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The **E15** Initiative

STRENGTHENING THE GLOBAL TRADE SYSTEM



Rethinking the Rules for Agricultural Subsidies

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Rethinking International Subsidies Disciplines

Think Piece

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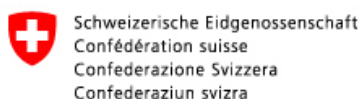
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ABSTRACT

The Uruguay Round's Agreement on Agriculture (AoA) categorized "domestic support" according to its presumed effect on trade. Subsidies that were deemed to be "trade distorting" were subject to limits specified in member schedules. Those that were regarded as having no (or minimal) impacts on trade were sheltered from reduction obligations. In practice, few countries have provided trade-distorting support to the level allowed, and so the limits have acted only as a "loose" constraint. Domestic agricultural policies have been radically reformed in a number of countries. This reform has been in the direction of reducing reliance on price supports in favor of direct payments. Subsidies to farming in developed countries operate through a variety of measures that provide incentives to remain in farming even when not tied to output and prices. Countries have found ways to adjust policy instruments to appear to show trade-distorting support reductions even when incentives to producers are maintained. Emerging and developing countries have increased their support to agriculture, often in ways that distort trade. Issues such as the purchase of grain for food reserves have sprung up, linking the restrictions on trade-distorting support with food security. In short, there is plenty of scope for improving the disciplines on domestic farm programs embodied in the AoA. Agricultural subsidies are also constrained by the Agreement on Subsidies and Countervailing Measures (ASCM), as that agreement applies to all subsidies related to the production of goods. Subsidies could violate the ASCM even if within the limits set by the AoA. So the ASCM might seem to be a more viable way to avoid the adverse trade impacts of domestic farm policies.

The paper raises several questions that need to be faced while further developing subsidy rules in the World Trade Organization. Its primary focus is on whether the shift in the distribution of agricultural subsidies has changed the relevance of the AoA. Examining whether the AoA has successfully distinguished between "good" farm subsidies and "bad" ones, it considers whether the agreement has hindered agricultural subsidies that are deemed desirable for development and sustainability. It also thinks over the question of disciplining food subsidies and biofuel programs by counting them as agricultural subsidies. Finally, it deliberates on the benefit of keeping the AoA subsidy framework when the ASCM (perhaps revised) would do as well. The paper puts forth alternative suggestions, including dividing the Green Box into direct income payments and "public goods" payments, which could operate under different constraints, and phasing out the AoA over time by shifting some of its provisions to the ASCM.

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LIST OF ABBREVIATIONS

AMS	Aggregate Measurement of Support
AoA	Agreement on Agriculture
ASCM	Agreement on Subsidies and Countervailing Measures
CAP	Common Agricultural Policy
EU	European Union
PSE	Producer Support Estimate
SNAP	Supplemental Nutrition Assistance Program
SPS	Sanitary and Phytosanitary
TBT	Technical Barriers to Trade
WTO	World Trade Organization

INTRODUCTION

One major innovation in the Uruguay Round was the introduction of specific disciplines on agricultural subsidies. The Agreement on Agriculture (AoA) categorized "domestic support" (measures that benefited the farm sector directly but were not administered at the border) according to its presumed effect on trade. Subsidies that were deemed to be "trade distorting" were subject to limits specified in member schedules. Those that were regarded as having no (or minimal) impacts on trade were sheltered from reduction obligations. In practice, few countries have provided trade-distorting support to the level allowed, and so the limits have acted only as a "loose" constraint.¹

The reasons for this are not hard to find. Domestic agricultural policies have been radically reformed in a number of countries in recent years. This reform has been in the direction of reducing a reliance on price supports—typically associated with the stockpiling of commodities or the control of acreage planted to particular crops—in favor of direct payments.² To the extent that such direct payments were not based on current production or prices, they escaped the quantitative disciplines of the AoA. As a consequence, the level of "trade-distorting" support in the main industrial countries has declined steadily since 1995.

