

**DRAFT**  
**SUBJECT TO LEGAL REVIEW FOR ACCURACY, CLARITY, AND CONSISTENCY**  
**MARCH 1, 2004**

**CHAPTER THREE**  
**AGRICULTURE**

**ARTICLE 3.1 : MULTILATERAL COOPERATION**

1. The Parties shall work together in the WTO agriculture negotiations to reach an agreement that substantially improves market access, reduces, with a view to phasing out, all forms of agricultural export subsidies, develops disciplines that eliminate restrictions on an entity's right to export, and substantially reduces trade-distorting domestic support.
2. The Parties shall consult on agricultural issues in other multilateral fora.

**ARTICLE 3.2 : COMMITTEE ON AGRICULTURE**

1. The Parties hereby establish a Committee on Agriculture, comprising representatives of each Party.
2. The Committee shall provide a forum for:
  - (a) promoting trade in agriculture between the Parties;
  - (b) addressing barriers to trade in agriculture;
  - (c) conducting consultation between the Parties on export competition issues; and
  - (d) considering any matters arising under this Chapter.
3. The Committee shall meet at least once a year unless the Parties agree otherwise.
4. The Committee shall report the results of each meeting to the Joint Committee.

**ARTICLE 3.3 : EXPORT SUBSIDIES**

1. Except as provided in paragraph 2, neither Party shall introduce or maintain any export subsidy on any agricultural good destined for the territory of the other Party.
2. Where an exporting Party considers that a non-Party is exporting an agricultural good to the territory of the other Party with the benefit of export subsidies, the importing Party shall, on written request of the exporting Party, consult with the exporting Party with a view to agreeing on specific measures that the

**DRAFT**  
**SUBJECT TO LEGAL REVIEW FOR ACCURACY, CLARITY, AND CONSISTENCY**  
**MARCH 1, 2004**

importing Party may adopt to counter the effect of such subsidized imports. If the importing Party adopts the agreed-upon measures, the exporting Party shall refrain from applying any export subsidy to exports of such good to the territory of the importing Party.

**ARTICLE 3.4 : AGRICULTURAL SAFEGUARD MEASURES**

1. Notwithstanding Article 2.3 (Elimination of Duties), a Party may impose a measure in the form of an additional duty on an originating agricultural good as provided in that Party's section of Annex 3-A (Agricultural Safeguard Measures), provided that the conditions in paragraphs 2 through 6 are met. The sum of any such additional duty and any other customs duty on such good shall not exceed the lesser of:

- (a) the prevailing most-favoured-nation ("MFN") applied rate of duty; or
- (b) the MFN applied rate of duty in effect on the day immediately preceding the date of entry into force of this Agreement.

2. The additional duty under paragraph 1 shall be set according to each Party's Schedule to Annex 3-A.

3. Neither Party may, with respect to the same agricultural good, at the same time, impose or maintain an agricultural safeguard measure under this Article and:

- (a) a safeguard measure under Chapter Nine (Safeguards); or
- (b) a measure under Article XIX of GATT 1994 and the Safeguards Agreement.

4. Except as otherwise provided in Section C of Annex 3-A, neither Party may impose an agricultural safeguard measure on an originating agricultural good:

- (a) after the tariff elimination period; or
- (b) once the agricultural good achieves duty-free status under the Agreement.

5. Neither Party may impose an agricultural safeguard measure that increases an in-quota duty on an agricultural good subject to a tariff-rate quota.

6. A Party shall implement an agricultural safeguard measure in a transparent manner. Within 60 days after imposing such a measure, the Party imposing the measure shall notify the other Party, in writing, and shall provide it relevant data

**DRAFT**  
**SUBJECT TO LEGAL REVIEW FOR ACCURACY, CLARITY, AND CONSISTENCY**  
**MARCH 1, 2004**

concerning the measure. On request, the Party imposing the measure shall consult with the other Party regarding the application of the measure.

7. The general operation of this Article may be the subject of discussion and review in the Committee on Agriculture. On request of either Party, the Committee on Agriculture shall review the trigger prices set out in Annex 3-A.

8. For the purpose of this Article, an **agricultural safeguard measure** means an agricultural safeguard measure described in paragraph 1.

**ARTICLE 3.5 : TARIFF-RATE QUOTA ADMINISTRATION**

Where an importing Party considers that an exporting Party has increased its use of a non-Party agricultural good in its domestic market and thereby increased its exports of a domestically-produced good subject to a tariff-rate quota administered by the importing Party, the exporting Party shall, on the written request of the importing Party, immediately consult with the importing Party to develop appropriate actions to remedy the situation.

**ARTICLE 3.6 : REVIEW OF DAIRY MARKET ACCESS COMMITMENTS**

Upon request by either Party after year 20 of the Agreement, the Parties shall consult on and consider the possibility of modifying market access commitments for the dairy goods listed in Annex 2-B as set out in their respective schedules. An agreement by the Parties to modify the market access commitment on a dairy good listed in Annex 2-B, when approved by both Parties in accordance with their applicable legal procedures, shall supersede the terms established for the good in Annex 2-B and in any relevant schedules.

