Agriculture Negotiations at the WTO

Cancún Outlook Report[1]

ICTSD

INTERNATIONAL CENTRE FOR TRADE AND SUSTAINABLE DEVELOPMENT

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[1] This report was originally commissioned by the UK Wildlife and Countryside Agencies (UKWCA) to explore agriculture and sustainable development issues from a multifunctionality / joint production perspective. The report puts a broad variety of elements in context from this perspective. Although the report is non-partisan in character, it does not purport to present a fully balanced, sustainable development perspective, nor should it be seen as a reflection of ICTSD's own priorities. ICTSD has used information gained in writing the reports in its own *BRIDGES* series of publications, and is grateful to UKWCA for its support and for the opportunity to release this report in its entirety for the benefit of ICTSD's audiences.

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Executive Summary

This paper is the second intelligence report of series III detailing topical developments in the ongoing WTO agriculture trade negotiations. The report series is being prepared by the International Centre for Trade and Sustainable Development (ICTSD).

This report, issued in April 2003, wraps up the recent developments in the 'modalities' phase[2] since issuing the last ICTSD intelligence report up to the 31 March 2003 deadline by which Ministers had agreed in Doha to establish modalities for the ongoing agriculture negotiations. Furthermore, as WTO Members were unable to adopt such framework accord during the most recent 25 - 31 special (negotiating) session of the Committee on Agriculture (CoA), the paper makes an attempt to foresee how WTO trading partners could be trying to manage the resulting crisis so as to keep the momentum alive as well as to maximise the likelihood of trade ministers hammering out a compromise modalities text at the forthcoming WTO Ministerial Conference in Cancún, Mexico.

When the Chair of the CoA special session, Stuart Harbinson, presented his first draft of possible modalities for the agriculture negotiations, Members' reactions reflected exactly those divergences in positions and approaches which had been emerging ever since the reopening of the agriculture negotiations in early 2000. Predictably, Members such as the US and those of the Cairns group criticised the lack of ambition in Harbinson's rather balanced proposal, whereas "cautious" liberalisers including the EU, Japan, Switzerland and Norway took the view that the new commitments proposed would go way too far. For their part, non-Cairns developing countries mostly welcomed the special and differential treatment (S&D) provisions spread over the modalities text, but also said that further work needed to be done in that direction.

Whether WTO Members will be able to bridge the many deep gaps prevailing in their negotiation position by the approaching 10 - 14 September Ministerial in Cancún, remains to be seen. On the one hand, it appears that EU member states would have to agree on a rather ambitious reform model for their Common Agricultural Policy (CAP) prior to the Cancún conference so as to provide the European Commission with more negotiating manoeuvrability. On the other hand, it would also be required that the two 'elephants' in agriculture trade - i.e. the US and the EU - could reconcile their core objectives which they are pursuing in the Doha negotiations. However, as virtually all players in the 146-Member WTO of today have to be taken on board, everyone would need to be able to compromise to a certain degree. Ironically, the wider dynamics surrounding the current Iraq crisis could prove to become an important catalyser of the Doha Round, as key Members - just as it happened at Doha after September 11 and its follow-up - might feel encouraged to underline their commitment to the multilateral trading system.

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[2] This term refers to the fact that Members are required to establish the "*modalities for the further commitments*" (Doha Declaration paragraph 14) until 31 March 2003. See also the analysis on Doha Declaration paragraph 14 provided in the previous ICTSD Doha Analysis Report, January 2002, page 18.

This report is divided into three sections:

- Section 1 is a brief introduction setting the agriculture negotiations in the overall context of activities at the WTO.
- Section 2 focuses on key themes within phase III of the negotiations, providing descriptive and analytical detail of expressed proposals.
- Section 3 looks ahead at the upcoming issues in connection with the negotiations in agriculture during the 'extra time' of the modalities phase.

The methodology used in compiling this report combined comprehensive in-house analytical work as well as extensive outreach to country delegates based in Geneva and representatives of local non-governmental organisations.

ICTSD, April 2003

Section 1: Context Setting

1.1 Background

Paving the way for the next stage of the ongoing WTO agriculture negotiations, Members had agreed in end-March 2002 on a 12-month work programme so as to respect the 31 March 2003 deadline for the establishment of the so-called 'modalities' as provided for in Article 14 of the Doha Declaration. These modalities are to set out targets - including numerical targets - as well as rules-related elements based on which Members will subsequently prepare their individual offers. As a result, negotiating the modalities is one of the most critical stages of the agriculture talks, as the modalities to be agreed will determine the shape of the final outcomes of the agriculture negotiations under the Doha mandate.

On 18 December, Stuart Harbinson, Chair of the special (negotiating) session of the Committee on Agriculture (CoA), circulated a long-awaited 'Overview Paper' that outlined the current status of negotiations on establishing numeric targets, formulas and other 'modalities' for countries' commitments by 31 March 2003. The paper was released in accordance with the agreed work programme. In his general observations, included in the 89-page compendium, Harbinson pointed to "substantial progress" on some issues such as tariff quota administration and export credits. He however went on to list six key points relating to outstanding issues, including: significant differences in interpreting the Doha mandate; developing countries' split on special and differential treatment (S&D); and the role of non-trade-concerns (NTCs).

Subsequently, on 12 February, Harbinson submitted his first proposal ('Harbinson 1') for the establishment of modalities for the ongoing agriculture negotiations, which had been drafted by Stuart Harbinson in his personal capacity. Despite the many unresolved issues on how to address the further reduction of Members' tariffs, their exports subsidies and domestic support, Harbinson in his paper took a rather proactive approach by offering modalities options even in the most contested areas - such as the formula for tariff reductions and the handling of Green Box support (mostly decoupled and at most minimally trade-distorting support). However, he widely used square brackets in his 34-page draft, to propose figures for indicative purposes, to suggest alternatives, or possible formulations. On substance, the paper thoroughly addressed special and differential treatment (S&D) in most of the modalities items - as provided for in the Doha Declaration - while no particular role had been assigned to agricultural non-trade concerns (NTCs) on an across-the-board-basis as e.g. demanded by European Members, Japan, Korea and Mauritius[3].

On 18 March, Stuart Harbinson issued a revision of his first draft modalities ('Harbinson 1 ½') for the ongoing agriculture negotiations. Harbinson, who had been tasked with preparing an "improved second modalities" draft following the first draft from 12 February, found himself unable to do so due to "insufficient collective

[3] According to the Doha Mandate (para. 13 of the Doha Declaration), Members "take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture."

guidance" received from Members. He was only able to present "an initial, limited revision of certain elements of the first draft of modalities," he stated in the 18 March document. While the main features of the original draft remained largely unchanged, some pro-developing country modifications have been made, for example with respect to market access, a new special safeguard mechanism, and trade preferences.

Finally, during a 31 March wrap-up meeting concluding the last special (negotiating) session of the CoA within the official modalities phase, Chair Stuart Harbinson formally declared that Members' efforts to agree on agricultural modalities by the end-March deadline had failed. Nevertheless, Harbinson said he would continue consultations on technical issues such as tariff formulas and Strategic Products (SPs) for developing countries after the mid-April Easter break, and that further CoA special sessions had been scheduled for June and July. He urged Members to "continue working together towards completing the job given to us by Ministers in Doha <u>as soon as possible</u>".

2.2 Calendar

CALENDAR	
Event	**Issue of Meeting**
31 March 2003	Scheduled establishment of the modalities
23 April 2003	Resumption of "technical consultations" held by the Chair
29 + 30 April 2003	OECD Ministerial Council
27 May 2003	High-level meeting on Trade & Development in Copenhagen, Denmark
1 - 3 June 2003	G8 meeting in Evian, France
21 + 22 June 2003	Mini-Ministerial in Sharm El Sheikh, Egypt
26 + 27 June and 1 July 2003	Informal CoA special session
16-18 July 2003	Informal CoA special session
9 September 2003	Draft Schedules to be submitted (before 5th WTO Ministerial in Cancún, Mexico)[4]
10 -14 September 2003	Stocktaking (at 5th WTO Ministerial in Cancún, Mexico)
22 - 24 and 26 September 2003	Informal CoA special session
17 -19 and 21 November 2003	Informal CoA special session
1 January 2005	Negotiations to be concluded (together with 'single undertaking')[5]

[4] See Doha Declaration para. 14.
[5] See Doha Declaration paras. 14 and 45.

