able to meet the standards and regulations that the EC are imposing, in particular in the health and phytosanitary fields.

Non-trade concerns

In the field of non-trade concerns, the EC propose:

- the accommodation in the Agreement on Agriculture of targeted and transparent measures, implemented in no more than minimally trade-distorting ways, to protect the environment and promote the sustainable vitality of rural areas and poverty alleviation;
- clarification of the application of the precautionary principle and appropriate regulation by the WTO of labelling schemes in order to satisfy consumers' legitimate concerns about food safety and their need for better information on production and processing;
- to take account of efforts to improve animal welfare (through multilateral agreements, appropriate labelling rules or reduction exemptions, provided that certain conditions are met) and the recognition of compensation to cover the additional costs required to address this concern.

Like the submission on non-trade concerns, submitted by 41 States, which was discussed at length at the fourth Special Session of the Committee on Agriculture on 15-17 November 2000, the EC's proposals to integrate non-trade concerns into the reform process have elicited many reactions relating to both the approach and the content of the proposals.

The Cairns Group countries reject attempts to find a balance between non-trade concerns and trade concerns in the negotiations. According to the terms of the Agreement, non-trade concerns simply need to be taken into account, in the same way as special and differential treatment for developing countries, in order to achieve the objective of establishing a fair and market-oriented agricultural trading system. While these countries are nevertheless receptive to the prudent way in which the EC has phrased these proposals, they point out that the discussions are likely to become much more challenging when the time comes to specify the notion of methods that are no more than minimally trade-distorting.

The existence of legitimate non-trade concerns, in fields such as environmental sustainability, food security, rural development and product health safety, is of concern to all countries. The principle is recognised, moreover, in Article 20 of the Agreement on Agriculture. The problem is therefore less one of agreeing the principle than of agreeing:

- the scope of the non-trade concerns that could be recognised in the Agreement on Agriculture²⁶;
- the place they should be given in this Agreement; and in particular,
- how the policies implemented can be made compatible with the process of multilateral trade liberalisation.

One of the initial areas of discord in the statements on the EC's proposals is the appropriate forum for the discussion of certain non-trade concerns. Some Members retort that some non-trade concerns such as health safety, labelling rules and methods of protection of geographical indications are covered by other agreements and should not be brought into the current agriculture negotiations. The same comment has been made by the United States as regards the clarification of the precautionary principle from the point of view of its environmental or health components.

The EC's proposal on food quality has therefore received a tepid welcome. Argentina considers that it is unrealistic since priority needs to be given to abolishing export subsidies, price subsidies and tariffs if fair competition and consumers' freedom of choice is to be defended. Australia has pointed out that WTO agreements already contain solid mechanisms for addressing this question. An overly regulatory approach attempting to protect consumers from practices intended to mislead them and against the usurpation and imitation of names or products could, according to Australia, have effects that run counter to the objectives that are being sought, by limiting competition and ultimately by restricting information and consumers' freedom of choice.

Other countries are more in favour of the EC's proposals, especially the preservation of the special nature of high-quality foodstuffs, but would like to remedy some aspects that are unclear or inadequately covered. These in particular include:

- finding an appropriate way of taking account of consumers' views when these are not in the interests of another country;
- drawing up disciplines for all unfair competition practices, i.e. not just including the usurpation of names but also the risk of eviction of products of non-traditional origin from some markets and the aggressive action of some transnational companies in the foodstuffs industry;
- the ways in which developing countries can be brought into this regulatory or standard-setting process.

Although some developing countries are very aware of the important role that non-trade concerns plays in the successful development or even survival of their agriculture, they refuse to believe that their non-trade concerns are on a par with those of the developed countries. They consider that the concerns shaped by the characteristics of their agriculture are not comparable with those that the EC would in particular like to include under the heading of multifunctionality: although every Member has its own specific agricultural features, the features of developing countries are different and justify the need for more flexible ways of addressing them. They consider that, in contrast, most of the developed countries have targeted policies to take them into account and that the green box or the provisions of other agreements provide them with enough resources to do so.

²⁶ In addition to food security and the need to protect the environment cited in the Agreement's preamble.

