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The reform of the EU’s Common Agricultural Policy

By Alan Swinbank

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AGRICULTURAL SUBSIDIES IN THE WTO GREEN BOX: AN OVERVIEW OF UPCOMING ISSUES FROM A SUSTAINABLE DEVELOPMENT VIEWPOINT

Montreux, 16-17 April 2007

SESSION 1: HOW MUCH IS IN THE BOX?
THE EXTENT AND FOCUS OF GREEN BOX SPENDING

The Reform of the EU’s CAP

Alan Swinbank

University of Reading

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Contact:
Professor Alan Swinbank
School of Agriculture, Policy and Development
University of Reading
Earley Gate, Whiteknights Road
Reading RG6 6AR
United Kingdom

A.Swinbank@reading.ac.uk
http://www.apd.rdg.ac.uk/AgEcon/staff/as.htm
Introduction

From its inception in the 1960s, through to the early 1990s, the European Union’s common agricultural policy (CAP) was little changed. The archetypal CAP tried to raise farm incomes through market price support mechanisms – involving variable import levies, intervention buying, export subsidies, etc. – as described in Harris, Swinbank and Wilkinson (1983). Milk quotas had been introduced in 1984, and the 1980s had been characterised by a struggle to retain budgetary control over CAP price support, culminating in the February 1988 agreement in the European Council to apply *agricultural stabilizers* (automatic price cuts if production exceeded specified thresholds) within a context of *budgetary discipline* (the growth in expenditure on market price support was not to exceed 74% of the growth in the EU’s GNP) (Commission, 1989: 15-16; Swinbank and Tanner, 1996: 86-88).

Structural policy was barely developed: in 1988 amounting to only 5.1% of budgeted spend on market price support for example (Commission, 1989: T/83).¹ For most Member States the purpose of ‘structural policy’ was to aid the modernisation of European agriculture, or to provide additional support in marginal areas. Paying farmers to produce (or manage) countryside was a relatively novel idea when in 1985 – largely on UK urging – Member States were authorised to grant EU subsidies to farmers in environmentally sensitive areas ‘in order to contribute towards the introduction or continued use of agricultural practices compatible with the requirements of conserving the natural habitat and ensuring an adequate income for farmers’ (Potter, 1998: 84, directly quoting the EU regulation).

Two decades later, the CAP is rather different. In the context of this paper, exploring the EU’s use of the WTO’s *green box*, there have been two changes. First there has been a significantly decoupling of the support designed to sustain farm incomes, and second there has been an attempt to switch support from agriculture to the wider rural economy and to protection and enhancement of the environment (the switch from the so-called Pillar 1 to Pillar 2, to use the EU’s jargon)². In the following sections we discuss each in turn.

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¹ Budget FEOGA ‘Guidance’ and ‘Guarantee’ expenditure respectively.
² Pillar 1 funds price and income support, whilst Pillar 2 is concerned with rural development.

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Much of the data reported comes from the EU’s periodic notifications of domestic support to the WTO Committee on Agriculture, in the document series G/AG/N/EEC/*. As can be seen from Table 1 the EU, in common with many other WTO Members, has been somewhat tardy in its submissions, particularly since the launch of the Doha Round in 2001.3

Table 1: The EU’s Domestic Subsidy Notifications to the WTO

<table>
<thead>
<tr>
<th>Period</th>
<th>Document G/AG/N/EEC/</th>
<th>Date submitted*</th>
</tr>
</thead>
<tbody>
<tr>
<td>1995/96</td>
<td>12</td>
<td>8 May 1998</td>
</tr>
<tr>
<td>1996/97</td>
<td>16</td>
<td>22 March 1999</td>
</tr>
<tr>
<td>1997/98</td>
<td>26</td>
<td>21 June 2000</td>
</tr>
<tr>
<td>1998/99</td>
<td>30</td>
<td>2 March 2001</td>
</tr>
<tr>
<td>1999/2000</td>
<td>38</td>
<td>9 June 2002</td>
</tr>
<tr>
<td>2000/01</td>
<td>49</td>
<td>1 April 2004</td>
</tr>
<tr>
<td>2001/02</td>
<td>51</td>
<td>4 November 2004</td>
</tr>
<tr>
<td>2002/03</td>
<td>53</td>
<td>8 December 2006</td>
</tr>
<tr>
<td>2003/04</td>
<td>53</td>
<td>8 December 2006</td>
</tr>
</tbody>
</table>

* Some submissions were subsequently updated/revised

Decoupling Support for European Farmers

Two major changes in supporting European farmers have taken place since the end of the 1980s. First, in 1992, the EU adopted the MacSharry Reforms (Swinbank and Tanner, 1996, chapter 5). This involved a reduction in the intervention prices for cereals and beef, and –to compensate farmers for the implied revenue loss– farmers became entitled to area payments on the land sown to cereals and set aside under the scheme, and a complex array of headage payments on the number of beef cattle kept. The area payment scheme also embraced oilseeds and certain other field crops, and the existing headage payments on sheep and goats were brought into the package.