However, as one set of problems has receded in importance, others have risen to take its place. Subsidies to farming in developed countries operate through a variety of measures that provide incentives to remain in farming even when not tied to output and prices. The calculation of the extent of trade-distorting policies is based on reference prices that are nearly 30 years old. Countries have found ways to adjust policy instruments to appear to show trade-distorting support reductions even when incentives to producers are maintained. Emerging and developing countries have increased their support to agriculture in recent years, often in ways that distort trade. Support limits are being reached in these countries, raising concerns about the applicability of such restraints in the context of development. Issues such as the purchase of grain for food reserves have sprung up, linking the restrictions on trade-distorting support with food security. In short, there is plenty of scope for improving the disciplines on domestic farm programs embodied in the AoA.

Agricultural subsidies are also constrained by the Agreement on Subsidies and Countervailing Measures (ASCM), as that agreement applies to all subsidies related to the production of goods.³ In fact, the most notable challenge to domestic support policies in agriculture has come through the ASCM (WTO 2004b). The US-Upland Cotton case clarified the relationship between the two

agreements and demonstrated that subsidies could violate the ASCM even if within the limits set by the AoA.⁴ So the ASCM might seem to be a more viable way to avoid the adverse trade impacts of domestic farm policies.

This note raises several questions that need to be faced in the context of the further development of subsidy rules within the World Trade Organization (WTO). It focuses on the following questions.

- Has the shift in the distribution of agricultural subsidies changed the relevance of the AoA?
- Has the AoA successfully distinguished between "good" farm subsidies and "bad" ones?
- Has the AoA hindered agricultural subsidies that are deemed desirable for development and sustainability?
- What about consumer (food) subsidies and biofuel programs? Should they be disciplined? Should they be counted as agricultural subsidies?
- What is the benefit of keeping the AoA subsidy framework? Or would the ASCM (perhaps revised) do as well?

1 Of course, it is possible that the existence of World Trade Organization (WTO) constraints have caused policies to change. This is likely to have been the case for the European Union (EU), where reform of the Common Agricultural Policy (CAP) was indeed influenced by the existence of AoA constraints (Josling and Tangermann 2015).

2 Two recent periods of higher prices for cereals (2007–08 and 2010–11) and milk (2012–13) have reduced the need for export subsidies and for support buying, and helped to lower subsidy costs.

3 For the period 1995 to 2003 some agricultural subsidies were protected from the disciplines of the ASCM by a Peace Clause (AoA, Article 13). After the Peace Clause expired, the scope for challenging agricultural subsidies increased substantially (Steinberg and Josling 2003). The use of a somewhat more limited Peace Clause was agreed at the Bali WTO Ministerial in December 2013, sheltering certain aspects of reserve stock policies from challenge (as discussed below).

4 Two other important cases involving farm policy were primarily challenges to export subsidy constraints (Canada-Dairy, EU-Sugar), though each established a link between domestic policy decisions and export subsidy effects (WTO 1999; WTO 2004a). A third case in which Canada and Brazil challenged the US notification of its trade-distorting support (US-TAMS) is in abeyance during the negotiations in the Doha Round.

CHANGES IN THE SUBSIDIES MAP

There has been a major shift in domestic support for agriculture away from the developed countries toward the emerging and developing countries. Tangermann (2014) has traced this development in the 47 countries monitored by the Organisation for Economic Co-operation and Development (OECD)—34 OECD members, six non-OECD European Union (EU) member states, and seven emerging countries—over the period 2002–07 to 2012.⁵ The share of the seven emerging countries in overall agricultural support has risen over the period from 17 percent to 45 percent, while the share of the OECD countries has declined from 83 percent to 53 percent.⁶ The OECD and the major emerging countries appear to be converging at a level of subsidies as a share of farm receipts of about 15 percent (Tangermann 2014: 10).

