

15 December 2009

Mr. Pascal Lamy
Director General of the WTO
Chairperson of the TNC

H.E. Mr. David Walker
Ambassador and Permanent Representative to the WTO
Chairperson of the Special Session of the Committee on Agriculture
Permanent Mission of New Zealand

Dear Director General,

Dear Ambassador Walker,

Following the initialling of an agreement on bananas between the EU and the Latin American MFN banana suppliers, the EU, the ACP countries and the Tropical Products Group have agreed on the DDA treatment for Tropical Products and for Preference Erosion.

With a successful conclusion of the overall multilateral market access negotiation for agriculture products still outstanding and in recognition of the need to stabilise and preserve the results of the negotiations on Tropical Products and Preference Erosion at the time of agreeing on the EU's final market access commitments for bananas, the undersigned propose the integration in the DDA agriculture modalities text of (a) the modalities for Tropical Products and (b) the modalities for Preference Erosion, including the agreed Preference Erosion annexes.

Taking into account each of these elements the following update of the modalities text TN/AG/W/4 Rev. 4 would be required:

(a) Regarding Tropical Products:

Replace the current paragraphs 147 and 148 with the new modality for Tropical Products, with the new paragraph 147 dealing with Coverage and paragraph 148 dealing with Treatment.

The new text of the modality for Tropical Products, for both coverage and treatment is attached as Annex 1 to this letter.



(b) Regarding Preference Erosion:


Replace the current paragraph 149 with a new modality for Longstanding Preferences and Preference Erosion. Replace the tables in Annex H with the raw tables in Annex H as annexed to the new modality for Longstanding Preferences and Preference Erosion.

The text of the new modality for Preference Erosion and the new tables for Annex H are attached as Annex 2 to this letter.

For the ACP group:   
Jamaica Kenya Mauritius

For Bolivia: 

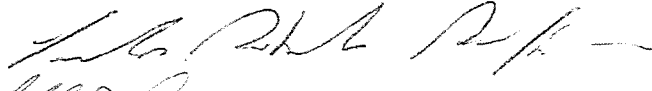
For Colombia: 

For Costa Rica: 

For Ecuador: 

For the European Union: 

For Guatemala: 

For Nicaragua: 

For Panama: 

For Peru: 

Annex I

TROPICAL PRODUCT MODALITY

Proposal for new paragraphs 147 and 148 of

TN/AG/W/4 Rev. 4

a. Coverage

[Paragraph 147]. Developed country Members shall apply tropical treatment for a minimum of 65 per cent¹ of all of a Member's bound agricultural tariff lines contained in (i) the "List of Tropical and Alternative Products" in Annex G and (ii) the "Indicative List of Tropical Products Used in the Uruguay Round" in Annex G which are currently bound at zero or will be reduced to a zero binding by the end of the DDA implementation period.²

b. Treatment

[Paragraph 148]. For tariff lines with an *ad valorem* or *ad valorem* equivalent less than or equal to 20 per cent, the duties shall be reduced to zero. For tariff lines with an *ad valorem* or *ad valorem* equivalent higher than 20 per cent, the duties shall be reduced by 80 per cent. The reductions shall be carried out in accordance with the general tariff reduction implementation period for developed country Members as set out in paragraph 61 except if otherwise provided for under preference erosion treatment as laid down *inter alia* in Annex H (a) and (b). Developing country Members declaring themselves in a position to do so are encouraged to make additional tariff reductions to their bound agricultural tariff lines corresponding to the products contained in Annex G beyond what is required under the tiered formula.

¹ The products that constitute the minimum of 65 per cent are to be negotiated with the concerned exporting developing country Members.

² This modality which includes references to the two lists in Annex G is without prejudice to any future definition of tropical products.

ANNEX 2

PREFERENCE EROSION MODALITY

Proposal for a new paragraph 149 of TN/AG/W/4 Rev. 4

For the tariff lines listed in Annex H (a) and (b) preference erosion shall be addressed as follows:

- (i) tariff cuts by preference granting country Members* for tariff lines listed under (a) and (b) in Annex H shall be implemented, in equal annual instalments, over a period corresponding to the implementation period for developing country Members as set out in paragraph 63 unless otherwise specified in the above Annex H. The first two years shall be free from reductions. The rate of tariff reductions shall be in accordance with the formula specified in paragraph 61 (a), (b), (c) and (d), unless otherwise specified in the above Annex H.
- (ii) where products of a specific product category set out in Annex H are designated as "Sensitive Products" by any of the two preference granting Members and where preferential imports of that product category are higher than 10 per cent of domestic consumption for those Members on average in the years 2003-2005, the resulting out-of-quota tariff reductions and the phasing-in in terms of quantities of the new tariff quotas created shall be implemented in equal annual instalments over a seven-year period.

