

WTO Negotiations on Agriculture

An out-of-the Boxes Approach to Reform Trade-Distorting Domestic Support



Panos Konandreas

WTO Negotiations on Agriculture: An out-of-the Boxes Approach to Reform Trade-Distorting Domestic Support

Authored by:

Panos Konandreas

Published by:



CUTS INTERNATIONAL, GENEVA

Rue de Vermont 37-39
1202 Geneva, Switzerland
www.cuts-geneva.org

Also at: Jaipur, New Delhi, Chittorgarh, Kolkata, Hanoi,
Nairobi, Lusaka, Accra, Washington DC

This paper was undertaken by Panos Konandreas. It is published under CUTS International Geneva's project "Geneva Trade and Business Connection: Mainstreaming the private sector into the WTO and its 12th Ministerial Conference preparatory phase", undertaken with funding support from Australian Aid.

Citation: KONANDREAS, P. (2020). *WTO Negotiations on Agriculture: An out-of-the Boxes Approach to Reform Trade-Distorting Domestic Support*. Geneva: CUTS International, Geneva.

Disclaimer: The views expressed in this publication represent the opinions of the author, and do not necessarily reflect the views of CUTS or its funders.

Cover Photo: © Neil Palmer (CIAT)

© 2020. CUTS International, Geneva

The material in this publication may be reproduced in whole or in part and in any form for education or non-profit uses, without special permission from the copyright holders, provided acknowledgment of the source is made. The publishers would appreciate receiving a copy of any publication, which uses this publication as a source. No use of this publication may be made for resale or other commercial purposes without prior written permission of the copyright holders.

Table of Contents

Acronyms	5
Executive Summary.....	6
1. Twenty years of arduous protracted negotiations	8
2. The AoA rules on domestic support and trade distorting (TD) effects	11
2.1. The AoA domestic support rules in brief	11
2.2. Some issues on trade distorting effects of domestic support policies	12
3. Trade-distorting support in practice	14
3.1. Making use of entitlements to trade-distorting support.....	14
3.2. Focussing on Product-Specific (PS) support	17
3.3. Challenging the architecture of the AoA: fungibility of TD support.....	19
4. An out-of-the-Boxes approach for disciplining TD support.....	21
4.1. Consolidation of Box-dispersed trade-distorting entitlements	21
4.2. Overall Product-Specific support in the Base Period.....	22
4.3. Rules for reduction of Overall Product-Specific (OPS) support	22
4.4. Rules for reduction of Overall Non-Product Specific (ONPS) support	23
4.5. Dealing with Article 6.2 within the same disciplines	25
4.6. Additional safeguards to avoid excesses and protect against inflation	25
4.7. Relaxing disciplines to facilitate adjustment	26
5. Conclusion and Recommendations.....	27
References.....	28

List of Figures and Tables

Figure 2.1 Domestic Support disciplines under existing AoA

Figure 3.1 Total Global Domestic Support as reported to the WTO (US\$ million)

Figure 3.2 Total Global Green Box Support by Member (US\$ million)

Figure 3.3 Total Global Article 6 Support (US\$ million) and FAO Food Price Index

Figure 3.4 Share of actually utilized global FBTAMS entitlements (%)

Figure 3.5 Total Global non-Green Support (Article 6) by Member (US \$ million)

Table 3.1 Total Article 6 support in relation to the VoP (%)

Table 3.2 Product-Specific support for selected Members/products (% of VoP)

Table 4.1 Establishing Base Period Overall Product Specific (OPS) support

Table 4.2 Reduction Commitments of OPS

Table 4.3 Establishing Base Period for Overall NPS (ONPS) support

Table 4.4 Reduction Commitments of ONPS

Acronyms

AMS	Aggregate Measurement of Support
AMS*	AMS above de minimis
AoA	Uruguay Round Agreement on Agriculture
CoA	Committee on Agriculture
CoA-SS	Committee on Agriculture Special Session
CDDS	Comprehensive Database on Domestic Support
DDA	Doha Development Agenda
FAOSTAT	Food and Agriculture Organization Statistical database
FBTAMS	Final Bound Total Aggregate Measurement of Support
GDP	Gross Domestic Product
LDCs	Least Developed Countries
MPS	Market Price Support
NFIDCs	Net-Food Importing Developing Countries
NPS	Non-Product Specific
OPS	Overall Product Specific
ONPS	Overall Non Product Specific
OTDS	Overall Trade Distorting Support
PSH	Public Stockholding
PS	Product Specific
SDT	Special and Differential Treatment
TD	Trade Distorting
UN	United Nations
WTO	World Trade Organization
VoP	Value of Agricultural Production

Executive Summary

The year 2020 will mark almost 20 years of arduous negotiations on agriculture since the launching of the Doha Round of multilateral trade negotiations, also known as the Doha Development Agenda (DDA).

For a variety of reasons, the protracted and intense negotiations that ensued during these first two decades of the new millennium have attained little in terms of substantive tangible negotiated outcomes in agriculture as in other sectors.

With negotiations continuing unabated at the Committee on Agriculture Special Session (CoA-SS), a renewed effort has been made in recent years with a large number of technical papers being submitted, based on factual analyses of Member-notified domestic support data, with a focus increasingly on the individual components of such support. These analyses confirmed and amplify the particularities of the agricultural sector in the economies of different countries and highlighted the challenges and sensitivities in reforming further the sector and what compromises this may entail, notwithstanding the expectations of the DDA and the built-in agenda of Article 20 of the Agreement on Agriculture (AoA).

The focus of this paper is on trade-distorting (TD) domestic support, as defined under the relevant provisions of the AoA. It summarises the use Members have made of specific provisions of the AoA that allow Members to legally provide TD support and what differentiates TD support provided under the separate Boxes of the AoA. It makes the case of fudgibility in the provision of TD support and its effects, and questions the rationale of

continuing the Box-dispersed entitlements of TD support in the AoA.

The AoA was supposed to be the first step of the reform process and in many ways it served well as several large subsidizing Members have made substantial reforms in domestic support policies over the years of its implementation. While the AoA facilitated a transition to much less distortions than 30 years ago, its present structure is widely seen as ineffective in disciplining further TD support and it has also been a constant irritant to some Members for perpetuating entitlements to subsidize. In short, the AoA in its present form has run its course.

The approach proposed in this paper is an attempt to respond to the essence of the debate on domestic support in the WTO CoA-SS whereby many Members have stressed the differentiated trade distorting effects of product-specific and non-product specific support measures and, in turn, have insisted that real reform in domestic support would come only if product-specific support is effectively curtailed.

The paper argues that correction of the architectural weaknesses of the AoA is a prerequisite for building effective disciplines to deal with trade distorting domestic support. This would entail getting away from artificially compartmentalized support measures, by consolidating disciplines along transparent traits, amenable to better monitoring, especially as regards the product and non-product specificity of different support measures.

The paper builds on this essential structural change by formulating explicit rules for curtailing product-specific and non-product specific support and demonstrates how these rules can be applied in practice. It also provides some options on how to address flexibilities that may be required to deal with long-standing sensitivities and for addressing the fundamental requirement of any reform to take fully into account the special and differential needs of developing Members.

SECTION 1

Twenty years of arduous protracted negotiations

The year 2020 will mark almost 20 years of negotiations on agriculture in the WTO since the launching of the Doha Round of multilateral trade negotiations in 2001, also known as the Doha Development Agenda (DDA)¹. Negotiations in agriculture formed an integral part of the DDA, mandated also by Article 20 of the Uruguay Round Agreement on Agriculture (AoA).

The Doha Ministerial declaration reconfirmed the long-term objective, already included in Article 20 of the AoA, “to establish a fair and market-oriented agricultural trading system” through a programme of fundamental reform. The purpose was to correct and prevent restrictions and distortions in world agricultural markets.

The DDA negotiations that began in 2001 were intended to be completed as a package, what became known as a “single undertaking.”² In agriculture, this package aimed at substantial improvements in market access; reductions of, with a view to phasing

out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support.

The Doha declaration made special and differential treatment for developing countries “integral throughout the negotiations both in countries' new commitments and in any relevant new or revised rules and disciplines.” It said that the outcome “should be effective in practice and should enable developing countries meet their needs, in particular in food security and rural development.” It also acknowledged non-trade concerns, as provided for in Article 20 of the AoA³, such as environmental protection, food security, rural development, etc., and confirmed that these will be taken into account.

For a variety of reasons, the protracted and intense negotiations that ensued during the first two decades of the new millennium have attained little in terms of substantive tangible negotiated outcomes. However, they demonstrated amply the particularities of the

¹ The WTO agriculture negotiations, as per Article 20 of the Agreement on Agriculture had started in 2000 and were then made part of the DDA when it was launched in December 2001.

² The Doha Declaration also set timetable for the negotiations and a series of deadlines, whereby virtually all the linked negotiations, including on agriculture were to end by 1 January 2005.