This trend could continue even if the Doha Round negotiations are concluded. Brink (2011) calculates that trade-distorting support ceilings currently included in the 2008 proposed modalities for agriculture (WTO 2008) would reduce the possible limit for developed countries from \$247 billion to \$60 billion but allow developing countries to provide \$165 billion in trade-distorting support. Rather than 61 percent of such support being allowed in the developed countries and 39 percent in developing countries, in a post-Doha situation developing countries could account for as much as 73 percent of such support and developed countries only 27 percent.

Two trends underlie this shift. The farm policies of developed countries have undergone significant changes, usually in the direction of reducing government involvement in farm product markets. Few governments now purchase commodities in the marketplace as a way of boosting prices, and most supply control policies have been relaxed.⁷ The other programs in their place were hardly in evidence at the time of the Uruguay Round. In the EU, subsidies have been targeted more directly towards farmers through direct payments (the Single Farm Payment system). In the US, the subsidization of crop insurance has grown significantly and now represents the major “safety net” program of agricultural support.

The switch away from border measures and price-related support to whole farm payments and crop insurance poses serious questions about the appropriateness of the AoA’s domestic support categories. The Aggregate Measurement of Support (AMS) was intended to be the main indicator that monitored (direct or indirect) payments to farmers that were deemed to be trade distorting. The categories

of AMS payments included implicit transfer through price policies (market price support); support through policies that lowered the price of inputs; and direct payments that were made on the basis of current prices or output. The calculation of the extent of support through price policies relies on comparing administered prices with fixed reference prices (set at 1986–88 levels) and applying the difference to “eligible” production. Countries have manipulated both the administered prices and the eligible production levels to reduce the notified market price support, and the reference prices bear little resemblance to current world market conditions (Orden et al. 2011). As a result, the AMS is now essentially meaningless as an indicator of trade distortion.

The situation in emerging and developing countries has been following a different trend. Developing countries have in the past emphasized the provision of infrastructure to rural areas (often to provide water and electricity) as well as fertilizer and fuel subsidies to assist with yield increases and mechanization. Many of these policies are of a general nature and would be difficult to classify as being trade-distorting. But for those policies that are clearly trade-distorting, an exception was made in Article 6.2 (sometimes called the Development Box) for investment subsidies that are generally available to agriculture in developing countries; input subsidies generally available to low-income or resource-poor producers in developing countries; and support to producers in developing countries to encourage diversification from growing illicit narcotic crops (Brink 2014). Several countries have made widespread use of the Article 6.2 exceptions, emphasizing investment and input subsidies without having to count these in the total AMS.

Developing countries often use price support programs that operate through administered prices for all producers. Market price support is calculated as the difference between these administered prices and a fixed reference price, even in cases where the administered price is near (or even below) the going world market price. These policies are constrained in many cases by that no Final Bound AMS was estimated and entered into the schedules of most developing countries.⁸ This means that in practical terms the limits to

5 | The 47 countries account for 80 percent of world agriculture. The six non-OECD EU member states are a small percentage of the total. The seven emerging countries include China, Indonesia, Brazil, Russia, Kazakhstan, South Africa, and Ukraine. India has so far resisted attempts by the OECD to similarly monitor its policies.

6 | The overall level of Producer Support Estimate (PSE) rose from \$308 billion to \$486 billion over this period, though it fell as a share of farm receipts. The PSE broadly mirrors the level of domestic support notified to the WTO but uses different categories and different conventions on measurement.

7 | The Canadian system of supply management is a notable (and anachronous) exception.

8 | Of 131 WTO members that provided schedules of domestic support at the conclusion of the Uruguay Round only 32 claimed non-zero AMS in the base period. Fifteen of these were developed countries (Brink 2014). So the subset of 17 developing countries that do have AMS bindings has somewhat more flexibility in their agricultural policy choices.

the AMS are given by the *de minimis* provision, in the case of developing countries set at 10 percent of the value of production. So the AMS constraint as such is a somewhat blunt instrument for preventing developing countries from straying down the well-worn path of trade-distorting price policies.