If any product in Annex H is declared sensitive the treatment in sub-paragraph (i) above shall not apply to that product.

* "Preference granting country Members" refers to the European Union and to the United States

ANNEX H

LIST OF PREFERENCE EROSION PRODUCTS

a) European Union:

HS 8 digits	Product Description
0201 30 00	Fresh or chilled bovine meat, boneless
0202 30 50	Frozen bovine boneless crop, chuck and blade and brisket cuts
0202 30 90	Frozen bovine boneless meat (excl. forequarters, whole or cut into a maximum of five pieces, each quarter being in a single block "compensated" quarters in two blocks, one of which contains the forequarter, whole or cut into a maximum of five pieces, and the other, the hindquarter, excl. the tenderloin in one piece, crop, chuck and blade and brisket cuts)
0603 10 10 ¹	Fresh cut roses and buds, of a kind suitable for bouquets or for ornamental purposes
0603 10 20 ¹	Fresh cut carnations and buds, of a kind suitable for bouquets or for ornamental purposes
0603 10 80 ¹	Fresh cut flowers and buds, of a kind suitable for bouquets or for ornamental purposes (excl. roses, carnations, orchids, gladioli and chrysanthemums)
0702 00 00	Tomatoes, fresh or chilled
0708 10 00	Fresh or chilled peas "Pisum sativum", shelled or unshelled
0708 20 00	Fresh or chilled beans "Vigna spp., Phascolus spp.", shelled or unshelled
0709 90 90 ¹	Fresh or chilled vegetables (excl. potatoes, tomatoes, vegetables of the Allium spp., cabbages of the genus Brassica, lettuces of the species Lactuca sativa and Cichorium, carrots, turnips, salad beetroot, salsify, celeriac, radishes and similar edible roots, cucumbers and gherkins, leguminous vegetables, artichokes, asparagus, aubergines, mushrooms, truffles, fruits of the genus Capsicum or of the genus Pimenta, spinach, New Zealand spinach, orache spinach, chard, cardoon, olives, capers, fennel, sweet corn and courgettes)
0714 90 11 ¹	Fresh and whole or without skin and frozen arrowroot, salep and similar roots and tubers (excl. manioc, Jerusalem artichokes and sweet potatoes) with high starch content, whether or not sliced, for human consumption, in packings <= 28 kg
0803 00 11	Plantains, fresh
0806 10 10	Fresh table grapes
0807 19 00	Fresh melons (excl. watermelons), other
0810 90 95	Fresh fruit, edible (excl. nuts, bananas, dates, figs, pineapples, avocados, guavas, mangoes, mangosteens, papaws "papayas", tamarinds, cashew apples, jackfruit, lychees, sapodillo plums, passion fruit, carambola, pitahaya, citrus fruit, grapes, melons, apples, pears, quinces, apricots, cherries, peaches, plums, sloes, strawberries, raspberries, blackberries, mulberries, loganberries, black, white or redcurrants, gooseberries, cranberries, fruits of the genus Vaccinium, kiwifruit and durians)
0901 21 00 ²	Roasted coffee (excl. decaffeinated)
0905 00 00	Vanilla
0907 00 00	Cloves, whole fruit, cloves and stems
1006 20 98	Long grain husked [brown] rice, length/width ratio >= 3 (excl. parboiled)
1103 13 10	Groats and meal of maize, "corn", with a fat content, by weight, of <= 1,5%
1103 13 90	Groats and meal of maize, "corn", with a fat content, by weight, of > 1,5%
1508 10 90 ¹	Crude ground-nut oil (excl. for technical or industrial uses)

