

Domestic Support in the WTO Agriculture Negotiations: Outcomes for MC12

Decreasing Trade Distorting Domestic
Support to Increase Food Security

J. R. Deep Ford

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Table of Contents

Abbreviations	ii
Abstract	iv
Introduction	1
1. Domestic Support in WTO negotiations: Sensitivity accommodated with Flexible Rules	3
1.1 Background to Agriculture in the GATT.....	3
1.2 Domestic Support disciplines in the AoA	4
1.3 Domestic Support since the conclusion of the Uruguay Round (UR).....	7
1.4 Domestic Support Negotiations since the AOA - Impasse.....	14
2. Current Status of Domestic Support Negotiations: Member Proposals and Options	18
2.1 Domestic Support Proposals and Options post MC 11	20
2.2 Submissions to stimulate Proposals / Options	23
3. Developing Countries and Domestic Support Negotiations: Different Interests and Positions	26
3.1 Different interests for Disciplining Domestic Support among Developing Countries....	26
3.2 Positions by Developing Countries on Domestic Support Rules	27
4. Doable Elements for a Domestic Support Outcome at MC12.....	32
4.1 Four Approaches to an Agreement on trade distorting Domestic Support.....	33
References.....	37

List of Tables

Table 1: Classification of Subsidies under the Uruguay Round Agreement on Agriculture (AoA)

Table 2: Sum of BTAMS and de minimis domestic support allowances under the AoA - 135 Members with Scheduled DS commitments, 2018

Table 3: Overview of Total Domestic Support Notified 1995, 2005,2010,2016

Table 4: Article 6 Domestic Support - Main providing Countries (US\$MN)

Table 5 : Green Box Support - Main Providing Countries(US\$MN)

Table 6 : WTO members reporting support by main categories of Domestic Support

Table 7: Overall Domestic Support Cuts Considered in 2005

Table 8 -- DS: submissions since MC11 2017

Table 9: OTDS - Options to establish an overall limit and improve transparency

Table 10: An estimate of Current and Potential Support Covered under Article 6 of the AoA

Table 11. AMS + de minimis Support Entitlement and Spending per capita - major members

List of Figures

Figure 1: Product Specific and Non-Product Specific Support (USD million)

Figure 2: Current WTO AoA Article 6 Support- Potential compared with Actual Expenditure

Figure 3: Total trade-distorting domestic support ceilings (all WTO Members)

Abbreviations

ACP	Africa, Caribbean and Pacific Group
AoA	Agreement on Agriculture
AMS	Aggregate Measurement of Support
BTAMS	Bound Total AMS
DDA	Doha Development Agenda
DS	Domestic Support
EU	European Union
FAO	Food and Agriculture Organization
GATT	General Agreement on Tariffs and Trade
IATRC	International Agriculture Trade Research Consortium
ICTSD	International Centre for Trade and Sustainable Development
IFAD	International Fund for Agricultural Development
LDC	Least developed country
PSH	Public stock holding
SDG	Sustainable Development Goal
SSM	Special Safeguard Mechanism
SVEs	Small, vulnerable economies
TAMS	Total Aggregate Measurement of Support
TDPE	Trade distorting potential expenditure
UN	United Nations
UNICEF	United Nations Children's Fund
UR	Uruguay Round
WFP	World Food Program
WHO	World Health Organization
WTO	World Trade Organization

Abstract

This paper reviews the significant efforts to improve the rules governing trade distorting domestic support in global agriculture trade negotiations. It pays particular attention to the concerns that current agricultural trade distorting support undermines food security, especially in developing and least developed countries.

The paper seeks to advance the understanding of Domestic Support negotiation issues in the context of the World Trade Organization multilateral negotiations. The Agreement on Agriculture, concluded as a part of the Uruguay Round in 1994, contains the provisions governing trade distorting domestic support. A summary and explanation of these rules are elaborated.

In Article 20 of the Agreement on Agriculture (AoA), WTO members agreed to pursue the long-term objective of reducing distortions affecting the global agricultural system through continuing reform of agricultural trade rules. The paper presents a summary of the evolution of domestic support expenditure and entitlements since the conclusion of the Uruguay AoA. It briefly reviews the efforts, at each WTO Ministerial Conference since 2001, to agree to further disciplines on trade distorting domestic support. The paper pays particular attention to the submissions tabled since the last WTO Ministerial in Buenos Aires, presenting a summary of the key elements and the essential dimensions of the continuing impasse in the negotiations. The domestic support negotiation issues are also appraised from the standpoint of many

developing countries, including taking into consideration the implications of COVID-19 for their negotiating positions.

The paper emphasizes the need to correct critical imbalances in the current rules, to reduce the flexibility to provide trade distorting product specific domestic support and to promoting stricter adherence to the rules in all areas of the agriculture agreement. The growth in total trade distorting entitlements due to the growth in agricultural output in some specific member countries and the relative increase in domestic support notifications in the Green Box, especially paragraphs 5 to 13 of Annex 2 of the AoA associated with direct payments are also singled out for reform attention.

Four approaches to an agreement on trade distorting domestic support, reflecting different levels of ambition and possibility, are proffered for consideration by WTO members. An agreement on all or some of the elements would go a far way in advancing the goal of achieving a fair and market-oriented agricultural trading system. One that facilitates establishment of inclusive, sustainable and competitive food and agricultural systems that advance food security.

Introduction¹

Agriculture remains a sensitive sector in the global trading framework given its centrality to promoting food security, health, rural transformation, economic growth and development. For many developing countries agricultural trade is a fundamental element in their development strategies. The COVID pandemic and increasing climate change impacts have increased the sensitivity towards management of the agricultural sector and agricultural trade. The Food and Agriculture Organization's (FAO)'s "The State of Food and Nutrition Security in the World" indicates that "world hunger increased in 2020 under the shadow of the pandemic."² After being stable for nearly five years the prevalence of undernourishment in the world increased by 1.5 percent, reaching a level of around 9.9 percent. The report calls for a deeper reflection on the pathways and opportunities to achieving food systems transformation and increasing food security.

Sustainable Development Goal (SDG) 2 commits governments to end hunger and achieve food security. The means of implementation target SDG 2.b, commits countries to correct and prevent trade restrictions and distortions in world agriculture markets.³ The inclusion of this target draws attention to critical link between trade rules and the role of trade in determining basic access to food for a large percentage of the developing world. This agricultural rules and food security relationship needs to be better

analyzed, understood and addressed in the WTO negotiations.

This paper is restricted to addressing the issue of trade distorting agriculture domestic support in the context of the current World Trade Organization (WTO) agriculture negotiations. The paper seeks to increase the understanding of Domestic Support negotiation issues and presents for consideration what might be possible as a way forward in this area of Agriculture negotiations at the upcoming WTO Ministerial meeting in December 2021.⁴ Two commitments are central to the paper. The commitment by WTO members in Article 20 of the Agreement on Agriculture (AoA) to pursue the long-term objective of reducing distortions affecting the global agricultural system through continuing reform of agricultural trade rules. The second commitment is to SDG 2 to prevent trade distortions in global agricultural markets that undermine the achievement of zero hunger and increased food security.

The paper is divided into four parts. Firstly, it gives a brief background to agriculture in the GATT, presents the AoA domestic support disciplines at the end of the Uruguay Round in 1994 and reviews the efforts to agree on further disciplines since domestic support negotiations resumed in 2000.

¹ The author thanks Dr. Lars Brink and an anonymous reviewer for helpful comments on an earlier draft of this paper.

² FAO, IFAD, UNICEF, WFP and WHO. 2021. The State of Food Security and Nutrition in the World 2021. Transforming food systems for food security, improved nutrition and affordable healthy diets for all. Rome, FAO. <https://doi.org/10.4060/cb4474en>.

³ United Nations. 2015. The 2030 Agenda for Sustainable Development <http://www.un.org/sustainabledevelopment>

⁴ This paper has benefitted from the recent comprehensive analysis on Domestic Support presented in: Lars Brink and David Orden: Taking Stock and Looking Forward on Domestic Support under the WTO Agreement on Agriculture. IATRC Commissioned Paper 23, April 2020. <https://ageconsearch.umn.edu/record/303559>. Many of the issues articulated in this paper are treated more expansively in the Brink/Orden paper.

Secondly, it examines the current status of the Domestic Support negotiations, paying particular attention to recent efforts and current proposals for progress towards an agreement.

Thirdly, it considers the critical domestic support negotiation issues from the standpoint of many developing countries, taking into

consideration the implications of COVID for their negotiating positions.

Finally, the paper suggests consideration of elements for an agreement on domestic support disciplines that could advance achievement of a fair and market-oriented trading system that facilitates establishment of inclusive, sustainable and competitive food and agricultural systems.

SECTION 1

Domestic Support in WTO negotiations: Sensitivity accommodated with Flexible Rules

1.1 Background to Agriculture in the GATT⁵

Forty years after the General Agreement on Tariffs and Trade (GATT) was established in 1947, the Uruguay Round (UR) for the first time brought agriculture comprehensively and explicitly to the negotiating table, seeking to establish trade rules that would achieve the goal of creating a fair and market-oriented agriculture trading system.⁶

In earlier trade rounds, agriculture was often separated out as an exception from the disciplines agreed to govern global trade. The GATT framers, and those in subsequent rounds, recognized that the agriculture sector was politically sensitive and that leaving it aside was likely necessary for forging some level of agreement on trade more generally.

The GATT negotiations prior to 1987 mainly focused on tariffs and market access. Despite some uncertainty and varying interpretations between members, it was widely accepted that GATT 1947 allowed Contracting Parties to grant subsidies.⁷ This included both

government payments and price gap support. The rules governing price support measures were sufficiently ambiguous and resulted in some Contracting Parties concluding that they could freely provide these subsidies to encourage agricultural production.

The absence of GATT rules on agriculture allowed the implementation of domestic policies (subsidies, import bans and variable levies), mainly by developed countries, which resulted in agricultural product surpluses. These policies and the resulting surpluses led to national and international agricultural production and trade markets being distorted. Global agriculture markets were famously described in 1974 as being in “disarray”⁸ and thus requiring improved globally regulated production and trade rules.

As the Contracting Parties of the GATT launched the Uruguay Round of negotiations in September 1986 it was agreed that disciplines on agriculture support would be part of these negotiations. It was clear from the outset that while the traditional focus of GATT negotiations on market access would be an important aspect of the agriculture negotiations, there would be additional factors

⁵ The brief background and review in Part 1 of this paper is included based on the recognition that WTO negotiators arrive in Geneva with varying levels of knowledge of the history and purpose of the 1995 WTO Agreement on Agriculture and the evolution of the commitment and work to continue reform of agricultural trade rules after 2000.

⁶ WTO.1994. Agreement on Agriculture. https://www.wto.org/english/DOCS/e/legal_e/14-ag.pdf

⁷ FAO.1998. The implications of the Uruguay Round Agreement on Agriculture for developing countries. <http://www.fao.org/3/W7814E/W7814E00.htm>

⁸ Johnson, D. G. 1973. *World Agriculture in Disarray*. London, Fontana/Collins.

contributing to distorting trade in agriculture that would also need to be addressed. The main additional factors were domestic agricultural policies (subsidies), export subsidies and sanitary and phytosanitary measures.