Another category of support was introduced in the AoA to cover cases where there was effective supply control. Blue Box (Article 6.5) measures are direct payments under production-limiting programs if the payments meet certain specified criteria relating to the fixity or size of the parameters on which they are based. The Blue Box has become largely irrelevant, as supply control policies have largely been abandoned (Tangermann 2014). However, a change in the definition of the Blue Box under consideration in the Doha Round could lead some countries (including the US) to make more use of this provision.

The AoA established a category of subsidies that were deemed to be non- (or minimally) trade-distorting. The Green Box is defined (in Annex 2) to exclude support based on price and current production. Annex 2 measures must meet (a) the fundamental requirement that they have no, or at most minimal, trade-distorting effects or effects on production; (b) two basic criteria, essentially that the support be provided through publicly funded programs, and that it does not have the effect of providing price support to producers; and (c) sets of policy-specific criteria and conditions set out in the Annex.⁹

However, the Green Box also looks increasingly out of touch with reality. Many of the developed country policies placed in the Green Box are direct payments that have been decoupled from price and output conditions. These are in several cases conditional on compliance with environmental practices (cross-compliance). The Green Box has provisions for environmental subsidies, but these are restricted to compensation for additional costs incurred. Among developing countries, China has been a major user of the Green Box, with much of these funds going for infrastructure improvement. In contrast, African countries report little spending in Green Box categories, reflecting both a relative lack of funds and a greater use of trade-distorting measures. The picture is somewhat obscured by substantial differences that have arisen among countries over which categories of Green Box subsidies particular programs fall into. As a result of the ambiguities and inconsistencies in interpreting and monitoring the Green Box, a thorough review of Annex 2 provisions is urgent.

'GOOD' AND 'BAD' AGRICULTURAL SUBSIDIES?

At the time of the Uruguay Round it seemed reasonable to divide domestic support measures used in agriculture into those that distorted trade and those that had no (or minimal) effect on trade. This was seen as appropriate at a time when external impacts on other countries were seen as a major reason to discipline domestic farm policies. However, this distinction gives little guidance on whether the trade-distorting policies themselves are otherwise desirable. Some trade distortions may be an inevitable by-product of an otherwise sound domestic policy. The contrast with the provisions in the Sanitary and Phytosanitary (SPS) and Technical Barriers to Trade (TBT) Agreements is of interest. In the SPS Agreement (Article 5:6), the measures applied must be “not more trade-restrictive than required” to achieve the desired protection. In the TBT Agreement (Article 2.2), measures shall “not be more trade-restrictive than necessary” to fulfill a legitimate objective. No such test is employed in the case of agricultural subsidies.

It is also relevant that the “trade-distortion” test is not employed directly in the ASCM. In its place are conditions under which actionable subsidies can be challenged—adverse effects, nullification or impairment, and serious prejudice. Indeed, this has provided the legal basis for the complaint about the US cotton program (US-Upland Cotton). And the panel, in this case, did not have to review whether the measures involved were or were not correctly notified to the Committee on Agriculture. The color of the boxes in the AoA does not correspond to the subsidy classification in the ASCM.¹⁰ Challenges to actionable subsidies are conditioned by the extent and seriousness of trade distortion rather than the extent to which those subsidies meet predetermined criteria.

This issue is a facet of the broader question of whether the intention of the AoA was to point policies in particular directions or merely to restrain the trade impacts of such policies. In the case of agricultural subsidies in developed

⁹ The specific conditions include those for general services, public stockholding, food assistance, direct payments and (decoupled) income support, farm income and crop insurance, structural adjustment assistance, environmental payments, and regional assistance.

