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**Committee on Agriculture**

**SUMMARY REPORT OF THE MEETING HELD ON 23 JUNE 2011**

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

1. The Committee on Agriculture held its sixty-second regular meeting on 23 June 2011 under the Chairmanship of Mr. Jonas Skei of Norway.
2. The agenda of the meeting as set out in WTO/AIR/3765 was adopted with the addition of: (i) a statement by IICA under agenda item 2.B. on the Workshop on Agriculture Notifications organized jointly with the WTO; (ii) a request by Cuba under agenda item 2.C. for exemption from Table ES:2 notification requirement; and (iii) a statement by Pakistan under agenda item 2.E. on an interagency report entitled "Price Volatility in Food and Agricultural Markets: Policy Responses".
3. The Chairman recalled the Committee's Working Procedures<sup>2</sup> which, *inter alia*, require that questions be transmitted to both the Secretariat and the concerned Members within the prescribed timelines in order to be included and properly annotated in the convening airgram.

**I. THE REVIEW PROCESS**

4. Pursuant to the Committee's decision in 2009<sup>3</sup>, Section I of the present summary report should be read in conjunction with documents G/AG/W/84 and G/AG/W/86/Rev.2 which respectively compile all the questions and responses that were made available to the Secretariat in writing. Any follow-up comments to the concerns raised under the Review Process are reflected in Parts A and B below.

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

*(i) United States' Dairy Import Assessment Program*

5. In light of the United States' confirmation that the Dairy Import Assessment Program did not necessarily provide assistance but rather increased the promotion of all dairy products in general<sup>4</sup>, Australia sought further clarification as to whether some particular dairy proteins such as caseins and caseinates benefitted from the existing promotional programmes. New Zealand reserved the right to raise further specific questions at the next meeting. Supporting Australia and New Zealand, the EU expressed similar concerns.

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

<sup>2</sup> Paragraphs 8 and 10 of G/AG/1 refer.

<sup>3</sup> Paragraph 38(a) of G/AG/R/57 refers.

<sup>4</sup> Paragraphs 1-3 of G/AG/86/Rev.2 refer.

6. The United States indicated its readiness to discuss the programme bilaterally with Australia, the EU and New Zealand.

(ii) *United States' subsidies on upland cotton: compliance with ruling*

7. Further to the United States' response<sup>5</sup>, India pointed out that its question was not linked to the dispute and the terms of the agreement between the United States and Brazil. Rather, India was seeking information as to the effective steps undertaken to remove the trade-distorting subsidies on upland cotton. Brazil shared India's concern regarding the conformity of US support with the Agreement on Agriculture and other WTO Agreements. Referring to the important share of cotton production in GDP and the exports of many developing and least-developed countries, as well as the effect of subsidies on international prices and their impact on cotton growers, Brazil highlighted the temporary nature of the current bilateral understanding. In Brazil's view, this was only "a second-best solution" that could in no way substitute the full implementation of the Appellate Body ruling. Brazil further noted that bilateral consultations with the United States had been held on a regular basis with a view to reaching full implementation. Brazil expressed hope that the programmes considered to be in breach of WTO Agreements would be reformed by the United States as soon as possible.

(iii) *Argentina's import restrictions on agricultural products*

8. Israel reiterated its systemic concern with the import restrictions maintained by Argentina on a long list of products which appeared to restrict or delay imports of goods competing with locally produced agricultural goods or foodstuffs. Israeli exporters had been facing various border measures. In one case, a fruit shipment had been retained in port without much explanation from the local authorities, and only a small number of the containers had been released for importation after a long delay thus affecting the transaction due to the perishable nature of the product. As a result of the unreasonable delay in the release of goods a large part of the shipment had to be re-exported to a third market. Alluding to the discriminatory nature of the measures, Israel was of the view that the lack of transparency and unpredictability in their implementation *de facto* disrupted trade flows and thus adversely affected the interests of Israeli exporters. Bilateral consultations had been held on this matter. Israel expressed hope that a definitive solution to the problems would be found in the near future.

9. Noting similar experiences and complaints from several shippers, the United States encouraged Argentina to maintain appropriate import policies. The EU and Switzerland shared the systemic concerns expressed by Israel and the United States. While its specific problem with Argentina had been resolved bilaterally in 2010, Switzerland remained concerned that no appropriate measures had been taken despite the fact that the issue had been raised already several times at various WTO bodies, such as the Council for Trade in Goods and the Committee on Import Licensing.

10. Argentina highlighted that the comments continued to be unsubstantiated. The capital-based officials had been unable to provide concrete answers as the "questions" raised were not specific, and were no more than an opinion.<sup>6</sup>

(iv) *Canada's dairy policies*

11. Appreciating Canada's clarification with respect to the Ice Cream Promotion Initiative and Milk Class 4(m)<sup>7</sup>, the EU and New Zealand indicated their likely intention to seek more detail through further questions at the next meeting.

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<sup>5</sup> Paragraph 4 of G/AG/W/86/Rev.2 refers.

<sup>6</sup> See also paragraphs 5-6 of G/AG/W/86/Rev.2.

(v) *State-of-play of Costa Rica's reform policies to address the breach in AMS commitments*

12. Whilst praising Costa Rica's on-going transparency in reporting on the steps undertaken domestically to reform its policies<sup>8</sup>, Australia, Canada, Colombia, New Zealand, Pakistan, the Philippines, Thailand and the United States registered serious concerns about the ever-increasing breach of the Final Bound Total AMS. The concerned Members strongly urged Costa Rica to implement the steps necessary to bring its Current Total AMS within the bound limits as soon as possible and looked forward to an update at the next meeting. The United States was alarmed at the Current Total AMS figure of US\$109.6 million which had been notified shortly before the meeting. Canada and New Zealand also pointed out that the Current Total AMS for 2010 exceeded the commitment level seven-fold, which highlighted the urgent need to address the matter.

13. Noting its ambivalence on the issue due to common concerns on food security in rice, the Philippines sought further elaboration on the nature of Costa Rica's National Rice Policy and an indicative timeline for its adoption. The Philippines underlined that continued violation of commitments could impact significantly the credibility of the WTO system.

14. Costa Rica took note of the interventions made and concerns expressed and indicated that for the moment, the Government was not in a position to announce when the National Rice Policy might come into effect.

(vi) *India's export restrictions on cotton*

15. In light of India's view that its current export restrictions on cotton fell outside of the purview of the Committee on Agriculture<sup>9</sup>, the United States maintained that a discussion on India's export restrictions was appropriate in this Committee given the impact of such measures on the global cotton market and, in particular, their contribution to price volatility. Pakistan also flagged its concern.

B. REVIEW OF NOTIFICATIONS

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

16. Since the 31 March 2011 regular session, 51 notifications had been circulated. Annex 1 compiles those notifications in respect of which questions have been raised in advance of the issuance of the convening airgram.

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

17. Praising the timeliness and accuracy of Ukraine's response regarding sugar TRQ administration<sup>10</sup>, Colombia hoped that the contemplated procedure would allow sugar trade to take place as provided for under the Protocol of Accession of Ukraine to the WTO. El Salvador reiterated its interest in this important issue, the development of which had been monitored closely since the end of 2010. El Salvador noted that the responses to the questions it posed at the Committee meeting in March 2011 remained pending.<sup>11</sup>

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<sup>7</sup> Paragraphs 7-8 of G/AG/W/86/Rev.2 refer.

<sup>8</sup> Paragraph 9 of G/AG/W/86/Rev.2 refers.

<sup>9</sup> Paragraph 10 of G/AG/W/86/Rev.2 refers.

<sup>10</sup> Paragraph 11 of G/AG/W/86/Rev.2 refers.

