



Analysis of the G-33's proposal to change the AoA provision on Public stockholding for food security

Jacques Berthelot (jacques.berthelot4@wanadoo.fr)
Solidarité (www.solidarite.asso.fr)
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India, on behalf of the G-33, proposed in the informal meeting of the Special Session of the Committee on Agriculture of 14 November 2012 that the provisions on Public stockholding for food security purposes, already included in the Draft modalities of 6 December 2008, be taken up for a formal decision by the WTO ministerial conference (MC9) in December 2013 in Bali. India asks to delete the last sentence of the footnote 5 of paragraph 3 of the AoA Annex 2 on Public stockholding for food security purposes: "*For the purposes of paragraph 3 of this Annex, governmental stockholding programmes for food security purposes in developing countries whose operation is transparent and conducted in accordance with officially published objective criteria or guidelines shall be considered to be in conformity with the provisions of this paragraph, including programmes under which stocks of foodstuffs for food security purposes are acquired and released at administered prices, provided that the difference between the acquisition price and the external reference price is accounted for in the AMS*". India proposed to delete "*the difference between the acquisition price and the external reference price is accounted for in the AMS*" and replaced it by "*However, acquisition of stocks of foodstuffs by developing country Members with the objective of supporting low-income or resource-poor producers shall not be required to be accounted for in the AMS*".

Ambassador Adank, the Chair of the Special session of the Agriculture Committee dealing with the DDA negotiations, told the 18 February 2013 that he had sent out a questionnaire last December asking Members implementing the programmes of public stockholding for food security purposes and domestic food aid to provide background information. He noted that as

of now, there are around 28 responses to the questionnaire and that a technical work should begin to better understand the issue.

However this G-33 proposal has been received with some doubts among WTO Members. According to an ICTSD report *"“Would countries be well served to open up the way to market price support in the green box?” asked another, who feared the proposal could “de-rail the whole build-up for MC9” - negotiators’ shorthand for the upcoming ninth WTO ministerial conference next year. Others suggested that, with the exception of some of the larger developing countries, many simply lacked the resources to support farmers in this way. Proposals to expand significantly the current provision of subsidised food in India under the country’s Food Security Bill had some negotiators particularly worried, while others expressed concern that surplus foodstocks were being exported”¹*. The US is particularly against the proposal, saying that the provisions still have not been discussed multilaterally in enough depth. According to US Inside trade, *"Deputy U.S. Trade Representative Michael Punke yesterday (March 7) left little doubt that pulling together even a small package of trade concessions for the next World Trade Organization ministerial will be difficult, partly because negotiations on trade facilitation face many hurdles and partly because developing countries like India and China are advancing a controversial proposal on food security that, in the U.S. view, could undermine existing subsidy rules”²*. Indeed the existing subsidy rules should be completely changed as they are totally unfair for DCs, and are not even complied with by the US and EU. The EU is also reluctant, saying that disciplines should be put on stockholding.

India is perfectly right and there are excellent reasons to challenge the objections made to the G-33 proposal, particularly by the US and EU. The present paper hopes to contribute to the technical work called for by the Chair Ambassador Adank. It will also contribute somehow to the other proposal made by Brazil, on behalf of the G-20, to clarify the issue of agricultural subsidies, even if it covers it only marginally.

I – The US is a larger provider of domestic food aid in cereals than India

1.1 – Quantity and value of US cereals processed into nutrition programmes in 2011-12

In the 2012 fiscal year (October 2011 to September 2012) total domestic food and nutrition aid expenditures amounted to \$107.025 billion (bn)³ – of which about \$ 100 bn net of food or 7.59% of US total food expenditures of \$1,318 bn in 2011 (without alcoholic beverages)⁴ – to 104 million (M) beneficiaries in several programmes, of which SNAP (Supplemental Nutrition Assistance Program or Food stamps) for \$78.445 bn (\$74.617 bn net to 46.609 M beneficiaries), to which we can add most of the disaster feeding (\$4.306 bn), the child nutrition (school lunch, school breakfast, special milk, child/adult care food) for \$17.723 bn net to 48.031 M children, WIC (Women, Infants and Children) for \$6.803 bn and 4,8 bn net to 8.908 M beneficiaries. Minor programmes are Puerto Rico grant (\$2.001 bn), TEFAP (Emergency food assistance, for \$444 M), Summer food service programme (\$398 M), Commodity supplemental food (\$209 M), Food distribution on Indian reserves (\$97 M). There are overlaps as we know that 49% of the SNAP beneficiaries have children (which does

¹ ictsd.org/i/news/bridgesweekly/149960/

² *Punke Signals Hurdles For WTO Package, Slams Food Security Proposal*, Inside U.S. Trade - 03/08/2013

³ <http://www.fns.usda.gov/pd/annual.htm>

⁴ <http://www.ers.usda.gov/data-products/food-expenditures.aspx#.UVvhjDevP6k>; alcoholic beverages are excluded from nutrition programmes.

not imply that they are all beneficiaries of children programs), so that, without overlap, they are about 80 M beneficiaries⁵.

In fiscal year 2012 the SNAP per person was of \$1,608 – with a maximum allotment of \$2,004 – and the WIC of \$564 on average per person. This is to be compared with the average food expenditure per capita for all US citizens of \$4,229 in 2011 and of \$1,924 for the food insecure⁶. This amount is very similar to the \$2,049 of the lowest 20% strata presented below.

According to the last US Consumer Economic Survey from July 2011 to June 2012, the per capita food expenditures of US inhabitants is shown in table 1. We present only the types of food incorporating processed cereals. We see that, if the level of food expenditures is 69% larger for the highest 20% strata than for the lowest, the distribution of their food expenditures between cereals+bakery products, meats+fish+eggs and dairy products is very similar. We assume that the food profile of the lowest 20% consumers is representative of the recipients of the domestic food aid.

Table 1 – Amount and distribution of US consumers' food expenditures in 2011-12

Dollars per capita	All consumers		Lowest 20%		Highest 20%	
	Expenditure	%	Expenditure	%	Expenditure	%
Annual expenditures	20252		12981		30432	
Food expenditures	2613	12.9	2049	15.8	3473	11.4
" away from home	1051	40.22	612	29.90	1622	46.68
" at home, of which:	1562	59.78	1436	70.10	1852	53.32
Cereals&bakery prod.	218	13.96	202	14.07	257	13.89
Meats, fish, eggs	334	21.38	318	22.14	386	20.86
Dairy products	167	10.69	148	10.31	204	11.00
Non-alcoholic beverages	148	9.48	136	9.47	164	8.86
Alcoholic beverages	187	9.22	101	4.94	309	8.91

Source: <http://www.bls.gov/cex/tables.htm#calyear>

Indeed a USDA report of April 2012 presents about the same distribution among the types of food⁷. There is however a significant difference as this report says that about 22% of the income of the SNAP beneficiaries is spent on food at home and 2 percent on food away from home, whereas the Consumer Economic Survey shows that the 20% lowest income strata spends only 15.8% of his income on food of which 70% at home. In any case the two reports converge on the share of the types of food incorporating processed cereals.

Assuming that the same distribution among food products of the lowest 20% strata holds for the \$107.025 bn of all nutrition programmes implies that \$15.08 bn was devoted to cereals and bakery products, \$23.70 bn devoted to meat, fish and eggs and \$11.03 bn devoted to dairy products. In fact saying that \$15.08 billion of US domestic food aid was devoted to cereals is highly misleading as the US annual per capita grain consumption is of 725 kg where the bulk is incorporated in meat and dairy products⁸. This is to be compared with the average cereal consumption of 180 kg in India.

⁵ "USDA's domestic food and nutrition assistance programs affect the daily lives of millions of people, with about one in four Americans participating in at least one program at some point during a given year" <http://www.ers.usda.gov/topics/food-nutrition-assistance/food-nutrition-assistance-research.aspx#.UVvjIzevP6k>.

⁶ <http://www.ers.usda.gov/data-products/food-expenditures.aspx#.UUG1RTegz6k>

⁷ <http://www.fns.usda.gov/ora/MENU/Published/snap/FILES/Other/BuildingHealthyAmerica.pdf>

⁸ <http://www.unccd.int/en/programmes/Thematic-Priorities/Food-Sec/Pages/Wors-Fact.aspx>

According to USDA the average farmers' share of the retail value of cereals and bakery products was of 8.1% on average from 2006 to 2008⁹, implying that the cereals value at the farm gate was \$1.221 bn. Assuming that this ratio holds for 2011-12 when the wheat farm price was 266.2 \$/t¹⁰ and that wheat was overwhelmingly dominant in these cereals, this amounts to 4.587 Mt of wheat included in the cereals and bakery products distributed in the nutrition programmes.

In 2011-12 130.620 Mt of feed cereals were consumed by 92.61 M of feed consuming animal units, of which 11.32% by dairy cows or 14.786 Mt, 27.07% by bovine cattle or 35.359 Mt, 28.87% by hogs or 37.710 Mt, 0.67% by sheep (and other animals) or 0.880 Mt and 32.06% by poultry or 41.876 Mt.

But we must deduct the US produced feed consumed by the exported meats and dairy products. In 2011-12 18.732 Mt of red meat production was not exported (on 22.422 Mt produced), of which 10.636 Mt of US beef not exported on a production of 11.830 Mt (<http://www.ers.usda.gov/data-products/livestock-meat-domestic-data.aspx#.UVF4zzegz6k>), plus 60 Mt of veal + 7.972 Mt of pork production not exported on a production of 10.462 Mt (<http://www.ers.usda.gov/data-products/livestock-meat-domestic-data.aspx#26056>) + 64 Mt of lamb and mutton meat not exported on a production of 71 Mt + 15.690 Mt of poultry meat not exported on a production of 19.413 Mt + 6.374 bn dozens of eggs not exported (over 6.648 produced) + 84.737 bn t of milk production not exported over 89.017 bn t produced (<http://www.ers.usda.gov/data-products/dairy-data.aspx#.UVGAqDegz6k>).

That implies to deduct 9.96% of the feed consumed by bovine cattle or 3.522 Mt, 23.80% of the feed consumed by hogs or 8.975 Mt, 9.9% of the feed consumed by sheep or 8,120 t –, 19.18% of the feed consumed by poultry or 8.032 Mt and 4.81% of the feed consumed by dairy cows or 0.711 Mt. Finally we have to deduct 20.530 Mt of cereals fed to the exported meats, eggs and dairy products – or 15.72% of total feed cereals – so that the total US feed cereals consumed by the US population in their meat and dairy products in 2011-12 was of 110.090 Mt.

Assuming that the 8.13% of total US food expenditures represented by the nutrition aid expenditures in 2011-12 holds for their share of the US consumption of meats and dairy implies that the feed cereals incorporated in those meats, eggs and dairy products amounted to 8.950 Mt. We delete the cereals used in the fish feed.

However cereals are also included in many other processed food products, particularly in beverages. If the nutrition programmes forbid to buy alcoholic drinks, about 13 Mt of corn are processed into high fructose corn syrup (HFCS), largely used in soft drinks and other food preparations. As the US poor population consumes relatively more soft drinks than the average population, we can at least allocate also 8.13% of the cereals processed into HFCS to the beneficiaries of the nutrition programmes or 1.057 Mt.