¹⁰ The panel in the US-Upland Cotton case did not find that the policies notified by the US under the Green Box had caused serious prejudice to Brazilian farmers. But it did opine that these programs did not qualify for the Green Box as they excluded the production of fruits and vegetables and wild rice on program acres.

countries, the AoA classed all non-Green Box subsidies as “undesirable,” or at least to be subject to monitoring and scheduled for reduction. The implication was clear, that policy objectives such as the provision of public goods or the support of farmers’ incomes had to be met in ways that did not impact trade. Few would take issue with the outcome—the trend towards Green Box measures has been advantageous internally as well as good for the trade system. Many of the new policies, particularly in the EU, approach the status of “pure” income transfers, decoupled from current production and prices. But the switch to such instruments has brought its own problems. Generous payments (originally based on compensation for the withdrawal of price supports) have become a major component of farm income. Such payments can have output impacts by keeping resources in agriculture even if they do not directly distort short-run farm output decisions. State-subsidized crop and income insurance can also play a role in decisions to stay in farming even if for the individual farmer the benefit is as a safety net rather than a specific commodity subsidy.¹¹

As the same AoA rules apply to the policies of developing countries, one can foresee continued disagreements on how relevant the categories designed are to tame the excesses of developed countries and their depressing impact on world markets. In a situation where the international community is supportive of further production of foodstuffs in developing countries to meet anticipated demand, it may seem inconsistent for the trade rules to impose somewhat arbitrary constraints on the instruments to be used. Assuming that market access agreements prevent the development of high-cost agriculture behind high tariffs, it is difficult to see major trade problems emerging from the provision of marketing assistance and rural infrastructure in a majority of developing countries.

The main challenges for the future may not be the spending of developing countries in general on rural investments in infrastructure, or even the provision of cheap fuel and fertilizer to farmers. Rather it could be the growing use of price support in the major emerging economies. These large countries themselves may not be too concerned with internal market distortions from the level of protection afforded by reasonable administered prices, but once a policy centers on the domestic price level, it becomes difficult to manage it with reason. A fall in world prices could leave farmers in countries such as India and China with unrealistic expectations. These countries could be obliged to maintain prices at a level inconsistent with their WTO limits, particularly if these were based on rules that appeared sensible 20 years ago for developed countries. Disputes over domestic support for farmers in developing countries could emerge as a major source of stress in the future.

Though the large emerging countries could support above-market internal prices with relatively little economic cost to themselves, such policies can have significant trade impacts on smaller and more open economies. At stake is the permanence of the move by many countries to open up

import markets and to expand exports to take advantage of the benefits of trade. There has been a substantial increase in South-South trade in agricultural and food products in recent years. The potential closing of major emerging country markets to protect administered prices could have a dampening impact on such trade. A regression to protected markets could have a devastating impact on the ability of the world to produce and distribute food for a growing population.

SUBSIDIES FOR SUSTAINABLE DEVELOPMENT?

One response to the challenge of maintaining policy space for otherwise desirable development policies in a rule system designed to restrict industrial country protectionism is to expand the number and scope of policies that are not subject to restriction. Several developing countries have called for a relaxation of some of the constraints on the eligibility of development programs for the Green Box. At the root of the problem is the difficulty of distinguishing between subsidies that encourage development and those that encourage resource wastage. If one adds the dimension of sustainability, the issue becomes more complex. Is it possible to identify the component of a subsidy that is legitimate as providing for a public environmental good? And do climate change mitigation efforts (such as planting less greenhouse gas-emitting crops) warrant subsidies that are free from challenge? Should the reform of the Green Box perhaps include an addendum to take climate change policies into account?