The proposal on animal welfare has undoubtedly been met with the most reservations and the most surprise and incomprehension. Considered to lie outside the scope of the agriculture negotiations and to reveal a specifically European problem, it is seen by many countries as a new kind of protectionism that would restrict access to the markets of the developed countries and as a very suspect attempt to increase domestic support. The developing countries in particular object that the products of poor countries would no longer be competitive as a result of the increased costs that this kind of regulation would impose. Offering compensation to producers as a counterpart to higher standards would ultimately entail the exclusion of some stockbreeding systems in which the standards could not be applied or would be unfamiliar.

Reactions to the EC's proposals in this field have therefore reaffirmed the differences of opinion between Members who are 'Friends of Multifunctionality' and other Members. The limits that the EC are proposing to impose on these measures (they must be well targeted, transparent and implemented in minimally trade-distorting ways) have been welcomed, but are, while details of the instruments to be used are still lacking, precautions that are still inadequate. The EC's comprehensive proposal intentionally took a middle line in order to rally the developing countries. The problem is that these countries are not a homogeneous group. Many, supporting the proposals of Cairns Group or India, still have reservations about the line that the EC is taking. Their support for non-trade concerns is shaped by their desire better to justify the special and differential treatment that they are expecting from the Agreement on Agriculture and to address the non-trade concerns that they consider to be important on the basis of the context of their agriculture and their economic and social priorities.

The due restraint clause

As regards the due restraint clause, the EC propose: - that it should be kept.

There is no real consensus, even within the Cairns Group, as to whether the due restraint clause should be preserved or abolished. Negotiation of this provision will probably depend, more than on any other factor, on the overall content of the Agreement.

CONCLUSION

The first phase of the negotiations, which, according to negotiators and WTO representatives, was very satisfactory, was brought to a close at the March 2001 Session. While the work programme was accepted without too much problem, the new negotiations were launched without any real consensus as to their actual duration. The report of the Committee on Agriculture to the WTO General Council took pains to remain evasive and merely set dates within the programme for six Special Sessions (May, July, September and December 2001 and February and March 2002) with the final Session taking the form of an initial stock-taking of the progress of the negotiations.

Although they agree that the scope and nature of their work will be as set out in Article 20 and the negotiating proposals submitted, Members are expecting that the detailed discussions of all the issues and reform options that have been proposed²⁷ will be more challenging and some – led by the EC – would prefer such discussions to take place in the wider framework of a global negotiating round.

More than one year on from the initial negotiations, the European Trade Commissioner, Pascal Lamy, is still as keen to open a new round of multilateral negotiations. To make this approach more palatable and muster support for his belief that ‘a global challenge requires a global response’, the European Trade Commissioner took the initiative at the end of 2000 to restate the EU’s position, in particular targeting the LDCs which had yet to be convinced of the benefits that a new round would have for them. He would also, in view of the strength of resistance from these countries, be willing to envisage a more flexible mandate which, by leaving out the more controversial issues (including social standards, environmental standards, investment rules and control of competition), would make the EU’s overall position more acceptable to the developing countries and could provide the trigger needed for the launch of a new round.

Other WTO Members (including the Cairns Group, the developing countries and in particular India and Pakistan) are still opposed, however, to any attempt to try to make the outcome of the current agriculture negotiations subject to the launch of a broader cycle. The timetable, and in particular the WTO’s desire to ensure the success, of the forthcoming Ministerial Conference could well frustrate their plans. As the WTO Director General, Mike Moore, agrees, the negotiations are progressing normally as matters stand at present and, as hard as the negotiators are working, it is hardly reasonable to envisage obtaining optimum results without relating them to a broader agenda. It seems likely, in view of the differing stances on and perceptions of the reform process, that the agriculture negotiations will become harder-hitting and take more time and therefore that the timetable of these sectoral negotiations could well be disrupted by the timetable of a new negotiating round if such a round is actually decided on at the next WTO Ministerial Conference scheduled for 9-13 November 2001 in Doha in Qatar.

²⁷ Starting with tariff rate quota administration, tariffs, the amber box, export subsidies, export credits, State-trading enterprises, export restrictions, food security, food product health safety and rural development.