At the conclusion of the UR in 1994 in Marrakesh, the first multilateral Agreement on Agriculture (AoA) was a significant part of negotiated outcomes. The Agreement on Agriculture came into force on January 1, 1995 with Member countries agreeing to rules that would limit some trade distorting domestic support, reduce export subsidies and bind import tariffs on almost all agricultural products. This was indeed a substantial achievement towards addressing trade distortions in global agricultural markets. However, given the level of flexibilities built into the rules, the goal of reducing some domestic support subsidies that negatively impacted agricultural markets was far from adequately accomplished. Agriculture is still considered one of the most distorted sectors in the global trading framework. In this

context trade distorting domestic support is often deemed the most offending and highest priority area for reform by almost all WTO members, developed and developing.⁹ This reality leads to the often stated view that an outcome at a WTO Ministerial without progress on disciplining trade distorting domestic support in the Agriculture Negotiations would hardly be considered a successful Ministerial outcome. This places great responsibility on WTO country negotiators to work urgently to forge an outcome in the agriculture negotiations that

advances progress towards reducing current and potential future levels of trade distorting domestic support.

1.2 Domestic Support disciplines in the AoA

Articles 3, 6, 7 and Annexes 2 and 3 of the Agreement on Agriculture are the most relevant articles of the AoA disciplining domestic support. Article 3 establishes all the domestic support commitments as an integral part of GATT 1994. Article 6 classifies different subsidy allowances and presents the rules governing them. Article 7 presents general disciplines on Domestic Support ensuring conformity with Annex 2 (Green Box) criteria and limits Members without a Bound Total AMS (BTAMS) allowance to not exceeding the relevant de minimis level set in Article 6. **Table 1** presents a simplified depiction of the Uruguay Round Agreement on Agriculture classification of agricultural subsidies framework.

The average of the total subsidies provided to agricultural producers during the 1986 to 1988 period was used as the base to set the starting point of the Total Aggregate Measurement of Support (TAMS) allowed, including both product specific and non-product specific support. A reduction in this support of 20% was committed to over six years (1995 to 2000), for developed countries, and 13.3% over ten years (from 1995 to 2004) for developing countries. Countries were encouraged to adopt Green Box policies.

⁹ WTO.2020. Committee on Agriculture, Special Session. Report by the Chairman. Implications of

COVID-19 and Continuity of COA-SS Negotiations, June 24.

Table 1: Classification of Subsidies under the Uruguay Round Agreement on Agriculture (AoA)				
Article 1,3, 6 and 7, Annex 1-4 of the AoA				
1. Subsidies exempted without limits for specific national and development goals*				
Article 6 of the AoA	Box	Subsidy Type/Effect	General Discipline	Subsidy type-examples
6.2	Development Box Exemption	subsidies that have production and trade distorting effects but allowed with the goal of stimulating agricultural and rural development for poor farmers in most** developing countries	Investment subsidies must be generally available to agriculture ; input subsidies generally available to low income resource poor farmers, and support for diversification from growing illicit narcotic crops.	Fertilizer subsidies; Credit and water subsidies.
6.5	Blue Box Exemption	Less production distorting given that they are administered under production limiting programs, are direct payments to producers	Direct payments based on fixed area and yields on 85% or less of production; livestock payments on fixed number of head	Compensatory payments to farmers when market price levels fall below an average considered needed to protect their incomes - based on production-limiting conditions in terms of a target level of production
Annex 2	Green Box Exemption	At most minimally production and trade distorting - delinked from prices and production	Must be public funded government programs and not have the effect of providing price support to farmers. Three kinds of policies distinguished: (i) expenditures on general services;(ii) expenditures on public stockholding for food security purposes; and (iii) direct payments to producers.	research, extension, roads, food aid, public stockholding for food security, direct payments, income support,
2. Subsidies with limits set by the AOA				
Article 6 of the AoA	Box	Subsidy Type/Effect	General Discipline	Subsidy type
6.3	Scheduled Bound Total AMS(AMS)***	Production and trade distorting	Limited Final Bound Total Value Commitment specified in Members Schedule (32 countries)	Market price support, interest rate subsidies, input subsidies, crop/production insurance subsidies
6.4	De Minimis****	Production and trade distorting	Limited Product specific (5%) and Non-product specific domestic support (5%) for developed countries and 10% respectively for developing countries	Producer price support, interest rate subsidies, input subsidies, crop/production insurance subsidies Maintained below 10 % by developed countries and 20% by developing countries.
3. Article 1 - Definition of Terms				
AMS	refers to support provided for an agricultural product,to the producers of the basic agricultural product			
EMS	equivalent measure of product specific AMS for which the AMS methodology is impracticable			
* There is much disagreement of the extent to which there is any difference in production and trade distorting impacts between subsidies that are treated under the AoA in different categories, including those as "without" versus "with" limits.				
**In keeping with their Protocol of accession China and Kazakhstan must include this type of support in the calculation of their AMS support.				
***This flexibility that 32 countries that scheduled AMS have is seen as an area of imbalance that is a priority for reform. in the WTO agriculture negotiations.				
**** The limits for De Minimis are set by the percentages of product and total value of production allowed for subsidies. Three percentages apply - 5% for developed countries, 10% for developing countries (Article 6.4 of the AoA) and 8.5% for China and Kazakhstan (set during accession agreements). There was no commitment in the AoA to reduce these percentages.				
Source: Prepared by the author on the basis of the AoA.				

Total AMS after completed reductions became the Bound Total AMS. The allocation of Total AMS is not further restricted in any way so long as it remains within the total amount allowed. As seen below this remains a major bone of contention as it enables the countries (32) with Bound Total AMS to provide support beyond the product specific and non-product specific thresholds of de minimis¹⁰. The de minimis limit for developed countries is five percent of the value of production of the product and five percent of the total value of production respectively. This amount allowed for developing countries is ten percent. Any AMS that does not exceed the de minimis amount counts as zero in the summation of AMSs into Current Total AMS, which is limited by the Bound Total AMS. While Bound Total AMS was reduced over some years after the inception of the Agreement on Agriculture, the de minimis percentages had no reduction commitment. Annex 3 and 4 of the AoA details the methodology for calculating the amounts of domestic support that are subject to limit. How different countries calculate their domestic support is also a controversy in the agriculture negotiations. This is especially so in terms of the price support methodology.¹¹

Article 18 of the AoA requires that member countries annually notify the extent of their domestic support measures (least developed countries every two years), listing those measures in the exempt categories and where applicable calculating the Current Total AMS, including de minimis AMSs. In accordance

with Article 18, the WTO Committee on Agriculture reviews notifications and implementation of commitments. While most countries only have domestic support measures that are exempted, suggesting that notifications should be complete and clear, there is great dissatisfaction in the WTO regarding the frequency and timeliness of notifications and the lack of transparency regarding the actual support policies and programs.

Table 2 provides an overview of total levels of the limited subsidy ceilings under the AOA (Articles 6.3 and 6.4) using the two main determinants - Scheduled Bound Total AMS (BTAMS) which 32 members enjoy, and de minimis entitlements based on the value of their agricultural production, which all members enjoy. The total is US\$ 851. billion, of which BTAMS account for 20% and de minimis 80%. The 32 countries that account for 100% of the BTAMS entitlement, account for 40% of the sum of BTAMS and de minimis entitlements and 25% of the de minimis allowance. Ten individual members account for 80% of total BTAMS and de minimis.

¹⁰ Nine are original WTO developed country members – Australia, Canada, European Union (representing 28 countries), Iceland, Japan, New Zealand, Norway, Switzerland and Liechtenstein, United States. Thirteen are original developing country members – Argentina, Brazil, Colombia, Costa Rica, Israel, Korea, Mexico, Morocco, Papua New Guinea, South Africa, Thailand, Tunisia, Venezuela. Ten of the countries acceded later into the WTO - six as developed countries, Moldova, Montenegro, N. Macedonia, Russian Federation, Chinese Taipei,

Ukraine; and four as developing countries, Jordan, Saudi Arabia, Tajikistan and Viet Nam.

¹¹ Challenges to China and India's calculations of their market price support in recent communication to the WTO and panel reports clearly reveal this ongoing disagreement. See, for instance, communication documents submitted to WTO, G/AG/W/188.9 November 2018; G/AG/W/189. 16 November 2018 and Panel Report WT/DS511/R. 28 February, 2019.

Table 2: Sum of BTAMS and de minimis domestic support allowances under the AoA - 135 Members with Scheduled DS commitments, 2018*

Countries	\$MN			% of Total AMS and De Minimis
	BTAMS	DeMinimis	Total	
All Countries	168,010	683,752	851,762	
32 Members with Scheduled BTAMS and De Minimis	168,010	172,878	340,888	40.02
103 Countries with zero BTAMS and De Minimis	-	510,874	510,874	59.98
Top Ten Individual Members				80.00
China	-	257,975	257,975	30.29
European Union	85,475	44,213	129,688	15.23
India	-	78,888	78,888	9.26
USA	19,103	37,795	56,898	6.68
Japan	35,978	8,065	44,043	5.17
Brazil	912	30,425	31,337	3.68
Indonesia	-	28,099	28,099	3.30
Mexico	12,385	10,597	22,982	2.70
Turkey	-	18,328	18,328	2.15
Russian Federation	4,400	8,514	12,914	1.52

*Compiled from WTO. JOB/AG/190 (December 2020) and JOB/AG/199 (May 2021)

The rules agreed at the end of the UR provided flexibility that enabled trade distorting domestic support to continue. The main agriculture product subsidizers, on the basis of national agriculture sensitivities and national goals ensured that the rules were flexible enough to continue the levels of previous subsidization even though there might be reductions in the overall policy space agreed. This was accomplished by ensuring that the fixed ceilings on the sum of the AMSs above de minimis were set high enough. As de minimis grows with the growth of the value of production and the agricultural sector of WTO members this limit expands. Subsidies under exempted policies further expand opportunities to subsidize.

The structure of the AoA rules led to a situation where subsidized producers were able to trade their products at lower prices, competing unfairly with producers who did not receive subsidies. The unsubsidized producers therefore received lower product prices and had less market access.

As countries have expanded their agricultural sectors and new policies have been introduced over the past twenty-five years, there have been changes in levels of subsidies provided and how they are reported.

Subsidies provided have increased and more subsidies have been reported in Annex 2 claiming to have “no or at most minimal trade distorting effects or effects on production”.

The next section provides a summary of the evolution of domestic support expenditure and entitlements since the conclusion of the Uruguay AoA.

1.3 Domestic Support since the conclusion of the Uruguay Round (UR)

Different Policies, Increased Expenditure and Entitlements

In the WTO Agriculture negotiations, trade distorting domestic support provided by WTO members has become the issue of greatest concern to the largest number of members. This concern is motivated largely by four interests. Firstly, a common shared interest by all countries in establishing rules that promote a fair and market oriented agricultural trading system. Secondly, an interest by members in ensuring that there are rules that allow their country the flexibility to provide domestic

support for the agriculture sector to contribute to national goals. Thirdly, an interest in negotiating rules that increase their export opportunities. Fourthly, an interest in ensuring that there are rules that enable a country to protect its producers from unfair competition, trade distorting domestic support that can undermine the interests of their producers and the diversification and development of their agricultural sector and agro-industries. The fundamental question has been and remains: how to create rules governing trade distorting domestic support and its impacts to meet these different goals?