<sup>11</sup> Paragraph 6 of G/AG/R/61 refers.

(ii) *Imports under tariff and other quota commitments (Table MA:2)*

18. Canada reserved the right to follow up on the issue of EU's beef TRQ fill rates after consideration of the responses provided by the EU.<sup>12</sup> Similarly, the EU indicated that additional questions might be posed with regard to Norway's auctioning system<sup>13</sup> and South Africa's applied rates for out-of-quota imports where TRQs had been fully utilized.<sup>14</sup>

19. Australia observed a clear pattern of nil to low (less than 20 per cent) fill rates for several of Chinese Taipei's TRQs over the last couple of years which perhaps could not be attributed solely to market conditions.<sup>15</sup>

(iii) *Special Safeguard measures (Tables MA:3 to MA:5)*

20. Australia pointed to the invocation of Japan's volume-based SSG on extremely small quantities: 1.31 tonnes in the case of milk and cream, and 2.75 tonnes in relation to yoghurt. Referring to the objective of the SSG mechanism, i.e. to ensure that domestic producers are not affected by sudden import surges, Australia questioned whether there was a genuine need to invoke the measure, as well as its consistency with Article 5.1 of the Agreement on Agriculture.<sup>16</sup>

(iv) *Domestic support (Table DS:1)*

21. Regarding Australia's Table DS:1 notification, India noted with interest the change from partial cost recovery to full cost recovery of inspection fees and charges. India sought clarity as to whether this change was part of a reform process or rather a move to bring the measure into compliance with Australia's commitments. India further indicated its intention to raise supplementary questions at a later stage.<sup>17</sup> Australia replied that the change was only a stage in the biosecurity reform process which had been undertaken.

22. The United States looked forward to receiving and reviewing the response from Bahrain with regard to the compliance of its "poultry sector" programme with Article 6.2 criteria.<sup>18</sup> The EU recalled its question on a similar issue, the response of which had remained pending since March 2011.<sup>19</sup>

23. Referring to Israel's support included in the category "Investment in Agriculture", New Zealand commented that some of the covered programmes appeared to relate to on-farm infrastructural services and as such might not be consistent with the criteria applicable to Green Box support.<sup>20</sup> In this regard, New Zealand encouraged Members to exercise diligence in notifying their Green Box measures so as to ensure that the categorization of such measures was consistent with Green Box criteria.

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<sup>12</sup> Paragraph 13 of G/AG/W/86/Rev.2 refers.

<sup>13</sup> Paragraph 17 of G/AG/W/86/Rev.2 refers.

<sup>14</sup> Paragraph 18 of G/AG/W/86/Rev.2 refers.

<sup>15</sup> Paragraphs 19-20 of G/AG/W/86/Rev.2 refer.

<sup>16</sup> See also paragraph 21 of G/AG/W/86/Rev.2.

<sup>17</sup> Paragraphs 24-29 of G/AG/W/86/Rev.2 refer.

<sup>18</sup> Bahrain's responses to the United States were subsequently incorporated in paragraph 30 of G/AG/W/86/Rev.2.

<sup>19</sup> Bahrain's response to the EU was subsequently incorporated in paragraph 20 of G/AG/W/83/Rev.2.

<sup>20</sup> Paragraphs 34-35 of G/AG/W/86/Rev.2 refer.

24. In relation to Tunisia's Table DS:1 notification, Canada shared the concerns expressed by the United States in its written question regarding the calculation of reference prices.<sup>21</sup>

25. Concerning Ukraine's external reference price for sugar<sup>22</sup>, Canada put down a marker regarding the use of Article 18.4 which had not been mentioned in Ukraine's Table DS:1 notification. In Canada's view, even if it had been mentioned, this provision could not authorize an adjustment of the fixed external reference price. Canada further noted that Ukraine's Current Total AMS calculated without adjusting the fixed external reference price was still below its Final Bound Total AMS. Canada continued to look forward to a revised Table DS:1 notification prepared in line with the provisions of the Agreement on Agriculture. The United States highlighted the importance of using the agreed methodology to ensure accurate notifications and that the use of different methodologies to calculate fixed external reference prices would change the resulting AMS for individual commodities. Japan shared Canada's and the United States' concerns with reference to Article 18.4 of the Agreement on Agriculture.

26. Pakistan voiced its understanding that external reference prices were fixed and needed to be calculated in accordance with the constituent data and methodology used in the tables of supporting material incorporated by reference in Part IV of Ukraine's Schedule. As Ukraine had mentioned the Secretariat's assistance in the preparation of its first Table DS:1 notification, Pakistan wondered about the Secretariat's advice concerning the existence of different methodologies and asked that all Members be apprised. The Secretariat confirmed that it regularly offered technical assistance to delegations in the preparation of their notifications, however, it was the prerogative of each Member to interpret the provisions of the Agreement on Agriculture in finalizing its submissions.

27. Ukraine expressed its readiness to provide additional information as requested.

(v) *Export prohibitions and restrictions (Table ER:1)*

28. Reiterating its on-going concern on Ukraine's export restrictions notified in G/AG/N/UKR/5 and addenda, Israel took comfort in the announcement that some grains would be excluded from the scope of the temporary export quota. Nevertheless, Ukraine's measures seemed unwarranted and exceeding the scope of the relevant provisions of Article XI of GATT 1994, Article 12 of the Agreement on Agriculture and the obligations assumed by Ukraine in its Protocol of Accession. As a net food-importer, Israel was against non-transparent, non-predictable and burdensome export restrictions in general and, in particular, against export quotas instituted by food-exporting Members. Such measures could impact severely net food-importers' ability to guarantee undisrupted supply of foodstuffs - an aspect which the Ukrainian authorities were urged to take into account.

29. Israel and Japan hoped that the remaining export restrictions would be repealed promptly. The United States remained concerned by the extension of the export restrictions via export taxes and looked forward to Ukraine's notification.

30. Acknowledging the recently-improved notification record in the area of export prohibitions and restrictions and with reference to Ukraine and other Members who had notified restrictions, Japan insisted that such restrictions should be avoided. Japan praised the transparency shown by the Kyrgyz Republic in notifying its export taxes. While the imposition of export taxes by developing countries for fiscal reasons could not be questioned, the application of these measures in circumvention of the disciplines on export prohibitions and restrictions was a cause for serious concern for Japan and Switzerland. Japan saw room for improvement in making the disciplines more operational and effective, e.g. with regard to notifications' timing, submission of data in evidence of the existence of

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<sup>21</sup> Paragraph 39 of G/AG/W/86/Rev.2 refers.

<sup>22</sup> Paragraphs 40-41 of G/AG/W/86/Rev.2 refer.

critical shortages, or a clear definition of "net food-exporter of the specific foodstuff concerned" referred to in Article 12.2 of the Agreement on Agriculture. Japan believed a discussion on these issues with the Membership would contribute to enhancing the rules-based trading system.

31. In relation to the introduction of temporary export duties by Ukraine, and in more general terms, the EU remained concerned with the use of export restrictions and would continue to monitor the actions taken by Members in the future.

32. In light of Israel's comments, Ukraine stated that its WTO obligations had not been violated. While it had every right to avail itself of the relevant provisions of WTO agreements, in particular Article 12 of the Agreement on Agriculture, in the future Ukraine would give preference to measures allowed under WTO agreements which contribute to the development of international trade relations on the basis of predictable and transparent market access.<sup>23</sup>

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

33. The Committee took note of the notifications circulated in advance of the issuance of the convening airgram but in respect of which no questions had been raised by that date under the Committee's Working Procedures (Annex 2). There was no discussion under this agenda item.

