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Oxfam Briefing Paper

EMBARGOED UNTIL 00:01 HRS GMT WEDNESDAY 15 JUNE 2005

A Round for Free

How rich countries are getting a free ride on agricultural subsidies at the WTO

Agricultural dumping has a devastating effect on poor countries. The Uruguay Round at the WTO was supposed to cut the subsidies that lead to dumping, but it failed to do so — as did reforms of Europe's Common Agricultural Policy and US agricultural policy. Now history is set to repeat itself: the Doha Round of negotiations is again giving rich countries a free ride to continue dumping subsidised produce on poor countries. Oxfam believes that the WTO meeting in Hong Kong must put an end to this hugely damaging practice.

Oxfam International

MAKE TRADE FAIR

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Summary

'... Our third trade priority is to ensure that those who sign trade agreements live up to their terms.'

Remarks by President George Bush at Swearing-In Ceremony for the United States Trade Representative (May 2005)

'… Maize doesn't pay, maize is very cheap, and everything you need to buy is very expensive.'

Miguel Ángel Barrios, maize producer in Vista Hermosa (Guatemala), affected by US corn dumping

When, in his then role as EU trade commissioner, Pascal Lamy promised that the poorest countries would not have to make any concessions in the Doha Round – that they would get 'a round for free'— no one could have predicted that the offer would be turned on its head.

But the reality is now clear: unless the agricultural negotiations at the WTO change course, it is the USA and the European Union that will get a free round — and a licence to continue dumping. At the end of the Doha Round, neither will be obliged to cut a single dollar from the subsidies they pay their farmers. Meanwhile, developing countries will have had numerous concessions, for instance on market access, wrung from them in return for illusory progress.

On paper it will appear that rich countries' commitments to reduce subsidies are genuine. But because of the WTO's rigged rules, Europe will not actually have to make any more cuts to its dumping-inducing subsidies. In fact, both the USA and the EU will actually be able to *increase* their trade-distorting subsidies – utterly defying the point of the round.

While rich countries have apparently agreed to get rid of the most nefarious subsidies of all – export subsidies – in reality they will be able to keep the bulk of their other forms of support that act as a hidden export subsidy or lead to the overproduction of many agricultural products of interest to developing countries. This will be devastating for poor country farmers. In West Africa alone, thousands of cotton farmers are forced to abandon their land every year due to unfair competition from the USA.

The result of the Doha Round will be that dumping — which Oxfam defines as exporting goods at a price lower than it cost to produce them — will continue, putting farmers in developing countries out of business, and increasing poverty and suffering.

Creative accounting

Europe and the USA claim to have cut their subsidies over the years but, to date, there has been no substantial reduction, merely a relabelling of existing support.

- Since the Uruguay Round started in 1986, overall farm support in developed countries has virtually remained the same (more than $250bn per year in real terms, according to the OECD).
- Despite the lack of reduction in actual levels of support, developed countries benefit from enormous flexibilities within the current Agreement on Agriculture because of the way rules were designed in 1994. Europe, for example, could increase its expenditure on export subsidies for wheat by more than ten times, and still be within the allowed limits.

What's in a name?

Creative accounting has been justified by introducing a distinction between 'good' (non, or minimally trade-distorting) and 'bad' (trade-distorting) domestic subsidies. But the distinction is largely an artificial one, as the EU's own impact assessment and the WTO panel on cotton have found. Many of the subsidies classified as 'minimally trade-distorting' are no such thing and remain harmful to developing countries.

For instance, the Uruguay round was designed to reduce export subsidies substantially. However, because of the restrictive way in which export subsidies were defined, the European Union and the United States were able to use hidden export subsidies while still abiding by the letter of the agreement. Oxfam has calculated that the EU and USA are massively understating the real levels of export subsidisation. The USA is providing 200 times more support in hidden export support than it declares, equivalent to $6.6bn (€5.2bn) a year. The EU pays out the equivalent of €4.1bn ($5.2bn) in hidden export support – four times what it reports to the WTO.

The price at which crops sell tells this story clearly. Thanks to an array of different support mechanisms, the USA is able to export its cotton and wheat at 35 and 47 per cent respectively of their cost of production. The EU exports sugar and beef at 44 and 47 per cent respectively of their internal cost of production.

Moreover, despite the EU and US commitment in the current talks to eliminate all kinds of official export subsidy, most would not completely disappear before 2016.[1] In addition to encouraging exports at artificially low prices, many domestic subsidies currently allowed under the Agreement on Agriculture distort trade, leading to overproduction in sectors of interest to developing countries and reducing the export potential of developing countries to the North.

OXFAM reveals that the EU and the USA could actually increase their actual levels of trade-distorting support by €28.8bn and $7.9bn respectively, if they get their way in the current agricultural negotiations.

Boxing clever

Far from improving this grossly unfair situation, proposed changes in the Doha Round, such as enlarging the Blue Box category for subsidies, will give rich countries even more rules behind which they can hide their subsidies that hurt the poor.

- The EU would be able to expand its room to provide WTO-defined trade-distorting support by €28.8bn per year from current levels.
- The USA would be able to increase its trade-distorting support by $7.9bn per year from current levels.

The EU and the USA have already made reforms to their domestic subsidy programmes and use this as an excuse not to make further meaningful changes. However, we now know that dumping takes place beyond the narrow WTO definition that has driven subsidy reforms in the past.

Because of this chicanery, rich countries are now on course to sign an agreement that appears to be radical, but which has been designed explicitly to allow the USA and EU to continue with their harmful agricultural policies.

All this directly contradicts one of the core purposes of the WTO, and the agricultural talks in particular: to cut market-distorting support. But the EU and the USA continue to attempt to force poor countries to give up their trade protection and agricultural support measures, while keeping their own in place.

The recent WTO cotton and sugar panels legally established that rich countries have even failed to abide by the loose rules on subsidies that they crafted during the Uruguay Round, a longstanding claim of developing countries. This gives developing countries an important moral and legal victory, and a precedent that should serve to strengthen their hand in the trade talks.

These negotiations can now be turned around in one of two ways. Either developed countries can stick to the spirit of the WTO process, and devise an agreement that genuinely gives a fair deal to developing countries, at the same time as allowing subsidies to remain for supporting small farmers, rural development, and environmental protection in the North, or they must get ready to face more legal challenges. Cases could be brought against other sectors where both subsidies and exports are huge — like corn and rice. Of course, regulating the use of subsidies through litigation would only be a 'second-best' solution compared with improved and clarified rules negotiated as part of the Doha round. Panels take a lot of time, are costly, and are not always implemented. As a result, they do not guarantee consistency and predictability in the rules. Nevertheless, if the rich countries continue to paralyse negotiations and rig the rules on agriculture, panels constitute a viable alternative for those developing countries capable of taking a case to the WTO and tired of waiting for real trade reform.

Oxfam's call to WTO negotiators

Oxfam believes that the EU and USA should, at the very minimum, agree to the following reforms in farm subsidies at the WTO:

- An end date of 2010 for export subsidies. This should be achieved by cutting permitted levels of export subsidies by equal instalments every year.
- A pro-development implementation of the cotton and sugar rulings by the time of the Hong Kong Ministerial.
- Deeper and quicker cuts for explicitly distorting domestic support, and the full elimination of trade-distorting support on cotton. At the minimum, the USA should cut all Amber Box support by 60 per cent, and the EU by 70 per cent by the end of the implementation period. The permitted Blue Box level should be cut by 50 per cent and capped at 2.5 per cent of the total value of a country's agricultural production. The *de minimis* exception should be halved for developed countries.
- The Blue and Green Boxes must be further disciplined. The current Blue Box criteria must not be loosened.
- To improve transparency, all WTO members should fully notify their subsidies to the WTO secretariat each year.
- Food aid must only be provided in the form of grants, except in exceptional circumstances.
- Developing countries should not be obliged to reduce their domestic agricultural support programmes. They are very few and most of them serve important development purposes.
- Developing countries should also be allowed to use trade defence measures against dumped products.
- A food import financing facility should be made available to net food importing developing countries to help them subsidise the purchase and production of food.

Developed countries should stop negotiating Regional Trade Agreements (RTAs) with developing countries and concentrate instead on delivering a fair multilateral trading system at the WTO. In their current form, RTAs force developing countries to grant market access to rich countries, without any guarantee that the subsidies that lead to dumping will be eliminated at the WTO.

Introduction

The developed world funnels the equivalent of nearly $257bn (€229bn) a year[2] through subsidies and import tariffs to its (mostly) wealthy landowners and agribusinesses— the last people who need propping up. This support encourages production and exports, driving down the prices of key commodities on world markets, which are sold at less than it costs to produce them — or dumped.[3]

Farmers in poor countries find that they cannot compete with the exported, subsidised products, even with their abundance of cheap labour and land. The result is that those farmers are put out of business. The fact that millions of people are unable to sell their own products means that children are unable to go to school, families are unable to live together, and adults are unable to eat.

In recent years, US farmers have been able to dump cotton, wheat, rice, and corn on world markets, at prices that do not begin to cover the costs of producing them. Europe, meanwhile, dumps artificially cheap wheat, sugar, and dairy products into developing countries. The cruellest twist is that those who bear the brunt of this dumping live in countries already badly affected by HIV/AIDS, conflict, natural disaster, or chronic poverty.

It is the taxpayers in Europe and the USA who end up paying good money for these bad results. At the same time as putting poor people out of business, their countries are spending billions of dollars on aid and debt relief, with the aim of doing the exact opposite. A coherent package of aid, debt relief, and fairer trade rules could instead lift millions of people out poverty.

Contrary to government spin, subsidies do not support the small-scale farmer in Europe or the USA who is struggling to make a living. Instead, millions of dollars are pumped into multinational wheat and sugar companies, and even into the pockets of members of the European economic aristocracy. One of the biggest recipients of Common Agricultural Policy (CAP) funds in the UK is the Duke of Marlborough, the fourteenth richest man in the world, who in 2003–4 was paid £1m ($1.9 m, or €1.4m).

Even the most casual spectator can see that this confounds all economic, moral, and political reason. But this is the reality of the global subsidy system.

Two recent WTO appellate body rulings have found that particular subsidy programmes (elements of the US cotton and EU sugar

subsidies) are illegal. Both cases create vitally important precedents. The findings of the cotton panel, for instance, implicitly challenge the legality of European Single Farm Payments under the CAP, as well as the legitimacy of US farm programmes for all other commodities (see Box 6).

The 1994 WTO Agreement on Agriculture (AoA) has been a bad deal from the outset. Rich countries rigged the original agreement with huge loopholes, then passed reforms which, while in some cases are a step in the right direction, will not stop dumping. Now rich countries are trying again to hijack the negotiations for a reworked AoA. If the current negotiations continue on their present course, developed countries will escape without effectively having to make any major changes to their trade-distorting subsidy regimes.

It is important to make clear that Oxfam is not against agricultural subsidies. Where payments truly benefit small-scale farmers, protect the environment or promote rural development, they can be justified as being genuinely in the public interest. However, the vast majority of subsidies are manifestly not intended to achieve these laudable results. Instead, they favour agribusiness and intensive production techniques, which lead to dumping.

A complete overhaul of this perverse and archaic system is long overdue, and 2005 is the year dumping must come to an end. The global system that unjustly and unsustainably pits rich against poor, having first tied the hands of the poor behind their backs, has to be radically reformed. If the Millennium Development Goals are to be met, and if the WTO Ministerial meeting in Hong Kong in December 2005 is to end in success rather than repeating the previous debacles in Seattle and Cancún, it is essential to end dumping. Another chance to do so may not come for 15 years, when the next round after Doha could be negotiated.

Between now and December, new measures must be introduced through the first negotiating (or 'modalities') text. If not, the combination of weak commitments and a proliferation of loopholes will make the AoA useless for the elimination of dumping.

Past attempts to reform regional and national subsidy regimes have been little more than edge-tinkering in terms of dumping – and have even been a step backwards, like the US 2002 Farm Act. Recent changes to the CAP, while well intentioned, are likely to have little impact on farmers in developing countries. Any new AoA must be radically different from that which has gone before.

1. The impact of dumping on developing countries

The victims of dumping

What do José Guadalupe Rodríguez from Mexico, Assita Konate from Burkina Faso, Pedro Cruz from the Dominican Republic, and Gayatri Devi from India have in common? The answer is that they are all farmers who have for years succeeded in making a living from farming, as well as an important contribution to the economic development of their country, but who are now being pushed to the brink by a terrible threat: dumping.

Farmers in Kenya, South Africa, Indonesia, Guyana, Honduras, Ghana, and Mali, growing wheat and barley, sugar and soybeans, and rice and sorghum, are all suffering because of the subsidisation of crop production and export in rich countries.

Farming has a completely different meaning for people in the South than it does in the North. While in the North just five per cent of the population depend upon farming for a living, in the South the figure is nearer 95 per cent. Yet Northern farmers are supported at the expense of those in the developing world, as Box 1 below shows.

Box 1. Guatemala dumped with US maize[4]

Andrés Avelino Martín is a 53 year-old maize producer in La Libertad, one of the poorest regions of Guatemala. Fleeing from civil war, he and his nine family members arrived in this region 15 years ago, and have since lived off the produce of a six hectare maize farm. The price of the crop used to allow him to feed his family, send his seven children to school, and pay for basic health needs. Now things have changed. Andrés says: 'Before, with what I earned from selling a quintal [46 kg] of maize I could buy soap, clothes, I could pay what we needed for living. Now what we get from a quintal is not even enough for a pair of trousers….'

Andrés' situation is very much the same as that of 800,000 other small-scale maize producers and workers in Guatemala, one of the poorest countries in Central America, with 70 per cent of the rural population living below the poverty line. Guatemala is the main producer of maize in Central America.

In 1996, the government of Guatemala reduced import tariffs from 35 per cent to 5 per cent, which led to a flood of cheap imported maize from the USA. Between 1995 and 1999, the volume of imports doubled, and in the year 2000 imports of yellow maize from the USA had rocketed to around 500,000 tonnes, equivalent to 50 per cent of Guatemalan national

production. In 2002, maize imports were over 600,000 tonnes, almost all of them from the USA.

Thanks to heavy subsidisation of the maize sector in the USA — totalling $38bn between 1995 and 2003 — US companies have been able systematically to sell their maize at prices below the cost of production. Oxfam estimates that the volume of de facto export subsidies involved in US exports to Guatemala has totalled $60m since 2000, with a peak of $19m in 2000 alone.