³ Article 20 reads as follows:

Recognizing that the long-term objective of substantial progressive reductions in support and protection resulting in fundamental reform is an ongoing process, Members agree that negotiations for continuing the process will be

initiated one year before the end of the implementation period, taking into account:

(a) the experience to that date from implementing the reduction commitments;

(b) the effects of the reduction commitments on world trade in agriculture;

(c) non-trade concerns, special and differential treatment to developing country Members, and the objective to establish a fair and market-oriented agricultural trading system, and the other objectives and concerns mentioned in the preamble to this Agreement; and

(d) what further commitments are necessary to achieve the above mentioned long-term objectives.

agricultural sector in the economies of different countries and the challenges and sensitivities in reforming further the sector and what compromises this may entail, notwithstanding the expectations of the DDA and the built-in agenda of Article 20 of the AoA.

Following the failure to reach an agreement in 2008 (for which, in agriculture, the Rev 4 Modalities⁴ would have been the basis for a negotiated text), and recognizing that multilateral talks as a whole had reached an “impasse,” WTO Members sought opportunities for making progress on individual issues in the negotiations⁵. As a result of these efforts, the Bali 9th WTO Ministerial in 2013 concluded with a commitment not to challenge, under certain conditions, the compliance of developing countries’ public food stockholding (PSH) schemes under WTO AoA⁶. Two years later in 2015 at the Nairobi 10th WTO Ministerial, members agreed to eliminate agricultural export subsidies. However, at the same Conference, WTO members disagreed on whether to reaffirm the Doha negotiating mandates, although acknowledging the “strong commitment” to advance negotiations on the remaining Doha issues, including agricultural domestic support, market access, and export competition. Yet, the Buenos Aires 11th WTO Ministerial in 2017, did not lead to

any consensus outcome or an agreed roadmap for future talks. Despite this lack of political interest to pursue and conclude the DDA, there has been intense activity at the working level in Geneva. Members of all sides have continued to table dozens of new negotiating proposals and technical papers on all agricultural issues under consideration in the negotiations.

A large number of technical papers submitted to the Committee on Agriculture Special Session (CoA-SS) in recent years have dealt mostly with domestic support and in particular on how production and trade distorting support has evolved over the years⁷. Most of these submissions have drawn on a comprehensive database on domestic support, notably the database developed under a Canadian initiative⁸, based on data derived from the annual Notifications to the regular sessions of the CoA, as Members are obliged to do so under the AoA⁹. The revival in negotiating activity in the last couple of years was also due to the proactive role played by the Chair of the CoA-SS who has been calling for fact-based discussions and a greater engagement of Members in preparation for the 12th WTO Ministerial Conference originally scheduled to take place in Nur Sultan, Kazakhstan in June 2020¹⁰,

⁴ *Revised Draft Modalities for Agriculture*, TN/AG/W/4/Rev.4, 6 December 2008.

⁵ Some of these issues were seen as ripe for agreement, described as “low-hanging fruit” (ICTSD. 2018. *Achieving Progress in Multilateral Trade Negotiations on Agriculture*. WTO: Paths Forward. Geneva: International Centre for Trade and Sustainable Development).

⁶ In part, the agreement on PSH was the counterpart to the Trade Facilitation Agreement, also sealed in the same Ministerial Conference.

⁷ These include, inter alia: *Domestic Support in the WTO Agreement on Agriculture (AoA)*, JOB/AG/138, CoA-SS, 11 July 2018; *Trends in Global Trade-Distorting Support*, JOB/AG/143, CoA-SS, 17 September 2018; *Analysis and Observations on Product Specific Support*, JOB/AG/150, CoA-SS, 3 December 2018; *Interaction Between Pillars of the Agreement on Agriculture: The Relationship Between Domestic Support and Market Access*, JOB/AG/157, CoA-

SS, 19 June 2019; *Higher and Higher - Growth in Domestic Support Entitlements Since 2001*, JOB/AG/171, CoA-SS, 22 November 2019.

⁸ These data can be found (in notified currencies) in the *WTO Agriculture Information Management System*, available online at <https://agims.wto.org/>.

⁹ The *Comprehensive Database on Domestic Support (CDDS)* was made available to the WTO Membership in February 2019. The database includes Member-notified annual data under the various categories of domestic support for the period 2001 to 2017. Support numbers in notified currencies have been uniformly converted into US\$ and this facilitates comparisons.

¹⁰ This process has also been facilitated by the constitution by the Chair of a number of Working Groups (WGs) organized along thematic issues, with domestic support being prominent among them.

though the Members are now consulting on a new date and venue, in view of COVID 19.

On all three pillars of the AoA there is wide divergence among Members on the reform instruments to be used, their scope, extent and scheduling, but such differences are much more pronounced on how to reform domestic support and in particular trade-distorting support. Inter alia, these include the extent to which Aggregate Measurement of Support above *de minimis* (AMS*) is the most distorting component of domestic support and, if so, whether AMS* should be the main focus for reduction or even elimination; how to deal with reforms of the *de minimis* provision and its relationship to AMS* reform; whether Article 6.2 is equally trade distorting and whether eligibility for it should be applied horizontally to all developing countries, or whether only some developing countries should have recourse to it based on specific criteria; how to reform support beyond the Amber Box, including Blue Box and Green Box¹¹. More general contentious issues also include whether reforms on domestic support

should be linked to an outcome on market access, on cotton or on PSH, as some Members demand.

The focus of this paper is on trade-distorting (TD) domestic support, as defined under the relevant provisions of the AoA. In section II the paper discusses the specific provisions of the AoA that allow Members to legally provide TD support. Section III summarises the use Members have made of such entitlements and what differentiates TD support provided under separate Boxes. It makes the case of fungibility in the provision of TD support and its effects and questions the architecture of the AoA. Section IV of the paper elaborates on a possible approach for reforming TD support that would allow the consolidation of Box-dispersed entitlements of TD support along transparent traits, amenable to better monitoring, especially as regards the product and non-product specificity of different support measures. Specific examples demonstrate how this approach could work in practice.

¹¹ The long lists of ideas for reforming the different provisions of domestic support that have been advanced

over the years are summarized in: *Domestic Support Options*, JOB/AG/160, CoA-SS, 11 July 2019.

SECTION 2

The AoA rules on domestic support and trade distorting (TD) effects

2.1. The AoA domestic support rules in brief

The general philosophy of the AoA on domestic support is not to ban any specific policies, even if they are production and trade distorting, but to discipline them. The AoA put in place a fairly complex classification of domestic support policies that make a distinction between two categories: a) those not subject to reduction commitments and b) those that had to be reduced (Figure 2.1). Within the first category are specific policies considered to have no or minimum effect on production and trade (Green Box: Annex 2 of the AoA); non-product specific support provided by developing Members under certain criteria

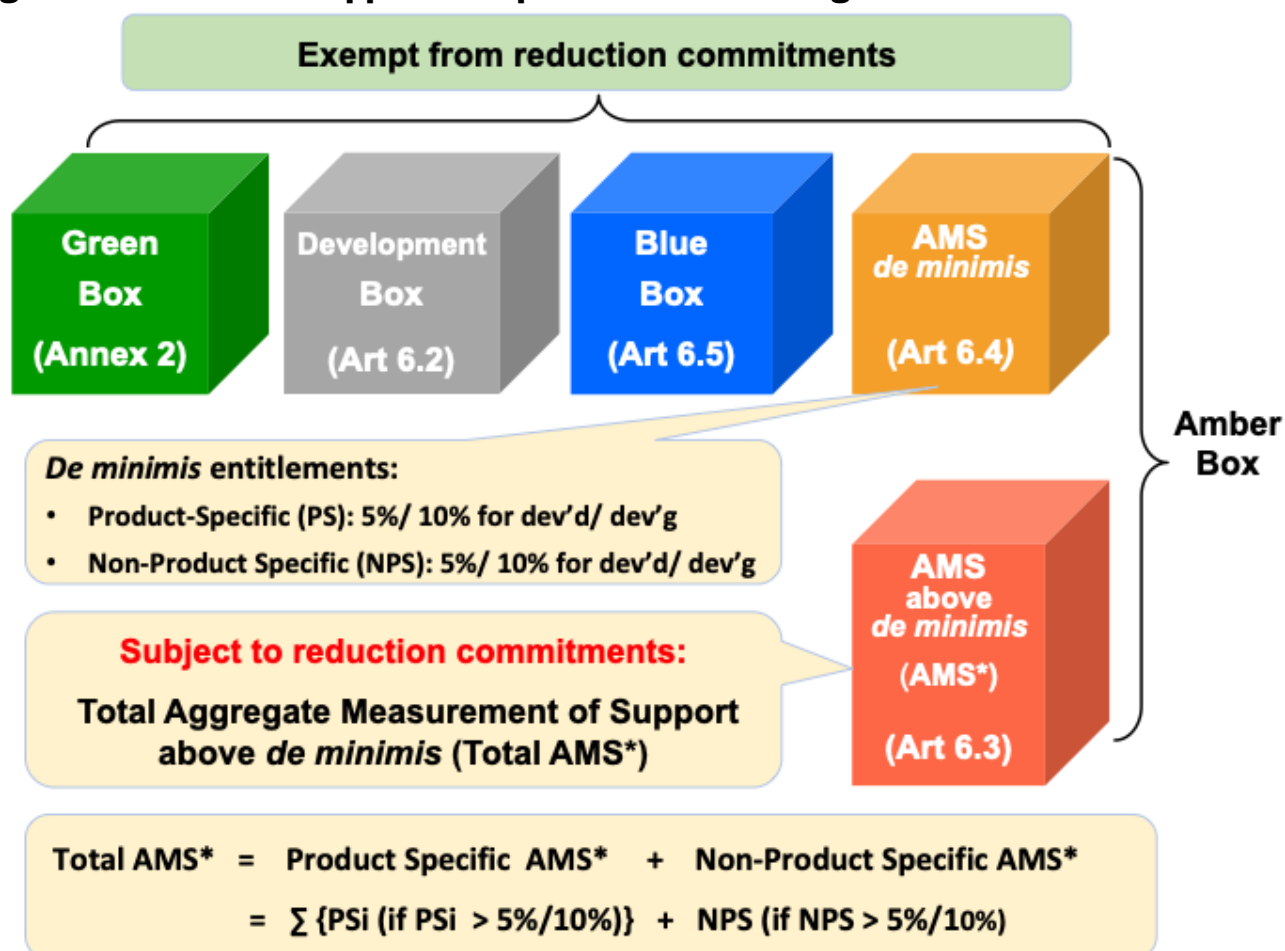
(Development Box: Article 6.2)¹²; and payments under production-limiting programmes that meet specific criteria (Blue Box: Article 6.5). All other product and non-product specific policies fall under the second category (Amber Box: Article 6.3), the combined support of which is included in the calculation of the Aggregate Measurement of Support (AMS), except when the support provided under such policies is below *de minimis* levels (Article 6.4)¹³. Thus, the AMS subject to reduction commitments under the AoA comprised the sum of product-specific and non-product specific support above *de minimis* (designated throughout as AMS*), further reduction of which has also been one of the main issues in the current negotiations on domestic support.