Section 2: The Two Harbinson Modalities Drafts

This section tries to provide both an overview and a brief analysis of the most relevant provisions of Harbinson 1, as well as a comparison with major amendments in Harbinson 1 ½. Following these illustrations, the reactions of key Members and country groupings to Harbinson's suggestions will be presented.

2.1 The different propoals

2.1.1 Market access

Harbinson 1

On **market access**, Harbinson suggested in a three-pronged approach: for developed countries, tariffs higher that 90 percent should be slashed by 60 percent on average, with a minimum cut of 45 percent, whereas those between 90 and 15 percent should be cut by 50 percent on average, but at least by 35 percent per tariff line. For tariffs from 15 percent downwards the respective numbers would be 40 and 25 percent. All tariffs would be reduced in equal instalments within a five-year term.

Developing countries, however, would be given a ten-year implementation period, in which they would be required to lower tariffs beyond 120 percent by 40 percent and 30 percent on average. For tariffs between 120 and 20 percent as well as 20 percent and lower, Harbinson suggests reductions of 33 and 23 percent, and 27 and 17 percent respectively.

Furthermore, developing countries would be allowed to denominate a number of "***strategic products*** *[SP] with respect to food security, rural development and/or livelihood security concerns*," the tariffs of which they would only need to cut by ten percent on average, but at least by five percent per tariff line.

	Tariff Band		**Reduction Commitment**		**Implementation Period**	
	Developed	***Developing***	***Developed***	***Developing***	***Developed***	***Developing***
General agricultural products	> 90%	> 120%	60/45	40/30	5 y	10 y
	90% - < 15%	120% - < 20%	50/35	33/23	5 y	10 y
	15% - 0	20% - 0	40/25	27/17	5 y	10 y
SP products				10/5		10 y

In addition, developing countries could take recourse to the existing **special safeguard mechanism** (AoA Article 5) for these SP products. For developed countries, however, the safeguard mechanism would be eliminated at, or two years after, the end of the five-year implementation period.

Harbinson 1 ½

Harbinson 1 ½ added a further tariff band to the original three-pronged **tariff reduction** model applying to developing countries. According to the revised modalities draft, the original tariff band ranging from 120 to 20 percent (with an average cut of 33 percent, and a minimum cut of 23 percent) would be split into a 120 to 60 percent as well as a 60 to 20 percent category, with average cuts of 35 and 20 percent and minimum cuts per tariff line of 20 and 15 percent, respectively. In addition, the tariff reductions would be less in the 20 percent downwards band (25 percent average, 15 percent minimum cut) as compared to the earlier proposal (27 percent and 17 percent).

	Tariff Band		**Reduction Commitment**		**Implementation Period**	
	Developed	***Developing***	***Developed***	***Developing***	***Developed***	***Developing***
	> 90%	> 120%	60/45	40/30	5 y	10 y
General agricultural products	90% - < 15%	120% - < 60%	50/35	35/25	5 y	10 y
	15% - 0	60% - < 20%	40/25	30/20	5 y	10 y
		20% - 0		25/15		
SP products				10/5		10 y

Furthermore, due to some progress made in the discussions on a **new special safeguard (SSG) mechanism** for developing countries, the original proposal providing that this new SSG would be restricted to only a few Strategic Products (SPs) denominated by developing countries, was dropped. The text now states that "*an outline of a possible new special safeguard...is currently subject to technical work and will be included at the appropriate stage*" in an annex to the modalities draft[6].

2.1.2 Domestic support

Harbinson 1

According to the original draft, the **Green Box** would be maintained in its existing format, but its disciplines would be strengthened as repeatedly demanded by Members, such as the Cairns Group of agriculture exporters. As an example, paragraph 12 of the Green Box (payments under environmental programmes) would be revised such that the provision saying that the specific conditions under the programme could include "*conditions related to production methods and inputs*" would be deleted (last half-sentence in sub-paragraph (a)). Moreover, new sub-

[6] Cairns Group developing countries such as Argentina, Indonesia and the Philippines are proposing a Special and Differential Countervailing Measure (SDCM) or a Food Security Mechanism which would allow importing developing countries to impose additional duties on products exported from countries that provide "trade-distorting export competition and domestic support measures" on such products. This would have the advantage for non-subsidising agricultural exporters that their exports would not be subject to a SSG. The SSG as currently designed it linked to certain trigger levels and does not differentiate between exporting countries.

paragraph (b) would now read: "*The amount of payment shall be <u>less</u> than the extra costs involved in complying with the government programme <u>and not be related to or based on the volume of production</u>*."

In contrast, the current wording of the Green Box states that the amount of the payment "*shall be <u>limited</u> to the extra costs <u>or loss of income</u>*" through compliance with the environmental programme.

Nevertheless, the title of para. 12 now reads: "*Payments under environmental programmes/<u>animal welfare payments</u>*". Consequently, the demands by Members such as the EU and Switzerland to address the non-trade concern animal welfare within the Green Box, has finally found a reflection in the draft modalities text.

In addition, the amended Green Box would link several direct payment schemes[7] to "*fixed and unchanging historical base period[s]*" which needed to be notified. This provision would e.g. prevent Members from up-dating the base periods and thereby partly 're-couple' direct payments to actual production[8]. Furthermore, various provisions would be inserted in Annex II paras. 7 to 10 limiting the amount of payments and restricting the time period during which a payment can be made.

For developing countries, however, further flexibilities would be provided for the pursuit of food security and rural development objectives.

Developed countries could also take recourse to an expanded Article 6.2 Box (**Special & Differential Treatment [S&D] Box**), allowing them to provide trade-distorting subsidies without reduction commitments in the pursuit of certain rural development objectives.

For its part, the so-called **Blue Box** (only partly decoupled subsidies under production-limiting programmes) would be maintained, but its expenditures capped and bound at 1999-2000 levels, and reduced by 50 percent over five years. Alternatively, the draft suggests merging the Blue Box with the Amber Box. Developing countries would be given S&D treatment.

With regard to the **Amber Box** (trade-distorting support), the aggregate measurement of support (AMS) would decrease by 60 percent in five years for developed countries, and 40 percent in ten years for developing country Members. In addition, Members would be prevented from providing more Amber Box support on an individual product than provided on it on average over the years 1999-2001.

Moreover, the ***de minimis*** for developed countries would be lowered from currently five percent to 2.5 percent over a five year term. For developing countries, however, the *de minimis* of ten percent would remain unchanged.

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[7] Direct payments (para. 5), decoupled income support (para. 6), structural adjustment through investment aids (para. 11), and regional assistance programmes (para. 13).

[8] See ICTSD Agriculture Report No. 7, p. 17.

	Reduction Commitment		Implementation Period	
	developed	***developing***	***developed***	***developing***
Amber Box	60%	40%	5 y	10 y
De minimis	50%	none	5 y	none
Blue Box	50%	33%	5 y	10 y
Green Box	none	none	none	none

Harbinson 1 ½

In Harbinson's revised draft modalities, the amendments to the **Green Box** proposed in the original draft remain largely unchanged, but with one notable exception: the proposed limitations in paragraph 12 (environmental programmes) of Annex 2 (the Green Box) have been fully taken back, and paragraph 12 now expressly applies to "*government environmental, conservation or animal welfare programme*[s]".

On the **Blue Box**, Harbinson 1 ½ now provides that the Blue Box would be capped at the "*most recent notified level*" instead of the earlier proposed 1999-2001 average level. Furthermore, the revised text now also offers an alternative model for developing countries. Instead of reducing Blue Box support by 33 percent over ten years, Blue Box payments could also be included in a Member's calculation of its Amber Box support as of the fifth year of the implementation period.

2.1.3 Export competition

Harbinson 1

Harbinson further proposes in his paper that Members have to phase out (while using specific reduction formulas) at least 50 percent of their **export subsidies** within five years, whereas the rest would be reduced to zero in nine years. Developing countries would be given ten years and 12 years respectively.

	Reduction Commitment		Implementation Period	
	developed	***developing***	***developed***	***developing***
≥ 50 percent of subsidised products	100 percent	100 percent	5 y	10 y
≤ 50 percent of subsidised products	100 percent	100 percent	9 y	12 y

With regard to the treatment of **export credits**, Harbinson distinguishes between financing support conforming to a set of detailed conditions, and non-conforming financing support, which would be "subject to specific financing reduction commitments" to be agreed. Moreover, Harbinson 1 offers detailed disciplines for **food aid** and **state trading export enterprises**.