The sudden liberalisation of the maize sector in Guatemala had serious consequences for local maize producers. From October to November 1996, the farm gate price for producers of white and yellow maize in Guatemala fell in real terms by 29 and 19 per cent respectively. The same happened in 2001, when between September and December imports of US maize were more than 290,000 tonnes, and domestic producers' prices in Guatemala fell by more than 20 per cent in just one month. Meanwhile, the price that consumers had to pay for maize increased by two per cent.

The fall in prices translated immediately into a loss of purchasing power for thousands of families for whom selling maize was the only source of income. Miguel Ángel Barrios's family, from Vista Hermosa, is one of those families. 'We offer our maize to eat, and the money left from the little we can sell is what we spend to give some education to our children, buy their clothes, medicines and food, but we cannot say we have them in good condition, because if you see our children, they are malnourished, badly dressed…'

Comparative access to subsidies, not comparative advantage

The recent success of rich countries in agriculture has depended not on maximising comparative advantage, the principle enshrined in the WTO and espoused by conventional economists, but rather on maximising comparative access to subsidies.

In fact, subsidies stop countries from realising their comparative advantage: the USA, for example, produces wheat at a loss of more than 50 per cent,[5] in spite of its hi-tech planting and harvesting machinery. Burkina Faso is one of the world's most efficient producers of cotton, and yet it cannot compete with the USA. Similarly, it costs two-and-a-half times as much to produce rice in the USA as it does in Viet Nam and yet, thanks to subsidies, both countries are able to export the same volume.[6]

The triple blow of subsidies

Dumping is the exporting of goods at prices below the cost of their production.[7] Subsidies cause this to happen by supporting farmers to keep growing more than they can sell on the domestic market, which

then, thanks to further subsidies, is sold abroad at an artificially cheap price.

Farmers in the importing country cannot afford to compete with such predatory prices, and so go out of business. Even the optimal climatic conditions and supplies of cheap labour in many developing countries are no match for highly subsidised Northern agribusiness.

The economic effect of this dumping on poor countries works in three distinct ways. Firstly, it contributes to lower world prices and price instability globally. For example, subsidies in the USA have been the single biggest force in driving down world prices for cotton. Brazil, citing injury to its domestic economy, recently took a successful case against the USA to the WTO dispute settlement panel, accusing it of provoking and maintaining the deepest crisis in world cotton markets since the Great Depression in the first half of the 20th century. To give another example, between 2000 and 2003 it cost an average of $415 (€322) to grow and mill one tonne of white rice in the USA. That same rice, when dumped on export markets, was priced at just $274 (€213) per tonne, 34 per cent below its true cost of production.

Secondly, for the same reasons, dumping has strongly negative effects on domestic markets in developing countries, pushing down prices and forcing local farmers to find something else to sell or simply go out of business. For example, in 2002 the Dominican Republic was the fifth most important market for EU milk exports; local milk producers had no hope of competing against heavily subsidised European imports. Instead they were forced into producing for the highly volatile cocoa market.

Thirdly, dumping means that developing countries lose market share when exporting to other markets, again because they cannot compete with dumped prices. For instance, the EU exports 600,000 tonnes of subsidised refined sugar a year to Africa; without these dumped exports, inter-African sugar markets would be able to develop.[8] Developing countries are also blocked from exporting their own products to the country that dumps on them.

The combination of these three effects leads to lower farm-gate prices and market shares for developing country farmers, which reduces their income and contributes to the perpetuation of poverty and malnutrition in rural areas.

Some point out that dumping can provide a cheaper source of staple food for the urban poor. While this might be true in the short term, the inflow of dumped goods can actually lead to higher food insecurity in the medium to long term. This is because import cartels tend to capture most of consumers' benefits. Furthermore, many poor

countries, especially in Africa, face difficulties in financing these increased food imports, due to insufficient and volatile export revenues (see Box 2).

Box 2. Are subsidies the problem?

Two different groups of economists, for different reasons, question whether subsidies are really the problem.

One group of economists[9] think that Northern subsidies are actually good for developing countries. They argue that subsidies keep food prices low, acting as a kind of aid. The logic of this argument would be to *increase* export subsidies — the more trade-distorting the better. But the case does not withstand scrutiny. Firstly, this is a remarkably inefficient way to deliver aid. Secondly, while it is true that nearly all Least Developed Countries (LDCs) are also Net Food-Importing Developing Countries (NFIDCs), and that eliminating subsidies would cause prices to rise in the short term, such price rises could easily be compensated. Indeed a mechanism for doing just that was agreed as part of the Uruguay Round. The 'Marrakesh Decision' of 1994 promised compensation to NFIDCs for price rises due to liberalisation, but has so far never been implemented. This is why even NFIDC governments are in favour of an end to dumping, as they have consistently argued at the WTO.[10]

The other group of economists[11] think that subsidies are merely a symptom of a deeper problem, not its underlying cause. The root causes of lower farm incomes are corporate concentration and low worldwide commodity prices, fuelled by overproduction. They argue that this overproduction is a result of the abandonment of previous supply management regimes in the North. This led to a collapse in prices, forcing governments to step in with subsidies to bail out farmers. The answer, then, is a return to supply management to push up prices for Northern farmers and reduce the need for subsidies. This portrait of events bears a closer historical resemblance to events in the USA than in Europe, but the case is still not persuasive.

Unfortunately, supply management systems that have been implemented so far – except, arguably, in Canada – have had a poor record in reducing export dumping. Moreover, they require high tariffs to keep domestic prices strong, thus reducing imports, including those from developing countries. Finally, they do not necessarily prevent further concentration of production among big farmers, and do not guarantee environmentally friendly production practices. Supply management systems can only be fair and effective when they limit production to a level far below consumption level, leaving space for imports from developing countries. They also need to lead to more equitable income distribution and environmental protection.

Oxfam believes that curbing the abuse of subsidies in rich countries is a step in the right direction for fairer agricultural markets that can be undertaken at the WTO as part of the Doha 'development round'. But other issues such as corporate concentration and low commodity prices also need to be tackled urgently at the national and global levels.

The cost of dumping

Trade rules were rigged in favour of rich country interests even before the creation of the WTO in 1995. The systematic use of subsidies to dump agricultural products on international markets, and the blocking of developing country attempts to protect themselves against this unfair competition, are the most blatant examples of these rigged rules.

The subsidies are large. **In 2003, the USA provided almost $40bn (€30bn) in agricultural support to its producers.**[12] Every acre of farmland under cotton in the USA attracts a subsidy of $230 (€180). In 2003, around 28,000 US cotton farmers received $2.4bn (€1.8bn),[13] more than the entire GDP of Burkina Faso, a country where more than two million people depend on cotton production for their living. US rice producers, meanwhile, in 2003 received subsidies and support payments totalling $1.3bn (€1bn) for a crop that cost $1.4bn (€1bn) to grow. This meant that US taxpayers paid nearly 100 per cent of the cost of production.

This, however, is small change compared with the EU's Common Agricultural Policy (CAP), which has an annual cost of around €108bn ($138bn).[14] A proportion of this goes to the sugar sector in the form of direct or indirect export subsidies. In addition to the €1.3bn ($1.67bn) a year recorded in the EU's budgets as export subsidies, some €833m ($1bn) were paid by European consumers, supporting exports of surplus sugar production to outside of the EU.[15] In the UK alone, sugar giant Tate & Lyle was paid more than £120m ($227m, €176m) in 2003–4 marketing year.

A 2001 study by the Australian government showed that if the volume of subsidised EU and US dairy exports was halved, world dairy prices would be between 17 per cent and 35 per cent higher. In the Dominican Republic, for instance, around 10,000 farmers are thought to have been forced out of business during the past two decades due to the dumping of European milk products, in spite of considerable investment in the dairy sector by the country's government and by the industry itself.[16]

For developing countries, many of which are already vulnerable due to high levels of poverty, the cost of dumping is proving hard to bear. Relative to the size of their economies, West African countries have suffered the most. Oxfam estimates that in 2001–2, US cotton subsidies caused economic shocks of the following magnitude:

- Burkina Faso lost the equivalent of 1 per cent of its GDP and 12 per cent of its export earnings;

- Mali lost 1.7 per cent of its GDP and 8 per cent of its export earnings;
- Benin lost 1.4 per cent of its GDP and 9 per cent of its export earnings.

Oxfam has also estimated that sugar dumping cost India $64m (€49m) and South Africa $60m (€46m) in 2002. Brazil and Thailand — the two developing countries, along with Australia, that took their case against the EU on sugar to the WTO dispute panel — lost $494m (€384m) and $151m (€117m) respectively in the same year.

Maize dumping meant that the real price for Mexican maize fell by more than 70 per cent between 1994 and 2003. For the 15 million Mexicans who depend on the crop, declining prices translate into declining incomes and increased hardship.

In Indonesia, meanwhile, dumped US rice has contributed to a collapse in the price of domestically produced rice: in 2002 the price fell from Rp 2,600 ($0.25) to Rp 1,500 ($0.15) per kilo. That same year, Indonesia received almost a third of the total US rice that was exported as food aid.[17]

All of the above examples took place within a global trade system legally blessed by the WTO's Agreement on Agriculture (AoA).

2. The Agreement on Agriculture: an analysis

The WTO process is supposed to be eliminating the subsidies that lead to distortions of trade. The 1994 Agreement on Agriculture (AoA) — the set of WTO rules that currently govern agricultural trade — states that its long-term objective is to 'provide for substantial progressive reductions in agricultural support'. Yet, so far, because of its loopholes, the AoA has acted as a smokescreen behind which rich countries have continued to subsidise their agriculture, thereby retaining large shares of world markets and dumping subsidised commodities on poor countries.

Having pledged in the AoA to cut farm support, rich countries have in fact maintained it at 1986–88 levels – the supposed baseline for cuts – of $250bn per year (see Figure 1).

How does this square with the commitments made to reduce support? Quite simply, it does not. But a combination of clever wording, and the exemption of many specific programmes from reduction commitments, has allowed rich countries to get away with maintaining high levels of support.

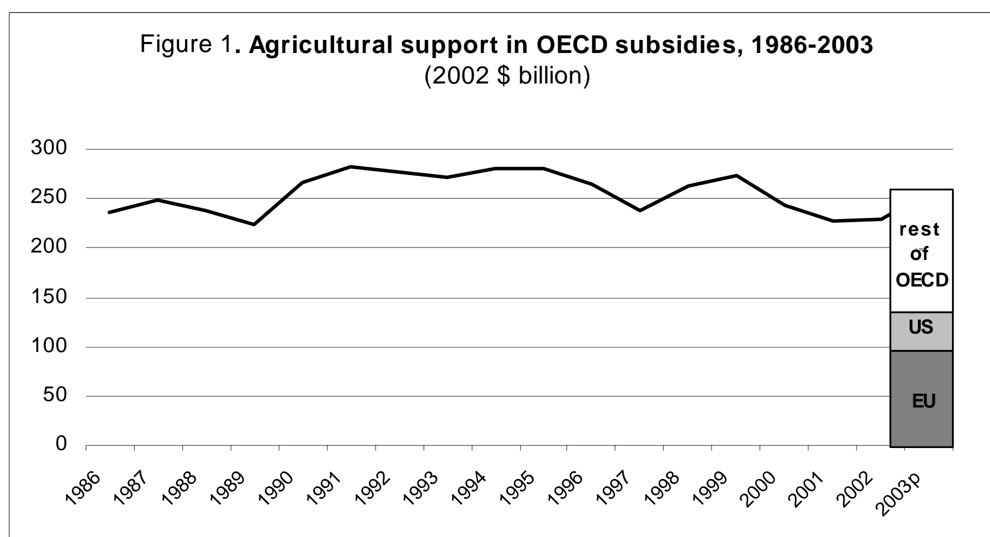


Figure 1. **Agricultural support in OECD subsidies, 1986-2003**
(2002 $ billion)

Source: OECD 2004. It is important to note that OECD countries other than the EU and the USA do provide substantial support to their farmers through a combination of tariffs and subsidies, but the impact of such support is much more limited on world markets, given that most of these countries are not major exporters.

The Agreement on Agriculture: what it said

The AoA was signed at the end of the Uruguay Round negotiations.[18] The current negotiations were triggered by the agreement's inbuilt reform process, starting in 2001.

The AoA is built on three strands, or 'pillars': market access, export competition, and domestic support. The latter pillar comprises three 'boxes', a system for labelling subsidies, according to the amount by which they — allegedly — distort trade, and therefore an indicator of whether or not they need to be reduced (see Annex A for more detail of reduction commitments).

Domestic support boxes

Subsidies which fall under this final pillar, domestic support, are only subject to minimal reduction commitments, thanks to the hefty exemptions that were included in the agreement.

Moreover, only payments that fell into the Amber Box, i.e. the category for subsidies that were unequivocally trade distorting, were liable to be cut during the Uruguay round.

***De minimis* clause**: countries were allowed to exclude from the Amber Box (or AMS) product-specific and non-specific support up to five per cent of the value of total agricultural production, and five per cent of the value of each supported product (10 plus 10 in the case of developing countries).

Green Box exemptions: these are support measures that were considered non- (or, at most, minimally) trade distorting. They are not linked to current or future production, or the number of acres farmed. Some of these exempted measures are in fact important subsidies, such as support for investment and marketing programmes. No cuts were imposed on payments that fell into this category.

Blue Box exemptions: this was the classification used for payments that were trade distorting, but which included an element of production limitation. Provided that these payments were based on fixed areas and yields (or numbers of livestock), or that they were made on 85 per cent or less of the base level of production, they were also exempt from reduction commitments and could be increased without limit.

How the Agreement on Agriculture has really been implemented

The technical fog that shrouds WTO regulations on subsidies makes it difficult to assess whether these reductions have really been implemented, and to what effect. For instance, there are two different ways of measuring support, which give two different answers to the question of whether rich countries have made the agreed cuts.

The OECD's measure of support, known as the Price Support Estimate (PSE) [19] shows that between 1986 and 2001, EU and US subsidies increased. Under the WTO's Aggregate Measure of Support (AMS) model for the same years, however, they decreased (see Figure 2). The implications for discussions on dumping and its causes are considerable.

Although there are some methodological problems with the PSE, Oxfam believes it is a much more accurate measure than AMS of the overall support that farmers receive from their governments.