¹² While all developing countries that became Members of the WTO in 1995 have access to Article 6.2, those that joined at a later stage did not automatically gain access (e.g. China does not have access to Article 6.2).

¹³ *De minimis* levels for developed countries are 5% each for product-specific and non-product specific support, while for developing countries are 10%, respectively. For some

developing countries that joined the WTO after the AoA went into effect in 1995, *de minimis* levels may not be 10% but as actually negotiated (e.g. China with a transitional level of 8.5%, eventually dropping to 5%)

Figure 2.1 Domestic Support disciplines under existing AoA



Source: Adapted from Konandreas (2019).

Aside from those policies explicitly described in Annex 2 of the AoA (Green Box) which “shall meet the fundamental requirement that they have no, or at most minimal, trade-distorting effects or effects on production”, the legal framework under the AoA does not explicitly differentiate the production and trade distorting effect of all other policies. By implication, all other domestic support policies not falling under the Green Box are production and trade distorting, which includes all Article 6 policies, irrespective of whether they are subject to reduction commitments or not.

2.2 Some issues on trade distorting effects of domestic support policies

A major concern in the negotiations on agriculture over the years has been the extent of production and trade distortiveness of the different provisions of Article 6 and, in particular, the extent to which such policies result in product specific (PS) support, whether explicitly stated or not. When a country subsidizes a specific product, the production of that product increases and this has a depressing effect to world prices, to the detriment of third countries. Moreover, PS subsidies are often used together with market access restrictive measures by the subsidizing countries. In turn, this leads to affected third

countries adopting market protection measures such as tariffs or non-tariffs barriers, which then incite counter measures in other affected countries and feed into protectionism.

While the letter of Article 6 makes some explicit differentiation between PS and NPS policies, in practice these may be of limited value. Within Amber Box measures, the general sentiment is that product specific (PS) through market price support (MPS) policies has the largest TD effects. In general, AMS above *de minimis* (AMS*) is considered as the most trade distorting, in view of its aggregate nature, allowing the allocation of all AMS* support to one product and thus creating distortions in the market of this product, while the Member is still within its overall AMS* limit (Final Bound Total AMS or FBTAMS). Related to this is the potential for increasing such PS support in view large amounts of "water" between AMS* actually utilized and the much higher FBTAMS limits (see next section)¹⁴.

Beyond explicit PS support (through *de minimis* and AMS*), other entitlements in the AoA may also effectively result in PS support. For example, in cases of countries producing a limited number of products, non-product specific (NPS) *de minimis* support can effectively be concentrated on a few products and thus, be largely PS¹⁵.

Also, Blue Box direct payments, even though provided under production-limiting programmes, are effectively PS as they are given to specific products when certain criteria are met. While the Blue Box has been seen as a useful transition tool in moving from Amber to Green, in practice its role has gone beyond that for some Members, in ensuring maintaining production at a certain fixed level. The production-limiting requirements are

too loosely defined in the AoA and rather than limiting production, the Blue Box provisions can artificially sustain it. In view also of the unbounded nature of Blue Box support, there is a risk of support moving from restricted categories like AMS into the unrestricted Blue Box as a way of circumventing AMS disciplines.

Article 6.2 is also by definition production and trade distorting, being part of the overall Article 6. What distinguishes it from other provisions of Article 6 is that it is exempt from the AMS calculation (being an SDT measure for developing countries), as is also the Blue Box (considered by some as special treatment for developed Members¹⁶, although meant to have a different role, as mentioned above). Many developing countries have large and increasing populations and predominance of small-scale resource-poor farmers and having access to Article 6.2 allows them to provide input subsidies and investment assistance. While those are meant to be NPS, in practice they can result in PS, for example in cases of concentration of such subsidies in areas where there is predominance of a single crop.

Arguments that differentiate TD effects, depending on whether supported products are largely destined to the domestic market versus products destined for export have also been aired. The question arises as to whether both have similar effects. The AoA itself does not distinguish between the destination of subsidized products, considering that distortion effects take place in both instances. Hence, often, reform discussions ignore the intentions of domestic support and focus simply on the level of support and the degree of the distorting impact of such support on trade.

¹⁴ The imbalance in established AMS* entitlements, makes AMS above *de minimis* a priority for reform for Members that do not have access to such entitlements (generally developing Members).

¹⁵ The prospect of large increases in PS and NPS *de minimis* entitlements has been raised as an important concern by some Members, considering that they are expressed as a fixed

percentage of growing values of agriculture production (VoP) (*Higher and Higher - Growth in Domestic Support Entitlements Since 2001*, JOB/AG/171, CoA-SS, 22 November 2019).

¹⁶ In legal terms the Blue Box is available to all WTO Members and, in fact, some developing that are in need of reducing production in some products have already notified Blue Box support (e.g. China for corn and cotton).

SECTION 3

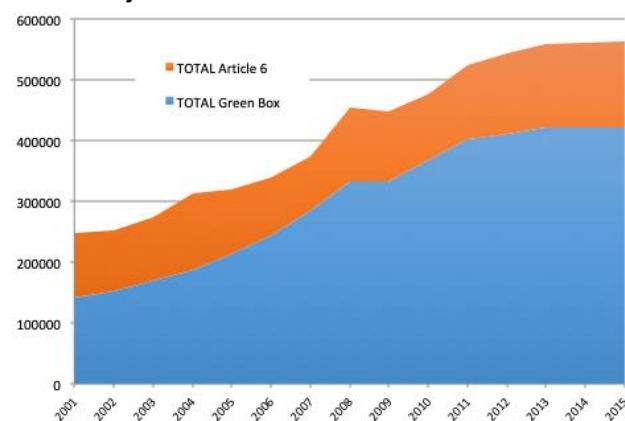
Trade-distorting support in practice

Domestic support continues to be the most debated pillar of the AoA. The sharing of factual information and the intensive negotiating activity in recent years have been instrumental in refocusing on some of the peculiarities of the existing legal framework on TD support discussed above and the inherent limitations these entail in effectively disciplining such support.

3.1 Making use of entitlements to trade-distorting support

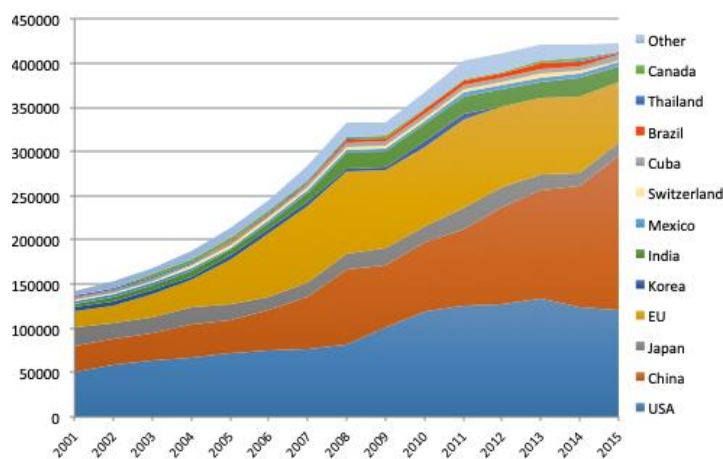
Data on total domestic support reported by WTO Members to the CoA during recent years, show that on aggregate global support continues to grow (Figure 3.1). Nearly all Members are responsible for that trend, including several developing Members, which registered substantial increases since 2000. Much of the increase in domestic support has been in Green Box categories (more than tripled between 2001 and 2015), largely due to some decoupling of Article 6 support in major developed Members that used to provide much of trade distorting support in the past. In addition to the developed Members that increased Green Box support substantially (in the EU mainly due to decoupling payments and in the USA mostly due to domestic food aid) several large developing Members also increased Green Box, including China, India and Brazil as well as numerous other smaller countries (Figure 3.2).

