A Brief Analysis of Harbinson's Text

WTO has recently circulated the first draft of a "modalities" paper written by Stuart Harbinson, Chairman of the Special Session of the WTO Committee on Agriculture. This draft titled *"Negotiations on Agriculture: First Draft of Modalities for the Further Commitments"*, attempts to bridge differences between country positions on agreement on agriculture and tries to arrive at targets (including numerical targets) for achieving the objectives of the negotiations. This report was tabled just before an informal ministerial meeting of a group of select WTO Members in Tokyo. This report was not received well by most WTO Members and it, in fact, turned out to be a major stumbling block in the Tokyo ministerial[1]. This analysis highlights the main recommendations of the modalities paper and discusses its implications.

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A. Tariff Rates

The tariff reduction schedule proposed by the draft report mentions that the reductions will be based on the bound tariff rates and the reduction will be on equal annual installments over a period of 5 years for developed countries and 10 years for developing countries.

It is notable that Harbinson's text has moved away from the "Uruguay Round approach", to a more progressive one. The UR adopted a linear reduction formula where the same percentage reductions are mandated for all the agricultural commodities. Variations are allowed for specific products so long as a simple average across all products meets the target. This approach resulted in tariff peaks. Harbinson's approach tries to harmonize the tariff structure by having a more progressive schedule where larger tariff cuts are mandated for higher tariff rates. Harbinson's approach also aims at higher tariff cuts than the UR formula (see Table 1 and 2).

Table 1. Harbinson's Tariff Reduction Formula for Developed Countries

Tariff Rates	Average Reduction (%)	Minimum Cut (%)
Ad valorem rates > 90 percent	60	45
Ad valorem rates between 15 percent and 90 percent	50	35
Ad valorem rates <15	40	25
Uruguay Round Approach	***36***	***15***

[1] See "Tokyo Mini-Ministerial: No Takers for Free Trade" by C P Chandrasekhar

Additionally to address the issue of tariff escalation, the text suggests that while applying the tariff reduction formula, it should be kept in mind that where the tariff on a processed product is higher than the tariff for the product in its primary form, the tariff reduction for the processed product shall be higher than that for the product in its primary form.

From the tariff reduction schedule proposed by Harbinson, it is apparent that he has tried to reach a compromise among the various country positions. In the current round of negotiations, the EU countries proposed that the Uruguay Round type approach should continue. African, Caribbean and Pacific (ACP) countries, Japan, Korea, and India also supported the UR approach. Though Harbinson' paper has moved away from the Uruguay Round type linear approach, it has not gone in favour of a "Swiss formula"[2] based approach which would have resulted in more progressive tariff reductions. The hybrid approach suggested by Harbinson has elements from both the Uruguay Round and the 'Swiss' or 'harmonising formula by allowing some flexibility in tariff reduction while cutting higher tariffs more than lower ones.

In the current round of negotiations, the Cairns Group of countries advocated such a formula based approach to achieve deep cuts to all tariffs from bound rates. Also notable is that the draft has accepted neither the position expressed by the US that reductions should be based on applied rates nor it has taken into account the zero-for-zero approach advocated by the US and the Cairns Group.

As far as developing countries are concerned, to tackle their problem of food security, rural development and/or livelihood security concerns, Harbinson's text suggests that developing countries will have the flexibility to declare a certain number agricultural products at the 6-digit HS level as 'Strategic Products'(SP). For 'Strategic Products' the proposed reduction commitment for developing countries is simple average reduction of 10 percent with a minimum cut of 5 percent per product. The number of products that developing countries can declare as SP will be negotiated. Tariff rates on other agricultural commodities are to be reduced according to the following schedule.

[2] The 'Swiss formula' was applied for reducing tariffs on industrial products in the Tokyo Round. It is given by the formula $T1=aT0/(a+T0)$, where T0 is the initial and T1 is the final tariff. The value of the coefficient (a) determines the extent of tariff cut where lower value of 'a' leads to higher tariff reduction. The Swiss formula was designed to achieve deeper cuts in higher tariff rates, thereby specifically addressing the problem of tariff peaks.