Finally adding the 4.587 Mt of wheat consumed in the cereals and bakery products, plus 1.057 Mt of corn in HFCS plus 8.950 Mt in feed cereals in meat and dairy products, the beneficiaries of US nutrition programmes consumed 14.594 Mt of cereals in 2011-12.

⁹ <http://www.ers.usda.gov/publications/agoutlook/aotables/>

¹⁰ <http://www.ers.usda.gov/data-products/wheat-data.aspx#25171>

Over the 130.620 Mt of feed cereals consumed in 2011-12 corn accounted for 115.518 Mt or 88.44% of the total feed cereals, wheat for 10.554 Mt or 8.08%, sorghum for 1.795 Mt or 1.37%, oats for 1.528 Mt or 1.17% and barley for 1.210 Mt or 0.93%. Given the average farm prices of 266.18 \$/t for wheat, 244.88 \$/t for corn, of 235.91 \$/t for sorghum, of 241.67 \$/t for oats and of 238.95 \$/t for barley, their respective values at the farm gate were of \$2.809 bn for wheat, \$28.288 bn for corn, \$423 M for sorghum, \$369 M for oats and 289 M for barley and the total feed cereals value was of \$32.178 bn. Assuming the same distribution among feed cereals in the animal products consumed by the beneficiaries of nutrition programmes, there were 7.915 Mt of corn for \$1.938 bn, 0.723 Mt of wheat for \$192.5 M, 0.123 Mt of sorghum for \$28.9 M, 0.105 Mt of oats for \$25.3 M and 0.083 Mt of barley for \$19.9 M. The total value amounted to \$2.205 bn.

Given the \$258.8 M for the farm value of the 1.057 Mt of corn in HFCS, finally the total farm gate value of the 14.594 Mt of cereals consumed in 2011-12 by the beneficiaries of the US nutrition programmes amounted to \$3.685 bn, at an average farm gate price of \$252.5 \$/t. Which implies that each of the 80 M beneficiaries of the US nutrition programmes consumed 182.4 kg of cereals in 2011-12 for \$46.1. However as the SNAP concentrates 76.9% of all nutrition programmes for 46.6 M of beneficiaries, they consume 11.223 Mt of cereals for \$2.834 bn, implying an average aid of 240.8 kg of cereals for \$60.8 per beneficiary.

1.2 – The liberty taken by the US notifying its nutrition programmes at the WTO

All the US domestic food aid has always been notified in the green box, the last notification for 2010-11 being of \$94.915 billion¹¹. Admittedly the food stamps do not imply to buy procured US food as the beneficiaries can also buy imported food in the grocery stores agreed to be paid in food stamps. But all US food programs other than SNAP, for about \$25 bn in 2012, imply public purchases of food on the market by the Commodity Procurement Division of USDA, including procured raw products from farmers, e.g. for \$1.595 bn in 2012-13, all notified in the green box, if not in formal contradiction with the WTO rules, as they are paid the market prices at least sustaining their level: “*Agricultural Marketing Service Commodity Procurement Division purchases a variety of food products in support of the National School Lunch program and other food assistance programs. These purchases also help to stabilize prices in agricultural commodity markets by balancing supply and demand*”¹²: a USDA statement that trade experts could qualify of trade-distorting.

In fiscal year 2009 the US food products procured from US farmers reached \$1.443 bn, of which \$594.3 million of fruits, vegetables and cereal products, \$386 million of poultry meat and \$463 million of other meats and fish¹³. Furthermore USDA has under-notified these procured foods in the green box: only \$948 million in 2009 (against actual \$1.443 bn) and

¹¹ G/AG/N/USA/89, 1 October 2012

¹²

<http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateQ&navID=CommodityPurchasing&leftNav=CommodityPurchasing&page=CommodityPurchasing&acct=AMSPW>

¹³ For fruits, vegetables and cereals:

2008: <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5074554>;

2009: <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5081598>

2010: <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5088443>

For poultry: <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=stelprdc5089497>;

For other meats and fish: <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5084535>

only \$740 million in 2008 (against actual \$1.056 bn). But it is clear that the bulk of the US domestic food aid comes from US agricultural products without passing through a previous public procurement.

Because the bulk of the US domestic food aid is directly bought by beneficiaries in grocery stores agreed to be paid by food stamps, what is the logic that the WTO rules demand only to India and not to the US that "*the difference between the acquisition price*" and "*the external reference price of 1986-88*" be "*accounted for in the AMS*"? Because indeed the US reference prices of cereals in 1986-88 were much lower than the US FOB prices for the last marketing year 2012-13 as shown in table 2. So that the US should notify \$3.162 bn of cereals AMS. This is ridiculous!

Table 2 – US FOB Gulf prices of cereals in 2012/13 and those notified at the WTO for 1986/88

\$/tonne	Corn	Wheat	Sorghum	Oats	Barley	Total
1986-88	78.48	106.74	70.08	123.68	95.11	
2012-13	298.43	320.50	279.11	271.03	244.04	
Gap 2012/13-1986/88	219.95	213.76	209.03	147.35	148.93	
Cereals in dom.food aid: Mt	8.972	5.310	0.123	0.105	0.083	14.593
" to notify in AMS: \$M	1,973.4	1,135.1	25.7	15.5	12.4	3,162

Therefore Ambassador Adank, the Chair of the Special session of the Agriculture Committee, was right in stating the 29 March 2013 that, for the WTO Members having responded to the questionnaire he distributed on 20 December 2012 on the G-33 proposal, "*The main limitation stems from the AMS calculation methodology, (which) in their view, does not adequately reflect the economic value of subsidies... It was also questioned whether the existing rules would allow for reaching current objectives by among others optimising the use of AMS through better targeting*"¹⁴. What is more interesting is that "*And finally, the last, but by no means the least, question raised was about the systemic impact of loosening the Agreement on Agriculture disciplines in general and the Green Box disciplines in particular, the Chair said*". Indeed ! We come back to this below.

1.3 – Comparing the US and Indian domestic food aids in cereals¹⁵

475 million poor Indians – of whom 325 M or 65 M families of around 5 persons under the poverty line plus at least 150 million above the poverty line – received in 2012-13 41.5 Mt of cereals (87.3 kg per person) for a total purchase cost at the farm level of \$12.382 billion, of which 17.5 Mt of wheat (36.8 kg per person) for \$4.347 billion paid to farmers at the minimum support price (MSP) of \$248.4 per tonne, and 24 Mt of rice (50.5 kg per person) for \$8.035 billion, paid to farmers at the MSP of \$334.8 per tonne¹⁶. Which implies a farm value of the cereals food aid per beneficiary of \$26 of which \$16.9 for rice and \$9.1 for wheat. But the food subsidy in 2012-13 – total economic costs of acquisition and distribution minus the

¹⁴ Kanaga Raja, South-North Development Monitor SUNS, #7558, Third World network, Thursday 4 April 2013.

¹⁵ The preceding versions of this section were wrong when they wrote: "*Indian total subsidies of \$12.9 bn in 2009-10 for the sale at subsidized prices of 27.7 Mt of cereals, of which 18.1 Mt of rice and 9.6 Mt of wheat*". Not so because they were related to 2009-10 instead of 2012-13 but mainly because they cover only the offtake of rice and wheat allocated to the BPL (below poverty line) and AAY (Antyodaya AnnaYohana) beneficiaries and forgot the APL (above poverty line) and other welfare schemes.

¹⁶ J. Berthelot, *Indian food security stocks of rice and wheat do not distort trade*, Solidarité, November 19, 2013, <http://www.solidarite.asso.fr/Papers-2013>

same quantity times the highly subsidized price to the beneficiaries (the consumers' issue prices, CIPs) – represented a total of \$12.723 billion or \$26.8 per beneficiary¹⁷.

This is to be compared with the \$100 billion in US total domestic food aid, net of administration costs, in 2012 or \$1,250 per person, of which \$1,608 for the beneficiaries of food stamps. Restricting the comparison to the subsidies on cereals, the 14.6 Mt of cereals included in the US food aid for a total farm value of \$3.685 billion, each of the 80 M beneficiaries of the US food aid consumed 182 kg of cereals for a farm value of \$46.1, of which 235 kg for \$59.4 by each beneficiary of food stamps.

Conclusion: the Indian food aid subsidy of \$26.8 per person represents only 2.1% of the total US food aid of \$1,250 per person or only 1.7% of the \$1,608 per beneficiary of food stamps. Restricting the comparison to the sole farm value of cereals in food aid, the subsidy per Indian beneficiary represents 58% of that per US beneficiary and 45% of that for the beneficiary of food stamps.

With lower CIPs and the extension of food aid to 62.5% of the population or 820 million of Indians decided by the new National Food Security Bill, the food subsidy would likely exceed \$20 billion¹⁸. To what extent this would contradict the WTO rules and requires the G-33 proposal to be agreed at the MC9? The paper "Indian food security stocks of rice and wheat do not distort trade"¹⁹ responds negatively and analyse the on-going debate inside and outside India about the necessity to improve the performance of the Public Distribution System (PDS)²⁰.

II – The present provision that "the difference between the acquisition price and the external reference price is accounted for in the AMS" is highly questionable

According to the AoA Annex 3 paragraph 9, "The fixed external reference price shall be based on the years 1986 to 1988 and shall generally be the average f.o.b. unit value for the basic agricultural product concerned in a net exporting country and the average c.i.f. unit value for the basic agricultural product concerned in a net importing country in the base period ". Let us continue with the case of Indian wheat for which India was a net importer in the 1986-88 period even if it was a net exporter in 1987, as shown in the table 3.

Table 3 – Indian wheat trade and border prices in 1986-1988 and 2007-10

Tonnes and \$1000	1986	1987	1988	Average	2007	2008	2009	2010	Average
Import quantity	148150	21465	1792400	654005	2678908	1280	166005	187695	758472
Import value in \$,000	41128	6926	298828	11563	961985	893	48856	56725	267115
CIF price in \$/t	277.6	322.7	166.7	255.7	359	698	294	302	352
Export quantity	137879	253662	15800	135780	44668	14796	49394	49322	39545
Export value	16808	27247	2063	1537	12537	4062	15435	17053	12272
FOB price	121.90	107.41	130.57	119.96	281	275	312	346	310
Balance in tonnes	-18103	258470	-1776603	-512079	-2634240	13516	-116611	-138373	-718927
Balance in \$1000	-25923	21498	-296765	-100397	-949448	3169	-33421	-39672	-254843

Source: FAOSTAT and India's Supporting tables on agricultural commitments (G/AG/AGST/IND)

¹⁷ Ministry of Consumer Affairs, Food and Public Distribution, Government of India, *Annual Report 2012-13*, <http://fcamin.nic.in/Annual%20Report/Annual%20Report%202012-13%20.pdf>;

<http://dfpd.nic.in/fcamin/bulletion/Sep2013.pdf>

¹⁸

http://gain.fas.usda.gov/Recent%20GAIN%20Publications/Grain%20and%20Feed%20Annual_New%20Delhi_India_2-15-2013.pdf

¹⁹ <http://www.solidarite.asso.fr/Papers-2013>

²⁰ http://www.foreignpolicy.com/articles/2013/01/08/can_india_defeat_poverty?wp_login_redirect=0

Therefore it is the CIF price of \$255.7/t which was its reference price. The large gap between the CIF and FOB prices from 1986 to 1988 might be due to imports of high quality wheat and exports of low quality wheat. The table shows also that India has also been a net importer of wheat from 2007 to 2010 but it does not show that, on average over the 25 years 1986 to 2010, India was a net exporter in quantity (131 629 t) although a net importer in value (\$48.054 million). Furthermore the wheat trade balance has shown a growing surplus recently from 1.2 Mt in 2010-11 to 8.2 Mt in 2011-12 and 8 Mt expected in 2012-13.