<u>Harbinson 1 ½</u>

On export competition, only minor revisions have been made in Harbinson 1 ½. It is now provided that that the detailed disciplines for export credits and export credit guarantees and insurance programmes are still subject to "*ongoing technical consultations*". The same is said for the new draft provisions on food aid (where major changes have been made as compared to Harbinson 1) as well as state trading export enterprises.

2.1.4 Non trade concerns (NTCs)

Looking at both Harbinson 1 and Harbinson 1 ½, it becomes clear that the wider set of non-trade-related concerns asserted by proponents of the concept of 'multifunctionality' - including Members such as the EU, Switzerland, Norway, Japan, Korea and Mauritius (so-called MF6 Group) - has not found corresponding reflection in the modalities drafts. With the notable exception of animal welfare (see proposed amendments in the Green Box), other - mostly European - NTCs such as extension of additional protection for geographical indications (GIs), consumer protection (including mandatory labelling), food safety (precautionary principle) and environment (e.g. substantial progress in the trade and environment negotiations under paras. 31 and 32 of the Doha Declaration) have been addressed neither in Harbinson 1 nor Harbinson 1 ½.

Apparently in response to the critique expressed by the EU et. al. after the release of Harbinson 1, the Harbinson stated in his revised paper that it was "*recalled that under paragraph 13 of the Doha Ministerial Declaration non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture*." He then points to the fact that *"[s]uch concerns have been taken into account in various parts of the present text (and not only in market access)*," but adds that further consideration would need to be given to NTCs and other market access issues as identified in the overview paper issued in mid-December last year. Furthermore, Members also had to address the "*extent to which these issues should be taken into account in the modalities to be established and/or subsequent work*," Harbinson explained in his revised modalities draft.

2.1.5 Least-developed countries (LDCs)

Addressing the least-developed countries (LDCs), Harbinson 1 provides that LDCs would not be required to undertake reduction commitments, but that they could be "*encouraged to consider making commitments commensurate with their development needs on a voluntary basis*" which could include "*responding to requests submitted by trading partners*" (added in Harbinson 1 ½).

In addition, Harbinson 1 took up elements of the most recent EU proposal as it further provides that "*developed countries should provide duty- and quota-free access to their markets for all imports from least-developed countries*." In Harbinson 1 ½, the word "*shall*" was included as an alternative to "*should*", which would make this provision mandatory for developed countries.

2.1.6 Recently Acceded Members

Harbinson 1 and 1 ½ also provide that Members such as China, that have recently acceded to the WTO shall have the flexibility to defer the respective implementation periods by two years.

2.1.7 Other groupings

Reflecting the many proposals tabled by the respective Members on this issue, Harbinson 1 and 1 ½ state that "*Participants will further consider the possible introduction of additional forms of flexibility for certain groupings*" such as small island developing states (SIDS), vulnerable developing countries, and countries in economic transition.

2.2 Members' reactions

2.2.1 Those to deliver

This category of countries comprises those Members which are still maintaining relatively high levels of protection and who are supporting their agricultural sectors through trade distorting subsidies. This grouping certainly includes the EU, Japan, as well as a newly emerged coalition dubbed the 'Ugly Eight' - i.e. Bulgaria, Chinese Taipei, Iceland, Israel, Liechtenstein, Mauritius, Norway and Switzerland. The common feature of this group that they the eight countries are even more "cautious" in their approach to further farm liberalisation than the EU.

Expectedly, the **EU** criticised the lack of an overall balance within the modalities proposals between the different interests of Members. "Benefits are mainly for strong exporting countries [such as the US and the Cairns Group countries] and costs are mainly for countries which, while systematically reducing trade-distorting support, pursue policies reflecting domestic objectives which go beyond untrammelled free trade, and which are linked with social, economic and environmental sustainability," EU Agriculture Commissioner Franz Fischler immediately after the release of Harbinson 1. Particularly, the EU seems to have problems with the proposal to cut Blue Box spending by half. As it regards Blue Box spending (which itself is the main user of) to be much less trade-distorting then Amber Box support, the EU demands that - in return - the *de minimis* threshold for developed countries should be fully eliminated. Unlike the EU, trading partner US annually provides several billion of US$ under the non-product-specific *de minimis* level which covers 5 percent of a Member's annual agricultural production. On export competition, the EU complains that while itself would be required to phase out export subsidies completely, other export competition would leave "too many loopholes open for export credits and bogus food aid" (which the US mainly uses).

On market access, the EU pointed to the fact that, while Harbinson proposed a three-pronged harmonising formula, 75 Members (counting the EU plus its 15 member states) had formally asked the Chair to endorse the concept used during the Uruguay Round (average cut of 36 percent, minimum reduction of 15 percent per tariff line). Moreover, the EU criticised the missing balance between reducing tariffs, on the one and, and expanding access for developing countries, on the other; according to the EU, only such an approach would characterise this round as a development round. Here the EU appears to refer to its earlier proposal that LDCs should be granted zero-duty and zero-quota market access by developed countries and by "advanced developing countries". Moreover, the EU had suggested that developed countries should ensure that at least 50 percent of all their imports from developing countries should be imported on a duty-free basis. Under the Harbinson drafts, however, further market access became "an instrument to accommodate developed exporters, instead of a means to differentiate access for the benefit of the developing world", Fischler commented.

Last but not least, the EU considers the drafts not to be comprehensive as it does neither include non-trade concerns nor a new peace clause.

For its part, **Japan** rejected the draft as "unacceptable overall". Japanese Agriculture Minister Tadamori Oshima stated it "includes proposals which are incompatible with those of many nations". Specifically, Japan rejected calls to cut its 490 percent rice tariff by a minimum of 45 percent (it also supports the UR formula) as well as to expand its mandatory 7.2 percent rice tariff rate quota (TRQ) to 10 percent of current domestic consumption. In addition to these market access issues, Japan sees a "serious imbalance and excessive ambition in a number of important areas" which would need to be fundamentally redressed. At a 28 February formal negotiating session, Japan also noted that the interests of those who delivered (i.e. itself, the EU, the Ugly Eight, etc.) rather than those who simply demanded and hardly paid (US, Cairns Group, etc.), had to be fully respected in establishing modalities.

In a joint statement[9] the **Ugly Eight** group of countries called for a "proper balance between trade and non-trade concerns" within the modalities, as Members had launched the agricultural reform process at Marrakech with the clear understanding the NTCs would be duly taken into account (Preamble and Article 20 of the AoA); this commitment had been confirmed at Doha (Doha Declaration para. 13). As a result, only a reduction formula along the lines of the UR approach (36 percent cut on average) - but with a minimum reduction of only 10 percent per tariff line[10] - would take account of the "vast diversity of production conditions faced by Members." In addition, TRQs should not be extended as they had been introduced in 1995 to ensure market access in historic and certain minimum quantities. On domestic support, the group wants to maintain the Green and Blue Box without limitations and

[9] TN/AG/GEN1, statement made by Switzerland at the 28 February formal special session.
[10] During the UR Members were required to bring down their tariff by at least 15 percent per tariff line.

"with necessary adjustments to take non-trade concerns duly into account." Also reductions in Amber Box support should be significantly lower than proposed by Harbinson. Export subsidies could be substantially reduced, provided that other forms of export competition (i.e. export credits, food aid, etc.) are equally treated. On special and differential treatment (S&D), the group criticises that LDCs, SIDSs, and other vulnerable developing countries, who would all be heavily reliant on trade preferences, would "see their market access opportunities deteriorated" as a result of the modalities proposed.

2.2.2 The demanders

Members falling under this sub-set of countries are those who demand significant improvements in all three pillars, but without seeking specific exceptions for themselves. The main protagonists here are the US and the 17 members of the Cairns Group of agriculture exporting countries.