Figure 3.1 Total Global Domestic Support as reported to the WTO (US\$ million)



Source: Compiled by the author from the CDDS Database¹⁷.

Figure 3.2 Total Global Green Box Support by Member (US\$ million)



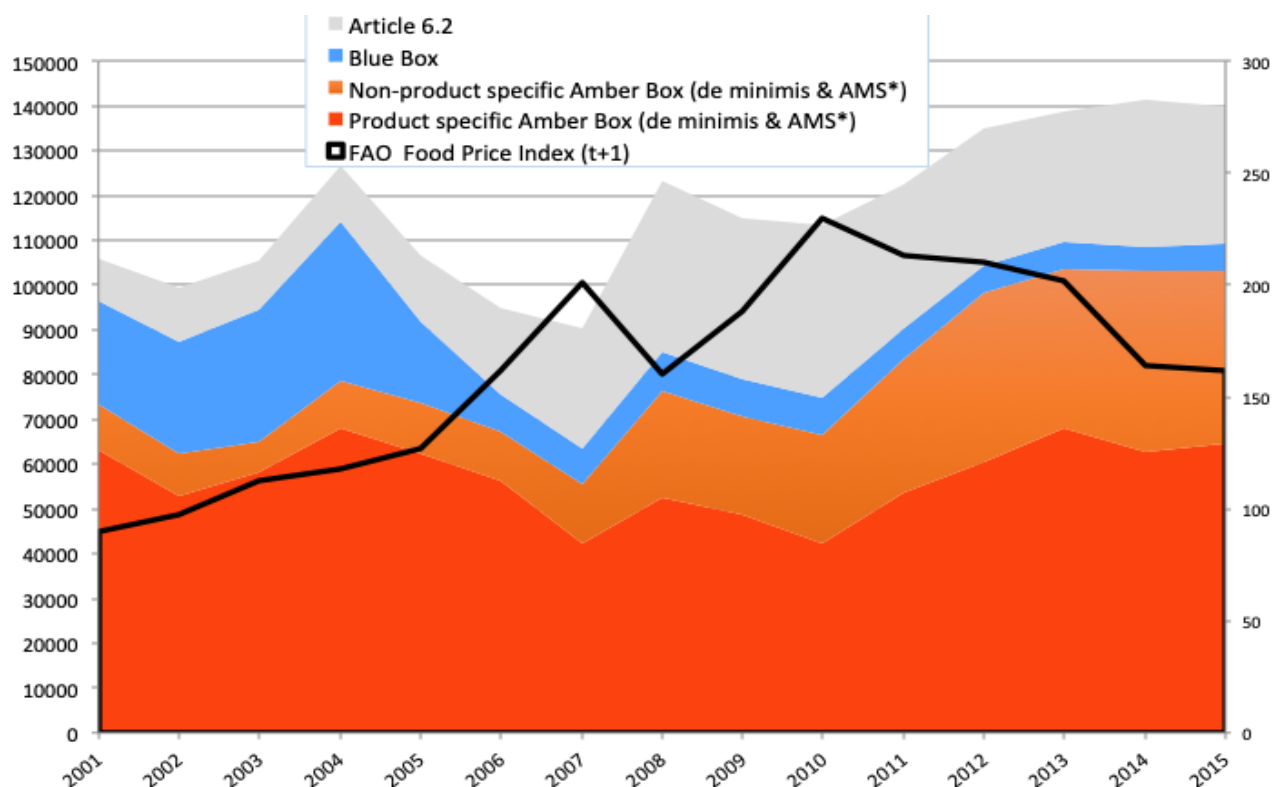
Source: Compiled by the author from the CDDS Database.

¹⁷ *Comprehensive Database on Domestic Support (CDDS)*, compiled by Canada and made available to the WTO Membership in February 2019.

Despite the reforms that have shifted some support to Green, the total global non-Green (Article 6) support has also kept an upward trend since 2001, albeit with some ups and downs (Figure 3.3). The composition of that support also shows some clear tendencies in recent years. Global Amber Box support (i.e. *de minimis* and AMS*) has been increasing and most of that absolute increase has been due to non-product specific (NPS) support. What is more interesting, however, is the variability of Amber Box support, which comes largely from the ups and downs in product-specific (PS) support. The latter, more than other types of support, is negatively correlated with world market prices¹⁸. In

particular, in years when global PS support increases, that is often followed by a decline in world prices in the following year and vice-versa. Also, in terms of absolute values, PS support has accounted for the lion's share of Amber Box support for most of the years since 2001, although this share has declined somewhat in recent years, yet not due to a reduction in PS support but to the increase in NPS support. The continued large amounts of PS support and its countercyclical nature vis a vis world market prices are reasons for it being considered as the most trade distorting and has been the focus of the negotiations over the years.

Figure 3.3 Total Global Article 6 Support (US\$ million) and FAO Food Price Index



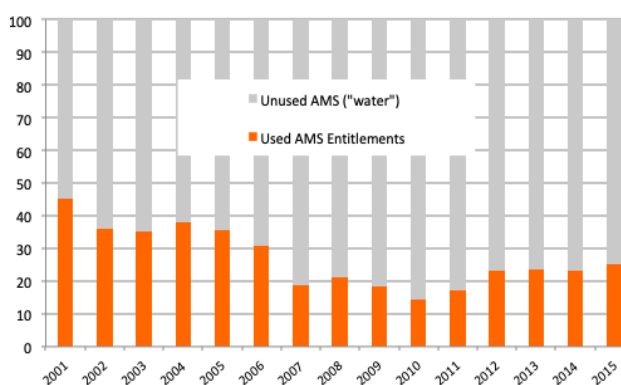
Source: Compiled by the author from the CDDS Database and FAO price statistics.

¹⁸ The correlation coefficient between current year world food price index and global PS Amber Box support (*de minimis* and AMS*) was -0.14 during the 2001 and 2015, while the correlation with previous-year global PS Amber Box support was -0.45. This implies that an increase in PS Amber Box support in one year has a depressing effect on world prices in

the following year; causality in the other direction would have also been expected, however, it has not shown up in this very aggregate analysis. Clearly, Member- and product-specific analysis would be required to establish the direction and degree of such causalities.

As mentioned earlier, the only component of domestic support subject to reduction commitments under the AoA is the AMS above *de minimis* (AMS*), which is now limited by Final Bound Total AMS (FBTAMS). For the period under review, the entitlements under FBTAMS (for Members with such entitlements) have been used only partially, with a maximum utilization in some years of some 45% and as low as 12% in some other years (Figure 3.4). Hence, in the aggregate and for most of the individual Members with FBTAMS entitlements, there is a large gap between the FBTAMS (i.e. the limit) and the Current Total AMS (i.e. the notified annual support) (this gap is often referred to as “AMS water”¹⁹). It is also worth noting, as also noted above in connection with product-specific support, that the use of FBTAMS entitlements is in inverse relationship to the ups and downs of world market prices. For example, utilized FBTAMS was the lowest during the period of relatively high world prices (2007 to 2011).

Figure 3.4 Share of actually utilized global FBTAMS entitlements (%)