If the AoA rule would not be changed so that the gap between the minimum support price (MSP, procurement price) and the reference price times the procured quantity should be counted in the AMS, this would imply an additional wheat specific AMS rising from \$264 M in 2007-08 to \$1.755 billion in 2012-13.

We must be aware that the Indian procured price of wheat in recent years was significantly higher than the world price and particularly than the US farm price, so that the gap with the 1986-88 reference price is significant despite it was much lower than for the US.

However there is a large gap between the procured quantity and that which reaches eventually the poor consumers, for many reasons, of which the quantity released to traders on the domestic market, the quantity exported through public agencies but also that which is spoiled. Thus, out of the procured 38,1 Mt of wheat in 2012 the offtake from stocks was of 23.1 Mt of which only 17.5 Mt were released for food aid through the PDS (Public Distribution System)²¹. Now the footnote 5 to the AoA annex II paragraph 3 states explicitly that "*the difference between the acquisition price and the external reference price accounted for in the AMS*" relates to "*programmes under which stocks of foodstuffs for food security purposes are acquired and released at administered prices*" and not to all the procured volume at administered prices.

As the product-specific *de minimis* AMS is 10% of the wheat production value, table 4 shows that the present rule would have permitted to maintain the additional wheat AMS below the *de minimis* level from 2007-08 to 2010-11 but likely not in 2011-12 and 2012-13.

Table 4 – The Indian wheat production and procurement and possible additional wheat AMS

	2007	2008	2009	2010	2011	2012
Wheat production in Mt	75,8	78,6	80,7	80,8	86,9	93,9
Wheat production in \$M	18367	19505	19954	20478		
Procured production in Mt	11,1	22,7	25,4	22,5	28,3	38,1
Offtake for food aid in MT	9	13,6	15,2	16,2	17,4	17,5
Minimum support price (MSP) in \$/t	285	316	293	326	339	356
1986-88 reference price	255,7	255,7	255,7	255,7	255,7	255,7
Gap procured-reference prices of 1986-88	29,3	60,3	37,3	70,3	83,3	100,3
Additional wheat AMS based on procured production in \$M	264	820	567	1339	1449	1755
Wheat <i>de minimis</i> AMS in \$M	1837	1950	1995	2048		
Actual CIF price (from table 1)	359	698	294	302	352	
Gap MSP - actual CIF price	-74	-382	-1	24	-13	

Now the AoA Article 18.4 provides that "*Members shall give due consideration to the influence of excessive rates of inflation on the ability of any Member to abide by its domestic support commitments*". From 1986-88 to 2012 the inflation rate was of 8.03% in India. But, as A. Hoda & A. Gulati "*do not see any reason for making less than full adjustment for the rates of inflation*" (ICTSD September 2013), the 1986-89 Indian CIF price of Rs 3,548 (\$264.6) would rise to Rs 22,6 49 which, converted at the 2012 average exchange rate of Rs. 55.9/\$1,

²¹ See the annual reports of the Department of food and public distribution: <http://dfpd.nic.in/?q=node/666>

would be of \$405.1, much higher than the minimum support price (MSP) of wheat of Rs. 12,850 (\$230) procured in 2012-13 so that the AMS was negative. At most, assuming that excessive inflation rates are those exceeding the high income OECD countries' rate of 2.75%, the Indian excess inflation rate would be of 5.28% and the 1986-89 Indian notified CIF price of Rs 3,548 (\$264.6) would be worth Rs 12,198 or \$218.2 at the 2012 exchange rate of Rs. 55.9/\$1. This would imply a wheat AMS of \$11.8/t. However, given that, only 17.5 Mt out of the procured 23.1 Mt were released for food aid through the PDS (Public Distribution System), the 2012 wheat AMS was at most of \$206.5 M.

However we will show that using the reference price of the 1986-88 is totally absurd and has been denounced even by prominent free-trade economists so that the reference price which should be used is the actual CIF price of the same year, as OECD is doing to calculate the market price support. In that case we see that, from 2007 to 2011, the MSPs were much lower than the CIF prices, except in 2010, so that India should not worry.

Before explaining this absurdity, let us discuss the issue of the eligible production.

III – The issue of the "eligible production" benefitting from the administered price

This issue was raised by the DTB Associates report of September 2011 on "Domestic Support and WTO Obligations in Key Developing Countries"²², a paper I have commented the 7 January 2012²³. The paragraph 10 of the AoA Annex 3 states that "*non-exempt direct payments which are dependent on a price gap shall be calculated either using the gap between the fixed reference price and the applied administered price multiplied by the quantity of production eligible to receive the administered price, or using budgetary outlays*".

DTB argued that "*Many countries, including the U.S. and the EU, use total production in the equation, since the system supports the price of all production*", which is not true, as we can see for dairy products: the EU uses only the production of butter and non-fat dried milk (NFDM) as its administered ('intervention') prices are on butter and NFDM. And the US, which had notified the market price support (MPS) for its whole milk production up to 2007, has changed the MPS of milk in the 2008 Farm Bill and has thus notified only the support for the production of butter, NFDM and Cheddar cheese from 2008 to 2010.

This new way to notify the dairy MPS has been hailed by all US official institutions as by most researchers as it has allowed to reduce the notified milk AMS from \$5.011 billion in 2007 to \$2.925 billion in 2008, \$2.827 billion in 2009 and \$2.846 billion in 2010²⁴. However, despite the unanimity of US experts, this calculus does not comply with the AoA rules: if you change the rule to compute the dairy AMS as being the sum of the MPS for butter, cheddar cheese and nonfat dry milk (NFDM), you have to apply the same calculus for the base period 1986-88. Indeed Article 1 of the AoA states that "*Support provided during any year of the implementation period and thereafter*" must be "*calculated in accordance with the provisions of Annex 3 of this Agreement and taking into account the constituent data and methodology*

²² <http://www.dtbassociates.com/sitebuildercontent/sitebuilderfiles/domesticsupportstudy.pdf>

²³ <http://www.solidarite.asso.fr/IMG/pdf/Solidarites-on-DTB-emerging-countries-domesticsupport-07-01-2012.pdf>

²⁴ Randy Schnepf and Charles Hanrahan, *WTO Doha Round: Implications for U.S. Agriculture*, Congressional Research Service, July 24, 2008; David Blandford, David Laborde and Will Martin (<http://ictsd.net/downloads/2008/07/124.pdf>); FAPRI (http://www.fapri.missouri.edu/outreach/publications/2008/FAPRI_MU_Report_08_08.pdf); Christopher Wolf (<https://www.msu.edu/~mdr/vol113no3/wolf.html>).

used in the tables of supporting material incorporated by reference in Part IV of the Member's Schedule" (see the reference in the next comments). Precisely Annex 3 of the AoA states: "5. The AMS calculated as outlined below for the base period shall constitute the base level for the implementation of the reduction commitment on domestic support". Therefore, as the US has changed the methodology to compute its dairy AMS from 2008 on, it cannot use a dairy MPS calculated on the basis of another methodology. The more so as the US commitments stated that "Eligible production is total production". Therefore, given the levels of support prices and production in the base period 1986-88, the total dairy AMS for the sum of butter, NFDM and Cheddar cheese was \$2.314 billion instead of the notified \$5.409 billion for 1986-88. Consequently the US total applied AMS for 1986-88 was not \$23.879 billion but \$20.784 billion and the final bound total AMS (FBTAMS) in 2000 was not \$19.103 billion (80% of 23.879) but only \$16.627 billion (80% of 20.784). And the US allowed FBTAMS at the end of the Doha Round implementation period, once cut by 60%, will bring it from \$7.641 billion to \$6.651 billion.

But DTB claims also that the WTO panel report in the Korea beef case stated that eligible production should be the whole agricultural production, not the government procured production. However the Appellate Body stated: "In establishing its program for future market price support, a government is able to define and to limit "eligible" production... In the present case, Korea, in effect, declared the quantity of "eligible production" when it announced in January, 1997, that it would purchase 500 head per day of Hanwoo cattle above 500 kg within the 27 January to 31 December 1997 period, which would be 170,000 head of cattle for the 1997 calendar year. That figure, under paragraph 8 of Annex 3, accordingly constitutes the quantity of "eligible production"²⁵. Now, according to an Australian report of 2004, the number of Hanwoo cattle heads slaughtered was of 887,400 in 1997 and 1023,200 in 1998 and the average weight of the slaughtered cattle was 551 kg in 1997 and 559 kg in 1998²⁶. Which implies that the eligible production for 1997 represented only 19.2% of the actual production, so that the argument that eligible production should be total production does not hold.

In an analysis of India's agricultural support, Munisamy Gopinath confirms: "With regard to product-specific AMS, the 1997 methodology for market price support appears to be a direct product of the price difference (administered minus external reference price) and procured quantities taken as the eligible production... This is consistent with the WTO rules which are ambiguous about what constitutes the eligible volume... Other developing countries, including Brazil, China and the Philippines, also report procured quantities as eligible production"²⁷.

FAO confirms also that "There is insufficient clarity in the agreement whether the quantity eligible to receive the administered price is total production, or only the marketed surplus which is actually sold in the market, or the quantity which is actually procured by the government through the price support mechanisms. Some member countries such as Pakistan have used quantity procured, whereas other countries have used total production. The logic

²⁵ Korea – Measures affecting imports of fresh, chilled and frozen beef, Report of the Appellate Body, WT/DS169/AB/R, 11 December 2000, http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds161_e.htm.

²⁶ Jeong, M-K., Sheales, T., Gleeson, T. and McDonald, D., *Korean and Australian Beef: Markets and Prospects for Trade*, ABARE eReport 04.22.2004, http://adl.brs.gov.au/data/warehouse/pe_abarebrs99001130/PC12872.pdf

²⁷ Munisamy Gopinath, *India*, pp. 277-309 in David Orden, David Blandford and Tim Josling, *WTO disciplines on agricultural support*, Cambridge University Press, 2011.