Table 2. Harbinson's Tariff Reduction Formula for Developing Countries		
Tariff Rates	Average Reduction (%)	Minimum Cut (%)
Ad valorem rates > 120 percent	40	30
Ad valorem rates between 20 percent and 120 percent	33	23
Ad valorem rates <20	27	17
Uruguay Round Approach	***24***	***10***

The concept of 'SP' was not there in the Uruguay Round and is first introduced in AoA by Harbinson's paper. This approach appears to be a positive development for developing countries as it will allow them the flexibility of much lower reduction commitments on certain important products. However, the effectiveness of the 'SP' approach crucially depends upon the number of products developing countries are allowed to declare as strategic products. Also it is not clear whether developing countries will be subsequently allowed to add and remove products in the 'SP' list.

A number of developing countries have criticized the treatment of SP products in Harbinson's text. According to them, most of the staple crops and livelihood crops for developing countries are exactly those that are being highly subsidized in the US and EU. For example, corn, wheat, rice, soya, dairy products, sugar and beef receive substantial subsidies in developed countries. In their proposals to WTO, most developing countries asked for total exclusion of food security crops from further commitments. Instead, they are required to reduce tariffs on these products by 10 percent. This requirement will go against those countries which already have very low tariffs on their sensitive food security crops and can have strong negative effects in these countries.

Another demand of the developing countries which is conspicuously absent from Harbinson's text is a proposal to correlate tariff cuts in developing countries with subsidy reduction in developed countries. In their proposals, some developing countries have asked for the structural imbalance in agricultural trade to be redressed, via a rebalancing /countervailing instrument that can defend their producers from the subsidies given to agriculture in developed countries. Such an instrument would allow countries to put up tariffs on crops which are subsidized by the OECD by amounts proportionate to the subsidies. These proposals have been ignored in the Harbinson text[3].

B. Tariff Quota

1. Expansion of tariff quota:

For developed countries, the draft text suggests that to fulfill the minimum market access requirements, the tariff quota volume should be expanded, over a five year period, to the level equivalent to 10 percent of "current" domestic consumption. It can be pointed out here that the UR AoA required the minimum market access to be equivalent to 5 percent of current domestic consumption.

Developing countries will not be required to increase the quota volume for SP products. For other products, the draft suggests that the minimum market access requirement is to be increased to 6.6 percent of current domestic consumption. The implementation period for developing countries is ten years.

Some additional flexibilities about expansion of tariff quotas are also allowed in the text both for developed and developing countries. For 25 percent of total tariff quotas of a country, developed (developing) countries are given the option to expand the minimum market access only to the level of 8 percent (5 percent) of "current" domestic consumption provided they increase minimum market access for an equal number of tariff quotas to 12 percent (8 percent) of current domestic consumption.

This conditional approach of tariff quota reduction is a change from the Uruguay Round approach but the fungibility allowed in Harbinson's text increases the possibility that market access will not be increased adequately in the case of key products. It is also noteworthy that Harbinson does not support the Cairns Group proposal of a substantial downpayment[4] in the first year of implementation for developed countries.

2. In quota Tariffs

The paper specifies that developed countries are to provide in-quota duty free access for tropical products, both in raw and processed form. Other than this requirement, Harbinson's text does not require developed or developing countries to reduce in-quota tariffs.

3. Tariff quota administration

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[3] See PRESS RELEASE: Focus on the Global South, 13 February 2003, *'Agriculture Proposal Will Increase Dumping, Unemployment and Hunger. Developing countries must reject Harbinson text'*

[4] In this context, 'downpayment' means a lumpsum reduction made at the beginning of the implementation period.

In Attachment 1 of this paper, Harbinson has outlined a number of possible disciplines to improve tariff quota administration. Among them it is interesting to note that he has proposed that *"only imports of tariff quota products from MFN suppliers shall be credited as imports against tariff quota commitments"*. This takes care of the problem that imports from preferential trade partners are used to exhaust the tariff quota volume.