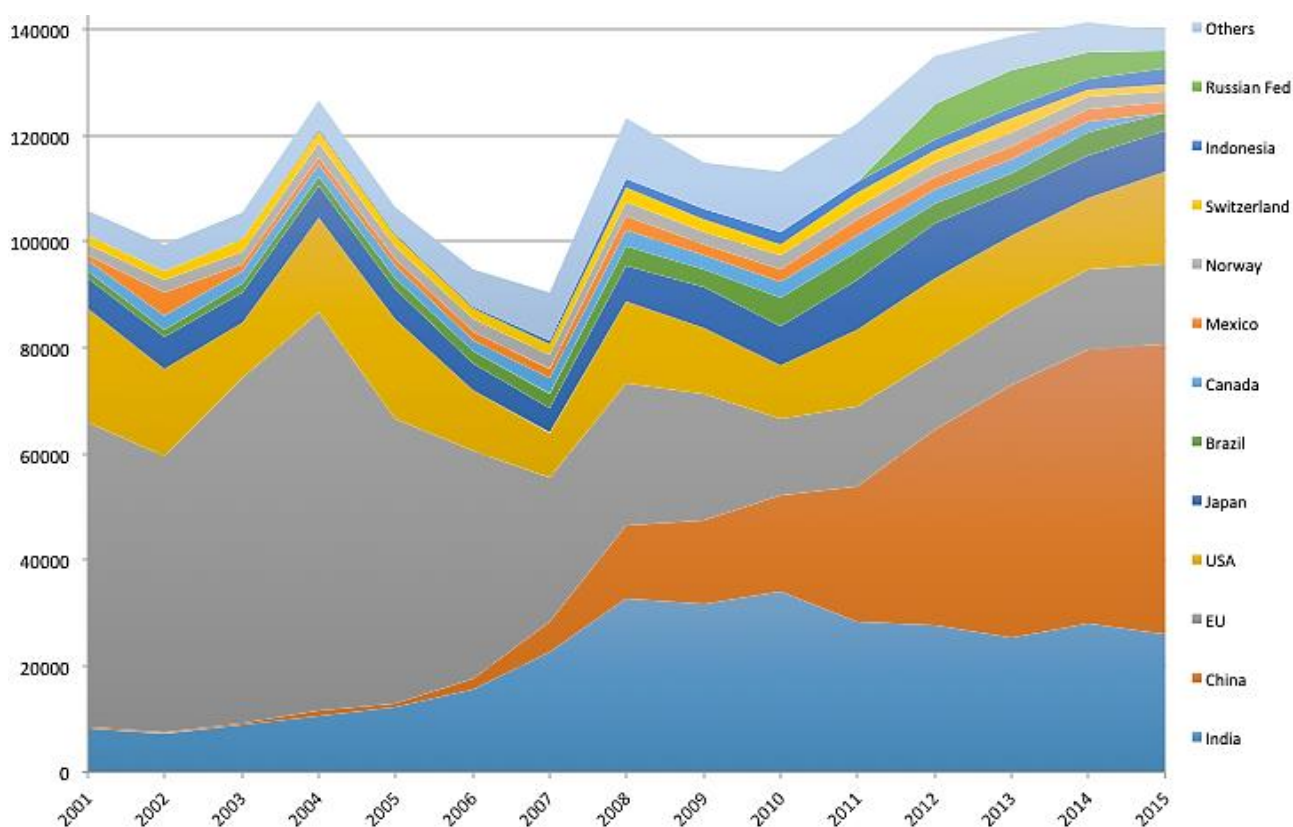
While Members have stayed within their legal FBTAMS limits, the aggregate nature of these limits hides the product specificity of the support provided by some Members having access to such entitlements (see section 3.2 below). Moreover, as potentially all of this unutilized FBTAMS can legally be used to support specific crops (even one single crop) the apprehension of Members that wish to prioritize reforming the AMS above *de minimis* is well understood.

Of the other two components of Article 6 support, Blue Box has registered a large decrease since 2001 and remained at a low level since 2007. On the other hand, the Development Box (Article 6.2) has increased considerably in absolute terms as a result of large sums being provided under this provision by a few large developing countries.

There is also a high concentration of Article 6 support to a few Members (Figure 3.5). Just five of them accounted for some 85% of Article 6 support in 2013-15. For several developed Members, total Article 6 support declined substantially in nominal terms. This tendency is stronger for those Members that had large sums of trade distorting support in the past (notably in the case of the EU). The opposite tendency seems to be the case for several developing Members where the largest part of the additional support provided by them has been in Article 6 categories, compared to the situation prevailing in earlier years.

¹⁹ The only Members that have been close to their FBTAMS limits in some years are Argentina and Norway (averaging 95% and 91%, respectively).

Figure 3.5 Total Global non-Green Support (Article 6) by Member (US \$mn)



Source: Compiled by the author from the CDDS Database.

3.2 Focussing on Product-Specific (PS) support

Analysis of absolute amounts of different categories of domestic support give an indication of how such support has evolved over time and Members' compliance with established quantitative commitments. However, from the perspective of the degree of market distortion due to this support, a more relevant measure is the share of domestic support in relation to the value of agricultural production (VoP).

The shares of total Article 6 support in relation to the VoP show a very wide divergence between Members (Table 3.1). By and large, several

developed Members have the highest shares of total Article 6 support in relation to VoP, some of which even above 90% for some years. On the positive side for all of these developed Members, there has been a declining trend in their VoP shares over the years, although for a few they still remain very high. Among the developing Members, although for some of them their shares of total Article 6 support have been edging upwards they are well below those of developed Members. Spikes for some years probably reflect support provided due to exceptional circumstances and likely not in response to a policy change.

Table 3.1 Total Article 6 support in relation to the VoP (%)²⁰

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Iceland	94.4	98.6	96.7	59.2	57.7	55.8	72.0	72.6	75.4	72.6	71.1	71.0	73.0	70.8	66.8
Norway	82.5	81.3	80.7	81.4	66.0	63.9	59.2	61.5	56.3	53.0	53.7	53.2	50.2	46.6	47.4
Switzerland	36.3	35.5	36.0	37.8	31.4	31.8	32.8	35.4	33.6	33.4	30.9	30.3	33.8	17.3	18.3
EU	26.0	22.7	21.6	21.7	15.9	11.6	6.1	5.3	5.7	3.3	2.9	2.8	2.8	3.0	3.7
USA	10.8	8.4	4.7	7.7	8.0	4.6	2.8	4.9	4.3	3.0	3.8	3.8	3.6	3.4	4.6
Canada	9.0	11.5	9.1	9.7	7.8	6.2	7.3	7.4	7.3	6.8	6.1	5.4	4.8	3.8	N/A
Japan	7.9	8.7	7.6	7.4	7.5	7.3	6.2	7.8	8.9	8.0	9.0	9.5	9.3	9.6	N/A
Russian Fed	x	x	x	x	x	x	x	x	x	x	x	6.4	5.9	4.4	3.9
Israel	10.2	8.5	8.6	8.7	8.6	7.6	7.5	8.6	8.1	7.9	8.2	8.4	8.8	8.6	7.9
India	8.1	7.5	7.7	8.0	8.1	8.9	9.2	13.1	12.9	10.2	7.6	7.6	7.7	7.9	7.4
Brazil	3.4	3.8	4.0	2.8	3.9	4.2	3.9	3.8	3.9	5.0	4.6	3.6	2.0	2.5	2.2
Mexico	3.6	14.0	4.2	3.8	4.3	4.4	4.2	5.2	5.1	5.6	5.5	3.9	4.2	3.8	3.9
Botswana	15.3	10.1	2.9	4.2	1.0	3.5	5.0	44.2	2.0	41.9	3.7	37.3	49.6	80.2	90.6
Saudi Arabia	x	x	x	x	x	5.9	5.5	9.6	7.9	6.4	4.9	N/A	N/A	N/A	N/A
Oman	-	-	-	-	-	-	-	-	-	-	5.5	5.5	9.7	N/A	N/A
China	0.1	0.1	0.1	0.2	0.1	0.4	1.0	1.8	2.0	2.0	2.2	2.9	3.4	3.5	3.5
Viet Nam	x	x	x	x	x	x	4.5	2.8	3.0	2.7	2.7	3.0	3.3	N/A	N/A
Jordan	3.4	2.1	2.1	3.6	3.2	10.5	17.5	58.5	4.3	4.9	2.2	3.0	3.5	1.9	N/A
Sri Lanka	2.9	0.2	1.8	2.4	3.4	4.8	6.2	11.5	9.2	6.1	7.1	9.3	4.0	5.7	8.8
Thailand	4.6	3.5	2.7	2.7	2.3	1.7	1.5	2.7	N/A	N/A	N/A	N/A	N/A	3.7	0.6
Colombia	1.0	1.2	0.7	1.1	0.7	0.8	1.3	1.9	1.9	1.8	1.5	2.2	2.6	2.1	1.7
Panama	2.3	2.1	0.6	0.9	0.9	1.0	1.1	1.1	1.1	0.0	1.4	1.5	1.9	2.0	2.3
Indonesia	0.0	0.0	0.3	0.4	0.7	0.7	1.2	2.3	2.6	2.3	1.3	1.3	1.5	1.5	2.4
Tunisia	3.0	3.5	2.8	2.5	2.5	2.1	2.8	2.9	2.7	2.2	2.0	1.5	1.9	1.2	0.5
Costa Rica	0.5	0.4	0.6	0.4	0.4	0.5	0.9	2.0	2.7	2.7	2.3	1.8	1.7	1.5	0.1
Philippines	1.3	0.9	0.8	0.6	0.4	0.4	0.4	1.2	1.9	1.2	0.7	1.0	1.1	0.8	1.2
Barbados	2.0	2.3	1.9	4.9	2.0	2.1	2.0	2.1	2.1	1.7	1.9	1.3	1.3	1.1	0.7
Peru	3.2	2.7	1.2	0.9	0.8	1.4	0.7	0.6	0.8	0.4	0.4	0.6	0.6	1.1	N/A
Senegal	0.0	0.0	0.0	1.6	0.0	1.5	0.0	1.8	0.0	1.3	0.0	10.6	5.6	2.9	3.2
Chile	1.7	1.3	1.6	1.5	1.5	1.6	1.7	1.1	1.2	0.9	0.2	0.9	0.9	0.1	0.1

Source: Compiled by the author from the CDDS Database.

