Agricultural subsidies in the WTO ‘Green Box’

An overview of the key issues from a sustainable development viewpoint

ICTSD draft background paper
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1 INTRODUCTION

The massive amounts of trade-distorting farm subsidies which are currently provided by developed countries have long been criticised for their impact on poverty in the developing world, as well as for leading to environmental degradation in both rich and poor countries. However, until recently little attention has been paid to another set of subsidies which are exempt from reduction commitments on the basis that they have “no, or at most minimal, trade-distorting effects or effects on production”\(^i\)- those classified as ‘Green Box’\(^ii\) subsidies at the World Trade Organisation (WTO).

Although in principle Green Box subsidies should not distort trade, there is increasing evidence to suggest that payments made under many of these programmes do in fact affect farmers’ production decisions, and therefore also potentially affect world trade. While there may be strong social and environmental reasons that would justify exempting countries from having to reduce certain kinds of subsidies, there is a need to examine carefully the types of programmes which are included in this category, to ensure that they do indeed support sustainable development goals in both the developed and developing world.

Developed country subsidies with recognised trade-distorting effects have been found to lower the world market price of commodities, and undercut poor farmers in developing countries by enabling low-price foodstuffs to be dumped on local markets. At the same time, they have been linked to environmental consequences in developed countries, such as the pollution of land and water resources, biodiversity loss and the over-exploitation of marginal land. Both rich and poor citizens in developed countries end up paying, through higher taxes and food prices, for the cost of subsidies - estimated to be worth at least $300 billion per year\(^iii\).

The need to look carefully at the criteria for Green Box subsidies is becoming increasingly pressing in the context of the current round of trade negotiations, the Doha round. As developed countries are pushed to make substantial reductions in their trade-distorting support, they may well be tempted simply to shift subsidies into the Green Box without making meaningful reforms to the design of these programmes - a phenomenon which has been described as ‘box-shifting’. The significant negative effects of trade-distorting support would therefore continue to undermine sustainable development objectives around the world.

In 2004, negotiators therefore agreed on a mandate for a ‘review and clarification’ of Green Box criteria, to ensure that Green Box measures do indeed have no, or at most minimal, trade-distorting effects or effects on production. At the 2005 Hong Kong Ministerial, they also specified that this review should ensure that programmes of developing country Members that cause not more than minimal trade distortion are effectively covered.

The end-2003 expiry of the Agreement on Agriculture’s ‘peace clause’\(^iv\), which protected WTO Members from legal challenge, may lend a further impetus to subsidy reform in developed countries. Already, developing countries have won high-profile cases on products such as cotton and sugar, and are also believed to have cases in preparation on other commodities. Members may also be persuaded to look more closely at the legality of their Green Box subsidies following the WTO panel ruling on the Brazil-US cotton dispute\(^v\): this found that the US had included certain subsidies in the Green Box which could not in fact be considered to meet the requirements for this category. Following the July 2006 suspension of the Doha round, and slow progress following the resumption in February 2007, some have also predicted a shift towards increased litigation as WTO Members seek to obtain through the dispute settlement process the benefits which they have been unable to achieve through negotiation.

Although Members’ positions have drawn closer on some of the issues around Green Box spending, at the outset of the Doha round they
were polarised at opposite extremes. Some WTO Members emphasised that, because the Green Box played a unique role in safeguarding “non-trade concerns” associated with agriculture, it was sacrosanct and could not be touched. Others instead underscored their concern that the Green Box essentially allowed Members to protect large amounts of trade-distorting support with impunity, on the basis of rather vague and ambiguous criteria. The lack of up-to-date information, particularly concerning some of the heaviest subsidy users, has further contributed to the politicisation of the debate vi.

In order to ensure that the outcome of the negotiations ultimately promotes social and environmental benefits in the developed and developing world, it is necessary to recognise that both perspectives represent valid concerns and aspirations. While, on the one hand, the Green Box could potentially play a role in safeguarding spending on countries’ legitimate social and environmental objectives, on the other hand there is evidence to suggest that at least some of the support currently being notified in this area may have negative implications for these same objectives in rich and poor countries.

Insofar as possible, it is therefore important that countries’ positions in this area are informed and guided by empirical evidence and research. As a contribution to this debate, this paper aims to provide an overview of some of the main issues and challenges related to Green Box reform, and in particular to identify opportunities to ensure that Green Box criteria more effectively support sustainable development objectives in both developed and developing countries.
2 BACKGROUND TO CURRENT STRUCTURES OF DOMESTIC SUPPORT

2.1 Emerging pressure for agricultural policy reform

In developed countries, efforts have been under way to move towards less trade-distorting forms of domestic support for some time. In particular, various countries have taken steps to try to 'decouple' subsidies from production, (and thus also reduce the impact of these measures on trade). While interest groups that benefit from these policies have opposed efforts towards reform, other factors have nonetheless pushed such efforts forward: for example, the budgetary implications of these programmes, and the WTO negotiations themselves.

From as early as the 1980s, there was a growing sense that agricultural subsidies in developed countries were stimulating the massive over-production of a number of products (Kelch and Normille, 2004). While these policies had initially been introduced to tackle widespread rural poverty and deal with post-war food shortages, they had arguably contributed to the emergence of significant production surpluses in both the EU and US, and a skewed distributional structure which directed the biggest payments towards the largest producers. The high level of support provided domestically meant that export subsidies had to be used to remove surplus production from home markets - measures which were sharply criticised by development agencies, which emphasised that the dumping of large quantities of cut-price agricultural products in developing country markets was undercutting poor farmers and forcing them deeper into poverty. Research by organisations such as the OECD and World Bank also pointed to the growing costs being borne by taxpayers and consumers, and the inefficiency of these policy measures in actually transferring benefits to farmers (rather than input suppliers or landowners) in developed countries.

The start of the Uruguay Round in 1986 also brought new pressures to bear, as agriculture was included for the first time in multilateral trade negotiations. While both the EU and US sought to avoid making major concessions, they came under significant pressure from the Cairns Group of countries, which includes both developed and developing country farm exporters in favour of greater liberalisation. Those developed countries with highly-protected agricultural sectors recognised that they would have to make trade-offs in agriculture if they hoped to achieve benefits in other areas which were important for their economies - such as services, industrial tariffs or 'intellectual property'.

Although studies suggest that the Uruguay Round did not ultimately lead to significant cuts in countries' subsidy (or tariff) levels, it was nonetheless important in establishing a regulatory framework for agriculture, and establishing 'binding' maximum limits which farm subsidy spending should not exceed. The round further established explicit arrangements for future subsidy reductions in the form of a 'built-in agenda' of agriculture negotiations, and set in place the WTO's 'traffic light' system for classifying and reducing trade-distorting domestic support.

Effectively, the new system institutionalised the assumption of a continued shift towards less trade-distorting types of subsidies. The Uruguay Round thus provided an impetus for domestic policy reform in the US and EU, with both trading blocs introducing new domestic support arrangements in the years immediately following the conclusion of the round (Kelch and Normille, 2004). However, the burgeoning costs of these measures may have been the most decisive factor in pushing policy-makers - especially those in the EU - to begin to look for possible alternatives.
2.2 Agricultural policy reform in the EU

The first major reforms to the EU’s Common Agricultural Policy (CAP) were the MacSharry reforms, which were initially proposed in 1992 and implemented in 1994. Ray MacSharry, EU Commissioner for Agriculture, successfully reduced support prices for several major commodities, by increasing direct payments for farmers to compensate them for the income loss they would experience. Subsequent reforms have also been based on this model.

The MacSharry reforms introduced cuts in the intervention price for cereals, beef and butter, as well as a ‘set-aside’ scheme aimed at reducing the area of arable land under cultivation by paying farmers to leave the land lying fallow. Small-scale farmers were exempted from the set-aside requirement, and instead received a payment which was made irrespective of the crop they chose to plant. Accompanying measures such as an early retirement scheme, an agri-environment scheme and an afforestation scheme were also introduced.

A subsequent round of reform was agreed to in March 1999 - the ‘Agenda 2000’ reform - and was intended to restructure European agricultural policy in advance of the anticipated enlargement of the EU. The reform was again partly spurred by the budgetary implications of simply extending the existing subsidy regime to the accession countries (Kelch and Normille, 2003). Agricultural policy was therefore reformulated in a way that gave greater emphasis to environmental objectives and other ‘multifunctional’ aspects of European farming. Support prices for cereals and beef were further reduced; intervention prices for dairy products were also targeted, although this reform was postponed to the 2005/06 marketing year due to the costs of compensation.

While the Agenda 2000 reform was intended to cover the period from 2000-2006, a mandated ‘mid-term review’ also led to new reform proposals being put forward in July 2002. Eventually agreed in June 2003, this third major round of reform was important for three main reasons.

Firstly, it attempted to decouple subsidy payments from production, by basing such payments on historical entitlements during a 2000-2002 base period rather than on production levels. Subsidy payments were thus to be linked together in a ‘single farm payment’ (SFP), from 2005-2007, with producers’ eligibility also dependent on compliance with EU standards on the environment, animal welfare and food safety. Secondly, it continued sectoral reforms for products such as rye (for which price support was eliminated), durum wheat and rice. Support prices for butter and skimmed milk powder were also reduced. The EU also undertook further subsequent reforms in 2004 and 2005 to cotton, olive oil, tobacco and sugar subsidies. (See Table 1 below for further details). Thirdly, it provided for a ‘strengthened’ rural development policy.

The WTO Agreement on Agriculture: classification of subsidies

In the Uruguay Round negotiations which led to the Agreement on Agriculture, countries’ subsidies were classified into three main categories according to a ‘traffic light’ system. The current Doha round of negotiations also uses this classification structure.

The most trade-distorting subsidies, those which were directly linked to production, were classified as ‘amber box’ – countries had to ‘slow down’ with these, and introduce the steepest cuts. ‘Green box’ subsidies, those with no, or at most minimal, trade-distorting effect, were permitted, and countries could ‘go ahead’ without undertaking any cuts. While the system included no ‘red’ box, negotiators did add a ‘blue box’, for subsidies with more indirect links to production: these were subjected to more moderate cuts. A ‘de minimis’ allowance permitted all countries to maintain a small amount of trade-distorting support, provided it did not exceed certain levels.
to be financed through a reduction in payments to larger farms. Budgetary restraint measures were introduced to ensure that overall CAP spending targets were not exceeded.

Table 1: EU policy changes under 2003 and 2004 CAP reform

<table>
<thead>
<tr>
<th>Programme / commodity</th>
<th>Policy change</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Crop</strong></td>
<td></td>
</tr>
<tr>
<td>Rye</td>
<td>Intervention price support eliminated. Rye-producing areas receive temporary transitional aid</td>
</tr>
<tr>
<td>Grains</td>
<td>Minimum of 75% decoupled aid. Monthly storage increments to support price reduced 50%</td>
</tr>
<tr>
<td>Durum wheat</td>
<td>Supplemental durum payment reduced in traditional producing areas, phased out for other areas. Payment included in SFP, but countries may opt to retain up to 40% linked to production. Durum quality premium paid on per hectare basis on limited area</td>
</tr>
<tr>
<td>Rice</td>
<td>Intervention support price reduced by 50%, intervention purchase limited. Direct income payment: part included in SFP, part converted to crop-specific aid</td>
</tr>
<tr>
<td>Starch potatoes</td>
<td>Part of direct payment included in SFP, remainder is crop-specific payment</td>
</tr>
<tr>
<td>Nuts income payment</td>
<td>Fixed flat-rate payment based on fixed acreage</td>
</tr>
<tr>
<td>Protein crops</td>
<td>Protein crop supplement (increase in payment to encourage protein crop production) preserved</td>
</tr>
<tr>
<td>Set-aside payment</td>
<td>Included in SFP</td>
</tr>
<tr>
<td>Carbon credit for energy crops</td>
<td>Aid of €45 / hectare for energy crops, up to maximum of 1.5 million hectares</td>
</tr>
<tr>
<td>Dried fodder income payment</td>
<td>SFP paid to growers plus support to industry through direct payment</td>
</tr>
<tr>
<td>Cotton</td>
<td>Minimum of 65% decoupled payment with €22 million provided for transition to other uses. Begins in 2006.</td>
</tr>
<tr>
<td>Tobacco</td>
<td>Minimum of 40% decoupled to be phased in from 2006-09. In 2010, 50% of aid in SFP with remainder in restructuring fund. Begins in 2006.</td>
</tr>
<tr>
<td><strong>Livestock</strong></td>
<td></td>
</tr>
<tr>
<td>Beef</td>
<td>Beef payments converted to SFP. Member states may opt to retain some payments, in full or in part, as coupled to beef production.</td>
</tr>
<tr>
<td>Ewe / goat premium</td>
<td>Included in SFP. Member States may opt to retain up to 50% coupled to production</td>
</tr>
<tr>
<td>Dairy</td>
<td>Reduced intervention prices for butter (-25%), skimmed milk powder (-15%). Intervention price of butter limited. Dairy income payments plus Member State additional payments, 2004-08. Dairy income payments included in SFP after 2008.</td>
</tr>
<tr>
<td><strong>General</strong></td>
<td></td>
</tr>
<tr>
<td>Single Farm Payment</td>
<td>Direct income payment based on historical entitlement replaces payments from arable crops, beef, ewe/goat, and dairy (after 2008) sectors</td>
</tr>
<tr>
<td>Member State payments</td>
<td>Member States may make additional payments to encourage production (quality, environmental), up to 10% of national SFP ceilings; amount reduced by amount of retained coupled payments</td>
</tr>
<tr>
<td>Quality incentives</td>
<td>Support for promotion (quality assurance, geographical indication, organic farming)</td>
</tr>
<tr>
<td>Support to help farmers meet standards</td>
<td>Support for farm audits, aid to farmers to help implement standards in areas of environment, food safety, animal welfare and occupational safety</td>
</tr>
<tr>
<td>Support to farmers for improving animal welfare</td>
<td>Support to extent of additional costs involved in improving welfare of farm animals</td>
</tr>
<tr>
<td>Investment support for young farmers</td>
<td>Increased investment aid for young farmers</td>
</tr>
<tr>
<td>Rural development measures</td>
<td>Funds from taxation of large farms (“modulation”) to be used to increase spending on rural development measures.</td>
</tr>
</tbody>
</table>

In December 2005, the European Council invited the Commission “to undertake a full, wide ranging review covering all aspects of EU spending, including the CAP, and of resources, including the UK rebate, to report in 2008/2009”. This review may well lead to further reform of the CAP, comparable to that which took place in 2003.