Following the conclusion of the Uruguay Round, these area and headage payments were declared as blue box payments, as reflected in Figure 1. The policy change (with the emergence of blue box support) thus resulted in a reduction in amber box support, again as reflected in Figure 1: lower support prices for cereals and beef were reflected in a reduced level of amber box support for cereals and beef.

3 See the discussion about ‘overdue notifications’ in the WTO Committee on Agriculture at its October 2006 meeting (WTO, 2006: 6-7)

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The Agenda 2000 reforms, agreed in March 1999, continued this trend. Further cuts in support prices for cereals and beef were partially compensated by increases in area and headage payments. The EU also decided on a reform of the milk regime, to apply from 2005, which involved a cut in intervention prices and compensation payments to holders of milk quota: payments the EU claimed would also fall within the blue box (but see Swinbank, 1999: 402).

The second major change centres on the Fischler Reforms of 2003, which is not yet reflected in the data in Figure 1. It was recognised that the compensation payments introduced by the MacSharry reforms of 1992 had become entrenched as a permanent, or semi-permanent, form of income support (but, perversely, focussed on larger, rather than smaller, farm businesses), and as such could not be denied to farmers in the acceding states from central and eastern Europe. However, a much simpler, more decoupled scheme would be more appropriate in the new Member States: a simple area payment scheme not tied to crops grown or animals kept.
Furthermore, as the Doha Round of WTO trade negotiations had got underway, the blue box had been targeted as an anachronism that a number of the EU’s trading partners wished to see eliminated. Franz Fischler’s response was to press for a further decoupling of area and headage payments with the creation of the Single Payment Scheme (SPS). A farmer’s entitlement would be based upon his historic pattern of receipts of area and headage payments, but future payments would no longer be linked to crops grown or animals kept. However, the farmer would still have to have control of the appropriate area of farmland to draw down the annual subsidy payment, and this land would have to be kept in good agricultural or environmental condition with various cross-compliance conditions met (Swinbank and Daugbjerg, 2006).4

The 2003 decoupling package, which included the new dairy cow premium already decided in the Agenda 2000 reforms of 1999, was quickly expanded to include direct payments for cotton, tobacco, olive oil and hops in 2004; a compensation package for sugar beet and cane producers agreed in 2005; bananas; and reforms tabled for other products including fruit and vegetables. Thus the SPS has quickly become the dominant form of farm income support in the EU.

Franz Fischler’s original proposal was undoubtedly prompted by the WTO negotiations and the perceived need to reduce the EU’s reliance on blue box support (Cunha, 2004). The European Commission’s view is that the reforms push the bulk of blue box expenditure into the green box. In addition the sugar and milk reforms will have reduced amber box support on these commodities, whilst the offsetting compensation payments under the SPS will appear in the green box; and direct payments to cotton, olive oil, fruit and vegetables, etc., which previously was declared as amber box support will now switch to the green box provided the green box criteria can be met. Understandably, some of the EU’s critics view these developments as box shifting and want to know how decoupled these decoupled policies really are. They may even query the green box status of these policies: an issue to which we will return below.

4 However Member States were given the option of keeping some support linked to production, for example 25% of the arable area payment; and some other direct payments remained linked.

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The Switch from Pillar 1 to Pillar 2

Many analysts view the European Commission’s 1988 discussion document, *The Future of Rural Society*, as a key step in the reorientation of agricultural policy. It pointed out, for example, that although agriculture was once ‘rural society’s main source of income and employment’, this was no longer so. In 71% of the then EU’s regions, ‘fewer than one in 10 of all jobs are those of farmers or farmworkers’; and in only 10% of the EU’s regions did ‘agriculture account for more than 10% of the regional product’ (Commission of the European Communities, 1988: 17). Agricultural restructuring would continue, and rural society was in a state of flux: these considerations gave rise to the Commission’s ‘concern to avoid serious economic and social disruption and to preserve a European rural development model based on the promotion of family farms and on balanced regional planning’ (p. 67).

In 1992, as part of the package of CAP reforms known as the MacSharry reforms, the EU agreed an agri-environmental programme (Regulation 2078/92), and other ‘accompanying measures’ on forestry and early retirement, that obliged Member States to introduce a variety of schemes (Potter, 1998: 117). In 1999, in the Agenda 2000 reforms, these measures were repackaged as part of a new Rural Development Regulation, dubbed the Second Pillar of the CAP (Lowe, Buller and Ward, 2002: 4). That Regulation expired at the end of 2006, and was replaced by Regulation 1698/2005, covering the period 2007-2013.