The main storylines on domestic support expenditure in the WTO agriculture negotiations since the AoA are summarized below and represented further in the tables and graphs that follow:

- Article 6 domestic support has declined since 1995 (notified as 6.3 and 6.4 support that is non-exempted from limit; domestic support under production limiting programs and certain support in developing countries, notified as 6.5 or 6.2 support that is exempt from limit). (Table 3, lines 1,2 and 3).
- Domestic support classified as no or at most minimally trade distorting (notified as Annex 2 Green Box support) or exempted for development reasons (notified as 6.2) has increased substantially, mainly because of increased support notified as Green Box measures, and to a lesser extent because of increased Article 6.2 (Development Box) support. (Table 3, lines 2,5)
- The sum of all domestic support (exempt and non-exempt) almost doubled between 1995 and 2016, largely due to increases in exempted support (Table 3, line 6,7). However, the total support remained a fairly stable percentage of the value of world agriculture production (around 15%) and stayed substantially below current levels of domestic support entitlements as reflected by BTAMS and de minimis levels.
- In recent years (2016 to 2019) the number of members reporting AMS support has declined. At the same time the number of members declaring Green Box support has increased sharply (Table 6).
- Product specific AMS support through market price support policies has declined. (Figure 1). Product specific support makes up more than 50% of the AMS support.
- Entitlement to providing non-exempt support continues to far exceed actual expenditure and this gap is expanding given that the measure determining the legal amount allowed is linked to the value of agricultural production (Figure 2 and 3). This affords countries with an expanding agricultural sector increased allowance to provide non-exempt support.
- Five countries account for more than 80% of the Article 6 and Green Box support provided (Table 4 and 5). However, the major change observed is that support provided by the two developing countries (China and India) is now higher than the amount of support provided by the three leading developed country domestic support providers. This applies to both Article 6 support and Green Box support.

Table 3 provides a broad overview of the total expenditures on notified domestic support.

	1995	2005	2010	2016
	USD million			
Article 6 Domestic Support(all members)				
1.AMS (6.3 +6.4 all members - non exempt support)	132,514	73,807	68,675	78,328
2.Development Box (6.2)	2,444	14,806	39,257	30,901
3.Blue Box (6.5)	35,721	17,921	8,388	12,454
4.Total Article 6 Support	170,679	106,534	116,320	121,683
5.Green Box Domestic Support(Annex 2)	129,334	213,737	368,278	455,592
6. Total Domestic Support	300,013	320,271	484,598	577,275
7. Total Exempt Domestic Support(all members,2+3+5)	167,499	246,464	415,923	498,947
Main Five Members notifying DS : China, European Union, India, Japan, United States (in alphabetical order)				
8.Total Article 6 DS (main five members)	153,562	91,787	87,669	95,123
% of Total Article 6 support(8/4)	90%	86%	75%	78%
9. Total Green Box (Annex 2)(main five members)	106,742	184,491	324,882	437,349
%of Total Green Box(9/5)	83%	86%	88%	96%
10.World Value of Production	1,570,041	2,037,044	3,184,564	3,725,877
11. Total Article 6 Support as a % of World VOP	11%	5%	4%	3%
12. Total Domestic Support as a % of World VoP	19%	16%	15%	15%

Compiled from WTO. JOB/AG/190 (December 2020) and JOB/AG/199 (May 2021) and Article 6 support member notifications

Since 1995 domestic support notified to the WTO has been concentrated among very few countries. During the first fifteen years post 1995 three developed countries notified the most support. Within the last decade two developing countries now account for the most support notified. There has been a decline in Article 6 support relative to Green Box Annex 2 support as a proportion of total domestic support expenditure. Five countries (China from 2001), European Union, India,

Japan, and United States account for almost 80% of the total Article 6 domestic support provided, in both exempt and non-exempt categories of support. The same five countries, because of the size of their agricultural sectors, initial allocations of entitlements and AoA rules have the highest expenditure for domestic support in both Article 6 and Green Box support. Tables 4 and 5 present this information for the main providing countries.

	1995	2005	2010	2017*
China		568.00	18,170.00	29,167.00
India	6,210.00	12,318.00	33,892.00	29,033.00
USA	14,729.00	18,923.00	10,113.00	12,918.00
EU	94,944.00	53,628.00	14,382.00	15,489.00
Japan	37,679.00	6,350.00	11,112.00	8,516.00
China and India	6,210.00	12,886.00	52,062.00	58,200.00
USA,EU, Japan	147,352.00	78,901.00	35,607.00	36,923.00
Total	153,562.00	91,787.00	87,669.00	95,123.00
	*China is 2016			
	Data compiled from WTO: JOB/AG/190 and Article 6 support member notifications			

Table 5 : Green Box Support - Main Providing Countries(US\$MN)				
	1995	2005	2010	2017*
China		37,778.00	78,968.00	197,631.00
India	2,196.00	5,907.00	19,479.00	31,433.00
USA	46,041.00	73,328.00	118,957.00	118,185.00
EU	24,814.00	50,092.00	90,129.00	73,984.00
Japan	33,691.00	17,386.00	17,349.00	16,116.00
China and India	2,196.00	43,685.00	98,447.00	229,064.00
USA,EU,Japan	104,546.00	140,806.00	226,435.00	208,285.00
Total	106,742.00	184,491.00	324,882.00	437,349.00
	* China is 2016			
	Data compiled from WTO: JOB/AG/190 and Article 6 support member notifications			

On the three main components of Article 6 support, (AMS 6.3/6.4), Development Box (6.2) and Blue Box (6.5) there are some important dimensions to emphasize.

Article 6.3 (AMS) allows 32 members (15 developed and 17 developing) access to Bound levels of Total AMS on top of de minimis that is not enjoyed by other members. Article 6.4 (De minimis) is linked to the value of agricultural production and thus countries with rapidly expanding agricultural sectors that would enjoy increasing room to subsidize are the focus of countries most interested in reducing trade distorting support. While the focus is on a few countries currently, FAO data suggests that the projected value of production is set to increase for most developing countries.

There are similar concerns with Article 6.2 which has no limits and is only allowed to developing countries (excluding China, in keeping with China's accession agreement).

The fear is that as a developing country's room to provide domestic support to the agricultural sector increases, if this support is under Article 6.2 it might contribute to production and trade distortions with detrimental impacts on other members. While India accounts for more than 75% of Article 6.2 support currently, Article 6.2 support still represents a significant component of the currently low levels of support notified by many developing country members.

Article 6.5 has been used only by six countries and its use has generally declined over time. However, there was a large increase in 2016 mainly due to China exempting blue box payments.

Green Box support is currently the category where most domestic support is notified. It is also spread across the largest number of members. **Table 6** shows the percentage of WTO members reporting support by category of Domestic support.

	Amber Box	Article 6.2*	Green Box	Blue Box
2001	41%	45%	76%	4%
2002	43%	45%	75%	4%
2003	44%	44%	82%	4%
2004	43%	49%	80%	4%
2005	42%	49%	81%	4%
2006	43%	63%	81%	5%
2007	44%	52%	84%	5%
2008	44%	51%	84%	5%
2009	44%	48%	81%	5%
2010	44%	46%	84%	5%
2011	42%	46%	82%	5%
2012	44%	52%	83%	5%
2013	47%	47%	81%	5%
2014	45%	51%	81%	5%
2015	44%	49%	79%	5%
2016	48%	51%	83%	8%
2017	46%	43%	83%	7%
2018	40%	48%	83%	3%
2019	38%	36%	94%	6%

*Relative to Members that may exempt support under Article 6.2

Source: Presentation by Canada at WTO. 18 May 2021.

The most commonly notified Green Box expenditures fall under General Services (paragraph 2 of Annex 2). The more than threefold increase in Green Box notifications and the fact that it accounts for almost 80% of total domestic support notified draws increasing attention from members, many of whom are anxious to ensure that the support meets the criteria of the Green Box. This especially applies to the area of direct payments (paragraphs 5 to 13 of Annex 2).

Two additional aspects of the DS panorama are product specific support and entitlements to domestic support. Both of these dimensions are central to discussions on progress in the negotiations.

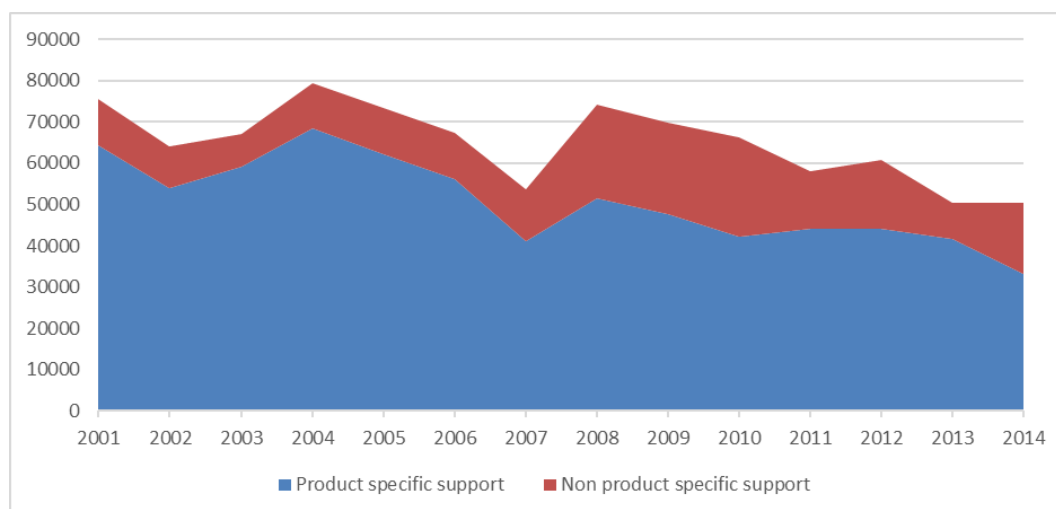
Figure 1 shows that product specific support, although a declining proportion, continues to account for the majority of notified AMS support by WTO Members. In 2016 product

specific support accounted for 67% of total AMS. Analysis indicates that developed countries tend to provide trade distorting support in product-specific form, whereas developing countries tend to do so in non-product-specific form.¹²

¹² ICTSD. 2017. Negotiating Global Rules on Agricultural Domestic Support: Options for the World Trade Organization's Buenos Aires Ministerial Conference.

Geneva: International Centre for Trade and Sustainable Development (ICTSD).

FIGURE 1: PRODUCT SPECIFIC AND NON-PRODUCT SPECIFIC SUPPORT (USD MILLION)



Source: JOB/AG/150

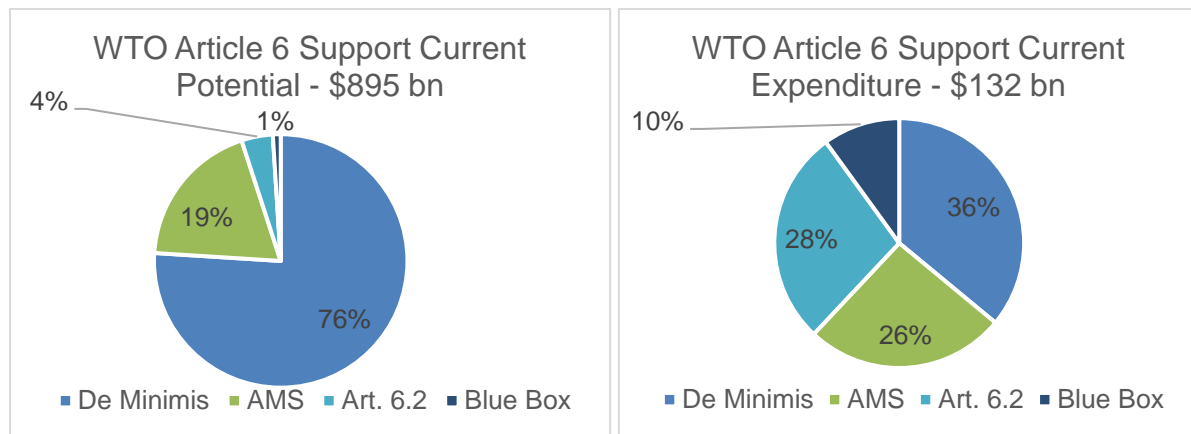
Product specific support is targeted for reform for two specific reasons. Firstly, the support is concentrated on a few important commodities that are key determinants of food availability and access to food. In 2014, 30% of product specific support went to cereals, 28 % to dairy, 23 % to livestock and 4% to fibres (cotton). This support is seen as reducing market opportunities and lowering incomes for agricultural exporters, as well as undermining domestic market food producers by unfairly competing with their products. This is especially the case in developing countries. Secondly, non-exempt product specific support is at levels higher than the de minimis threshold. Members that negotiated this flexibility for themselves are considered as being unfairly privileged. This flexibility is considered a major imbalance by most members and one that should be addressed as a priority. Product specific support that is notified under the Blue Box is also of concern to members. The product specific support

issue is central to meaningful progress in the negotiations and will be elaborated on more below.