**ARTICLE 3.7 : DEFINITIONS**

For the purposes of this Chapter, **agricultural goods** means those goods referred to in Article 2 of the *WTO Agreement on Agriculture*.

**DRAFT**  
**SUBJECT TO LEGAL REVIEW FOR ACCURACY, CLARITY, AND CONSISTENCY**  
**MARCH 1, 2004**

**ANNEX 3-A**  
**AGRICULTURAL SAFEGUARD MEASURES**

**Section A : Horticulture Price-Based Safeguard**

**United States**

1. Subject to the provisions of Article 3.4 (Agricultural Safeguard Measures), the United States may impose an agricultural safeguard measure on an originating agricultural good listed in the Schedule to this Section only if the good enters the United States' customs territory at a unit import price below the trigger price for that good set out in its Schedule to this Section.

- (a) The unit import price shall be determined on the basis of the F.O.B. import price of the good in U.S. dollars.
- (b) The trigger prices for the goods eligible for a safeguard measure, which reflect historic unit import values for the products concerned, are listed in the United States' Schedule to this Section.

2. An agricultural safeguard measure in the form of an additional duty under Article 3.4 shall be set according to the following schedule:

- (a) if the difference between the unit import price of the item expressed in terms of domestic currency (the "import price") and the trigger price as defined under subparagraph 1(b) is less than or equal to 10 percent of the trigger price, no additional duty shall be imposed;
- (b) if the difference between the import price and the trigger price is greater than 10 percent but less than or equal to 40 percent of the trigger price, the additional duty shall equal 30 percent of the difference between the MFN rate of duty as determined under Article 3.4.1 and the applicable tariff rate in the U.S. Schedule to Annex 2-B for the agricultural good;
- (c) if the difference between the import price and the trigger price is greater than 40 percent but less than or equal to 60 percent of the trigger price, the additional duty shall equal 50 percent of the difference between the MFN rate of duty as determined under Article 3.4.1 and the applicable tariff rate in the U.S. Schedule to Annex 2-B for the agricultural good;

**DRAFT**  
**SUBJECT TO LEGAL REVIEW FOR ACCURACY, CLARITY, AND CONSISTENCY**  
**MARCH 1, 2004**

- (d) if the difference between the import price and the trigger price is greater than 60 percent but less than or equal to 75 percent of the trigger price, the additional duty shall equal 70 percent of the difference between the MFN rate of duty as determined under Article 3.4.1 and the applicable tariff rate in the U.S. Schedule to Annex 2-B for the agricultural good; and
- (e) if the difference between the import price and the trigger price is greater than 75 percent of the trigger price, the additional duty shall equal 100 percent of the difference between the MFN rate of duty as determined under Article 3.4.1 and the applicable tariff rate in the U.S. Schedule to Annex 2-B for the agricultural good.

Schedule of the United States

<b>United States Horticulture Safeguard List</b>		
(US\$/Kg or US\$/Liter if noted)		
<b>HS</b>	<b>Description</b>	<b>Trigger Price</b>
0712202000	ONION POWDER OR FLOUR	0.77
0712204000	ONIONS, DRIED, EXCEPT POWDER OR FLOUR	1.26
0712904020	GARLIC POWDER OR FLOUR	0.53
0712904040	GARLIC, DRIED, EXCEPT POWDER OR FLOUR	0.48
2002100020	TOMATOES W/N WHOLE PREP/PRES NESOI CTNRS LT 1.4 KG	0.41
2002100080	TOMATOES PREP/PRES IN CNTRS 1.4KG OR MORE, NESOI	0.43
2002908010	TOMATO PASTE IN CONTAINERS HOLDING LESS THAN 1.4KG	0.64
2002908020	TOMATO PASTE, IN CONTAINERS HOLDING 1.4 KG OR MORE	0.56
2002908030	TOMATO PUREE IN CONTAINERS HOLDNG LESS THAN 1.4 KG	0.46
2002908040	TOMATO PUREE, IN CONTAINERS HOLDING 1.4 KG OR MORE	0.31
2002908050	TOMATOES NESOI PREP/PRES EX BY VINEGAR/ACETIC ACID	0.69
2005600000	ASPARAGUS, PREPARED OR PRESERVED NESOI, NOT FROZEN	1.59
2008400020	PEARS, PREP/PRES NESOI, IN CNTRS LESS THAN 1.4 KG	0.65
2008400040	PEARS, PREP/PRES NESOI, IN CNTRS OF 1.4 KG OR MORE	0.58
2008504000	APRICOTS, PREPARED OR PRESERVED NESOI	0.90
2008702020	PEACHES, PREP/PRES NESOI, CNTRS LESS THAN 1.4KG EA	0.32