There is no doubt that a revision of the terms of the Green Box could be justified by the changed situation in agricultural markets and trade since the mid-1990s. But political considerations are unlikely to provide such an “update” in the near future. The reason is simple—developing countries regard the Green Box as an essential if imperfect constraint on developed countries who might otherwise be tempted to shift policies into it to avoid constraints (box shifting) without significantly reducing trade-distorting effects. Developing countries are also concerned that the text of Annex 2 restricts them from pursuing sensible policies that

¹¹ One issue is whether to count the insurance subsidy as “non product-specific” support in WTO notifications, as several crops are eligible for the program. From the viewpoint of the farmer, the subsidy is likely to be seen as crop specific.

might run foul of the provisions. Exporting countries would like to keep the Green Box as restrictive as possible to avoid the allowed measures from becoming an alternative way to support farmers. As countries have generally avoided resorting to jurisprudence to resolve Green Box issues, the topic has been in a state of limbo.¹²

Much of the debate about the reform of the Green Box has revolved around wording and the legal interpretations of provisions (Nassar et al. 2009). For example, the Green Box already excludes expenditures that improve infrastructure in rural areas from constraints, but draws the line at “the subsidized provision of on-farm facilities” and “subsidies to inputs or operating costs, or preferential user charges” (AoA, Annex 2, para 2). Such subsidies may be necessary to close the gap between urban and rural families and businesses. Similarly, the Green Box allows for subsidies that are aimed at research and extension and other forms of dispersal of technical information, but is less generous with marketing support. Excluded from the Green Box are public marketing services that can “be used by sellers to reduce their selling price,” surely a phrase that could be open to interpretation.

However, the larger question is whether the Green Box is even necessary. A combination of low border tariffs and recourse to adjudication and litigation when countries feel that these policies are hurting their exports could suffice. Reporting and justifying subsidies is a necessary aspect of improving transparency in the trade system. If it helps to have such subsidies listed under certain headings, then this could continue. Additional monitoring would help in this and in other areas. Or would that risk alienating developing countries who might consider scrutiny of such aspects of development policy contrary to the WTO obligation to assist development?

SUBSIDIES FOR FOOD CONSUMERS AND BIOFUELS

Subsidies to consumers rarely cause trade problems (though they can be trade distorting). In general, more consumption will tend to expand imports and reduce exports, to the benefit of overseas suppliers. But this is based on the assumption that consumers can buy imported food. So countries could be required to report whether subsidies are limited to domestic production.

Subsidies that do not just lower the prices of particular foodstuffs are becoming more significant. Under what

conditions might cash subsidies (or food stamps) be trade distorting? If the effect is to increase disposable income, there seems no reason to include it as “domestic support” to local producers. At present the US includes expenditure on the Supplemental Nutrition Assistance Program (SNAP; previously called Food Stamps program) in its WTO agricultural notifications under Green Box expenditure. This practice should be dropped as a part of any revision of Green Box procedures.

How did the Indian food reserve stock issue arise as a major point of contention in Bali and cause a delay in the adoption of the Trade Facilitation Agreement in 2014? The costs of running a food reserve scheme are indeed legitimate Green Box payments. However, there is a provision that covers losses when releasing grain. The provision that such losses should be counted as farm support (AoA, Annex 2, Para. 3, fn. 5) seems reasonable as farmers do benefit from the action. But in the case of India, its policy of buying grain at administered prices from farmers and releasing it to the distribution system at a lower price would have generated significant AMS amounts. These could breach the limits for that country. Again, the use of fixed (and unrealistic) reference prices to calculate the AMS is exacerbating the problem. When world market prices are high (and were in this case above the administered price for a time), the calculation of market price support in the AMS makes little economic or political sense. The use of the current market price rather than the fixed reference price in this case would have solved the problem.

The growth of policies in developed (and developing) countries that encouraged the use of agricultural products in the production of biofuels (ethanol and biodiesel) has posed another question for those notifying domestic support. Should biofuel subsidies be counted as agricultural subsidies? They certainly benefit the farmers who produce the feedstock for the biofuel process. But, as with consumer subsidies, other producers can gain some of the benefits. And should they be classified in the Green Box? This may hinge on whether biofuels are a “marketable agricultural product” and so come under the scope of Annex 2 (Josling and Blandford 2009). So the issue has not been raised in the context of unreported agricultural subsidies, though trade tensions have emerged over the trade in the biofuels themselves as traders seek to take advantage of the subsidies on offer.