2.3 Agricultural policy reform in the US

In 1996, the US signed into law the Federal Agricultural Improvement and Reform Act (FAIR): this legislation was to provide the governing framework for US agriculture until 2002. The FAIR Act aimed to reinforce market-oriented policies, and reduce government intervention. Similarly to comparable reforms in the EU, the FAIR also sought to decouple income support payments from production, and provide for greater planting flexibility. Target price and set-aside programmes were thus replaced with ‘production flexibility contracts’ - decoupled payments which were based on historical payment levels during a 1990-1995 base period. Payments were made on a crop-by-crop basis, but tied to a fixed base area which related to an average of historical acres planted (or prevented from being planted) with specific crop types. While producers were free not to plant at all on the land on which payments were made, they were nonetheless required to maintain it in “agricultural use”, and were prohibited from planting fruit and vegetables (Baffes and De Gorter, 2003).

However, when commodity prices declined in the late 1990s, the US government took a number of decisions which reversed much of the decoupling which had taken place under the FAIR Act. In 1998, it introduced emergency payments equal to approximately 50% of decoupled payments; these were followed by further payments equivalent to 100% of decoupled payments in 1999, 2000 and 2001. Furthermore, when commodity prices fell below the minimum guaranteed price, the government provided additional support to producers in the form of ‘loan deficiency payments’.

The 2002 Farm Security and Rural Investment Act (FSRI) further reversed the move towards decoupled support which the FAIR (and, to some extent, previous farm acts) had established. The FSRI increased loan rates, allowed for the updating of base acreages and yields, allowed soybean acreage to be added to the base, introduced additional crops to the loan rate scheme, and re-introduced the target price through new ‘counter-cyclical’ deficiency payments (Baffes and De Gorter, 2003). These policy changes arguably ‘recoupled’ the formerly decoupled payments, by re-establishing links with production.

The new US Farm Bill being debated by Congress in 2007 will set the terms for US agriculture policy and support for the next five years. The US Department of Agriculture has now published its proposal for the legislation, after a series of consultations and public debates during 2006.

2.4 Agricultural policy reform in Japan

Between 1995 and 1998, Japan substantially reduced its notified Amber Box spending, thereby increasing in relative terms the significance of its Green Box payments. However, Japan has not taken major steps to introduce policy reform measures similar to those which have been experimented with in the EU and US. Policies have therefore tended to maintain high rice prices, under heavy pressure from producers, with the aim of fostering greater food security. In the context of falling demand for rice, however, this goal has only been partially achieved; productivity has also suffered as a result. Price support mechanisms (combined with unusually high tariffs) have been important tools which the government has used to try to achieve these goals (Yamashita, 2006). However, the 1999 Agricultural Basic Law did introduce some reforms, and market price support for rice was abolished in 1998 (Ministry of Agriculture, Forestry and Fisheries, 2003).

Unlike both the EU and US, Japan has not taken substantial steps to enable the government to provide direct payments to farmers which are
untied from production levels; neither has it introduced environmental direct payments, or direct payments based on farmland area. It has however introduced direct payments for disadvantaged regions (for farmers in hilly and mountainous areas, and other agricultural regions).

Yamashita (2006) notes the risk of incoherence between different aspects of the agricultural policy framework: while public investment in farming infrastructure projects is intended to lower the prices of agricultural products, ultimately passing savings back to the consumer, other government policies may have the opposite effect. For example, payments to support production set-aside effectively serve to ensure that rice prices are kept high.

The Japanese government has however recognised that the current structure of the agricultural sector - with the majority of farmers aged over 65, and a predominance of small farms which are not competitive at the international level - is unsustainable in the long term and must be reformed.

After Shinzo Abe became the Japanese Prime Minister in September 2006, he appointed Toshikatsu Matsuoka as Minister for Agriculture, Forestry and Fisheries. While the broad focus of Japanese agricultural trade policy is likely to remain the same under the new government, the precise details and likely direction of future reform efforts remain unclear.

2.5 Distributional structure of farm support

Support in both the US and EU remains massively skewed towards large farms, and towards a limited number of products. Even the most ‘decoupled’ Green Box payments - those based on historical entitlements or area - continue to reflect historical inequalities in subsidy allocations. Indeed, it is often unclear how the structure and distribution of subsidy payments in fact serves social and economic goals.

In the US, of the average $20billion of annual support which is expected to be provided between 2005 and 2007, 93% is now focused on only five commodities (soybeans, rice, wheat, cotton and corn), while two-thirds of US agriculture receives no support at all (Thompson, 2006; WTO Reporter, September 1, 2006).

The World Bank notes that, in the US, “there is a serious concern related to equity; benefits go overwhelmingly to large farms and corporations, not to small or family farms”. In 1998, the largest 5.1% of US farms obtained over 48% of their income from government payments, but the smallest 39% obtained only 8.9% of their income from the government (De Gorter, Ingco and Ignacio, 2003). Ash (2006) similarly notes that the largest 25% of US farms have average gross farm receipts of over $275,000 and average farm net worth of over $780,000. These farms produce 90% of farm output and receive 89% of support, while the remaining 1.6million US farms produce little and receive little support.

In the EU, the largest 25% of farms have average gross farm receipts of over €180,000 and average farm net worth of almost €500,000: these farms produce 73% of farm output and receive 70% of support. The next largest 2% of farms have gross farm receipts which average over €43,000, an average net farm worth of over €230,000: they produce 17% of output and receive 19% of support. The remaining 50% of farms - numbering almost 2 million - produce relatively little, and also receive little support (Ash, 2006).

In just one example of the perverse distribution of subsidies, ActionAid has pointed out that the richest man in the UK, the Duke of Westminster, received £300,000 ($569,000; €447,000) a year in subsidy payments for crops grown on just one of his three farming estates, which together cover some 55,000 hectares in total. He is also reported to receive an additional £350,000 a year in milk payments related to his 1200 strong herd of dairy cows (ActionAid, 2002). Oxfam also reports that the Duke of Marlborough is one of the biggest recipients of EU subsidies, receiving £1m ($1.9m; €1.4m) in 2003-04, despite being the fourteenth richest man in the world (Stuart and Fanjul, 2005).
While many of these subsidies are 'Amber Box' or 'Blue Box' subsidies, with a recognised trade-distorting effect, Green Box subsidies also contribute to the total sums received. Large farms may often be eligible to receive more subsidies than small farms under a number of Green Box categories, for various reasons which will be explored below.

The distributional structure of agricultural subsidies therefore means that most of the payments ultimately go to the largest farms, which are generally also the wealthiest. Insofar as agricultural policy in developed countries is intended to fulfil a social objective at the national level, it is arguably failing to do so. Furthermore, because it is this particular distributional structure which affects production levels, and also trade, it also impacts on other countries’ ability to address social objectives at a national level.

2.6 Environmental impact of Green Box spending

The Green Box includes, under its paragraph 12, a provision allowing governments to exempt certain environmental payments from reduction commitments. This provision, and negotiations on it, is described in greater detail below (under section 6(xi)).

While it is clearly important that governments maintain the ability to safeguard their legitimate environmental policies, the environmental impacts of some of the other more trade-distorting provisions under the Green Box arguably have contradictory effects insofar as they create incentives for the use of more intensive and environmentally-harmful agricultural techniques.

By creating such incentives, trade-distorting subsidies have been linked to negative environmental consequences such as the pollution of land and water resources through over-use of pesticides, fertilizers and herbicides, consequent loss of biodiversity, the destruction of biodiverse habitats such as hedgerows and woodland, and the over-exploitation of marginal land.

The distributional structure of subsidy payments, discussed in the previous section, is again critical to the issue of the environmental effects of government spending. The largest farms therefore tend also to be those which are most heavily dependent upon significant levels of artificial inputs, tend also to have the largest fields and herd sizes, and tend to use the most intensive industrial farming techniques to try to increase their productivity.

However, although requirements at the international level may have a broad impact on the incentive structures for agriculture, much also depends on the regulatory environment at the national or regional level.

In addition to environmental payments under paragraph 12, governments may provide other environmental benefits through payments notified under General Services (paragraph 2); these cover payments which are not made directly to producers, such as general infrastructural improvements.
3. PRIMARY FOCUS AND EXTENT OF GREEN BOX SPENDING

It is hard to determine the exact focus and extent of current Green Box spending in the absence of up-to-date information. The most recent US notification to the WTO covers 2001; the most recent EU notification covers marketing year 2003/04, and the most recent Japanese notification covers fiscal year 2003. This information therefore does not cover changes introduced by the 2002 US Farm Security and Rural Investment Act, nor does it necessarily cover many of the changes introduced by the 2003 EU reform of the CAP. The absence of adequate notified information about Members’ current subsidy levels has led to a number of proposals being tabled, and a negotiating mandate being agreed, with the aim of improving notification, monitoring and surveillance.

The 2006 World Trade Report from the WTO, which focuses on subsidies, also repeatedly emphasises the need for governments to improve the quality and quantity of the data they make available. Significant differences exist between the data which governments report to the WTO, the OECD and in their national income accounts. While some of these differences can be explained, substantial divergence still remains: furthermore, in many cases the different sets of figures are very hard to reconcile. Discrepancies also exist between WTO notifications made under the Agreement on Agriculture and those made under the Agreement on Subsidies and Countervailing Measures (WTO, 2006).

3.1 Overall trends

Existing information nonetheless indicates that the US, EU and Japan are by far the largest providers of Green Box subsidies (WTO, 2006; Diakosavvas, 2003). Their most recent notifications to the WTO suggest that the US had the highest level of Green Box spending ($50,672 million); the EU came second ($29,481 million) and Japan third ($17,726 million). Although these three countries spend significantly more on subsidies than any other country, the WTO notes that three developing countries do come into the top ten providers of domestic support (Brazil, Thailand and Cuba), and that the bulk of these countries’ support was notified under the Green Box:

Table 2: Leading providers of domestic support, 1995–2001

<table>
<thead>
<tr>
<th>Rank</th>
<th>Member</th>
<th>Total domestic support ($ billion)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>European Union (1)</td>
<td>96.1</td>
</tr>
<tr>
<td>2</td>
<td>United States</td>
<td>66.2</td>
</tr>
<tr>
<td>3</td>
<td>Japan</td>
<td>41.8</td>
</tr>
<tr>
<td>4</td>
<td>Korea, Rep. of</td>
<td>7.5</td>
</tr>
<tr>
<td>5</td>
<td>Switzerland, Liechtenstein</td>
<td>4.6</td>
</tr>
<tr>
<td>6</td>
<td>Brazil</td>
<td>3.5</td>
</tr>
<tr>
<td>7</td>
<td>Norway</td>
<td>3.0</td>
</tr>
<tr>
<td>8</td>
<td>Canada</td>
<td>2.6</td>
</tr>
<tr>
<td>9</td>
<td>Thailand</td>
<td>1.9</td>
</tr>
<tr>
<td>10</td>
<td>Cuba</td>
<td>1.3</td>
</tr>
</tbody>
</table>

Source: World Trade Report 2006, WTO

Taking a sample of 39 Members who have notified their domestic support measures over the entire 1995-2001 period (including the US, EU and Japan), the WTO found that, as of 2001, countries spent 52% of their domestic support on green box measures. 31% was spent on AMS, 12% on blue box, 5% on de minimis support, and less than 0.5% on Development Programmes (WTO, 2006).