HS 8 digits	Product Description
1511 90 19	Solid palm oil fractions, whether or not refined, but not chemically modified, in packings of > 1 kg or put up otherwise
1511 90 99	Palm oil and its liquid fractions, whether or not refined, but not chemically modified (excl. for industrial uses and crude)
1513 11 99	Crude coconut oil, in immediate packings of > 1 kg or put up otherwise (excl. for technical or industrial uses)
1513 21 90	Raw palm kernel oil and babassu oil in immediate packings of a net content of > 1 kg or put up otherwise (excl. oils for technical or industrial uses)
1515 90 59	Crude fixed vegetable fats and oils, in immediate packings of a content of > 1 kg, or crude, liquid (excl. those for technical or industrial uses; soya, peanut, olive, palm, sunflower, safflower, cottonseed, coconut, palm kernel, babassu, rubsen, mustard seed, linseed, maize germ, castor, tung, sesame, jojoba or oiticica oil; myrtle wax, japan wax and tobacco seed oil)
1515 90 99	Solid fixed vegetable fats and oils and their fractions, whether or not refined, but not chemically modified, in immediate packings of > 1 kg, n.e.s. (excl. for technical or industrial uses and crude fats and oils)
1701 11 10 ¹	Raw cane sugar, for refining (excl. added flavouring or colouring)
1701 11 90 ¹	Raw cane sugar (excl. for refining and added flavouring or colouring)
1701 99 10 ¹	White sugar, containing in dry state >= 99,5% sucrose (excl. flavoured or coloured)
1803 10 00	Cocoa paste (excl. defatted)
1804 00 00	Cocoa butter, fat and oil
1905 90 60	Fruit tarts, currant bread, panettone, meringues, Christmas stollen, croissants and other bakers' wares with added sweetener (excl. crispbread, gingerbread and the like, sweet biscuits, waffles and wafers, and rusks)
2005 90 80	Vegetables, prepared or preserved otherwise than by vinegar or acetic acid, not frozen (excl. preserved by sugar, homogenized vegetables of subheading 2005.10, and tomatoes, mushrooms, truffles, potatoes, sauerkraut, peas "Pisum sativum", beans "Vigna spp., Phaseolus spp." asparagus, olives, sweetcorn "Zea Mays var. Saccharata", fruit of the genus Capsicum hot to the taste, capers, artichokes, carrots and mixtures of vegetables)
2008 20 79	Pineapples, prepared or preserved, containing added sugar but no added spirit, with sugar content of > 13% but <=19%, in immediate packings of a net content of <= 1 kg
2008 20 90 (2008 20 91)	Pineapples, prepared or preserved, in immediate packings of a net content of >= 4,5 kg (excl. added sugar or spirit)
2008 30 71	Grapefruit segments, prepared or preserved, containing added sugar but no added spirit, in immediate packings of a net content of <= 1 kg
2008 30 90	Citrus fruit, prepared or preserved (excl. added spirit or sugar)
2008 60 51 (2008 60 50)	Sour cherries "Prunus cerasus", prepared or preserved, containing no spirit but with added sugar, in immediate packings of a net content of > 1 kg
2008 60 59 (2008 60 50)	Cherries, prepared or preserved, containing no spirit but with added sugar, in immediate packings of a net content > 1 kg (excl. sour cherries "Prunus cerasus")
2008 99 99	Fruit and other edible part of plants, prepared or preserved, not containing added spirit or added sugar (excl. prepared or preserved with vinegar, preserved with sugar but not laid in syrup, jams, fruit jellies, marmalades, fruit purée and pastes, obtained by cooking, and nuts, groundnuts and other seeds, pineapples, citrus fruits, pears, apricots, cherries, peaches, strawberries, plums, corn, yam roots, sweet potatoes and similar edible parts of plants)
2009 11 99	Frozen orange juice, unfermented, Brix value <= 67 at 20°C, whether or not containing added sugar or other sweetening matter (excl. containing spirit, with a value of <= 30 per 100 kg and with > 30% added sugar)