But whatever the technicalities, there is one very simple reality: rich countries have complied with the letter of liberalisation agreements while systematically violating their spirit. Underlying this is an increasingly artificial distinction between 'distorting' and 'non-distorting' support, as will be explained later.

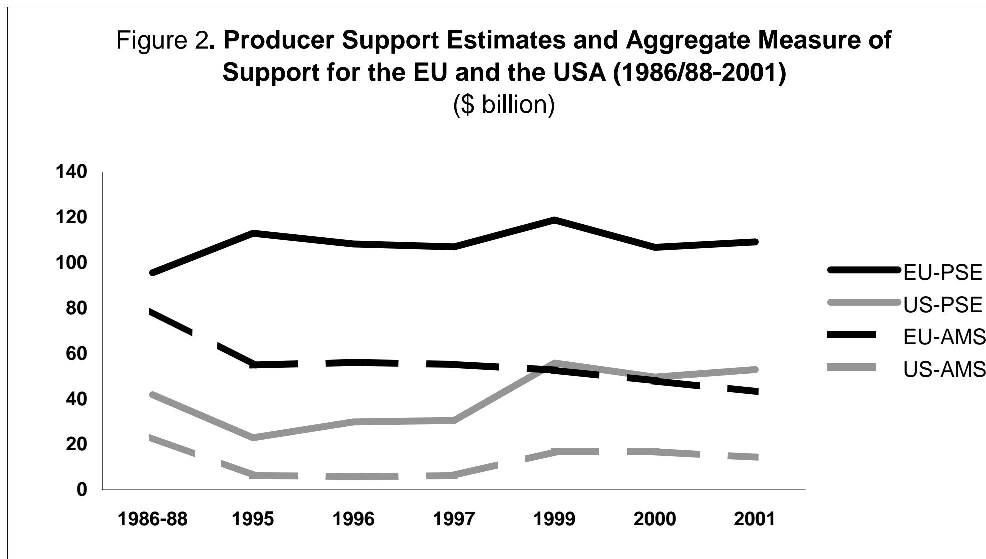


Figure 2**. Producer Support Estimates and Aggregate Measure of Support for the EU and the USA (1986/88-2001)**
($ billion)

Source: Oxfam, on the basis of WTO notifications and OECD 2005.[20]

In fact, in the Uruguay Round, developed countries effectively agreed only to that which they had already done. Under its terms, $86bn[21] could still be given to farmers in trade-distorting support, in addition to unlimited Green and Blue Box payments and the considerable *de minimis* exceptions. This was achieved not through the early reduction of subsidies, but through a mixture of design and ruse.

For instance, the reference years chosen as benchmarks for measuring domestic support (in the case of the USA and the EU) and export subsidy reductions (EU only) were notable for their low prices and historically high levels of support. In other words, the real cuts required were only limited.[22]

Furthermore, because reduction commitments were averages, it was possible for signatories to reduce commitments in some areas while increasing them in others. In the EU, for example, AMS support has been concentrated in a handful of products such as dairy, sugar, and beef.

And while in theory these same loopholes apply equally to developing countries, they have not been able to prop up their agriculture sectors to anywhere near the same extent. In fact, they have even lost an important part of the support they previously received from developed countries in the form of aid. According to OECD calculations, aid from developed countries to the rural sector in the developing world decreased by almost 50 per cent between 1986 and 2003.

The Uruguay Round reality: export competition

Although export subsidy disciplines were more tightly defined in the AoA than were other forms of support, get-out clauses allowed developed countries to escape its reduction strictures.[23] Apart from the artificially high reference base levels, a roll-over provision permitted countries to carry forward unused subsidy allowances during the implementation period, allowing them to accumulate export subsidy rights during periods of high prices.[24]

Because of this, the EU was able to set a permitted a very high ceiling of export subsidies of around €7.5bn ($9.6bn) a year. In 2001–2, however, the EU notified actual or applied export subsidies of €2.5bn ($3.2bn). While European export refunds did fall from 31 per cent to 14 per cent of CAP spending between 1990 and 1999, this is somewhat misleading, as over the same period CAP spending rose[25] — so in effect export subsidies fell by less than one-third. Such a high ceiling also means that Europe has still plenty of scope for expanding export subsidies before subsidies are completely eliminated. The

European Union has recently used this flexibility to increase export refunds on wheat.

The USA also came out of the AoA implementation virtually scot-free. The USA's permitted level of export subsidies is much lower than that of the EU — around $600m (€465m). However, the USA mostly uses other forms of export support that are not yet disciplined by WTO rules, including export credits ($7.7bn, €5.6bn in 2002)[26] and the commercial use of food aid. While these export tools are not 100 per cent subsidy, they still have strong elements of subsidy.

Because of all these loopholes, rich countries have had huge leeway to continue this grossly trade-distorting practice which causes dumping (see Annex B for US notifications to the WTO).

Box 3. State Trading Enterprises and dumping

The 'July Framework' agreed at the WTO in 2004 calls for eliminating export subsidies provided to or by State Trading Enterprises (STEs), government financing of them, and government underwriting of losses. In addition, the 'future use of monopoly powers' is slated for negotiation. The Framework offers special consideration for STEs in developing countries, related to their role in preserving domestic consumer price stability and ensuring food security.

The targets of the proposed disciplines are the Canadian Wheat Board, the Australian Wheat Board and Fonterra (the New Zealand dairy marketer), the only STEs large enough to have any potential impact on third-country exporters. All three operate under a public monopoly mandate, but only the Canadian board receives government financial guarantees. Even so, in ten WTO challenges against Canada, the USA has never successfully proved that government subsidies allowed the Canadian Wheat Board to export below cost.

Oxfam believes that any disciplines on developed country STEs should seek only to ensure the products they export reflect the real cost of production. Export subsidies provided to or via STEs should be prohibited, and the rules should ensure that government financing or guarantees do not lead to dumping. Removing STEs' monopoly powers is a different story. That would effectively undermine their ability to defend the market power of small farmers. What's more, such a discipline would not remove the serious distortions caused by monopoly power. As the UN Food and Agriculture Organization argues,[27] the monopoly behaviour of private actors is far more significant and pervasive than that of STEs – and that lies beyond the reach of the WTO. Cargill, ADM, and Louis Dreyfus each move upwards of $20 billion worth of grain per year, while the Canadian Wheat Board barely surpasses $2 billion.

Oxfam believes there is little case for disciplines on STEs in developing countries, given their limited impact on world markets and their positive role in price stability and food security. While developing country STEs have admittedly have had a chequered history, often lacking democratic controls and being prone to corruption, by marketing on behalf of many small producers, farmer-controlled STEs do help counter the market dominance

of transnational corporations, thus reducing risk to small farmers, levelling competition and helping to stabilise prices.

The Uruguay Round reality: domestic support

It is a similar story for domestic support. While the EU's current Amber Box domestic support is well below its permitted level, this is mainly due to the reduction of guaranteed prices for cereals in 1992, followed by the introduction of compensatory direct payments, which fell into the Blue Box, meaning no reduction commitments applied.

Its current Amber Box support totals almost €40bn ($51bn) per year, nearly all in price support for beef, sugar, fruit and vegetables, and dairy products. It still has considerable room for manoeuvre: after 2003 reforms, which further cut reference prices for some products, the EU could still commit to a 40 per cent reduction of its permitted total AMS without being required to change any of its policies on the ground, as its permitted level is just over €67bn ($82bn).

The US government has actually increased its outlays of trade-distorting subsidies since implementing the AoA. In 2001, the *de minimis* exemption allowed it to spend $19bn (€14.8bn). In the same year, US notifications for non product-specific *de minimis* exemptions were in excess of $7bn (€$5.4bn), up from $800m (€625m) in 1997. This sum consisted mostly of emergency payments to compensate farmers for price fluctuations.[28]

The USA, meanwhile, has not notified any Blue Box payments since 1995, but its Green Box support topped $50bn (€30bn) in 2001, following reforms in domestic agricultural policies (see Annex B).[29]

The villains of dumping

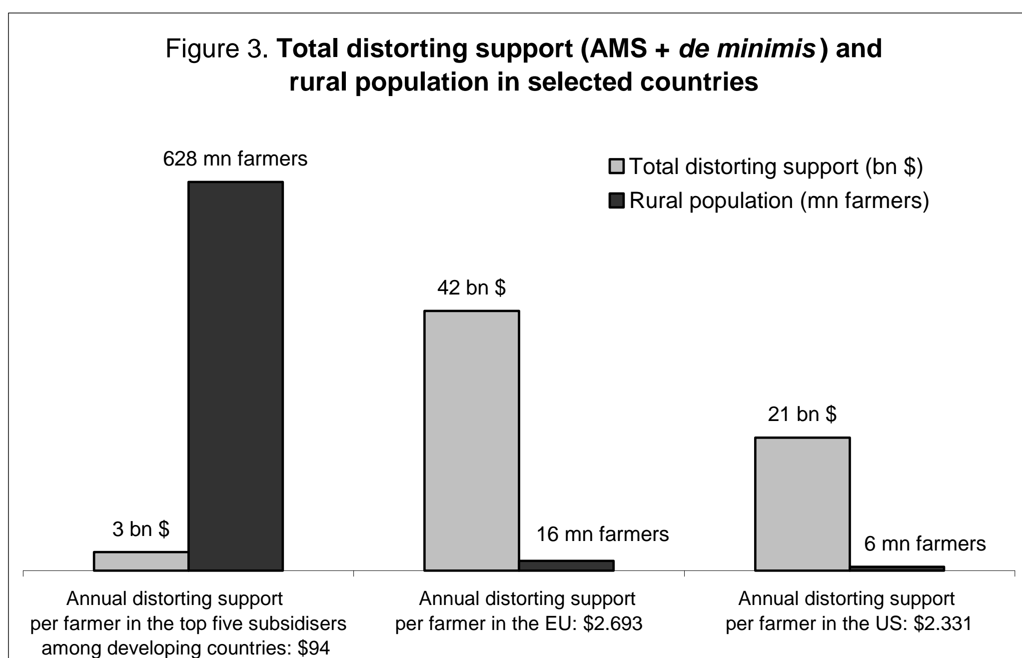
How was such a weak agreement agreed? How was it that rich countries managed to concede so little, when most subsidies are excluded from reduction commitments? The answer lies in the power politics of trade.

As might be expected, the people who stood to gain most from a leaky agreement were the people who had a hand in its shaping. Agribusiness executives have long played a primary role in the design and execution of US and multilateral agricultural policy. For example, former Cargill executive, Daniel Amsturtz, headed the agricultural negotiations in the early years of the Uruguay Round; a bank extending export credits to Cargill wrote to the US Department

of Agriculture (USDA), saying that export credits for agricultural products should not be disciplined at the WTO.[30]

WTO figures show that developed countries are almost exclusively responsible for the problems of trade distortion caused by farm subsidies.

Agricultural support in developing countries is marginal in comparison: according to WTO notifications, total aggregated support in developing countries, where 90 per cent of the world farmers live, is 14 times lower than that of the USA and EU combined (see Figure 3).



Source: latest notifications to the WTO and FAO (2004).

Weak public budgets mean that developing countries can only protect themselves through tariffs, rather than subsidies. Only Indian and Brazilian distorting support are of substance, and neither of these is much higher than $1bn a year. Rural poverty in such countries is significantly higher than in developed countries, so subsidies often serve a vital social justice purpose.

One reason for this low level of developing country support under the AoA is that many developing countries had already substantially reduced their subsidies under the terms of IMF structural adjustment programmes. Another reason is the Uruguay Round: given that developing countries had very few export subsidies during the base

period upon which export subsidy reduction calculations were made in the Uruguay Round between 1986–90, this virtually amounts to a prohibition on export subsidies for poor countries. Moreover, most poor countries had to bind their AMS at 0 per cent and have had to rely on the *de minimis* and other limited exemptions (scu has article 6.2 of the Agreement on Agriculture).

Box 4. US and EU agricultural reforms: the box-shifting strategy

'Our new policy is trade-friendly. We are saying goodbye to the old subsidy system which significantly distorts international trade and harms developing countries... The ball is in the camp of other countries, such as the USA, whose agricultural policies continue to be highly trade-distorting, and have even become increasingly so.'

Franz Fischler, former EU Agricultural Commissioner

'Our Administration has taken the lead in the agricultural negotiations and sent the message around the world that trade-distorting practices must be eliminated. Farm Bureau applauds the President and his trade team for putting forth a strong proposal that will strengthen US agriculture and global farm security.'

Bob Stallman, President of the American Farm Bureau Federation

One key way that rich countries have got out of their AoA commitments is by creatively accounting for their subsidies, otherwise known as box-shifting. Instead of making any substantive changes in support, they have simply switched the classification of tariffs from trade-distorting, i.e. from the Amber Box, to less or non-trade-distorting, i.e. into the Blue and Green Boxes. Box-shifting has its origin in US and EU reforms of their domestic farm support policies – the Farm Bills and the Common Agricultural Policy – all of which made heavy use of this technique.

Both the USA and the EU respond to accusations of inertia in their subsidy policies by pointing to the reforms of their respective farm sectors. In both cases the protagonists have characterised them as radical changes. However, their impact on overall production and exports have been for the bad rather than for the good.

US reform: the Farm Bills

The US 1996 Federal Agricultural Improvement and Reform (FAIR) act introduced radical changes to the US support system. Guaranteed prices, or loan rates, were cut, and instead farmers were compensated by direct payments, fixed in advance on the basis of production and yield in a set reference period. On this basis, the new payments were classified as 'decoupled' and therefore 'non-distorting', moving a considerable amount of support into the Green Box. However, when crop prices began to fall, Congress responded with 'emergency' legislation that created the Market Loss Assistance (MLA) programme.

In 2002 the Farm Security and Rural Investment (FSRI) Act reversed much of the progress made in 1996 by turning these 'emergency' payments to compensate farmers in times of low prices – in other words, explicitly trade-distorting money – into longer term support. These were called counter-

cyclical payments. It also introduced new direct payments. The latter were initially considered to be Green Box (although not officially classified as such), but the findings of the WTO cotton panel should force the USA to reclassify these Green Box cotton subsidies as Amber.[31]

European reform of the CAP

In the EU, moves towards a WTO-friendly Common Agricultural Policy began even before the AoA was adopted. Reforms implemented during the 1990s reduced market price support mechanisms and slowly introduced partially decoupled payments.