It is reasonable to assume that the final Doha round agreement will probably mean that Green Box spending will represent a significant and increasing proportion of countries’ total spending. At least in the EU, and probably also in the US, Green Box subsidies are expected
to represent a larger share of Members’ total domestic support, given that cuts are likely to be agreed on Members’ overall-trade distorting support (OTDS).

Members agreed in Hong Kong that overall trade-distorting domestic support will be cut, so subsidies are not simply shifted between permitted categories; however, they disagreed on the depth of reductions to be made. The G-20 wants the EU to slash subsidies by 80 percent, and the US and Japan to do so by 75 percent. The EU has proposed it cuts its own subsidies by 70 percent, and that the US and Japan make a 60 percent reduction. Both the US and G-10 have asked the EU to make a 75 percent cut; but the US has suggested a 53 percent cut for themselves and Japan. The US is under heavy pressure to improve its subsidy offer.

Figure 1 below gives further details of the relative importance of Green Box spending under different scenarios:

The 2006 World Trade Report also found a gradual decrease in most forms of support over the 1995-2001 period, amongst the 39-Member sample: an average annual reduction of 2.6% on green box spending, a 6.9% reduction on blue box spending, and 5.7% on Article 6.2 measures. De minimis spending was the only category found to have increased: this tripled from $3.8 billion in 1995 to $9.6 billion in 2001. Looking at a smaller sample of 21 Members, the WTO found that bound and current total AMS levels fell significantly over this period - by 7.2% and 10.3% per annum, respectively (WTO, 2006).

Current Green Box spending levels for certain Members are nonetheless considerably higher than those that prevailed in 1986 at the start of the Uruguay Round. A submission by eleven developing countries in June 2000 notes that EU Green Box subsidies increased from ECU 9bn in 1986-88 to ECU 22bn in 1996. US Green Box subsidies also increased over a similar period, from US$24bn in 1986-88 to US$51bn in 1997 (see also Watkins, 2003).
However, following this significant increase, Green Box spending in the EU, the US and Japan nonetheless appears to have remained broadly constant over the period between 1995 and 2001. Meanwhile, AMS (Amber Box) spending in Japan was reduced significantly, and also came down gradually in the EU. US AMS spending increased over this period (see Figure 2, 3 and 4 below).

**Figure 2: EU, total domestic support (applied levels)**

![EU Domestic Support Chart](image)

*Source: ICONE, Brazil; WTO notifications. Compilation of data by ICTSD*

**Figure 3: US, total domestic support (applied levels)**

![US Domestic Support Chart](image)

*Source: ICONE, Brazil; WTO notifications. Compilation of data by ICTSD*
As a result, the share of subsidies which were directed towards the Green Box increased dramatically in Japan and gradually in the EU, whilst in the US the share of Green Box spending declined instead (see Figure 5 below).

Studies focusing on the trade-distorting effect of different types of subsidies (rather than on how countries have notified them at the WTO) reflect similar trends (De Gorter, Ingco and Ignacio, 2003). This research indicates that

**Figure 4: Japan, total domestic support (applied levels)**

Source: ICONE, Brazil; WTO notifications. Compilation of data by ICTSD

**Figure 5: Total domestic support in relative terms – EU, US and Japan**

Source: ICONE, Brazil; WTO notifications. Compilation of data by ICTSD
between 1986-88 and 2000-02, those types of subsidies with a large impact on production (such as output and input subsidies) increased moderately, whereas those subsidies with smaller impacts increased substantially (those based on area or animal headage, or decoupled payments based on historical base periods). Table 3 below gives further details:

Table 3: Composition of agricultural subsidies: 1986–88 to 2000–02, US$ billion:

<table>
<thead>
<tr>
<th></th>
<th>1986-88</th>
<th>2000-02</th>
<th>% Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Producer Support Estimate</td>
<td>240.9</td>
<td>234.7</td>
<td>-2.6%</td>
</tr>
<tr>
<td>Taxpayer-financed portion</td>
<td>54.7</td>
<td>87.8</td>
<td>60.5%</td>
</tr>
<tr>
<td>Large impact:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Output levels:</td>
<td>12.5</td>
<td>14.0</td>
<td>12.0%</td>
</tr>
<tr>
<td>Input use</td>
<td>20.3</td>
<td>21.1</td>
<td>3.9%</td>
</tr>
<tr>
<td>Smaller impact:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Area / animal headage</td>
<td>15.8</td>
<td>30.4</td>
<td>92.4%</td>
</tr>
<tr>
<td>Historical (decoupled)</td>
<td>0.5</td>
<td>12.2</td>
<td>2340.0%</td>
</tr>
<tr>
<td>Other</td>
<td>5.6</td>
<td>10.1</td>
<td>80.0%</td>
</tr>
</tbody>
</table>


The 2006 World Trade Report also notes a gradual decline in the level of market price support, as a share of the OECD’s Price Support Estimate (PSE): this represented 77% of the PSE in 1986, and 60% in 2004. While (trade-distorting) payments based on output and input use have remained broadly constant over this time period, “other payments” (less trade-distorting measures) have risen from 10% in 1986 to 26% in 2004.

3.2 Spending variations across different Green Box categories

The specific distribution across Green Box categories varies significantly, however, between countries. While the US focuses heavily on domestic food aid, the EU directs a significant proportion of its Green Box subsidies towards the 'general services’ category, investment aids, environmental programmes and regional assistance - and is expected to substantially increase spending on ‘decoupled income support’ following the 2003 mid-term review. Japan also focuses heavily on the ‘general services’ category.

Main types of Green Box payments
(From Annex 2 of the Agreement on Agriculture)

Paragraph 2. General services, including:
   (a). Research
   (b). Pest and disease control
   (c). Training services
   (d). Extension and advisory services
   (e). Inspection services
   (f). Marketing and promotion services
   (g). Infrastructural services
Paragraph 3. Public stockholding for food security purposes
Paragraph 4. Domestic food aid
Paragraph Direct payments to producers, including those under paragraphs 6-13:
Paragraph 6. Decoupled income support
Paragraph 7. Income insurance / income safety–net programmes
Paragraph 8. Natural disaster relief
Paragraph 9. Producer retirement programmes
Paragraph 10. Resource retirement programmes
Paragraph 11. Investment aids
Paragraph 12. Environmental programmes
Paragraph 13. Regional assistance programmes
The latest EU notification\textsuperscript{xxi}, for marketing year 2003/04, indicates that the most important Green Box categories were general services (€5,016.1mn), investment aids (€6,821.7mn), environmental programmes (€5,233.8mn) and regional assistance (€2,980.4mn). Figure 6 below gives further details:

The most recent US notification\textsuperscript{xxii}, for marketing years 2000 / 2001, shows that the US spends over half of its Green Box subsidies on domestic food aid (US$33,916mn). As in the EU, the general services category is important (US$9,214mn); also significant are decoupled income support payments (US$4,100mn), resource retirement programmes (US$1,624mn), and payments for relief from natural disasters (US$1,421mn). Figure 7 below gives further details:

\textbf{Figure 6: EU notified Green Box spending, marketing year 2001/02, 2002/03 and 2003/04}

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{eu_green_box_spending}
\caption{EU notified Green Box spending, marketing year 2001/02, 2002/03 and 2003/04}
\end{figure}

\textbf{Figure 7: US notified Green Box spending, marketing year 2001}

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{us_green_box_spending}
\caption{US notified Green Box spending, marketing year 2001}
\end{figure}
Like the EU and US, the most recent notification from Japan\textsuperscript{xxiii} (for 2003) indicates that the general services category is important (1603.6bn yen); however, unlike in the EU and US, this category represents as much as three-quarters of total Japanese Green Box spending. A large proportion of this, 9\% (950.7bn yen), is spent on "infrastructural services for agricultural sector and rural area: construction of irrigation/drainage facilities and rural roads, land consolidation". Figure 8 below gives further details:

![Figure 8: Japanese notified Green Box spending, fiscal year 2003](image)

Looking forward, a study by several development agencies (ActionAid et al, 2005) suggests that, once the EU’s 2003 CAP reforms have been fully implemented in 2006-07, decoupled income support is likely to represent €25bn (i.e. half of the €50bn of notified Green Box subsidies)\textsuperscript{xxiv}. The same study also notes that decoupled support will account for $4bn of the US’s $50.7bn Green Box spending. A number of studies have suggested that payments under the Green Box category for ‘decoupled income support’ have a significant trade-distorting effect.

The growing relative significance of green box subsidies suggests that it will become increasingly important to ensure that these payments do indeed support sustainable development objectives in both developed and developing countries.
A considerable volume of research has already been undertaken on the extent to which decoupled subsidies have trade-distorting effects. In particular, moves in many OECD countries to ‘decouple’ agricultural support from production have both emerged from and given rise to analysis of the economic implications of these policy changes. The work of the OECD has been particularly important in this respect, and the following section is based heavily on the findings of their series of studies on decoupling (summarised in OECD, 2006).

OECD Conceptual Framework

The OECD has devised a ‘conceptual framework’ to describe the different production-distorting and trade-distorting effects of payments. This categorises such effects into three main types:

1. **Static effects**, which occur in the same time period as the policy measure. These include changes in the incentive prices of outputs or inputs, and may include direct effects such as those resulting from market price support, as well as more indirect effects.

2. **Risk effects**: the trade-distorting effects on the risk experienced by farmers. These include ‘insurance effects’ resulting from reduced income variability, and ‘wealth effects’ – wealthier farmers are less averse to taking risks.

3. **Dynamic effects**, which are due to decisions about current and future income. These include effects on farmers’ expectations about future policies, prices and yields, and also effects on investment.

OECD studies suggest that specific policy measures can in fact be ranked according to their trade-distorting effect (with the most trade-distorting first): payments based on input use, market price support / payments based on output, payments based on area planted and payments based on historical entitlements.

The OECD indicates that “the degree of decoupling is found to be a continuum”, and that the precise details of implementation at a national level are important in determining the impact on production (OECD, 2006). Those subsidies that were most decoupled from trade and production effects were also the most effective in transferring income to farmers.

However, while different policy instruments do affect production to different degrees, “all agriculture specific support measures investigated have some effect on production”. No ostensibly ‘decoupled’ policy measures were in fact completely production-neutral: instead, “statistically-significant” effects on land allocation, production or investment decisions were identified in all cases. As long as a measure requires that the person receiving subsidies is involved in farming, it will in fact have some effect on production. In contrast, policy effects have less of an impact on production when they give more freedom of choice to the producer - allowing him or her the freedom to choose what to produce, or even whether to produce at all (OECD, 2006).

The OECD studies further suggest that, while payments based on area distort production and trade less than price support does, the extent of the difference between these two effects is still relatively poorly understood. More empirical research is needed to address this link. Payments based on historical area, with wider freedom to plant (or not plant) are also more decoupled than payments based on area planted.

Risk-reducing policies also affect farmers, by influencing the production decisions they are willing to take. Policies that reduce the variability in farmers’ incomes from year to year tend to affect production decisions by making farmers more willing to take on risks. Such policies also pass on risk to farmers in third countries (OECD, 2006). ‘Counter-cyclical’ policies, which provide for increased payments when prices fall, also have risk-related effects on production. However, the
OECD notes that all their studies conclude that insurance effects (associated with direct reduction in risk or variability) tend to be much larger than the wealth effects (associated with reduction in risk aversion when farmers become wealthier).

Current conditions or market variables may create production incentives - even if the disbursement conditions are not current (e.g. payments based on historical entitlements). Other current conditions attached to payments may affect production - e.g. the exclusion of certain products (such as fruit or vegetables) from eligibility for payments (see 6(v)(1) below). Furthermore, ad hoc decisions or changes to rules - such as price increases when market prices are low - may create expectations of future reductions in variability (OECD, 2006).

Quantitative constraints on production and land or input use will be most effective if they are binding at the individual producer level. This finding emerges from OECD studies of the EU, which showed that set-aside requirements (which apply at the individual producer level) were relatively effective in increasing the degree of effective decoupling; in contrast, the base area provision (which limits the number of hectares for which payments may be claimed) was not quite as effective, as it applies at the EU member State level rather than at the level of individual producers.

While agricultural support measures create significant incentives to invest in agriculture, the little evidence available shows that investment-related effects on production are relatively insignificant. Reduced risk tends to be the main driver of investment: however, there is little evidence that some types of policy instrument generate larger investment effects than others (OECD, 2006).

The magnitude of production effects also is found to depend on policy design and size - the amount of expenditure in a programme can, even if the policy measure would normally lead to a substantial degree of decoupling, have a big effect on production. The existing level of support may also affect the impact of production-distorting and trade-distorting effects (OECD, 2006).

Many of the specific Green Box measures may be characterised to varying degrees by one or more of the different types of distortionary effects identified by the OECD.
5. DOHA NEGOTIATIONS

Following a number of submissions in the early part of the Doha round negotiations\textsuperscript{xxvii}, the ‘July Framework’ that was agreed in mid-2004 included a mandate for a ‘review and clarification’ of Green Box criteria\textsuperscript{xxviii}:

"Green Box criteria will be reviewed and clarified with a view to ensuring that Green Box measures have no, or at most minimal, trade-distorting effects or effects on production. Such a review and clarification will need to ensure that the basic concepts, principles and effectiveness of the Green Box remain and take due account of non-trade concerns. The improved obligations for monitoring and surveillance of all new disciplines foreshadowed in paragraph 48 below will be particularly important with respect to the Green Box."