While the numbers in Table 3.1 are generally informative on the extent of trade-distorting support, they are still aggregates over all Article 6 support measures and all agricultural commodities. However, these aggregates hide some highly concentrated support levels, as shown in Table 3.2 on the support provided by selected Members to some commodities²¹. This list is by no means representative or comprehensive, however it demonstrates the flexibilities that exists in the AoA rules that permit a very high level of support to be concentrated in

some commodities. This is so even in cases when the aggregate Article 6 support for the respective Member is low. For example, while the aggregate Article 6 support for the USA has been between 3% to 4% of VoP since 2010 (Table 3.1), the product-specific support for several products is 2 to 3 times that amount, including for cotton, dairy, maize, and wheat, while that for sugar has been much higher for several years. There are many other examples of other Members shown in Table 3.2 where support for some products in recent years exceeded even 100% of VoP. What

²⁰ It should be noted that there are differences in the calculation methodologies (or rather in the way different Members interpret the methodologies) that are highly relevant for this Table. For example, in the calculation of Market Price Support (MPS), several Members use total production while some others use procured amounts. It follows that if the latter were to use total production, the relevant percentages shown in this Table would have been much higher than those shown. Other issues relate also to the calculation of the VoP and the different sources that have been used in that respect.

²¹ Table is derived from data reported in *Analysis and Observations on Product Specific Support*, JOB/AG/150, CoA-SS, 3 December 2018

these figures reveal is the use Members make of their AMS* entitlements for product-specific support, whereby when product-specific support exceeds the *de minimis* limit, all the support

provided to that product is accounted (and justified) under the aggregate AMS entitlement (i.e. FBTAMS) of that Member.

Table 3.2 Product-Specific support for selected Members/products (% of VoP)

Member	Product	de minimis	Product-Specific support as % of Value of Production (%)								
			2001	2006	2007	2010	2011	2012	2013	2014	2015
Brazil	Cotton	10.0	7.6	6.6	16.8	16.0	0.0	0.0	0.0	0.0	1.6
Canada	Milk	5.0	11.7	9.3	10.2	8.4	8.7	10.4	8.2	9.5	N/A
EU	Dairy	5.0	15.0	10.9	8.0	8.6	7.9	7.9	6.5	7.4	9.8
EU	Sugar	5.0	64.1	177.4	102.2	3.1	0.6	1.5	0.5	0.1	0.1
EU	Wheat	5.0	13.8	13.3	8.2	9.2	7.3	6.9	8.3	9.2	9.6
Israel	Milk	10.0	51.3	62.3	64.5	68.8	59.7	57.6	61.1	57.8	56.7
Japan	Beef & veal	5.0	23.8	7.9	8.7	20.0	20.9	21.2	18.8	18.1	N/A
Japan	Meat of swine	5.0	47.3	46.9	44.4	54.1	54.7	60.5	53.7	46.5	N/A
Mexico	Wheat	10.0	27.9	18.3	22.4	22.0	29.9	14.8	14.7	9.7	13.9
Norway	Milk	5.0	73.7	67.9	67.2	67.5	66.9	68.2	70.7	67.5	65.7
Norway	Pork	5.0	83.4	76.2	66.8	61.8	63.7	66.0	66.6	63.9	65.1
Norway	Sheep	5.0	128.2	141.4	138.8	115.6	113.8	111.9	62.3	21.7	20.5
Saudi Arabia	Livestock	10.0	N/A	12.6	11.7	8.6	8.6	N/A	N/A	N/A	N/A
Saudi Arabia	Wheat	10.0	N/A	29.2	36.5	32.4	31.4	N/A	N/A	N/A	N/A
Switzerland	Bovine meat	5.0	53.2	68.3	74.1	67.2	67.7	66.1	66.1	0.2	N/A
Switzerland	Meat of swine	5.0	64.8	63.9	65.7	61.8	56.9	53.4	65.6	0.0	N/A
Switzerland	Milk & produc	5.0	34.0	18.0	17.5	23.3	19.9	17.6	22.5	10.8	N/A
USA	Cotton	5.0	74.1	27.2	4.0	4.8	10.6	8.2	9.2	15.5	17.3
USA	Dairy	5.0	18.0	21.4	14.1	9.0	8.2	9.0	7.9	0.0	0.0
USA	Sugar	5.0	178.6	2.7	0.2	36.4	47.8	40.1	61.6	5.9	52.3
USA	Wheat	5.0	3.6	0.0	0.0	6.3	8.0	6.3	9.0	7.6	8.5

Source: Compiled by the author from data in Tables 5 and 6 of JOB/AG/150

These examples also reveal the reasons for the resistance of Members with FBTAMS entitlements to substantially reduce or eliminate AMS* altogether, as some proponents with zero FBTAMS propose. AMS above *de minimis* entitlements were embedded into the AoA under the Uruguay Round to accommodate those countries that historically provided high levels of domestic support. These countries resisted then to accept dismantling such support that in some cases was linked also to policies that served broader objectives in addition to simply market support. The continued high levels of product-specific support by some Members is an indication that product-specific sensitivities have not gone away and explains why the Members concerned are still resisting deep reforms to the extent that these would limit their PS entitlements

to below the 5% *de minimis*. It would seem that a compromise on this issue is needed, not necessarily by retaining AMS* entitlements but accounting for some limited flexibility in PS support within an overall limit across all categories of trade distorting support.

3.3 Challenging the architecture of the AoA: fungibility of TD support

While there is general agreement in the CoA-SS on the need to reform trade distorting (TD) support (including clarification of existing rules and ways to increase transparency), Members have been at odds as regards developing new disciplines and related reduction commitments on

TD support. There has been considerable debate on the prevalence of TD effects across the board, irrespective of the labelling or colour of different policies by Members. The AoA Box structure is recognized as prone to abuse, largely due to flexibilities embedded in the AoA provisions that allow it. Yet, the debate in the negotiations has not seriously challenged the fundamental weaknesses of the architecture of the AoA. Often, the general approach favoured is to work within the existing AoA structure and amend related disciplines and subsidy limits, even though recognizing that, as in the past, disciplines based on the existing AoA Box structure may not be effective in curtailing TD effects.

From the administrative perspective, there may be reasons for differentiating different categories of support under Article 6. However, in practice, from the point of view of the recipients, the assistance provided is often indistinguishable as regards the colour of the Boxes under which it is channelled. There is fungibility of the subsidies received and of their TD effects, to the extent that farmers decisions are made on the basis of their possibilities in producing certain crops and the market expectations for their output. Those decisions have little to do with the accounting

considerations made by a government authority in compartmentalizing subsidies under different boxes/policies, in order for the government to comply with legal obligations such as those of the AoA. Only when the support received is explicitly tied to the production of a specific product, the farmer would allocate resources to that crop in order to receive the support²².

It follows, therefore that it makes more sense to look at TD support not in terms of the existing Box structure of the AoA but on whether such support targets specific products and hence likely to have an impact on what commodities are being produced. In doing so, the criteria for a meaningful differentiation in the support provided by government policy would better correspond to those used by farmers in making their decisions.

²² Even in this case, a rational farmer may still question if the support received is indeed worth it, i.e. enough to outweigh the benefit he/she may have in producing something else that

would be more profitable, even without any government support.

SECTION 4

An out-of-the-Boxes approach for disciplining TD support

4.1. Consolidation of Box-dispersed trade-distorting entitlements

As argued in the previous section, in view of the fudgibility of the effects of trade distorting support irrespective of the compartmentalization of such support in different Boxes, maintaining this artificial differentiation makes little sense. What would be more meaningful is to discipline the aggregate trade distorting support across all Boxes, irrespective of what may be the Box-specific origin of that support. This is in essence the approach that had been proposed back in 2008, along the lines of the Overall Trade Distorting Support (OTDS) concept of Rev 4, whereby the total trade distorting support across Article 6 would have been subject to an overall reduction commitment²³.

The approach proposed here builds upon the general idea of disciplining the OTDS, however, the similarities stop there. The proposal in this paper entails the consolidation of existing product-specific (PS) and non-product specific (NPS) entitlements of Article 6 support across the existing AoA Boxes and binding separately: the *Overall Product Specific* (OPS) support and the *Overall Non-Product Specific* (ONPS) support. In turn, the AoA Box structure will cease to exist, as well as the related Box-specific current entitlements.

In contrast, Rev 4 would have retained in tact the Box structure of the AoA and would have imposed, in addition to OTDS, Box-specific limitations and/or reduction commitments through a rather complex set of rules applicable to these individual Boxes (*de minimis*, AMS* and Blue Box). This fragmentation of entitlements for trade-distorting support in individual Boxes would have provided opportunities for circumventing related commitments, as is the case with the existing AoA rules. Moreover, adding to the complexity of the package, Rev 4 envisaged numerous OTDS and Box-specific differentiation clauses in the application of the rules for specific groups of countries, including developing, NFIDCs, LDCs and Recently Acceded Members. By all accounts, in view of its complexity, had Rev 4 been agreed, monitoring its implementation would have been a very difficult undertaking indeed.

The approach proposed here is an attempt to respond to the essence of the debate on domestic support in the CoA-SS whereby many Members have stressed the differentiated trade distorting effects of PS and NPS support measures and, in turn, have insisted that real reform in domestic support would come only if product-specific support is effectively curtailed.