(c) Notifications circulated or made available after the date on which the notice convening the present meeting was issued

34. The Committee took note of the notifications circulated after the issuance of the convening airgram (Annex 3). These notifications will be reverted to for substantive review at the September 2011 meeting, in accordance with paragraph 9 of the Committee's Working Procedures.

(d) Points concerning notifications raised at previous meetings

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

(e) Counter-notifications

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

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

37. The Chairman recalled that WTO/AIR/3760 contained a reminder concerning outstanding responses to questions raised under the Review Process. The Secretariat maintained contact with delegations still owing written responses to ensure the completion of the relevant sections of the compilations of responses.<sup>24</sup>

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<sup>23</sup> Paragraphs 47-51 of G/AG/W/86/Rev.2 refer.

<sup>24</sup> With respect to Albania, see paragraph 16 of G/AG/W/75/Rev.4; with respect to the Kyrgyz Republic and Thailand, see paragraphs 82 and 10, respectively, of G/AG/W/83/Rev.2. Bahrain's and Egypt's responses are respectively contained in paragraphs 20-22 and 95 of G/AG/W/83/Rev.2.

38. In response to the United States' reminder of deferred replies from the March 2011 meeting<sup>25</sup>, Thailand informed the Committee that after several meetings with the relevant agencies within the Ministry of Commerce, responses to the United States' questions had been prepared and submitted for internal approval.

(g) Overdue notifications

39. Document G/AG/GEN/86/Rev.6 dated 22 June 2011, showing the current status of Members' compliance with notification obligations, was made available. Responses were given by China, Egypt, India, Korea and Turkey to questions raised by Australia.<sup>26</sup> Referring to the importance of notifications in terms of transparency and developing an understanding of where Members positioned themselves, e.g. as regards domestic support, Australia recalled that it had been posing questions on this topic to some Members since the 52<sup>nd</sup> Committee on Agriculture. Australia appreciated the fact that efforts had been made by Members to prepare their overdue notifications.

40. Australia and the United States welcomed India's latest Table DS:1 notification and looked forward to the opportunity to review it at the next Committee meeting. The United States encouraged China and India to submit their overdue notifications for more recent reporting periods.

41. India pointed to an inconsistency with the terms used in this context: while in the documents of the G/AG/GEN/86 series "outstanding notifications" was used, the agenda item referred to "overdue notifications". The Chairman stated that the Secretariat had no specific references to share with the Committee at the present meeting on the reasons for this choice of terminology.

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

### **A. IMPLEMENTATION-RELATED ISSUES<sup>27</sup>**

42. The Chairman recalled that the situation had not changed since the circulation of the 2003 and 2006 reports to the General Council.<sup>28</sup> In advance of the meeting, an addendum to the *Compendium of Documents on Implementation-Related Issues* had been circulated<sup>29</sup> to account for (i) WTO's participation in the 33<sup>rd</sup> session of the International Grain Council held in June 2011; and (ii) the relevant Tables NF:1 and MA:1 notifications that had been circulated since 21 March 2011.

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

44. With reference to statements by some Members, as summarized under paragraph 30 above, that there was "space" for the Committee to work on the development of additional disciplines relating to Article 12 of the Agreement on Agriculture, Argentina believed that there was an ever larger space to work on this outstanding implementation-related issue. Argentina expressed readiness to contribute to that work.

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<sup>25</sup> Paragraphs 6-7 of G/AG/W/81/Rev.1 refer.

<sup>26</sup> Paragraphs 53-57 of G/AG/W/86/Rev.2 refer.

<sup>27</sup> WT/MIN(01)/17 refers.

<sup>28</sup> G/AG/16 and Add.1 refer.

<sup>29</sup> G/AG/W/70/Rev.2/Add.2 refers.

B. BEST PRACTICES

(a) New AGCD information bases

45. The Chairman reported that, as foreshadowed during the March 2011 meeting, the Secretariat had been working on a new product. The existing SSG modules compiling information from Tables MA:3 and MA:4 had been enhanced in order to complete the SSG dataset currently available on the WTO public website. In line with the suggestions made during the most recent consultations on "best practices", the compendium of all notified SSG actions under Tables MA:3, MA:4 and MA:5 cross-referenced individual SSG notifications.<sup>30</sup>

46. With reference to the presentation by the Secretariat at the March 2011 meeting on databases maintained by the Agriculture and Commodities Division<sup>31</sup>, the United States suggested that the Committee could perhaps reflect upon a more common format, as well as try to reach a better understanding of what these projects aimed to accomplish.

(b) Technical assistance

47. In relation to the Committee's on-going work on improving the timeliness and completeness of notifications, the Chairman noted that the Secretariat had been assigning resources in the provision of notification-specific technical assistance activities, in particular the well-appreciated Workshops on Agriculture Notifications. The next workshop, targeted at twenty French-speaking government officials, would take place on the margins of the September 2011 meeting. In order to optimize the learning process during the workshop, candidates must have completed the WTO e-training course on agriculture. The selection process would be finalized mid-July. Subject to the availability of funds, another workshop would be held from 15 to 17 November 2011 in English.

48. As part of its work plan in operation since March 2010, IICA had been carrying out capacity building events in Latin America with a view to strengthening technical co-operation to its member states. The representative of IICA informed the Committee of the Regional Workshop on Agriculture Notifications which had been held in San Jose, Costa Rica, on 13-14 April 2011 with the participation of 28 representatives from 19 countries in Latin America, including Cuba. Taking cognisance of the importance of keeping up with WTO commitments, the focus had been on notification requirements and improvement of notification preparation, with the experience of countries in the region also being presented. IICA continued to be interested in holding this type of activity in conjunction with the WTO in the future. Costa Rica thanked IICA for the workshop which had been well appreciated by the participants.

49. Referring to the latest document showing the current status of Members' compliance with notification obligations<sup>32</sup>, Pakistan noted that notifications for some LDCs had remained outstanding for a number of years probably due to limited capacity. Pakistan suggested that dedicated workshops be organized for these Members under the WTO Technical Assistance programme to help them fulfil their notification obligations. The Secretariat pointed out that such initiatives were directly addressed by the Committee on Trade and Development where consultations on the TA plan for 2012-2013, including on agriculture-related activities, were taking place. Additionally, in 2010 the AGCD had launched an e-learning package allowing government officials to directly access specialized training on notification procedures. In the short-term, the WTO Introduction Course to LDCs being held in July 2011 would be a timely opportunity to deliver such assistance to representatives from French-speaking LDCs.

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<sup>30</sup> Copies were made available to delegations for verification purposes in July 2011.

<sup>31</sup> Paragraph 39 of G/AG/R/61 refers.

<sup>32</sup> G/AG/GEN/86/Rev.6 refers.



50. Acknowledging the advancements made so far under "best practices" from which everyone could benefit, the United States highlighted that certain areas could be looked at more closely with a view to improving them. Following up on Pakistan's ideas, the United States stated that while the route of formal technical assistance had been followed, other techniques could also be used such as organizing more focused information sessions in which Members helped other Members.

51. With regard to the current practice under which summary reports of the Committee are drawn up as separate documents containing reference to a document compiling questions and responses, India suggested that, had that compilation document been annexed to summary reports, it would no longer be necessary for the reader to refer to two distinct documents. Noting that the current practice was in line with the decision taken by the Committee in November 2009 to no longer attach a summary of questions and responses to the reports, but rather have their original versions circulated as official restricted documents<sup>33</sup>, the Secretariat undertook to consult with the Languages, Documentation and Information Management Division. Reference was also made to the Questions and Answers Database, to be launched in the second half of 2011 in order to address delegations' information needs as regards the original versions of all questions and responses that belonged to the examination history of the Committee since 1995.

52. The Chairman expressed his readiness to meet with delegations and discuss how the reflections raised could be advanced at a future meeting of the Committee.