The **US** applauded Harbinson for suggesting full elimination of export subsidies within nine years, but demanded that this would be flanked by deeper cuts in tariffs (means horizontal cuts down to 25 percent maximum) as well as in Amber Box and Blue Box subsidisation. "To be fair, these reforms must go much, much further toward harmonisation by narrowing the vast disparities among countries in subsidies and tariffs," US Trade Representative (USTR) spokesperson Richard Mills said on 12 February. In this context is should be noted that the USTR is under strong pressure from Congress to negotiate a deal under which a level playing field is created between the US and the EU in terms of tariffs and trade-distortive support. The biggest stone of contention seems to be the fact that the EU is currently allowed to provide some EUR 70 billion in Amber Box support, whereas the US's upper ceiling is at around US$ 20 billion. Furthermore, the US has not been using the Blue Box since the 1996.

Australia's Agriculture Minister, speaking on behalf of the **Cairns Group**, identified "some good elements" in the first draft modalities text, but said it lacked in ambition with regard to improving market access and substantially cutting "the outrageous levels of domestic support" provided by the EU, the US, Japan and others. Just as the US, the Cairns Group has been proposing the so-called Swiss formula, which would bring down tariffs uniformly to no more than 25 percent, but in addition to deep cuts in the Amber and Blue Boxes it further wants to put a cap on Members' expenditures under the Green Box category. Therefore, the Cairns Group of agriculture exporters is also targeting the US's farm policy, under which some US$ 50 billion were spent in Green Box support in 1999[11].

2.2.3 The special consideration group

The main characteristic of this grouping is that the countries involved are strongly urging developed countries to open up their agricultural markets, to bring their domestic support levels down to those applied in developing countries, as well as to

[11] See US notification G/AG/N/USA/42 as of 5 February 2003.

eliminate export subsidies. However, they are reluctant to make new commitments themselves, arguing that first the imbalances inherent in international agriculture trade rules needed to be evened out so as to create a level-playing field for the countries of the South. Countries to be named here are those of the Like-Minded Group (LMG), the African Group and least-developed countries (LDCs)

Like-Minded Group countries[12] such as India and Nigeria reportedly celebrated Harbinson 1 as a small victory for the coalition of developing countries that have fought hard in the last three years for only further opening up their markets under the condition that their developmental and food security needs were appropriately addressed. Sources indicated that India welcomed the proposed negative-list approach by which developing countries could exempt a number of "strategic products" from general reduction commitments, as well as new flexibilities with respect to domestic support. However, India reportedly rejected the ten-year tariff reduction period for developing countries, regarding it as too short. Also the proposed tariff reductions were seen as too drastic, wherefore it could be assumed that the forth tariff band (ranging from 120 to 60 percent), which had been added in Harbinson 1 ½, was mainly the result of pressure from this country grouping. On the issue of strategic products (SPs), for which only very moderate tariff reduction commitments would apply (10 percent on average, minimum cut of 5 percent per product), the Group is demanding that SPs must be declared by developing countries themselves and that they should be "number-based" - e.g. reflecting a certain percentage of all domestically produced agricultural products. Consequently, the LMG argues that stricter criteria such as value of a crop relative to total agricultural GDP, area under a particular crop, significance of the crop for national dietary needs, etc. could not be easily applied due to a lack of relevant data. Moreover, the Group would like to see the concept of SPs also applied in the other AoA pillars, i.e. domestic support and export competition. Related to the SP issue, India in a 28 February statement called on those Members, who were demanding developing countries to harmonise their tariffs, first to harmonise their domestic support in all boxes at the level at which poorer countries would provide domestic support to their agriculture sector.

In their reactions, several **African countries** such as Uganda, Senegal or Kenya voiced their concern about the erosion of preferences without an appropriate compensatory mechanism. Moreover, more ambition in the areas export subsidies and domestic support was demanded. Several African countries welcomed the concept of strategic products introduced, but they demanded in-built flexibility for countries to determine as well as be able to add to the list during the implementation period. It was further said that the application of the special safeguard mechanism should be fully de-linked from the SP concept. In addition, these countries missed the appropriate degree of ambition in translating S&D into the modalities as well as making operationally effective the provisions addressing their non-trade concerns such as food security and rural development. It was also noted that the modalities would not make any suggestion on the treatment of the Marrakech Decision for net food-importing developing countries (NFIDCs) and LDCs.

[12] The LMG comprises countries such as Cuba, the Dominican Republic, El Salvador, Haiti, Honduras, Kenya, India, Nigeria, Pakistan, Sri Lanka, Uganda and Zimbabwe.

Least-developed country (**LDC**) Members welcomed the modalities as a possible basis, but also saw various imbalances on the three main pillars of negotiations. It was therefore suggested to fully eliminate the Blue and Amber Boxes as well as to cap the Green Box. On the concept of SPs, it was cautioned that their numbers and criteria for selection needed to be carefully discussed. LDCs further opposed the idea that they were "*encouraged to consider making commitments commensurate with their development needs on a voluntary basis*". On the proposed duty- and quota-free access of LDCs imports to developed country markets, the LDC group sought further explanations on how this commitment would be implemented in practice (e.g. rules of origin, product coverage, binding nature, etc.). The group also stressed that the stringent application of sanitary and phytosanitary standard (SPS) and technical barriers to trade (TBT) measures, which impeded real access of LDCs products on developed country markets, should be addressed more accurately.

Section 3: Looking Ahead

As Members have been unable to adopt modalities for the ongoing agriculture negotiations by the 31 March deadline set by trade ministers at Doha, those actors and observers of the process favouring an accelerated and comprehensive round are now turning their attention to the upcoming Fifth WTO Ministerial Conference, scheduled to be held from 10 to 14 September in Cancún, Mexico. There, it is hoped, WTO trading partners would be able to hammer out - at the ministerial level - a framework accord for agriculture which would be acceptable to all participants in the negotiations. Whether this can be achieved or not, will depend on many WTO internal and external variables which can hardly be assessed at a moment where Members are still recovering from the aftermath following the missed end-March benchmark.

Looking at it from the WTO perspective, participants in the negotiations need to manage the crisis between now and the forthcoming Cancún Ministerial in an optimal way so as to maximise the chances that the many deep gaps prevailing between Members' positions can be bridged as good as possible. It is thus key for participants to aim at clarifying most of the technical, systemic and rules-based issues prior to the Cancún Ministerial so as to keep the negotiating agenda to be presented to Ministers in Mexico as short as possible.

3.1 Technical work

Therefore, Harbinson announced on 31 March that, after the Easter break, he would continue informal consultations on technical issues, including tariff reduction formulas, tariff rate quotas (TRQs), Strategic Products (SPs) for developing countries, a new special safeguard (SSG) mechanism for developing countries, preferential trade schemes, export credits, food aid, state trading enterprises, and geographical indications. Moreover, he earmarked further negotiating sessions to be held on 26 to 27 June and 1 July, as well as on 16 to 17 July. Harbinson further seemed to be committed to take a more integrated approach to the modalities negotiations, which would comprise numbers and targets, as well as rules-based elements. In his modalities drafts submitted earlier, he suggested agreeing on reduction modalities (i.e. numbers) first, while deciding on disciplines (e.g. on SSG, export credits, etc.) at a later stage. It was also reported that Harbinson will try to get more capital-based officials involved in the informal consultations, and that he would therefore try to schedule future meetings at times more convenient for non-Geneva negotiators. All in all, Harbinson seems to hope to have the modalities established before the Cancún meeting, as he is concerned that Members will need sufficient time to prepare their individual offers which are to be tabled prior to the Ministerial Conference. However, according to some sources it is more than unlikely that modalities could be agreed before trade ministers meet in Mexico.

In the context of continuing technical consultations, a procedural dispute seems to be emerging: at the 31 March formal special session marking the end of the official modalities phase, Bulgaria made an objection to the follow-up process outlined by Harbinson. Bulgaria argued that with the missed deadline the mandate was over and any renewal would have to come from the Trade Negotiations Committee (TNC)[13]. Harbinson, basing his argument on legal advice and backed by Members such as Chile, India, Argentina and Uruguay, said that missing the deadline would not mean the negotiations came to a halt (the Doha Declaration envisages negotiations continuing beyond 31 March), and the CoA special (negotiating) sessions would not need instructions from the TNC in order to continue work.