The mandate therefore aims to ensure, amongst other things, that Green Box measures conform to the ‘fundamental requirement’ set out in the Agreement on Agriculture\textsuperscript{xxix}.

In subsequent negotiations, two country groupings expressed scepticism about the purported absence of trade distorting effects of Green Box subsidies: the G-20 group of developing countries seeking agricultural trade reform, and the Cairns Group of farm exporters, especially with regard to direct payments. Both Canada\textsuperscript{xxx} and the G-20\textsuperscript{xxxi} submitted proposals in mid-2005 seeking to limit the trade-distorting effects of Green Box subsidies. However, the EU in particular has resisted any wide-ranging reform, as have the US, Japan and other major agricultural subsidisers.

At the Hong Kong Ministerial, Ministers then added that this review should ensure that developing country programmes were also effectively covered by the criteria\textsuperscript{xxxi}:

"... Green Box criteria will be reviewed in line with paragraph 16 of the Framework, inter alia, to ensure that programmes of developing country Members that cause not more than minimal trade-distortion are effectively covered."

An April 2006 submission by the Africa Group\textsuperscript{xxiii} thus aims to ensure that developing countries are able to use the green box more easily, elaborating in some areas on proposals made by the G-20 in their June 2005 proposal. Other text-based proposals were also submitted in April 2006 by the US\textsuperscript{xxxiv}.

The chair of the agriculture negotiations, Ambassador Crawford Falconer (New Zealand), then launched a six-week cycle of intensive negotiations when Members failed to meet the end-April deadline for agreement on full ‘modalities’ - the figures and formulae for tariff and subsidy cuts, and exceptions to them. During this period, he produced two ‘reference papers’\textsuperscript{xxxv} on the Green Box: these documents aimed to identify areas of convergence and continued disagreement between Members, paving the way to the elaboration of consensus draft text. These were instrumental in provoking further debate and comment from Members\textsuperscript{xxxvi}.

When Members again failed to reach agreement on modalities in June 2006, Falconer circulated a document entitled ‘Draft Possible Modalities on Agriculture’\textsuperscript{xxxvii}, which includes an appendix (Annex H) incorporating all of the current proposals on the Green Box which had been put forward by Members. The origin of most of the proposals can be readily identified (see Appendix 4 of this document).

While Members have been able to discuss in greater detail proposals related to the first six paragraphs of the Agreement on Agriculture’s
Annex 2, paragraphs 7-13 have not been subject to the same depth of analysis in the negotiations. The chair notes in his second reference paper that Members have not yet "secured a serious preparedness to go into this detailed discussion", and challenges negotiators to decide whether they are really willing to do so.

Following the suspension of the negotiations in July 2006, all work on the review and clarification of Green Box criteria was put on hold, and no substantial technical level discussions took place during the suspension. Following the resumption of talks, it arguably remains unlikely that significant progress will be made on the issue in the absence of the political momentum generated by movement on the other parts of the negotiations which governments consider to be high priority.

Trade sources indicate that, by the end of the negotiations in July, consensus had emerged around some of the most politically charged areas: in particular, on the need for the inclusion of language requiring Members to notify “fixed and unchanging” base periods, and on language reflecting the specific needs of developing countries (such as in the proposed new subparagraph on ‘general services’). However, specific details on the latter still needed to be resolved, and some Members still felt that developing country proposals (such as those under paragraph 7 and 8) were still too imprecise for agreement to be reached. Some Members, such as Canada, had decided to focus on what they considered to be the priority paragraphs - 5, 6, 7 and 8 - rather than on the full range of proposals they had tabled on later paragraphs as well.
6. **SPECIFIC GREEN BOX MEASURES AND THEIR EFFECTS ON SUSTAINABLE DEVELOPMENT**

6.1 Paragraph 2. General services

This provision covers a range of different government services, such as research, pest and disease control, training services, extension and advisory services, inspection services, marketing and promotion services and infrastructural services.

Developing countries have proposed that a new sub-paragraph 2(h) be established under the existing category of general services payments, to enable developing countries to cover payments linked to settlement, land reform and any programme related to food and livelihood security in developing countries. In addition to the original proposal on this from the G-20xxxviii, alternative language has been presented by the African Groupxxxix and the USxl. The US proposal would have removed references to “any other programmes related to food and livelihood security and rural development, in developing country Members” from the original G-20 text. However, the proposals in this area are believed to have received broad support in the negotiations.

6.2 Paragraph 3. Public stockholding for food security purposes

This provision covers payments made in order to accumulate and hold stocks of products as part of a government-run food security programme.

The changes to the language on public stockholding for food security purposes would mean that developing countries would no longer be required to account for such purchases as part of the ‘aggregate measure of support’ (AMS). This would mean that these purchases would no longer count as part of the total support levels which, in the negotiations, developing countries would have to reduce. The Africa Groupxlii and G-20xliii have submitted proposals on this, the former simply eliminating the current requirement that such purchases be accounted for in the AMS, and the latter explicitly stating that developing countries’ foodstuff acquisitions which have the objective of supporting low-income or resource-poor producers should be exempted. Some Members are believed to have expressed concern about the scope of this proposal, and queried whether this change might in fact allow trade-distorting support to be permitted.

6.3 Paragraph 4. Domestic food aid

This provision covers payments which are made in order to provide domestic food aid to sections of the population in need. It covers, for example, the $33bn which the US spends on food stamp programmes.

One study notes that the US food stamp programmes are important in addressing domestic poverty (ActionAid et al, 200). The authors nonetheless argue that the “vast majority” of the remainder of US Green Box support “serves the interests of commercial farmers and agribusiness, and promotes dumping”.

Negotiators have proposed changes to this provision which are intended to make it easier for developing countries to procure foodstuffs at subsidised prices from low-income or resource-poor farmers in order to fight hunger and rural poverty. Under a G-20 proposalxliii, such purchases would be included for exemption in the Green Box. Again, some Members are believed to have expressed concern about the scope of this proposal, although, in his first reference paper, the chair emphasises some of the inherent contradictions between the language on domestic food aid in the current paragraph 4.

6.4 Paragraph 5. Direct payments to producers

This provision underscores that direct payments must meet the fundamental requirement for
Green Box payments set out in paragraph 1, as well as meeting specific criteria for the different individual types of direct payment set out in paragraphs 6 to 13 - decoupled income support payments, income insurance and safety net programmes, natural disaster relief payments, producer retirement programmes, resource retirement programmes, investment aids, environmental programmes and regional assistance programmes.

The provision also specifies that 'existing or new' types of direct payment other than those set out in paragraphs 6 to 13 must meet four of the five criteria for decoupled income support payments (paragraph 6). The four requirements specify that the amount of payments must not be related to the type or volume of production in any year after the base period; nor must it be related to domestic or international prices after the base period; nor must it be related to factors of production employed after the base period; and no production shall be required in order to receive these payments. However, these 'existing or new' types of direct payment do not explicitly have to conform to the requirement for eligibility to be determined by "clearly-defined criteria such as income, status as a producer or landowner, factor use or production level in a defined and fixed base period".

The G-20 proposal from June 2005 argues that programmes covered by paragraphs 1 to 4 of the Green Box "have been generally found to be non- or minimally trade-distorting", but claims that direct payments under paragraphs 5 to 13 "have been found to influence trade and production" and therefore cannot be characterized as conforming to the 'fundamental requirement' spelt out in paragraph 1. Citing studies by the OECD and World Bank, the proposal emphasises that, out of all the Green Box direct payments, supposedly 'decoupled' income support programmes in fact distort trade the most.

Further notifications would then include "regular and periodic information on how the programmes under this provision achieve the stated objectives". The chair notes in his first reference paper that Members appear to be demonstrating "openness to the direction" of this proposal, although some have suggested it may be more appropriately included under a section dealing with notification and surveillance more broadly.

G-20 language which would require that direct payments not be linked to production levels, including input levels therein, has been more controversial, with other Members expressing opposition to the idea. The World Bank (De Gorter et al, 2003) has nonetheless described subsidies related to input use as having a 'large impact' on production and trade; similarly, Stuart and Fanjul (2005) note that "the Green Box subsidies with the most potential to distort production are those that apply to inputs".

Canada and the US have also tabled text-based proposals on the Green Box paragraph which deals with direct payments to producers.

6.5 Paragraph 6. Decoupled income support

This provision covers decoupled income support criteria which conform to certain criteria.

The criteria specify that the amount of payments must not be related to the type or volume of production in any year after the base period; it must not be related to domestic or international prices after the base period; it must not be related to factors of production employed after the base period; and no production shall be required in order to receive these payments. Furthermore, eligibility for these payments must be determined by "clearly-defined criteria such as income, status as a producer or landowner, factor use or production level in a defined and fixed base period".

A study by Oxfam notes that, while the EU is in theory meant to have moved to decoupled support, arrangements at a Member State
level allow for some flexibility: for example, only partial decoupling has in reality taken place in France\footnote{lviii}. Another study by several development agencies\footnote{lxx} identifies decoupled income support payments and, in the EU, investment aid, as having a particularly serious impact on trade.

The G-20 submission argues that decoupled programmes distort trade due to a number of different factors. Firstly, the large amount of subsidies being shifted into the Green Box is likely to distort trade and affect production because it allows for "effective cross-subsidisation of production through its effects on farmers' ability to cover fixed and/or variable costs; redistributes income with changes in market prices; isolates the farmer from market signals and reduces risks, etc".

### 6.5.1 Negative production requirements

The G-20 proposal draws attention to the problem of "incomplete decoupling": the exclusion of certain crops for determining eligibility to receive decoupled payments, and coupled support payments implemented in combination with Green Box direct payments on the same product, which interact in a manner that acts as an incentive for production. The first of these was one of the main issues at stake in the Brazil-US cotton dispute, and was found to be incompatible with WTO rules by the panel.

Under the 1996 US FAIR Act, producers may choose to plant any crop except fruits and vegetables - or not to plant at all, although land must be maintained "in agricultural use" (Baffes and de Gorter, 2003). Some have therefore suggested that other US 'decoupled' payments are liable to be challenged on the same grounds as their cotton subsidies. EU subsidies may also be at risk on this basis, as, following the 2003 reform of the CAP, farmers receiving the Single Farm Payment are "forbidden to shift production to potatoes, fruit, or vegetables" (Stuart and Fanjul, 2005).

### 6.5.2 Updating base periods

Decoupled income support payments may also have a trade-distorting effect due to the way they are administered. For example, by regularly updating the 'base periods' which are used as the reference point for payments to producers, governments may have encouraged farmers to take certain production decisions in anticipation of future updates and payments. This arguably re-establishes a link between production decisions and payments, even for ostensibly 'decoupled' payments.

Even though the G-20 and Canadian proposals target in particular US legislation that permit this kind of base period updating, research by the US Department of Agriculture's Economic Research Service also concludes that "direct payments are more decoupled than marketing loans and counter-cyclical payments, but may influence production through wealth and investment effects. Provisions for updating base acreage and program yields may also influence current production choices if farmers expect future legislation to provide opportunities to update these items for their farms" (Westcott, Young and Price, 2002).

The G-20 and Canadian 2005 submissions on the Green Box therefore propose introducing the notion of 'fixed and unchanging' base periods for areas, yields and animal numbers to address this problem, as does the April 2006 proposal from the African Group.

Switzerland and other Members raised concerns that the proposed changes could conceivably mean that they might never again be able to revise their base period figures, even long in the future when the original programme may have become irrelevant. In response to these objections, Canada slightly shifted its position to propose that new base periods could be allowed for new subsidy programmes, if it could clearly be shown that these were different from their predecessors. This would allow governments to restructure their subsidy programmes as needed.
Some Members have further raised concerns that introducing this new language under paragraphs 11 and 13 may not be appropriate. These provisions address structural adjustment assistance through investment aids, and payments under regional assistance programmes, respectively.

In his first reference paper, the Chair nonetheless notes that there is among Members “a general openness to trying to find a way to move to make the basic concept of ‘fixed and unchanging’ base periods operationally effective”.

6.5.3 Requirement for factors of production to be ‘in agricultural use’

The G20 has also put forward concrete proposals on other aspects of the existing language on decoupled income support. The group has argued that to qualify for inclusion in the green box, subsidies to farmers who have stopped agricultural production on their land should also not involve the agricultural use of land, labour or any other factor of production. They have proposed language stating that “land, labour or any other factor of production shall not be required to be in ‘agricultural use’” in order for farmers to receive payments. However, the EU and others complained that this could prevent subsidised farmers from performing minimal tasks to take care of the land. The G-20 later clarified that their proposal would certainly allow for minimal usage of the factors of production necessary to avoid environmental degradation.