This trend was accelerated with the 2003 Mid-Term Review reform of the CAP, which replaced a plethora of different supports with the Single Farm Payment (SFP) – with some notable exceptions like the sugar sector. This was to be calculated in relation to historical production levels or farm area, irrespective of what and how much the farmer produced (although farmers were forbidden to shift production to potatoes, fruit, or vegetables). In other words, out went price support and in came decoupling, which does not stop dumping. (See next section for detailed analysis).

The USA and the EU are not the only trade powers that have played the box-shifting game. Others, such as Japan, have also used the loopholes contained in the AoA.[32]

3. Has decoupling ended dumping?

A key question in the debate around dumping and subsidy reform is to what extent 'decoupled' payments are trade distorting.

According to WTO logic, cutting product-specific support and introducing so-called decoupled payments, i.e. cash paid regardless of the amount and type of commodities produced, eliminates the distortion of world markets caused by rich countries' farm support programmes, because it removes the incentive to overproduce.

This logic is based on the assumption that payments are set according to past production, will not influence current or future planting decisions, and therefore will not affect overall production. While this might be true in theory, the way such payments have been implemented in WTO regulation has cancelled out much of the non-distorting effect.

The debate around decoupling and trade distortion

While decoupling has reduced production in some sectors, it has not stopped dumping. The OECD predicts that production will not decrease significantly. This is partly because decoupling has not worked in the way in which economists initially predicted, and partly because payments still go to the farms that have always received the bulk of the subsidies — meaning that most of the support is concentrated on a small number of producers, thus increasing its impact (see Box 5).

In France and other European member states, where only partial decoupling has taken place, this is even more problematic. As the World Bank says, 'the co-existence of coupled and decoupled programmes means that incentives to overproduce remain'.[33]

It should be noted that not all subsidies imply the same degree of trade distortion. Paying farmers to maintain their hedgerows is clearly less likely to lead to dumping than would subsidising their exports. There is a hierarchy of distortion in which production-related support has proved to be the worst. According to a study from the FAO, the Green Box subsidies with the most potential to distort production are those that apply to inputs. The most harmful of the effects of decoupled payments (outlined in Box 5) is the risk/insurance effect.[34]

It is important to note that decoupling reforms were a step in the right direction. Export subsidies were reduced by the Mid-Term Review of the CAP, for instance. However, the change is far too slow for developing countries. Full decoupling will only occur when payments allow farmers to leave the land altogether, and tackling dumping will require additional measures.

Box 5. 'Decoupled' distortions

There is still not sufficient analysis of the impact of decoupling on production, as there are only limited data available: substantial decoupling was only introduced in the USA in 1996 and in the EU in 2005. However, commentators have identified four distinct ways in which direct payments affect production.[35]

Wealth effects: A guaranteed stream of direct income may increase producers' willingness to plant. For instance, decoupled payments can help farmers cover fixed costs and stay in business when they would otherwise go bust.[36] This is particularly true in the case of large, fairly competitive farms, where fixed costs are reduced to a minimum. Due to the highly regressive nature of US and EU subsidy distribution, this is precisely the class of farm that attracts the most subsidies.

Risk/insurance effects: Direct payments create insurance effects, changing the producer's perception of risk. At higher levels of wealth, farmers may be willing to take more risks, including expanding agricultural production. Guaranteed support based on land ownership also strengthens land value, and hence the capacity to borrow and invest in land, equipment, or inputs.

Land allocation effects: As farmers know the payment reference year may be updated — as happened under the terms of the US Farm Security and Rural Investment Act — they may want to keep up production levels.[37] If updating today leads farmers to anticipate that future legislation will again update base acreage and yields, there is a clear incentive to build acreage for future assessments. In Europe, the requirement to keep the land in good agricultural condition (part of the EU's new Single Farm Payment scheme) may cause farmers to continue to cultivate land that would otherwise be left fallow.

Accumulation effect: The distorting effects of decoupled payments are multiplied when such payments are given to farmers already benefiting from insurance or price support mechanisms, as the US case shows.[38] A farmer who receives a decoupled direct payment contract on a commodity crop that is also eligible for a loan rate will have an incentive to continue production of the original crop in order to keep both payments, thereby undermining the decoupling effect. Concerns relating to this accumulation effect have been consistently raised by G20 countries in the current negotiations.

There is one final way in which so-called decoupled payments continue to result in dumping. When domestic support is so great, it effectively acts as a hidden export subsidy, because it allows production to take place more cheaply, and so effectively lowers the export price. A World Bank report states, '…implicit export subsidies created by domestic support are increasing, lending unfair advantage to producers in industrial countries'.[39]

The reality check

Even if, as some analysts suggest, these new reformed payments are less distorting than the previous subsidy regime, their impact on EU and US trading patterns has been minimal or negative from the point of view of developing countries.

In the end, the figures speak for themselves. Despite changes introduced in the European and US agricultural support systems, their companies and large producers have been able to retain a much bigger share in world export markets (see Figure 4 for the USA) than would otherwise be the case without subsidisation. In the case of some products, such as poultry or coarse grains, direct 'decoupled' payments have even allowed the USA to increase its market share in recent years. The overall market share of the European Union has somewhat declined, though it remains inflated in comparison with Europe's costs of production. There is little doubt that Europe's market share would be much smaller if trade-distorting subsidies were substantially reduced.

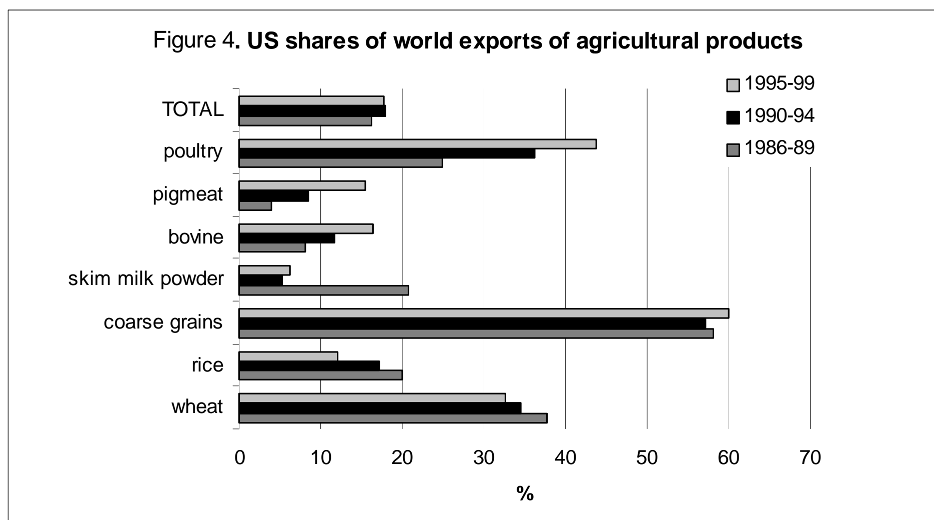


Figure 4. **US shares of world exports of agricultural products**

Source: FAOSTAT (2004).

This apparent 'miracle' has depended on the distinctly worldly use of a combination of different support instruments, legalised by the Uruguay Agreement. In the case of the EU, it is still too early to assess the impact of the 2003 Mid-Term Review. However, some analysts suggest that little will change. An ambitious exercise based on FAPRI modelling led one set of analysts to characterise the Mid-Term Review as 'much ado about nothing': only the beef and rice sectors will see significant reduction, while in most other sectors the impact is marginal.[40] At best the reform will only have reduced production

by three per cent— hardly the dramatic change billed by the European Commission.

Even the EU's own impact assessment finds that the CAP reform will lead only to a minimal reduction in trade exports. The biggest fall over the medium term, in the production of durum wheat, will be of around 10 per cent; again, not the dramatic change promised. Some sectors — such as pork and poultry — will even see an increase in production.[41]

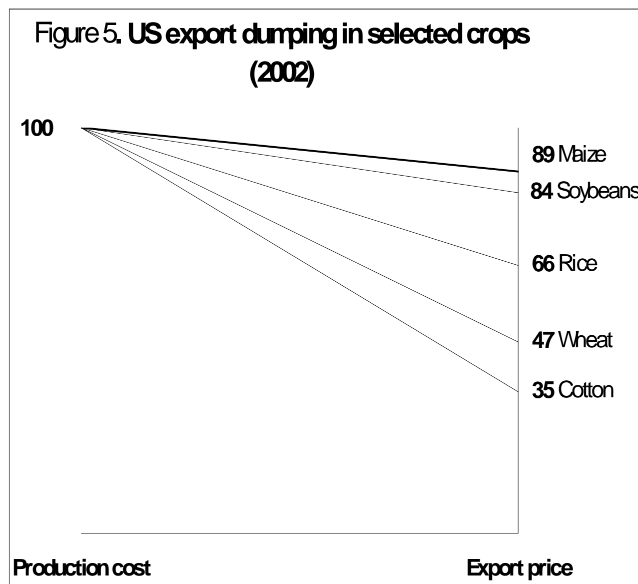
The hypocrisy of dumping

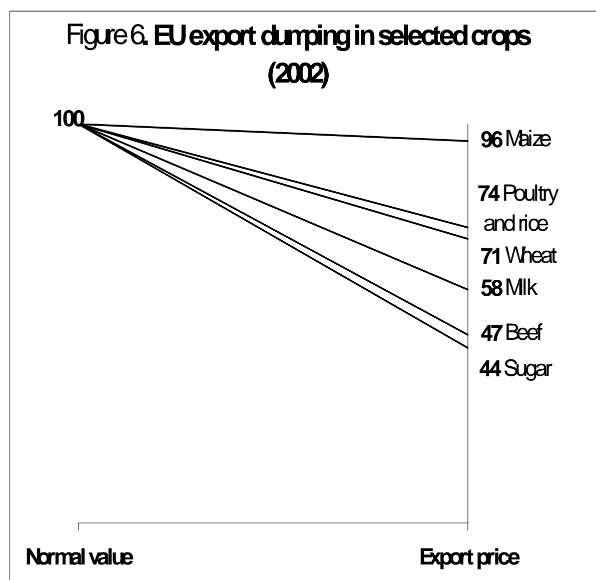
The combinations of different types of support currently used have an influence on export prices far in excess of that officially recognised by the WTO. This loophole has been used by rich countries to circumvent their commitments, and has allowed them to keep their subsidies at home while preaching free trade abroad.

It is difficult to evaluate the precise extent of dumping in a sector that is so distorted, and distorted in such a complex manner. The WTO definition of dumping is export prices set below the 'normal value' of the product, i.e. the price in the exporter's market. However, distortions in border protection and the use of subsidies make it difficult to establish an accurate 'normal value' for the domestic price of a product. An alternative approach is needed, based on the combination of the exporter's production costs and other expenses, including transport and handling. This is how Oxfam has calculated the figures for the EU used in Figures 7 and 8.

Whatever methodology is used — leaving aside the WTO's legal considerations about the level of distortion of different subsidies — almost no agricultural export from the USA or the EU reflects its real cost of production.

Figures 5 and 6 show the dumping margins involved in the main export crops for the two trading powers. The USA is exporting cotton at 65 per cent below its real cost of production (i.e. if the production cost is 100 the export price is just 35), while the EU dumps sugar at 56 per cent below the normal value.[42] These figures show just how unfair is the competition that developing farmers face.





Source: IATP 2004 (US figure) and Oxfam calculations.[43]

An export support equivalent

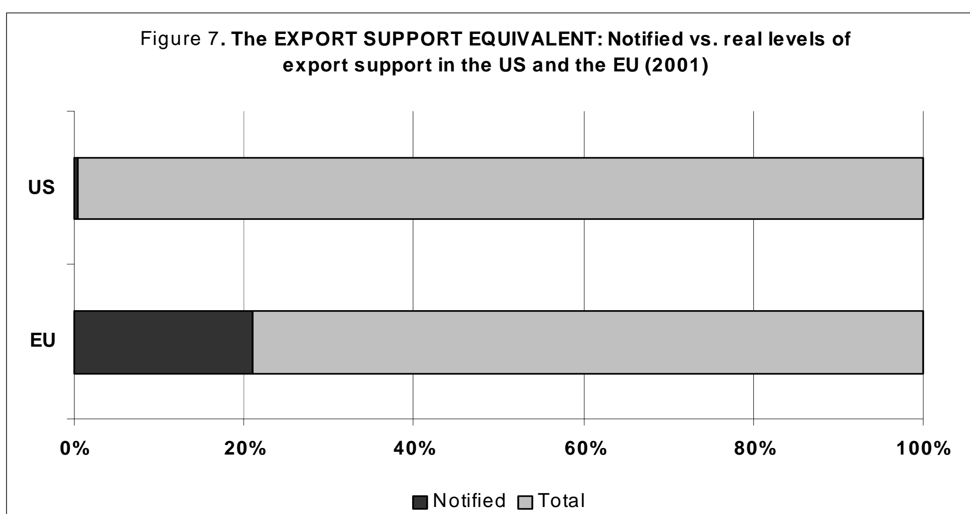
In order to capture the hidden export subsidies, Oxfam has constructed an indicator which estimates by how much official export subsidy levels fail to reflect the real dumping effect of rich countries' trade practices.

This estimate captures the most egregious form of subsidies, because they fuel export dumping. This does not mean that other trade-distorting subsidies do not harm developing country prospects. These might not directly lead to dumping but still encourage overproduction of commodities of interest to developing countries. While subsidies linked with dumping should be eliminated during the current round of negotiations, other trade-distorting subsidies should be disciplined so that a) market access for developing countries is improved, b) remaining subsidies are used to support small farmers, rural development, and the environment, which is unfortunately not the case today in the European Union and the United States.

According to our calculations, for a group of selected products, the subsidy component of EU exports is much higher than the officially declared export subsidies (see Annex C). These were done by estimating the proportion of domestic subsidy payments that end up directly or indirectly supporting production destined for export. Europe's export support equivalent is €4.1bn ($5.2bn). Excluding such payments from export subsidy reduction commitments amounts to serious negligence on the part of the WTO. The position of the USA is even more hypocritical: it declares almost no export subsidies,

though its main agricultural export lines carry implicit export support of more than $6.6bn (€5.2bn) a year.

These figures are respectively a startling four and 200 times more than the levels of export support these 'subsidy superpowers' currently report under WTO rules.



Source: Oxfam calculations (see methodology in Annex C).