C. Special Safeguard Provisions

In the section on market access, the special safeguard provision section is even less ambitious than the rest. In this section, Harbinson suggests that special safeguard provisions (SSG) shall cease to exist for developed countries

1. Either at the end of implementation period
2. Or, two years after the end of the implementation period for the further tariff reductions.

This effectively implies that SSG provisions are going to stay for the developed countries for the next AoA also (or at least for another 5-7 years upon completion of the Doha programme). Developing countries which wanted immediate abolition of SSG clauses for developed countries are unlikely to agree with this provision. However, as an S&D measure, Harbinson has proposed that for all SP products developing countries will have the flexibility to apply a special safeguard mechanism to be based on the provisions of Article 5 of the Uruguay Round AoA[5]. Products which already get SSG benefits will continue to get those. Harbinson also suggests that the Article 5 of the UR AoA should be reviewed and revamped taking into consideration food security, rural development and livelihood security concerns of developing countries.

Though the effectiveness of the proposed SSG mechanism will depend on the number of SP products allowed, but given the high volatility and steady decline of commodity prices observed in the recent years, even for the non-SP products, some kind of SSG mechanism is warranted for developing countries. Developing countries deserve this special treatment to protect their domestic markets because the decline in international agricultural prices is largely attributable to continued subsidization of agriculture by developed countries.

[5] Article 5: Special Safeguard Provisions

EXPORT COMPETITION

Harbinson's paper follows a two tier approach for reduction of export subsidies. For at least 50 percent of the aggregate final bound level of budgetary outlays of all products subject to export subsidy commitments, final bound levels of budgetary outlays and quantities are subject to reduction following the formula given below:

(1) $B_j = B_{j-1}$ **-** $\mathbf{0.3} \cdot B_{j-1}$ with j = 1,2,3,4,5

(2) $Q_j = Q_{j-1}$ **-** $\mathbf{0.3} \cdot Q_{j-1}$ with j = 1,2,3,4,5

where B = budgetary outlays Q = quantities j = implementation year

and B_0 and Q_0 being the base levels, respectively.

At the beginning of the 6th year, budgetary outlays and quantities should be reduced to zero.

For the remaining products, the export subsidy reduction schedule is:

(3) $B_j = B_{j-1}$ **-** $\mathbf{0.25} \cdot B_{j-1}$ with j = 1,2,3,4,5,6,7,8,9

(4) $Q_j = Q_{j-1}$ **-** $\mathbf{0.25} \cdot Q_{j-1}$ with j = 1,2,3,4,5, 6,7,8,9

At the beginning of the 10th year, budgetary outlays and quantities should be reduced to zero.

This approach allows countries to backload export subsidies and if this formula for export subsidy reduction is implemented, developed countries will be allowed to maintain high export subsidies on a number of major commodities until the ninth year of the agreement.

As an S&D measure, developing countries are allowed a more lenient formula for export subsidy reduction. However, this leniency is mostly cosmetic as most developing countries do not have export subsidies and according to the AoA no WTO member who did not have export subsidy in the base period has the right to introduce them.

Export credit was not specifically listed as subsidy in the UR AoA and thereby was not subject to any reduction commitments. This omission directly benefited USA as export credits are more prevalent in that country. During the early stages of negotiations, most developed and developing countries proposed that export credits should be treated equally as export subsidies. Harbinson's paper tries to give an impression that export credits are brought within reduction commitments[6] but a closer look suggests that he has given too many exemptions to impose any binding constraint on the use of export credit.

[6] Attachment 4

The more favourable treatment given to export credits in Harbinson's draft has provoked strong criticism from many quarters. For example, Franz Fischler, EU Agriculture Commissioner said:

"We have committed ourselves to reducing all forms of export subsidisation. The EU has respected our commitments from the Uruguay Agreement on Agriculture (URAA), and we are asked to phase out completely this policy instrument, with a significant down-payment. But those that use other instruments to subsidise exports, from export credits to food aid, in a totally trade-distorting way, are not even asked to pay for the fact that the commitment of the previous round to discipline these forms of export support has not been fulfilled. On the contrary, significant loopholes are allowed in the future."