Disciplining both current and future entitlements are central to the domestic support negotiations. **Figure 2** compares the current levels of trade distorting support that can potentially be used with the actual current levels of domestic support expenditure.¹³ It is seen that current allowed expenditure is almost seven times the current actual expenditure. This arises from the growth in agricultural value of production in member countries, which has enabled the total de minimis allowance to grow substantially. Thus, it is argued that there is already too much flexibility in the current system and not addressing the continuing expansion of the ceilings of entitlements is counterproductive to the long-term goal of progressive reductions in support and protection, as per AoA.

¹³ The calculation of the current levels of trade distorting support that can be potentially used is difficult because it includes categories of expenditure that have no limits.

FIGURE 2: CURRENT WTO AOA ARTICLE 6 SUPPORT- POTENTIAL COMPARED WITH ACTUAL EXPENDITURE

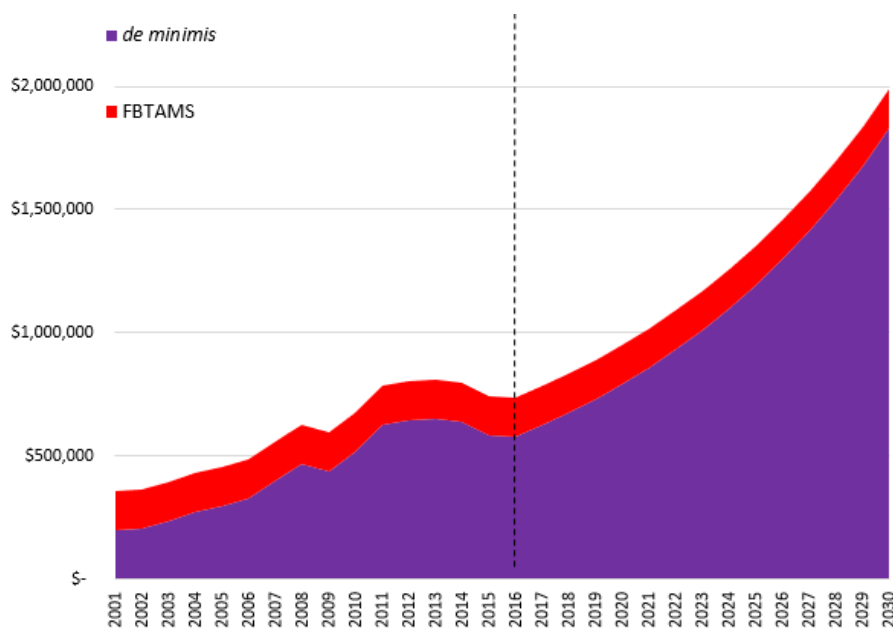


Source: Delegation of Costa Rica presentation on “New Approaches to Agriculture negotiations”, February 19th, 2020. Based on Notified data to January 2019.

This argument is further bolstered by projecting the current de minimis trends. **Figure 3**, a submission from Australia and New Zealand to the negotiations (JOB/AG/171), provides one projection. It shows the growth in total trade-distorting domestic support ceilings (Fixed Bound Total

AMS + de minimis) since 2001 for all WTO Members, measured by AMS and de minimis. This ceiling has more than doubled from USD322 billion to approximately USD740 billion in 2016 and as seen in Figure 3 could be substantially higher. The validity of the point being made remains even though it can be reasonably argued that the projection as shown may be exaggerated.

FIGURE 3: TOTAL TRADE-DISTORTING DOMESTIC SUPPORT CEILINGS (ALL WTO MEMBERS)



Source: WTO. JOB/AG/171

The aforementioned overall picture on DS presented reflects two important changes since 1995. Article 6 support has declined, and, among the five main providers of domestic support, the two developing countries now account for a larger percentage than the three developed countries. It is important to make a further cautionary remark on these two changes. Firstly, while there has been a decrease in Article 6 support there is concern that some of this support that has been shifted to the Green Box may not adequately meet the criteria of less distorting support.¹⁴ Secondly, the switch in the role of China and India, as leading providers of domestic support needs increased examination in relation to the goal of decreasing trade distorting support.

Finally, it is important to reinforce that while five countries have been focused on above, this in no way diminishes the statement that domestic support is the issue in the agriculture negotiations of interest to almost every WTO member. There are a few countries whose small agriculture sector means that they are close to the limits of allowable support given their entitlements. There are many developed and developing countries that seek disciplines on domestic support that they see as reducing the ability of their producers to compete in agricultural export product markets. There are also many developing countries that want to discipline domestic support because of the negative impacts of subsidized imports on their domestic farming sectors, reducing domestic food availability, especially in poor rural areas. These subsidized products are also seen as

negatively impacting long run food stability and rural area development. However, some of these same developing countries do not favor trade rules that would limit their own domestic policies as they continue to seek to develop their agricultural economies.

1.4 Domestic Support Negotiations since the AOA - Impasse

In the penultimate Article of the Agreement on Agriculture (Article 20) members recognized that “the long-term objective of substantial progressive reductions in support and protection resulting in fundamental reform is an ongoing process” and committed to continuing the negotiations one year before the end of the AoA implementation period.¹⁵ These renewed negotiations were to be based on the experience from implementing the reductions agreed, the effects of the reduction commitments on world trade in agriculture, including taking into account non-trade concerns, special and differential treatment to developing countries, and the objective to establish a fair and market-oriented agricultural trading system. Negotiations on agriculture within the framework of the AoA resumed in 2000. From 2001 they were folded into the Doha Round with a specific goal (among others) of achieving “substantial reductions in trade distorting support”.¹⁶

Despite considerable engagement and effort in the negotiations, especially between 2000 and 2008, there has not been any major

¹⁴ It is recognized that WTO members can initiate dispute proceedings if they feel that the support is not in compliance with requirements. Also, rising levels of domestic food aid, legitimately placed in the Green Box has contributed to the Green Box increased levels.

¹⁵ WTO. 1994. Agreement on Agriculture. https://www.wto.org/english/docs_e/legal_e/14-ag.pdf

¹⁶ WTO. 2001. Ministerial Declaration. Fourth Ministerial Conference (MC4), Doha. (WT/MIN(01)/DEC/1).

agreement affecting domestic support from the eight WTO Ministerial meetings held since 2000.

A brief overview of what took place on domestic support at these Ministerial meetings since 2001 is presented in the rest of this section.

From Doha (2001) to Hong Kong (2005): Progress in Agriculture Domestic Support Negotiations

The 4th WTO Ministerial Conference took place in Doha in 2001. The Ministerial Declaration recognized the large number of negotiating proposals on agriculture that were submitted on behalf of 121 members and the Work Programme arising from the meeting indicated a commitment from members to substantial reductions in trade-distorting domestic support. Modalities for commitments were set to be established no later than 31 March 2003.

On August 1, 2004, after the failure of the Fifth Ministerial in Cancún in September 2003, the WTO General Council adopted a decision on the Doha Work Programme (widely known as the July package).

This agreement, formally reaffirmed by the Ministerial Declaration of the Sixth Ministerial in Hong Kong, in December 2005, included considerable specificity in its efforts to propel agriculture negotiations forward. On domestic support the Declaration stated that “there will be three bands for reductions in Final Bound Total AMS and in the overall cut in trade distorting support, with higher linear cuts in

higher bands”.¹⁷ Thus, countries with the highest levels of trade distorting support would commit to the highest cuts. Final Bound Total AMS was particularly singled out for cuts, including for developed countries that were not among those with the highest levels of trade distorting domestic support. The Ministerial Declaration also referred to “some convergence concerning the reductions on Final Bound Total AMS, the overall cut in trade-distorting domestic support and in both product-specific and non-product-specific de minimis limits”. Developing country Members with no AMS commitments were to be exempted from reductions in de minimis levels and the overall cut in trade distorting support. The modalities and disciplines were to be further developed and agreed on. This agreement was ultimately never achieved.

Annex A of the Hong Kong Ministerial document is the Report of the Chairman of the Special Session of the Committee on Agriculture to the Trade Negotiations Committee.¹⁸ The Chair makes it clear that while his report was requested by WTO members, it was his personal factual view of the situation and did not suggest any implicit or explicit agreement with the contents. Thus, the report does not prejudge or prejudice the positions of Members. Nevertheless, reference is made here to Annex A because it represents some of the details of the very specific path towards an Agreement on Domestic Support that was in train. The Chair refers to “an undeniably significant convergence” on the range of cuts to explicitly stated amounts of support in three bands. **Table 7** below, taken from the Annex A of the Hong Kong Ministerial, is referred to as a snapshot of the

¹⁷ WTO. 2005. Sixth Ministerial Conference, Hong Kong. Doha Work Programme, Ministerial Declaration. (WT/MIN/(05)/DEC).

¹⁸ WTO. 2005. Sixth Ministerial Conference, Hong Kong. Doha Work Programme, Ministerial Declaration. Annex A (TN/AG/21).

negotiating situation in 2005 on cutting domestic support.¹⁹

TABLE 7: OVERALL DOMESTIC SUPPORT CUTS CONSIDERED IN 2005

Bands	Thresholds (US\$billion)	Cuts
1	0-10	31%-70%
2	10-60	53%-75%
3	>60	70%-80%

Source: WTO. 2005. Sixth Ministerial Conference, Hong Kong. Doha Work Programme, Ministerial Declaration. Annex A (TN/AG/21).

De minimis cuts to product-specific and non-product specific domestic support under consideration were between 50% and 80% for developed countries and were to be zero for developing countries with no AMS. For developing countries with AMS, they were to be less than 2/3 of the cut for developed countries.

From 2008 Mini-Ministerial to Bali (2013) Ministerial Conference: Growing Stalemate in Domestic Support Negotiations

In 2008, a mini Ministerial was held in Geneva from July 21 to 30. It produced what was known as the July 2008 package which was at the time considered to be an important stepping stone towards concluding the Doha Round. It led to the most substantive document on modalities for Agriculture, tabled in December 2008 as TN/AG/W/4/Rev.4.

However, the Members could not agree on the document.

The Seventh WTO Ministerial was held in Geneva in December 2009 and the Chairman's summary statement indicated that "there was wide support for building on progress made to date. There was also support for not attempting to reopen stabilized texts". However, the inability to agree on TN/AG/ W/4/Rev.4, indicated that in general the Doha Agenda and Agriculture, and in particular negotiations on Domestic Support, were under immense stress. The difficulties that lay ahead were foreshadowed.