During the latest debate over the renewal of the new rural development package, a key EU official said that it ‘should be centred on three core objectives:

*First:* It should contribute to increase the competitiveness of agriculture and forestry through support for restructuring, modernisation and quality production.

*Second:* It should help improve the environment through support for land management and remuneration of environmental services.

*Third:* It should contribute to enhance the quality of life in rural areas and to promote diversification of economic activities’ (Ahner, 2004: 6).

Quite what weight (and hence funding) should be given to each of these core objectives, or ‘thematic axes’, was the subject of considerably debate. Some Member States viewed axes 1 and 3 as their priority, whereas others majored on axis 2. The funding debate related not only to the overall size of the Rural Development pot (which in turn was influenced by the overall size of the EU budget for the period
2007-2013), but also to the distribution of funds between Member States (which had largely been dictated by historical precedent) and the balance of co-funding of projects between EU and Member State budgets.

Although it has long been the European Union’s stated intent to switch funding from Pillar 1 to Pillar 2,\(^5\) in the event the funding package agreed at the European Council meeting in December 2005 failed to deliver on this objective. The package is very complex. Broadly speaking it maintains the Pillar 1 budget in nominal terms, up-rated by no more than 1% per annum (the limit agreed at the December 2002 meeting of the European Council), which – with inflation at 2% per annum – results in a budget in 2013, for an EU of 27, some 7% less in real terms than the budget for 2006. The Pillar 2 budget, by contrast will be 14% less. Given that, in the twelve new Member States, Pillar 2 funding is relatively more important than it is in the old Member States (Poland has been allocated 15% of the funding compared to 7.3% in France for example) the much-canvassed switch from Pillar 1 to Pillar 2 support is not readily apparent.

As a result of the 2003 reform, Pillar 1 direct payments above €5k per farm are subject to a deduction at a marginal rate of 5% (‘modulation’) with the proceeds diverted to additional Pillar 2 support (with 80% or more retained in the Member State), but this too hardly redresses the imbalance between Pillar 1 and Pillar 2. The December 2005 meeting of the European Council did agree that Member States could apply a voluntary modulation rate of 20%, with the monies retained in the Member State concerned, but continuing disagreement between the European Parliament and the other EU institutions has meant that this provision has been delayed (with knock-on effects for example in the UK over the implementation of the UK’s Rural Development programmes from January 2007).

The EU’s Green Box Declarations

Table 2 summarises the EU’s green box declarations from 1995/96 to 2003/04, following the listing of Annex 2 of the *Agreement on Agriculture* (with fuller details

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\(^5\) For example, in a carefully worded article in the *Financial Times* in May 2001, Fischler (2001) claimed that ‘the EU still spends too much on production, while doing too little to preserve the environment and the farming landscape’, pointing out that only 10 percent of the CAP budget was devoted to rural development.
in the annex). It will be recalled that the SPS is not yet reflected in these declarations, and it should also be noted that the green box has a wider coverage than decoupled income supports (e.g. the Single Payment Scheme) and Pillar 2 expenditure discussed so far in his text. One of the largest items in the list, for example, is *General Services* which includes R&D, pest and disease control, marketing and promotion, and infrastructural services (e.g. drainage, irrigation, farm roads, etc.). Another big item is *Structural adjustment through investment aids*.

### Table 2: Annual Average of EU15’s Green Box Declarations, 1995/96 to 2003/04

<table>
<thead>
<tr>
<th>Green box measure</th>
<th>Annual average Million eur</th>
</tr>
</thead>
<tbody>
<tr>
<td>General services</td>
<td>5,485.0</td>
</tr>
<tr>
<td>Public stockholding for food security</td>
<td>17.3</td>
</tr>
<tr>
<td>Domestic food aid</td>
<td>292.9</td>
</tr>
<tr>
<td>Decoupled income support</td>
<td>270.6</td>
</tr>
<tr>
<td>Income insurance</td>
<td>2.8</td>
</tr>
<tr>
<td>Relief from natural disasters</td>
<td>431.8</td>
</tr>
<tr>
<td>Structural adjustment through producer retirement</td>
<td>712.1</td>
</tr>
<tr>
<td>Structural adjustment through resource retirement</td>
<td>467.7</td>
</tr>
<tr>
<td>Structural adjustment through investment aids</td>
<td>5,275.8</td>
</tr>
<tr>
<td>Environmental programmes</td>
<td>4,734.0</td>
</tr>
<tr>
<td>Regional assistance programmes</td>
<td>2,661.1</td>
</tr>
<tr>
<td>TOTAL green box:</td>
<td>20,351.0</td>
</tr>
<tr>
<td>Green box expenditure as a % of the value of agricultural production:</td>
<td>8.8%</td>
</tr>
</tbody>
</table>

Source: EU submissions to the WTO, as detailed in the Annex.