The discrepancy between the official and the actual export subsidies may seem justifiable to US and European trade officials, who have managed to create an AoA based on artifice. But for the rest of the world, particularly the millions of poor producers who pay the price for unfair competition, the difference is immaterial.

These arguments are reflected in the findings of two recent WTO panels, which may have important implications for the future of export dumping. The findings of the two dispute settlement panels, on cotton and sugar, state that rich countries' export dumping takes place outside the narrow definition of 'distortion' in WTO rules (see Box 6).

Box 6. The precedents of the cotton and sugar panels

Two different cases recently brought before the WTO's dispute settlement panel have established crucial legal and political precedents as to how subsidies are dealt with in the multilateral trade system.

Brazil successfully led groups of countries that challenged, respectively, the cotton and sugar regimes in the USA and the EU, on the basis that these rich country trading blocs were using subsidies above permitted levels to maintain a strong position in global agricultural markets.

The reforms that these panels could bring about will benefit millions of poor producers in countries that were not even represented in the disputes —

which shows the potential of a rules-based multilateral trade system. In fact, although the legal arguments behind each of these cases are different, both of them have the virtue of helping to bring the agricultural negotiations back to reality.

Cotton

The cotton case has achieved iconic status in the Doha Round. For many developing countries, the USA's reaction to the initiative presented at Cancun by four West African cotton-producing countries was a litmus test for their expectations of obtaining a real development round.

Since 2001, when cotton prices started to slump, Africa has been losing an average of $441m a year due to trade distortions in cotton markets, because dumped exports have depressed prices and stolen markets. Since 2003, Benin, Burkina Faso, Chad, and Mali have suffered combined export losses of around $382m because of US inaction.[44]

Now, after two-and-a-half years, the WTO has finally confirmed the obvious: an appellate ruling in March 2005 found that US subsidies were causing significant suppression of world cotton prices. The WTO appellate body also confirmed that the USA uses hidden export subsidies on cotton to circumvent its Uruguay Round commitments.

According to evidence used by Brazil in its case against the USA, the impact of export credits and 'Step 2' programmes has depressed world prices by around four per cent. Now the USA will have to eliminate these programmes by 1 July 2005. The fact that there are no signs this will happen on time considerably undermines the credibility of the USA in the trade negotiations.

The appellate body also found that US domestic support programmes on cotton caused a serious prejudice to other producers such as Brazil and West Africa by depressing world cotton prices. It also concluded that the USA had been misreporting certain programmes as non-trade distorting to the WTO, when in fact they were trade distorting. These direct payments, notified by the USA as Green Box, will now have to be reclassified as Amber Box support. This also has important implications for the EU, since the Single Farm Payment includes very similar production-limiting criteria.[45]

This case sets a crucial precedent: it is the first time domestic subsidies and export credits have been successfully challenged at an international tribunal, thereby creating a 'road map' that could be used in other subsidised commodities, particularly in the absence of the Peace Clause.

Sugar

As in the cotton case, the sugar panel ruling recently won by Brazil will provide other developing countries with an important moral victory. The panel has confirmed that all sugar exports are effectively subsidised, and that the EU is dumping more than three times the level of subsidised sugar exports permitted under WTO rules.

The ruling refers particularly to two elements of EU sugar policy (Oxfam figures):

1. EU exports of around 2.7m tonnes of what the EU claims to be unsubsidised sugar (so-called non-quota or 'C' sugar). The panel found that these exports are effectively cross-subsidised by EU support provided for the production of quota sugar. The EU is only able to export non-quota 'C' sugar at prices below the average costs of production because the support prices for quota sugar are sufficient to cover all the fixed costs of production, while world prices cover only their marginal costs.
2. The panel has also ruled that the EU is contravening its WTO commitments by subsidising the re-export of an amount equivalent to imports of sugar from the African, Caribbean, and Pacific (ACP) countries and India (1.6m tonnes). These subsidised exports were not included in the EU's reduction commitments and exceed its permitted level of subsidised sugar exports. Crucially, the panel ruling does not affect the right of the EU to import sugar from the ACP and India on preferential terms.

The broader implications

The findings of these panels are extremely important in their own right. They should force the reform of two sectors on which millions of poor producers in developing countries depend. However, their importance goes much further still:

- Both panels legally establish that rich countries have failed to abide by the subsidy rules that they crafted during the Uruguay Round, a longstanding claim of developing countries. This gives developing countries an important moral and legal victory, and should serve to strengthen their hand in the WTO talks. Arguably the most important element of the ruling is recognition of the phenomenon of 'indirect dumping'.

The panels' findings on the serious prejudice caused by the accumulation of domestic support and the misclassification of Green Box subsidies calls into question whether decoupling reforms introduced by the USA and the EU have reduced trade distortions sufficiently to comply with their Uruguay Round commitments. After these cases, it will be much more difficult to argue that certain payments are non-trade distorting.

- These victories open the door for similar cases in other sectors, such as corn and cereals, creating a domino effect whose outcome is uncertain. Paradoxically, the inaction of developed countries would create a situation in which rules are enforced by conflict rather than by negotiations, thereby undermining the very spirit of the WTO.

Of course, Oxfam is not the first to point out the flaws in the subsidy regime; however, for too long the problems have been ignored. The consequence of looking the other way while dumping continues is the devastation of the livelihoods of millions of poor farmers in developing countries. And this bad situation is set to get worse.

4. How the current negotiations are likely to develop

As we have seen, the vital question concerning dumping is not by how much subsidy ceilings will be reduced, but to what extent subsidised exports and overproduction will stop.

The July Framework

Ever since the Doha Round was launched in 2001, agriculture has threatened to bring it to its knees. Differences on agriculture between developed and developing countries contributed critically to the failure of the 1999 Seattle and the 2003 Cancun WTO Ministerial meetings. At the latter, poor countries rightly thought that EU and US offers to cut subsidies fell far short of what was reasonable, particularly in the face of rich country demands on developing countries to open their markets. The collective negotiating strength of developing countries meant that they were able to block the process.

It was not until nine months later, in August 2004, that WTO members finally reached the agreement that should have preceded Cancun: the WTO Framework for Establishing Modalities in Agriculture, more commonly (if inaccurately) known as the July Framework agreement. This set out the guidelines for the future of negotiations in the Doha Round. On agriculture, the July Framework outlined areas for further negotiation in domestic support, export competition, and market access.

What the Framework says on subsidies

Export subsidies: In more concrete terms than the mandate of the Doha Ministerial declaration, the July Framework calls for export subsidies to be completely eliminated. This is very positive. For the first time, WTO members have agreed to include in this package export credits and credit guarantees and trade-distorting practices related to State Trading Enterprises (STEs).[46]

Agricultural exporting countries have also obtained an agreement for new disciplines on food aid as part of the Doha Round negotiations at the WTO, in light of evidence that the USA sometimes uses food aid to dump agricultural surpluses and to attempt to create new markets

for its exports. Indeed, food aid has the potential both to reduce domestic production of food, damaging the livelihoods of poor farmers, and to displace exports from other countries into the recipient country. In 2002–03 food aid donors over-reacted to a projected 600,000 metric tonne food deficit in Malawi, causing a severe decline in cereal prices and hurting local producers.[47]

However, the Framework failed to set an end-date for the use of export subsidies.

Describing what he considers a 'proper' horizon for their elimination, France's former agriculture minister, Hervé Gaymard, said last year that he would seek a timetable for the cuts looking towards 'a horizon of 2015 or 2017'.[48] This horizon would be an unacceptably distant one for the developing countries that bear the brunt of dumping. The Commission for Africa talks of a more reasonable horizon of 2010.

However, it is not only the timescale that is vital: the way in which subsidies are phased out is also key. Worryingly, the July Framework fails to make any mention of method, although most delegates agree that it is likely that the tiered reduction proposed by the former chair of the WTO Agriculture Committee, Stuart Harbinson, will win the day. The timelines will have perilous consequences for millions of poor farmers.

Under the Harbinson formula, or something similar, export subsidies would be divided into two categories and phased out according to two different schedules:

- **fast track:** export subsidies in this category would be reduced over five years.[49]
- **slow track**: reductions in this category would happen over nine years.[50]

Domestic support: There are substantial changes to this pillar (see Box 7). The overall level of distorting support (as defined by the WTO, including AMS, *de minimis*, and Blue Box) will be reduced through a tiered formula that requires greater cuts for higher levels of support. The text requires members to reduce *the permitted level* of these subsidies by 20 per cent at the beginning of the first year. Product-specific AMS is also capped in order to avoid the transfer of subsidies between different products.

The Framework places a cap on Blue Box payments: the target is a cap of five per cent on the total value of agricultural production at the start of the implementation period.[51] This would be a good move. The text also prohibits updating the base reference periods for all Blue

Box payments. However, the USA has proposed widening the scope of the Blue Box to highly trade-distorting subsidies. Finally, no changes are proposed for the Green Box, except for a vague reference to the need to revise and clarify the possible effects of these payments on production.

Nor does the Framework make much progress on cotton subsidies, an issue that is extremely important for West African countries. It does create a separate cotton sub-committee, but in reality cotton has been folded into general agricultural negotiations, under pressure from the USA, which hopes to limit the scope and depth of cuts on its own cotton subsidies.

Box 7. Box-shifting: the new Blue Box

One of the most worrying features of the July Framework agreement is the changes it proposes to the Blue Box. It allows for an extra category of payments to be included in the box — a step backwards in the WTO process, and a huge loophole in a crucial agreement.

The Blue Box was designed for subsidies that reduce trade distortion. However, the new Blue Box allows the USA (and, to a lesser extent, the EU) to make substantial cuts in AMS trade-distorting support without having to change the form, or even the level, of support to producers.[52] Previously, subsides needed to include production-limiting elements to payments to qualify for the Blue Box, with its reduction exemptions. This was deemed sufficient to make such payments non-trade distorting.

If the original rationale is abandoned, the USA can classify up to $10bn a year in counter-cyclical payments (CCPs) as Blue Box. This is entirely arbitrary, as CCPs are just as trade distorting as they have ever been.[53] It is simply another example of box shifting. The July Framework will thus make the AoA compatible with US agricultural policy, rather than the other way round.

What effect would the new Blue Box have?

Intended as a transition point for programmes moving from Amber to Green, the Blue Box is starting to provide a permanent home for trade-distorting domestic support (but not a safe house, since they will be subject to a legal challenge if serious prejudice is proven). The new Blue Box will mean that rich countries do not have to reduce their trade-distorting support, but instead will be free to increase it.

A round for free: what the Framework agreement really means

Apart from some small wins for poor countries in the negotiating text, broadly the July Framework is little more than an agreement that keeps talks — and the WTO — afloat. Significantly, while the Framework does set out important parameters, it fails to resolve

continuing disagreements between developing and developed countries, and fails to guarantee a pro-development outcome.

When the former EU trade and agricultural commissioners, Pascal Lamy and Franz Fischler, made their now famous offer of a 'round for free' for Least Developed Countries (LDCs), few realised that, once again, it would be the rich world rather than the developing world that would escape having to make concessions. The July Framework turns the 'round for free' offer on its head, for two reasons.

Firstly, the overall level of subsidies will not be reduced, or at least not as a result of WTO restrictions. Secondly, developed countries proclaim the reforms already undertaken as a sign of early commitment to subsidy reduction. Even if we ignore the significant step backwards of the US 2002 Farm Bill, their gift is a poisoned one: they use existing reform as an excuse not to introduce further quantitative or qualitative limitations to the Green Box, for instance, thereby obstructing in-depth debate about the causes of dumping and the way to tackle them. From the perspective of developing countries, these are two good reasons to be pessimistic about the outcome of the Doha Round in terms of dumping. Worse, developing countries are being asked to reduce their own subsidies and grant additional market access in exchange in return for almost no concession from developed countries.

Export subsidies

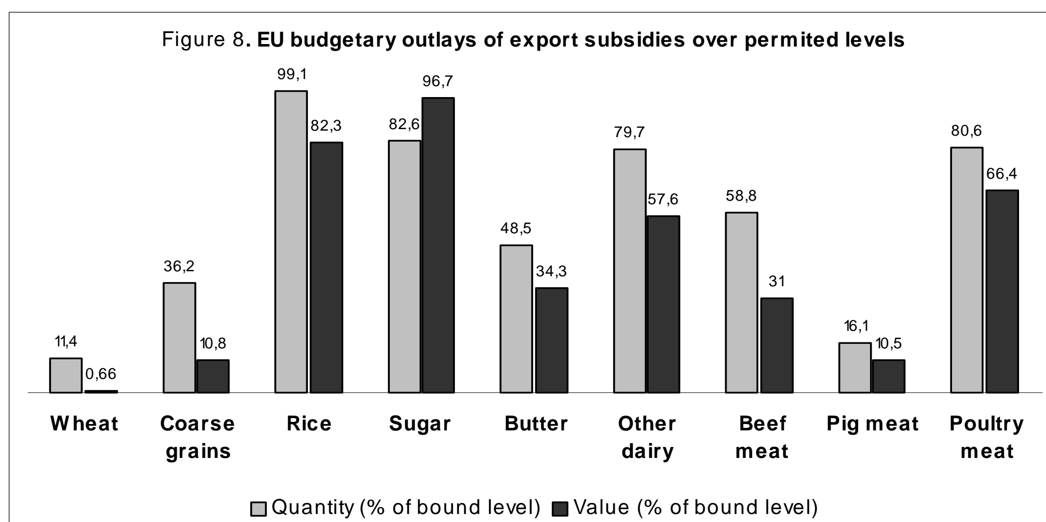
The Harbinson formula, as applied to the July Framework, would allow the EU to group all the main products for which it still uses export subsidies — particularly sugar and dairy products, but also fruit and vegetables — in the slow-track reduction group. While these export subsidies account for less than 47 per cent of the aggregate permitted level, they make up more than three-quarters of the export subsidies actually spent, according to their latest notification.

For rice and sugar the EU uses 80 per cent or more of its permitted quantities for subsidised exports — in other words, it has used much of its available flexibility (see Figure 8). But for other products, there is still plenty of flexibility. For example, Europe could increase its expenditure on export subsidies for wheat by more than ten times, and still be within the allowed limits.

It may have been with this in mind that the EU requested the inclusion in the text of a qualification that the phasing of commitments 'will take into account the need for some coherence with internal reform steps of members', or in other words, dairy and sugar reforms. But the flexibility for other products is still

considerable and there are good reasons for thinking the EU will use it if necessary, as it did recently by increasing export refunds on wheat.