Two years later, the Eighth WTO Ministerial was held in Geneva in December 2011. Although there was a commitment to work actively towards a successful conclusion of the Doha Agenda, the dire situation was laid bare. The Chairman of the Ministerial in his concluding statement (made under his own responsibility as there was no consensus that could be captured in a Ministerial Declaration) could not be clearer:

"Ministers deeply regret that, despite full engagement and intensified efforts to conclude the Doha Development Agenda single undertaking since the last Ministerial Conference, the negotiations are at an impasse".²⁰

Despite the above somber assessment, the Ninth WTO Ministerial in Bali in 2013 persevered with the Doha Agenda. The Ministerial Declaration and the agreements spoke of "strong resolve to complete the DDA" and saw the adoption of five Ministerial Decisions under the DDA related to

²⁰ WTO. 2017. The WTO Agreements. Cambridge University Press, United Kingdom pg. 140

Agriculture. Three of these were directly related to Domestic Support:

- General Services (WT/MIN(13)/37; WT/L/912) – this clarified Annex 2 Green Box support programmes related to land reform and rural livelihood security to promote rural development and poverty alleviation.
- Public Stockholding for Food Security Purposes (WT/MIN(13)/38; WT/L/913) – this agreed an interim mechanism to protect from challenge, in compliance with obligations under Article 6.3 and 7.2(b), developing country members support to traditional food crops that are a part of public stockholding for food security purposes until a permanent solution is agreed. The commitment was made to negotiate a permanent solution by the 11th Ministerial Conference.
- Cotton (WT/MIN(13)/41; WT/L/916) – this agreed to hold a dedicated discussion on a bi-annual basis in the context of the Committee on Agriculture in Special session examining relevant cotton trade-related developments in Domestic Support, Market Access and Export Competition.

The other two DDA Agriculture related decisions were on Tariff Rate quotas and Export Competition.

Nairobi (2015) and Buenos Aires (2017) Ministerial Conferences: Agricultural Negotiations at an Impasse

At the Tenth WTO Ministerial Conference in Nairobi in 2015 nothing tangible was achieved in terms of domestic support although there was a major step forward for the export competition pillar of AoA. A Ministerial Decision (WT/MIN(15)/44; WT/L/979) noted the earlier Ministerial decisions on Public Stockholding for Food Security Purposes and called for more constructive engagement to adopt a permanent solution mandating that dedicated sessions be held in the Committee on Agriculture in Special Session.

It is important to mention that in paragraphs 30 and 31 of the Ministerial Declaration, Ministers explicitly recognized that there was no consensus agreement on whether to reaffirm the Doha mandates. However, Ministers did reaffirm their "strong commitment" to advance work on the remaining Doha issues, including agricultural domestic support. Agriculture negotiations continued after MC10 on the basis of the mandate provided in Art. 20 of the AoA.

At the Eleventh and latest WTO Ministerial Conference, in Buenos Aires in 2017, nothing was achieved in terms of advancing AOA negotiations. The wide gaps between the positions of Ministers meant that they were again unable to agree on any collective Ministerial Declaration at the end of the conference.

The impasse that was explicitly recognized at the eighth WTO Ministerial in 2011 has remained in place for the past ten years.

SECTION 2

Current Status of Domestic Support Negotiations: Member Proposals and Options

After MC 11 in Buenos Aires in 2017, the next Ministerial scheduled for June 2020 was postponed due to the COVID pandemic and will be held in Geneva in December 2021. In March 2018 negotiations resumed in Geneva. In the context of reducing trade distorting domestic support the main issues and questions are:

- What is the best approach to disciplining/reducing/capping trade distorting domestic support?
- How can past imbalances be eliminated?
- Why should all trade distorting domestic support elements not be addressed?
- Is the proposed elimination of AMS above de minimis a prerequisite to further progress?
- Can a Framework with an overall target limiting all entitlements be established?
- Would a framework that only limits entitlements and not actual expenditures be meaningful?
- Can proportionality as a principle for reducing trade distorting support entitlements be adopted?
- Is size of a country's agricultural sector and size of farms relevant in developing rules for reducing trade distorting support?
- Can future disciplines regarding DS entitlements be decoupled from the value of agriculture production?
- How can WTO members best address the concentration of support on specific products?
- Can a special agreement be reached on cotton, with greater disciplines for trade distorting support provided to this crop given its importance to the development of least developed countries?
- How can transparency be improved, and how can this increase confidence and trust between members to thereby facilitate progress in the agriculture negotiations?
- Can a detailed work program be agreed to pursue further disciplines on domestic support?

The issues above characterize the current substantive work of WTO negotiators searching for an agreement on disciplining trade distorting domestic support. The next section briefly reviews the documents (listed in **Table 8**) that inform the domestic support work in the current negotiations. The documents reflect the continuing impasse and the low ambition state of the negotiations.

TABLE 8 – DS: SUBMISSIONS SINCE MC11 (2017)

JOB/AG/137: *22 June 2018* -- China and India: Elimination of AMS beyond de minimis to reduce distortions in global agricultural trade – some incremental steps.

JOB/AG/138: *11 July 2018* -- Canada, Argentina, Australia, Brazil, Guatemala, New Zealand, Paraguay, Peru and Uruguay: Domestic Support in the WTO Agreement on Agriculture.

JOB/AG/143: *27 September 2018* Australia, Canada, Chile, Colombia, New Zealand, Peru and Viet Nam: Trends in Global Trade- Distorting Support.

JOB/AG/150: *3 December 2018* -- Canada, Argentina, Australia, Brazil, Chile, Colombia, New Zealand, Paraguay, Peru and Uruguay: Analysis and observations on product specific support.

JOB/AG/160: *11 July 2019* -- Argentina, Australia, Brazil, Canada, Chile, Costa Rica, New Zealand, Peru, Thailand and Uruguay: Domestic Support options.

JOB/AG/171: *22 November 2019* -- Australia and New Zealand: Higher and Higher – Growth in Domestic Support entitlements since 2001.

RD/AG/74 (R) 22: *November 2019*-- Canada: An Estimate of Domestic Support Entitlements in Articles 6.3 and 6.4 of the Agreement on Agriculture for all WTO Members.

JOB/AG/172 (R): *25 November 2019* -- Russian Federation: Formula for Reduction of Trade-Distorting Support.

JOB/AG/173: (also under Cotton, PSH and SSM): *25 November 2019* -- Benin on behalf of the African Group: African Group Elements on Agriculture – For Meaningful Development Outcomes at the 12th Ministerial Conference.

RD/AG/75 (R) :*25 November 2019* -- Costa Rica: Towards a More Sustainable Negotiation Framework in the Domestic Support Pillar.

JOB/AG/177 :*23 January 2020*-- Argentina, Australia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Indonesia, Malaysia, New Zealand, Pakistan, Paraguay, Peru, the Philippines, Thailand, Ukraine, Uruguay and Viet Nam: Framework for Negotiations on Domestic Support.

RD/AG/76 (R) :*29 January 2020* -- Costa Rica: Call Towards a Strengthened Negotiation Framework in the Domestic Support Pillar of the Agreement on Agriculture.

JOB/AG/181 :*17 February 2020* -- United States: Notification of Select Domestic Support Variables in the WTO.

JOB/AG/182 (R): *19 February 2020* -- Russian Federation: Formula for Reduction of Trade-Distorting Support.

RD/AG/81/Rev.1 (R): *23 September 2020* -- Argentina, Australia, Brazil, Canada, Costa Rica, New Zealand, Paraguay, Peru, the Philippines, Thailand, Ukraine, Uruguay and Viet Nam: Examining a possible way forward on trade-distorting domestic support entitlements in agriculture.

JOB/AG/190: *7 December 2020* -- Canada: Update to Canada's Analytical Tool on Domestic Support.

JOB/AG/177/Rev.1: *1 February 2021* -- Argentina, Australia, Brazil, Canada, Chile, Colombia, Costa Rica, El Salvador, Guatemala, Indonesia, Malaysia, New Zealand, Pakistan, Paraguay, Peru, the Philippines, Thailand, Ukraine, Uruguay and Viet Nam: Framework for Negotiations on Domestic Support.

JOB/AG/195: *12 May 2021* -- Brazil: Article 6.2 of the Agreement on Agriculture (AoA) in Perspective.

JOB/AG/196: *12 May 2021* -- Brazil: Article 6.5 of the Agreement on Agriculture (AoA) in Perspective.

JOB/AG/199: *21 May 2021* – Costa Rica: Towards a Strengthened Negotiations Framework in the Domestic Support Pillar. A Methodology for Subsidy Entitlement Reductions.

2.1 Domestic Support Proposals and Options post MC 11

A few of the documents make specific proposals suggesting disciplines for consideration that would address concerns of some segment of the WTO membership. **JOB/AG/137** is one example of this type of document and seeks to correct what is perceived as a historical imbalance or the asymmetry in entitlements between developed members and most developing country members. The latter do not have entitlements to AMS beyond de minimis. In other words, most developing member countries cannot provide product specific Amber Box support exceeding the de minimis limit. **The proposal details four steps to eliminating AMS above de minimis.**

The steps would convert each product specific AMS above de minimis to a percentage of the value of production of the product and reduce it over time until all product specific AMS above de minimis is eliminated. One concern with this proposal is that it focuses only on AMS above de minimis and would

not have any impact on Members that have de minimis entitlements only, especially given that some of these developing countries have the highest levels of entitlements to trade distorting support.

JOB/AG/172 (R) and **JOB/AG/182 (R)** respectively present a **formula** (JOB/AG/172 (R)) and a demonstration using the formula (JOB/AG/182 (R)) indicating how progress

in reducing trade distorting support might be achieved. Depending on the reduction coefficient agreed, **JOB/AG/182 (R)** demonstrates that actual applied trade distorting support and unused volumes of trade distorting support entitlements could be substantially reduced. Given the lack of depth of the deliberations in the negotiations in the last five years, this concrete proposal to reduce trade distorting support has not received the attention that it perhaps deserves.

JOB/AG/160 states that the options outlined in the paper are for discussion and that they are not proposals and imply no preference or priority. Nevertheless, the paper provides members with information that could readily be considered as specific proposals with different degrees of ambition towards disciplining trade distorting domestic support. The paper essentially delineates **options that represent three different levels of ambition** focused on **(a)** reform through limits, **(b)** clarification of rules and **(c)** additional transparency. These three approaches are not mutually exclusive and the paper provides actions that can be taken in each approach to strengthen rules and disciplines on trade distorting support. This is done separately for each article related to the Amber Box (Articles 6.3, 6.4) and for Articles 6.2 and 6.5. The paper addresses the concern of some members about rapidly increasing entitlements to production and trade distorting support under Article 6. **Table 9** presents the options from this paper for discussion in the context of an overall trade distorting support (OTDS) approach that would address this concern.

TABLE 9: OTDS - OPTIONS TO ESTABLISH AN OVERALL LIMIT AND IMPROVE TRANSPARENCY

What is covered?	How is it set?	Floating limit	Fixed limit	Hybrid limit
<ul style="list-style-type: none"> - All Article 6 - Article 6.2 – developing country exemptions (or elements within) - Article 6.3 (<i>FBTAMS</i>) - Article 6.4 (<i>de minimis</i>) - Article 6.5 - Blue Box - Annex 2 - Green box (or elements within) 	<ul style="list-style-type: none"> - Based on VoP - Based on entitlements - Based on spending - Based on a monetary amount 	<ul style="list-style-type: none"> - Do limits float with values of: - Production? - Inflation? - Other? 	<ul style="list-style-type: none"> - A fixed monetary amount? - Which currency? 	<ul style="list-style-type: none"> - Is it fixed for a period before becoming floating? - Initially floating over a specified time period before coming fixed? - Certain Articles are floating, while others are fixed? - A fixed limit that could be adjusted due to hyperinflation?
Options to improve transparency on overall support				
<ul style="list-style-type: none"> - Include a total for Overall Article 6 Support in notifications - Include a total for Overall Article 6 and Green Box support in notifications - Include total VoP in notifications - Include all parameters in market price support calculations in the AoA (Annex 3, paragraph 8) 				

Source: JOB/AG/160

The paper also presents options for disciplining the Green Box and reflecting Special and Differential Treatment in any outcome on domestic support. This paper should have received much more consideration by WTO negotiators and still holds great value in helping the efforts being directed at arriving at some level of a meaningful outcome at MC 12.