*of using total production in these computations is that the government-designated agency is bound to buy whatever is brought to the market at the pre-announced support price. However, there is a limit on this because the quantity brought to the market will not be more than the marketable surplus given that self-consumption accounts for a very large share of the output of basic foodstuffs in a country like India*²⁸. In another report explaining the AoA rules, FAO takes an explicit position: “*Market price support for a product = (administered price at the farm gate - fixed external reference price) x eligible production, where: fixed external reference price = c.i.f. unit value for 1986-88
eligible production = quantity of production receiving the administered price.*”²⁹

Besides we cannot count in the eligible production the wheat self-consumed by farmers: “*For self-consumption purposes, the farmers retain around 48% of their production and hence it is not entered into the total production figures of the country*”³⁰. And the level of wheat procured in 2009-10 was 25.380 million tonnes or 31.4% of production³¹. A report for the Planning Commission of India written in 2007 by Jyoti Parikh and Chandrashekhar Singh found that “*Procurement of food grains at MSP is carried out by Food Corporation of India (FCI). FCI operates however, in only selected states and selected districts which had surplus of food grains initially. In the current situation several other states which have had deficit have started getting surplus. Farmers in these states are deprived of the benefit of MSP. Market prices in some mandies fall below MSP. Thus, there is a need to extend effective procurement operations in other states to ensure MSP to farmers*”³².

The fact that the EU and US have declared in their Supporting tables on their agricultural support commitments that their eligible production was total production – except for dairy products as seen above for the EU and from 2008 for the US – should not impose to other WTO Members a questionable interpretation of the AoA provisions.

Beyond the interpretation of what should be the eligible production a more important issue is to underline the absurd rule of comparing the present administered price with the fixed reference price of 1986-88 instead of comparing it with the present reference price.

IV – Comparing the administered prices with the fixed reference prices of 1986-88 is absurd and totally unfair

4.1 – This comparison is absurd in a pure economic logic

This rule is meaningless, first because it would be impossible to maintain a current intervention price supporting the domestic market price unless there are at the same time other most powerful mechanisms maintaining a high level of domestic price, beginning by a high import protection or/and large export subsidies. They are indeed the very high tariffs on US dairy products, together with some export subsidies, which explain why the US administered price for milk has always be lower than the domestic market price. In the EU also, beyond deterrent dairy tariffs, huge export subsidies and production quotas since 1984 have played a major role to keep the domestic prices of milk above the milk-equivalent intervention prices of butter and SMP, at least until 2004 when their reduction decided by

²⁸ <http://www.fao.org/DOCREP/005/Y4632E/y4632e0j.htm>

²⁹ N. Hag Elamin, *Domestic support measures*, <http://www.fao.org/docrep/003/x7353e/x7353e01.htm>

³⁰ <http://www.crnindia.com/commodity/wheat.html>

³¹ <http://pib.nic.in/newsite/erelease.aspx?relid=56467>

³² http://planningcommission.nic.in/reports/sereport/ser/ser_msp.pdf

the CAP reform of 1999 was compensated by a dairy premium, then transferred to the SPS (single payment scheme) in 2007.

In India, although the applied MFN tariff of 50% on wheat was reduced to 5% in June 2006 and to zero since September 2006 (and to zero for wheat flour in December 2006)³³, constraining phytosanitary rules have barred most imports – at least those from the US – whereas the ban on exports from February 2007 to August 2011 has also largely isolated the domestic prices from the world prices. In any case table 2 shows that the CIF price remained largely above the MSP from 2007 to 2011, except in 2010.

More generally, as world agricultural prices are dumping prices for most products, at least for those exported by the EU and US, to consider the gap between domestic and world prices as a support to agriculture, and what is more, as a 'public transfer' to producers, is quite bold. Economists consider generally that public transfers are subsidies but OECD assimilates this gap between domestic and world prices – in other words import protection – as a 'subsidy of consumers to producers', the first ones enduring a 'negative consumers' surplus' since they are deprived of their 'entitlement' to pay their food at world prices ! From this to say that it is a 'public transfer', we can't make head nor tail of it. The more so as those 'consumers' to whom the farmers are selling their products are not households but, as OECD recognizes it, they are 'the first *consumers* measured at the farm gate', i.e. traders and agri-food industries. As world prices, particularly of cereals, are highly dumped prices – particularly in the 1986-88 period as we will see –, import protection is highly justified.

The largest part of the reduction of the applied total AMS of the EU, US and Japan since 1995 is due to the elimination or reduction of their product-specific AMSs linked to administered prices. These fake market price supports (MPS) won't have had any impact on their domestic prices without having coexisted with other more determinant measures: import protection, export subsidies, production quotas, set aside, external and domestic food aid. Reducing this fake MPS AMSs has been the main means, particularly for the EU and Japan, to reduce their total AMS without any reduction in their actual subsidies, or rather having allowed to increase them.

How many WTO Members know that, in the 1995-00 base period for the Uruguay Round commitments, the EU subsidy component of its average annual AMS has represented only €5.576 billion or 11.5% of the €48.425 billion notified? And that the US proportion of the market price support (according to the AoA methodology) in its notified AMS had been of 56.9% on the same period?

The inconsistency of this fake MPS has been stressed by the World Bank, FAO and several academics. William R. Cline stated in the USDA 2007 Agriculture Outlook Forum: "*The bound AMS contained about \$6 billion of pure fiction, a remarkable concept called 'Market Price Support' (MPS). This accounting concept equals the difference between the domestic administered price and the 1986-88 world price. Yes, 1986-88, not today – already a clue that this concept is a fiction. There is no actual taxpayer money paid out for the MPS, it is pure accounting. Japan suddenly cut its reported AMS subsidies by billions of dollars in the late 1990s by eliminating its administered prices, with no change in agricultural protection whatsoever. So the first thing that should be done in Geneva is to redefine the Amber Box*

³³ <http://www.fao.org/docrep/016/an034e/an034e00.pdf>

AMS to exclude the Market Price Support as part of the calculated bound level. Getting rid of the phony subsidy will make it easier to get rid of phony subsidy cuts"³⁴.

For H. de Gorter and J. D. Cook: "Another source of water in domestic support ceilings is the peculiar manner in which the AMS is calculated. In addition to trade-distorting, taxpayer-funded domestic subsidies, the AMS includes "market price support," defined as eligible production multiplied by the difference between the administered price and a fixed world reference price. The product of that operation does not depict "domestic support" per se. Instead, it is a faulty measure of support provided at the border through tariffs, import quotas or export subsidies since an administered price cannot be sustained without supporting border measures. Reducing or even eliminating an official support price without altering border protection need not have any market impact. Japan is a case in point. There the official support price for rice was eliminated in 1997, and Japan's total AMS, as notified to the WTO, dropped by \$20 billion. However, because the country made no changes in import controls, effective support remained the same. So a substantial portion of the water in Japan's total AMS of approximately \$34 billion (table 2) can be attributed to an adjustment made to an administered price in order to "achieve" reduction commitments without actually reducing support. As discussed below, the redundancy of this "price-gap" component of the AMS must be recognized when assessing the impact of any given cuts"³⁵.

For FAO, "AMS should be defined as only that support that is financed by the taxpayer, in other words, the budgetary expenditure on support. Consumer financed payments should be omitted from the calculation to avoid double counting with border support"³⁶.

The suppression the 1st July 2002 of the EU intervention price of beef has allowed to cut its total AMS by €11.9 billion from one day to the other, without any impact on the market price which has increased in the following years because of a high import protection. In the EU, the sugar AMS linked to its intervention price amounted to €5.9 billion in 2000-01 and comparable amounts the preceding years, although public purchases at the intervention price have only occurred once in 25 years, because high domestic prices have been maintained through a high import protection and production quotas. The AMS linked to the intervention prices of butter and skimmed milk powder amounted to €5.951 billion in 2000-01, but the EU expenses on dairy have only reached €1.907 billion. Conversely the absence of administered prices, then of AMS, for poultry and eggs in Canada did not prevent their high prices due to a high import protection and an efficient supply management.

Therefore notifying these fake MPS has only blurred the negotiations and misled WTO Members. The more surprising is that these AMS supports continue to be presented as the most trade-distorting ones. What they are clearly distorting is the understanding of the WTO Members. Therefore the AMSs linked to administered prices should be eliminated since they have allowed developed countries to look like reducing much their coupled supports when they have increased instead their so-called decoupled subsidies.

³⁴ William R. Cline, *The Doha Round, Agriculture, and the Developing Countries*, USDA, 2007 Agriculture Outlook Forum, USDA 01-02/03/07

³⁵ Harry de Gorter et J. Daniel Cook, *Domestic Support in Agriculture: The Struggle for Meaningful Disciplines*, 2005, http://siteresources.worldbank.org/INTRANETTRADE/Resources/239054-1126812419270/7.DomesticSupport_updated_on12Dec05.pdf

³⁶ FAO, *Domestic support: trade related issues and the empirical evidence*, FAO Trade policy technical notes n°5, 2005.

Professor Tim Josling, of Stanford University, is one of the most distinguished experts in the field of agricultural trade. He is the "father" of the OECD indicators of agricultural trade, devised in the early 1980's, among which the PSE (producer support estimate). Tim Josling was one of the 4 panelists of the seminar on "Options for Pursuing Agricultural Trade Liberalization" organized by the International Food and Agricultural Trade Policy Council the 1st December 2009 in Geneva during the WTO Ministerial Conference. Reacting to a question asked from the floor, Professor Josling has confirmed that the market price support component of the AMS is meaningless and should be eliminated altogether from the calculation of the AMS³⁷.

Yet, in the Doha Round negotiations, the EU and US offers to cut their allowed AMS by respectively 70% and 60% at the end of the Doha Round implementation period – in relation to the level authorized during the Uruguay Round implementation period 1995-2000, which is the base period for reduction commitments – rests mainly on the elimination of their remaining market price supports. This was the main stake in the EU CAP "health check" of 2008. But the level of the EU actual subsidies has not diminished: instead the EU has, year after year, transferred most of its amber and blue box subsidies in the alleged "fully decoupled" green box Single Farm Payment (or Single Payment System). This one of the reason why, according to the Third World Network, in the Special Agricultural Committee meeting of last week, "*One Member (the EU) said that it is "unable to support the G-33 proposal as it stands"*".

4.2 – The US and EU grains AMS in 1986-88 and 2010-12

4.2.1 – The US grains AMS in 1986-88 and 2010-12

In its Supporting Tables Relating to its Commitments on agriculture in Part IV of its Schedule the US made a confusion of the WTO Agreement on Agriculture (AoA) rules about the notification of product-specific AMS for cereals, which led us in a first step to be mistaken on the legality of these notifications.

First we thought that the US made a mistake in notifying zero market price support (MPS) for cereals but only deficiency payments when it stated: "*The administered price is the current target price. The external reference price is the 1986-88 average of the higher of a commodity loan rate or market price*"³⁸. Clearly the commodity loan rate and the market price are US domestic prices and cannot be viewed as external reference prices. Let us repeat the provisions of Annex 3 paragraphs 8 and 9 on the calculation of the AMS based on administered prices which speak of an external reference price only in the case of a market price support: "*Market price support: market price support shall be calculated using the gap between a fixed external reference price and the applied administered price [not underlined in the AoA] multiplied by the quantity of production eligible to receive the applied administered price. Budgetary payments made to maintain this gap, such as buying-in or storage costs, shall not be included in the AMS*" (paragraph 8) and "*The fixed external reference price shall be based on the years 1986 to 1988 and shall generally be the average f.o.b. unit value for the basic agricultural product concerned in a net exporting country and the average c.i.f. unit value for the basic agricultural product concerned in a net importing country in the base period*" (paragraph 9).