**DRAFT**  
**SUBJECT TO LEGAL REVIEW FOR ACCURACY, CLARITY, AND CONSISTENCY**  
**MARCH 1, 2004**

2008702040	PEACHES, PREP/PRES NESOI, CNTRS 1.4KG OR MORE EACH	0.54
2008929030	FRUIT MXTRS WITH PEACH/PEAR PACKD IN LIQ LT 1.4K	0.83
2008929035	FRUIT MXTRS WITH PEACH/PEAR PACKD IN LIQ GT 1.4K	0.75
2008929040	FRUIT MXTRS CNTNG ORANGE/GRAPEFRT PCKD IN LIQ CANN	1.21
2008929050	FRUIT MXTRS NESOI PACKD IN LIQUID IN AIRTIGHT CTNR	0.80
2009110020	ORANGE JUICE UNFERMNTD FROZEN CNTR UNDER .946LITER IN LITERS	0.23
2009110040	ORANGE JUICE UNFERMNTD FROZEN CNTNRS .946-3.785L IN LITERS	0.23
2009110060	ORANGE JUICE UNFERMNTD FROZEN CNTRS OVER 3.785L IN LITERS	0.20
2009124500	ORANGE JUICE, UNFERMENTED, N/FROZEN, NESOI, < 20 BRIX IN LITERS	0.49
2009190000	ORANGE JUICE, UNFERMENTED, NESOI IN LTERS	0.49
2009610020	GRAPE JUICE & MUST, UNFERMENTED, NOT CONCENTRATED IN LITERS	0.56
2009610040	GRAPE JUICE & MUST, <20 BRIX, CONCENTRATED FROZEN IN LITERS	0.34
2009610060	GRAPE JUICE & MUST, <20 BRIX, CONCENTRTD NOT FROZEN IN LITERS	0.27
2009690040	GRAPE JUICE & MUST, NESOI, FROZEN IN LITERS	0.32
2009690060	GRAPE JUICE & MUST, NESOI, NOT FROZEN IN LITERS	0.25
2103204020	TOMATO SAUCES NESOI IN CONTAINERS LESS THAN 1.4 KG	0.84
2103204040	TOMATO SAUCES NESOI CONTNRS HOLDING 1.4 KG OR MORE	0.94

**Section B: Quantity-Based Beef Safeguard**

1. Subject to the provisions of Article 3.4 (Agricultural Safeguard Measures), the United States shall impose an agricultural safeguard measure in years nine through 18 of the Agreement on an originating agricultural good listed in paragraph 3 of Annex 2-B only if the volume of imports of the originating agricultural good exceeds 110 percent of the volume of the good as set out in Annex 2-B.
2. An agricultural safeguard measure in the form of an additional duty under Article 3.4 of the Agreement shall be set according to the following schedule:

**DRAFT**  
**SUBJECT TO LEGAL REVIEW FOR ACCURACY, CLARITY, AND CONSISTENCY**  
**MARCH 1, 2004**

- (a) for years nine through 18, the United States shall impose an additional duty equal to 75 percent of the difference between the MFN rate of duty as determined under Article 3.4.1 and the applicable tariff rate in the Party's Schedule to Annex 2-B on the agricultural good.
- 3. The United States shall maintain an agricultural safeguard measure under this Section only until the end of the calendar year in which it imposes the measure.
- 4. The United States shall have the discretion to not impose an agricultural safeguard measure under this Section.

**Section C: Price-Based Beef Safeguard**

- 1. Subject to the provisions of Article 3.4 (Agricultural Safeguard Measures), the United States shall impose an agricultural safeguard measure on an originating agricultural good listed in Additional Note 3 to Chapter 2 of the Harmonized Tariff Schedule of the United States, starting in year 19 of the Agreement, based on a comparison of the monthly average index price with a trigger price that is 6.5 percent less than the average of the previous 24 monthly average index prices.
  - (a) Monthly average index prices shall be determined on the basis of Wholesale Boxed Beef Cut-Out Value Select 1-3 Central U.S. 600-750 lbs., as reported by USDA/Agricultural Marketing Service Market News.
- 2. An agricultural safeguard measure in the form of an additional duty under Article 3.4 shall be set according to the following schedule:
  - (a) the additional duty shall equal 65 percent of the MFN rate of duty as determined under Article 3.4.1.
- 3. The United States shall maintain an agricultural safeguard measure under this Section as follows:
  - (a) if the monthly average index price falls below the trigger price in two months during the previous quarter of any calendar year, the agricultural safeguard measure may be applied during the current quarter of the calendar year; or
  - (b) if the monthly average index price falls below the trigger price in any month of the fourth quarter, or in the month immediately preceding the fourth quarter, the agricultural safeguard measure may be applied during the remainder of the fourth quarter of the calendar year.

**DRAFT**  
**SUBJECT TO LEGAL REVIEW FOR ACCURACY, CLARITY, AND CONSISTENCY**  
**MARCH 1, 2004**

4. An agricultural safeguard measure under this Section shall apply to agricultural goods listed in Additional Note 3 to Chapter 2 of the Harmonized Tariff Schedule of the United States that enter the United States in aggregate quantities greater than the sum of:
  - (a) the quantity of agricultural goods entered under Additional Note 3 to Chapter 2 of the Harmonized Tariff Schedule of the United States; and
  - (b) 70,000 metric tons, which quantity shall grow at an annual rate of 0.6 percent starting in year 19 of the Agreement.
5. The United States shall have the discretion to not impose an agricultural safeguard measure under this Section.
6. The Parties shall review the operation of this Section every five years.