The calculation of the extent of the subsidy to agricultural producers would in itself not be trivial—the value of the subsidy to the farmer will vary with the price of crude oil, corn, soybeans, and sugar. And the classification of

¹² One minor change was agreed at the Bali Ministerial. Certain programs that are not expressly mentioned in Annex 2 (Green Box) under the heading General Services were added. Many relating to land reform and rural livelihood security could be considered as Green Box General Services programs, including land rehabilitation, soil conservation and resource management, drought management and flood control, rural employment programs, issuance of property titles, and farmer settlement programs (Brink 2014).

the subsidy itself depends on whether its environmental benefits are accepted. The argument for counting biofuel subsidies would change if it were agreed that there was limited external (environmental) benefit over fossil fuels. In any case, several countries notify biofuel subsidies to the SCM Committee. At the very least, one might consider the consolidation of the notifications under the ASCM and the AoA in the interests of completeness and transparency (Josling et al. 2010).

SHOULD AOA SUBSIDY DISCIPLINES BE PRESERVED?

The AoA served a valuable purpose in quantifying and limiting two types of subsidies—those that were paid on the basis of exports and those that were deemed to be trade distorting. The constraints on export subsidies have largely served their purpose as developed countries have lessened their dependence on these to clear the domestic market. Similarly, export credits and state trading exporters are no longer a dominant force in world agricultural trade. Rules on food aid have been marginally useful in preventing too much intrusion into commercial markets, but other locations exist to discuss food aid policy. Moreover, there would be little reason to keep the AoA subsidy framework to restrain export subsidies as they are in any case prohibited in the ASCM.

The value of limiting trade-distorting subsidies in the AoA is the key question. As discussed, the AMS (Amber Box) calculations are largely meaningless. The “market price support” component of the AMS could be revised or dropped.¹³ The direct payments that are not sheltered by the Green Box would remain along with input subsidies in the AMS calculations. The question would become whether these subsidies can be adequately controlled under the ASCM. Both would be actionable if deemed to be specific.¹⁴

The importance of the Green Box is directly related to the AMS. If the measure in use can be found to be in compliance with Annex 2 of the AoA, then there are no limits placed on expenditure. But a basic issue has remained since the dawn of the AoA—should the Green Box be a large container with a relatively loose interpretation of the conditions or a small container with a few “pure” trade-neutral policies that are strictly monitored? This is where the main tensions will develop, spurred by the change in policies in the developed countries toward decoupled farm payments and by the need for developing countries to have room to expand their rural assistance programs.¹⁵

One solution would be to divide the Green Box into direct income payments, which could operate under some constraints, and “public goods” payments, which would not be constrained. The former would largely apply to developed countries that have given those payments as a compensation for reductions in support prices. One might imagine these being eventually pegged or even phased out, though this would presumably prompt the emergence of other ways of supporting farm incomes. Public goods payments would have to be justified as meeting the Annex 2 criteria, or any subsequent agreed rules. They would still be subject to action under the ASCM, unless they qualified as non-actionable under that agreement.

Given that the Green Box only exists as a way of avoiding AMS constraints, another future scenario would be to abandon the AoA altogether (or phase it out over time). The Market Access provisions would be merged with those for non-agricultural trade; the Export Competition component would be subject solely to the ASCM; and the Domestic Support rules would be subsumed in the category of actionable subsidies under the ASCM. Monitoring would have to be improved to provide adequate information for other countries concerned about unfair competition, but the distinction between notification under the ASCM and under the AoA would be removed.

13 In either case, the constraints would have to be re-calibrated to a base period if they were to be continued.

14 The Blue Box appears of very limited use and could be dropped while revising the AoA: it seems unlikely that competing exporters will consider subsidies given under the condition of supply control are denying them markets.

15 A key consideration is that most developing countries did not notify any AMS measures in the base period and thus are limited in their ability to use trade-distorting policies in the future. The limit is essentially given by the *de minimis* rules—ten percent of the value of domestic production.

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