ANNEX 1

Negotiating proposals	Sessions	Subject	Reference
Cairns Group	06/00	Export competition	G/AG/NG/W/11
	09/00	Domestic support	G/AG/NG/W/35
	12/00	Export restrictions and taxes	G/AG/NG/W/93
Cairns Group (excluding Canada which submitted its own proposal)	11/00	Market access	G/AG/NG/W/54
Canada	06/00	Market access	G/AG/NG/W/12
	12/00	Domestic support	G/AG/NG/W/92
Cuba, Dominican Republic, El Salvador, Haiti, Honduras, Kenya, Nicaragua, Pakistan, Sri Lanka, Uganda and Zimbabwe	06/00	Special and differential treatment and a development box	G/AG/NG/W/13
		Green box/Annex 2 subsidies	G/AG/NG/W/14
United States	06/00	Note on domestic support reform and proposal on comprehensive long-term agricultural trade reform	G/AG/NG/W/15
		Note on domestic support reform	G/AG/NG/W/16
	11/00	Tariff rate quota reform	G/AG/NG/W/58
EC	06/00	The blue box and other support measures to agriculture	G/AG/NG/W/17
		Food quality: improvement of market access opportunities	G/AG/NG/W/18
		Animal welfare and trade in agriculture	G/AG/NG/W/19
	09/00	Export competition	G/AG/NG/W/34
	12/00	Comprehensive negotiating proposal	G/AG/NG/W/90
Barbados, Burundi, Cyprus, Czech Republic, European Communities, Dominica, Estonia, Fiji, Iceland, Israel, Japan, Republic of Korea, Latvia, Liechtenstein, Malta, Mauritania, Mauritius, Mongolia, Norway, Poland, Romania, St Lucia, Slovak Republic, Slovenia, Switzerland and Trinidad and Tobago	09/00	Note on non-trade concerns	G/AG/NG/W/36
	11/00		G/AG/NG/W/36/Rev. 1
Cuba, Dominican Republic, El Salvador, Honduras, India, Kenya, Nigeria, Pakistan, Sri Lanka, Uganda and Zimbabwe	09/00	Market access	G/AG/NG/W/37
Argentina, Brazil, Paraguay and Uruguay (MERCOSUR), Chile, Bolivia and Costa Rica	09/00	Discussion paper on export subsidies – food security or food dependency?	G/AG/NG/W/38
Argentina, Brazil, Paraguay and Uruguay (MERCOSUR), Chile and Colombia	01/01	State-trading enterprises	G/AG/NG/W/104
Argentina, Brazil, Paraguay and Uruguay (MERCOSUR), Bolivia, Chile, Costa Rica, Guatemala, India, Malaysia	03.01	Export credits for agricultural products	G/AG/NG/W/139
Bulgaria, Croatia, Czech Republic, Estonia, Georgia, Hungary, Kyrgyz Republic, Latvia, Lithuania, Slovak Republic and Slovenia	11/00	Market access	G/AG/NG/W/57
Albania, Bulgaria, Croatia, Czech Republic, Georgia, Hungary, Kyrgyz Republic, Latvia, Lithuania, Mongolia, Slovak Republic and Slovenia	11/00	Domestic support – additional flexibility for transition economies	G/AG/NG/W/56
ASEAN (Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, Philippines, Singapore, Thailand, Vietnam)	11/00	Special and differential treatment for developing countries in world agricultural trade	G/AG/NG/W/55
Argentina	11/00	Technical submission on legitimate non-trade concerns	G/AG/NG/W/88
Japan	12/00	Negotiating proposal	G/AG/NG/W/91
Switzerland	12/00	WTO: agriculture negotiations	G/AG/NG/W/94
Swaziland	12/00	Market access under special and differential treatment for small developing countries	G/AG/NG/W/95
Mauritius	12/00	Negotiating proposal	G/AG/NG/W/96
Dominica, Jamaica, Mauritius, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines and Trinidad and Tobago	12/00	Proposals by small island developing states	G/AG/NG/W/97
Republic of Korea	01/01	Proposal for WTO agriculture negotiations	G/AG/NG/W/98
Mali	01/01	Mali's proposals for the future agriculture negotiations	G/AG/NG/W/99
Caricom (Dominica, Jamaica, Mauritius, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines and Trinidad and Tobago)	01/01	Market access	G/AG/NG/W/100
Norway	01/01	Negotiating proposal	G/AG/NG/W/101
India	01/01	Negotiations on the Agreement on Agriculture	G/AG/NG/W/102
Poland	01/01	WTO negotiations pursuing the reform programme for the agricultural sector	G/AG/NG/W/103
Morocco	02/01	Comprehensive proposal	G/AG/NG/W/105
Turkey	02/01	Comprehensive proposal	G/AG/NG/W/106
Egypt	02/01	Comprehensive proposal	G/AG/NG/W/107

