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1 PREAMBLE

1.1 Text of the Preamble

Members,

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

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

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

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

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

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

1.2 General

1. Panels and the Appellate Body have referred to the Preamble in a number of cases. For example, in *EC – Bananas III* the Appellate Body referred to the Preamble in the context of addressing the relationship between the Agreement on Agriculture and Article XIII of the GATT 1994:

"The question remains whether the provisions of the *Agreement on Agriculture* allow market access concessions on agricultural products to deviate from Article XIII of the GATT 1994. The preamble of the *Agreement on Agriculture* states that it establishes 'a basis for initiating a process of reform of trade in agriculture' and that this reform process 'should be initiated through the negotiation of commitments on support and protection and through the establishment of strengthened and more operationally effective GATT rules and disciplines'. The relationship between the

provisions of the GATT 1994 and of the *Agreement on Agriculture* is set out in Article 21.1 of the *Agreement on Agriculture*[.]

Therefore, the provisions of the GATT 1994, including Article XIII, apply to market access commitments concerning agricultural products, except to the extent that the *Agreement on Agriculture* contains specific provisions dealing specifically with the same matter."¹

2. In *Canada – Dairy*, the Panel referred to the Preamble and identified the "main purpose" of the Agreement on Agriculture:

"As enunciated in the preamble to the Agreement on Agriculture, the main purpose of the Agreement is to 'establish a basis for initiating a process of reform of trade in agriculture' in line with, *inter alia*, the long-term objective of establishing 'a fair and market-oriented agricultural trading system'. This objective is pursued in order 'to provide for substantial progressive reductions in agricultural support and protection sustained over an agreed period of time, resulting in correcting and preventing restrictions and distortions in world agricultural markets'."²

3. In *Canada – Dairy (Article 21.5 – New Zealand and US)*, the Panel considered that Article 9.1(c) "should be read having regard to the object and purpose" of the Agreement on Agriculture, and considered that "the Preamble of the *Agreement on Agriculture* provides useful guidance to identify the object and purpose of that Agreement". After quoting several recitals from the Preamble, the Panel stated that:

"This language makes clear that the working assumption in agricultural trade is not that of a market free of government intervention. The establishment of a fair and market-oriented agricultural trading system, through progressive reductions in agricultural support and protection, is the long-term objective, and the *Agreement on Agriculture* has established a 'basis for initiating the process of reform' aimed at achieving that long-term objective. In the meantime, markets subject to a certain degree of government regulation would appear to be rather the rule in agricultural trade, and regulation-free markets the exception. Claiming that, under Article 9.1(c), the right benchmark to determine whether a 'payment' exists is the extent to which government has decided to intervene in the market, depending on whether a good is destined by the buyer for export or not, ignores that fundamental economic reality, as reflected in the object and purpose of the *Agreement on Agriculture*."³

4. In *Chile – Price Band System*, the Appellate Body recalled the Preamble prior to addressing the specific issues raised under Article 4.2 of the Agreement on Agriculture:

"Before addressing these specific issues appealed by Chile, we recall that the preamble to the *Agreement on Agriculture* states that an objective of that Agreement is 'to establish a fair and market-oriented agricultural trading system', and to initiate a reform process 'through the negotiation of commitments on support and protection and through the establishment of strengthened and more operationally effective GATT rules and disciplines'. The preamble further states that, to achieve this objective, it is necessary to provide for reductions in protection, 'resulting in correcting and preventing restrictions and distortions in world agricultural markets,' through achieving 'specific binding commitments,' *inter alia*, in the area of market access.

We are certainly aware of the importance of agricultural and primary products to many developing country Members of the WTO. We are mindful also that the significance of trade in such products is reflected in a number of places in the covered agreements, including the *Agreement on Agriculture*. In the preamble to the *Agreement on Agriculture*, it is said that developed country Members agreed that,

¹ Appellate Body Report, *EC – Bananas III*, para. 155.

² Panel Report, *Canada – Dairy*, para. 7.25.

³ Panel Report, *Canada – Dairy (Article 21.5 – New Zealand and US)*, paras. 6.19-6.20.

in implementing their commitments on market access, they 'would take fully into account the particular needs and conditions of developing country Members by providing for a greater improvement of opportunities and terms of access for agricultural products of particular interest to these Members'."⁴

5. The Panel in *Turkey – Rice* explained that:

"The objectives of the Agreement on Agriculture are described in its preamble: 'to establish a fair and market-oriented agricultural trading system', and to initiate a reform process 'through the negotiation of commitments on support and protection and through the establishment of strengthened and more operationally effective GATT rules and disciplines'. To achieve this objective, the preamble states that it is necessary to provide for reductions in protection, 'resulting in correcting and preventing restrictions and distortions in world agricultural markets', through achieving 'specific binding commitments', *inter alia*, in the area of market access."⁵

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⁴ Appellate Body Report, *Chile – Price Band System*, paras. 196-197.

⁵ Panel Report, *Turkey – Rice*, para. 7.56.