An interesting and creative **proposal around limiting entitlements** to trade distorting Domestic Support has evolved driven by work inspired and tabled by Costa Rica. **JOB/AG/199 on May 21, 2021 entitled “Towards a Strengthened Negotiation Framework in the Domestic Support pillar”** is the recent culmination of this work and presents a comprehensive proposed methodology presenting base principles, objectives and modalities around which members are invited to work together to achieve the objective established in Article 20 of the AoA. Two earlier, directly related documents, build the case towards the recent JOB/AG/199 submission. The earlier documents RD/AG/75 (25 November 2019)

and RD/AG/76 (29 January 2020) present important elements, building blocks and goals for this framework which seeks to address many of the very difficult questions on several aspects of the Domestic Support negotiations. The point of departure, RD/AG/75, recognizes that negotiation mechanisms over the past 20 years have failed to resolve the inequalities generated by the structure of the AoA itself. Further, that the establishment of specific disciplines by type of subsidy has proven too difficult given the variety and range of domestic support policies used across countries. Therefore, a more flexible approach prioritizing aggregate levels of trade distorting potential to support, at both the global and individual level, is required. The fundamental principles that are expanded and appear more definitively in the other proposals that follow are stated in RD/AG/75:

- To address trade distorting domestic support potential the concept of a fixed monetized limit is introduced, specifically to end basing entitlements on the increasing agriculture value of production

that expands available de minimis (currently \$650 billion and growing).

- To discipline all Article 6 trade distorting support.
- To use proportionality as a principle for fairness to align individual contributions with the trade distorting potential of each member.
- To apply proportionality in a progressive manner to narrow the gaps and concentration of entitlements across the membership (attempting to reduce the relative potential to distort of the ten members that account for almost 80% of the global entitlements and almost 90% of the total WTO annual expenditure).
- To ensure consideration of the needs of developing members, and especially the least developed countries.

RD/AG/76 is a logical next step and follows on from RD/AG/75. It is a methodological note that presents analytical insights on the concept of a member's trade distorting potential. JOB/AG/199 is the current culmination of this contribution by Costa Rica to reducing domestic support entitlements. JOB/AG/199 refers to RD/AG/75 and RD/AG/76, reiterating the principles of the proposal and applying the methodology more completely. JOB/AG/199 presents the

concept of trade distorting potential expenditure (TDPE) as an estimate of the monetary amount that members are entitled to spend on trade distorting domestic support under current WTO domestic support rules. It is a sum of their AMS and de minimis entitlements and an average of recent expenditure in other areas of support notified. It is estimated at US\$905 billion across all members and all areas of Article 6. **Table 10** presents this estimate of current and potential support, showing that the top ten members have 80% of the access to potential support. The submission argues that including all Article 6 support is necessary for a more balanced approach. This is also deemed to be required politically as it increases the number of members participating in the effort to reduce trade distorting support. JOB/AG/199 indicates that the WTO membership uses less than 15% of this allowed support, therefore, if Members were to set themselves the objective of capping and reducing by half the sum of current global agricultural trade- and production-distorting support entitlements by 2030 (as set out in JOB/AG/177), this should be achievable. It would furthermore be attainable while maintaining considerable policy flexibility for all members. It is mathematically the result that those members that have the highest levels of entitlements and most trade distorting expenditure would make a greater contribution to meeting the goal.

TABLE 10: AN ESTIMATE OF CURRENT AND POTENTIAL SUPPORT COVERED UNDER ARTICLE 6 OF THE AOA (US\$BILLION)

Table 10: An estimate of Current and Potential Support Covered under Article 6 of the AoA (US\$billion)				
	Notified Support (2016)	Highest Notified Support	TDPE	Concentration (Top Ten Members TDPE)
de minimis	44	74.3	683.8	76.50%
AMS	34.3	52.4	174.3	90.80%
Article 6.2	30.9	34.5	34.5	86.00%
Article 6.5	12.5	12.8	12.8	94.30%
Total TDDS	121.7	174	905.3	79.80%

Source: Costa Rica, JOB/AG/199, 21 May 2021

JOB/AG/177 (23 January 2020) and JOB/AG/177/Rev1 (1 February 2021), coming from a wider group of members, explicitly agrees with the goals and principles of the framework that the JOB/AG/199 methodology is directed at achieving.

JOB/AG/173 entitled “African Group Elements on Agriculture for Meaningful Development Outcomes at the Twelfth Ministerial Conference” presents a proposal on reducing trade distorting domestic support. The submission states:

- “On product-specific support, Members with scheduled AMS entitlements shall apply a **cap on their product specific support beyond de minimis** based on the average of the last three years figures notified to the Committee on Agriculture”. This is followed by a statement proposing that the end goal is to reduce this support to the de minimis level.
- “Products subject to product-specific support which is on average during the last three years notified to the Committee on Agriculture **below de minimis**, shall not receive support in excess of the values stipulated in Article 6.4 of the AoA.
- “Members commit to **set a specific end date for the existing programs classified as Blue Box support** under Article 6.5 of the AoA”.

- On Green Box support, stricter disciplines are to be applied on the usage of support provided for in paragraphs 5-13 of Annex 2 to ensure that it meets the criteria of being no or minimally trade distorting. These disciplines are referred to in paragraphs 5.3 of the proposal in the context of increased transparency.

This African Group proposal also calls for progress on cotton, public stock holding (PSH), Special Safeguard Mechanism (SSM) and transparency. On PSH the proposal states that “developing Members undertaking programs under the Permanent Solution shall ensure that no exports are made from products benefitting from this provision”. This is important in relation to progress on reducing domestic support given that progress on PSH and DS is seen as linked by some WTO members.

2.2 Submissions to stimulate Proposals / Options

Many of the submissions are intended to provide information to assist the discussions and do not include a proposal or statement of options in terms of reducing trade distorting domestic support. This applies to JOB/AG/138 which presents data and an

assessment of the use and trends in **all** the categories of domestic support (Article 6 and Annex 2 of the AoA) across the selected WTO members that are significant agriculture exporters, importers or producers. The trends presented determine and reflect the general overall story line on domestic support in Section 2. **JOB/AG/143** is a similar document with data and trends to inform negotiations but is focused more specifically on **trade distorting support**, particularly highlighting how among four countries they have switched positions over the years in terms of which countries account for most Article 6 support. In the first ten years after the AoA, the EU and USA accounted for the majority of the Article 6 support; in the last ten years China and India have accounted for most of the Article 6 support provided.

RD/AG/74 presents an estimate of domestic support **entitlements** in Article 6.3 and 6.4 for all WTO members. **JOB/AG/171** presents WTO members with a graphic representation (Figure 3 above) of how total trade distorting support entitlements, driven only by *de minimis* entitlements associated with the top ten largest agricultural producers could reach US\$2 trillion by 2030, expanding on the more than doubling that took place between 2001 (US\$322 billion) and 2016 (US\$ 740 billion). Further, these top ten producers would be able to benefit from 80% of the entitlements for the entire WTO membership. The submission observes that “it is vital that overall global domestic support entitlements are capped and reduced”. It is to be noted that **JOB/AG/171** does not include the currently uncapped forms of support under Article 6 and the submission states that new disciplines that would include all forms of trade distorting support should be considered.

JOB/AG/150 presents analysis and observations on the crucial area of product

specific domestic support. It only treats product specific support that is included in the AMS calculations and omits support that is exempted, such as Article 6.2, 6.5 and Green Box support. The submission highlights that product specific support still accounts for the majority of Article 6.3 and 6.4 support even though it has decreased from being 85% of the support in 2001 to still more than 50%. Developed countries, which have more flexibility in providing this support have historically been and remain the main providers. However, product specific support is also increasing for some developing countries. The product categories that receive the largest amount of product specific support remain livestock (beef, dairy and pork), cereals (wheat, rice, and corn) and fibres (cotton). While the use levels remain below the expanding *de minimis* entitlement levels, this trend continues to provide the largest users with increased opportunity to use product specific support.

JOB/AG/181 introduces into the agriculture negotiations a number of issues that are well recognized as needing attention if rules governing trade distorting domestic support are to be effectively and comprehensively improved. However, these issues are generally not actively engaged on, perhaps hoping that if higher level goals can be agreed these aspects can then be addressed. The submission identifies: “(1) market price support (specifically eligible production, adjustments to fixed external price, and product basis); (2) negative support levels; (3) classification and non-notification; (4) currency and inflation; and (5) value of production data. These issues are discussed in the Committee on Agriculture in the WTO which meets to address implementation issues of the AOA. These issues have been very much in the actual negotiations and have

been represented by the repeated calls for greater transparency in notifications as a critical dimension of any outcome in the agriculture negotiations. The third theme around which the domestic support options

are organized in JOB/AG/160, “additional transparency”, is very related to the concerns regarding transparency in notifications of JOB/AG/181.

SECTION 3

Developing Countries and Domestic Support Negotiations: Different Interests and Positions

Different groups of developing countries have very different interests in the WTO agriculture domestic support negotiations. Thus, while there is considerable consensus among them around the call for reducing trade distorting support through introducing new disciplines on domestic support rules, there are different reasons that lead them to what is a similar position. There are also different views on the various measures classifying subsidies and governing their limits. This results in different positions among the developing countries themselves, in addition to the differences between developed countries and the different groups of developing countries.

3.1 Different interests for Disciplining Domestic Support among Developing Countries

In the WTO framework, all developing countries are grouped together, with the exception of least developed countries. However, developing countries are not a homogeneous group. Their different interests in the agricultural negotiations are affected by differences in the size of their agricultural

sectors, levels of poverty, number of farmers, capacity to subsidize, among other things. The interest of developing countries in two broad categories are described below. The two categories are not mutually exclusive.

There are developing countries, **exporters of agricultural products**, that are offensive in their interests and call for reduced domestic support because subsidized products on the world market reduce their opportunities to export and result in lower earnings for their farmers. Some of these developing countries are aggressive proponents of increased disciplines to reduce domestic support, both actual support and entitlements. Within this developing country exporter group there are relatively more passive *demandeurs* of reducing domestic support. These countries are still heavily dependent on traditional exports from the pre-independence period. Many small, vulnerable economies (SVE's) and least developed countries (LDCs) in this category have lost access to preferential trade opportunities and are struggling to diversify and add value to their agricultural exports.

There are developing countries that are **net food importers** which have suffered the negative impacts of subsidized agricultural exports on the food and agriculture sector that they have been trying to transform and grow

to increase their food security. The theoretical argument that these countries receive food at lower prices and therefore their food security is enhanced is not generally convincing to them.²¹ Further, rural areas whose food security largely depends on the sale of agricultural products have been the most affected. Their own accessibility to food is undermined by reduced market opportunities and lower product prices. This in turn reduces their agricultural surpluses and thereby limits their diversification, growth and transformation opportunities. There is also the challenge of the general shift away from consuming what is produced domestically to consuming subsidized imports. If progress on reducing and further disciplining trade distorting support remains elusive, concerns about negative impacts, including increased price instability, will result in continued calls for measures to protect against the impacts of trade distorting support.