WTO agricultural negotiations

Nigeria	02/01	Comprehensive proposal	G/AG/NG/W/130
Congo	03.01	Comprehensive proposal	G/AG/NG/W/135
Kenya	03.01	Comprehensive proposal	G/AG/NG/W/136
Senegal	03.01	Comprehensive proposal	G/AG/NG/W/137
Mexico	03.01	Comprehensive proposal	G/AG/NG/W/138
Jordan	03.01	Comprehensive proposal	G/AG/NG/W/140
Croatia	03.01	Submission	G/AG/NG/W/141
African Group	03.01	Comprehensive proposal	G/AG/NG/W/142
Namibia	03.01	Market access, domestic support, export competition, and non-trade concerns	G/AG/NG/W/143

ANNEX 2

Table 1: Exempt subsidies

1. subsidies covered by product-specific reduction commitments not in excess of the levels specified in the Schedule of the WTO Member concerned.
2. budgetary outlays for subsidies or subsidised export quantities in excess of the levels specified in the Schedule but which are covered by the provision on prior flexibility set out in Article 9-2.
3. subsidies in accordance with the provision on special and differential treatment for developing countries set out in Article 9-4 .
4. subsidies not subject to reduction commitments in accordance with the anti-circumvention provisions of Article 10.

Source: Agreement on Agriculture

Table 2: Summary of EU data on export subsidies

(in ECU millions)			(as %)	
<u>Commitments</u>			<u>Composition</u>	
- Base	13 274		- beef and veal	19
- Final	8 496		- wheat	17
<u>Refunds by value</u>			- butter	13
	<u>Notified</u>	<u>Ceiling</u>	- coarse grains	13
- 1995-1996	4 885	11 033	- other milk products	10
- 1997-1998	4 361	10 030	<u>Average fill rate - 1998</u>	
- 1998-1999	5 336	8 633	- by value	69
			- by volume	91

Source: European Commission

Table 3: Domestic support measure boxes

Boxes	Measures	Reduction commitments
<u>Green</u>	With no, or at most minimal, trade-distorting effects or effects on production These measures are exempt from reduction commitments provided that they satisfy the basic criteria set out in Article 1 of Annex 2 (provision of support through a publicly-funded government programme not involving transfers from consumers, no provision of price support to producers). Annex 2 specifies the various government policies concerned: general services (Article 2), public stockholding for food security purposes (Article 3), domestic food aid (Article 4). It also imposes specific additional criteria, that vary depending on the policies in question, which have to be respected if direct payments to producers are not to be subject to reduction (Article 5), set out in Article 6 for decoupled income support and Articles 7 to 13 for other instruments.	No
<u>Blue</u>	Measures involving direct payments to producers under production-limiting programmes (Article 6.5) which satisfy one of the following criteria: 1) they are based on fixed area and yields; 2) they are made on 85% or less of the base level of production; 3) they are calculated on a fixed number of head (in the case of livestock). This box is an exception to the general rule and in practice covers compensatory aids under the 1992 CAP reform and the direct income supports (deficiency payments) used by the US as well as other kinds of deficiency payments; the box is not included in the calculation of the AMS for the Member concerned.	No
<u>Developing countries</u>	Support measures by government authorities to promote agricultural and rural development in developing countries.	No
<u>De minimis</u>	Other kinds of support accounting for only a small proportion (set at 5% ²⁸) of the production value of specific products or, in the case of non-product-specific domestic support, of the total value of agricultural production.	No
<u>Amber</u>	Measures not covered by other boxes and entailing the most substantial distortions of competition.	Yes

Source: Agreement on Agriculture

Table 4: Comparison of the Total AMS commitments specified and notified by the EC and the United States

Year	EC (in ECU billions)			United States (in USD billions)			
	Total commitments	AMS	Current AMS	Total commitments	AMS	Current AMS	Total
1995	78.67		50.03	23.08		6.21	
1996	76.37		51.00	22.28		5.90	
1997	74.07		50.19	21.50		6.2	
1998	71.76		46.68	20.70		10.4	
1999	69.46		-	19.90		- ⁽¹⁾	

Source: WTO; ⁽¹⁾ not available.