C. LIST OF SIGNIFICANT EXPORTERS<sup>34</sup>

(a) Chairman's oral report

53. The Chairman delivered an oral report on the results of his consultations and other steps undertaken in the course of the last two months with a view to ensure appropriate follow-up in reviewing the List of "significant exporters" for the purposes of the Table ES:2 notification requirement.<sup>35</sup> Argentina, Australia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, the EU, Japan, Mexico, New Zealand, Switzerland and Thailand thanked the Chairman for the consultations held and for his comprehensive report and supported an immediate update of the List of "significant exporters" as contained in G/AG/W/82/Rev.1 for reasons of relevance, transparency and credibility. Argentina, Australia, Brazil and Canada flagged their readiness to comply with the additional notification obligations which would arise from the new List.

54. Noting that Table ES:2 was arguably the simplest notification requirement under the Agreement on Agriculture, Canada underscored that, after the updating, Members could take the time to explore other ideas, including product groups. This idea was supported by Argentina, Brazil, Colombia, the EU, Japan and Mexico. With regard to the product list, Argentina held the view that any substantive change should not affect the comparability between Tables ES:1 and ES:2. In addition, during the second phase Members could work on an indicative list to determine what exactly was behind the list of product categories. Australia noted that the extension of the product list as contained in G/AG/W/82/Rev.1 to cover all 22 products included in the original Uruguay Round modalities<sup>36</sup> would bring on equal footing Members with export subsidy reduction commitments and Members who were "significant exporters". Several Members reiterated their readiness to participate in further discussions of experiences accumulated in the notification process aimed at providing comfort to newly-listed "significant exporters" through assistance and advice.

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<sup>33</sup> See paragraph 4 above.

<sup>34</sup> G/AG/2/Add.1 dated 16 October 1995 refers.

<sup>35</sup> See Annex 4.

<sup>36</sup> Paragraph 7 of Annex 8 of MTN.GNG/MA/W/24 refers.

55. India advised that it needed to reflect carefully on the Chairman's oral report so as to respond to it, if necessary, at a later stage. Since discussions had so far been held in informal settings, India wished to bring on record its position, particular as, in its view, a clear understanding as well as agreement on process was necessary before moving on to substance. In this context, it was important to fully understand the roles of the Chairperson, Members and the Committee in establishing the List. India believed that the first List had been established by the Chairman in 1995 pursuant to the mandate given to him by the Members, as contained in G/AG/2, but that this was not a blanket mandate for all subsequent reviews. For such reviews, India believed that the question of whether the mandate would lie with the Chairman or with the Committee needed to be addressed first. India recalled the objection it had raised in March 2011 with respect to the erroneous impression that was created by the Chairman, from India's standpoint, as having a mandate to review the List.<sup>37</sup> India's own understanding was that the mandate lay with Members. Further, this issue had not been addressed or contested in subsequent discussions. India considered that a revised List of "significant exporters" had been issued on 6 April 2011 without discussions in the formal Committee meeting in March 2011. According to India, this was clearly upon the Chairman's individual decision, and in its view, in contradiction with established Committee's procedures. India believed therefore that document G/AG/W/82 ought to be completely disregarded and could not be acted upon. India further read paragraph 27 of G/AG/R/57 as clearly establishing that any subsequent review of the List was a prerogative of the Committee, with the Chairman's task being only to organize consultations so as to facilitate that review. In India's view, the drawing up of a List ought to be discussed in the Committee and a decision taken by consensus. India further stressed that despite the recognition of a deadlock in the informal discussions held in May 2011, two new documents, namely G/AG/W/76/Add.1 and G/AG/W/82/Rev.1, had been issued without consensus or clarity. India insisted that consensus be followed, and that any drawing up of a List in the first instance and subsequent revision by the Chairman without discussion and jurisdiction were *ultra vires ab initio*.

56. As regards substance, India believed that the list of product categories needed to be looked at closely to ensure that coverage reflected and captured trade reality and that the categories were clearly understood. India stated that it did not dispute facts or shy away from its notification obligations. India sought a comprehensive and transparent discussion on the revision of the list of notification requirements, as well as clarity and understanding on the notification obligations on which India did not wish to be in the dark, especially since a number of issues had not been addressed and lacked clarity. For instance, a question needing an answer was whether Members with export subsidy reduction commitments were also "significant exporters". India's interpretation of the first sentence of paragraph (iii) on page 24 of G/AG/2 was that "significant exporters" were those exporting more than 5 per cent of total world exports. That being the case, the Committee needed to revisit all documents which had been prepared without discussion in the Committee, namely G/AG/W/82, G/AG/W/82/Rev.1 and G/AG/W/76/Add.1. India further suggested that a list of product groups be drawn up at an appropriate HS level for Members who export more than 5 per cent of the total world exports and are thus "significant exporters", irrespective of whether they have export subsidy reduction commitments. This list would be different from the list of Members who have obligations under the Table ES:2 notification requirement. In light of the obligation applicable to Members with export subsidy reduction commitments, as laid out in the sixth sentence of paragraph (iii) on page 24 of G/AG/2, India stated that products or groups of products to be included in Table ES:2 by Members without export subsidy commitments was unclear. Referring to varying scheduling practices (e.g. at HS heading, sub-heading, or 8-digit level) India also wondered about the level at which Members without export subsidy commitments would notify. The lack of uniformity amongst Members in scheduling products was also pointed out. India stated that the "coarse grains" category did not include corn for the United States, and only beans were included in the "vegetables" category for Mexico. According to India, the comparability between product categories for Members with and without export subsidy reduction commitments, and the respective nature of notifications needed to be

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<sup>37</sup> Paragraph 60 of G/AG/R/61 refers.

addressed. Referring to paragraph 5 of G/AG/W/76, India underlined the urgent need to obtain clarity on the coverage of each of the 22 product categories. The disaggregation of FAO product definitions at HS level would, in India's view, provide understanding on how to move forward, and an HS-level List of "significant exporters" might need to be drawn up thereafter.

57. India reiterated that, while urgency had been cited as the basis for the revision of the List of "significant exporters", only two working documents had been produced, i.e. G/AG/W/82 and Rev.1, without any clear authority and mandate from the Committee. The first document had only reviewed the list of Members, without any change in the product categories, and the second had added three more products to the list, but none of the documents had addressed the fundamental questions of Members seeking an understanding on the implications of a new notification obligation. The proposals by China and Pakistan to consider data at HS level, or by Argentina to establish a HS-based illustrative list, had also not been taken into account. India believed that a troubling question remained as to the usefulness of a transparency exercise on export subsidies if the list to be established lacked clarity with regards to the product groups, and if different product coverage obligations existed for different Members. According to India, the situation of urgency had been created artificially, and in that context, both process and substance had been overlooked. Questions on process had not been answered from the outset. In the rush to review the List of "significant exporters", India's suggestions on substance had not been given adequate attention. Thus, India was not in a position to agree to G/AG/W/82 and Rev.1 as the basis for future discussions.

58. China was pleased to see progress being made and believed that the review and update of the List needed to take place urgently, in order to reflect the present situation. In China's view, some of the current product groups were too broadly defined, and in the case of "coarse grains", "fruit" and "vegetables" general export statistics in volume terms lacked meaningfulness. For example, although in 2009 and 2010 China imported several million tonnes of maize, it was still listed as a "significant exporter" for "coarse grains" for 2005-2007. Similarly, China imported bananas, mangoes and tropical fruit and vegetables while at the same time exporting processed fruit and vegetables. Supported by Pakistan and Turkey, China proposed that: (i) the review should not only cover the List of "significant exporters" but also the list of product groups; (ii) all product groups be defined at the sub-heading level of the Harmonized System; (iii) the most recent three-year period, i.e. 2007-2009, be used for defining the "significant exporters". The Philippines shared China's view but indicated that it was nonetheless ready to adopt the draft revised List contained in G/AG/W/82/Rev.1. The EU flagged that data collection for the period 2007-2009 may prove difficult.