HS 8 digits	Product Description
2009 79 30	Apple juice, unfermented, Brix value > 20 but <= 67 at 20°C, value of > 18 _ per 100 kg, containing added sugar (excl. containing spirit)
2009 80 38	Juice of fruit or vegetables, unfermented, whether or not containing added sugar or other sweetening matter, Brix value > 67 at 20°C, value of > _30 per 100 kg (excl. containing spirit, mixtures and juice of citrus fruits, guavas, mangoes, mangosteens, papaws "papayas", tamarinds, cashew apples, lychees, jackfruit, sapodillo plums, passion fruit, carambola, pitahaya, pineapple juice, tomato juice, grape juice, incl. grape must, apple juice and pear juice)
2009 80 97	Juice of guavas, mangoes, mangosteens, papaws "papayas", tamarinds, cashew apples, lychees, jackfruit, sapodillo plums, passion fruit, carambola or pitahaya, unfermented, Brix value <= 67 at 20°C (excl. containing added sugar or containing spirit)
2009 80 99	Juice of fruit or vegetables, unfermented, Brix value <= 67 at 20°C (excl. containing added sugar or containing spirit, mixtures, and juice of citrus fruit, guavas, mangoes, mangosteens, papaws "papayas", tamarinds, cashew apples, lychees, jackfruit, sapodillo plums, passion fruit, carambola, pitahaya, pineapples, tomatoes, grapes, incl. grape must, apples, pears, cherries and of the fruit of the species Vaccinium macrocarpon)
2103 90 90	Sauces and preparations therefor, mixed condiments and mixed seasonings (excl. soya sauce, tomato ketchup and other tomato sauces, liquid mango chutney and aromatic bitters of subheading 2103.90.30)
2207 10 00	Undenatured ethyl alcohol, of actual alcoholic strength of >= 80%
2208 40 11 ¹	Rum with a content of volatile substances (other than ethyl and methyl alcohol) of >= 225 g/hl of pure alcohol "with a 10% tolerance", in containers holding <= 2 l
2208 40 39 ¹	Rum and tafia, of a value <= 7,9 Ecu/l of pure alcohol, in containers holding <= 2 l (excl. rum with a content of volatile substances [other than ethyl and methyl alcohol] of >= 225 g/hl of pure alcohol "with a 10% tolerance")
2208 40 51 ¹	Rum with a content of volatile substances (other than ethyl and methyl alcohol) of >= 225 g/hl of pure alcohol "with a 10% tolerance", in containers holding > 2 l
2208 40 99 ¹	Rum and tafia, of a value <= 2 Ecu/l of pure alcohol, in containers holding > 2 l (excl. rum with a content of volatile substances [other than ethyl and methyl alcohol] of >= 225 g/hl of pure alcohol "with a 10% tolerance")
2208 90 99	Undenatured ethyl alcohol, of an alcoholic strength of < 80% vol, in containers holding > 2 l
2401 10 10	Flue-cured Virginia type tobacco, unstemmed/unstripped
2401 10 70	Dark air-cured tobacco, unstemmed/unstripped
2401 10 80	Flue-cured tobacco, unstemmed/unstripped (excl. Virginia type)
2401 10 90 ²	Tobacco, unstemmed/unstripped (excl. flue-cured, light air-cured, fire-cured, dark air-cured and sun-cured oriental)
2401 20 80	Partly or wholly stemmed/stripped flue-cured tobacco, otherwise unmanufactured (excl. Virginia type)
2401 20 50 [#]	Partly or wholly stemmed/stripped light air-cured tobacco, otherwise unmanufactured (excl. Burley or Maryland type)
2401 30 00	Tobacco refuse
2402 10 00 [#]	Cigars, cheroots and cigarillos containing tobacco

b) United States:

HS 8 digits	Product Description
0603 10 60 ¹	Fresh Cut flowers and flower buds for bouquets or for ornamental purposes
0603 10 70 ¹	Fresh Cut flowers and flower buds for bouquets or for ornamental purposes
0603 10 80 ¹	Fresh Cut flowers and flower buds for bouquets or for ornamental purposes
0714 90 20 ²	Roots and tubers of arrowroot, salep, Jerusalem, artichokes and similar roots
0804 40 00	Avocados
0804 50 40	Fresh or dried guavas, mangoes and mangosteens
0804 50 60	Fresh or dried guavas
1508 10 00 ¹	Crude ground-nut oil
1701 11 10 ¹	Raw cane sugar
1701 11 50 ¹	Cane Sugar
2008 99 90	Fruits and Nuts
2009 11 00	Frozen orange juice, unfermented
2103 90 80	Sauces, other
2207 10 30	Beverages, spirits and vinegar
2208 40 60 ¹	Rum and Tafia
2401 20 83	}Tobacco, partly or wholly stemmed
2401 20 85	}
2402 10 30	Cigars, cheroots and cigarillos

¹ Notwithstanding paragraph 149(i), the tariff cuts for this TL shall be implemented, in equal annual instalments, over a period of eight years with the first two years being free from reductions.

² Notwithstanding paragraph 149(i), the tariff cuts for this TL shall be subject to the tariff reductions as laid down in paragraph 148 of the text. However, the resulting tariff reductions shall be implemented over 10 years with the first two years being free from reductions.

The implementation periods for these lines will be indicated at the latest at the time of modalities.