Table 5: Proportion of total domestic support accounted for by green box measures in some developed countries

As % and in USD billions	1996								
	Green box		Blue box		<i>De minimis</i>		Current Total AMS		All boxes
Members	%	Amount	%	Amount	%	Amount	%	Amount	Amount
EC	23	26.6	23	25.8	1	0.9	53	61.3	114.6
United States	88	51.8	0	0	2	1.2	10	5.9	58.9
Japan	46	25.0	0	0	1	0.3	53	29.6	54.9
Canada	53	1.5	0	0	30	0.9	17	0.5	2.9

Source: WTO

²⁸ 10% for developing countries.

Table 5a: Proportion of total domestic support accounted for by green box measures in some developed countries

As % and in USD billions	1998								
	Green box		Blue box		<i>De minimis</i>		Current Total AMS		All boxes
Members	%	Amount	%	Amount	%	Amount	%	Amount	Amount
EC	22	21.5	24	22.9	1	0.6	54	52.3	97.3
United States	77	49.8	0	0	7	4.7	16	10.4	64.9
Japan	78	23.0	1	0.4	1	0.4	20	5.9	29.7

Source: WTO notifications – Eurostat conversion rate 1998

Table 6: Producer support estimate (PSE): level and composition

1999				
Member (as %)	PSE as % of revenue		Market price support as % of PSE	
	1986-1988	1996-1998	1986-88	1996-98
Switzerland	74	69	87	65
Japan	65	63	90	92
EC	46	39	84	52
United States	26	17	47	50
Canada	34	15	49	55
Australia	7	6	55	54
New Zealand	11	1	26	78
OECD	41	33	77	67

Source: OECD

Table 7: Special and differential treatment for developing countries

Reduction commitments	LDCs	Developing countries	Developed countries
Implementation	Exemption	10-year period (1995-2004)	5-year period (1995-2000)
Market access		24% reduction of customs duties (and 10% per tariff line)	36% reduction of customs duties (and 15% per tariff line). Additional and faster reduction for products of particular interest to developing countries (including 43% for tropical products).
Non-exempt domestic support		13.3% reduction	20% reduction
Exempt domestic support		10% <i>de minimis</i> limit and exemption of the developing countries box	5% <i>de minimis</i> limit
Export subsidies		24% by value and 14% by volume Exemption of certain types of aid (Article 9.4)	36% by value and 21% by volume

Source: Agreement on Agriculture

ANNEX 3 – Trading importance

Country (in USD billions)		Comments
United States		
Exports	68.8	<p>Although the American share of world exports has fallen (from 17.1% in 1980 to 12.6% in 1998), the US continues to be the leading world exporter of agricultural products.</p> <p>It is also the leading world importer.</p> <p>Although its share of world imports has improved (from 10.6 % in 1980 to 8.4% in 1998) this has not made it possible to offset the downturn in exports.</p> <p>Its agricultural deficit with the Cairns Group has risen slightly, largely as a result of increasing imports from Canada.</p> <p>Lastly, the USA is the largest importer of agricultural products from the developing countries. No particular dynamics are evident in trade with any of the three sub-groups of developing countries (ACP countries, non-ACP African countries and non-ACP and non-Cairns countries in the Americas).</p>
Imports	62.4	
EU		
Exports	62.1	<p>The EU is the second world exporter.</p> <p>Its shares of exports (7.6% in 1998) and imports (11.1% in 1998) in world agricultural trade are stable, although the more substantial downturn in imports has allowed the EU to improve its net trading position.</p> <p>Agricultural imports into the EU-15 from the United States and exports from the EU-15 to the United States have shown similar growth. The EU nevertheless had a negative trade balance with the United States between 1991 and 1997.</p> <p>The EU-15's deficit with the Cairns Group has continued to grow as a result of a substantial upturn in imports. Within this group, the EU-15 has increased imports from Mercosur (South American Common Market), Australia and New Zealand.</p> <p>EU trade with the ACP countries (Africa, Caribbean, Pacific Rim) has grown in a very dynamic way.</p>
Imports	77.6	
Canada		
Exports	30.02	Stable shares of exports and imports in world agricultural trade, accounting for 5% and 2% respectively.
Imports	13.99	
Other main exporting countries		
Brazil Exports	17.07	Stable share: 3.4% in 1998
Australia Exports	14.97	Increasing share: 2.7% in 1980 to 3.3% in 1998
Argentina Exports	13.51	Falling share: 2.4% in 1980 to 1.9% in 1998.
Thailand Exports	11.46	Falling share: 2.1% in 1980 to 1.2% in 1998.

