1. This document is being circulated at the request of Paraguay, within the framework of the agriculture negotiations, with a view to clarifying the scope of the various elements of the joint proposal for a permanent solution to the issue of public stockholding for food security purposes contained in document JOB/AG/229.

2. Document JOB/AG/229 contains various sections, with a complex structure, including:
   
   (a) A Ministerial Decision on public stockholding for food security purposes, which follows a Bali-minus approach by relaxing the Bali Ministerial Decision in respect of aspects pertaining to coverage, safeguards and anti-circumvention, and transparency.
   
   (b) An Annex to be used as a basis for the consultations provided for in paragraph 10 of the Ministerial Decision.
   
   (c) An Annex Z, which sets out the methodology for adjusting the external reference price for excessive inflation, in accordance with paragraph 3(b) of the Ministerial Decision.
   
   (d) An Attachment 1, which contains an Annex 6 to the Agreement on Agriculture and defines the types of public stockholding programmes considered to be for food security purposes. This part also includes notification requirements and other provisions (including on reference price updating and the methodology for considering excessive inflation).
   
   (e) An Attachment 2, which amends the following Articles:
      
      6.1 - Domestic support reduction commitments;
      7.1 - Disciplines not subject to reduction commitments;
      7.2(a) - Calculation of the Current Total Aggregate Measurement of Support (AMS);
      7.2(b) - De minimis level limits;
      18.3 - Notification of new measures exempt from reduction commitments;
      19 - Consultation and dispute settlement;
      Annex 3 - Domestic support: Calculation of Aggregate Measurement of Support; and
      Footnote 5 of Annex 2 to the Agreement on Agriculture - Public stockholding programmes for food security purposes with no, or at most minimal, trade-distorting effects or effects on production.
   
   (f) An Attachment 3, which includes the protocol of amendment to the Agreement on Agriculture.

3. These numerous documents are sometimes contradictory and at other times redundant, which makes them, and the relationship between them, even more difficult to understand. Paraguay has therefore decided to circulate this communication with a view to facilitating technical discussions that will ensure a better understanding of the proposal.
I. General questions

(a) Which proponents are currently operating public stockholding programmes for food security purposes using administered prices and for which products? Which of these Members are on the verge of, or close to, exceeding their \textit{de minimis} entitlements?

(b) Which proponents are not currently operating the programmes in question, but have plans to introduce this type of programme in the future? What public policy alternatives are being considered otherwise?

(c) Have the proponents considered setting specific objectives with clear limits on the maximum volume of public stocks held?

(d) What is the legal relationship between the Agreement on Agriculture and the various documents that make up this proposal?

(e) What is the relationship between the six documents that comprise the proposal in JOB/AG/229?

(f) What is the purpose of adopting a Ministerial Decision, as in Bali, while simultaneously proposing an amendment to the Agreement on Agriculture?

II. Questions concerning the Ministerial Decision in JOB/AG/229 and some identical aspects contained in Attachment 1 - Annex 6 of the proposal:

4. In the "Decides" section:

(a) How does footnote 3 of the Ministerial Decision square with the procedures established for amendments to the WTO Agreements, including the Agreement on Agriculture, under Article X of the Marrakesh Agreement?

(b) According to paragraph 2 of the Decision, "domestic support provided by a developing country Member pursuant to public stockholding programmes for food security purposes, shall be deemed to be in compliance with Articles 3.2, 6.3 and 7.2(b) of the Agreement on Agriculture (AoA), provided that the conditions set out in paragraphs 5 to 9 of this Decision are met". Is this presumption final or rebuttable? If it is rebuttable, how should it be rebutted? What would be the criteria for doing so?

(c) What types of public stockholding programmes fall under paragraph 2 of the Decision?

(d) How do paragraph 3(a) of the Decision and paragraph 7(i) of Annex 6 square with Annex 3, paragraph 9, of the Agreement on Agriculture?

(e) In paragraph 4.2 of the Decision and paragraph 10 of Annex 6, what is meant by "as a result of the public stockholding programmes [...] covered under paragraph 2 of this Decision"? Does this Ministerial Decision cover public stocks for food security purposes under Annex 2, paragraph 3, of the Agreement on Agriculture?

(f) Do paragraphs 5 to 9 of the Decision and paragraphs 2 to 5 of Annex 6 apply to all public stockholding programmes for food security purposes or only in cases where a developing country exceeds the bound total AMS or \textit{de minimis} levels? What is the applicable calculation: that provided for in paragraph 3 of the Decision or that set out in Annex 3 to the Agreement on Agriculture?

5. In the section on anti-circumvention/safeguards:

(a) In paragraph 5.1 of the Decision and paragraph 4 of Annex 6:
   - What is meant by "substantially distort trade"? How is this determined? Who bears the burden of proof?
   - What is meant by "adversely affect the food security of other Members"? How is this determined? Who bears the burden of proof?
(b) In paragraph 5.2 of the Decision:
- Is it correct that distortion will be considered to exist and that the food security of other Members will be considered to be adversely affected only if there is injury? Who bears the burden of proving that injury exists?
- How does paragraph 5.2 of the Decision square with the expiry of Article 31 of the Agreement on Subsidies and Countervailing Measures in the year 2000?
- Why is reference made to Part VIII of the Agreement on Subsidies and Countervailing Measures? Article 27, in Part VIII of that Agreement, allows certain countries to apply export subsidies for non-agricultural, industrial products. Should it be understood from this Decision that the Article 27 exemption would also apply to agricultural products?
- Would the Article 27 exemption apply only to the countries listed in Annex VII to the Agreement on Subsidies and Countervailing Measures? Would the same "graduation" rules be maintained for those countries for the purpose of this Decision?