The G-20 also put forward proposals to constrain some of the eligibility criteria for decoupled income support payments, and to transform the indicative list of such payments into a closed list. These proposals have been resisted. More controversial still has been a G-20 proposal to add a new sub-paragraph 6(f) which would stipulate that such payments should not be made along with Amber Box or Blue Box support if the total value of support exceeds a certain percentage of the annual value of production of a given product.

6.6 Paragraph 7. Income insurance / income safety-net programmes

This provision covers requirements for government financial participation in income insurance and income safety-net programmes. Amongst other things, it sets out the conditions for producers to be considered eligible for payments under these programmes, and the maximum amount of compensation.

A number of Members had made proposals to modify the criteria in this area, including the G-20, Canada and the US. Some of these proposals (those providing some greater degree of flexibility to developing countries) have already been referred to above. Canada and the US both proposed extending the existing base period from three to five years, on the basis that this would enable governments better to take account of market conditions. Some Members suggested that it was also not possible to meet the current requirements.

In his second reference paper, the chair noted that “these suggestions are in a certain sense dangling - no strong disagreement on the specifics, but one has the sense that that is as much as anything reflective of a more generalized / non-specific reluctance to make any changes”.

6.7 Paragraph 8. Natural disaster relief

This provision covers payments for relief from natural disasters, and includes both direct payments and those made by way of government financial participation in crop insurance schemes. It includes requirements on eligibility for such payments, and maximum permitted compensation, along with other conditions.

Specific proposals on natural disaster relief were made by the G-20, the African Group, Canada and the US, amongst others. In addition to proposals to specifically address developing country concerns, Canada and the US put forward a new sub-paragraph which would have allowed payments to be made in the event of the destruction of animals or crops to
control or prevent pests and diseases. The draft language would have permitted such payments even when the production loss was less than 30 per cent of the value of production, the usual minimum threshold for payments to be permitted under the Green Box.

As in the case of the proposals on income insurance and income safety programmes, the chair noted no strong disagreement, but a generalised reluctance to make changes in this area.

6.8 Paragraph 9. Producer retirement programmes

This provision covers structural adjustment assistance provided through producer retirement programmes. It sets out eligibility requirements, and stipulates that payments must be conditional on the “total and permanent retirement of the recipients from marketable agricultural production”.

The ‘Draft Possible Modalities on Agriculture” (JOB(06)/199) does not include any specific proposals on this provision. However, a May 2005 submission from Canada would have included a requirement to the effect that “payments shall be time limited”. A subsequent submission, from March 2006, did not include this language. The stated rationale for the proposed change was to ensure that “payments are used to retire producers and not provide on-going support”.

6.9 Paragraph 10. Resource retirement programmes

This provision covers structural adjustment assistance provided through resource retirement programmes.

Again, the ‘Draft Possible Modalities on Agriculture” (JOB(06)/199) does not include any specific proposals on this provision. Canada had previously submitted language which would have required such proposals to be time limited, but then subsequently omitted this language from later submissions.

The OECD notes that, in the EU, “the set-aside provision is quite effective in limiting the cultivated crop area at the individual farm level and so also at member State and EU level”. Simulation results suggest that the set-aside provision increases the degree of effective decoupling of EU area payments (OECD, 2006).

6.10 Paragraph 11. Investment aids

This provision covers structural adjustment assistance provided through investment aids. It includes eligibility requirements relating to the existence of ‘objectively demonstrated structural disadvantages’, prohibitions on relating such payments to the type or volume of production after the base period (as well as to prices relating to this production), and other requirements and conditions.

As noted above, a 2005 study by several development agencies identifies investment aid in the EU as having a particularly serious impact on trade, along with decoupled income support payments.

Another 2005 study by several development agencies also claims that investment aid reduces current expenses, increases productivity and thus reduces the cost of production, by enabling farmers to buy more modern and efficient equipment. It notes that, while WTO rules require this aid only to be available to structurally disadvantaged farms, no mention of this criterion is made in the relevant EU regulation; instead, farms applying for this assistance have to prove that they can be commercially successful.

Arguably, payments provided under this category could play an important role in contributing to the ‘wealth effects’ which the OECD identify as having a role in distorting production decisions and therefore also trade.

In the current negotiations, Canada and the G-20 have both proposed language aimed at modifying this paragraph. The G-20 proposals are aimed primarily at ensuring that developing countries are able to make effective use of this type of aid, as well as at requiring that base periods must be fixed and unchanging. The
Canadian proposals include language stipulating that "such structural disadvantages must be clearly defined", as well as again addressing the issue of base periods\textsuperscript{lxii}.

6.11 Paragraph 12. Environmental programmes

This provision covers payments under environmental programmes, and includes eligibility requirements as limitations on the amount of payment that may be provided.

Two specific proposals were made on the Green Box criteria for environmental programmes, one by the African Group\textsuperscript{lxiii} and one by Canada\textsuperscript{lxiv}. On 30 May, the chair noted that Members had yet to discuss either of these proposals.

The existing text of the relevant provision, paragraph 12 of Annex 2 of the Agreement on Agriculture (i.e. the Green Box), reads as follows:

\begin{itemize}
  \item[(a)] Eligibility for such payments shall be determined as part of a clearly-defined government environmental or conservation programme and be dependent on the fulfilment of specific conditions under the government programme, including conditions related to production methods or inputs.
  \item[(b)] The amount of payment shall be limited to the extra costs or loss of income involved in complying with the government programme.
\end{itemize}

The African Group proposal would have added a new subparagraph 12(c), exempting developing countries from the criteria for payments under environmental programmes.

\begin{itemize}
  \item[(c)] The conditions spelt out in paragraphs 12 (a) and (b) above shall not apply to payments made by developing country Members.
\end{itemize}

The Canadian proposal would have modified the existing subparagraph (b), eliminating the reference to compensation for the "loss of income" incurred in complying with the government programme, and restricting such compensation only to "the extra costs" of compliance. It also added a requirement that payments under environmental programmes be not "related to or based on the volume of production":

\begin{itemize}
  \item[(b)] The amount of payment shall be limited to the extra costs or loss of income involved in complying with the government programme and not be related to or based on the volume of production.
\end{itemize}

The chair’s second reference paper notes that there is opposition to the Canadian proposal from some other Members, who consider that complying with environmental programmes may entail extra costs as well as the loss of income.

The Canadian proposal would appear to be aimed at preventing governments from simply replacing loss of income (for example, from reduced Amber Box subsidy payments) with payments for environmental purposes. It also seeks to ensure that there are no links between environmental payments and production, in order to minimise any trade-distorting effects.

Canada had also made a proposal in May 2005 which was later dropped from their later submission of March 2006. No reference to this proposed change appears in the Draft Possible Modalities on Agriculture (JOB(06)/199). Canada had proposed that a phrase in paragraph 12 (a) be deleted:

\begin{itemize}
  \item[(a)] Eligibility for such payments shall be determined as part of a clearly-defined government environmental or conservation programme and be dependent on the fulfilment of specific conditions under the government programme, including conditions related to production methods or inputs.
\end{itemize}

The stated rationale for the change was that this would address the potential that programs may be linked to the use of specific inputs. The fact that it was not included in the Draft Possible Modalities, nor in the March 2006 proposal,
suggests that Canada is no longer advocating this change.

6.12 Paragraph 13. Regional assistance programmes

This provision covers payments under regional assistance programmes, and includes eligibility requirements, prohibitions on linking payments to the type or volume of production after the base period, or to the prices of this production, and other requirements and conditions.

Proposals on the criteria for regional assistance programmes have been submitted by the G-20\(^{lxv}\), US\(^{lxvi}\), African Group\(^{lxvii}\) and Canada\(^{lxviii}\). The first three sponsors all put forward language which would exempt developing countries from the requirement that ‘disadvantaged regions’ must constitute a clearly designated contiguous geographical area with a definable economic and administrative identity. The chair notes that there "seems to be no specific disagreement" on this proposal.

6.13. Flexibility for developing countries that have not previously used certain subsidy programmes

As well as seeking to discipline perceived abuse of the Green Box by developed countries, developing countries have sought to modify the criteria for these sorts of subsidies to ensure that they better reflect developing country needs. The G-20\(^{lxix}\) and African Group\(^{lxx}\) have therefore proposed that developing countries be exempt from certain notification requirements which would otherwise apply to Members.

In his second reference paper, the chair notes that many developing countries do not have access to income data at the farm household level. A number of proposals therefore seek to adapt the criteria of specific Green Box provisions in this light\(^{lxxi}\). Under existing rules, direct payments for income insurance and compensation for natural disasters qualify for the Green Box only after losses cross a certain threshold percentage of farm income or production value. The proposed amendments would establish different eligibility criteria for developing countries, allowing them to assess income losses over the agricultural sector as a whole rather than for individual farms.

The G-20 has also proposed changes which would allow developing countries to define certain relevant criteria at the national level, in their own legislation and regulations\(^{lxxii}\).
7. LITIGATION

In the absence of progress in the negotiations (or indeed even if some progress is being made), Members may be interested in the possibility of using the WTO dispute settlement system in order to advance policy objectives or to be awarded compensation.

Under article 13 of the Agreement on Agriculture (the ‘peace clause’), Members agreed that:

“During the implementation period, notwithstanding the provisions of GATT 1994 and the Agreement on Subsidies and Countervailing Measures (referred to in this Article as the “Subsidies Agreement”):

(a) domestic support measures that conform fully to the provisions of Annex 2 to this Agreement shall be:

(i) non-actionable subsidies for purposes of countervailing duties;

(ii) exempt from actions based on Article XVI of GATT 1994 and Part III of the Subsidies Agreement; and

(iii) exempt from actions based on non-violation nullification or impairment of the benefits of tariff concessions accruing to another Member under Article II of GATT 1994, in the sense of paragraph 1(b) of Article XXIII of GATT 1994;”

The implementation period ended at the end of 2003, and the peace clause therefore expired at this time (Steinberg and Josling, 2003).

The classification of subsidies as Green Box measures can be challenged, as well as their legality under the Agreement on Subsidies and Countervailing Measures (the SCM Agreement). It was for the former reason that the WTO Appellate Body upheld Brazil’s dispute settlement challenge.

The Appellate Body decision upheld the Panel’s finding that both the US’s ‘production flexibility contracts’ and its direct payments were related to the type of production undertaken after the base period, and were therefore not correctly classified as Green Box measures under paragraph 6(b) of the Annex 2 of the Agreement on Agriculture. The Appellate Body therefore determined that Article 13(a)(ii) did not exempt these measures from actions under Article XVI of GATT 1994 and Part III of the SCM Agreement.

Oxfam furthermore argues in a 2005 paper that “the principle impact of the Peace Clause... was to protect subsidising WTO Members from adverse effects claims under Part III of the WTO Agreement on Subsidies and Countervailing Measures as long as their 1992 level of domestic support remained above their present level of domestic support”. Before, during and after the peace clause, WTO Members were thus allowed to provide actionable subsidies (those not prohibited under Part II of the SCM Agreement).

Oxfam thus notes that Brazil was able to challenge US cotton subsidies before the Peace Clause expired because the level of US cotton subsidisation was far higher in 2002 than it was in 1992. Now that the Peace Clause has expired, actionable subsidies, whatever their amount or their classification under the Agreement on Agriculture, “are liable for challenge if they cause adverse effects as set out in Articles 5 and 6 of the WTO Agreement on Subsidies and Countervailing Measures”.

WTO Members often view litigation as the last resort, and indeed may go to considerable lengths to avoid reaching this stage. However, the dispute settlement system can serve as a pressure point, enabling Members to achieve their desired objectives. While the dispute settlement system is formally completely separate from the negotiations, disputes - and the conclusions of panels - can in fact give leverage to Members in the negotiations.
8. CONCLUSION

Green Box spending now represents a large and increasingly important share of WTO Members’ spending on domestic support. Furthermore, it is likely to become ever more significant in coming years. WTO Members need therefore to look seriously at the design of their policies in this area, so as to ensure that social and environmental objectives at both the national and international level are being effectively promoted through the payments which they notify in the Green Box category.

Significant steps have already been taken to reform the structure of the global subsidy regime, and, in particular, to reduce spending on the most trade-distorting forms of support. This shift away from the most damaging kinds of payments should continue. However, there is also a need to ensure that these subsidies are not simply being replaced by others which in reality have similar effects.

The inequitable distributional structure of farm payments in the EU and US is an important part of the problem. When direct payments to farms in developed countries are based on historical entitlements, they remain skewed towards the biggest and most productive farms, rather than being oriented around legitimate social and environmental objectives. Current WTO requirements in the Green Box on decoupled income support at the moment make no mention of the objectives that would justify why such support is provided.

WTO Members need also to bear in mind the evidence which suggests that the sheer volume of subsidies provided may have risk/insurance effects on production - even if such support is provided through relatively decoupled policies.