³⁷ Solidarité, Professor Tim Josling acknowledges implicitly that the EU and US offers to cut their agricultural trade distorting subsidies in the Doha Round is impossible, Press release, Geneva, December 2, 2009.

³⁸ WTO G/AG/AGST/USA, http://www.wto.org/english/tratop_e/agric_e/schedule_e/usa.pdf

The idea that the US erred in stating that there was no MPS in 1986-88 was reinforced by the large build-up of public stocks of cereals in that period due to non-recourse loans: farmers who took the loans could place their crop as collateral in a government-approved storage facility and could forfeit the collateral and keep the loan proceeds.

However we realize afterwards that the US mistake in speaking of "an external reference price" did not justify to conclude that it erred in not notifying MPS for cereals in that period, apart from the notification of deficiency payments. The US Schedule of commitments stated also, for each cereal AMS: *"The basic deficiency payment rate is defined in the GATT analysis as the difference between the target price and the 1986-88 average reference price. By law, in general, the payment rate is the target price minus the maximum of the market price or the loan rate, so these latter prices are the reference prices"*. This statement, which no longer alludes to an "external" reference price, is in line with the Annex III paragraphs 10 and 11: *"10. Non-exempt direct payments: non-exempt direct payments which are dependent on a price gap shall be calculated either using the gap between the fixed reference price and the applied administered price multiplied by the quantity of production eligible to receive the administered price, or using budgetary outlays. 11. The fixed reference price shall be based on the years 1986 to 1988 and shall generally be the actual price used for determining payment rates"*.

Finally table 5 shows that the average total AMS of most grains was notified at \$10.149 billion in the US Schedule of commitments for the 1986-88 period, of which only \$347 as MPS (for peanuts).

Table 5 – The US notified total specific AMS of most grains in the 1986-88 base period

\$ million	1986	1987	1988	Average
Corn	4960,1	4828,8	4420,6	4736,5
Wheat	2705,7	2815,4	2331,5	2617,5
Cotton fiber	1119,6	1186,3	1063,6	1123,2
Sorghum	489,7	472	415,7	459,2
Barley	219,5	253,8	193,2	222,2
Oats	17	18,7	14,7	16,8
Rice	520,1	531,2	539,8	530,4
Soybeans	248,4	34,8	4,7	96
Peanuts (MPS)	333,6	346,1	362	347,2
Total	10613,7	10487,1	9345,8	10149

Even if the US did not notify any grain MPS for 1986-88 – except for peanuts –, it managed nevertheless to reduce its total notified AMS of \$23.879 billion for 1986-88 to \$6.214 billion already for 1995-96, mainly through the elimination of the deficiency payments linked to the cereals loan rates, which declined after 1987 in a context of rising domestic prices, and which were notified for 1995-96 at \$7.030 billion in the blue box as these marketing loans benefits were made on 85% at most of the base level of production, conform to the AoA Article 6.5 provision on *"direct payments under production-limiting programmes"*. Then the 1996 Farm Bill eliminated the US blue box payments immediately since it suppressed the limits on the production level to receive marketing loans benefits and replaced the blue box by \$5.187 billion notified in the green box in 1996 as allegedly fully decoupled "flexibility contract payments", the ancestor of the fixed direct payments introduced by the 2002 Farm Bill. However the low prices registered from 1998 to 2001 obliged to introduce ad hoc "market loss payments" for an average of \$4.596 billion in that period, the total AMS rising to \$16.862 billion in 1999, and these market loss payments were converted in formal counter-cyclical payments in the 2002 Farm Bill. Then the notified total AMS declined to \$6.950 billion in

2003, rose to \$12.938 billion in 2005 and then collapsed progressively to \$4.119 billion in 2010 (last notified year) given the progressive elimination of marketing loan benefits and of the counter-cyclical payments due to the rising prices of grains.

However Chad Hart of Iowa State University stated, in a Testimony before the House Committee on Agriculture on 26 April 2006, that "*The WTO ruling in the cotton dispute indicated that crop insurance support is "support to a specific commodity." This ruling... opens up the possibility that other countries could challenge our past reporting of crop insurance*"³⁹. Indeed insurance premium subsidies amounted to \$5.759 billion on average for the main grains – corn, wheat, barley, sorghum, rice, soybeans and upland cotton – in the last three years 2010 (last notified year) to 2012 as shown in table 6 (the detailed calculations are in Annex 1).

Table 6 – Insurance premium subsidies for the main grains from 2010 to 2012

\$ million	2010	2011	2012	Average
Corn	1748,6	2915,6	2680,8	2448,3
Wheat	685,4	1120,9	1109,8	972
Barley	20,4	40,9	51,8	37,7
Sorghum	83,4	130,5	136,2	116,7
Rice	50,1	44,7	38,6	44,5
Soybeans	1068,7	1607,4	1469,5	1381,9
Upland cotton	909,1	811,8	552,5	757,8
Total	4565,7	6671,8	6039,2	5758,9

However, beyond premium subsidies, the whole crop insurance subsidies include other subsidy components which are: the reimbursements to the insurance companies of their delivery costs and part of their losses plus the administrative costs of the programme.

Table 7 – Total insurance subsidies for the main grains from 2010 to 2012

\$ million	2010	2011	2012	Average
Corn	2815,2	3511,3	3271,9	3199,5
Wheat	1103,5	1349,9	1354,5	1269,3
Barley	32,8	49,3	63,2	48,4
Sorghum	134,3	157,2	166,2	152,6
Rice	80,7	53,8	47,1	60,5
Soybeans	1720,6	1935,8	1793,5	1816,6
Upland cotton	1463,7	977,7	674,3	1038,6
Total	7350,8	8034,8	7370,8	7585,5

On average this would add 61% to the premium subsidies for 2010, 20.4% for 2011 and 22.1% for 2012⁴⁰ so that the table 6 becomes table 7.

Now we can go further than Chad Hart, as the WTO Appellate Body in the US cotton case of 3 March 2005 did also rule that the US fixed direct payments were specific subsidies not in the green box, as farmers receiving them are not allowed to grow fruits, vegetables and wild rice, an interdiction not removed by the Congress in the 2008 Farm Bill despite USDA's repeated pressures. Indeed the USDA's 2007 Farm Bill proposals of 31 January 2007 stated: "*To ensure that direct payments will be considered to be non-trade distorting green box assistance, the Administration proposes that the provision of the 2002 farm bill that limits planting flexibility on base acres to exclude fruits, vegetables, and wild rice, should be*

³⁹ <http://www.card.iastate.edu/presentations/harthousetestimony.pdf>

⁴⁰ <http://www.rma.usda.gov/aboutrma/budget/cycost2003-12.pdf>

eliminated... For the purposes of World Trade Organization obligations, updating bases and yields for direct payments would connect them more closely to current production and could jeopardize their “green box” status, causing these payments to be categorized as trade distorting “amber box” assistance... To avoid jeopardizing the status of direct payments as non-trade distorting “green box” support, direct payment base acres and yields should not be updated”⁴¹. David Blandford and David Orden confirmed: “The cotton case ruling cast doubt on whether the fixed direct payments, which are currently notified as green-box decoupled income support, qualify for that category. If direct payments had been notified in the amber box, the United States would have violated its total AMS commitment in a number of years. Table 10 shows that if direct payments were notified as non-product specific support (following the approach used by the United States for countercyclical payments) the total AMS binding would have been exceeded in 4 of the 11 years for which notifications have been provided to the WTO”⁴². Another reason to put in the amber box the fixed direct payments is that a large part of them has been granted to grains used as feed and feedstocks for ethanol, which are both input subsidies that the AoA Article 6.2 puts in the amber box for developed countries' farmers. IDEAS added: “The US has used the excuse that the panel did not specifically reclassify US direct payments as ‘amber box,’ nor did the panel recommend that the United States should notify such future payments as amber box. The reality is that this follows naturally under a simple textual reading of the Agreement on Agriculture and it was unnecessary for the panel to have to say anything to this effect. It would simply have been to ‘state the obvious’ which we know the WTO dispute settlement organs avoid as a rule in deference to exercising judicial economy”⁴³. So that the fixed direct payments are clearly in the product-specific AMS, as they have to be notified somewhere and as they do not comply with the blue box criteria which concern direct payments under production-limiting programmes. Even if the Government Accountability Office showed that “Cumulatively, USDA paid \$10.6 billion—almost one-fourth of total direct payments made from 2003 through 2011—to producers who did not, in a given year, grow the crop associated with their qualifying acres, which they are allowed to do”⁴⁴, it also added that “economic distortions can result from these payments”.

Table 8 presents the fixed direct payments for the same grains from 2010 to 2012, which have reached an average of €3.461 billion so that the product-specific AMS for grains reached an average of \$11.667 billion from 2010 to 2012. Clearly we would have calculated the direct payments for each grain for previous years but we have focused here on the last three years as an example. Let us explain the methodology to get these results, with the example of corn (table 9).

Table 8 – US fixed direct payments for the main grains from 2010 to 2012

\$ million	2010	2011	2012	Average
Corn	903,5	754,7	899,4	852,5
Wheat	1196,2	1024,7	1191,3	1137,4
Barley	91,1	76,2	90,9	86,1
Sorghum	201,5	184,9	201,8	196
Rice	297	293	292,6	294,2
Soybeans	554,2	463,2	549,8	522,4
Upland cotton	377,6	372,7	366,2	372,2
Total	3621,1	3169,4	3592	3460,8

⁴¹ http://www.usda.gov/wps/portal/!ut/p/_s.7_0_A/7_0_1UH?contentidonly=true&contentid=2007/01/0019.xml

⁴² David Blandford and David Orden, *United States: Shadow WTO Agricultural Domestic Support Notifications*, IFPRI, November 2008, <http://www.ifpri.org/pubs/dp/ifpridp00821.asp>

⁴³ IDEAS, *US WTO Agricultural Subsidy Notification*, Cotton update, 15 October 2007, Newsletter n°70, www.ideascentre.ch/.../Newsletter70USnotifications.pdf

⁴⁴ www.gao.gov/products/GAO-12-640

Table 9 – The fixed direct payments for corn from 2010 to 2012

	2010	2011	2012	Average
Base acres (in 1000 ha)	34365	28705	33476	32182
Payment acres (in 1000 ha)	28626	23911	28454	26997
Payment yield (t/ha)	2,863	2,863	2,863	2,863
Payment rate (\$/t)	11,024	11,024	11,024	11,029
Direct payment (\$M)	903,5	754,7	899,4	852,5

According to USDA and the 2008 Farm Bill, a direct payment (DP) is equal to the product of the payment rate for the specific crop, the historical payment acres (85% of base acres in civil years 2008 and 2012 and 83.3% in civil year 2009-11), and the historical payment yield for the farm. The payment for corn base is as follows: $DP = (\text{Payment rate}) \times (\text{Payment yield}) \times (\text{Payment acres})$, where $(\text{Payment acres}) = (\text{Base acres}) \times (85\% \text{ in CY 2008 and CY 2012 and } 83.3\% \text{ in CY 2009-11})$. We have converted all the figures in the metric system and we found the national base acres for each crop for 2010 to 2012 at <http://www.fsa.usda.gov/FSA/webapp?area=home&subject=dccp&topic=09cy>.