(c) In paragraph 6 of the Decision and paragraph 5 of Annex 6:
- What is meant by "shall endeavor not to export"? How is compliance with that obligation determined and who bears the burden of proving it?
- Please define what is meant by: (a) international food aid, (b) non-commercial humanitarian purposes, (c) food shortages, (d) higher food inflation, and (e) international food crisis.
- Please determine the duration of the definitions in (c), (d) and (e).
- Why is exportation not prohibited in the case of public stockholding for national food security purposes?
- Why is exportation allowed for humanitarian aid purposes instead of donations?
- How can it be guaranteed that public stockholding programmes for food security purposes will not be used in such a way as to generate an increase in bound total AMS or de minimis?

6. In the notification and transparency section:

(a) In paragraph 7 of the Decision, what is meant by "[t]he operation [...] shall be transparent"?

(b) Where will the "officially published criteria" referred to in paragraph 7 of the Decision be published? In what languages? Must publication be notified?

(c) Does paragraph 8 of the Decision mean that the only notification requirement for public stockholding programmes for food security purposes would be Supporting Table DS:5?

(d) If a Member has two types of domestic support that are calculated in different ways (AMS on the one hand, and public stockholding programmes on the other), how would they be notified in the same table? How would it be transparent if it is impossible to differentiate between food stockholding programmes and other types of programmes?

7. In the consultations and dispute settlement section:

(a) To which dispute settlement bodies can a Member take recourse, and in what circumstances, if it believes paragraphs 3 and 4.2 of the Decision have been breached?

(b) In relation to paragraph 5 and paragraph 10 of the Decision, would it be necessary to demonstrate injury for consultations to take place?

(c) What is the scope of the consultations? Are they limited to the information provided in the Annex?
8. In the final provisions:

(a) Does paragraph 11.5 of the Decision mean that a new peace clause is being established? Does it apply to the entire amber box?
(b) Does this mean that this decision is above any WTO treaty?
(c) What is the relationship between paragraph 12 of the Decision and the general interpretative note to Annex 1A of the Marrakesh Agreement? How does paragraph 12 relate to Article 21.1 of the Agreement on Agriculture?

III. Questions concerning the transparency Annex

(a) Could you confirm whether the obligation to provide the information requested in the transparency Annex would only apply in the event of a request for consultations?
(b) What is the rationale for excluding items 1, 2(f), 3(a), 3(b), 3(c) and 4 of the general information section in the transparency Annex to the Bali Decision? What effect would excluding these items have in terms of transparency?
(c) What is the rationale for excluding items a, d, e, h and j, and the specificity of item k, of the Statistical Appendix to the transparency Annex to the Bali Decision? What effect would excluding these items have in terms of transparency?

IV. Annex Z and paragraph 8 of Annex 6

(a) Could you confirm that "excessive inflation" is determined by the domestic banking sector and the Member concerned using their official data? Are there any notification or independent verification requirements for such a determination?
(b) What are the criteria for determining, and who determines, the value of "x" in the calculation of the comparator index for the normal level of inflation?
(c) What is the normal rate of inflation and who defines it?
(d) What year is the reference for "a given year"?

V. Attachment 1 - Annex 6: the Agreement on Agriculture

(a) What is the legal relationship between Annex 2, paragraph 3, of the Agreement on Agriculture and Annex 6, paragraph 1, of the proposal?
(b) Definition of programmes for public stockholding for food security purposes:
   i. Programmes for public stockholding for food security purposes may serve multiple purposes, namely: (1) price stabilization, (2) economic support for producers, and (3) physical and economic access to adequate quantities of food for vulnerable sections of the population. The Bali Decision is limited only to the third purpose, as set out in paragraph 2 thereof, which refers to paragraph 3, footnote 5, and footnote 5&6 of Annex 2 to the Agreement on Agriculture. In paragraphs 1(b) and 1(a) of Annex 6, why is the Bali mandate broadened to include public stockholding for purposes other than food security?
(c) Notification
   i. What provisions of G/AG/2 would be applicable in accordance with Annex 6?
   ii. What is the relationship between paragraphs 8 and 9 of the Ministerial Decision and paragraph 3 of Annex 6?
(d) Other provisions
   i. Why was the reference to the DSU (paragraph 5.2 of the Ministerial Decision) not included in the "Other Provisions" section in Annex 6?
VI. Attachment 2 - amendments to other Articles and parts of the Agreement on Agriculture

(a) With regard to the amended wording of Articles 7.1 and 7.2(a) of the Agreement on Agriculture, what would be the legal nature of Annex 6? Would it imply an exemption from domestic support reduction commitments?

(b) In paragraph 4, does the amended language of Article 7.2(b) of the Agreement on Agriculture seek to waive the *de minimis* rules for the programmes concerned or to maintain the obligation to comply with them but provide justification in the event of non-compliance?

(c) In the amended language of Article 19 of the Agreement on Agriculture, are consultations limited only to open consultations? Could you confirm whether claims based on the nullification or impairment of a benefit under the Agreement resulting from measures that do not conflict with the Agreement or the existence of "a situation" (non-violation complaints) are excluded from dispute settlement procedures?

(d) Is it the failure to comply with Annex 6 as a whole or only the failure to comply with paragraphs 2 to 5 thereof that may be challenged under the WTO dispute settlement mechanism?

9. Paraguay looks forward to receiving replies to these questions with a view to moving forward in the discussions with the proponents.