Furthermore, there is a need for WTO Members to give due consideration for developing country demands for the Green Box to take into account their particular developmental requirements as well. The needs and characteristics of developing countries are often very different from those of developed countries - a fact which is clearly reflected in developing countries’ recent proposals. There is a need to ensure that the Agreement on Agriculture continues to reflect the evolving needs of developing country governments, as well as those of developed countries.

The mandates for the review and clarification of the Green Box criteria provide an important opportunity for negotiators from both developed and developing countries to ensure that subsidies in this category have a genuine positive impact on sustainable development - on social and environmental objectives in both rich and poor countries. The suspension of the round may even provide delegates with more time to research, to discuss and to prepare positions on this issue, on the basis of empirical evidence. However, there is a risk that, once consensus has been reached on the most contentious issues around the scope and extent of tariff and subsidy cuts, pressure will be brought to bear to ensure that the round is a brought to a rapid conclusion - possibly to the detriment of issues which have not been fully discussed, such as the Green Box criteria.

Given that many Members continue to have significant concerns in this area, it is likely however that - even if the round can be concluded quickly - negotiators will insist on the inclusion of a review clause on Green Box criteria as part of a ‘built-in agenda’ of subsequent negotiations. The Uruguay Round agreements included a number of clauses of this sort: it is therefore conceivable that negotiations on this issue will continue in the coming years, irrespective of whether the current round is concluded quickly or not.
Endnotes

i  WTO Agreement on Agriculture, Annex 2, paragraph 1

ii  Green Box subsidies are set out in Annex 2 of the WTO Agreement on Agriculture.


iv  Agreement on Agriculture, Article 13

v  DS267. See http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds267_e.htm

vi  TN/AG/S/10 gives the latest data at 8 Nov 2004, noting that for the 2003 WTO notification year only 8
Green Box notifications had been submitted, and for 2002, only 22. For the EU, US and Japan, the most
recent notifications cover spending in 2001 (the US), 2003 (Japan), and 2003/04 (the EU).

vii  Effectively a guaranteed minimum price, so called because it represents the collateral value of a crop
- determined by the government - against which producers can secure a loan. If the market price falls
below the loan rate, the government takes the crop in repayment for the loan (Watkins, 2003).

viii  See Appendix 1 of this document for further details.

ix  WT/L/579, para. 16: "The improved obligations for monitoring and surveillance of all new disciplines
foreshadowed in paragraph 48 below will be particularly important with respect to the Green Box."

x  At March 2007 exchange rates

xi  WT/MIN(05)/DEC, paragraph 5

xii  G-20 proposal on domestic support, 12 October 2005:

xiii  "Making Hong-Kong a Success: Europe’s Contribution". 28 October 2005:

xiv  US Proposal for WTO Agriculture Negotiations, 10 October 2005:
http://www.agtradepolicy.org/output/resource/USTR_proposal_10Oct06.doc

xv  G-10 Positions on Domestic Support, 25 January 2006:

xvi  US Proposal for WTO Agriculture Negotiations, 10 October 2005

xvii  * Figures based on WTO notifications: 2001 for EU and US, and 2000 for Japan

** Maximum permitted level at the end of the Doha Round implementation period. Overall base for
reduction of Overall Trade Distorting Domestic Support (OTDS) = _ + _1 + _2 + _3, where:

_ = Uruguay Round final bound total AMS, 2000; _ = Permitted de minimis: 5% of 1995-2000 average
Value of Production (VOP), where _1represents product-specific support and _2 represents non-product-
specific support; _ = Blue Box base 5% VOP 1995-2000 (or actual Blue Box payments 1995-2000).

xviii  G/AG/NG/W/14, sponsored by Cuba, Dominican Republic, Honduras, Pakistan, Haiti, Nicaragua, Kenya,
Uganda, Zimbabwe, Sri Lanka and El Salvador.

xix  AMS refers to the ‘Aggregate Measure of Support’, used to calculate reduction obligations for Members’
most trade-distorting subsidies.

xx  Payments based on area planted, animal numbers, historical entitlements, and payments based on farm
income or targeted to other objectives.

xxi  G/AG/N/ECC/53. See Appendix 1, Table 4 for further detail.

xxii  G/AG/N/USA/51. See Appendix 1, Table 5 for further detail.

xxiii  G/AG/N/JPN/124. See Appendix 1, Table 6 for further detail.

xxiv  Projected spending once the 2003 CAP reforms have been implemented, assuming that payments other
than decoupled income support remain constant (in line with EU budget forecasts), taking account
of partial decoupling of area payments in France, and assuming a 50 percent estimate for livestock
payments for many countries (which the authors consider to be a conservative estimate).

xxv  See, for example: Antón Lopez, OECD 2000; Baffes and De Gorter, World Bank/Cornell University 2003;
De Gorter, Ingco and Ignacio, World Bank 2003; FAO Trade Policy Technical Briefing Note no. 5; ActionAid
et al, 2005; OECD, 2006
Payments often tend to confer benefits on other actors, such as input producers. Where farms are rented by the farmer, benefits may be transferred to the owner (for example by increasing the value of the land).

Informal ‘non-papers’ on the Green Box were submitted by Argentina; a number of Caricom countries; Cyprus; a developing country group composed of Cuba, Dominican Republic, El Salvador, Honduras, Kenya, Mauritius; Nicaragua, Pakistan, Sri Lanka and Zimbabwe; the EU; Japan; and Namibia. A formal proposal, G/AG/NG/W/14, was also submitted by Cuba, Dominican Republic, Honduras, Pakistan, Haiti, Nicaragua, Kenya, Uganda, Zimbabwe, Sri Lanka and El Salvador.

WT/L/79, paragraph 16.

Agreement on Agriculture, Annex 2, paragraph 1: "Domestic support measures for which exemption from the reduction commitments is claimed shall meet the fundamental requirement that they have no, or at most minimal, trade-distorting effects or effects on production."

Chair’s reference paper on the Green Box, 12 April 2006: http://www.wto.org/english/tratop_e/agric_e/ref_paper_greenbox_e.pdf

Chair’s revised reference paper on the Green Box, 30 May 2006: http://www.wto.org/english/tratop_e/agric_e/ref_paper_greenbox_r1_e.pdf

See, for example: G-20 submission JOB(06)/14: http://www.agtradepolicy.org/output/resource/G20_comments_greenbox_16May06.pdf


"A round for free: how rich countries are getting a free ride on agricultural subsidies at the WTO". By L. Stuart and G. Fanjul, Oxfam International, 2005.


“Truth or Consequences: Why the EU and the USA must reform their subsidies, or pay the price”. By Liz Stuart, Oxfam International, November 2005

For the purposes of paragraphs 3 and 4 of this Annex, the provision of foodstuffs at subsidized prices with the objective of meeting food requirements of urban and rural poor in developing countries on a regular basis at reasonable prices shall be considered to be in conformity with the provisions of this paragraph.
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APPENDIX 1: DATA ON US, EU AND JAPANESE GREEN BOX SPENDING

Table 4: EU notifications\textsuperscript{xxiv} for Green Box domestic support spending, marketing year 2001/2002, 2002/2003 and 2003/2004:

<table>
<thead>
<tr>
<th>Type of measure</th>
<th>2001/2002 Monetary value (Million €)</th>
<th>2002/2003 Monetary value (Million €)</th>
<th>2003/2004 Monetary value (Million €)</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Services</td>
<td>5,636.3</td>
<td>5,229.4</td>
<td>5,016.1</td>
</tr>
<tr>
<td>Research</td>
<td>704.4</td>
<td>714.1</td>
<td>822.3</td>
</tr>
<tr>
<td>Pest and disease control</td>
<td>1,723.5</td>
<td>1,982.5</td>
<td>1,371.9</td>
</tr>
<tr>
<td>Training services</td>
<td>147.7</td>
<td>183.0</td>
<td>188.6</td>
</tr>
<tr>
<td>Extension and advisory services</td>
<td>231.1</td>
<td>195.2</td>
<td>245.5</td>
</tr>
<tr>
<td>Inspection services</td>
<td>225.6</td>
<td>382.8</td>
<td>357.7</td>
</tr>
<tr>
<td>Marketing and promotion services</td>
<td>1,298.7</td>
<td>1,162.1</td>
<td>1,174.9</td>
</tr>
<tr>
<td>Infrastructural services</td>
<td>1,141.3</td>
<td>553.1</td>
<td>732.6</td>
</tr>
<tr>
<td>Other farm services</td>
<td>164.1</td>
<td>56.6</td>
<td>122.6</td>
</tr>
<tr>
<td>Public stockholding for food security purposes</td>
<td>18.1</td>
<td>23.6</td>
<td>55.1</td>
</tr>
<tr>
<td>Domestic food aid</td>
<td>242.8</td>
<td>578.2</td>
<td>306.6</td>
</tr>
<tr>
<td>Decoupled income support</td>
<td>165.9</td>
<td>1.8</td>
<td>8.7</td>
</tr>
<tr>
<td>Income insurance and income safety-net programmes</td>
<td>10.7</td>
<td>0.4</td>
<td>8.9</td>
</tr>
<tr>
<td>Payments for relief from natural disasters</td>
<td>398.8</td>
<td>811.1</td>
<td>705.5</td>
</tr>
<tr>
<td>Structural adjustment assistance provided through producer retirement programmes</td>
<td>802.4</td>
<td>848.6</td>
<td>814.2</td>
</tr>
<tr>
<td>Structural adjustment assistance provided through resource retirement programmes</td>
<td>91.5</td>
<td>109.8</td>
<td>123.0</td>
</tr>
<tr>
<td>Structural adjustment assistance provided through investment aids</td>
<td>5,355.2</td>
<td>5,264.9</td>
<td>6,821.7</td>
</tr>
<tr>
<td>Environmental programmes</td>
<td>5,519.0</td>
<td>5,010.4</td>
<td>5,233.8</td>
</tr>
<tr>
<td>Regional assistance programmes</td>
<td>2,420.4</td>
<td>2,826.1</td>
<td>2,980.4</td>
</tr>
<tr>
<td>Total</td>
<td>20,661.2</td>
<td>20,404.3</td>
<td>22,074.1</td>
</tr>
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</table>
Table 5: US notification\textsuperscript{1} for Green Box domestic support spending, marketing year 2001:

<table>
<thead>
<tr>
<th>Type of measure</th>
<th>Outlay, 2001 (Million US$)</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Services</td>
<td>9,214</td>
</tr>
<tr>
<td>Public stockholding for food security purposes</td>
<td>0</td>
</tr>
<tr>
<td>Domestic food aid</td>
<td>33,916</td>
</tr>
<tr>
<td>Decoupled income support</td>
<td>4,100</td>
</tr>
<tr>
<td>Income insurance and income safety-net programmes</td>
<td>0</td>
</tr>
<tr>
<td>Payments for relief from natural disasters</td>
<td>1,421</td>
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<tr>
<td>Structural adjustment assistance provided through producer retirement programmes</td>
<td>0</td>
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<tr>
<td>Structural adjustment assistance provided through resource retirement programmes</td>
<td>1,624</td>
</tr>
<tr>
<td>Structural adjustment assistance provided through investment aids</td>
<td>106</td>
</tr>
<tr>
<td>Environmental programmes</td>
<td>291</td>
</tr>
<tr>
<td>Regional assistance programmes</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>50,672</td>
</tr>
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</table>

Table 6: Japanese notification\textsuperscript{2} for Green Box domestic support spending, fiscal year 2002 and 2003:

<table>
<thead>
<tr>
<th>Type of measure</th>
<th>Fiscal year 2002 Monetary value (Billion Yen)</th>
<th>Fiscal year 2003 Monetary value (Billion Yen)</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Services</td>
<td>1,743.3</td>
<td>1,603.6</td>
</tr>
<tr>
<td>Public stockholding for food security purposes</td>
<td>36.3</td>
<td>31.9</td>
</tr>
<tr>
<td>Domestic food aid</td>
<td>4.8</td>
<td>2.5</td>
</tr>
<tr>
<td>Decoupled income support</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Income insurance and income safety-net programmes</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Payments for relief from natural disasters</td>
<td>53.6</td>
<td>48.3</td>
</tr>
<tr>
<td>Structural adjustment assistance provided through producer retirement programmes</td>
<td>162.7</td>
<td>158.1</td>
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<tr>
<td>Structural adjustment assistance provided through resource retirement programmes</td>
<td>0.1</td>
<td>0</td>
</tr>
<tr>
<td>Structural adjustment assistance provided through investment aids</td>
<td>31.2</td>
<td>23.5</td>
</tr>
<tr>
<td>Environmental programmes</td>
<td>210.2</td>
<td>195.4</td>
</tr>
<tr>
<td>Regional assistance programmes</td>
<td>33.0</td>
<td>23.0</td>
</tr>
<tr>
<td>Total</td>
<td>2,275.2</td>
<td>2,086.3</td>
</tr>
</tbody>
</table>
APPENDIX 2: TEXT OF WTO AGREEMENT ON AGRICULTURE,
ANNEX 2 (THE ‘GREEN BOX’)

Domestic Support: The Basis for Exemption from
the Reduction Commitments

1. Domestic support measures for which exemption from the reduction commitments is claimed
shall meet the fundamental requirement that they have no, or at most minimal, trade-distorting
effects or effects on production. Accordingly, all measures for which exemption is claimed shall
conform to the following basic criteria:

   (a) the support in question shall be provided through a publicly-funded government programme
       (including government revenue foregone) not involving transfers from consumers; and,

   (b) the support in question shall not have the effect of providing price support to producers;
       plus policy-specific criteria and conditions as set out below.