Now we add the table 10 of insurance subsidies and direct payments and compare them to the product-specific *de minimis* AMS which is 5% of the production value.

Table 10 – US insurance subsidies + direct payments vs *de minimis* of grains: 2010-12

\$ million	2010	2011	2012	Average
Corn	3718,7	4266	4171,3	4052
" de minimis	3232,2	3847	3867,6	3648,9
Wheat	2299,7	2374,6	2545,8	2406,7
" de minimis	641,4	716,1	897,2	751,6
Barley	123,9	125,5	154,1	134,5
" de minimis	34,6	40,7	68,6	48
Sorghum	335,8	342,1	368	348,6
" de minimis	80,9	63,4	81,7	75,3
Rice	377,7	346,8	339,7	354,7
" de minimis	159,2	136,9	149	148,3
Soybeans	2274,8	2399	2343,3	2339
" de minimis	1877,4	1924,9	2159,7	1987,3
Upland cotton	1841,3	1350,4	1040,5	1410,7
" de minimis	345,8	319,7	276	313,8
Total	10971,9	11204,2	10962,8	11046,3
" de minimis	6371,5	7048,7	7499,8	6973,2

It shows already that, instead of a notified total AMS of \$4.119 billion for 2010, the total AMS was of at least \$15.091 billion and no grain would have got a *de minimis* statute. We see also that, although the notifications for 2011 and 2012 have not been made yet, even if there would not be any other type of subsidies, the grains specific AMSs will already exceed their *de minimis* levels (details in Annex 2).

4.2.2 – The progressive disappearance of the large EU cereals MPSs of 1986-88

The EU notified an average MPS for cereals of €14.259 billion or \$15.731 billion for 1986-88 (table 11).

It is for that reason that the EU decided to reduce by steps its MPSs and to replace them by allegedly non trade-distorting blue box subsidies in the CAP reforms of 1992 and 1999. The EU MPS of cereals had already fallen down to €6.489 billion in the notified domestic support

for 1995-96 owing to the apparition of €12.559 billion of blue box direct payments to cereals. The blue box has permitted the EU total AMS of €79.299 billion in 1986-88 to fall down to €51.221 billion in 1992, a reduction of 35.4% exceeding by far the 20% compulsory reduction over the 1995-2000 implementation period of the Uruguay Round! The sleight of hands continued: in the notification for 2001 the cereals blue box had risen to €17.845 billion and the MPS for cereals had fallen to €4.056 billion; then the cereals blue box fell to €1.564 billion in 2009-10 (last year notified) and the cereals MPS fell to €1.918 billion whereas the allegedly fully decoupled single farm payment exploded in the green box.

Table 11 – The EU notified market price support (MPS) of cereals from 1986 to 1988

€ million	1986	1987	1988	Average
Maize	2791,7	2838,4	3071,7	2900,6
Common wheat	7941,3	7824,9	8136	7967,4
Durum wheat	1365,6	1357,6	1080,5	1267,9
Rye	679,8	661,9	575,2	639,2
Barley	365,7	419,6	658,7	481,3
Oats	478,4	462,4	453,2	464,7
Rice	413,2	404	411,7	409,7
Triticale	49,8	102,8	107,5	86,7
Sorghum	38,8	37,6	46,6	41
Total	14124,3	14109,2	14541,1	14258,5

Source: EEC schedule of commitments part IV: http://www.wto.org/english/tratop_e/agric_e/schedule_e/eec.pdf

Indeed in 2010 the direct payments to the 281 Mt of EU27 cereals (without rice) amounted to €17.163 billion, of which €14.030 billion hidden in the allegedly fully decoupled Single Payment Scheme (SPS) in the EU15 (plus Slovenia and Malta), €2.412 billion in the allegedly fully decoupled Single Area Payment Scheme (SAPS) of the EU10 and €721 million of Complementary National Direct Payments (CNDP) of the EU12. This corresponded to an average direct payment of €61 per tonne, of which €69 in the EU15 and €40 in the EU12.

It is clear that these direct payments should have been notified in the EU AMS because they contradict the AoA (Annex 2 paragraph 6 on Decoupled income support) even more than the US fixed direct payments, and the same contradictions will happen with the next Basic Payment Scheme (BPS) in the next CAP from 2014 to 2020, for the following reasons:

- After the precedent of the WTO Appellate Body ruling on cotton of 3 March 2005 that the US fixed direct payments are not in the green box, the EU SPS will be much more easily put in the amber box as the EU maintains interdictions or caps on many more products: milk and sugar production quotas, wines plantation rights, caps on cotton, tobacco, olive oil... And, from 2014 on the BPS all "admissible hectares" will coexist with milk and sugar quotas and wines plantation rights, and also with the cotton coupled payments whose base areas are defined in article 44 of the same regulation.

- The SPS remains coupled to agricultural area as farmers must show they have eligible hectares to "activate" payments and the Member States must "*ensure that all agricultural land is maintained in good agricultural and environmental condition*", the Council Regulation 1782/2003 of 29 September 2003 specifying that this implies "*Minimum livestock stocking rates*", which is clearly a production. The fact that the BPS in the new CAP would only be granted to "active farmers" is an evidence of its coupling to production.

- A large part of the SPS is granted to feed (cereals, oilseeds meals, pulses) and feedstocks for agrofuels (vegetable oil, cereals and sugarbeet), which are both input subsidies to be notified

in the amber box for developed countries (AoA article 6.2). Even if biodiesel is not an agricultural product for the WTO, contrary to bioethanol, the AoA Annex IV paragraph 4 on the AMS calculation states that "*Measures directed at agricultural processors shall be included to the extent that such measures benefit the producers of the basic agricultural products*"⁴⁵, which is all the more obvious as the agrofuels boom has increased much the prices of vegetable oils and cereals.

- The SPS is coupled because it coexists with blue or amber payments for the same products. According to the AoA article 6.5, the blue box payments are granted "*under production-limiting programmes*" whilst the SPS allows to produce any product – otherwise it will not enjoy a full production flexibility –, including products whose production is forbidden or capped.

- S. Jean, T. Josling and D. Laborde underscore the flimsiness of the SPS to be put in the green box: "*If direct payments were to be notified in the Blue Box, the total would far exceed the limit of 5.6 billion euro suggested in the Revised Draft. Up to 28 billion euro would have to be notified in the AMS and this would well exceed the limit of 20.1 billion euro suggested in the same draft. A fortiori, if all the direct payments were to be notified in the AMS, the limit of 20.1 billion euro would again be violated. Perhaps more relevant is the effect on the OTDS of any decision to place direct payments outside the Green Box. The OTDS limit of 16.5 billion euro suggested by the Draft would be less than the level of direct payments alone, leaving all other support to be cut or changed to Green Box compatible payments*"⁴⁶.

- Last, but not least, as the SPS and the BPS cannot be assigned to a particular product, they are attributable to any product of which they lower the sale price below the EU average production cost. Therefore all EU agricultural exports can be sued for dumping, even products which have never received any direct payment as fine wines, as long as their producers get SPS or SAPS for other productions, which applies to all EU27 farms to-day.

By the way let us mention the just issued letter of US business groups the 16 September 2013 underscoring that "*A House provision that ties crop payments to actual plantings of the crop could 'quickly invite other nations to initiate dispute settlement against the United States - and do so with good chances of success'*"⁴⁷, an observation which would even more apply to the EU SPS.

4.3 – Comparing the administered prices with the 1986-88 reference prices is totally unfair as these low world prices were the result of the US and EU tremendous dumping

We will concentrate on wheat but we could have shown also the case of US rice or maize.

⁴⁵ Toni Harmer, *Biofuels subsidies and the law of the WTO*, ICTSD, June 2009, <http://ictsd.net/i/publications/50724/>.

⁴⁶ Sébastien Jean, Tim Josling and David Laborde, *Implications for the European Union of the May 2008 Draft Agricultural Modalities*, ICTSD, June 2008, <http://ictsd.org/i/publications/12745/>. Let us underline that the figures given by these authors correspond to the analysis of the Draft modalities of May 2008, in which the OTDS was to be reduced by 85% for the EU, not by 80% as in Draft modalities of December 2008.

⁴⁷ www.baltimoresun.com/business/automotive/sns-rt-us-usa-agriculture-farm-bill-20130916,0,4571372.story

4.3.1 – The US dumping of wheat in the base period 1986-88 and in recent years

The US dumping of its wheat exports has taken four channels: wheat export subsidies, the high level of its domestic farm payments benefitting also to its commercial exports, export credit guarantees and the high level of its food aid in wheat, as shown in table 10.

During the base period 1986-88 the dumping rate of the wheat and flour exports – measured as the total of export subsidies, including foreign food aid – reached 86.1%! However? If we delete the foreign food aid, the dumping rate was limited to 71.2%. This is clearly a minimum as we will show further for the EU that we could have taken into account the large volume of wheat and flour processed into other products than raw wheat and wheat flour: feed wheat in compound feed, wheat flour in baked products (bread, biscuits, pastry), pasta, starch, groats and semolinas, wheat malt, wheat gluten, wheat in blended whiskies and vodkas.

Wheat export subsidies

Because of the collapse of US wheat exports by almost 50% from 48.1 Mt in 1981/82 to 24.9 Mt in 1985/86, as a result of the strong dollar appreciation, the US share of the world exports fell from 48% to 29% and the wheat government stocks by the Commodity Credit Corporation (CCC) kept rising.