However, what is considered to be the most glaring omission in the Harbinson's text, is that it does not contain anything to tackle the issue of agricultural dumping. Agricultural dumping is considered to be the single most damaging trade practice for developing countries. Measures to either address the causes of dumping or, at a minimum, to protect developing countries from the problem, have not been addressed at all in the text.

DOMESTIC SUPPORT

A. Green Box Subsidies

As far as domestic support is concerned, Harbinson's text takes a much more lenient view of green box subsidies than blue box subsidies. According to this paper, Green box subsidies can continue in its present form and can even be enhanced. Though, Attachment 7[7] of Harbinson's text outlines some ways to tighten the definition of green box subsidies, substantial changes in the green box subsidies are not expected. Most countries mentioned in their proposals that green box support should be reviewed to ensure that all such support meets the fundamental requirements of no, or at most minimal, trade-distorting effects or effects on production. From the amendments suggested by Harbinson, it does not appear that the paper has made any significant improvement in the coverage and scope of green box subsidies.

In Attachments 8[8] and 9[9], the paper introduces a number of possible new elements of green box measures as an S&D measure to developing countries. It is interesting here to note that *"Payments to small scale family farms for the purpose of maintaining rural viability and*

[7] Annex 2 of the Agreement on Agriculture: Possible amendments for further consideration
[8] Annex 2 of the Agreement on Agriculture : Possible new elements of special and differential treatment for further consideration
[9] Article 6.2 of the Agreement on Agriculture: Possible amendments for further consideration

cultural heritage" are now eligible for green box exemption. This is possibly a step to explicitly introduce the concept of 'Multifunctionality' in the AoA text. It is also noteworthy that no overall caps on the Green Box subsidies are proposed in the text. A number of developing countries argued to have an overall cap on total green Box support. Their demand has been ignored in Harbinson's text.

B. Blue Box Subsidies

What probably is the most significant departure from the UR text, Harbinson's draft proposes a number of ways to significantly reduce blue box subsidies. According to this text, blue box subsidies should be either:

1. Capped at the average level notified for the implementation years 1999-2001 and bound at that level. These payments shall be reduced by 50 per cent. The reductions shall be implemented in equal annual installments over a period of five years.
2. or, alternatively, blue box subsidies should be included in a Member's calculation of the Current Total Aggregate Measurement of Support (AMS).

This proposal, if implemented, is going to hurt the EU countries most as blue box subsidies are more prevalent in these countries. However, as the first option does not specify any time limits for the abolition of Blue box subsidies, there is a possibility that this would give scope to the developed countries to shift half of their 'Blue Box' subsidies to other permissible categories of subsidies. In the current round of negotiations, most countries, with the exception of EU, Japan and some East-European countries, have argued for the abolition of the Blue Box subsidies. According to them, Blue Box subsidies are essentially distortionary in nature but were introduced in the UR as a transitionary mechanism to encourage countries to move towards a less trade distorting regime. As the Blue Box measures have served this purpose, it should be phased out in the current round. The second option ratifies this view, but given the hardline position adopted by the EU on this issue, merger of blue and amber box subsidies will be difficult to implement in the current round. In this context, it can also be noted that, as currently designed, Green Box measures are most suited to land surplus countries (like USA and Canada) while Blue Box subsidies are more appropriate for land scarce countries like the EU.

C. Amber Box Subsidies

Apart from addressing a few technical questions like inflation adjustment, Harbinson's text has also tackled the ambiguity about whether negative product specific support can be adjusted with positive non-product specific support. In this draft proposal, Harbinson has allowed developing countries to credit any negative product-specific support to the non-product-specific de minimis support. This provision will be beneficial for developing countries like India where support prices for most agricultural commodities are generally less than the international reference prices fixed by the UR AoA. The advantage of this method will be clear from the example given in the Box 1.

BOX 1

In the notification[1] submitted by India to the WTO, concerning its domestic support for the crop year 1996/97, the product specific support was US$ (-) 2603.58 million. The calculation of product specific support is shown in Table A1.