According to a delegate of the MF6 group, which includes the EU, Switzerland, Norway, Japan, Korea and Mauritius, the key proponents of multifunctionality might partly take up this argumentation and demand that the Agriculture Committee has to be consulted on the form of the consultative follow-up process as well as on the issues addressed. The reasoning is that the one-year work programme agreed by CoA Members last March had indeed expired, so that a new mandate needed to be sought from the CoA itself. As it appears, the MF6 members are trying to influence the consultative process held under the auspices of the Chair, who could otherwise determine upon his own discretion which Members he invites for his bilateral or plurilateral consultations, and which topics he will address. In this context, Members such as the EU, Switzerland and Japan want to make sure that technical consultations will - in addition to those outlined by Harbinson - further include discussions on issues such as the special safeguard for developed countries, non-trade concerns as well as a renewal of the peace clause.

3.2 Overarching principles

In addition to the technical work, Members further need to bridge their differences in terms of overarching principles (such as future of the Blue Box, Green Box, the SSG for developed countries, a new peace clause, etc.) as well as concrete numbers and time lines for further commitments. This, of course, would need a much higher degree of political will and commitment as compared to the technical aspects of the modalities negotiations. In the lead-up to Cancún, several high level meetings will be taking place which could provide the necessary platforms to undertake the political work required. These events include e.g. an OECD Ministerial meeting in end-April, a high-level meeting hosted by the Danish Government in end-May, the G8 conference in early June, as well as the planned end-June 'mini-Ministerial' in Sharm El Sheikh, Egypt.

In addition to this process, several Members further need to show their ability to translate their repeatedly expressed commitment to the Doha negotiations into a willingness to reform their internal policies.

Most notably, the EU is in the focus of the Membership because of its current mid-term review of the Common Agricultural Policy (CAP). If EU member states could adopt an approach along the lines of the proposal tabled by the Commission on 22 January, than - so it is hoped - the Commission could be equipped with a new negotiating mandate which would provide greater leeway in terms of tariff reduction, cutting Amber and Blue Box support, etc. Although EU Agriculture Commissioner Franz Fischler and his trade counterpart Pascal Lamy have recently been keen to downplay the importance of the CAP review, it seems questionable whether the current CAP would allow for more liberalisation under the WTO than the EU has

[13] The TNC is the overseeing body of the current trade negotiations under the Doha Round.

already offered in its latest proposal. According to some EU trade sources, the most recent EU negotiating proposal is already partly going beyond the extreme limit of CAP flexibility, especially in the areas of tariffs, Amber Box reductions and cutting down export subsidies. An approach as outlined in the latest Harbinson modalities text appears therefore incompatible with current CAP benchmarks.

As a result, EU members states needed to agree on a rather ambitious CAP reform model so as to provide the European Commission with the appropriate degree of manoeuvrability in the post-31 March phase of the modalities negotiations. Looking at the big divergences in EU member states' reactions on Fischler's reform proposal, it appears that this will be an extremely challenging task[14.] In particular, it will be interesting to see how Germany - one of the key demandeurs for ambitious reform - will act when the push comes to shove. The problem is that its European neighbour France has strong reservations to concepts proposed by the Commission (such as decoupling and modulation), and does not appear to be willing to agree on substantial changes prior to Cancún. Therefore, in the face of the revived Franco-German friendship which has emerged from the recent Iraq crisis, it seems questionable whether Germany will effectively push for measures which would go directly against the interests of its French partner.

Besides the necessary EU-internal adjustments, another important factor would be a reconciliation of the key negotiating objectives pursued by the two main actors in the process, i.e. the US and the EU. Although the times of Blairhouse - where a bilateral deal hammered out between the two was later taken as the basis for the multilateral Agriculture Agreement - are certainly over, yet the negotiations would go nowhere without synchronised efforts made by Brussels and Washington. Nevertheless, the 145 Member-WTO of today is a different negotiating environment as compared to the GATT during the Uruguay Round, wherefore virtually all actors have to be brought on board, and all need to prove their ability to compromise to a certain extend. Whereas the 'deliverers' in the reform process need to be committed to redistribute the stakes in their domestic farm policies, the demanders need to acknowledge the non-trade-related aspects and concerns which have emerged in the reform process. They further would need to be willing to agree on a new model which mainly served the developing country Membership, as only then the Doha Round would deserve the name 'Development Round'. Only such outcome could be an incentive for poor Members to stay engaged in the multilateral reform process. Last but not least, so as to effectively operationalise the concept of special and differential treatment (S&D), even developing country Members themselves would have to accept that providing poorer trading partners with appropriate flexibilities could eventually lead to certain distortions, even in South-to-South trade.

In conclusion, probably a little wonder would be needed in Cancún to bring about such positive momentum that WTO Members could agree on a reform model which could truly reflect the main objectives set out in the Doha mandate, i.e. substantially improving market access, substantial reductions in trade-distorting support, and phasing out all forms of export subsidies, while effectively operationalising S&D as well as taking account of the non-trade concerns put forward by all participants in the negotiations. Ironically, just as September 11 and the Afghanistan crisis appeared to

[14] While countries such as Denmark, Germany, the Netherlands, Sweden and the UK are pushing for substantial reform, mainly Southern European member states, Ireland and - most importantly - France reject basic elements of the proposal outright.

have facilitated the successful launch of the Doha Round, it might happen again that an armed conflict proves to be the catalyser of multilateral trade negotiations.

APPENDICES

APPENDIX A: Country Groupings

Country Grouping			
Cairns Group Argentina Australia Bolivia Brazil Canada Chile Colombia Costa Rica Guatemala Indonesia Malaysia New Zealand Paraguay Philippines South Africa Thailand Uruguay	***Transition Economies*** Albania Bulgaria Croatia Czech Republic Estonia Georgia Hungary Kyrgyz Republic Latvia Lithuania Mongolia Slovak Republic Slovenia Reflects: G/AG/NG/W/57 G/AG/NG/W/58	***Small Island Developing States*** Antigua and Barbuda Barbados Belize Dominica Grenada Jamaica Saint Kitts and Nevis Saint Vincent Grenadines Trinidad and Tobago Suriname Mauritius Reflects: G/AG/NG/W/96 G/AG/NG/W/97 G/AG/NG/W/100	***European Union*** Austria Belgium-Luxemburg Denmark Finland France Germany Greece Ireland Italy Netherlands Portugal Spain Sweden United Kingdom
Like Minded Group Cuba Dominican Republic El Salvador Haiti Honduras Kenya [India] [Nigeria] Pakistan Sri Lanka Uganda Zimbabwe Reflects: G/AG/NG/W/14 G/AG/NG/W/37 G/AG/NG/W/102	***ASEAN*** Brunei Darussalam Cambodia Indonesia Laos Malaysia Myanmar Philippines Singapore Thailand Viet Nam Reflects: G/AG/NG/W/55	***AFRICAN GROUP*** Comprises all African WTO Members Reflects: G/AG/NG/W/142	***EFTA*** Switzerland Norway Iceland ***Japan/Korea*** Japan Korea ***Other Economies*** United States Fidji Poland Swaziland Mali Morocco

WORLD TRADE
ORGANIZATION

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Committee on Agriculture
Special Session

NEGOTIATIONS ON AGRICULTURE
FIRST DRAFT OF MODALITIES FOR THE FURTHER COMMITMENTS

Revision

Preface

Under the programme adopted by the Special Session of the Committee on Agriculture on 26 March 2002, a revision of the first draft of modalities for further commitments is to be prepared and circulated in advance of the Special Session to be held on 25-31 March 2003 (TN/AG/1 refers). In accordance with this requirement, the Chairman submits herewith the present draft on his own responsibility.

The present draft is an evolution of the first draft of modalities based on the discussions at the Special Session held on 24-28 February (TN/AG/W/1 refers). On that occasion, participants engaged in intense and focused debate. A number of participants indicated that the draft did not correspond in various ways with their vision of the modalities to be established. Others found the paper useful or expressed interest in various ideas presented. Overall, while a number of useful suggestions emerged, positions in key areas remained far apart. In the circumstances, there was insufficient collective guidance to enable the Chairman, at this juncture and in those areas, significantly to modify the first draft as submitted on 17 February 2003. The present paper must therefore be considered as an initial, limited revision of certain elements of the first draft of modalities.

The discussions at the Special Session in February made it clear that a major negotiating effort, focusing particularly on the key divergences referred to above, is still required in order to establish modalities for further commitments by 31 March. Readiness on all sides to engage in serious negotiations aimed at finding solutions that can attract broad-based support will be of the essence. In parallel, as indicated by the Chairman in his report to the formal Special Session on 28 February 2003, further technical work, some of which has already been initiated, will need to be pursued in a number of areas.