Table 12 – The US dumping of wheat in the base period 1986-88 and in recent years

	1986	1987	1988	Total 1986-88	Average 1986-88	2007	2008	2009	2010
The specific case of the Export Enhancement Program subsidies to wheat and flour*									
Wheat government stocks, Mt	39,8	20,4	13	73,2	24,4				
EEP wheat & flour sales, Mt	15	27	16,7	58,7	19,6				
EEP subsidies to wheat, \$M	611	852	319	1782	594				
EEP subsidies in \$/ton	40,7	31,6	19,1	30,4	30,4				
US wheat production and exports and government domestic payments to wheat & flour, in wheat equivalent									
Wheat production in 1000 t	56907	57362	49320	163589	54530	55790	67977	60331	60028
Exports of wheat & flour "	26455	32598	42271	101324	33775	33442	30465	22346	28101
Exports/production	46,5%	56,8%	85,8%	62%	61,9%	59,9%	44,8%	37%	46,8%
Export value in \$M	3217	3248	5081	11546	3849	8480	11455	5519	6898
US government payments* \$M	4073	3457	2602	10132	3377	1618	2046	2132	1744
" to wheat & flour exports "	1894	1964	2233	6091	2092	969	917	789	816
The subsidy value of the US export credit guarantees to wheat									
GSM allocations to wheat	810	738	1075	2623	874				
GSM subsidy to wheat	56	45	68	169	56				
% subsidy of GSM allocations	6,9%	6,1%	6,3%	6,4%	6,4%				
US food aid in wheat in 1000 t and M\$									
World wheat food aid in 1000 t	9887	10253	7898	28038	9346	1415	1328	1876	1234
US wheat food aid "	6218	5901	4537	16656	5552	926	791	1078	763
US/world wheat food aid	62,9%	57,6%	57,4%	59,4%	59,4%	65,4%	59,6%	57,5%	61,8%
US food aid/exports	23,5%	18,1%	10,7%	16,4%	16,4%	2,8%	2,6%	4,8%	2,7%
US FOB price, \$/t	122	100	120	342	114	254	376	247	245
US wheat food aid value, \$M	759	590	544	1899	633	235	297	266	187
US wheat food aid/Asia 1000t	1883	1614	1393	4890	1630				
US total dumping of wheat exports in \$ million									
Subsidies+food aid/wheat expt	3320	3451	3164	9941	3375	1204	1214	1055	1003
Dumping rate of wheat exports	103,2%	106,3%	62,3%	86,1%	87,7%	14,2%	10,6%	19,1%	14,5%
US total dumping of wheat exports in \$ million without food aid									
Subsidies/wheat exports	2561	2861	2620		2742				
Dumping rate of wheat exports	79,6%	88,1%	51,6%		71,2%				

* For the EEP and domestic government payments: US Schedules of commitments part IV, WTO G/AG/AGST/USA, http://www.wto.org/english/tratop_e/agric_e/schedule_e/usa.pdf

Therefore the Food Security Act as of December 1985 required "to provide CCC commodities at no cost to "United States exporters, users, and processors and foreign

*purchasers," and... that a total of \$2 billion in CCC commodities be used for this purpose during the three fiscal years ending September 30, 1988. The purposes the subsidized exports were to serve are broadly stated: in addition to combating other countries' subsidies and the high value of the dollar, export subsidies may be used to offset "the adverse effects of U.S. agricultural price support levels that are temporarily above the export prices offered by overseas competitors in export markets"*⁴⁸.

Bruce Gardner adds: *"The average subsidy reached \$38 per ton in 1987. A price wedge this large on substantial quantities would be expected to make a noticeable difference in world trade flows and prices".* For C. C. Coughlin and K. C. Carraro, *"Not only has the level of exports expanded, but the U.S. share of the world's wheat market increased from 28.8 percent in 1985 to an estimated 41.6 percent in 1988"*⁴⁹. For Kenneth W. Bailey, *"The EEP helped provide the U.S. an advantage... and therefore accounted for about 30 percent of the U.S. export expansion"*⁵⁰.

The high level of US domestic farm payments benefitting also to commercial exports

From 2007 to 2011 the government payments to wheat were much lower than in the 1986-88 base period⁵¹, although still significant, according to the Environment Working Group data base on farm subsidies⁵².

We see that in the base period 1986-88 the US average dumping rate – calculated as the division of government payments to wheat exports over their export value – was of 46.4%. Given that the US wheat exports accounted for 62% of world wheat exports it is clear that these large US dumping rate contributed to depress the world wheat prices.

Indeed, apart from the EEP, three other factors were at play: 1) first the lower loan rates – from 121\$/t in 1985 and 1986 to 88.2 \$/t in 1987 and 83.8 \$/t in 1988 – which made the US more competitive in world markets and lowered government stocks, and which explain about 25% of the US export expansion. However the US farmers were compensated by increasing deficiency payments – which covered the gap between the target price of 161 \$/t and the lower of either the loan rate or the market price –, from 36.8 \$/t in 2005 to 39.7 \$/t in 2006, 72.8 \$/t in 2007 and 65.4 \$/t, this decrease resulting from the higher market price in 1988; 2) the production shortfalls of competitors explained about 10% of the US export expansion; 3) and the increased demand by Russia and China explained about 35% of this expansion.

But other trade instruments contributed to US wheat exports: its export credit guarantees of GSM-102 and GSM-103 and its food aid policy.

The credit guarantees to wheat exports

Hyberg, quoted by Bruce L. Dahl et al.⁵³, has estimated that the subsidy value of the US credit guarantee programs to wheat exports from 1986 to 1988 was on average of \$56 million or

⁴⁸ <http://www.nber.org/chapters/c8722.pdf>

⁴⁹ http://research.stlouisfed.org/publications/review/88/11/Dubious_Nov_Dec1988.pdf

⁵⁰ <http://ageconsearch.umn.edu/bitstream/30095/1/21020117.pdf>

⁵¹ <http://www.ers.usda.gov/data-products/farm-income-and-wealth-statistics.aspx#27428>

⁵² <http://farm.ewg.org/progdetail.php?fips=00000&progcode=wheat>

⁵³ <http://ageconsearch.umn.edu/bitstream/23331/1/aer326.pdf>

6.4% of the value of exports covered by the guarantees. Matthew A. Diersen et al. have estimated that the US wheat exports with credit guarantees have represented, on average from 1986 to 1988, 8.8 Mt against 18.9 Mt for wheat export with EEP, that is 31% of wheat exports under EEP and export credit guarantees⁵⁴. They have also assessed the additionality effect of 50 guaranteed loans to 6 countries from 1980 to 1992 – Algeria, Brazil, Egypt, Mexico, Morocco, and Tunisia – and found that, on average from 1986 to 1988, wheat exports under EEP added 2.8 Mt to exports (without EEP) and that export credit guarantees added another 2.2 Mt wheat exports, that is the export credit guarantees contributed to 44% of the additional exports due to the two programs. However, if the subsidy component of the export credit appeared very small compared to the EEP subsidies, its impact on the import dependency of the DCs is likely greater because DCs traders are very much indulged to import rather than to buy domestic agricultural products given that domestic loans are much more difficult to get and at much higher rates.

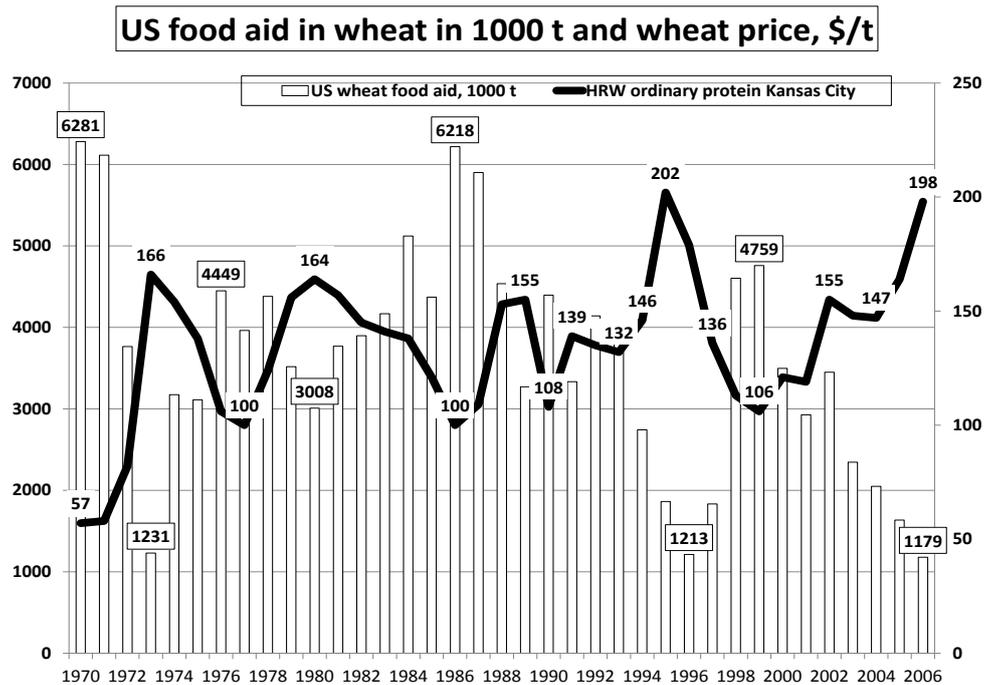
The US massive food aid in wheat

On the other hand even if a significant share of US food aid in wheat was emergency food aid, the massive food aid in wheat contributed to depress world wheat prices, particularly in the 1986-88 base period.

The graph below shows that the volume of US food aid in wheat was always a reverse function of the wheat price and that the height of 6.218 Mt reached in 1986 corresponds to a trough of the farm wheat price at 100 \$/t. In the 1986-88 period, the average \$633 M of wheat food aid exceeded the \$551 M of the combined subsidies of EEP exports (\$495 M) and credit guarantee exports (\$56 M).

Finally, as the US is price maker for wheat exports, its aggressive policy obliged the other competitors – first the EU but also Canada, Australia and Argentina – to increase their own export subsidies, with the cumulative effect of depressing world prices in the 1986-88 base period. It has been estimated that the EEP program alone explained 35% to 40% of the increase in the EU wheat export refunds, to which we turn now.

⁵⁴ <http://ageconsearch.umn.edu/bitstream/23425/1/aer377.pdf>



4.3.2 – The EU dumping of wheat in the base period 1986-88 and in recent years

As for the US the EU has also used the same four market instruments to foster its wheat exports: export subsidies, share of domestic subsidies having benefitted to wheat exports, subsidy component of its export credit guarantees and wheat food aid.

However as it is almost impossible to find the data on credit guarantees to wheat exports that only few EU member States are using, we will not discuss this issue.

The EU schedule of commitments for the Uruguay Round provides the details of the EU export subsidies on wheat and wheat flour for the 1986-88 years: export refunds and losses on the sales of public stocks of wheat. Given an average export subsidy of 119 €/t and a FOB price of 115.6 €/t, the average dumping rate was of 103%! In fact it was higher as we have to add the other components of the subsidies to wheat exports: domestic subsidies to wheat exports were of €290 M on average from 1986 to 1988 and wheat food aid of €207 M.

Eventually the average export subsidies to wheat and wheat flour was of €2.388 billion for average exports of 15.917 Mt with an average subsidy of €150 € per tonne of wheat and flour (we could not always distinguish between the two products). Given an average export price of 150.3 €/t, the average dumping rate was of 129.9%!

However we might argue that food aid should not be taken into account despite its most often detrimental impact on local farmers. In that case the dumping rate for 1986-88 would have been of 118.5%.

Nevertheless this calculation minimizes the actual larger exports of wheat than just in raw wheat and flour exports, as we have shown for the EU27 cereals exports in 2006, study which took also into account the non-product-specific (NPS) subsidies of the amber box attributable to wheat exports: to agricultural insurance, agricultural loans, rebates on agricultural fuel, to

investments on wheat farms⁵⁵. Indeed in 2006 beyond exports of 19.553 Mt of cereals and wheat flour (in wheat equivalent), 7.792 Mt of cereals were exported in processed products, among which from wheat: feed wheat in compound feed, wheat flour in baked products (bread, biscuits, pastry), pasta, starch, groats and semolinas, wheat malt, wheat gluten, wheat in blended whiskies and vodkas. It is likely that the hidden subsidies conferred to these processed products exceed the food aid subsidies that could be deleted.