Table A1. Calculation of Product Specific Support

	Administered Price (US$/tonne)	Reference Price (US$/tonne)	Difference	Eligible Production (million tonnes)	Support (million US$)
	1	2	3 (1-2)	4	5 (3*4)
Rice (Crop year 1996/97)	160.56	262.51	-101.95	12.96	-1321.27
Wheat (Crop year 1995/96)	107.04	264	-156.96	8.16	-1280.79
Coarse cereals (bajra, jowar, maize and barley)	86.99	238.57	-151.58	0.01	-1.5158
Total					-2603.58

The non-product specific support[1] of India was US $ 930.34 million. As AMS is the sum of product specific and non product specific support, developing countries argued that in the AMS calculation should be

AMS = Total product specific support + Total non-product specific support,

which in our example will be

AMS = US$ (-) 2603.58 million + US$ 930.34 million = US$ (-) 1673.24 million.

However, the AoA rules suggested that AMS should be calculated like:

Total AMS = (product-specific AMS exceeding de minimis + non-product specific AMS exceeding de minimis)

Assuming India's de minimis level was US$ 500 million [2], the calculation of AMS in our example will be

AMS = 0 + US $ (930.34 – 500) million = US $ 430.34 million.

Footnote

1. WTO Document number G/AG/N/IND/2 dated 11 June 2002
2. India's actual de minimis was more than that.

The AMS reduction rates proposed by Harbinson are higher than the reduction commitments implemented during the UR (it was 36 percent cut for developed countries and 24 percent for developing countries).

Table 3. Reduction Schedule for Domestic Subsidies (Amber Box Subsidies)

	AMS Reduction (%)	De minimis
Developed Countries	60	Annual reduction of 0.5 percent over a period of 5 years from the current level of 5 percent
Developing Countries	40	Current level of 10 percent of 10 percent to be maintained

Least developed countries are not required to undertake any reduction commitments. However the text proposes that *"they are encouraged to consider making commitments commensurate with their development needs on a voluntary basis"*. Harbinson's text also proposes to give additional flexibilities for recently added WTO Members and for certain country groupings like SIDS, vulnerable developing countries and transition economies.

The reduction schedule of AMS suggested by Harbinson is less ambitious than the ones suggested by the Cairns Group members. Cairns Group members suggested that a formula approach should be adopted for AMS reduction so as to deliver major reductions in trade and production distorting subsidies leading to elimination. They also called for a substantial down-payment during the first year of the implementation period.

Reactions to Harbinson's Text

Three years after the negotiations on agriculture began, Harbinson's paper tried to arrive at a common ground among WTO's 145 members on agricultural trade liberalization. This was a difficult job as individual countries offered wide spectrum of proposals in one of the most politically sensitive sectors of most nations' economies. After this paper was tabled in an informal mini ministerial in Tokyo, it appears that the compromise stand has not pleased any of the major countries or country groups.

According to USA and Cairns group countries, the paper is simply too conservative and lacks ambition. In a press conference, U.S. Trade Representative Zoellick criticized the lack of ambition in the Harbinson draft at the Tokyo meeting. He told reporters that the modalities paper needs "to be strengthened significantly" in terms of further reducing trade distorting domestic support and in reducing the disparity that allows the EU and Japan to give more of such farm subsidies than the U.S.

Australian Agriculture Minister Warran Truss, speaking on behalf of the Cairns Group, said there are "some good elements" in the draft modalities text, but added that 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. However, while generally welcoming Harbinson's proposal, Northern Cairns Group member Canada voiced its concern about deep tariff cuts in Canada's sensitive and highly protected dairy and poultry sectors, noting that these would lead to cheaper dairy and chicken imports flooding the Canadian market[10].