Over these nine years total EU spend on green box measures has remained reasonably stable at about €20.4 billion, whereas the spend on environmental programmes has doubled from €2.8 billion in 1995/96 to peak at €5.7 billion in 2000/01, subsequently falling back to €5.2 billion (ranging from 14.8 to 27.4% of green box expenditure). The resource retirement heading includes payments under the pre-1992 set-aside programme, whereas the 1992 programme payments are declared under the blue box. Payments in the less-favoured areas (LFAs), a controversial policy, both pre- and post- the Agenda 2000 reforms, are classified under regional assistance programmes.

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6 It is not entirely clear how the 9.2 billion eur green box spend in the base period (1986-88), as reported by the WTO Secretariat for EU12 (WTO, 2000a: 17) and shown in Figure 1, jumped to 18.8 billion for EU15 in 1995/96.
Note that these declarations cover expenditure incurred both by the EU’s budget, and the budgets of the Member States. Co-financing applies to the Rural Development Regulation. Thus attempts to relate data from the EU’s agri-environment reports to its WTO submissions are difficult. For example the European Commission (2005: 5) reports that EU budget spend on agri-environment measures was about €2 billion a year in the period 2000 to 2003, whereas the WTO declaration (detailed in the Annex to this paper) of total EU spend was over €5 billion in 2000/01 and 2001/02.

By 2002, two Member States (Luxembourg and Finland) had just about all their agricultural area enrolled in agri-environment schemes, and Sweden and Austria had over 80%. No other Member State had more than 40% (France). By contrast, the Netherlands and Greece had less than 5%. The EU15 average was about 15% (European Commission, 2005: 7). These widely divergent figures reflect different historical practice (Austria, Finland and Sweden being the 1995 entrants, with Austria providing the EU Commissioner for Agriculture and Rural Development from 1995 to 2004), topographical features, preferences, and budget allocations for rural development funding.

The concept of less-favoured areas (LFAs) was first incorporated into the CAP in 1975 to allow the newly acceded UK to continue to pay its hill livestock compensatory allowances, a long-standing feature of British farm policy to sustain agriculture in disadvantaged regions (Harris, Swinbank and Wilkinson, 1983: 224). By 1996, 55% of the EU15’s agricultural area was classified as LFA (Cardwell, 2004: 29) as vested interests captured the benefits of LFA status. For many years this included the possibility of paying headage payments, as originally secured by the UK. This system was heavily criticised, in part because it led to over-stocking and environmental degradation (Potter, 1998: 48). The 1999 Agenda 2000 reform swept the LFA regime into the new Rural Development Regulation, and abolished headage payments. Instead Member States are entitled to make area payments, on an expanded LFA base, to maintain farming in the LFAs. Stricter environmental constraints are applied, including an optional minimum stocking rate (Cardwell, 2004: 225-227). The Commission’s attempts to introduce further change to the LFA regime for the new Rural Development Regulation post-2006, in particular to reduce the area covered,
The WTO Compatibility of the EU’s Green Box Policies

The relevant paragraphs of Annex 2 of the URRAA are reproduced in Box 1. Green box policies have to meet ‘the fundamental requirement that they have no, or at most minimal, trade-distorting effect or effects on production’ (Paragraph 1). There is, however, no indication of how the word ‘minimal’ might be calibrated in this context. In *Upland Cotton*, the panel decided on grounds of ‘judicial economy’ that it need not rule on ‘Brazil’s claim that the United States measures at issue fail to conform with the “fundamental requirement” of paragraph 1’ (it had already decided that the US had infringed one of the policy-specific criteria of Paragraph 6). This was not appealed, and so the Appellate Body does not indicate how it might have ruled on this issue (WTO, 2005: 126, footnote 331).

**Box 1: Extracts from Annex 2 of the URRAA (the Green Box)**

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.
   
   ...

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.

...  

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.

Green box policies must be provided through ‘publicly-funded’ government programmes, and not programmes that push the burden of support onto consumers, and they must not ‘have the effect of providing price support to producers’. Annex 2 then goes on to list a series of ‘policy-specific criteria and conditions’, under the headings listed earlier in Table 1.