This means that once again, the process would be adapted to the needs of powerful EU and US lobbies, and not to the interests of the majority.



Source: EU notifications to the WTO

For the USA, it would be even more straightforward. All its dairy products would fall into the slow-track group. The same applies to export credits and the commercial use of food aid, since these are concentrated in a handful of products, allowing the US government to dodge the faster track of the reduction commitments. This is in the probable case that the USA does not comply with the cotton panel's instruction to stop using export credit guarantees by the start of July 2005.

The money spent by the USA and the EU, and the quantities they export would not have to be reduced substantially until five years after the start of the implementation period. As this could be 2007, export subsidies may not even start to disappear until 2012, and the complete process might not be finished before 2016.

The consequences of this delay are alarming. In West Africa alone, thousands of farmers are forced to abandon their land every year due to unfair competition from the USA. In other words, developing countries simply cannot afford to wait until 2016.[54] This is unacceptable in a 'development' round.

Domestic support

The July Framework is likely to have even less of an effect in reducing the amount of domestic support that rich countries can provide. The results, applying these criteria to the current permitted and applied levels of the EU and the USA, are detailed in Table 1. In short, both trade powers would be able to get a 'round for free' on domestic support subsidies.

After the Mid-Term Review of the CAP, which re-allocates most of the current Blue and Amber payments into the Green Box and on the basis of estimates of the European budget for 2007–2013,[55] the EU would be able to increase its fully distorting agricultural support by €28.8bn ($35bn).[56]

Thanks to this box shifting, the EU will be able to circumvent subsidy reduction commitments in the current round. Besides, it is already claiming that after this, no more reform will be possible for several years, thereby denying in advance the possibility of introducing stricter criteria or capping for the Green Box.

By the end of the Doha Round, the USA would be allowed to increase its distorting support by $7.9bn (€6.4bn) at the end of the implementation period. This would be a massive step backwards and is a perfect example of how these AoA rules have been rigged. This is possible thanks to the successful Blue Box-shifting strategy it has undertaken (see Box 7).[57]

In other words, yet again the USA and EU will get through a round of negotiations, whose very purpose is to regulate the reduction of trade-distorting subsidies, without having to do anything to cut their domestic support programmes.

Further reductions will take place after the first year, but the USA and EU are ready for them. As already explained, the Mid-Term Review of the CAP has allocated many current Blue Box payments to the Green Box, although there might be limits to this shift. The USA is not planning such a reform in the short term, though President Bush has proposed five per cent cross-cutting reductions for all programmes.

Table 1. The outcome of the Doha Round at the end of the implementation period (Oxfam estimations based on the July Framework and existing negotiating proposals)[58]

		AMS	*De minimis*	Blue	Green	TOTAL
USA ($bn)	Uruguay Round ceiling	19.1	19.8(1)	N/a	N/a	
	Doha Round suggested parameters	50% cut	2.5% + 2.5% of production value (p.v.)(1)	5% of p.v.(1)	N/a	
	Doha Round ceiling	9.5	9.9	9.9	50.7(2)	80
	Most recent notification (2001/02)	14.4	7	0	50.7	72.1
	Required change	**-4.9**	**+2.9**	**+9.9**	**0**	**+7.9**
EU (€bn)	Uruguay Round ceiling	67.2	24.4	N/a	N/a	
	Doha Round suggested parameters	65% cut	2.5% + 2.5% of p.v.(1)	5% of p.v.(1)	N/a	
	Doha Round ceiling	23.5	12.2	12.2	49.9(2)	97.8
	Most recent notification (2001/02)	39.3	0.9	23.7	21	84.9
	Estimated post- 2003 CAP reform applied levels(3)	16.3	0.9	1.9	49.9	69
	Required change (Doha ceiling *minus* post CAP reform applied levels)	**+7.2**	**+11.3**	**+10.3**	**0**	**+28.8**

(1) This figure includes the *de minimis* exception both for product-specific and non product specific distorting support (5% + 5% of the value of production). We have used for this calculation the 1998–2001 average value of production ($191bn in the USA and €244bn in the EU).

(2) No ceilings are likely to be imposed on the Green box in the current round, so we have used the latest notification levels as reference. For the EU, the reduction starting point would be €49.9bn, the estimated applied level after the implementation of 2003 CAP reform.

(3) See calculations in Annex D.

Source: Oxfam's calculations based on WTO notifications, and European Commission and USDA figures. The model of the table has been adapted from Jank and Jales (2004).

What is abundantly clear, however, is that stricter disciplines and commitments to reduce subsidies will be needed if dumping is to be tackled adequately.

Box 8. The Green Box as a way out

Large swathes of rich country agricultural budgets have already been transferred to the Green Box, or soon will be. This is not a rule change, but an attempt to evade controls by misleading reporting — more box shifting.

The USA's Green Box subsidies have averaged nearly $50bn (€40bn) annually since 1995.[59] Since the late 1990s, the EU has provided Green Box support of around €20bn ($25bn) per year, and this has increased sharply with the introduction of the new Single Farm Payment.

In spite of rich country assertions that these payments are innocuous, experience shows that their influence on production and markets — and hence the extent to which they cause dumping — is far from negligible, as the cotton panel results prove.

The July Framework states that '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'. But like most language in modalities, this provision is sufficiently vague to leave room for multiple interpretations.[60]

5. Real policies, not fantasy: conclusions and recommendations

'The key division at Cancun was between the can-do and the won't-do. …As WTO members ponder the future, the USA will not wait: we will move towards free trade with can-do countries.' — Robert Zoellick, former US Trade Representative (*Financial Times*, September 2003)

'We have also lessons that in these multilateral organisations members must listen to the needs of all, particularly those who represent the majority of the world's poor. If anything, this process must inform us that in future dialogue and negotiation those of us who are in an advantaged position should be able to show willingness to make sacrifices if we are to create a just and a better world.' – Alec Erwin, South African Trade Minister (September 2003).

Developed countries have succeeded in building a key part of the negotiations on the AoA on a fantasy: that their so-called decoupled farm subsidies do no harm, and that they are willing to cut significantly those that do. Current proposals for the AoA will, in many instances, have a negligible effect on rich countries' subsidising of production and exports — which leads to dumping. This not only makes the negotiations a sham, but also threatens the credibility of the WTO itself. Doha is, after all, supposed to be a development round. But the fact that the rich countries have managed to manipulate the talks in this manner critically undermines the potential of trade to work for development.

The risk that rich countries will refuse to change course is a significant one. A combination of vested interests in the EU and the USA, and the political inertia of negotiators, may perpetuate the status quo, thereby watering down the outcome of the Doha Round.

In light of this, developing countries would be fully justified in adopting a 'won't do' attitude. Unless much stricter disciplines and reduction commitments are considered in the forthcoming modalities text, poor countries will refuse to make any substantial concessions.

The widespread — and largely justified — perception that an AoA based on the terms of the July Framework would be a make–believe document would give new impetus to the G20 and others to challenge it, as they have done in the cases of cotton and sugar. There is no reason to believe that similar arguments could not be applied to other important sectors, such as cereals, soybeans, corn, or rice. However, this would be a time consuming, costly, and unpredictable

way of doing business for everyone involved, and would not necessarily result in adequate enforcement of rules.[61]

Policy proposals: what is needed to put development back into the WTO agenda

The AoA is failing to serve the purpose for which it was intended: identifying and eliminating harmful dumping practices provoked by farm subsidies. In the longer term, it will need to be reformed radically, in parallel with the reform of national agricultural policies in the USA and the EU. This does not imply that all subsidies should disappear, but the legal capacity of rich countries to keep socially and environmentally friendly subsidies in place should depend on their capacity to prove that they do not significantly harm prospects of developing countries. So far, the structure of the boxes and the allocation of subsidies among them are largely arbitrary, as this paper has shown.

As for the immediate negotiations, much can be done between now and December to reduce dumping. A definitive step in this direction implies changes, across all three pillars of the AoA, based on the following principles:

- A marker in the sand that developed countries are taking the Doha Development round seriously by setting an early end date for export subsidies and a credible solution for the cotton and sugar crises.
- Deeper and quicker cuts for the explicitly distorting support, (including Amber and Blue Boxes, and *de minimis*), stricter disciplines on Blue and Green Box subsidies, and the full elimination of trade-distorting support on cotton.
- A balanced agreement for developing countries, which allows them to maintain their capacity to finance rural development programmes.

1. A marker in the sand: early end-date for export subsidies

Export subsidies constitute the worst form of unfair competition. Developed countries must not delay further in eliminating them.

All forms of export support, i.e. export subsidies, export credits, and commercial use of food aid, should disappear three years after the beginning of the implementation period, or no later than the end of 2010 as the Commission for Africa has proposed. There should be an immediate standstill on the use of export subsidies. Back loading of

commitments during the implementation period should be strictly prohibited.

- The formula for phase-out should establish equal instalments every year. No exceptions should be made for any product.
- Food aid should be provided exclusively in grant form and not be linked, either explicitly or implicitly, to commercial transactions or services of the donor country. The use of in-kind food aid should be limited to situations of acute local food shortage and/or non-functioning local food markets, where regional purchase is not possible. In all cases food aid should only be provided in response to calls from relevant institutions like the UN.[62]
- Government-sponsored export credit programmes should be eliminated and replaced by an international mechanism which provides guarantees and financing for developing countries in need (see proposal for NFIDCs below). No loophole should allow the USA to reschedule export credits that have been proved illegal by the appellate body in the cotton case as export subsidies.
- The rulings of the cotton and sugar panels should be implemented in full before the end of this year, taking into consideration the special interests of both West African and ACP countries.

2. Deeper and quicker cuts for explicit trade-distorting support

The few numbers that have been included in the July Framework agreement would more or less allow developed countries a 'round for free'. A global and ambitious cut for all trade-distorting payments is needed if the reforms of the AoA are to be credible and dumping is to be effectively curbed:

- The tiered reduction formula should include provisions for AMS cuts of at least 60 per cent and 70 per cent in the permitted levels of support for the USA and the EU, respectively, by the end of the implementation period.
- The use of the *de minimis* exception should be reduced by 50 per cent for developed countries, since sufficient scope to subsidise is guaranteed in the Green, the Blue and, particularly, the Amber Box (where product-specific distorting payments could be allocated).
- The permitted Blue Box level should be reduced by 50 per cent, down to 2.5 per cent of the value of total agricultural production. The reference basis at the beginning of the implementation period

should be the most recent notification for the EU, and five per cent of value of total agricultural production for the USA.

Table 2 shows the effect that these proposals would have.

Table 2. Reform of the AoA: cuts required in explicit trade-distorting support

		AMS	**De minimis**	**Blue**	**TOTAL distorting support**
USA ($bn)	Uruguay Round ceiling	19.1	19.8	9.9[(1)]	48.8
	Oxfam's suggested parameters	70% cut	50% cut	cap of 2.5%	
	Doha round ceiling	5.73	9.9	4.95	20.58
	Most recent notification (2001/02)	14.4	7	2.6[(2)]	24
	Required change	***-8.67***	***+2.9***	***+2.35***	***-3.42***
EU (€bn)	Uruguay Round ceiling	67.2	24.4	23.7[(3)]	115.3
	Oxfam's suggested parameters	80% cut	50% cut	cap of 2.5%	
	Doha round ceiling	13.4	12.2	6.1	31.7
	Estimated post- 2003 CAP reform applied levels	16.3	0.9	1.9	19.1
	Required change	***-2.9***	***+11.3***	***+4.2***	***+12.6***

Source: Oxfam's calculations on the basis of US and EU notifications to the WTO.

(1) Since no Blue Box reductions commitments were made in the URAA, we have used as a reference: 5% of the value of total agricultural production. At the end of the round, the objective would be to get down to 2.5%.

(2) We are using here as a reference the average applied level of counter-cyclical payments in the period 2002–2005

(3) We have used here the most recent notification for Blue Box payments.

In order to avoid product-shifting and the accumulation of payments, ceilings and reduction commitments should be implemented on a product-specific basis in the Amber and Blue Boxes, with some flexibility in the case of sectors where support is crucial for small-scale farmers' livelihoods in the North or has indirect benefits for other developing countries.

The figures included in Table 2 show that this level of cuts would be useful to discipline the use of the new Blue Box by the USA, but would still allow for a considerable flexibility in the use of distorting support in the USA and the EU. Therefore, **strict disciplines for the use of the remaining payments are crucial if dumping practices are to be tackled in the new round.** This is particularly important for the EU, since it will enjoy enormous flexibility after the last reform.

3. Stricter disciplines for the classification of subsidies under the Blue and Green Boxes

The Uruguay Round agreement contains a number of loopholes that have permitted developed countries to get around the rules. Stricter disciplines are needed to guarantee that payments are classified according to their real distorting effect. Member states have agreed to consider additional criteria for the Blue and Green Boxes.

Blue Box

There should not be an expansion of the current Blue Box. This would go against the Doha mandate for reforming domestic support. The reference basis for a 50 per cent cut in the permitted Blue Box level should be the most recent notification for the EU, and 5 per cent of value of total agricultural production for the US. If new criteria are still discussed, then they should include:

- **Ban on updating**: In order to avoid any expectation of future payments based on current production, the modalities text should enforce the July Framework language of '*unchanging* areas, yields, and base periods'.
- **Setting criteria to determine target prices in US counter-cyclical payments**: Current US regulations fail to indicate any specific criteria for target prices. If set at a very high level for a certain crop, this creates a permanent incentive for farmers to stick to that crop. An alternative could be based on a fixed preceding five-year average. A reducing factor should also be introduced to limit income-loss effects.
- **Amber *and* Blue product-specific caps :** Assuming the prohibition of accumulation of Amber and Blue payments on the same product, the agreed product-specific caps in AMS should also apply to Blue Box payments on the same crop.
- **Proportionality between set-aside measures and payments** in production-limiting programmes, so that large amounts of subsidies in the Blue Box must be accompanied by similarly large production-limiting elements.