On the other hand, Franz Fischler, EU Agriculture Commissioner said "In this draft, we find few elements which offer the possibility of bridging the differences between WTO members. The overall balance within the proposal between the different interests of Members is lacking. Benefits are mainly for strong exporting countries and costs are mainly for countries which pursue policies reflecting domestic objectives which go beyond untrammelled free trade, and which are linked with social, economic and environmental sustainability. Instead of accelerating the negotiations, within the parameters set by the Doha Development Agenda (DDA), to reach agreement on the modalities by the end of March, we are afraid this contribution risks to slow them down. We remain committed to reaching agreement in Geneva on the modalities by the target date agreed at Doha, i.e. 31 March 2003."

Reports indicate that Like-Minded Group (LMG) of countries such as India, Kenya and Nigeria, are somewhat pleased with Harbinson's text as they feel that their developmental and food security needs were appropriately addressed. It is indicated in the report that India welcomed the proposed negative-list approach by which developing countries could exempt a number of "strategic products" from general reduction commitments. However, India reportedly rejected the ten-year tariff reduction period for developing countries, regarding it as too short.

Given so much disagreement among countries, it is not surprising that in the Tokyo ministerial Harbinson's text was not accepted as the blueprint for future negotiations. A report published in Inside US Trade dated 21st February reveals that the European Union, backed by Japan, Korea and Switzerland, prevented a U.S.-led push to have the paper endorsed as the basis or starting point for further negotiations. Instead, a consensus was arrived that the Harbinson paper could serve as a "catalyst" for further negotiations.

[10] Agriculture: Harbinson's Modalities Draft Receives Mixed Reactions (http://www.ictsd.org/weekly/03-02-19/story2.htm)

According to the report, this formulation implies no support for the content of Harbinson's draft but provides a signal that all parties are willing to continue negotiating.

After the Tokyo Ministerial, WTO Members met for a special (negotiating) session of the Committee on Agriculture (CoA) to discuss the paper during 24th to 28th February. The Report by the Chairman on this special session indicates that there has not been any progress in the meeting about accepting the modalities highlighted in Harbinson's paper. The Chairman's report says:

" The first draft was useful in inaugurating a much more intensive and focused phase in the negotiations. However, little common ground emerged on fundamental issues. While there was some progress on a number of technical aspects and a willingness to continue work there was little collective guidance to assist in preparation of a second draft of modalities". (TN/AG/8)

Postscript

Recently Harbinson has issued a revision of his first draft modalities for the ongoing agriculture negotiations. The revised first modalities draft makes some modifications in the special and differential treatment (S&D) for developing country Members. In the market access schedule, a new tariff band has been added to the original three-staged tariff reduction model. 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. Some modifications have been made about the average and minimum reduction rates. The new schedule is given in Table 2a.

Table 2a. Harbinson's Tariff Reduction Formula for Developing Countries (Revised 1st Draft)

Tariff Rates	Average Reduction (%)	Minimum Cut (%)
Ad valorem rates > 120 percent	40	30
Ad valorem rates between 60 percent and 120 percent	35	20
Ad valorem rates between 20 percent and 60 percent	20	15
Ad valorem rates <20	25	15
Uruguay Round Approach	***24***	***10***

Secondly, the 'best endeavour' language in the original text requiring developed countries to provide inter alia "fullest liberalisation" of trade in tropical products, "whether in primary or in processed form", has been made mandatory.

Thirdly, in the special safeguard (SSG) mechanism for developing countries, the original proposal suggested that the new SSG would be restricted to only a few "strategic products" denominated by developing countries. The new text drops this line and 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".

Deadline Missed in Agricultural Negotiations

Due to the slow progress of the agricultural negotiations so far, the deadline for finalizing the modalities of agricultural negotiations, which was on 31 March, has been delayed. It was decided that based on the modalities agreed, Members are to submit their draft country-specific offers on agriculture at the forthcoming fifth WTO Ministerial Conference, to be held in Cancun, Mexico. The failure to reach a consensus on the modalities has already put a question mark on the outcome of the Cancun meet. Also, as a fallout of the ongoing conflict between USA and Iraq, it is almost certain that WTO negotiations will be delayed even further. It is to be kept in mind that, according to the Doha work programme, the agriculture negotiations, as well as all other negotiations, are to be concluded by 1 January 2005.