59. Canada registered its disagreement with India's interpretation on a number of issues, including with respect to G/AG/2. The United States felt overwhelmed by the interventions in terms of what the actual concerns were. The US delegation had come to the meeting prepared to adopt the List, and remained ready to do so if that was the wish of the Committee. However, very specific concerns had just been heard which would probably not allow such an outcome at the present meeting. Supported by Chile, the United States was ready to show pragmatism towards consideration of sensible changes, but only to a certain degree since most of the concerns outlined had already been discussed in some of the informal sessions. There was a need for clarity of what the Committee was trying to achieve. In this light, the United States suggested that a practical approach be taken to address such concerns.

60. In response to India's point that discussions had been held so far in informal settings, the United States emphasized that the present meeting was formal. If it was Members' wish, all future discussions on this topic could take place in formal meetings, although this would be regrettable. The United States hoped that work would continue in a collaborative way in informal sessions, so that further deliberations could be fruitful. India explained that the purpose of raising its concerns in the formal meeting was to bring all the thoughts which had been voiced in an informal setting but which, in India's view, had not been captured properly. India was ready to work constructively with all

Members, whether formally or informally. It was clear that the List could not be adopted just because five or ten Members were saying it needed to be adopted. India could not walk in this exercise blindly and needed to gain full understanding before taking a commitment. Chile voiced its disagreement with India's assumption that only five or ten Members supported the update, pointed to the vast convergence in favour of updating the List and warned against falling into further loss of credibility through not facing up to the realities of the work accomplished so far.

61. The EU reiterated that bringing the notification obligations with respect to "significant exporters" in line with reality should be done sooner rather than later. Discussions on improving the product coverage should not get in the way of the update. In the EU's view, the chance of achieving an update with a little bit more time and effort, in light of some of the concerns expressed, was worth seizing in order to bring everyone along. The provision of an operational certainty for Members, i.e. what needed to be notified precisely in terms of the 22 products, seemed a reasonable concern for the EU, but further reflection on the base period of sourcing the data was also legitimate.

62. The Chairman indicated that he had taken a pragmatic approach of pursuing informal consultations so as to allow for existing concerns to be addressed. Recognizing that the Committee would be at its strongest with all of its Members on board, as recalled by India, the Chairman stated that, clearly, process had been a difficult topic. As no agreement had been reached on mandates, the Chairman stated that Members' pursuit of consensus should not prejudice any interpretation on mandates. The Chairman considered that the elaboration of Members' legitimate concerns in a comprehensive manner had been welcomed so far. For instance, the idea to look at the product categories in G/AG/W/76 in terms of HS codes had been useful. By way of a compromise, the Chairman outlined two possible courses of action: (i) an immediate update of the List of "significant exporters" while simultaneously setting up a work plan, a list of targets to be achieved so as to ensure that all legitimate concerns expressed had been recognized and addressed; and (ii) providing comfort to Members by trying to narrow down the number of concerns before updating the List. While encouraging Members to work towards compromise pragmatically, the Chairman pointed out that the Committee should not be detracted from the task before it, i.e. to update the List of "significant exporters".

63. Responding to the Chairman's call, Brazil and New Zealand proposed that alongside the adoption of the List of "significant exporters", as contained in G/AG/W/82/Rev.1, the Committee adopt a work programme with a reasonable timeframe to conclude the discussion on product categories and other relevant concerns.

64. In Pakistan's understanding, the first option suggested by the Chairman had already been rejected. Pakistan recognized, however, that addressing all Members' concerns might take two or three years which would prevent the Committee from reaching its objective. Pakistan believed that eight months was a reasonable period of time. The adoption of the List by consensus would allow Members having concerns to consult and engage constructively, both in formal and informal settings. Furthermore, Pakistan believed that a procedure to carry out future updates should be institutionalized. China supported the idea of setting up a timeframe to allow Members narrow down their differences through further discussions until consensus was reached. However, in consideration of the fact that some Members were still required to submit Table ES:2 notification without being "significant exporters" anymore, in China's view the appropriate timeframe was from eight months to one year.

65. Supported by New Zealand, Australia disagreed with Pakistan's understanding that the first option had been rejected by all. A number of Members had expressed their preference to adopt the List of "significant exporters", including at the present meeting. In the spirit of compromise and genuine attempt to understand other Members' concerns, Australia was open to engage in a specified timeframe. In that respect, the reasonableness of the task at hand and the time period mattered. This was especially relevant for Members who were no longer "significant exporters" but were still

required to submit Table ES:2 notifications. New Zealand expressed strong reluctance to consider the timeframe indicated by China and, supported by Mexico, insisted on keeping the prospect of adopting the List at each future meeting of the Committee.

66. The United States warned against the setting up of specific timeframes. Three substantive issues needed to be addressed in a practical way as expeditiously as possible, but preferably, without a timeline: (i) core comparison data, i.e. the type of data contained in G/AG/W/76; (ii) the nature of information to be notified, e.g. reporting in HS codes; and (iii) a possible expansion of the list of products. Australia and the United States reiterated that some work on these issues had already been carried out.

67. India disagreed with the adoption of a new List of "significant exporters" before having addressed all unanswered questions of process and substance outlined in its detailed intervention. India believed that adopting the List first and only then starting the review would be tantamount to kicking off notification obligations without having addressed some important questions. Furthermore, India would not like to operate on the basis of a work programme or be a prisoner of time. From the Philippines' standpoint, the important questions were why an update was required, and why Members needed to notify.

(b) Request by Cuba for exemption from Table ES:2 notification requirements

68. The Chairman pointed out that one avenue of fulfilling requests for exemption would be through updating the List of "significant exporters", as repeatedly highlighted in previous as well as current discussions by several Members.

69. Cuba understood that Members had reached a consensus on its exemption from the Table ES:2 notification requirement already in March 2011. However, in light of the systemic concerns reflected in the Chairman's oral report, Cuba sought an explanation from delegations as to the nature of difficulties they would have with such an exemption. While fully agreeing with the importance of updating the List and taking into account the concerns expressed with respect to product categories, in the interim, i.e. until the List was updated, Cuba informed the Committee that it had taken the decision to discontinue submitting Table ES:2 notifications given that, for 10 years, the country had no longer been a "significant exporter" of sugar. Cuba further recalled that it had been notifying for six years without needing to do so.

70. China and the Philippines stated that they did not object to the exemption. Pakistan acknowledged the legitimacy of Cuba's request. However, it would be in the interest of the system if more time were invested in attempting to deliver a better end product as outlined in paragraph 64 above. Referring to paragraph 6 of the Chairman's oral report, Canada recalled its systemic concern and objection. Likewise, the EU believed that exemptions should not be allowed.

71. Argentina believed that a "legal approach" ought to apply, i.e. that notification requirements continued to be defined by the List as contained in the document currently in force, G/AG/2/Add.1. If "trading reality" were the relevant criteria for assessing whether exemption should be granted or not, then Cuba and other Members who were no longer "significant exporters" should be exempted from the List, and as such, from the Table ES:2 notification requirement. However, the same criteria ought to be applied to those Members who had become "significant exporters". In other words, the criteria ought to apply equally to exemptions and inclusions.

72. Pointing to the exemplary notification record of Cuba in terms of Table ES:2 notification, the Chairman proposed to continue the deliberations of this matter at the next Committee meeting.