3.2 Positions by Developing Countries on Domestic Support Rules

Developing countries have different positions on how the various elements related to reducing and disciplining domestic support in the WTO Agriculture negotiations should be treated. The greatest commonality in terms of positions is around AMS, final Bound Total AMS, *de minimis* and Article 6.4. The greatest difference is around Article 6.2 and aspects of the Green Box.

Final Bound AMS Entitlements

Thirty-two WTO Members (32) have access to Final Bound Total AMS (FBTAMS), seventeen

of which are developing countries. The entitlement to Final Bound Total AMS is considered unfair by the majority of developing countries that do not have access to it and who view it as the major determinant of the most trade distorting support. Final Bound Total AMS is seen as the basis of the claim that the rules are deeply imbalanced and for many developing countries until this inequity is removed, making progress in the negotiations would be difficult. Three developed countries out of the 32 countries that have access to FBTAMS account for more than 90% of the entitlement. The major difference between FBTAMS and *de minimis* entitlement to which all WTO members have access is that the Members with access to FBTAMS are able to provide trade distorting support to products at higher levels. This support may go beyond the 10 % threshold on product specific *de minimis* support which all developing countries enjoy (with an 8.5% threshold in the case of a few later acceding developing countries to the WTO). This has resulted in some individual products being subsidized to more than 50% of their value of production (milk, sugar).

De minimis

The focus on disciplining *de minimis* in the negotiations has increased more recently. It arises from what is considered an increasing access to distort agricultural trade as a country's agricultural sector expands. This concern is currently heavily focused on large developing countries whose large agricultural sectors have been growing the most over the past two decades. This has increased the emphasis in the negotiations towards an overall cap on current and future entitlements, and also, but to a lesser extent away from

²¹ FAO.2012. Manitra A. Rakotoarisoa, Massimo Iafrate, Marianna Paschali. "Why has Africa become a net food

importer? Explaining Africa Agricultural and Food Trade Deficit's." Trade and Markets Division.

disciplining specific categories of trade distorting support.

There is, however, a great push back among many developing countries at any suggestion of an aggregate approach that would reduce *de minimis* entitlements. Two aspects to this should be highlighted. Firstly, developing countries argue that it is AMS beyond *de minimis*, rather than *de minimis* entitlements, that is contributing to the most egregious and widespread trade distorting outcomes in the global agricultural trading environment. Secondly, these countries argue that *de minimis* is already capped for all WTO members. These members are of the view that countries with a large agricultural sector and a large number of farmers need the *de minimis* to promote their rural transformation,

food security and development. They argue that any approach should be focused not only on the aggregate level of entitlement or provision of domestic support but must also take into consideration the per farmer subsidy provided by countries. **Table 11** shows the data often presented to support this point of view regarding very small per farmer subsidies in developing countries compared to developed countries. Further, developing countries emphasize the contrasting structure of their agricultural sectors with those of the developed countries, indicating that their support is going to small farmers dependent on farming for their food security and supplying the domestic market as opposed to payments to large highly commercialized and integrated mega farms directly involved in international trade.

Table 11. AMS + de minimis Support Entitlement and Spending per capita - major members					
Member	Agricultural Labor Force (Thousand Person)	Total AMS + de minimis Entitlement (Million USD)	Support Entitlement per agricultural Laborer (USD per person)	Total AMS + de minimis Spending (Million USD)	Support Spending per agriculture laborer (USD per person)
Australia	319	3,652.00	11,448.28	70.65	221.47
Brazil	8529	34,082.00	3,996.01	1947.85	228.38
Canada	280	7,188.00	25,671.43	2181.43	7790.82
China	241700	209,065.00	864.98	22554.37	93.32
European Union	9476	115,053.00	12,141.52	10518.62	1110.03
India	191100	71,616.00	374.76	6459.37	33.8
Indonesia	37804	27,496.00	727.33	265.12	7.01
Japan	2210	45,252.00	20,476.02	7946.29	3595.61
Korea, Republic	1279	8,662.00	6,772.48	738.51	577.41
Malaysia	1610	4,731.00	2,938.51	0	0
Mexico	6811	10,416.00	1,529.29	41.01	6.02
Norway	54	1,715.00	31,759.26	1282.43	23748.79
Russia Federation	4268	13,364.00	3,131.21	3575.7	837.79
Switzerland	141	5,073.00	35,978.72	4506.96	31964.28
Thailand	11747	7,960.00	677.62	260.63	22.19
Ukraine	2489	2,811.00	1,129.37	2123.18	853.03
United States	2200	51,854.00	23,570.00	16038.61	7290.28
Viet Nam	21565	8,843.00	410.06	979.28	45.41

Source: China January 2020 Presentation to WTO based on FAOSTAT, WTO Schedules and World Bank Data base.

Blue Box – Article 6.5 of AoA

In the AoA Blue Box direct payments were exempted from limits and excluded from a member's calculation of its Current Total AMS on the basis that the payments are made on fixed area and number of head of livestock. Since 2000, the Blue Box has been used by five Members, four consistently (EU, Japan, Norway and Iceland) and more recently by China. There are concerns regarding transparency over whether support in this category is being used for the purpose for which it was created, and more seriously whether this support should not in fact be considered an additionality to trade distorting Amber Box support. This results from the view that the requirements of the Blue Box are too loosely defined. Thus, some developing countries (JOB/AG/173) have called a specific end date for Blue Box type payments to be discontinued.

Green Box – Annex 2 of AoA

Green Box is the most commonly used form of support. Almost all members that have reported domestic support have notified some form of Green Box support. The interventions in the negotiations by the Africa, Caribbean and Pacific Group (ACP), by the African Group, and by developing countries that do not belong to these Groups clearly indicate grave concern about Green Box support trends over the past two decades. Total Green Box subsidy expenditure by both developed and developing countries has expanded from \$142 billion in 2001 to \$456 billion in 2016. More than a quarter of this expenditure has been for direct payments (paragraphs 5 to 13 of Annex 2 of the AoA). As indicated earlier in part 2 of this paper, the Africa Group has proposed that stricter disciplines be applied on the usage of support provided under these Annex 2 paragraphs to ensure that the

expenditure meets the criteria of being not more than minimally trade distorting.

The above call for stricter disciplines on Green Box programmes is also driven by the analysis of the five countries that contribute the most to trade distorting support. In these countries, while on aggregate their Article 6 support has declined, their Green Box support has increased almost fourfold since 1995. Green Box support is now more than three times larger than all Article 6 support. While policy changes have been made replacing non-green box subsidies with green box subsidies there are calls for increased transparency regarding the extent to which this might represent reclassification or just different reporting of the same or similar subsidies that have the same results and impacts. The validity of the measures placed under Green Box programmes is an area that needs increased analysis to inform the agriculture negotiations.

Two specific issues under Green Box warrant further elaboration. These relate to Public Stockholding for food security and domestic food aid and are elaborated below.

Public Stockholding (PSH) for Food Security

There is Paragraph 3 of Annex 2, on Public Stockholding (PSH) for Food Security programmes where a commitment at past WTO Ministerials to agree on a Permanent Solution remains outstanding. A majority of developing countries have consistently argued that this facility is needed and should be resolved as a high priority. At the 9th WTO Ministerial in Bali the commitment was made to negotiate a permanent solution by the 11th Ministerial Conference. This did not happen and the minimal engagement around PSH has not helped in moving towards achieving the Permanent Solution. A cross-section of developing countries have called for the

Permanent Solution to be concluded and for market price support programs under it to be excluded from the calculation of Members Aggregate Measurement of Support.²² A number of countries which do not currently operate such programmes have furthermore argued that the Permanent Solution on PSH should cover both existing and future programs. Developing countries differ on the need for increased transparency and safeguards. Some are concerned that more restrictive safeguards are needed to ensure that stocks do not distort global markets. Others worry that increased safeguards will be too onerous, making developing country Members unable to use the facility of the PSH when needed. Questions also remain unresolved regarding a ceiling on the quantity or value to be procured, on the price at which the product is procured and how the difference is reported, and whether products benefiting from the provision can be exported. The overriding concern is related to ensuring that PSH programs do not distort trade and negatively impact the food security of other Members.

Very few developing countries have notified public stockholding programmes. Out of seven countries notifying a total of US\$34. billion for public stockholding programmes in 2016, China notified US\$17.3 billion and India \$16.3 billion. These two countries thus accounting for 98% of the PSH programs notified in 2016. Only 23 countries have notified PSH support since 2001, fewer than half of them consistently (each year).

²² The Permanent Solution on PSH is a contentious issue in the agriculture negotiations given that it is seen as agreeing to permanently allow a violation of the limit on AMS support without facing the threat of dispute settlement procedures. The resolution of this issue can be advanced by making the distinction between expenditures

Domestic Food Aid

During 2016 to 2018, ten members notified domestic food aid as permitted in Paragraph 4 of Annex 2. Eight of these Members are from Latin America, together with the USA and Indonesia. The USA notified on average \$110 bn during the three years, accounting for 91% of the support under this paragraph. This expenditure accounts for a considerable proportion (almost 25%) of total Green Box expenditure. Food purchases for food aid must be made at current food prices. This area of support has not been a contentious one in the ongoing agriculture negotiations.

Article 6.2 of AoA – Development Box

Article 6.2 is intended to encourage agricultural and rural development in developing countries. It is open only to developing countries and exempts investment subsidies that are generally available to agriculture, input subsidies generally available to low income and resource poor producers, and support to producers in developing countries to diversify away from growing illicit crops.

Of all the domestic support related provisions in the AoA, Article 6.2 is the one most utilized by developing countries. Most of the Article 6.2 subsidies notified by value are input subsidies, with lesser amounts for investment subsidies, and even less for support to encourage diversification away from growing illicit crops.

on accumulation and holding of stocks (which is not an issue), and the requirement to report market price support as a part of AMS when stocks are acquired at administered prices.

Given the development orientation of the support, including the focus on poor farmers, it is not surprising that by far the majority of developing countries have historically argued that Article 6.2 should not be on the negotiating table for further reductions or disciplines. Developing countries argue that Article 6.2 expenditures support small subsistence producers, expand the demand and consumption of resource poor households, thereby the likelihood of trade and production distorting effects resulting from this support is limited. In a global environment committed to SDG 1 and 2, and more so in a world reeling from the negative impacts of COVID on their economies, livelihood systems and food security, most developing countries have doubled down maintaining their position that Article 6.2 should not be on the negotiating table.

Nevertheless, there are developing countries that are insisting that all of Article 6 trade distorting domestic support be included in reductions and capping. This arises both from a genuine concern that Article 6.2 subsidies are trade distorting and without limits. They further argue that increased distortions can be introduced into global markets as developing countries grow and diversify their economies. There is also the view that only with a balanced, inclusive proposal with all countries contributing to reducing trade distorting domestic support is there any chance of achieving progress in the negotiations.

One of the most recent submissions in the negotiations, JOB/AG/195, presents the concerns about Article 6.2 subsidies not being included in a domestic support outcome.²³ This submission points to the importance of Article 6.2 in total trade distorting support notified, accounting for more than 25% of this support. It suggests that “excluding more than a quarter of notified TDDS from future rules and modalities would render the outcome outdated from its outset.” The submission acknowledges that policy space for agricultural programmes for low-income or resource-poor farmers must be available. However, the position in the submission is that while Article 6.2 support should be used to promote growth, diversification and development in developing countries it should not be used for import substitution programs and for highly exported agricultural products. The submission concludes that the rules “will need to address not only policy space, but they will also need to correct and prevent trade restrictions and distortions in world agricultural markets, as stated in SDG 2”.