Source: WTO and European Commission

ANNEX 4 – Current disputes – state of play

Current disputes	Subject	Agreement involved	Stage reached in dispute	Situation
EU – Complaint by the USA, Mexico, Ecuador, Honduras and Guatemala (WT/DS/27)	Community regime of banana import licences	GATT (Article XIII) and TRIPS (Articles II and XVII) Agreements	The DSB's panel ruled in 1999 that the measures taken by the EC to implement the DSB's initial recommendations, under which the regime applied by the Communities to the import, sale and distribution of bananas were deemed to be inconsistent with GATT 1994 and TRIPS, were inconsistent with WTO rules.	The disputed regime is still being applied as agreement has yet to be reached on the Commission's new proposal submitted to the DSB meeting in November 1999. The United States and Ecuador have been authorised by the WTO to apply trade sanctions of USD 191.4 and 201.6 million respectively by way of compensation. On 11 April 2001, agreement was, however, reached by the USA and the EC bringing the dispute to a close. This agreement is based on the implementation of a licensing system (awarded on the basis of historic data) up to 2006 followed by a customs tariff thereafter.
EU – Complaint by the USA (WT/DS26) and Canada (WT/DS48)	EU prohibition on imports of hormone-treated meat	SPS Agreement	The DSB ruled that this prohibition was inconsistent with the SPS Agreement.	The EU wanted to maintain the prohibition of hormone-treated meat on grounds of economic, agricultural and food safety imperatives. It is negotiating ways of replacing American sanctions by European compensation in the form of extended concessions in respect of non-hormone-treated meat imports. The level of loss as a result of cancellation suffered by the United States has been estimated at USD 116.8 million and that of Canada at CAD 11.3 million.
India – Complaint by the USA (WT/DS90)	Quantitative restrictions on importation of products implemented pursuant to Article XVIII-B of GATT (balance-of-payments).	GATT Agreement and Agreement on Agriculture (Article 4.2).	On 22 September 1999, the DSB adopted a report, as amended by the Appellate Body, confirming that the restrictions were inconsistent with GATT rules and, in the case of agricultural products, with Article 4.2	Following mutual agreement, the disputed quantitative restrictions were to be abolished by 1 April 2001.
Canada – Complaint by the USA and New Zealand (WT/DS103 and 113). Third parties: Australia and Japan	Measures relating to reduced-price supplies of milk to processing concerns operating as exporters and access criteria in respect of the tariff rate quota for imports of milk.	GATT Agreement on Agriculture (Articles 9.1 et 10.1) Agreement on Import Licensing Procedures	The DSB report adopted on 27 October 1999 clarified the nature of these measures as regards the provisions of Article 9.1 on export subsidies. The measures in question were not direct subsidies within the meaning of Article 9.1a) of the Agreement on Agriculture but 'payments on the export of an agricultural product financed by virtue of governmental action' according to Article 9.1c).	The parties have reached agreement and Canada agreed to comply with the DSB's recommendations and decisions by 31 December 2000 at latest.
United States – Complaint by the European Communities (WT/DS152). Third parties: Brazil, Cameroon, Canada, Colombia, Republic of Korea, Costa Rica, Cuba, Dominican Republic, Ecuador, Hong Kong, China, India, Israel, Jamaica, Japan, Dominican Republic, St Lucia and Thailand.	Sections 301 to 310 of the 1974 Trade Act (American legislation allowing unilateral retaliatory trade measures)	Understanding on Rules and Procedures Governing the Settlement of Disputes WTO Agreement	In the report of the special panel, adopted by the DSB on 27 January 2000, the disputed aspects of the sections in question were not deemed to be inconsistent with the United States' WTO obligations with the proviso that the commitments of the United States government were maintained.	The European Union and the United States decided not to appeal against the WTO panel ruling.