Green Box

Because current Green Box payments influence production, additional disciplines need to be agreed to prevent such distortions. Green Box payments should only be allowed when payments provide clear benefits for small farmers or the environment in rural areas, and/or indirect benefits to developing countries. In the negotiations, the following additional criteria should be negotiated:

- **‘Circuit-breaker’ provisions:** Should be included in the farm legislation of the main subsidising countries, so that automatic mechanisms to control payments are activated when these surpass the WTO’s permitted levels.
- **Minimise wealth effects:** Payments should prioritise the maintenance of rural communities through family farming. Strict ceilings on the amount that an individual farm can receive should be imposed in order to avoid the effects of economies of scale. Accumulation of payments should also be disciplined.
- **Strict social and environmental criteria:** these should be genuine, credible, and should not change over time.
- **Product shifting should not be limited:** In order to guarantee full decoupling of payments, the US Farm Act and the EU Single Farm Payment should indicate explicitly that there are no restrictions to product shifting.

If such criteria are not included due to the opposition of the EU and the USA, it seems obvious that they are planning to shift distorting subsidies into the Green Box. In this case, an overall ceiling based on historical reference should be imposed.

4. The full elimination of trade-distorting support on cotton

In addition to the implementation of the WTO panel’s ruling, all remaining trade-distorting support for cotton classified under the Amber, Blue, and Green Boxes should be eliminated on a fast-track basis. This commitment should be included in the first outline of the Hong Kong agreement (the ‘first approximation of modalities’) in July.

5. Enforcement of disciplines

In order to guarantee that WTO members comply with the agreed rules, and in coherence with the July Framework’s provision on improved monitoring and surveillance, all WTO members should:

- Notify their subsidies to the WTO secretariat at the end of each calendar or marketing year and provide complete descriptions of subsidy programmes, including those currently classified under the Green and the Blue Box.
- Provide information about amounts of subsidies and the identity of subsidy recipients.

These measures would both increase transparency and respect for rules.

6. A balanced agreement for developing countries

Domestic support: Developing countries should not be obliged to reduce their agricultural support programmes – particularly the *de minimis* exception, most of which are focused on rural development and food security programmes.

Export competition: In the case of developing countries, the complete elimination of these instruments should take place over longer implementation periods.

STEs: Given special development needs, there should not be any WTO disciplines on STEs in developing countries that would restrict monopoly powers or governments' ability to finance or underwrite losses.

Net Food-Importing Developing Countries (NFIDCs): The Marrakesh Decision on Net Food-Importing Developing Countries should be implemented by ensuring that:

- If, due to the effect of the Doha Round, or through simple market forces, food prices increase, a food import financing facility is made available to developing countries to help them subsidise food, as recently proposed by the Africa Group at the WTO;
- Increasing amounts of development aid are made available to relieve food supply constraints and develop the efficient local production of staple foods, so that NFDICs are less dependent on imports.

7. A self-defence mechanism to respond to potential dumping practices

As long as agricultural dumping is not strictly prohibited by the WTO, developing countries are particularly vulnerable to sudden and unforeseen increases in levels of subsidies in major producing countries.

To enhance transparency, the WTO secretariat (in collaboration with other institutions such as the OECD and the FAO) should each year compute the costs of production and export prices for agricultural products receiving subsidies. On the basis of that information, developing countries should be allowed to add to their bound tariffs a percentage tariff equivalent to the dumping margin.

This would be a useful recourse for countries that would otherwise be competitive and would not seek permanent protection under the 'special products' provision. This mechanism would be different from the current countervailing duty, which is almost impossible for developing countries to use.

8. Beyond the WTO

Developed countries should stop negotiating Regional Trade Agreements (RTAs) with developing countries and concentrate instead on delivering a fair multilateral trading system at the WTO. In their current form, RTAs force developing countries to grant market access to rich countries, without any guarantee that the subsidies which lead to dumping will be reduced at the WTO level.

Moreover, growing corporate concentration in the global food supply chains, which depresses farm-gate prices and inflates consumer prices, needs to be tackled through implementation of anti-trust policies, awareness raising among consumers, and the strengthening of farmers' cooperatives.

Finally, the reintroduction of price stabilisation mechanisms and increased cooperation between producing countries are necessary to avoid chronic overproduction of primary commodities.

Notes

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[1] 2016 has been mentioned as a possible date for export subsidy elimination by the French minister of agriculture, Herve Gaymard, and was included in the so-called Harbinson draft for a new WTO agricultural agreement.

[2] OECD, 2004. This figure is a Production Support Estimate (PSE) figure. For explanation of the composition of this figure, see note 17.

[3] As this paper discusses later, this is not the WTO definition of dumping.

[4] The figures in this box have been obtained from the Ministry of Economy of Guatemala. US subsidies figures were obtained from the Environmental Working Group web site (http://www.ewg.org). The export support equivalent was calculated through the methodology explained in Annex C. The personal interviews were conducted by Oxfam staff.

[5] IATP, 2005.

[6] Oxfam, 2005a.

[7] This is clearer than the WTO's definition, which refers to the difference between the export price and the 'normal value' of the product in the internal market.

[8] Goodison, 2005.

[9] Profs. Bhagwati and Panagariya, for instance, have publicly defended the need to maintain cheap exports, even if subsidies are involved. For further details, see: 'Six Fallacies Associated with Agricultural Liberalisation Debunked' (Prof. Panagariya) and 'The Truth About Trade' (article from Prof. Baghwati in *The Wall Street Journal*, January 18, 2005).

[10] See, for instance, the negotiating proposal made by the African Group at the begining of the Round (http://docsonline.wto.org/DDFDocuments/t/G/AG/NGW142.doc)

[11] Ray and de la Torre, 2003.

[1212] This is the PSE figure constituting overall support. Of this, government support accounted for $24bn (OECD, 2004).

[13] Figures obtained from Environmental Working Group. In 2003, the top 20 per cent of US cotton producers received more than 88 per cent of payments.

[14] OECD, 2004. Of this figure, government subsidies accounted for Euros 47bn. The rest, Euros 91bn, is an estimate in monetary terms of the support provided to domestic producers through high import tariffs, which inflate domestic prices and producer returns.

[15] Oxfam, 2004.

[16] Oxfam 2002b.

[17] Oxfam, 2005a.

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[18] And supposedly implemented between 1995–2001 by developed countries, while developing countries were given 10 years to make the required reductions.

[19] Although there are some methodological problems with the PSE (such as the risk of overstating border support) Oxfam still uses it as a reference for measuring the overall support that farmers receive from their governments, as it is one of the very few indicators that are available for most countries and categories of support. The PSE indicates the annual monetary transfers to farmers from policy measures that (a) maintain a difference between domestic prices and prices at the country's border and (b) provide payments to farmers, based on various criteria. The difference with WTO's Aggregate Measure of Support (AMS) is twofold: (a) The PSE covers *all* transfers to farmers from agricultural policies (and not only Amber Box ones); and (b) the market price support in the PSE is measured at the farm-gate level using actual producer and border prices for commodities in a given year, whereas in the AMS market price support is calculated by the difference between the domestic *administered* support price and a world reference price fixed in terms of a historical base period (FAO 2005).

[20] All notifications can be downloaded from the WTO web page (http://www.wto.org/english/tratop_e/agric_e/agric_e.htm).

[21] WTO Uruguay Round Agreement text.

[22] OECD, 2002.

[23] OECD, 2002.

[24] In addition, unlike tariffs, there were no restrictions on the size of the per unit export subsidy, only on aggregate expenditure and volumes, so many subsidies could be concentrated in a small share of production. This allows for huge disparities in the levels of subsidies permitted for each commodity, and over time (Watkins 2003).

[25] From Ecu 24.9bn to Ecu 39.5bn.

[26] ERS, 2002.

[27] FAO, 2005a.

[28] It must also be remembered that these 'distorting 'payments are only a small part of overall support budgets, most of which are still exempt from reduction commitments. Blue and Green Box farm support accounts for a higher proportion of agricultural budgets than previously (see figures in Annex B). Europe now spends €24bn ($30.7bn) a year on Blue Box payments, and €20bn ($25.6bn) on Green Box ones.

[29] Most of this is payments are domestic food aid programmes.

[30] Oxfam, 2003.

[31] The main US support instruments are: **loan deficiency payments or marketing loans,** provided on total sales of the actual programme crops produced when farm-gate prices fall below minimum established support prices, known as 'loan rates'; **counter cyclical payments,** which move inversely to market prices and are paid on previously established commodity-specific area and yield bases; **direct payments,** which provide

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decoupled support income to producers based on a fixed historical acreage, yield, and payment rate for covered commodities. These subsidies are received irrespective of what and how much the farmer produces – except for fruit and vegetables and a few other crops, which are excluded from the programme.

[32] Japan, for instance, has considerably reduced its AMS levels by simply decreasing the internal administered price for rice, hence cutting the difference between it and the world reference price. The decrease, however, is not a real one, since consumers still pay the difference that exists between the internal high prices and the world ones.

[33] Aksoy, 2005.

[34] See FAO, 2005b and Antón (2004, cited in FAO paper).

[35] Watkins, 2003; Fabiosa *et al.*, 2005; ActionAid, 2004.

[36] Chau and de Gorter, 2001, cited in Gopinath, M. *et al.*, 2004.

[37] Hart and Beghin, 2004.

[38] Particularly loan deficiency payments and marketing loans. In the USA, 10 out of 17 of the crops to which direct payments are applied also attract Amber Box payments. When prices are low, marketing loans can create incentives to produce specific crops: with marketing loan benefits ranging from around $5bn to more than $8bn in 1999–2001, the total acreage planted with the eight major field crops was estimated by the USDA to have increased by 2–4 million acres annually in that period (P. Westcott and J.M. Price, 2001).

As a consequence, a farmer who already has a decoupled direct payment contract on a commodity crop that is also eligible for a loan rate (product-specific support), will be incentivised to continue production of the original crop in order to keep both payments, thereby undermining the decoupling effect.

[39] Aksoy, 2005

[40] Fabiosa *et al.*, 2005. They do say, however, that the impact of the reform of the CAP which started 12 years ago has 'certainly been marked'.

[41] Over the medium term (by 2009/10), rye and durum wheat production will have fallen by 9.3 per cent and 10.4 per cent respectively, while production of pork and poultry will have expanded by around 1 per cent over the same time period. 'Reform of the Common Agricultural Policy: a long-term perspective for sustainable agriculture: Impact analysis', European Commission Directorate-General for Agriculture, March 2003.

[42] In contrast with the US ERS, which periodically produces a transparent and simple set of information regarding their costs of production per product, the European statistical systems make it almost impossible to adequately assess an average cost of production in the agricultural sector. The implications of this information gap goes further than the obvious concern about the transparency of the European economic system, and it makes it very difficult for a developing country, for instance, to legally prove that dumping practices do take place. Whether this technical fog is intended or not is for the European institutions to clarify. In the meantime, this paper has

opted to estimate the dumping margins on the basis of what Oxfam considers the 'normal value' of the different products in the EU's internal market: intervention price (sugar) or producer price at the farm gate (wheat and milk), or intra-EU trade price (poultry and beef). For WTO negotiations purposes, dumping can be estimated as the difference between 'normal value' and 'export price', as used in this paper.

[43] See methodology for the EU in previous note.

[44] See 'Who Will be Left to Cheer the End of Illegal US Subsidies', Oxfam International Briefing Note, 3 March, 2005.

[45] Strictures on moving production of fruit and vegetables mean that the WTO cotton panel ruling may apply to the EU as well as the USA. This is because it is linked – albeit negatively – to production. Also, member states have some flexibility in the extent to which they are obliged to decouple: France for instance, has chosen partial decoupling for arable crops. This raises a number of questions about the correct allocation of payments (Swinbank and Tranter, 2005).

[46] The agreement includes the following items: scheduled **export subsidies**; **export credits, credit guarantees, and insurance programmes with repayment periods beyond 180 days**. Those with shorter repayment periods will be subject to disciplines on minimum interest rates, payment of interest, minimum premium requirements, and others; trade-distorting practices of exporting **State Trading Enterprises** (STEs); **food aid,** not in accordance with disciplines to be agreed.

[47] Oxfam, 2005b.

[48] 'French Put Brave Face on Farm Trade Deal', *Financial Times*, 2 August, 2004. The declaration was made after powerful agricultural lobbies at home expressed their frustration for the 'unbalanced' result of the July Framework agreement.

[49] For half of all products, of the aggregate final bound level of budgetary outlays, subsidies (both outlays and quantities of subsidised exports) would be reduced by 30 per cent each year (based on the bound levels of the preceding year), until they are eliminated after five years.

[50] For the remaining products, a similar method would be applied, but over a period of nine years, with annual reductions of 25 per cent.

[51] As with all trade agreements, the exact meaning of the July Framework is open to interpretation. However all experts consulted in the writing of this paper agree that at the end of the implementation period this cap will still be in place so the Blue Box will have a ceiling of 5 per cent of the value of production. The G20 is proposing a 2.5 per cent ceiling, however.

[52] Roberts, 2005.

[53] There is no reason to think that the US price-related support instrument that will benefit most from this change (CCPs) is any less distorting than it was before. In fact, there are at least three good reasons to think the contrary: payments are calculated based on current prices; they restrict planting flexibility; and they encourage producers to make planting decisions based on expected government payments rather than on market signals. As empirical analysis has shown: (Antón and Le Mouel, 2003), 'risk related

incentives created by CCPs are significant and they do not disappear for levels of production that are larger than the base production on which they are paid.' In other words, the distorting effect is not limited to the area that is eligible for a subsidy. According to this study, CCPs may have the same affect on a farmer's attitude to risk as loan deficiency payments, which are classified as Amber Box support – that is, so production-distorting that it has to be reduced.

This has been recognised by the US Department of Agriculture, which, when explaining the economic effects of CCPs, says, '... economic efficiency in production is reduced because producers would not be fully responding to signals from the marketplace, but instead would be responding to market signals augmented by expected benefits of future programs and future program changes.' (ERS, 2002).

[54] There is another problem with the way in which the July Framework deals with export competition: included in the Special and Differential Treatment annex is a seemingly innocuous qualification which states that Members may agree ad hoc temporary agreements relating to developing countries. This could allow the USA to provide export credits to developing countries with a longer repayment period and on conditions more favourable than commercial ones.

[55] It is unclear, however, what will be the consequences of the cotton panel in terms of direct payments classification in the boxes system. Unless both the EU and the USA eliminate planting flexibility restriction, most of these payments will have to be allocated to the Blue Box. We assume that their governments will introduce changes to avoid this.

[56] Under the old CAP, the EU would have been forced to reduce its current support by more than €20bn. The reform process will be completed with the introduction of the Single Farm Payment in the dairy sector in 2008, and the likely price reduction that will take place in the sugar sector.

