Elaboration of Japan's Negotiating Proposal:

Export prohibitions and restrictions

1. Background

(Proposal in December 2000[G/AG/NG/W/91])

23. In view of redressing the imbalances of the rights and obligations between importing and exporting countries, and of maintaining the food security of food-importing countries, rules and disciplines on export-promoting and export-restricting measures should be established. (See examples described in 4.1 and 4.2 below.)

24. Negotiations on these future rules and disciplines on exports should be conducted, by making sure that an appropriate balance can be achieved with the outcome of negotiations on imports, in order to reach a fair and equitable agreement that can be accepted by both exporting and importing countries alike.

(Elaboration)

1. The current disciplines on export enhancing measures and export prohibitions/restrictions are not rigorous enough compared with disciplines applied on import measures. Japan has made its proposal with a view to redressing imbalance in rights and obligations between exporting and importing countries while ensuring food security of importing countries. The basic idea of the proposal is to introduce disciplines on export measures that are symmetrical to those on import measures.

2.Tariffication (replacement by export taxes) of all export prohibitions and restrictions

(Proposal in December 2000[G/AG/NG/W/91])

31. To tariffy all export prohibitions and restrictions (by replacing them with export taxes);

(Elaboration)

2. All export prohibitions and restrictions shall be replaced by export taxes

(tariffication).

3. Export prohibitions and restrictions on agricultural products stipulated under WTO agreements, such as Article XI. 2(a) of GATT, shall be also tarrified. This shall not apply to developing country Members, unless the measure is taken by a developing country Member which is a net-food exporter of the specific foodstuff concerned.

3. Binding and reducing all export taxes

(Proposal in December 2000[G/AG/NG/W/91])

32. To bind all export taxes (including those possibly introduced in the future). For products subject to the export tax, to establish quotas in which a certain amount of exports will be exempt from the export tax;

(Elaboration)

4. Each Member will offer bound rates of export tax for all agricultural products based on risks and other factors obtained from past experiences. These rates will be confirmed and bound in the Schedule after conducting consultations among Members.

5. All these export taxes will be subject to the progressive reduction of 36+X% during the implementation period after the current negotiations.

6. The exports equal to 5% of the average volume of productions during the preceding 3 years shall be exempt from export taxes.

4. Short-term export restriction in emergency

(Proposal in December 2000[G/AG/NG/W/91])

33. In the case where temporary and short-term measures to restrict exports become necessary before export taxes are introduced, to clarify the disciplines applied on such emergency measures used in order to adjust the volume of exports. Measures for clarifying such disciplines are:

(i) To establish strict requirements for the application of such emergency measures;

(ii) To introduce consultations with other Members as a prerequisite for imposing emergency measures, and to clarify the measures to be taken when the consultations do not result in a satisfactory solution;

(iii) To obligate Members, when introducing emergency measures, to maintain the proportion of exports to domestic production at the level of the preceding [x] years, in order to allow importing countries to secure the necessary level of imports;

(iv) To limit the duration of such emergency measures.

(Elaboration)

7. In order to ensure the food security of exporting countries, a short-term export restriction will be permitted when they face an emergent need to adjust export volume. This measure will be permitted to last only until the domestic procedure imposing export taxes is completed.

8. A Member who desires to take this measure needs to consult with other Members who have a 10% share or more as an export destination during the preceding 3 years. The Member who desires to take this measure may offer compensation.

9. The period of the export restriction shall not exceed one month. A certain amount shall be exempt from this restriction during its implementation. The average share of exports in total domestic production during the preceding 3 years multiplied by the twelfth of the expected volume of production in the year concerned, shall be exempt from export restriction. This amount will be considered as the monthly figure exempt from export prohibition. The Member concerned, however, will not be obliged to export that amount.

10. Since developing country Members which are not net-food exporters of the specific

foodstuff concerned are permitted to invoke relevant articles on WTO agreements, such as Article XI. 2(a) of GATT, to take export prohibition and restrictions, they are not expected to take measures described above.

5. Special and differential treatment

(Proposal in December 2000[G/AG/NG/W/91])

40. When strengthening the rules and disciplines on exports and state trading, measures to exempt or ease obligations should be taken so as not to cause an excessive burden on developing countries.

(Elaboration)

10. The above prohibitions on export prohibitions/restrictions that are based on the WTO agreements shall not apply to any developing country Member, unless the measure is taken by a developing country Member which is a net-food exporter of the specific foodstuff concerned.