In Upland Cotton a question at issue was whether certain US payments could qualify as decoupled income support under Paragraph 6 of Annex 2. The panel (supported by the Appellate Body) determined that 6(b) had been infringed. This was not because the US legislation required production, but rather because it insisted that land used to grow fruit and vegetables could not be enrolled in the programme (see also Swinbank and Tranter, 2005). Whether this interpretation of Paragraph 6 was what all WTO Members thought they were agreeing to back in 1994 is a moot point. Furthermore, in rehearsing its arguments, the Appellate Body implied that each provision of Paragraph 6 had to be met in full:

Paragraph 6(a) sets forth that eligibility for payments under a decoupled income support program must be determined by reference to certain “clearly-defined criteria” in a “defined and fixed base period”. Paragraph 6(b) requires the severing of any link between the amount of payments under such a program and the type or volume of production undertaken by recipients of payments under that program in any year after the base period. Paragraphs 6(c) and 6(d) serve to require that payments are also decoupled from prices and factors of production employed after the base period. Paragraph 6(e) makes it clear that “[n]o
production shall be required in order to receive ... payments” under a decoupled income support program (WTO, 2005: 120-121).

As originally agreed in 2003, the SPS imposed a similar restriction on the planting of fruits and vegetables on eligible land, which raised questions about the green box compatibility of the new scheme. However, the Commission seems set to propose the abolition of this restriction in the ‘health check’ expected in 2007/08, and the reform of the fruit and vegetables regime. If this is accomplished, together with ‘full decoupling’ (the abolition of the remaining links with production), and the abolition of set-aside entitlements, as advocated by the Commissioner (Fischer Boel, 2007: 4), would this make the SPS safe?

Swinbank and Tranter (2005) suggest not: payments in any particular year are related to the land area at a farmer’s disposal in that year, in potential conflict with paragraph 6(d). The recipient has to be a farmer, the land has to be kept in good agricultural or environmental condition and various cross-compliance provisions apply, all of which reinforce the notion that the payment is ‘related to, or based on, the factors of production employed’ in the year of claim. In addition, the EU’s contention that the SPS involves a *decoupled* payment would not be enhanced in any Dispute Settlement proceedings by recent statements from senior members of the EU’s policy community suggesting that the payments do impact on production (see for example *Agra Europe*’s report on the European Parliament’s opposition to a 20% voluntary rate of modulation, because of fear of distortion of competition between the Member States; 9 March 2007: EP/1-2).

Similarly, if there were to be a WTO challenge to the green box status of any environmental programme declared under paragraph 12, the Appellate Body would expect each of the parts of paragraph 12 to be met explicitly. The criteria are that:

(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.

These are strict; and in its 2005 review of agri-environmental measures the European Commission more-or-less conceded that they are not met. The European
Commission (2005: 21) said that: ‘The calculation of premia is based on costs incurred and income foregone by the farmer for participating in the agri-environmental measure.’ So far, so good. But it went on: ‘In duly justified circumstances, an incentive payment of up to 20% may be paid.’ It is difficult to see how this additional 20% matched the criteria of Paragraph 12(b) (see also Cardwell, 2004: 360). However, the new Rural Development Regulation (1698/2005) has been crafted more carefully, presumably with a view to WTO considerations. Article 39(4) reads: ‘The payments shall be granted annually and shall cover additional costs and income foregone resulting from the commitment made. Where necessary, they may cover also transaction cost.’

Furthermore, the European Commission (2005: 22) noted: ‘Many Member States and regions have schemes covering a fairly large geographical area, and payment rates that do not vary. This has the advantage of simplicity and low administrative costs, but has the disadvantage of creating infra-marginal producer rents. … some evaluators raised the issue whether it could be more cost-effective, in certain circumstances, to differentiate payment levels, for instance through auctioning systems’.

As Potter and Burney (2002: 43) observe,

Advocates of more strictly decoupled payments often assume that it is a straightforward task to design environmental schemes which reward land managers for observable improvements in environmental quality. … In order for the Tinbergen principle of efficient policy design to be observed, these authors agree, each environmental attribute should be identified and addressed by a separate policy instrument. … In reality this first best approach is very hard to achieve, implying heavy transactions costs in terms of scheme design, monitoring and assessment…

Herein lies a dilemma. Paragraph 12 of Annex 2 could be read to imply a much more tightly defined regime: payments ‘dependent upon the fulfilment of specific conditions’ and ‘limited to the extra costs or loss of income involved’. But, the more site-specific the policy, the higher the administrative (transaction) costs; and

7 Article 24(1) of the then Rural Development Regulation (1257/99) read: ‘Support in respect of an agri-environmental commitment shall be granted annually and be calculated on the basis of:
– income foregone,
– additional costs resulting from the commitment given, and
– the need to provide an incentive’ (emphasis added).
8 I am grateful to Janet Dwyer for drawing this to my attention.

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governments understandably wish to reduce their costs, and the regulatory burden borne by their clients.

This potential difficulty of reconciling the practical reality of designing workable and cost-effective schemes with the strict legalise of WTO agreements is graphically illustrated by the contrast between broad-but-shallow approaches and more targeted, and geographically limited approaches. In the UK for example there is much support for a ‘basic tier of environmental resource payments … available to all land managers … carry[ing] some obligations to manage biodiversity and countryside character over and above the duty of care’, and a ‘higher tier of environmental payments, targeted at locations and features and designed to subsidise the active management and/or restoration of rural landscapes and their conservation resources’ (Potter and Burney, 2002: 42).