²³ It should be noted that the OTDS excluded support under Article 6.2.

4.2 Overall Product-Specific support in the Base Period

Implementation of the proposed approach for consolidating existing product-specific entitlements (dispersed under *de minimis*, AMS* and Blue Box) into a single overall product-specific (OPS) entitlement would entail in the first place the calculation of aggregate Member- and product-specific support in a Base Period (e.g. 2016 to 2018). To illustrate how the proposed approach can work in practice, consider Table 4.1 depicting actual support in the Base Period of a developed and developing Member, respectively. In the case of the developed Member, its support to apples (4% of VoP) is under its *de minimis* entitlement of 5%, while support to wheat (7%) and dairy (31%) fall under its AMS* entitlement. In addition, wheat received Blue Box support equivalent to 1% of wheat VoP. The total support for each of these three products constitutes their *Base Period OPS*, which would have to be subject to reduction commitments (see below). Similarly, in the case of the developing Member depicted in Table 4.1, support for sugar (7% of VoP) is under its *de minimis* entitlement of 10%, while support for maize and tomatoes (being greater than 10%) fall under its AMS* entitlement.

Table 4.1 Establishing Base Period Overall Product Specific (OPS) support

Developed Member			
Base Period PS support	Apples	Wheat	Dairy
de minimis (% VoP)	4	0	0
AMS* (% VoP)	0	7	31
Blue (% VoP)	0	1	0
TOTAL (% VoP)	4	8	31
Base Period OPS (% VoP)	4	8	31
Developing Member			
Base Period PS support	Sugar	Maize	Tomatoes
de minimis (% VoP)	7	0	0
AMS* (% VoP)	0	12.5	18
Blue (% VoP)	0	0	0
TOTAL (% VoP)	7	12.5	18
Base Period OPS (% VoP)	7.0	12.5	18.0

Source: Author's calculations

4.3 Rules for reduction of Overall Product-Specific (OPS) support

As in the case of the rules developed for disciplining the Aggregate Measurement of Support above *de minimis* under the Uruguay Round, the second issue that needs to be tackled is the size of reduction commitments of the Base Period OPS, the number of years for the implementation of these reductions and the reduction formula leading from the Base Period OPS to the Final OPS. All these are subject to negotiation and there are many options that may be considered. For the purpose of demonstrating how the proposed approach can work in practice, the formula for reduction commitments is assumed to be as follows²⁴:

- a) If Base Period OPS is below 5% (10% for developing Members), then Final OPS is capped at 5% (10% for developing).
- b) If Base Period OPS is above 5% (10% for developing), then a maximum of 50%²⁵ reduction would apply (2/3 of that for developing).

²⁴ This formula and its hypothetical application in this section are only for illustrative purpose, without in any way implying that this is a preferred formula.

²⁵ The reduction commitment assumed here is 50% for developed and 2/3 of that for developing Members. Alternative formulas are also possible, such as a tiered formula whereby

the % reduction is higher for higher support levels (similar to the formula envisaged under Rev 4).

1. If the calculated reduced level is below 5% (10% for developing) then the Final OPS is capped at 5% (10% for developing).
 2. If the calculated reduced level is above 5% (10% for developing) then that calculated reduced level would be the Final OPS.
- c) In all cases, the reduction formula from Base Period OPS to Final OPS will consist of equal linear steps over the agreed implementation period of, say, 6 years (10 years for developing).

Application of these rules to the two Members considered above (Table 4.1) are shown in Table 4.2. For the developed Member, in the case of apples for which the Base Period OPS is less than 5% (case a), there is no obligation for reduction and its Final OPS is set at a maximum level of 5% of VoP. In the case of wheat, its Base Period OPS is 8% and hence the 50% reduction applies. Applying that reduction on the Base Period OPS for wheat yields 4%, which, being less than 5% (case b1) implies that the Final OPS for wheat is set at 5% of VoP. The third example for developed is dairy with a Base Period OPS of 31%. The reduction commitment for that product yields a level of 15.5% which, being greater than 5% (case b2) implies that the Final OPS for dairy is set at the same amount of 15.5%.

In the case of the developing Member of Table 4.2, the Base Period OPS for sugar is already below 10%, hence its Final OPS is set at 10% (case a). For maize, the application of the reduction formula on the Base Period OPS yields a value of 8.3%, which, being less than 10% (case b1) implies that the Final OPS for maize is set at 10% of VoP. Finally, in the case of tomatoes, the formula reduction commitment for that product yields a level of 12% which, being greater than 10% (case b2) implies that the Final OPS for tomatoes would also be set at 12%.

Table 4.2 Reduction Commitments of OPS

Developed Member			
	Apples	Wheat	Dairy
Base Period OPS (% VoP)	4	8	31
Reduction commitment (%)	0	50	50
Final OPS with formula reduction	4	4	15.5
Final OPS (% VoP)	max 5	max 5	max 15.5
Developing Member			
	Sugar	Maize	Tomatoes
Base Period OPS (% VoP)	7	12.5	18
Reduction commitment (%)	0	33.3	33.3
Final OPS with formula reduction	7.0	8.3	12.0
Final OPS (% VoP)	max 10	max 10	max 12.0

Source: Author's calculations

These rules for disciplining PS support could also stipulate an additional commitment, whereby the average OPS entitlement over all products for which support is provided should not exceed 5% for developed (10% for developing) at all times. This additional commitment of limiting the average OPS would force Members to compensate for higher entitlements allowed to them for selected sensitive products. For an average of 5% (10% for developing) to be attained, Members would have to bind OPS entitlements for other (less sensitive products) well below 5% (10% for developing). The implication of this is that at the end of the implementation period, the average Final OPS of a Member over all products should be below 5% (10% for developing).

4.4 Rules for reduction of Overall Non-Product Specific (ONPS) support

As in the case of OPS support, disciplining the Overall Non-Product Specific (ONPS) support would necessitate establishing a Base Period ONPS, and applying reduction commitments towards a Final Bound NPS. Table 4.3 shows the calculation of the Base Period ONPS for 3 developed (M1, M2 and M3) and 3 developing (M4, M5 and M6) Members, respectively.

Table 4.3 Establishing Base Period for Overall NPS (ONPS) support²⁶

Developed Member			
Base Period NPS support	M1	M2	M3
de minimis (% VoP)	3	0	0
AMS* (% VoP)	0	8	22
TOTAL (% VoP)	3	8	22
Base Period ONPS (% VoP)	3	8	22
Developing Member			
Base Period NPS support	M4	M5	M6
de minimis (% VoP)	8	0	0
AMS* (% VoP)	0	13	22
TOTAL (% VoP)	8	13	22
Base Period ONPS (% VoP)	8	13	22

Source: Author's calculations

Again, for the purpose of demonstrating how the proposed approach can work in practice, the assumed formula for reduction commitments will be as follows:

- a) If Base Period ONPS is below 5% (10% for developing Members), then Final ONPS is capped at 5% (10% for developing).
- b) If Base Period ONPS is above 5% (10% for developing), then a maximum of 50%²⁷ reduction would apply (2/3 of that for developing).
 1. If the calculated reduced level is below 5% (10% for developing) then the Final ONPS is capped at 5% (10% for developing).
 2. If the calculated reduced level is above 5% (10% for developing) then that calculated reduced level would be the Final ONPS.
- c) In all cases, the reduction formula from Base Period ONPS to Final ONPS will consist of equal linear steps over the agreed

implementation period of 6 years (10 years for developing).

The application of the proposed rules is shown in Table 4.4. Of the developed Members, M1 has a Base Period ONPS below 5% and hence its Final ONPS is set at 5% of total agricultural VoP. M2 has a Base Period ONPS above 5% and the application of reduction commitment yields 4%, which, being below 5% corresponds to case (b1) of the above rules, and hence its Final ONPS is also set at 5%. Finally, M3, falls under case (b2) of the above rules and its Final ONPS is set at 11%.

Table 4.4 Reduction Commitments of ONPS

Developed Member			
	M1	M2	M3
Base Period ONPS (% VoP)	3	8	22
Reduction commitment (%)	0	50	50
Final ONPS with formula reduction	3.0	4.0	11.0
Final ONPS (% VoP)	max 5	max 5	max 11.0
Developing Member			
	M4	M5	M6
Base Period ONPS (% VoP)	8	13	22
Reduction commitment (%)	0	33.3	33.3
Final ONPS with formula reduction	8.0	8.7	14.7
Final ONPS (% VoP)	max 10	max 10	max 14.7

Source: Author's calculations

Application of the rule to the developing Members M4, M5 and M6 shown in Table 4.4, corresponds to case (a), case (b1) and case (b2) of the above rules, respectively. Member M4 with a Base Period ONPS already less than 10% and for Member M5 where the application of the reduction formula also yields a number below 10%, the Final ONPS for both is set at 10% of VoP. Finally, for Member M6 (case b2) its Final ONPS is set 14.7%.

²⁶ Note that there cannot be NPS support in the Blue Box, as by definition it is provided to specific products.

²⁷ As in the case of OPS, the reduction commitment assumed here is 50% for developed and 2/3 of that for developing Members. Again, alternative formulas are also possible, such

as a tiered formula whereby the % reduction is higher for higher support levels.