WTO agricultural negotiations

Current disputes	Subject	Agreement involved	Stage reached in dispute	Situation
Japan – Complaint by the United States (WT/DS76)	Measures relating to agricultural products	SPS Agreement (Articles 2.2; 5.1 and 7)	The DSB report was adopted on 19 March 1999. It ruled that Japan's imposition of varietal testing of some types of fruit (entailing a prohibition of imports of some parasite host products) was incompatible with the SPS Agreement.	Discussions are under way between the parties as regards a new quarantine method as Japan considers that the introduction of the parasite in question has to be prevented.
United States – Complaint by the European Communities (WT/DS108)	Tax treatment of 'foreign sales corporations'	Agreement on Subsidies and Safeguards and Countervailing Measures (SCM) Agreement on Agriculture (Articles 3.3 and 8)	This dispute concerns the tax exemptions and special rules for administrative price-fixing contained in the regime applied by the United States to 'foreign sales corporations' (FSCs) under Articles 921 to 927 of the United States' Internal Revenue Code, which the EC consider to be export subsidies inconsistent with commitments under the Agreement on Agriculture. On 20 March 2000, the DSB adopted the report of the Appellate Body and the special panel which rules that these subsidies are inconsistent with the cited Articles and in particular with the obligations arising from the Agreement on Agriculture.	In accordance with the DSB's recommendations, the President of the United States signed, on 15 November 2000, a US Congress Act called the 2000 FSC Repeal and Extraterritorial Income Exclusion Act (the 'FSC Repeal Act'). The EC consider that these provisions are still not in accordance with the DSB's recommendations and decisions. It has therefore asked the DSB to authorise countervailing measures for an amount of USD 4 billion per annum. This issue was scheduled for discussion at the DSB's Special Session on 28 November 2000.
Republic of Korea – Complaint by the United States (WT/DS161/1). Third parties: Australia, Canada, New Zealand.	Restrictions of imports of bovine meat (regulations under which supplies of bovine meat in the Livestock Producers' Marketing Organisation wholesale market are limited to stores specialising in imported beef and bearing a special sign)	GATT Agreement (Articles II, III, XI and XII) Agreement on Agriculture (Articles 3, 4, 6 and 7) Agreement on Import Licensing Procedures	The panel report, distributed on 31 July 2000, confirmed that: - the restrictions on imported beef contravened Article III-4 of GATT 1994 and could not be justified by Article XX d) of GATT 1994; - some more stringent record-keeping requirements for purchasers of imported meat and other regulations on the import and distribution of beef were in violation of the respective provisions of Articles III.4 and XI.1 of GATT 1994 and Article 4.2 of the Agreement on Agriculture; - incorrectly calculated domestic support in excess of the <i>de minimis</i> level had not been included in the Total AMS contrary to the provisions of Article 7.2.a) of the Agreement on Agriculture; - the total level of support exceeded the commitment levels specified in the Republic of Korea's Schedule contrary to Article 3.2 of that Agreement.	The Republic of Korea gave notice of its intention to appeal in September 2000.
European Communities – Complaint by the United States (WT/DS174/1)	Protection of trademarks and geographical indications for agricultural products and foodstuffs (Regulation (EC) 2081/92)	TRIPS Agreement (Articles 3, 16, 24, 63 and 65).	Lack of protection of trademarks and geographical indications.	Pending
United States – Complaint by Canada (WT/DS167/1)	Countervailing duty investigation initiated by the United States in respect of live cattle from Canada	Subsidies Agreement SCM Agreement on Agriculture	Canada contends that the initiation of this investigation is inconsistent with US obligations under the Subsidies Agreement and under the Agreement on Agriculture and that the measures in question are not subsidies within the meaning of the SCM Agreement.	Pending
European Communities – Submission on 19 October 2000 of a request for WTO consultations by Brazil – Ecuador party to the consultations.	Measures applied under the EC's generalised system of preferences affecting imports of soluble coffee from Brazil	GATT Agreement	Consultations between the parties under way. The dispute relates, on the one hand, to the progressive abolition of preferential treatment and, on the other hand, to the special scheme for countries conducting a campaign to combat drugs. According to Brazil, this dual system has an adverse impact on imports of soluble coffee into Europe and is inconsistent with the EU's obligations under the Enabling Clause.	Pending
United States –	Legislation (Africa-	Understanding on	Consultations between the parties	

WTO agricultural negotiations

Current disputes	Subject	Agreement involved	Stage reached in dispute	Situation
Submission in June 2000 of a request for WTO consultations by the EU	Caribbean Trade Bill) introducing rotating sanctions against countries failing to comply with decisions of the DSB.	Rules and Procedures Governing the Settlement of Disputes WTO Agreement	under way.	

Source: WTO

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