**An Expanded Green Box?**

So if the present green box is too narrow, should it be expanded? In the run-up to Seattle, after pointing out that ‘In Norway, ... agricultural producers face production costs far above the world average’, the Norwegian Government claimed that: ‘to the extent that public goods are joint products of the agricultural production, a combination of policy measures, including a certain degree of support coupled to the agricultural production, seems to be the most efficient way of ensuring the desired production level of public goods’ (WTO, 1999: paragraph 79). This suggests Norway was seeking a relaxation of the ‘fundamental requirement’ of Annex 2 that green box measures should have ‘no, or at most minimal, trade-distorting effects or effects on production’.

Despite its past advocacy of multifunctionality, the EU’s position was less clear-cut. In its ‘Comprehensive Negotiating Proposal’ of December 2000 the EU proposed ‘that the criteria to be met by measures that fall into the “green box” be revisited to ensure minimal trade distortion whilst at the same time ensuring appropriate coverage of measures which meet important societal goals such as the protection of the environment, the sustained vitality of rural areas and poverty alleviation, food security for developing countries and animal welfare’ (WTO, 2000b: 4). However no specific drafting amendments were submitted.
Subsequently, in its January 2003 submission, it suggested a specific drafting amending to Paragraph 12 of Annex 2, which would have enlarged that paragraph’s scope to include ‘animal welfare payments’, but otherwise would not relax the specific criteria contained therein (European Union, 2003: 12). On page 3 of its text the EU did refer to the ‘multifunctional concerns’ of developing countries, but this was the only use of the word multifunctional in the text. Thus, despite (or perhaps because of) the concerns of its trading partners in the late 1990s and early 2000s, the EU appeared to be eschewing the use of the term ‘multifunctionality’, and had no concrete proposals on the table to expand the scope of the green box (apart from the inclusion of animal welfare).

Although the EU was no longer proposing an expansion of the green box (apart from the inclusion of animal welfare payments), its international critics wish to see a tightening of its conditions. Specific concerns have been raised about the overall level of expenditure on green box support, and over the provisions of Paragraphs 5 and 6 (direct payments to producers, and decoupled income support), and Paragraph 7 (income insurance and income safety-net schemes) of Annex 2. Indeed at an early stage in the negotiations India proposed that Paragraphs 5, 6 and 7 should be excised from the green box (WTO, 2001: 13).

**Concluding Comments**

Since the launch of the Uruguay Round at Punta del Este in 1986, the CAP (and associated rural policies) has changed significantly. In part these changes have been shaped and conditioned by the GATT/WTO agenda. It is the view of this author that the MacSharry reforms of 1992 –in particular the partial decoupling of support for cereal and beef producers– was prompted by impasse in the Uruguay Round, although other analysts point to internal pressures. But with the MacSharry reforms agreed, and amendments to Dunkel’s draft text at Blair House, the EU was enabled to accept the URAA. The Fischler reform of 2003, and in particular the further decoupling of support with the creation of the SPS, was conditioned by the EU’s perception of the pressures it faced in the Doha Round. But whether the SPS will be accepted as a genuine green box scheme, either in the existing URAA or any successor agreement, remains an open question.
The green box is a curious beast. To many critics its provisions are too widely drawn, whereas others think it too prescriptive. The EU has used its provisions to shelter a large (€20 billion per annum) spend on farm support, broadly defined, but only a small proportion of this (23% over the period 1995/96 to 2003/04) has been spent on overtly agri-environmental measures (Paragraph 12) with a further 13% under regional assistance programmes (Paragraph 13), particularly support for farming in LFAs following the 1999 Agenda 2000 reforms. Over half the money (53%) has been devoted to General Services (Paragraph 2) and investment aids (paragraph 11).

In *Upland Cotton* the US discovered that it could be difficult to shelter decoupled income supports under the mantle of the green box, and the EU may yet find the same with its SPS payments. Furthermore many WTO Members wish to negotiate additional curbs on this element of the green box. By contrast, the provisions of Paragraph 12 (agri-environmental measures) seem to be tightly drawn, and it may even be that some of the existing EU spend on agri-environmental schemes is incorrectly declared to be legitimate green box expenditure. This is a particular problem with broad-but-shallow schemes. Curiously the EU has not proposed a relaxation of the rules, although its earlier rhetoric about multifunctionality suggested it would.