4.5 Dealing with Article 6.2 within the same disciplines

As already stated in section II, Article 6.2 is also by definition production and trade distorting, being part of the overall Article 6. Irrespective of this, however, the level of development of a WTO Member has been an important criterion in differentiating trade distorting measures applied by different Members and Article 6.2 has been exempted from reduction commitments under the AoA on the basis of SDT considerations. Consequently, in the approach suggested above for capping NPS support across Boxes, Article 6.2 has been left outside the overall NPS caps, i.e. it has been assumed that it may continue to be exempted from reduction commitments.

Arguments for retaining the exempt status of Article 6.2 have been well articulated over the years. What distinguishes it from other provisions of Article 6 is its objective to encourage agricultural and rural development, including helping resource poor farmers. Many developing countries have large and increasing populations and predominance of small-scale resource-poor farmers and having access to Article 6.2 allows them to provide necessary input subsidies and investment assistance. Supporting food and livelihood security of poor smallholders is the responsibility of governments and, by and large, the nature of support provided to these farmers is totally different from the subsidies provided to commercial producers in more advanced countries.

Large populations and high population growth rates in developing countries and consequent high domestic demand for food have also been arguments of limited TD effects by these countries. It is seen as unlikely that these countries supporting growth in domestic food production in line with increasing demand would cause any distortion in international markets.

While presently the main users of this type of support are large developing countries with predominance of poor farmers, Article 6.2 could be valuable to all food insecure countries, to the extent that financial resources permit to allocate funds to this type of assistance. The key consideration as regards TD effects is whether the eligibility criteria of Article 6.2 are adhered to. To the extent they do, the additional consumption generated in the recipient resource-poor households, would largely be used locally as additional consumption and thus minimize the risk of production and trade distorting effects.

Notwithstanding the strong arguments in favour of sparing Article 6.2 from reduction commitments, there are also other strong voices among the WTO Membership that call for an across the board reform of all trade distorting support. One way of dealing with such an eventuality under the proposed approach could be to include Article 6.2 expenditures in the calculation of the Base Period Overall NPS (ONPS) support by developing Members. In turn, to use the same rules for reduction commitments for ONPS support but raise the Final ONPS cap to account for Article 6.2. Doubling the maximum cap of ONPS from 10% to 20% of VoP could be a possibility. In addition, and irrespective of how support under Article 6.2 is accounted for, clarification of the eligibility criteria for receiving support under this provision is also of importance, in particular as regards an objective definition of “low-income or resource-poor producers”.

4.6 Additional safeguards to avoid excesses and protect against inflation

The approach proposed above for disciplining PS and NPS support is based on reductions in the ratio between the monetary support and Value of Production (VoP). An issue commonly being raised as regards using VoP as a basis for reduction commitments is that in cases when

there is a high growth in production, there will also be a high increase in the VoP and, correspondingly, large increases in the monetary value of entitlements to subsidize. That eventuality, is argued, not only negates the aim of reform but it can also exacerbate the existing situation in cases of rapidly increasing production, to the extent that Members take advantage of VoP-based commitments.

The opposite argument has also been made in cases when reduction commitments are based on monetary values (as was the case in the implementation of the Uruguay Round commitments) whereby monetary entitlements established for a base period lose their value in situations of high inflation and/or currency devaluation of the Member concerned. Both cases need to be addressed in any proposal for reforming domestic support.

In the most general case the real monetary value of a subsidy based on VoP at a future date would depend on several variables, including the growth rate of the quantity produced (q), the rate of change in the price of the product (p), the rate of inflation in the economy overall (i) and the rate of the committed reduction in the subsidy relative to the VoP (s). It is difficult to know a priori how these four parameters would evolve and interact in the future and hence what may be the outcome on the real value of a subsidy in a future date compared to that of the base period. These are issues not specific to the proposed approach but generally to any commitment implemented over a period of years.

There are various options as regards the form in which the OPS and ONPS entitlements could be set, i.e. fixed ad valorem in relation to a floating VoP, ad valorem in relation to a fixed historical VoP (base period), ad valorem in relation to some combination of historical and floating VoP, or a

hybrid specification whereby the resulting subsidy level based on VoP is capped by an indexed monetary value. However, as a general rule, whatever formulation is put in place should be guided by the principle that the real value of subsidies to a recipient at a future date should be of lesser value than his/her entitlement to subsidize in the Base Period. At the same time the real monetary value of the subsidy at a future date should not be reduced more than what is called for by reduction commitments. In both cases safeguards should be incorporated in the agreed rules to avoid excessive subsidization as well as ensure that the real value of subsidies due to inflation is not unduly eroded.

4.7 Relaxing disciplines to facilitate adjustment

For reasons discussed in section 3.2, the proposal put forward here may also require consideration of relaxing somewhat the rules in a very limited number of specific cases. As evidenced from the numbers presented, the level of support concentrated to some Member-specific sensitive products reaches 100% or more of VoP of those products. In general, these are situations where subsidization has a very long history in national policy making serving also multiple objectives that society demands (e.g. environmental preservation) and these are difficult to be dismantled in a short span.

Reduction commitments for such products as high as the assumed 50% in the examples discussed above, may be too unrealistic to be implemented within a short period of 6 years that has also been assumed. More flexibility may be necessary for a limited number of Member-specific sensitive products, both on the size of the cut and the implementation period, so as to bring these Members on stream and be in a position to agree on the essence of the proposed approach.

SECTION 5

Conclusion and Recommendations

It is well recognized that the structure put in place for reforming agriculture during the Uruguay Round negotiations some 30 years ago, was a major achievement and, at the same time, a compromise by all concerned in order to bring agriculture into the multilateral trade rules governing other sectors. The complexity and imbedded compromises present in the AoA was a reflection of historical sensitivities of Members in supporting certain products as well as a reflection of the differentiated capacity of Members to provide support to agriculture.

The AoA was supposed to be the first step of the reform process and in many ways it served well as several large subsidizing Members have made substantial reforms in domestic support policies over the years of its implementation. However, from the very beginning it was also understood that the route to effectively reforming agriculture would be long and not a smooth one. Hence, negotiators then, introduced a number of important considerations in Article 20 of the AoA on the *Continuation of the Reform Process*. Thirty years later, considerable experience has been gained on the implementation of the various provisions of the AoA and better understanding on what is not working and how to fix it, taking also into account new global economic realities and the evolution in world trade.

Among the fundamental concerns in reforming domestic support within the architecture of the AoA are certain imbalances in existing entitlements for trade-distorting support (especially between developed and developing Members) and, more generally, the ample flexibilities/loopholes that Members have in concentrating support to a few products, making use of a variety of Box-dispersed product-specific

entitlements. While this structure facilitated a transition to much less distortions than 30 years ago, it is widely seen as ineffective in further disciplining TD support and it has also been a constant irritant to some Members for perpetuating entitlements to subsidize. In short, the AoA in its present form has run its course.

The proposal advanced in this paper is based on the premise that correcting the architectural weaknesses of the AoA is a prerequisite for building effective disciplines to deal with trade distorting domestic support. As argued in the paper, this would entail getting away from artificially compartmentalized support measures, by consolidating disciplines along transparent traits, amenable to better monitoring, especially as regards the product and non-product specificity of different support measures.

The paper builds on this essential structural change by formulating explicit rules for curtailing product-specific and non-product specific support and demonstrating how these rules can be applied in practice. It also provides some options on how to address flexibilities that may be required to deal with long-standing sensitivities and addressing the fundamental requirement of any reform to take fully into account the special and differential needs of developing Members.

References

- ICTSD, 2018. Achieving Progress in Multilateral Trade Negotiations on Agriculture. WTO: Paths Forward. Geneva: International Centre for Trade and Sustainable Development, Policy Brief, September 2018.
- Konandreas, P., 2019. Evolution of domestic support in agriculture: Main tendencies and compliance with intended reduction commitments under the WTO 2008 Draft Modalities, CUTS International, Geneva 2019.
- WTO Committee on Agriculture Special Session, 2008. Revised Draft Modalities for Agriculture, TN/AG/W/4/Rev.4, 6 December 2008
- WTO Committee on Agriculture Special Session, 2018. Domestic Support in the WTO Agreement on Agriculture (AoA), JOB/AG/138, 11 July 2018
- WTO Committee on Agriculture Special Session, 2018. Trends in Global Trade-Distorting Support, JOB/AG/143, 17 September 2018
- WTO Committee on Agriculture Special Session, 2018. Analysis and Observations on Product Specific Support, JOB/AG/150, 3 December 2018
- WTO Committee on Agriculture Special Session, 2019. Interaction Between Pillars of the Agreement on Agriculture: The Relationship Between Domestic Support and Market Access, JOB/AG/157, 19 June 2019
- WTO Committee on Agriculture Special Session, 2019. Domestic Support Options, JOB/AG/160, 11 July 2019.
- WTO Committee on Agriculture Special Session, 2019. Higher and Higher - Growth in Domestic Support Entitlements Since 2001, JOB/AG/171, 22 November 2019.