(c) Concluding remarks by the Chairman

73. The Chairman expressed appreciation of Members' willingness to continue the informal consultations. To focus future debates, the Chairman invited all delegations, particularly those who had expressed specific concerns during the meeting, to communicate their views on the following three questions:<sup>38</sup>

- (i) What are the specific outstanding concerns that need to be addressed in the context of the review of the List of "significant exporters"?
- (ii) Which, among the concerns identified under (i) above, would logically have to be addressed before updating the List? Which ones could be addressed at a later stage, i.e. after updating the List?
- (iii) Is there any information that would be required either from (i) the Chairman, (ii) the Secretariat, or (iii) individual Members, that could facilitate an expeditious resolution to this issue?

D. RENEWAL OF AD HOC OBSERVER STATUS TO INTER-AMERICAN INSTITUTE FOR AGRICULTURAL COOPERATION (IICA)

74. The Chairman recalled the Committee's decision in March 2010 to grant *ad hoc* observer status to IICA<sup>39</sup> and the need for invitations in this case to therefore be extended on a meeting-by-meeting basis. The Committee agreed to invite IICA to participate in the September 2011 regular session as an *ad hoc* observer.

E. OTHER BUSINESS

(a) Statement by Pakistan

75. In Pakistan's view, the report entitled "Price volatility in Food and Agricultural Markets: Policy Responses", which was made available at the beginning of June 2011, set a good example of cooperation and coordination among multilateral institutions such as the FAO, IFAD, IMF, OECD, UNCTAD, WFP, the World Bank, WTO, IFPRI and the UN High-Level Task Force on Global Food Security. With focus on price volatility of food and other agriculture commodities and suggestions for a systematic and internationally coordinated response to it, the initiative seems to be a move towards better global governance on agriculture issues. Given its direct relationship to agricultural and trade policies, Pakistan suggested that detailed discussions be held on this report on the margins of the Committee meeting in November 2011.

76. The Chairman invited Members to communicate to him or to the Secretariat their preferences on how best to address this topic. Noting its work in the area over the past two years, IICA expressed interest in contributing to the future discussions.

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<sup>38</sup> A fax dated 28 June 2011 was sent to that effect to all delegations. All suggestions received were posted on the Members' password-protected website.

<sup>39</sup> See also G/AG/W/29/Rev.7.

(b) Date of next regular meeting and reminder of upcoming agenda

77. The next (63<sup>rd</sup>) regular meeting of the Committee on Agriculture is scheduled to be held on 29 September 2011. On this basis, the reminder airgram was issued on 1 September 2011 and the convening airgram will be issued on 19 September 2011.

78. The Committee took note that, at the next meeting, the Committee will hold its final Transitional Review under paragraph 18 of the Protocol of the Accession of the People's Republic of China and that any questions or comments that Members may have in the context of the Transitional Review should be submitted in writing as soon as possible, with a copy to the Secretariat.

79. The Chairman noted that the consideration of his Annual Report to the Council for Trade in Goods would be one of the agenda items for the September meeting. In order to facilitate its consideration during the meeting, the draft report would be distributed to Members in the early days of September.

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Annex 1

Notifications in respect of which questions have been raised  
under the Committee's Working Procedures

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

Ukraine	G/AG/N/UKR/8 and Rev.1
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(ii) imports under tariff and other quota commitments (Table MA:2):

Chile	G/AG/N/CHL/36
European Union	G/AG/N/EEC/67
Japan	G/AG/N/JPN/162
Norway	G/AG/N/NOR/59
South Africa	G/AG/N/ZAF/75
Chinese Taipei	G/AG/N/TPKM/87

(iii) special safeguard (Tables MA:3 to MA:5):

Japan	G/AG/N/JPN/163
Chinese Taipei	G/AG/N/TPKM/86

(iv) domestic support commitments (Table DS:1):

Australia	G/AG/N/AUS/76
Bahrain	G/AG/N/BHR/5
European Union	G/AG/N/EEC/68
Hong Kong, China	G/AG/N/HKG/30
Israel	G/AG/N/ISR/47
Kingdom of Saudi Arabia	G/AG/N/SAU/4
Mexico	G/AG/N/MEX/21
New Zealand	G/AG/N/NZL/69
Tunisia	G/AG/N/TUN/40 and Corr.1
Ukraine	G/AG/N/UKR/9
United States	G/AG/N/USA/77

(v) export subsidy commitments (Tables ES:1 to ES:3):

European Union	G/AG/N/EEC/70
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(vi) export prohibitions and restrictions (Table ER:1):

Former Yugoslav Republic of Macedonia	G/AG/N/MKD/13
Kyrgyz Republic	G/AG/N/KGZ/3
Moldova	G/AG/N/MOL/3/Add.1
Ukraine	G/AG/N/UKR/5/Add.2 and Add.3



- (vii) in the context of the follow-up to the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries (Table NF:1):

Australia

G/AG/N/AUS/80

Australia

G/AG/N/AUS/81

Annex 2

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

- |       |   |                      |
|-------|---|----------------------|
| (i)   | administration of tariff and other quota commitments (Table MA:1) |                      |
|       | United States   | G/AG/N/USA/79/ADD.1  |
| (ii)  | imports under tariff and other quota commitments (Table MA:2)     |                      |
|       | Croatia   | G/AG/N/HRV/15        |
|       | Ecuador   | G/AG/N/ECU/26        |
|       | New Zealand   | G/AG/N/NZL/65        |
|       | Nicaragua   | G/AG/N/NIC/25        |
|       | Tunisia   | G/AG/N/TUN/41        |
| (iii) | special safeguard (Tables MA:3 to MA:5)                           |                      |
|       | Ecuador   | G/AG/N/ECU/27        |
|       | El Salvador   | G/AG/N/SLV/34        |
|       | New Zealand   | G/AG/N/NZL/66        |
|       | Nicaragua   | G/AG/N/NIC/26        |
|       | South Africa  | G/AG/N/ZAF/76        |
| (iv)  | domestic support commitments (Table DS:1)                         |                      |
|       | Bangladesh  | G/AG/N/BGD/3         |
|       | Botswana  | G/AG/N/BWA/10        |
|       | Chile   | G/AG/N/CHL/31/CORR.1 |
|       | Chile   | G/AG/N/CHL/34        |
|       | Costa Rica  | G/AG/N/CRI/34        |
|       | Ecuador   | G/AG/N/ECU/29        |
|       | India   | G/AG/N/IND/7         |
|       | Macao, China  | G/AG/N/MAC/28        |
|       | Nigeria   | G/AG/N/NGA/13        |
|       | South Africa  | G/AG/N/ZAF/73        |
|       | Switzerland   | G/AG/N/CHE/55        |
| (v)   | export subsidy commitments (Tables ES:1 to ES:3)                  |                      |
|       | Armenia   | G/AG/N/ARM/19        |
|       | Bangladesh  | G/AG/N/BGD/4         |
|       | Chile   | G/AG/N/CHL/35        |
|       | Croatia   | G/AG/N/HRV/14        |
|       | Ecuador   | G/AG/N/ECU/28        |
|       | Japan   | G/AG/N/JPN/164       |
|       | Macao, China  | G/AG/N/MAC/29        |
|       | Nigeria   | G/AG/N/NGA/14        |
|       | New Zealand   | G/AG/N/NZL/67        |
|       | Paraguay  | G/AG/N/PRY/18        |
|       | South Africa  | G/AG/N/ZAF/74        |

- (vi) export prohibitions and restrictions (Table ER:1):  
Ukraine G/AG/N/UKR/5/Add.4

Annex 3

Notifications circulated after the issuance of the convening airgram

- (i) export subsidy commitments (Tables ES:1 to ES:3)

Qatar

G/AG/N/QAT/7

21 June 2011

Annex 4

Informal consultations on the List of "significant exporters"  
for the purposes of the Table ES:2 notification requirement

Oral report by the Chairman on 23 June 2011

1. The purpose of the present report is to brief you on the steps that I have undertaken in the course of the last two months with a view to ensure appropriate follow-up in reviewing the List of "significant exporters" for the purposes of the Table ES:2 notification requirement. I have tried to concentrate on substance while trying to organize my thoughts around the most recurrent themes, to give you as clear a picture as possible, although you will quickly realize that many areas are overlapping.