Of course the inability to declare particular expenditures under the green box would not in itself outlaw them in the WTO system. Instead, by default, they would become amber box measures subject to the *de minimis* clause and the reduction commitments on the Aggregate Measurement of Support. For the moment the EU has scope to include its limited expenditure on agri-environmental measures under either heading; but in aggregate the overall level, and structure, of domestic support looks vulnerable as the Doha Round draws to a close, and further WTO disputes are triggered.

At one stage it was suggested that CAP reform might lead to a ‘double dividend.’ The decoupling of support would reduce the pressure to farm land intensively, whilst the diversion of budget funds from price and income support would enable other policy initiatives to be mounted in the countryside. This has not

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9 The pre-1999 practice of declaring hill livestock compensatory allowances as green box measures under regional assistance programmes (paragraph 13 of the green box) was particularly dubious.
happened, although the MacSharry (1992) and Fischler (2003) reforms have resulted in a substantial (but not complete) decoupling of support, and a partial switch support from Pillar 1 (price and income support) to Pillar 2 (rural development).

References


European Union (2003), A Proposal for Modalities in the WTO Agriculture Negotiations. Specific Drafting Input: EC, paper for the WTO’s Committee on Agriculture, Special Session, JOB(03)/12


Harris, Simon, Alan Swinbank and Guy Wilkinson (1983), The Food and Farm, Policies of the European Community, John Wiley & Sons: Chichester


WTO (2000a), Committee on Agriculture Special Session, *Domestic Support. Background Paper by the Secretariat*, G/AG/NG/S/1, WTO: Geneva