As with the first draft submitted on 17 February 2003, the present revision is based on the work carried out during the series of formal and informal Special Sessions of the Committee on Agriculture and related intersessional and technical consultations conducted in accordance with the mandate provided by Ministers at Doha and the programme thereunder as adopted by the Special Session on Agriculture on 26

March 2002. Paragraphs 13 and 14 of the Doha Ministerial Declaration provide (WT/MIN(01)/DEC/1 refers):

> "13. We recognize the work already undertaken in the negotiations initiated in early 2000 under Article 20 of the Agreement on Agriculture, including the large number of negotiating proposals submitted on behalf of a total of 121 Members. We recall the long-term objective referred to in the Agreement to establish a fair and market-oriented trading system through a programme of fundamental reform encompassing strengthened rules and specific commitments on support and protection in order to correct and prevent restrictions and distortions in world agricultural markets. We reconfirm our commitment to this programme. Building on the work carried out to date and without prejudging the outcome of the negotiations we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. We agree that special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the Schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development. We take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture.
>
> "14. Modalities for the further commitments, including provisions for special and differential treatment, shall be established no later than 31 March 2003. Participants shall submit their comprehensive draft Schedules based on these modalities no later than the date of the Fifth Session of the Ministerial Conference. The negotiations, including with respect to rules and disciplines and related legal texts, shall be concluded as part and at the date of conclusion of the negotiating agenda as a whole."

The present paper does not claim to be agreed in whole or in any part and is without prejudice to the positions of participants. Square brackets are used in a number of places for a variety of purposes, such as to put forward figures for indicative purposes, to suggest alternatives, or possible formulations. Where text is not in square brackets, this does not convey any degree of acceptance. In a few areas, the text has not been fully elaborated and any resulting unevenness may need to be ironed out.

It is the Chairman's earnest hope that the Special Session to be held on 25-31 March will be used by participants for meaningful and serious negotiations. Only constructive engagement by participants will create the space for establishing modalities in line with the Doha mandate.

General Provisions and Terms

Unless otherwise specified below, the following general provisions and terms shall apply:

(a) *Product coverage*

The product coverage as specified in Annex 1 of the Agreement on Agriculture shall apply (hereafter referred to as "agricultural products").

(b) *"Year"*

"Year" in the context of these modalities refers to the annual basis (calendar year, financial or marketing year) to be specified in Members' draft Schedules.

(c) *"Commitment"*

The term "commitment" includes concessions.

(d) *Starting-point of reduction commitments*

The starting-point for the first instalment of the reduction commitments in all areas shall be the beginning of year 1 of the respective implementation periods. Subsequent reductions shall be made at the beginning of each of the successive implementation years.

Market Access

Tariffs

Tariffs, except in-quota tariffs, shall be reduced by a simple average for all agricultural products subject to a minimum reduction per tariff line. The base for the reductions shall be the final bound tariffs as specified in the Schedules of Members. Except as provided in paragraph 16 below, the tariff reductions shall be implemented in equal annual instalments over a period of [five] years, applying the following formula:

(i) For all agricultural tariffs greater than [90 per cent *ad valorem*] the simple average reduction rate shall be [60] per cent subject to a minimum cut of [45] per cent per tariff line.

(ii) For all agricultural tariffs lower than or equal to [90 per cent *ad valorem*] and greater than [15 per cent *ad valorem*] the simple average reduction rate shall be [50] per cent subject to a minimum cut of [35] per cent per tariff line.

(iii) For all agricultural tariffs lower than or equal to [15 per cent *ad valorem*] the simple average reduction rate shall be [40] per cent subject to a minimum cut of [25] per cent per tariff line.

In applying this formula, where the tariff on a processed product is higher than the tariff for the product in its primary form, the rate of tariff reduction for the processed product shall be equivalent to that for the product in its primary form multiplied, at a minimum, by a factor of [1.3].

Where participants apply non-*ad valorem* tariffs, the allocation of any tariff item in categories (ii) and (iii) above shall be based on tariff equivalents to be calculated by the participant concerned in a transparent manner, using three-year average external reference prices or data, based on a recent representative five-year period, excluding the highest and the lowest entry. Full details of the method and data used for these calculations shall be included in the tables of supporting material for the draft Schedules and shall be subject to multilateral review.

Special and Differential Treatment

In implementing their market access commitments, developed country Members shall take fully into account the particular needs and conditions of developing country Members by providing for 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 products, whether in primary or in processed form, and for products of particular importance to the diversification of production from the growing of illicit narcotic crops, or crops whose non-edible or non-drinkable products, while being lawful, are recognized as being harmful for human health.

Developing countries shall have the flexibility to declare up to [ ] agricultural products at the [6-digit] [4-digit] HS level as being special products with respect to food security, rural development and/or livelihood security concerns and designate these products with the symbol "SP" in Section I-A of Part I of their Schedules (hereafter referred to as "SP products"). This concept will be evolved in further technical consultations.

For all agricultural products other than SP products, the reduction commitments of developing countries shall be implemented applying the following formula:

(i) For all agricultural tariffs greater than [120 per cent *ad valorem*] the simple average reduction rate shall be [40] per cent subject to a minimum cut of [30] per cent per tariff line.

(ii) For all agricultural tariffs lower than or equal to [120 per cent *ad valorem*] and greater than [60 per cent *ad valorem*] the simple average reduction rate shall be [35] per cent subject to a minimum cut of [25] per cent per tariff line.

(iii) For all agricultural tariffs lower than or equal to [60 per cent *ad valorem*] and greater than [20 per cent *ad valorem*] the simple average reduction rate shall be [30] per cent subject to a minimum cut of [20] per cent per tariff line.

(iv) For all agricultural tariffs lower than or equal to [20 per cent *ad valorem*] the simple average reduction rate shall be [25] per cent subject to a minimum cut of [15] per cent per tariff line.

Where participants apply non-*ad valorem* tariffs, the provisions of paragraph 9 above apply.

The simple average reduction rate for all SP products shall be [10] per cent subject to a minimum cut of [5] per cent per tariff line.

In all cases, the base for the reductions shall be the final bound tariffs as specified in the Schedules of Members. The reduction commitments shall be implemented in equal annual instalments over a period of [ten] years.

Preferential Schemes

In implementing their tariff reduction commitments, participants undertake to maintain, to the maximum extent technically feasible, the nominal margins of tariff preferences and other terms and conditions of preferential arrangements they accord to their developing trading partners. As an exception to the modality under paragraph 8 above, tariff reductions affecting long-standing preferences in respect of products which are of vital export importance for developing country beneficiaries of such schemes may be implemented in equal annual instalments over a period of [eight] instead of [five] years by the preference-granting participants concerned, with the first instalment being deferred to the beginning of the [third] year of the implementation period that would otherwise be applicable. The products concerned shall account for at least [20] per cent of the total merchandise exports of any beneficiary concerned on a three-year average out of the most recent five-year period for which data are available. Interested beneficiaries shall notify the Committee on Agriculture, Special Session accordingly and submit the relevant statistics. In addition, any in-quota duties for these products shall be eliminated. The preference-providing Members shall undertake targeted technical assistance programmes and other measures, as appropriate, to support preference-receiving countries in efforts to diversify their economies and exports.

Tariff Quotas

Tariff Quota Volume

Final bound tariff quota quantities or values as specified in Members' Schedules (hereafter referred to as "tariff quota volume") which are equivalent to less than [10] per cent of "current" domestic consumption of the product concerned shall be expanded to that level. However, for up to one-quarter of the total number of tariff quotas concerned, a Member may opt for binding the tariff quota volume at a level equivalent to [8] per cent of that consumption, provided that the volumes for a corresponding number of tariff quotas concerned are expanded to [12] per cent.

"Current" domestic consumption means the average consumption of the period 1999-2001 or of the most recent three-year period for which data are available. Full details of the method and data used for the calculations of domestic consumption for the products concerned shall be included in the tables of supporting material for the draft Schedules and shall be subject to multilateral review.

The expansion of tariff quota volumes shall be implemented in equal instalments over a period of [five] years. The starting-point for implementing the expansion of tariff quotas shall be the beginning of year 1 of the implementation period. Additional market access opportunities provided by the expansion of tariff quotas shall be on an MFN basis.