2. During the 31 March 2011 regular meeting, many delegations had reiterated that, from the systemic point-of-view, there was an urgent need for the Committee on Agriculture to update the List of "significant exporters" contained in G/AG/2/Add.1 for a number of reasons. Building on the preparatory groundwork that was accomplished by my predecessor, on 16 April 2011, I circulated a Note from the Chairman under my own responsibility drawing up a draft List of "significant exporters" for the purposes of the Table ES:2 notification requirements.<sup>1</sup> In view of the various concerns that had been expressed at the time, whether on procedure, substance, or requests for exemption, it is probably fair to say that, at the outset, my intention was to have a concrete Note that could serve as a basis for our further deliberations.

3. Immediately thereafter, I consulted informally and incrementally. This has proven to be useful in improving everybody's awareness of the issues at stake, as well as the need for prioritization. On 9 May, I sent a response to Cuba's official request for exemption.<sup>2</sup> On 24 May, I organized a preliminary gathering with the 16 Members who were listed in my Note as "significant exporters", followed by informal open-ended consultation to examine any remaining concerns and hear directly from the proponents how suggestions could be operationalized. Having heard a couple of constructive suggestions, I circulated a draft revised version of the proposed new List to consolidate our work and organized follow-up consultations in open-ended format on 16 June. Once again, recently-captured feedback was incorporated in a revised version of the List which was circulated under the reference G/AG/W/82/Rev.1 on 17 June 2011. Despite the progress realized in the course of the last two months, several questions remain pending.

- *Exemption from the Table ES:2 notification requirement*

4. As mentioned, the delegation of Cuba has officially submitted to the chairmanship a request for exemption from the Table ES:2 notification requirement. Costa Rica, Honduras, Pakistan, the Philippines and Zimbabwe are also among those Members who continue to be considered by this Committee as "significant exporters" based on the original List. I have, of course, invited Members to share their views on how this situation could be collectively addressed.

5. During the consultations, Cuba renewed its request for exemption and asked that it be placed in today's agenda for the Committee's decision. You will agree that, with less than 1.3 per cent of

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<sup>1</sup> G/AG/W/82: In keeping with past practice (G/AG/2/Add.1), Members who are *de facto* subject to the Table ES:2 requirement because they have assumed export subsidy reduction commitments for the product categories concerned are not listed in this document, even if they satisfy the 5 per cent criterion specified in page 24, point (iii) of G/AG/2.

<sup>2</sup> G/AG/W/85 and Annex 5 refer.

world sugar exports, Cuba can hardly be considered a "significant exporter". Similarly, with a world export share of tobacco that is close to zero per cent, Zimbabwe has signalled that it was contemplating taking a similar action. But exempting Members from the notification requirements agreed by the Committee on Agriculture is not a simple matter.

6. There are some systemic concerns about the notion of "exempting" selected Members from existing notification obligations without simultaneously updating the current List and introducing the same requirement for those who are now "significant exporters" based on objective facts. From the standpoint of some delegations, this would amount to loosening transparency obligations. For some, it is hard to accept this kind of "no man's land" where the transparency role of the Committee on Agriculture is definitely weakened. A few Members have observed that no exemptions would be needed if the List were immediately updated.

7. While most delegations continue to share a sense of urgency in addressing this matter, the delegations who support a comprehensive review of countries and products within a longer timeframe remained silent under that agenda point.

- *Procedures, including frequency of reviews*

8. Once again, Members' views are nuanced, ranging from those who want to carry on with current work in a pragmatic way, and one Member who would like to detain the current debate to focus on the procedural aspects of the review, develop a standard operating procedure, and then examine all related matters during an eight-month timeframe. One important point, in my view, is that, in many instances, the participants who support the immediate updating of the List do not object to at a later stage pursuing the discussion on future reviews, or on product categories. Some have recommended the tabling of specific proposals by Members and/or verification of recent export data within clear timelines as a possible way forward. Some Members have also observed that the problem was not one of process and timelines, but rather of substance, including with respect to gaining clarity on the actual updating of the List.

9. In between, we may find one participant who, while not opposing the current review *per se*, nor the newly-listed "significant exporters", is wondering whether all the facts are at hand to carry out a thorough review. Based on a reading that G/AG/2 calls for a comprehensive review of both products and exporters, this participant believes that a partial review could only produce partial results in terms of apprehending current trade realities. This is why a review of product categories should also be pursued as vigorously as possible so that, at the end of the day, a single decision can apply to both exporters and products. Finally, another Member opposes the two-step procedure and wishes to carry a comprehensive review of both products and "significant exporters".

- *Preparing Table ES:2: enhanced transparency with regard to product composition*

10. A few Members have expressed concerns relating to the broad nature of the products groups defined in G/AG/2, for example, "coarse grains", "fruit" or "vegetables". A number of ideas to redefine such groups at the sub-heading level (6-digit) of the Harmonized System (HS) nomenclature have been presented, including:

- (a) the elaboration of a correlation table to associate each G/AG/2 product category to the HS nomenclature in a transparent manner. The resulting "supporting tables" would then be appended to the revised List for enhanced clarity. Another Member, however, remains opposed to the mandatory standardization of HS codes as it may well render the notification process unduly burdensome. In other words, some flexibility in reporting export volumes should be retained. There would always be an opportunity

under the Committee's Review Process to pose questions to notifying Members should there be concerns about data sources and coverage.

- (b) Another Member suggests that an "illustrative list" of HS codes be compiled to cover all G/AG/2 products at a level of disaggregation to be suitably determined. The compilation could be sourced, for example, from Members' scheduled reduction commitments. Here again, the objective would be to facilitate transparency without compromising the comparability between the information notified respectively by way of the Table ES:1 and Table ES:2 formats, where such comparability is a requisite. However, the Member underlines that such work should not be an obstacle to the approval of the new List.

11. One delegation also made the point that, since the IDB was the only data source available to the WTO, and since it was limited to import statistics, the development of a systematic way to collect export statistics might be worth discussing with a view to facilitate future reviews. From the technical side, the point was made that, should Members wish that export data (for agricultural products) be collected in the IDB context, the Committee on Market Access would need to be advised at some point.

12. There was quite a few exchanges regarding the questions of "comparability" or consistency between Table ES:1 and Table ES:2 as well as Members' reporting practices. One Member has pointed out that the situation differed depending on whether Members had export subsidy reduction commitments or not. In the latter case, "significant exporters" were not tied by the "comparability" requirement. Furthermore, Members had scheduled reduction commitments at various disaggregation levels of the HS Nomenclature which had an incidence on the collection of statistical information for the purposes of preparing Table ES:2. Once again, newly-listed "significant exporters" had no guidance as to the level of disaggregation to be applied in preparing Table ES:2. Finally, Members who had reduction commitments were bound by yet different groupings, such as, for example "coarse grains excluding corn" or "beef including live animals" or "dairy products excluding butter". This gave rise to situations where major exporters of, for example, "vegetables" only had to report export statistics on "beans" because the whole "vegetable" grouping was not scheduled. By contrast, a "significant exporter" of "vegetables" had to compile export statistics for the entire category. According to the Member, this raised another significant issue of comparability. From this perspective, a gap was clearly visible when scheduled commitments across the membership were examined.