Government Service Programmes

2. General services

   Policies in this category involve expenditures (or revenue foregone) in relation to programmes
   which provide services or benefits to agriculture or the rural community. They shall not involve
direct payments to producers or processors. Such programmes, which include but are not
restricted to the following list, shall meet the general criteria in paragraph 1 above and policy-
specific conditions where set out below:

   (a) research, including general research, research in connection with environmental
       programmes, and research programmes relating to particular products;

   (b) pest and disease control, including general and product-specific pest and disease control
       measures, such as early-warning systems, quarantine and eradication;

   (c) training services, including both general and specialist training facilities;

   (d) extension and advisory services, including the provision of means to facilitate the transfer
       of information and the results of research to producers and consumers;

   (e) inspection services, including general inspection services and the inspection of particular
       products for health, safety, grading or standardization purposes;

   (f) marketing and promotion services, including market information, advice and promotion
       relating to particular products but excluding expenditure for unspecified purposes that
       could be used by sellers to reduce their selling price or confer a direct economic benefit to
       purchasers; and

   (g) infrastructural services, including: electricity reticulation, roads and other means of
       transport, market and port facilities, water supply facilities, dams and drainage schemes,
       and infrastructural works associated with environmental programmes. In all cases the
       expenditure shall be directed to the provision or construction of capital works only, and
       shall exclude the subsidized provision of on-farm facilities other than for the reticulation
       of generally available public utilities. It shall not include subsidies to inputs or operating
       costs, or preferential user charges.
3. Public stockholding for food security purposes

Expenditures (or revenue foregone) in relation to the accumulation and holding of stocks of products which form an integral part of a food security programme identified in national legislation. This may include government aid to private storage of products as part of such a programme.

The volume and accumulation of such stocks shall correspond to predetermined targets related solely to food security. The process of stock accumulation and disposal shall be financially transparent. Food purchases by the government shall be made at current market prices and sales from food security stocks shall be made at no less than the current domestic market price for the product and quality in question.

4. Domestic food aid

Expenditures (or revenue foregone) in relation to the provision of domestic food aid to sections of the population in need.

Eligibility to receive the food aid shall be subject to clearly-defined criteria related to nutritional objectives. Such aid shall be in the form of direct provision of food to those concerned or the provision of means to allow eligible recipients to buy food either at market or at subsidized prices. Food purchases by the government shall be made at current market prices and the financing and administration of the aid shall be transparent.

5. Direct payments to producers

Support provided through direct payments (or revenue foregone, including payments in kind) to producers for which exemption from reduction commitments is claimed shall meet the basic criteria set out in paragraph 1 above, plus specific criteria applying to individual types of direct payment as set out in paragraphs 6 through 13 below. Where exemption from reduction is claimed for any existing or new type of direct payment other than those specified in paragraphs 6 through 13, it shall conform to criteria (b) through (e) in paragraph 6, in addition to the general criteria set out in paragraph 1.

6. Decoupled income support

(a) Eligibility for such payments shall be determined by clearly-defined criteria such as income, status as a producer or landowner, factor use or production level in a defined and fixed base period.

(b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production (including livestock units) undertaken by the producer in any year after the base period.

(c) The amount of such payments in any given year shall not be related to, or based on, the prices, domestic or international, applying to any production undertaken in any year after the base period.

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

(e) No production shall be required in order to receive such payments.
7. 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. 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.

   (c) The amount of any such payments shall relate solely to income; 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.

   (d) Where a producer receives in the same year payments under this paragraph and under paragraph 8 (relief from natural disasters), the total of such payments shall be less than 100 per cent of the producer’s total loss.

8. 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 a formal recognition by government authorities that a natural or like disaster (including disease outbreaks, pest infestations, nuclear accidents, and war on the territory of the Member concerned) has occurred or is occurring; and shall be determined by a production loss which exceeds 30 per cent of the average of production 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.

   (b) Payments made following a disaster 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 in question.

   (c) Payments shall compensate for not more than the total cost of replacing such losses and shall not require or specify the type or quantity of future production.

   (d) Payments made during a disaster shall not exceed the level required to prevent or alleviate further loss as defined in criterion (b) above.

   (e) Where a producer receives in the same year payments under this paragraph and under paragraph 7 (income insurance and income safety-net programmes), the total of such payments shall be less than 100 per cent of the producer’s total loss.

9. Structural adjustment assistance provided through producer retirement programmes
   (a) Eligibility for such payments shall be determined by reference to clearly defined criteria in programmes designed to facilitate the retirement of persons engaged in marketable agricultural production, or their movement to non-agricultural activities.

   (b) Payments shall be conditional upon the total and permanent retirement of the recipients from marketable agricultural production.
10. Structural adjustment assistance provided through resource retirement programmes
   (a) Eligibility for such payments shall be determined by reference to clearly defined criteria in programmes designed to remove land or other resources, including livestock, from marketable agricultural production.
   (b) Payments shall be conditional upon the retirement of land from marketable agricultural production for a minimum of three years, and in the case of livestock on its slaughter or definitive permanent disposal.
   (c) Payments shall not require or specify any alternative use for such land or other resources which involves the production of marketable agricultural products.
   (d) Payments shall not be related to either the type or quantity of production or to the prices, domestic or international, applying to production undertaken using the land or other resources remaining in production.

11. Structural adjustment assistance provided through investment aids
   (a) Eligibility for such payments shall be determined by reference to clearly-defined criteria in government programmes designed to assist the financial or physical restructuring of a producer’s operations in response to objectively demonstrated structural disadvantages. Eligibility for such programmes may also be based on a clearly-defined government programme for the reprivatization of agricultural land.
   (b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production (including livestock units) undertaken by the producer in any year after the base period other than as provided for under criterion (e) below.
   (c) The amount of such payments in any given year shall not be related to, or based on, the prices, domestic or international, applying to any production undertaken in any year after the base period.
   (d) The payments shall be given only for the period of time necessary for the realization of the investment in respect of which they are provided.
   (e) The payments shall not mandate or in any way designate the agricultural products to be produced by the recipients except to require them not to produce a particular product.
   (f) The payments shall be limited to the amount required to compensate for the structural disadvantage.

12. Payments under environmental programmes
   (a) Eligibility for such payments shall be determined as part of a clearly-defined government environmental or conservation 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.

13. Payments under regional assistance programmes
   (a) Eligibility for such payments shall be limited to producers in disadvantaged regions. Each such region must be a clearly designated contiguous geographical area with a definable economic and administrative identity, considered as disadvantaged on the basis of neutral and objective criteria clearly spelt out in law or regulation and indicating that the region’s difficulties arise out of more than temporary circumstances.
(b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production (including livestock units) undertaken by the producer in any year after the base period other than to reduce that production.

(c) The amount of such payments in any given year shall not be related to, or based on, the prices, domestic or international, applying to any production undertaken in any year after the base period.

(d) Payments shall be available only to producers in eligible regions, but generally available to all producers within such regions.

(e) Where related to production factors, payments shall be made at a degressive rate above a threshold level of the factor concerned.

(f) The payments shall be limited to the extra costs or loss of income involved in undertaking agricultural production in the prescribed area.
APPENDIX 3: TEXT OF ANNEX H OF THE ‘DRAFT POSSIBLE MODALITIES ON AGRICULTURE’ (JOB(06)/199) – PROPOSED CHANGES TO THE GREEN BOX

Agreement on Agriculture: Annex 2

Running list of proposed changes to paragraphs 2 through 13

Government Service Programmes

General services (paragraph 2)

(i) Add the following subparagraph (h), including a footnote, to the existing paragraph 2:

(h) agrarian, land and institutional reform[, and any other programmes related to food and livelihood security and rural development, in developing country Members,] including services related to such [reform and other] programmes.¹

Text of footnote 1: Such reform and other programmes include, inter alia, settlement programmes, issuance of property titles, employment assurance, [provision of infrastructure,] nutritional security, poverty alleviation, soil conservation and resource management, and drought management and flood control.

(ii) Add the following subparagraph (h) to the existing paragraph 2:

(h) services relating to agrarian, land and institutional reform, food and livelihood security and rural development, including issuance of property titles, employment assurance, nutritional security, poverty alleviation, soil conservation and resource management, and drought management and flood control.

(iii) Add the following subparagraph (h) to the existing paragraph 2:

(h) Policies and services related to farmer settlement, land reform and the redress of historical land ownership structures in developing country Members. These services may include the provision of infrastructure, land rehabilitation, soil conservation and food security programmes to promote rural development and poverty alleviation.

Public stockholding for food security purposes⁵ (paragraph 3)

(i) Modify the existing footnote 5 as follows:

For the purposes of paragraph 3 of this Annex, governmental stockholding programmes for food security purposes in developing countries whose operation is transparent and conducted in accordance with officially published objective criteria or guidelines shall be considered to be in conformity with the provisions of this paragraph, including programmes under which stocks of foodstuffs for food security purposes are acquired and released at administered prices, provided that the difference between the acquisition price and the external reference price is accounted for in the AMS.

(ii) Add text at the end of the existing footnote 5:

... However, acquisition of stocks of foodstuffs by developing country Members with the objective of supporting low-income or resource-poor producers shall not be required to be accounted for in the AMS.
Domestic food aid\(^6\) (paragraph 4)

(i) Modify the existing footnote \(5^6\) as follows:

\(^{56}\) For the purposes of paragraphs 3 and 4 of this Annex, the acquisition of foodstuffs at subsidized prices when procured generally from low-income or resource-poor producers in developing country Members with the objective of fighting hunger and rural poverty, as well as the provision of foodstuffs at subsidized prices with the objective of meeting food requirements of urban and rural poor in developing countries on a regular basis at reasonable prices shall be considered to be in conformity with the provisions of this paragraph.

Direct payments to producers (paragraph 5)

(i) Add text at the end of the first sentence and modify the second sentence of the existing paragraph 5 as follows:

Support provided through direct payments (or revenue foregone, including payments in kind) to producers for which exemption from reduction commitments is claimed shall meet the basic criteria set out in paragraph 1 above, plus specific criteria applying to individual types of direct payment as set out in paragraphs 6 through 13 below. Direct payments shall not be linked to production levels, including input levels therein. When Members make such payments, they shall notify the base period and all other relevant criteria, as well the laws, regulations, and administrative decisions of such programmes made under this provision. Further notifications under paragraph 5(a) shall include regular and periodic information on how the programmes under this provision achieve the stated objectives.

(b) Where exemption from reduction is claimed for any existing or new type of direct payment other than those specified in paragraphs 6 through 13, it shall conform to criteria (b) through (e) in paragraph 6, in addition to the general criteria set out in paragraph 1.

(ii) Modify the existing paragraph 5 as follows.

Support provided through direct payments (or revenue foregone, including payments in kind) to producers for which exemption from reduction commitments is claimed shall meet the basic criteria set out in paragraph 1 above, plus specific criteria applying to individual types of direct payment as set out in paragraphs 6 through 13 below. Where exemption from reduction is claimed for any existing or new type of direct payment other than those specified in paragraphs 6 through 13, it shall conform to criteria (b) through (e) in paragraph 6, in addition to the general criteria set out in paragraph 1.

(iii) Add text at the end of the existing paragraph:

... On-going payments shall be based on activities in a defined, fixed and unchanging historical base period.

(iv) Add subparagraph (c) and modify the existing paragraph 5 as follows:

(a) Support provided through direct payments (or revenue foregone, including payments in kind) to producers for which exemption from reduction commitments is claimed shall meet the basic criteria set out in paragraph 1 above, plus specific criteria applying to individual types of direct payment as set out in paragraphs 6 through 13 below.

(b) Where exemption from reduction is claimed for any existing or new type of direct payment other than those specified in paragraphs 6 through 13, it shall conform to criteria (b) through (e) in paragraph 6, in addition to the general criteria set out in paragraph 1.

(c) Transparency and Reporting (to be developed)
Decoupled income support (paragraph 6)

(i) Modify the existing subparagraphs (a) and (e) and add a subparagraph (f) as follows:

(a) Eligibility for such payments shall be determined by clearly-defined criteria such as low levels of income, status as a producer or landowner, factor use or production landholding and production level in a notified, defined and fixed and unchanging base period. Developing country Members who have not previously made use of this type of payment, and thus have not notified, shall not be precluded from establishing an appropriate base period, which shall be fixed and unchanging and shall be notified.

(e) Land, labour, or any other factor of production shall not be required to be in "agricultural use" and no production shall be required in order to receive payments.