### Annex: EU’s Green Box support, 1995/96 to 2003/04 million ecu/euro

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<tr>
<td>2. General Services</td>
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<tr>
<td>(a) Research</td>
<td>Sub-total</td>
<td>5,007.4</td>
<td>6,471.5</td>
<td>5,522.5</td>
<td>5,017.8</td>
<td>6,727.5</td>
<td>4,736.4</td>
<td>5,636.4</td>
<td>5,229.4</td>
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<td></td>
<td>Improvement of production potential through animal and plant selection and of production techniques through e.g. testing of machinery; development of experimental centres; pilot projects and demonstration projects; salaries of personnel.</td>
<td>91.6</td>
<td>416.9</td>
<td>671.5</td>
<td>1,206.9</td>
<td>1,355.7</td>
<td>1,385.4</td>
<td>704.4</td>
<td>714.1</td>
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<tr>
<td>(b) Pest and disease control</td>
<td>Plant and animal health control and protection; supply of vaccines; salaries of personnel; launching aid for livestock health protection groups.</td>
<td>498.1</td>
<td>1,761.3</td>
<td>1,865.9</td>
<td>1,128.0</td>
<td>1,137.5</td>
<td>726.2</td>
<td>1,723.5</td>
<td>1,982.5</td>
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<tr>
<td>(c) Training services</td>
<td>Establishment of agricultural training centres; grants for course attendance; salaries of advisors.</td>
<td>1,344.2</td>
<td>1,270.6</td>
<td>669.4</td>
<td>96.1</td>
<td>163.1</td>
<td>136.1</td>
<td>147.7</td>
<td>183.0</td>
</tr>
<tr>
<td>(d) Extension and advisory services</td>
<td>Establishment of inter-regional advisory centres; training and employment of advisors.</td>
<td>-</td>
<td>328.9</td>
<td>278.8</td>
<td>289.7</td>
<td>303.5</td>
<td>246.4</td>
<td>231.1</td>
<td>195.2</td>
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<tr>
<td>(e) Inspection services</td>
<td>Livestock inspection services; quality control; remunerating and training of inspectors.</td>
<td>132.9</td>
<td>186.9</td>
<td>188.6</td>
<td>198.8</td>
<td>326.1</td>
<td>233.8</td>
<td>225.6</td>
<td>382.8</td>
</tr>
<tr>
<td>(f) Marketing and promotion services</td>
<td>Aid to encourage establishment of producer groups and ease administrative overheads; schemes to improve marketing network, quality and presentation of produce; certification; protection of geographical indications.</td>
<td>462.2</td>
<td>604.0</td>
<td>761.9</td>
<td>1,094.4</td>
<td>1,071.9</td>
<td>1,023.2</td>
<td>1,298.7</td>
<td>1,162.1</td>
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<tr>
<td>(g) Infrastructural services</td>
<td>Arterial drainage; collective irrigation schemes; provision of electricity and water supply; farm roads; construction of reservoirs; flood protection</td>
<td>769.9</td>
<td>1,324.3</td>
<td>592.7</td>
<td>594.9</td>
<td>2,352.8</td>
<td>949.1</td>
<td>1,141.3</td>
<td>553.1</td>
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<tr>
<td>(h) Other farm services</td>
<td>Launching services for mutual aid,</td>
<td>1,708.5</td>
<td>578.6</td>
<td>493.7</td>
<td>409.0</td>
<td>16.9</td>
<td>36.2</td>
<td>164.1</td>
<td>56.6</td>
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<td>3. Public stockholding for food security purposes</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>19.1</td>
<td>20.0</td>
<td>19.4</td>
<td>18.1</td>
<td>23.6</td>
<td>55.1</td>
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<td>4. Domestic Food Aid</td>
<td>Distribution of agricultural products to deprived persons. School milk. Consumption aid for butter for those receiving social assistance. Subsidized butter for non-profit making organizations and armies.</td>
<td>288.5</td>
<td>400.2</td>
<td>295.1</td>
<td>275.7</td>
<td>277.8</td>
<td>270.8</td>
<td>242.8</td>
<td>278.2</td>
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<tr>
<td>6. Decoupled Income Support</td>
<td>Transitional aid to agricultural income. Agri-monetary aid</td>
<td>244.5</td>
<td>220.8</td>
<td>214.7</td>
<td>128.6</td>
<td>957.5</td>
<td>493.3</td>
<td>165.9</td>
<td>1.8</td>
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<tr>
<td>7. Income insurance and income-safety net programs</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>0.0</td>
<td>0.0</td>
<td>5.0</td>
<td>10.7</td>
<td>0.4</td>
<td>8.9</td>
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<tr>
<td>8. Payments for relief from natural disasters</td>
<td>Compensatory payments in respect of weather; restoration of agricultural production potential and natural disasters; replanting and conversion of frost-damaged olive groves.</td>
<td>328.8</td>
<td>375.5</td>
<td>327.7</td>
<td>182.6</td>
<td>365.5</td>
<td>390.6</td>
<td>398.8</td>
<td>811.1</td>
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<td>9. Structural Adjustment Assistance provided through Producer Retirement Programs</td>
<td>Compensation payments to farmers at least 55 years old leaving agriculture. Aid for early retirement from farming</td>
<td>210.0</td>
<td>948.4</td>
<td>620.4</td>
<td>708.5</td>
<td>793.1</td>
<td>663.1</td>
<td>802.4</td>
<td>848.6</td>
</tr>
<tr>
<td>10. Structural Adjustment Assistance provided through Resource Retirement Programs</td>
<td>Set-aside; at least 20% cultivated land to be left fallow, wooded or used for non-agricultural purposes; compensation for grubbing up, leaving or suspending production.</td>
<td>1,025.6</td>
<td>1,528.4</td>
<td>331.5</td>
<td>428.3</td>
<td>122.0</td>
<td>448.8</td>
<td>91.5</td>
<td>109.8</td>
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<td>11. Structural Adjustment Assistance provided through Investment Aids</td>
<td>Construction of processing, packaging and storage centres and equipment; land improvement (levelling, fencing, etc.). Aid for farm modernization granted through subsidies or equivalent interest concessions; purchase of</td>
<td>6,602.5</td>
<td>4,971.5</td>
<td>4,896.6</td>
<td>5,401.3</td>
<td>2,308.7</td>
<td>5,859.7</td>
<td>5,355.2</td>
<td>5,264.9</td>
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<td><strong>12. Environmental Programs</strong></td>
<td>machinery and equipment, animals, buildings and plantations etc. Aid for young farmers.</td>
<td>2,783.3</td>
<td>4,223.7</td>
<td>3,687.0</td>
<td>4,965.1</td>
<td>5,458.7</td>
<td>5,725.3</td>
<td>5,519.0</td>
<td>5,010.4</td>
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<td><strong>13. Regional Assistance Programs</strong></td>
<td>Protection of environment and preservation of the countryside, control of soil erosion, extensification, aid for environmentally sensitive areas; support and protection of organic production by creating conditions of fair competition; aid for forestry measures in agriculture; conservation of genetic resources in agriculture.</td>
<td>2,288.6</td>
<td>2,990.4</td>
<td>2,271.3</td>
<td>2,041.0</td>
<td>2,899.7</td>
<td>3,232.1</td>
<td>2,420.4</td>
<td>2,826.1</td>
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<tr>
<td><strong>TOTAL</strong></td>
<td>Value of agricultural production</td>
<td>18,779.2</td>
<td>22,130.3</td>
<td>19,166.8</td>
<td>19,168.0</td>
<td>19,930.5</td>
<td>21,844.5</td>
<td>20,661.2</td>
<td>20,404.3</td>
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<td>Green box expenditure as % of agricultural production</td>
<td>207,400</td>
<td>219,700</td>
<td>217,800</td>
<td>213,500</td>
<td>233,700</td>
<td>243,359</td>
<td>246,418</td>
<td>242,955</td>
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<td></td>
<td>WTO document: G/AG/N/EEC/</td>
<td>9.1</td>
<td>10.8</td>
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<td>8.5</td>
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