- *Product categories*

13. I am, of course, fully aware that at least three delegations would prefer to conclude the work on product categories prior to the adoption of the new List. However, most delegations have continued to advocate the immediate updating of the List based on the product coverage already identified in G/AG/2. One participant stressed that those who are keen to discuss product coverage have never claimed that going ahead with a new List would somehow irreversibly damage any position, or make it impossible to arrive at a better result, at a later stage, on product coverage. With this in mind, I kicked off consultations on the question of product categories in a pragmatic manner.

14. As mentioned before, a few delegations strongly believe that a simultaneous review of products *and* countries must take place independently of the timeframes involved. By contrast, most intervening delegations counter that there was no need, let alone a mandate, to modify the product categories enumerated in the notification requirements and formats adopted by the Committee on Agriculture in 1995. While supporting an immediate review of the List, a small group of participants have signalled that they were not fundamentally opposed to having a discussion on product categories. They would likely participate in such a debate on the condition that there was more clarity, or

transparency, on the nature of the concerns with regards to the preparation of Table ES:2 using the current product definitions. In their view, such feedback would provide essential insights as to how the product issue should be dealt with at all by the Committee on Agriculture, and under which parameters.

15. Two Members specifically sought the extension of product coverage through the identification of "new" agricultural products. Based on the information presented in G/AG/W/32/Rev.11, it was noted that the 13 listed product groups constituted only 50 per cent of world trade in agriculture. This meant that the membership was scrutinizing only half of world trade in agriculture and the current review had to capture all trade realities. In one Member's view, these "new products" should be identified based on their significance in agricultural trade and by exclusion of both scheduled products and the 19 products covered by G/AG/2/Add.1. The case of ethanol or biofuels<sup>3</sup> was cited by one participant as being now traded in significant quantities. As such, these products should be subjected to Table ES:2 since circumvention of export subsidy commitments could arise should incentives be granted to fuel exporters who mix ethanol in it. To achieve this goal, the development of a common work framework was recommended with a view to extend product coverage, while clarification was sought as regards the legal implications arising from the addition of new products in G/AG/2.

16. In this context, it was again recalled that the G/AG/2 product categories emanated from the Uruguay Round Modalities Paper. One Member considered that modifying such product coverage would represent a significant departure from G/AG/2 which went beyond updating the List of "significant exporters". It could also blur the Table ES:1/ES:2 notion of "comparability" in the case of Members who do have reduction commitments. While prioritizing the updating of the List, another Member proposed addressing actual concerns about product coverage in detail in the course of the forthcoming year, particularly if Members start examining products such as ethanol.

17. As I have mentioned before, the proposal to extend the product coverage to the 22 product groups originally specified in G/AG/2 has attracted a fair degree of consensus. Such consensus has now been duly reflected in the new List that is before the Committee today, with the addition of three new product categories, namely live animals, eggs and wine.

- *G/AG/W/82/Rev.1*

18. I think it is equally important to emphasize the outcome of our consultations which I have tried to capture in document G/AG/W/82/Rev.1. To summarize, G/AG/2 criteria as well as statistical facts have been used to identify "significant exporters". Their designation is derived from the statistical compilation prepared by the Secretariat in document G/AG/W/76 circulated in August 2010. Similarly to the original List, the export statistics are sourced from FAO, ISO (for sugar) and UN Comtrade (fruit, vegetables). A number of Members have supported the revision of the List on the basis of these objective facts.

19. Moreover, the new List takes on board three major suggestions tabled by Members:

- (a) the product coverage now matches the requirement contained in G/AG/2;

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<sup>3</sup> On the technical and statistical side, it was noted that ethanol and biofuels were subject to the Table ES:2 notification requirement to the extent that they were listed in Members' Schedules of export subsidy reduction commitments. As no specific customs classification was attributed to ethanol (which is an ex-out of HS 220710 and 220720), a precise product description associated to the 6-digit HS would be required to extract the relevant export statistics (in volume terms).



- (b) the three-year reference period used to establish the List is now clearly mentioned in the introductory paragraph as relating to the years 2005-2007. For further clarity on the exact export shares relating to this three-year period, the Secretariat has issued an addendum to document G/AG/W/76;
- (c) compared to the draft version that was distributed to all delegations in advance of the 16 June meeting, I have decided to take care of the concerns expressed one delegation on wording, by removing the words "*by the Chairman*" and "*informal*" from the introductory section.

20. Other than the wording raised by one Member, nobody objected to the circulation of my revised Note to the membership, which was done on 17 June 2011.

21. Two Members raised some concerns with regards to the use of certain data sources, especially the FAO, for the purposes of the designation of "significant exporters". Similarly, the FAO codes used in G/AG/W/76 were problematic and would need to be associated to the HS nomenclature for greater clarity. In their view, this work should constitute the basis for the discussion on product categorization. Another Member disagreed with these suggestions. In the context of the elaboration of G/AG/W/76, there had been plenty of opportunities since August 2010 to verify data sources and voice such concerns. It was equally understood that when the time came to actually prepare the Table ES:2 notification, then it would be entirely up to any Member to use their national statistics. Revisiting the question of data sources was also redundant especially since FAO statistics were merely assisting Members in assessing who the "significant exporters" might be (volume-based export shares). If Members had raised objections to the results indicated in G/AG/W/76, it would have been their prerogative to put forward the data that would have proven otherwise. However, no Member had done so.

#### Concluding remarks

22. This is, in substance, the result of my consultations in the past two months. Several Members have shown support for the adoption of the new List, particularly in the light of the driving force represented by those Members who have no export subsidy reduction commitments nor meet the "significant exporter" criteria, but who are considered to have an obligation to notify. At the same time, I strongly believe that if we are asking the newly-listed participants to take on a new notification obligation, it is only fair that we do our utmost to bring more clarity and guidance as to how this notification should be actually fulfilled. Finally, as was expressed by one delegation two weeks ago, a key concern for this Committee, and a key concern for this Organization, is its relevance and credibility in today's world. To put it simply, a List of "significant exporters" that has not been updated since 1995 is a key example of the membership losing credibility and relevance in the eyes of others looking at this Organization.

Annex 5

Response from the Chairman of the Committee on Agriculture  
to the letter received from the Delegation of Cuba on 23 March 2011  
requesting exemption of Cuba from the Table ES:2 notification requirement

Geneva, 9 May 2011

Dear Ms Madrigal,

I would like to acknowledge receipt of your letter dated 23 March 2011 requesting that the necessary steps be taken in order to exempt the Government of Cuba from the annual Table ES:2 notification requirement.

As you are aware, consultations aimed at updating the WTO List of Significant Exporters have been initiated in 2010 and are currently underway. Recent export statistics reveal that a number of other exporting Members included in the existing List of Significant Exporters are also facing a situation similar to Cuba's with respect to relevant agricultural product categories.

This is why, building on the progress registered so far under the Committee on Agriculture, steps were taken soon after the 31 March 2011 meeting to circulate a working document containing a revised WTO List of "Significant Exporters" (G/AG/W/82). Please rest assured that this working document will be duly reviewed by the Committee at its upcoming meeting on 23 June 2011. In this context, all Members, including Cuba, will have another opportunity to contribute to the discussion.

Meanwhile, should you wish further clarification, please do not hesitate to contact me as I shall remain entirely available to discuss this matter with you personally.

Please accept the assurances of my highest consideration.

Yours sincerely,

Jonas Skei  
Chairman  
Committee on Agriculture (regular session)

Ms. Nancy Madrigal Muñoz  
Counsellor  
Permanent Mission of the Republic of Cuba to  
the United Nations Office and Other  
International Organizations

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