(f) Such payments shall not be made in conjunction with AMS support and support under Article 6.5, if the sum of such support, as appropriate, exceeds X per cent of the annual value of production of a given product.

Text of footnote 7: Developing country Members may not have the capacity to fully assess the impact of innovation in their agricultural policies. Accordingly, the base period of a time-limited experimental or pilot programme may not be taken as the fixed and unchanging base period for the purposes of this paragraph.

Note 8: This is without prejudice to the final outcome of the negotiations of the amendment of Article 6.5.

(ii) Modify the existing subparagraph (a) as follows:

(a) Eligibility for such payments shall be determined by clearly-defined criteria such as income, status as a producer or landowner, factor use or production level in a defined and fixed and unchanging historical base period.

Government financial participation in income insurance and income safety-net programmes (paragraph 7)

(i) Modify subparagraphs (a) and (b) as follows:

(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 a developing country Member, in accordance with specific criteria which shall be defined in national legislation. Any producer meeting this condition shall be eligible to receive the payments.

Text of footnote 9: Includes administrative orders and regulations made by the designated competent authorities.

(b) The amount of such payments shall compensate only up to less than 70 per cent of the producer’s income loss in the year the producer becomes eligible to receive this assistance. In the case of a developing country Member, compensation shall only be up to a certain proportion of the producer’s income which shall be defined in national legislation.

Text of footnote 10: Includes administrative orders and regulations made by the designated competent authorities.
(ii) Add two footnotes to the existing subparagraphs (a) and (b):

(a) Eligibility for such payments shall be determined by an income loss\(^1\), 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. Any producer meeting this condition shall be eligible to receive the payments.

Text of the footnote 1: **Developing country Members may determine the income loss on an aggregate basis of the agriculture sector as a whole (i.e. not on an individual basis) at either a national or regional level.**

(b) The amount of such payments shall compensate for less than 70 per cent of the producer’s income loss\(^2\) in the year the producer becomes eligible to receive this assistance.

Text of footnote 2: **If developing country Members have based the eligibility criteria in 7(a) above on an aggregate basis of the agriculture sector as a whole, the total amount of payments shall compensate for less than 70 per cent of the aggregate income loss of the agriculture sector as a whole.**

(iii) Modify the existing subparagraphs (a) and (b) as follows:

(a) Eligibility for such payments shall be determined by an income loss of the farm enterprise as a whole, taking into account only income derived from agriculture, which exceeds 30 per cent of the reference income, which is average gross income or the equivalent in net income terms (excluding any payments from the same or similar schemes) in the preceding three-\(^\text{five}\)-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 compensate for less than 70 per cent of the producer’s income loss in the year the producer becomes eligible to receive this assistance raise the producer’s income to no more than 70 per cent of the producer’s reference income.

(iv) Modify the existing subparagraphs (a), (b) and (c) as follows:

(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 the reference income, which is average gross income or the equivalent in net income terms (excluding any payments from the same or similar schemes) in the preceding three-\(^\text{five}\)-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 in the year the producer is eligible to receive this assistance, raise the producer’s income to no more than 70 per cent of the producer’s reference income. compensate for less than 70 per cent of the producer’s income loss in the year the producer becomes eligible to receive this assistance.

(c) The amount of any such payments shall relate solely to income derived from agriculture of the farm enterprises’ 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.
(v) Modify the existing subparagraphs (a) and (b) as follows:

(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 the reference income, which is average gross income or the equivalent in net income terms (excluding any payments from the same or similar schemes) in the preceding three minimum 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 directly or indirectly from the government.

(b) The amount of such payments, directly or indirectly from the government, shall, 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 contribute only up to 70 per cent of the producer's reference income.

Payments (made either directly or by way of government financial participation in crop insurance schemes) for relief from natural disasters (paragraph 8)

(i) Modify subparagraphs (a) and (b) as follows:

(a) Eligibility for such payments shall arise only following a formal recognition by government authorities that a natural disaster or like disaster (including disease outbreaks, pest infestations, nuclear accidents, and war on territory of the Member concerned) has occurred or is occurring; and shall be determined by a production loss which exceeds 30 per cent of the average of production 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 a developing country Member, in accordance with specific criteria which shall be defined in national legislation11.

Text of footnote 11: Includes administrative orders and regulations made by the designated competent authorities.

(b) Payments made following a disaster shall be applied only in respect of losses of income, crop, livestock (including payments in connection with the veterinary treatment of animals), land or other production factors due to the natural disaster or other disaster in question.

(ii) Add a footnote to the existing subparagraph (a):

(a) Eligibility for such payments shall arise only following a formal recognition by government authorities that a natural disaster or like disaster (including disease outbreaks, pest infestations, nuclear accidents, and war on territory of the Member concerned) has occurred or is occurring; and shall be determined by a production loss3 which exceeds 30 per cent of the average of production 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.

Text of footnote 3: Developing country Members may determine the production loss of the affected sector(s) or region(s) on an aggregate basis.

(iii) Modify subparagraph (a) as follows:

(a) Eligibility for such payments shall arise only following a formal recognition by government authorities that a natural disaster or like disaster (including disease outbreaks, pest infestations, nuclear accidents, and war on territory of the Member concerned) has occurred or is occurring; and shall be determined by a production loss which exceeds 30 per cent of the average of production 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.
In the case of developing country Members, payments for relief from natural disasters may be provided to producers when the estimated production loss is less than 30 per cent of the average of production in the preceding three-year period or a three-year average based on the preceding five-year period.

(iv) Add to the existing subparagraph (a) and modify the existing subparagraph (b) as follows:

(a) Eligibility for such payments shall arise:

(i) In the case of direct payments related to disasters only following a formal recognition by government authorities that a natural or like disaster (including disease outbreaks, pest infestations, nuclear accidents, and war on the territory of the Member concerned) has occurred or is occurring; and shall be determined by a production loss which exceeds 30 per cent of the average of production in the preceding three-five-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry.

(ii) In the case of government financial participation in crop or production insurance schemes, eligibility for such payments shall be determined by a production loss which exceeds 30 per cent of the average of production in a period demonstrated to be actuarially appropriate.

(iii) In the case of the destruction of animals or crops to control or prevent pests, diseases, disease-carrying organisms or disease-causing organisms 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 following a disaster shall be applied only in respect of losses of income, crops, livestock (including payments in connection with the veterinary treatment of animals), land or other production factors due to the natural disaster in question.

(v) Add to the existing subparagraph (a) and modify the existing subparagraphs (b) and (d) as follows:

(a) Eligibility for such payments shall arise:

(i) In the case of direct payments related to disasters Eligibility for such payments shall arise only following a formal recognition by government authorities that a natural or like disaster (including disease outbreaks, pest infestations, nuclear accidents, and war on the territory of the Member concerned) has occurred or is occurring; and shall be determined by a production loss which exceeds 30 per cent of the average of production in the preceding three-five-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry.

(ii) 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.

(iii) In the case of the destruction of animals or crops to control or prevent diseases named in 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 following a disaster 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 or destruction of animals or crops due to the natural disaster in question.
(d) Payments made during a disaster under Paragraph 8 shall not exceed the level required to prevent or alleviate further loss as defined in criterion (b) above.

(vi) Add to the existing subparagraph (a) and modify the existing subparagraphs (b) and (d) as follows:

(a) Eligibility for such payments shall arise:

(i) In the case of direct payments, eligibility shall arise, only following a formal recognition by government authorities that a natural or like disaster (including disease outbreaks, pest infestations, nuclear accidents, and war on the territory of the Member concerned) has occurred or is occurring; and shall be determined by a production loss which exceeds 30 per cent of the average of production in the preceding minimum five-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry.

(ii) In the case of government financial participation in production insurance schemes, eligibility shall be determined by a production loss which exceeds 30 per cent of the average of production in a period that is actuarially appropriate.

(iii) Where payments under this paragraph are made in respect of the destruction of animals or crops to control or prevent a disease identified by an appropriate authority, may arise when the production loss is less than the 30 per cent of the average of production referred to in paragraph 8(a)(i) or 8(a)(ii), as applicable.

(b) Payments made under this paragraph following a disaster 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 this paragraph during a disaster shall not exceed the level required to prevent or alleviate further loss as defined in criterion (b) above.

**Structural adjustment assistance provided through investment aids (paragraph 11)**

(i) Modify the existing subparagraph (b) as follows:

(b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production (including livestock units) undertaken by the producer in any year after a fixed and unchanging base period, other than as provided for under criterion (e) below. Developing country Members who have not previously [made use of this type of payment, and thus have not notified] [notified the usage of this type of payment], shall not be precluded from establishing an appropriate base period [12, which shall be fixed and unchanging and shall be notified].

Text of footnote 12: Developing country Members may not have the capacity to fully assess the impact of innovation in their agricultural policies. Accordingly, the base period of a time-limited experimental or pilot programme may not be taken as the fixed and unchanging base period for the purposes of this paragraph.

(ii) Add at the end of subparagraph (a) and modify the existing subparagraph (b) as follows:

(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, [the use of factors of production,] or inputs into the production (including livestock units) undertaken by the producer in any year after a fixed and unchanging
**historical** the base period, other than as provided for under criterion (e) below. The base period shall be notified.

**Payments under environmental programmes (paragraph 12)**

(i) Add the following subparagraph (c) to the existing paragraph 12:

(c) The conditions spelt out in paragraphs 12 (a) and (b) above shall not apply to payments made by developing country Members.

(ii) Modify the existing subparagraph (b) as follows:

(b) The amount of payment shall be limited to the extra costs or loss of income involved in complying with the government programme and not be related to or based on the volume of production.

**Payments under regional assistance programmes (paragraph 13)**

(i) Add text at the end of subparagraph (a) and modify the existing subparagraph (b) as follows:

(a) 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.

(b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production (including livestock units) undertaken by the producer in any year after the fixed and unchanging historical base period, which shall be notified, other than to reduce that production. Developing country Members who have not previously made use of this type of payment, and thus have not notified, shall not be precluded from establishing an appropriate base period, which shall be fixed and unchanging and shall be notified.

Text of footnote 13: Developing country Members may not have the capacity to fully assess the impact of innovation in their agricultural policies. Accordingly, the base period of a time-limited experimental or pilot programme may not be taken as the fixed and unchanging base period for the purposes of this paragraph.

(ii) Add text at the end of subparagraph (a) and modify the existing subparagraphs (b) and (f) as follows:

(a) Developing country Members will be exempt from the condition that the disadvantaged region be a clearly designated contiguous geographical area with a definable economic and administrative identity.

(b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production (including livestock units) undertaken by the producer in any year after the fixed and unchanging historical base period, which shall be notified, other than to reduce that production. Developing country Members should not be precluded from utilizing this kind of payment in the future in the event that no base period was notified. An appropriate base period which shall be fixed and unchanging and shall be established and notified.

(f) The payments shall be limited to the extra costs or loss of income involved in undertaking agricultural production (including livestock production) in the prescribed area.
(iii) Add text at the end of the existing subparagraph (a) as follows:

(a) …  *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.*

(iv) Modify the existing subparagraph (b) as follows:

(b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production (including livestock units) undertaken by the producer in any year after the *fixed and unchanging historical* base period, *which shall be notified*, other than to reduce that production.
APPENDIX 4: ORIGINS OF TEXT-BASED PROPOSALS ON THE GREEN BOX

Draft Possible Modalities on Agriculture (JOB(06)/199), Annex H
http://www.agtradepolicy.org/output/resource/ag_modalities_22june06.doc

General Services (paragraph 2)
(i)  G-20; US (minus the language in square brackets)
(ii)  Language emerging from informal consultations
(iii)  African Group

Public Stockholding for food security purposes (paragraph 3)
(i)  African Group
(ii)  G-20

Domestic food aid (paragraph 4)
(i)  G-20

Direct payments to producers (paragraph 5)
(i)  G-20
(ii)  Canada (May 2005 and March 2006)
(iii)  Canada (September 2002)
(iv)  US

Decoupled income support (paragraph 6)
(i)  G-20
(ii)  Canada (September 2002)

Government financial participation in income insurance and income safety-net programmes (paragraph 7)
(i)  G-20
(ii)  Language emerging from informal consultations
(iii)  Canada (March 2006)
(iv)  Canada (May 2005)
(v)  US

Payments (made either directly or by way of government financial participation in crop insurance schemes) for relief from natural disaster (paragraph 8)
(i)  G-20
(ii)  Language emerging from informal consultations
(iii)  African Group
(iv)  Canada (March 2006)
(v)  Language emerging from informal consultations
(vi)  US

Structural adjustment assistance provided through investment assistance (paragraph 11)
(i)  G-20; African Group
(ii)  Text without square brackets is from Canada May 2005. Text with square brackets is from Canada March 2006.
Payments under environmental programmes (paragraph 12)
   (i) African Group
   (ii) Canada (March 2006)

Payments under regional assistance programmes (paragraph 13)
   (i) G-20
   (ii) African Group
   (iii) US
   (iv) Canada ((March 2006 and May 2005)