Special and Differential Treatment

Developing countries shall not be required to expand tariff quota volumes for SP products. For other agricultural products, final bound tariff quota volumes as specified in Members' Schedules which are equivalent to less than [6.6] per cent of "current" domestic consumption of the product concerned shall be expanded to that level. However, for up to one-quarter of the total number of tariff quotas concerned a Member may opt for binding the tariff quota volume at a level equivalent to [5] per cent of that consumption, provided that the volumes for a corresponding number of tariff quotas concerned are expanded to [8] per cent.

The modalities in paragraphs 18 and 19 above apply, except that the commitments by developing countries shall be implemented over a period of [ten] years.

In-quota Tariffs

There shall be no requirement to reduce in-quota tariffs, except that (i) in-quota duty free access shall be provided for tropical products, whether in primary or in processed form, and for products of particular importance to the diversification of production from the growing of illicit narcotic crops, or crops whose non-edible or non-drinkable products, while being lawful, are recognized as being harmful for human health, and (ii) in respect of tariff quotas where fill rates on average of the most recent [three] years for which data are available have been less than [65] per cent.

Special and Differential Treatment

Developing countries shall not be required to reduce in-quota tariffs, except as provided for under the provisions of (ii) in paragraph 22 above.

Tariff Quota Administration

The administration of tariff quotas shall be subject to disciplines as outlined for further consideration in Attachment 1 to this document. It is noted that this outline is the subject of ongoing technical consultations.

Special Safeguard Provisions

Article 5 of the Agreement on Agriculture

The provisions of Article 5 of the Agreement on Agriculture shall cease to apply for developed countries [at the end of the implementation period for the further tariff reductions] [[two] years after the end of the implementation period for the further tariff reductions].

Special and Differential Treatment

An outline of a possible new special safeguard mechanism to enable developing countries to effectively take account of their development needs, including food security, rural development and livelihood security concerns, is currently subject to technical work and will be included at the appropriate stage in Attachment 2. The right to invoke this mechanism shall be reserved by designating in Schedules with the symbol "SSM" the products concerned. In addition, items already currently covered and designated with the symbol "SSG" shall be eligible for measures under Article 5 of the Agreement on Agriculture, provided, however, that measures under a new safeguard mechanism shall not be taken concurrently with measures under Article 5.

State Trading Import Enterprises

State trading import enterprises shall be subject to disciplines as outlined for further consideration in Attachment 3 to this document. This outline is to be the subject of further technical consultations.

Other Market Access Issues

It is recalled that under paragraph 13 of the Doha Ministerial Declaration non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture. Such concerns have been taken into account in various parts of the present text (and not only in market access). Nevertheless, further consideration needs to be given to non-trade concerns and other market access issues identified in paragraph 28 of document TN/AG/6 dated 18 December 2002 and the extent to which these issues should be taken into account in the modalities to be established and/or subsequent work.

Export Competition

Export Subsidies

The basis for the further commitments on export subsidies shall be the final bound budgetary outlay and quantity commitment levels as specified in Members' Schedules.

For a set of agricultural products representing at least [50] per cent of the aggregate final bound level of budgetary outlays for all products subject to export subsidy commitments, final bound levels of budgetary outlays and quantities as specified in Members' Schedules shall be reduced over [five years (n = 5)] using the following formulae with the constant factor c equal to [0.3] (Attachment 4 to this document provides an illustration of the operation of these formulae):

(1) Bj = Bj-1 - c · Bj-1 with j = 1, ….. , n

(2) Qj = Qj-1 - c · Qj-1 with j = 1, ….. , n

with

B = budgetary outlays Q = quantities c = constant factor j = implementation year

and B_0 and Q_0 being the base levels, respectively.

At the beginning of [year 6], budgetary outlays and quantities shall be reduced to zero.

For the remaining products, final bound levels of budgetary outlays and quantities as specified in Members' Schedules should be reduced over [nine years (n = 9)] instead of [five] years using the formulae (1) and (2) above. However, for these products the constant factor c shall equal [0.25]. At the beginning of [year 10], budgetary outlays and quantities for these products shall be reduced to zero.

Special and Differential Treatment

For a set of agricultural products representing at least [50] per cent of the aggregate final bound level of budgetary outlays for all products subject to export subsidy commitments, final bound levels of budgetary outlays and quantities as specified in developing country Members' Schedules shall be reduced over [ten years (n = 10)] using the formulae (1) and (2) above, with the constant factor c equal to [0.25]. At the beginning of [year 11], budgetary outlays and quantities shall be reduced to zero.

For the remaining products, final bound levels of budgetary outlays and quantities as specified in developing country Members' Schedules should be reduced over [twelve years (n = 12)] instead of [ten] years using the formulae (1) and (2) above. However, for these products the constant factor c shall equal [0.2]. At the beginning of [year 13], budgetary outlays and quantities for these products shall be reduced to zero.

The exemptions for developing countries under Article 9.4 for certain transport and marketing-cost subsidies set out in Article 9.1(d) and (e) of the Agreement on Agriculture shall be continued for the time of the implementation period of the further export subsidy commitments to be undertaken by developing countries.

Export Credits

Export credits and export credit guarantees and insurance programmes shall be subject to disciplines as outlined for further consideration in Attachment 5 to this document. It is noted that this outline is the subject of ongoing technical consultations.

Food Aid

International food aid shall be subject to disciplines as outlined in a revised draft for consideration in Attachment 6 to this document. This revised draft will itself be the subject of further technical consultations.

State Trading Export Enterprises

State trading export enterprises shall be subject to disciplines as outlined for further consideration in Attachment 7 to this document. This outline is to be the subject of further technical consultations.

Export Restrictions and Taxes

Except as provided for in paragraph 2(b) of Article XI and Articles XX and XXI of GATT 1994, the institution of new export prohibitions, restrictions or taxes on foodstuffs shall be prohibited.

Special and Differential Treatment

The new disciplines under paragraph 39 above are not applicable to developing countries. For these Members, the provisions of Article 12 of the Agreement on Agriculture shall continue to apply.

Domestic Support

Annex 2 of the Agreement on Agriculture (Green Box)

The provisions of Annex 2 of the Agreement on Agriculture shall be maintained, subject to possible amendments as outlined in a revised draft for consideration in Attachment 8 to this document. This revised draft will itself be the subject of further technical consultations.

Special and Differential Treatment

Possible amendments to Annex 2 of the Agreement on Agriculture are outlined for further consideration in Attachment 9 to this document. This outline, which is to be the subject of further technical consultations, includes several essentially editorial changes as compared to the previous version.

Article 6.2 of the Agreement on Agriculture

The provisions of Article 6.2 of the Agreement on Agriculture shall be maintained and enhanced as outlined for further consideration in Attachment 10 to this document. This outline, which is to be the subject of further technical consultations, includes an essentially editorial change as compared to the previous version.

Article 6.5 of the Agreement on Agriculture (Blue Box)

Direct payments under production-limiting programmes provided in accordance with the provisions of Article 6.5 of the Agreement on Agriculture (Blue Box payments) [shall be capped at the most recent notified level and bound at that level in Members' Schedules. These payments shall be reduced by [50] per cent. The reductions shall be implemented in equal annual instalments over a period of [five] years.] [shall be included in a Member's calculation of the Current Total Aggregate Measurement of Support (AMS)].

Special and Differential Treatment

For developing countries, [the commitment shall be implemented in equal annual instalments over a period of [ten] years, with the rate of reduction being [33] per cent.] [Blue Box payments shall be included in a Member's calculation of the Current Total AMS as of the [fifth] year of the implementation period.]

Amber Box

The final bound Total AMS as set out in Members' Schedules shall be reduced by [60] per cent in equal annual instalments over a period of [five] years.

Article 6.3 of the Agreement on Agriculture shall be amended so as to ensure that the Current AMS for individual products shall not exceed the respective average levels of such support provided over the period 1999-2001.

Special and Differential Treatment

For developing countries, the final bound Total AMS shall be reduced by [40] per cent in equal annual instalments over a period of [ten] years.

Other matters

Inflation

Scheduled Total AMS commitments may be expressed in national currency, a foreign currency or a basket of currencies. In case a foreign currency or a basket of currencies is used and the final bound Total AMS in a Member's Schedule is expressed in national currency (or another foreign currency) and a participant wants to avail itself of this option, the final bound Total AMS shall be converted using the average exchange rate(s) as reported by the IMF for the year at issue.