Article 6.2 is considered one of the most important aspects of special and differential treatment for developing countries and is directly linked to their food security and rural development. How Article 6.2 is addressed may undoubtedly influence what might be achieved at MC 12.

²³ WTO.2021. Brazil: Article 6.2 of the Agreement on Agriculture (AoA) in Perspective. JOB/AG/195.12 May

SECTION 4

Doable Elements for a Domestic Support Outcome at MC12

In Article 20 of the AoA (1995) WTO members agreed to continue Agriculture negotiations in 2000. The negotiations began and were absorbed into the Doha Development Round from 2001. The Doha Development Agenda, reflecting the global political and economic environment at the time, emphasized “the central importance of the development dimension in every aspect of the Doha Work Programme”. Between 2001 and 2008 the agriculture negotiations continued in earnest and reached an advanced state of engagement on comprehensive and detailed modalities. This work culminated in December 2008 with the then Chair of the Agriculture Negotiations issuing TN/AG/W/4/Rev.4, Revised Draft Modalities for Agriculture. This document was not agreed but the approach that evolved and concepts developed continue to influence the domestic support negotiations.

Since 2008, the proposals have continued to focus on three aspects of the 1994 domestic support agreement for which there is wide agreement that the rules need attention. These are:

- correcting the imbalance and implications resulting from some countries (32 of which 17 are developing countries) having access to AMS above *de minimis* and others not;

- reducing the flexibility to provide trade distorting product specific domestic support and
- generally addressing the current capacity to distort, by both developed and developing countries, by promoting stricter adherence to the rules in all areas of the agriculture agreement.

In addition to the three areas mentioned above and taking into consideration changes in the global economic, trading and negotiations environment over the past two decades there have been two additional aspects that are receiving increasing attention. Firstly, the growth in total trade distorting entitlements due to the growth in agricultural output in some specific member countries and secondly, the relative increase in domestic support notifications in the Green Box, especially paragraphs 5 to 13 of Annex 2 of the AoA associated with direct payments.

The COVID pandemic disrupted negotiations for most of the last year and has amplified food security concerns, especially in developing countries. The pandemic has led to increased concerns regarding the disruption of the supply of food, the need to pay more attention to nutritious food to minimize underlying health conditions, and stabilizing accessibility to food by establishing more balanced economies dependent on several pillars of development²⁴, including diversifying

²⁴ Small island economies overly dependent on tourism for employment and incomes are one example of economies that suffered immensely during the pandemic and are making

increased efforts to promote more balanced economies and diversified livelihood systems.

and developing more competitive domestic and regional food value chains. The lessons of COVID have thus increased the interest in achieving multilateral trade rules that promote a fair global agricultural trading system.

The last four years have also seen much sharper debate around access to special and differential treatment in the agriculture negotiations. This principle is invoked in the preamble to the Agreement on Agriculture and repeated in the Article 20 negotiating mandate. However, the approach to and appetite for “developed” versus “developing” country rules has changed. This situation reflects changes in global economic power dynamics as much as it does changes in the structure of global agriculture production and agricultural sector support.

Nevertheless, there is still a broad commitment that special and differential treatment remains a fundamental principle of the negotiations and that it is based on the different levels of development of WTO Members. Recent proposals have reiterated this, most clearly in the case of the least developed countries, but also through suggestions that reduction and capping of domestic support be linked to current contributions to total trade distorting support, current levels of entitlement and a country’s level of development. There is also wide appreciation that any progress that will be achieved has to go beyond least developed countries and recognize that other developing countries need to be able to implement policies that grow and diversify their food and agricultural sectors to promote their food security. Therefore, special and differential treatment must be honored, with trade rules and their implementation arrangements tailored to accommodate the goals and different capacities of developing countries.

Above all, two challenges need to be tackled to advance meaningful progress on trade distorting domestic support – addressing the imbalance and impacts resulting from current levels of access to

AMS above de minimis; and addressing the increasing capacity to provide trade distorting support, most directly related to the current de minimis formula. Much depends on the main providers of domestic support subsidies, developed and developing countries.

There is a path forward. Several doable options are presented in the proposals tabled in the agriculture negotiations, in the documents providing data and information for a greater understanding of the state of play and in assessments by professionals, all seeking to assist the agriculture negotiations.

4.1 Four Approaches to an Agreement on trade distorting Domestic Support

Four approaches to an agreement on trade distorting domestic support, reflecting different levels of ambition and possibility, are proffered for consideration by WTO members. Any one, not in any sequential order, but preferably all of them together, should be considered as measures to creating a fairer and more enabling agricultural trading system. One that also advances food security and facilitates transformation to sustainable food systems.

Firstly, consider agreeing on limits to some trade distorting product specific domestic support. An agreement to work towards not providing more trade distorting product specific support than current levels of de minimis entitlements allow would be a major step in a high priority area. This would go a far way in addressing the fundamental principled concern of the imbalances in the system caused by the AMS support beyond de minimis, concentrating the reductions where they impact most negatively on other countries. The current product specific support can be reduced into a single overall product specific entitlement that is the sum of

current AMS, Blue Box and de minimis support as a percentage of the value of production. This calculated current base percentage would be reduced through a commitment to bring it to the current de minimis level. Limits on specific products or product categories can also be explored. The levels of the reductions over time to reach the de minimis level can be agreed. This approach, with more flexibility, is elaborated in Konandreas (2020).²⁵ Options on AMS beyond de minimis for non-product specific support could be considered within the negotiations to assist reaching an outcome. There could also be consideration of an agreed threshold that is not the current de minimis level. Given the products on which trade distorting product specific support is concentrated this agreement could contribute to increasing diversification in rural areas, including expanding food production/availability (through reduced cereals and livestock product specific subsidies) and increasing accessibility/by raising income (reduced cotton product specific subsidies) dimensions of food security.

Secondly, consider agreeing on limits to trade distorting domestic support allowances/entitlements. The opportunity to provide increasing trade distorting support as a country's agricultural sector grows or the level of production of a particular product expands is considered counterproductive to the commitment to a fair, predictable and sustainable agricultural trading system. This is more so the case in a situation where the current practice and entitlement to trade distorting potential is highest and hugely concentrated among very few countries. Five countries account for more than 80% of domestic support and (almost) 70% of the estimated entitlements to trade distorting

Article 6 support. To create a less trade distorting current and future agricultural trading system, access to entitlements needs to be reduced. One logical and practical approach (JOB/AG/199) in the current domestic support negotiations to achieving this is to work towards an overall limit on entitlements that simultaneously allows WTO members the flexibility to grow, diversify and develop their agricultural sector.²⁶

The proposal recognizes the enormous amount of current access (expenditure allowed/entitlements) over current use (actual expenditure) that characterizes the current domestic support situation and suggests a methodology for reducing the currently unutilized difference between allowances and actual support. This can be done while maintaining considerable policy space for current and future domestic support expenditure for all countries.²⁷ The proposal would proportionately and progressively cut what it calculates as trade distorting potential expenditure, the monetary amount that reflects what members are currently providing and are entitled to provide under current WTO rules on trade distorting support. Thus, a percentage overall cut would be made on what is referred to as a base fixed cap to create a new fixed cap and Members would agree to reduce their own individual country caps to achieve the new fixed overall cap. The proposal treats all Article 6 support and leaves the flexibility within the categories of support as they are currently, only limiting the overall aggregate expenditure to within the new cap. This approach side steps the compartmentalized box discussions and allows members the flexibility they need to provide support based on the characteristics of their

²⁵ Konandreas, Panos. WTO Negotiations on Agriculture. An Out-of-the Boxes Approach to Reform Trade-Distorting Domestic Support. CUTS International, 2020.

²⁶ World Trade Organization. (2021, May 21). Towards a Strengthened Negotiation Framework in the Domestic Support Pillar. A Methodology for Subsidy Entitlement Reductions. Communication by Costa Rica [JOB/AG/199].

²⁷ See similar approach put forward by Glauber, Joseph W., Jonathan Hepburn, David Laborde, Sophia Murphy. 2020. What National Farm Policy Trends Could Mean for Efforts to Update WTO Rules on Domestic Support. International Institute for Sustainable Development. April.

agricultural sectors, their non-trade concerns, and their levels of development.

As would be expected, any equitable principle for adjustment would require that those members entitled to spend more on trade distorting domestic support would need to contribute more to meet the goal of a fairer and more predictable agricultural trading system. The burden of adjustment thus falls on the same five countries that account for the largest proportion of the support and entitlements. They are the only countries whose percentage use (expenditure) against the new base entitlement would increase more than 5% from the current use to base cap percentage. With very few exceptions, the remaining countries would maintain levels of flexibility they have now. The few exceptions would see their use to base cap percentage increasing by 5 % and generally less. Adjustments can be considered to accommodate demographic, socioeconomic and other concerns.

This proposal would lead to a trading environment in which countries can grow their food and agricultural sector with increased confidence that their production sectors and rural livelihoods would not be damaged by subsidized exports. Developing countries stand to benefit from this proposal given the very low and for most zero trade distorting subsidies that they provide to their food and agricultural sectors. These countries could explore options towards negotiating a level of Article 6.2 type of support limits and/or stricter adherence to the rules governing the support. It is in the interest of developing countries to come together to place a limit on trade distorting subsidy entitlements that will create an improved environment for achieving their food security goals.

Thirdly, consider agreeing on reforms that ensure that agricultural sector subsidies classified as having “no or at most minimal, trade -distorting effects or effects on production” are in fact so. While the evidence of infractions is not overwhelming there have been calls for revisiting the rules of Annex 2 (Green Box subsidies), especially paragraph 5 to 13. Disciplines that sharpen the definitions and calculations of support where these have been questioned is important. This includes market price support and administered prices in relation to purchasing of public stocks for food security purposes. This latter dimension is important as it affects the prospects of concluding negotiations on a Permanent Solution for Public Stockholding for Food Security Purposes, an aspect of domestic support considered important by many developing countries to enabling access to food by the poor.

Fourthly, consider agreeing on enhanced transparency under all components of the domestic support pillar. This includes providing more complete information, including additional data for the agricultural sector in general and especially the value of production for all products for which domestic support is provided. Meeting the commitments related to existing notification obligations and demonstrating adherence to criteria related to the use of different support measures is essential for building the trust necessary for progress in reducing trade distorting domestic support.²⁸ Measures directed at improving notification performance and transparency should take into consideration the capacity of the poorest developing countries.

Finally, global trade rules should provide a fair chance at success to producers in poorer and smaller economies negatively impacted by

²⁸ Cahill, C. and S. Tangermann (coordinators). 2021. New pathways for progress in multilateral trade negotiations in agriculture. With L. Brink, S. Fan, J. Glauber, A. Gonzáles, T. Groser, A. Gulati, J. Hewitt, A. Hoda, A. Matthews and G. Valles Galmes. Pathways Group, 24 May. <https://newpathwaysagric.wordpress.com/> clarifies technical

and legal issues in Article 6 of the AoA, including suggesting new definitions and disciplines on domestic support that could contribute to making progress in the current multilateral trade negotiations in agriculture.

COVID, trying to recover and transform their food and agricultural production systems. Therefore, the imbalances and shortcomings in current domestic support rules should be addressed through agreeing to reduce trade distorting product specific domestic support and placing ceilings on the capacity to provide this support.

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