[57] However, as we have noted before, there are some uncertainties in the negotiating process that could affect this outlook. It is still unclear, for instance, to what extent current classifications will be affected by the results of the cotton panel, in particular the misallocation of direct payments in the Green Box. The final amounts in Euros of the decoupled part of the Single Farm Payment, and a decision as to whether it will be assigned to the Blue Box, have also still to be fixed.

[58] To calculate the likely outcome of the present round on domestic support, we have consulted with a number of experts and WTO delegates. Estimations are taken from the July Framework proposals, completing them with an slightly modified version of the provisions proposed by Harbinson in 2003, to assess the likely outcome of the current process (the origin is indicated in brackets after each of the elements).

Overall tiered reduction formula for distorting support (AMS plus *de minimis* plus Blue Box) (July Framework):

Amber Box cut: 65 per cent for the EU (highest tier) and 50 per cent for the USA (middle tier) (Harbinson).

•

Blue Box payments ceiling: 5 per cent of the value of production in an average reference period (July Framework).

De minimis ceiling reduced by a half (2.5 per cent of the value of production) (Harbinson).

Unlimited payments for the Green Box (July Framework).

[59] Sixty per cent of these payments (over $30bn) represent support to domestic food aid, referred to as *food stamps*. Decoupled income support accounts for 10 per cent.

[60] The G20 group of countries has lead developing country efforts to tackle Green Box concerns. In a statement released in November 2004, it said: 'A major problem of the Agreement on Agriculture derives from the fact that there are no effective controls on the benchmarks of Annex 2 [of the AoA, referring to the effects of Green Box payments], thus generating the incentive for members to notify distorting support in this category not subject to reduction commitments, a type of "box-shifting" which does not change the distorting nature of support' (G20, 2004).

The vagueness of the commitment to review Green Box criteria is underlined by the following sentence in the AoA, which states that such a review will need to ensure that the basic concepts, principles, and effectiveness of the Green Box remain and take due account of non-trade concerns.

[61] Looking beyond the WTO, the lack of imperative to stop dumping is having a direct effect on other trade liberalisation agreements. The direction of the multilateral negotiations has given rich countries an excuse to exclude farm subsidy reduction from any regional or bilateral trade negotiation.

In the DR-CAFTA text, for instance, no reference is made to the huge volume of subsidies that the USA applies to its rice, corn, or sugar sectors, which are critical for the agricultural economies of the Central American region. If Nicaragua, for example, cannot expect any good news from the WTO negotiations, it should take a much more cautious approach in its liberalisation commitments under CAFTA.

[62] Oxfam, 2005b.

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Annex A. What the Uruguay Round Agreement on Agriculture said

Market access: this covers quotas and tariff ceilings for imports of agricultural products. This pillar is relevant to the consumer transfer element of support.* It also illustrates the hypocrisy in world trade: rich countries have been pushing developing countries to implement this part of the agreement, while they themselves have failed to implement the other two pillars.

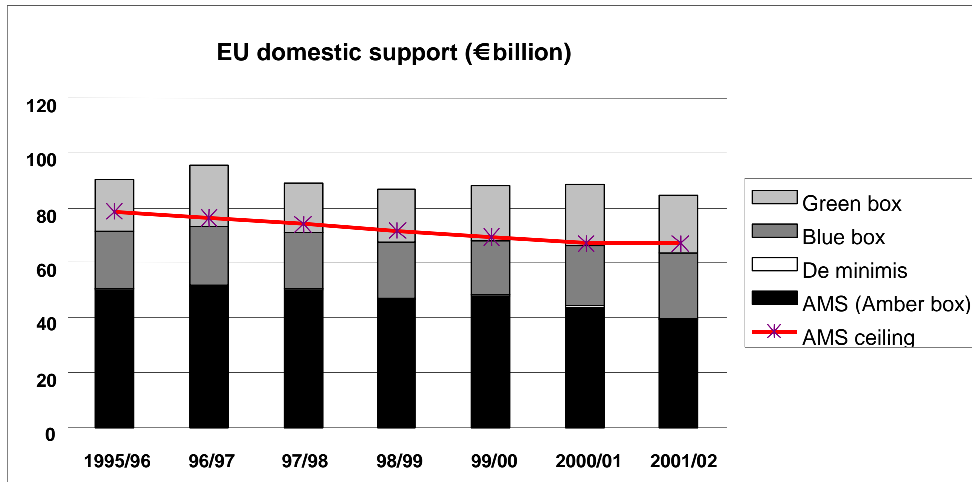
Export competition: this includes export subsidies. These subsidies have the biggest direct impact on dumping because they make it cheaper for rich countries to export excess production, thus directly contributing to the lowering of world prices. Other payments that have a similar effect, such as export credit guarantees and insurance, or the commercial use of food aid, will only be regulated in the future. The AoA stated that, using 1986–88 average payments as the baseline, developed countries had to reduce export subsidies at the product-specific level by 36 per cent in terms of spending, and by 20 per cent in the quantities they exported. Limits were set both on the amount of money spent, and on the quantities of subsidised good that could be exported.**

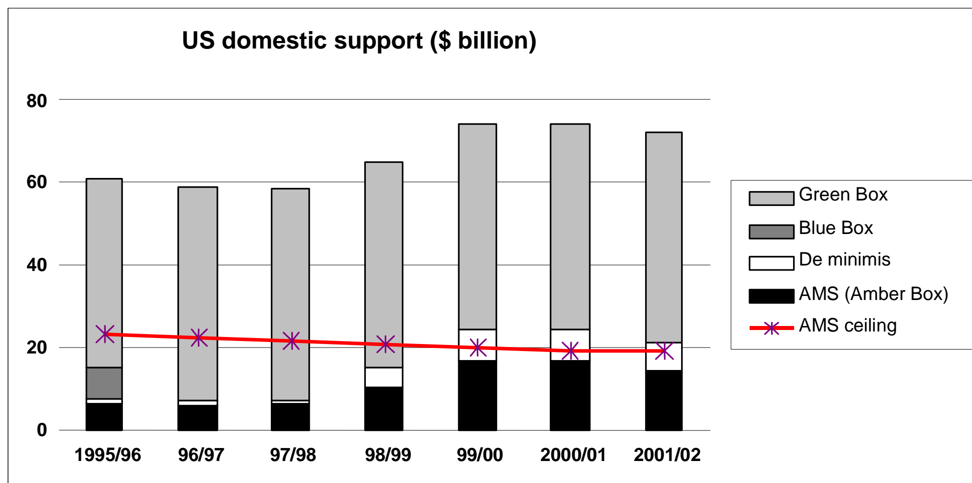
Domestic support: this includes subsidies and other payments, including those that raise or guarantee farm-gate prices and farmers' incomes. Under the AoA, financial support, other than for measures agreed to be exempt, had to be reduced by 20 per cent. The subsidies to be reduced were grouped in the so-called Aggregate Measure of Support (AMS) — also known as the Amber Box. However, subsidies that were supposedly less trade distorting were labelled Blue Box or Green Box, and exempted from reduction commitments.

* Because tariffs allow countries to keep high internal prices, and the resulting profit can incentivise overproduction for cut-price export sales.

** The figures for developing countries were: domestic support 13 per cent cut, market access 24 per cent, export competition 14 per cent cut in volume and 24 per cent cut in expenditure.

Annex B. EU and US domestic support per box





Source: US and EU notifications to the WTO

Annex C. An export support equivalent

The export support equivalent: notified vs. real levels of export support in the EU and the USA (selected products, 2001)								
	(1) **Product**	(2) **Implicit export subsidies**				(3) **Notified export subsidies** (€ million)	**Export support equivalent** (€ million) [(2)+(3)]	**% over notified export subsidies**
		(4) **Producer support Estimate (PSE)** (€/tonne)	(5) **Exports** ('000 tonnes)	**Sub-total PSE** (€ million) [(4)x(5)]	**Export credits** (€ million)			
EU	**Wheat**	104	9,738	1,012.7	0	8.5	1,021.3	0.8
	Maize	69	117	8	0	112.8	120.8	93.3
	Rice	138	358	49.4	0	30.3	79.7	38.0
	Sugar	144	4,342	625.3	0	482.8	1,108.1	43.6
	Beef	2,432	348	845.8	0	388.4	1,234.2	31.5
	Poultry	393	1,087	427	0	60.2	487.3	12.4
	TOTAL					**1,083**	**4,051**	**26.7**
	(1) **Product**	(2) **Implicit export subsidies**				(3) **Notified export subsidies** ($ million)	**Export support equivalent** ($ million) [(2) + (3)]	**%over notified export subsidies**
		(4) **Producer Support Estimate** ($/tonne)	(5) **Exports** ('000 tonnes)	**Sub-total PSE** ($ million) [(4)x(5)]	**Export credits*** ($ million)			
USA	**Wheat**	77	25.782	1,985.2	600.6	0		
	Rice	103	2.622	270		0		
	Soybeans	59	28.934	1,707.1		0		
	Maize	28	47.944	1,342.4		0		
	Milk equivalent	191	2.762	527.5		31.5		
	Poultry	56	3.171	177.6		0		
	TOTAL					**31.5**	**6.642**	**0.5**
(*) The subsidy component percentage of exports is the average between the one estimated by the OECD (9%) and that estimated by the US Commodity Credit Corporation (6.8%).								

Source: Oxfam calculations. Producer Support Estimate (PSE) indicator has been obtained from OECD (2004). Export levels come from FAOSTAT. Export subsidy figures have been obtained from US and EU notifications to the WTO.

Annex D. Estimation of box allocation of EU payments after 2003 CAP reform

Although it is clear that after 2003 CAP reform, the bulk of the EU agricultural support will be now allocated in the Green Box,* no detailed allocation estimations are yet available. In order to assess the real implications of the Doha Round negotiations, Oxfam has estimated the box allocation of EU agricultural support in the future years, after the new Single Farm Payment (SFP) has been implemented.**

It is important to bear in mind that **this calculation is a rough best guess, based on the available information**, although it serves the purpose of showing the general orientation of EU agricultural support in the coming years.

The allocation per box has been calculated as follows:

Amber Box

Almost all sectors which are currently supported through the Amber Box will be transferred to the SFP. The main exceptions are the sugar and the dairy sectors – a part of which will remain protected through high prices – and fruit and vegetables (excluded from the SFP, and reform of which has not yet been planned). Fruit and vegetables (tomato and oranges, for instance) will also keep certain amount of Amber payments, although it is difficult to estimate the volume. For this calculation, we have estimated the new Amber Box payments, taking into account price reductions in sugar (the latest proposal from the EC is around 40 per cent), butter (25 per cent) and skimmed milk powder (15 per cent).

* Even if all Member States had opted to maintain the present Blue Box payments up to the maximum levels permitted by the 2003 reforms, EU15 Blue Box payments would be 3.4 per cent of total EU agricultural production, well below the bound level (Roberts, 2005).

** Although it is still unclear how the cotton panel resolution will affect the allocation of the new decoupled payments, we assume that changes will be made in the product-shifting limitation provisions, so the decoupled part of these payments can be fully allocated in the Green Box.

Product	Current AMS level (€ million)	AMS level after price cuts (€ million)
Sugar	5,732	3,439
Butter	4,444	3,333
Skimmed milk powder	1,371	1,165
Fruit and vegetables	8,348	8,348
TOTAL	**19,895**	**16,285**

Blue Box

Member states are allowed to keep part of their payments coupled, particularly in the arable crops and beef sectors. Apart from Greece, all member states have already communicated how the SFP will be implemented in their countries. Only France and Spain will use the existing flexibility to any considerable extent. The following calculations have been made on the available 2003 allocation expenditure, so no new acceding countries have been included. However, it should be noted that including the accession countries would alter the figures considerably, since all of them have opted to fully decouple most of their payments.[* * *]

Country	Allocation 2003 agricultural payments (€ million)	What remains in Blue Box	Blue Box (€ million)
Belgium	1,025.3	100% suckler cow premium (394.254 €)	0.4
Denmark	1,448.6	75% special male beef premium (207.832 €)	0.2
Germany	10,474.8	60% tobacco payment (24.6 million €)	24.6
Greece	2,762.1	decisions need to be made	
Spain	6,4854	25% arable crop (453.4 million €), 100% suckler cow premium (1.44 million €), 5% olive oil (51.9 million €), 60% tobacco (68.9 million €)	575.6
France	10,464.1	25% arable crop (1329.9 million €), 100% suckler cow premium (3.8 million €)	1,333.8
Ireland	1,965.2	all in direct payments	0,0
Italy	5,393.4	all in direct payments	0,0
Luxembourg	44.3	information not available	

[* * *] Due to the lack of available figures, we have not included some other minor partially-coupled payments, such as sheep premium or support for seed production.

The Netherlands	1,397.3	all in direct payments	0,0
Austria	1,128.1	100% suckler cow premium (325000 €),	0,3
Portugal	855.9	100% suckler cow premium (277.539 €), 100% special male beef premium (175.075 €)	0,5
Finland	876.1	75% special male beef premium	0,2
Sweden	866.5	75% special male beef premium	0,2
United Kingdom	4,013.8	all in direct payments	0,0
EU-15 total	**49,201**		**1,935.7**

Green Box

The remaining payments have been calculated on the basis of the expected CAP budget in the new Financial Perspectives, which we estimated at €55.5bn (including compensatory direct payments in sugar and dairy sectors).* Therefore, we should exclude from this figure: (a) payments included in the Blue Box (€1.9bn) and (b) export refunds (€3.7bn in 2003). The resulting figure for the **Green Box is €49.9bn**.

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This paper was written by Liz Stuart and Gonzalo Fanjul. Oxfam acknowledges the contribution of Emily Alpert, Teresa Cavero, Carlos Galián, Lorena Pereira, Kimberly Pfeifer, and Tobias Reichert to its production. Oxfam would also like to thank Scott Andersen, Jesús Antón, Michael Bailey, Luisa Bernal, Celine Charveriat, Rian Fokker, Penny Fowler, Mark Fried, Duncan Green, Marcos Jank, Jamie Morrison, Sophia Murphy, André Nasar, Ian Newton, Francesca Nicchia, Kate Raworth, and Tim Rice for their assistance. It is part of a series of papers written to inform public debate on development and humanitarian policy issues.
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* Massot, 2004.

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