The provisions of Article 18.4 shall be maintained.

Article 6.4 of the Agreement on Agriculture (de minimis)

The *de minimis* level of 5 per cent under subparagraph (a) of Article 6.4 of the Agreement on Agriculture shall be reduced annually by [0.5] percentage point over a period of [five] years.

Special and Differential Treatment

The *de minimis* level of 10 per cent under subparagraph (b) of Article 6.4 of the Agreement on Agriculture shall be maintained.

Developing countries shall have the flexibility to credit to the non-product-specific *de minimis* support an amount of any negative product-specific support up to the equivalent of 10 per cent of the respective Member's total value of production of the basic agricultural product concerned during the relevant year.

Least-developed Countries

In addition to the special and differential treatment provisions above, least-developed countries shall not be required to undertake reduction commitments. [However, they are encouraged to consider making commitments commensurate with their development needs on a voluntary basis, including in response to requests from their trading partners.]

Developed countries [should] [shall] provide duty- and quota-free access to their markets for all imports from least-developed countries.

Others

Recently Acceded Members

Members that have recently acceded to the WTO shall have the flexibility to defer the respective implementation periods by [2] years.

Others

Participants will further consider the possible introduction of additional forms of flexibility for certain groupings (e.g. SIDS, vulnerable developing countries, transition economies) which have made specific proposals to this effect (TN/AG/6 refers).

…

Attachment 8

Annex 2 of the Agreement on Agriculture

Possible amendments for further consideration (changes in italics)

1. Addition to paragraphs 5, 6, 11 and 13:

Reference to base periods

Payments shall be based on activities in a fixed and unchanging historical base period. All base periods shall be notified.

2. Modification of subparagraphs 7(a), (b) and (c):

Compensation criteria with respect to government financial participation in income insurance and income safety-net programmes.

(a) Eligibility for such payments shall be determined by an income loss, taking into account only income derived from agriculture, which exceeds 30 per cent of average gross income or the equivalent in net income terms (excluding any payments from the same or similar schemes) in the preceding *five*-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry. Any producer meeting this condition shall be eligible to receive the payments *from the government.*

(b) The amount of such *payments by governments shall restore a producer's income to no more than 70 per cent of income derived by that producer from agriculture in the averaging period used to trigger eligibility for payment.*

(c) The amount of any such payments shall relate solely to *income derived from agriculture of the farm enterprise as a whole*; it shall not relate to the type or volume of production (including livestock units) undertaken by the producer; or to the prices, domestic or international, applying to such production; or to the factors of production employed.

3. Modification of subparagraphs 8(a), (b) and (d):

Compensation criteria with respect to payments (made either directly or by way of government financial participation in crop insurance schemes) for relief from natural disasters.

(a) Eligibility for such payments shall arise:

- *in the case of direct payments related to disasters:* only following a formal recognition … excluding the highest and lowest entry.

- *in the case of government financial participation in crop insurance schemes: eligibility for such payments shall be* *determined by a production loss which exceeds 30 per cent of the average of production in an actuarially appropriate period.*

- *in the case of the destruction of animals or crops to control or prevent diseases named in national legislation or international standards: the production loss may be less than the 30 per cent of the average of production referred to above.*

(b) Payments made *under paragraph 8* shall be applied only in respect of losses of income, livestock (including payments in connection with the veterinary treatment of animals), land or other production factors due to the natural disaster *or destruction of animals or crops* in question.

(d) Payments made *under paragraph 8* shall not exceed the level required to prevent or alleviate further loss as defined in criterion (b) above.

4. Addition at the end of subparagraph 10(d):

Structural adjustment assistance provided through resource retirement programmes

(d) Payments shall not … remaining in production. *Payments shall be time limited.*

5. Addition at the end of subparagraph 11(a), modification of subparagraph 11(b), and inclusion of new subparagraph 11(b) bis:

Structural adjustment assistance provided through investment aids

(a) *Such structural disadvantages must be clearly defined.*

(b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production *or inputs into the production* (including livestock units) …

(b bis) The amount of such payments in any given year shall not be related to, or based on, the use of factors of production in any given year after the base period.

6. Modification of scope of paragraph 12:

Payments under environmental programmes*/animal welfare payments*

(a) Eligibility for such payments shall be determined as part of a clearly-defined government environmental, conservation *or animal welfare* programme and be dependent on the fulfilment of specific conditions under the government programme, including conditions related to production methods or inputs.

(b) The amount of payment shall be limited to the extra costs or loss of income involved in complying with the government programme.

Attachment 9

Annex 2 of the Agreement on Agriculture

Possible new elements of special and differential treatment for further consideration
(changes in italics)

1. Inclusion of a new sentence at the end of paragraph 3:

Public stockholding for food security purposes

The volume and accumulation … product and quality in question. *Developing country Members shall be exempted from the condition in paragraph 3 that the volume and accumulation of food security stocks shall correspond to predetermined targets.*

2. Inclusion of new paragraph 6 bis:

Payments to maintain domestic production capacity of staple crops for food security purposes in developing countries

(a) Eligibility for such payments shall be determined by reference to clearly-defined criteria in government programmes designed to provide support for the producers of staple crops.

(b) Total production of the crop shall account for no less than [X] per cent of the total value of agricultural production and:

- *total consumption of such crop shall account for no less than [Y] per cent of the total domestic consumption of agricultural products in terms of calorie intake; or*

- *total export of such crop shall account for no less than [Z] per cent of the total export of a particular country.*

(c) The amount of payment shall be limited to the minimum to maintain domestic production capacity of such crop of the Member concerned.

3. Inclusion of new paragraph 6 ter:

Payments to small-scale producers/family farms for the purpose of maintaining rural viability and cultural heritage in developing countries

(a) Eligibility for such payments shall be determined by reference to clearly defined criteria in government programmes designed to provide support for small-scale producers/family farms.

(b) *Small-scale producers/family farms shall be defined in national legislation, taking into account such factors as total annual sales, share of hired farm labour, off-farm income, etc.*

(c) *The amount of such payment shall be limited to the minimum level for continued existence of such farms based on the purpose of maintaining rural viability and cultural heritage.*

(d) *The payment shall not mandate or in any way designate the agricultural products to be produced by the recipients.*

4. Modification of subparagraphs 7(a), (b) and (c):

Compensation criteria with respect to government financial participation in income insurance and income safety-net programmes.

(a) Eligibility for such payments shall be determined by an income loss, taking into account only income derived from agriculture, which exceeds 30 per cent of average gross income or the equivalent in net income terms (excluding any payments from the same or similar schemes) in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry, *or, in the case of developing country Members, a certain proportion* of average gross income or the equivalent in net income terms (excluding any payments from the same or similar schemes) *which shall be clearly defined in national legislation*. Any producer meeting this condition shall be eligible to receive the payments.

(b) The amount of such payments shall compensate for less than 70 per cent of the producer's income loss in the year the producer becomes eligible to receive this assistance*, or, in the case of developing country Members, shall compensate for less than a certain proportion of the producer's income loss, which shall be clearly defined in national legislation.*

(c) The amount of any such payments shall relate solely to income *derived from agriculture of the farm enterprise as a whole*; it shall not relate to the type or volume of production … production employed.

5. Modification of subparagraph 8(a):

Payments (made either directly or by way of government financial participation in crop insurance schemes) for relief from natural disasters

(a) Eligibility for such payments shall arise only following formal … excluding the highest and the lowest entry*, or, in the case of developing country Members,* [*exceeds 10 per cent of the average of production in the preceding year*] [*exceeds a proportion to be determined in national legislation of the average of production in the preceding three-year period*].

6. Modification of subparagraph 10(b):

Structural adjustment assistance provided through resource retirement programmes

(b) Payments shall be conditional upon the retirement of land from marketable agricultural production for a minimum of three years, *or, in the case of developing country Members, one year*, and in the case of livestock … disposal.

7. Inclusion of new sentence at the end of subparagraph 13(a):

Payments under regional assistance programmes

(a) Eligibility for such payments …… temporary circumstances. *Developing country Members shall be exempted from the condition that disadvantaged regions must constitute a clearly designated contiguous geographical area with a definable economic and administrative identity.*

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