Table 13 – The EU dumping of wheat in the base period 1986-88 and in recent years

	1986	1987	1988	Total 1986-88	Average 1986-88	2007	2008	2009	2010
EU export subsidies to wheat and wheat flour: export refunds plus loss on exports of public stocks									
Subsidized exports, Mt*	14858	13893	18924	47675	15892				
EU export refunds to wheat*	891	2047	1479	4417	1472	17	10	0	0
Loss on export of wheat stock*	323	332	600	1255	418				
Total wheat export subsidies*	1214	2379	2079	5672	1891				
Wheat export subsidy in €/t	81,6	171,2	110	119	119				
FOB price in €/t	130,9	96,6	121,6	115,6	115,6	262,5	343,7	228,2	230,6
Dumping rate of wheat exports	62,3%	177,2%	90,5%	102,9%	102,9%	0,6%	0,1%		
EU share of domestic subsidies to wheat having benefitted to wheat exports									
Wheat production in 1000 t	103823	103694	109484	317001	105667	120264	150342	138463	1309183
Wheat and flour exports "	14257	16778	16717	47752	15917	10222	19902	22184	23685
"of which wheat exports "	9975	12107	12280	34362	11454				
" of which flour exports "	3212	3503	3327	10043	3348				
Exports/production	13,7%	16,2%	15,3%	15,1%	15,1%	8,5%	13,2%	16%	18,1%
Wheat&flour export value, €M	1866	1621	2032	5519	1840	2683	6840	5063	5461
"of which wheat exports "	1290	1090	1458	3838	1279				
" of which flour exports "	576	531	574	1681	560				
FOB price of wheat+flour, €/t	130,9	96,6	121,6	115,6	115,6	262,5	343,7	228,2	230,6
FOB price of wheat, "	129,3	90	119	111,7	111,7				
FOB price of wheat flour "	179,3	151,6	173	167,3	167,3				
Total export subsidies/cereals	2435	4079	3924	10441	3480				
" share of wheat & flour	49,9%	58,3%	52,9%	53,7%	53,7%				
Total subsidies to cereals	3485	4237	4337	12059	4020				
" domestic subsidies to cereals	1050	158	413	1618	540				
" wheat & flour	523	92	219	869	290				
Total subsidies/wheat exports	1737	2471	2298	6541	2181				
Dumping rate	93,1%	152,4%	113,1%		118,5%				
EU food aid in wheat and flour in 1000 t and €M									
World wheat food aid in 1000 t	9887	10253	7898	28038	9346	1415	1328	1876	1234
EU wheat food aid "	1508	2106	1817	5431	1810				
EU/world wheat food aid	15,3%	20,5%	23%	19,4%	19,4%				
EU food aid/exports	10,6%	12,6%	10,9%	11,4%	11,4%				
EU FOB price, €/t	130,9	96,6	121,6	115,6	115,6	262,5	343,7	228,2	230,6
EU wheat food aid value, €M	197	203	221	621,7	207,2				
EU total dumping of wheat and flour exports in € million									
Subsidies+food aid/wheat exports	1934	2674	2519	7163	2388				
Total wheat export subsidy/ton	130,2	192,5	133	150,2	150,2				
Total wheat dumping rate	99,5%	199,3%	109,4%	129,9%	129,9%				
EU total dumping of wheat and flour exports in € million without food aid									
Subsidies/wheat exports	1737	2471	2298		2181				
Total wheat dumping rate	93,1%	152,4%	113,1%		118,5%				

Source: FAOSTAT, EAGGF and EAGF reports; * EEC schedules of commitments for export subsidies (http://www.wto.org/english/tratop_e/agric_e/schedule_e/eec.pdf); the gap between total exports and subsidized exports corresponds to cereals exported as food aid. The EU food aid is the sum of the Community food aid and of its Member states food aid.

4.3.3 – The US+EU dumping of wheat in the base period 1986-88

Now we can summarize and totalize the US and EU dumping on wheat and flour from 1986 to 1988 in table 14. This implies to convert in dollars the EU export subsidies in euros (in fact in ECU in that period).

⁵⁵ <http://www.solidarite.asso.fr/Papers-2010>

We see that the average cumulative US+EU dumping rate was of 93.2%, in other words the total export subsidies were almost the same as the export value of wheat and flour.

If, for conservative reasons, we delete foreign food aid, the average dumping rate was of 78.4%. However, as argued before, these calculations did not take into account the (domestic and export) subsidies to the wheat and flour incorporated in processed exported products.

Furthermore, given that the total US+EU quantity of wheat and flour exports accounted for 48% on average of world exports – and in fact more if we took into account the wheat and flour processed into other exported products – we can understand their huge responsibility in depressing the world prices of wheat and wheat flour in that period, with the cumulative impact on cereals prices for developing countries farmers.

Table 14 – The US and EU dumping of wheat and flour in the base period 1986-88

	1986	1987	1988	Total 1986-88	Average 1986-88
dollar-euro exchange rates: \$ for 1 €	0,98	1,15	1,18		1,103
Direct export subsidies to wheat and flour					
US export subsidies \$M	126	541	819	1486	495
EU export subsidies €M	1214	2379	2079	5672	1891
EU export subsidies \$M	1190	2736	2453	6379	2126
Total direct export subsidies: \$M	1316	3277	3272	7865	2621
Domestic subsidies to wheat and flour exports					
US \$M	1649	1564	744	4441	1481
EU \$M	513	106	258	912	304
Total \$M	2162	1670	1002	5353	1785
US export guarantees subsidies					
US \$M	56	45	68	169	56
Subsidies to wheat food aid					
US \$M	759	590	544	1899	633
EU \$M	197	203	221	622	207
Total \$M	956	793	765	2521	840
Total US+EU subsidies to wheat and flour exports in \$M					
Total US+EU subsidies to wheat and flour exports	4490	5785	5107	15908	5302
Export value of US+EU wheat and flour exports	5083	4869	7114	17066	5689
Quantities of wheat and flour exports, US	26455	32598	42271	101324	33775
Quantities of wheat and flour exports, EU	14257	16778	16717	47752	15917
US+EU quantities of wheat and flour exports	40712	49376	58988	149076	49692
Dumping rate	88,3%	118,8%	71,8%	93,2%	93,2%
Average US+EU FOB price in \$/t	124,9	98,6	120,6	114,5	114,5
World exports of wheat and flour in wheat equivalent	80693	96020	103412	280125	93375
US+EU percentage of world exports	50,5%	51,4%	57%	53,2%	53,2%
Total US+EU subsidies to wheat and flour exports in \$M without food aid					
US+EU subsidies to wheat and flour exports	3534	4992	4342		4462
Dumping rate	69.5%	102.5%	61%		78.4%

Conclusion

We have seen successively that:

- The total farm gate value of the 14.594 Mt of cereals consumed indirectly in 2011-12 by the beneficiaries of the US nutrition programmes amounted to \$3.685 bn, at an average farm gate price of \$252.5 \$/t. So that each of the 80 M beneficiaries of the US nutrition programmes consumed 182.4 kg of cereals in 2011-12 for \$46.1. But, as the SNAP concentrates 76.9% of all nutrition programmes for 46.6 M of beneficiaries, they consume 11.223 Mt of cereals for \$2.834 bn, implying an average aid of 240.8 kg of cereals for \$60.8 per beneficiary.

- Given that the number of Indian poor receiving food aid in wheat and rice for \$12.723 bn in 2012-13 was of about 475 M of whom 325 M (65 M families of around 5 persons) under the

poverty line plus at least 150 million above the poverty line, each beneficiary received on average 87.3 kg for a average subsidy of \$268.

- So that the Indian food aid subsidy of \$268 per person represents 4.7 times less than the total US food aid of \$1,250 per person or 6 times less than the \$1,608 per beneficiary of food stamps. Restricting the comparison to the sole farm value of cereals included in the US food aid the Indian cereals subsidy of \$268 per beneficiary is 72% lower than the US subsidy of \$461, and 122% lower than the subsidy of \$594 per beneficiary of food stamps.

- Because the bulk of the US cereals food aid, coming from US cereals, is directly bought in agreed grocery stores without passing through a public procurement channel as in India, what is the logic that the WTO rules demand only to India and not to the US that "*the difference between the acquisition price*" and "*the external reference price of 1986-88*" be "*accounted for in the AMS*"? Indeed the US reference prices of 1986-88 were so low that the present US domestic prices of cereals are much higher than those prices. So that the US should notify \$3.162 bn of cereals AMS for the cereals included in its nutrition programmes in 2012-13.

- If the AoA rule would not be changed so that the gap between the minimum support price (MSP) and the reference price times the procured quantity should be counted in the AMS, the present rule would have permitted to maintain the Indian additional wheat AMS below the *de minimis* level from 2007-08 to 2010-11 but likely not in 2011-12 and 2012-13.

- The eligible production to assess the market price support (MPS) component of the AMS linked to the administered prices (minimum support prices in India) should be the procured production and not the total production. However when a WTO Member has notified in its Schedule of commitments to the WTO that its eligible production was total production as the US did in 1993 for milk, it cannot notify afterwards only the share of the milk included in butter, non-fat dried milk and Cheddar cheese as the US has done since 2008.

- Comparing the administered prices with the fixed reference prices of 1986-88 is absurd in a pure economic logic. Because administered prices by themselves cannot maintain high domestic prices without the intervention of most determinant factors: import protection, exports restrictions or subsidies, production quotas, land set-aside, phytosanitary rules, etc. Above all the WTO Members should understand that the allegedly market-price support (MPS) represented by the gap between the present administered price and the fixed reference price of the 1986-88 period is a fake market price support which does not imply any subsidy. Therefore notifying these fake MPS has only blurred the Doha Round negotiations and misled WTO Members. The more surprising is that these AMS supports continue to be presented as the most trade-distorting ones. What they are clearly distorting is the understanding of the WTO Members! At least several of the prominent agricultural trade economists have denounced it.

Thus in the 1995-00 base period for the Uruguay Round commitments, the EU subsidy component of its average annual AMS has represented only 10% of its €48.425 billion notified AMS, 90% being a fake market price support, which was also of 56.9% for the US AMS.

- Despite a mistake in its announced methodology to assess its specific AMSs of grains in the 1986-88 base period, the US did not use MPS for grains in that period (except for peanuts) but non-exempt direct payments, particularly deficiency payments. Then despite subsequent box-

shifting – from deficiency payments to blue box, then to green box – the US total notified AMS evolved from \$23.879 billion for 1986-88 to \$6.214 billion already in 1995-96, rose to \$16.862 billion in 1999, declined to \$6.950 billion in 2003, rose to \$12.938 billion in 2005 and then collapsed to \$4.119 billion in 2010 (last notified year). In fact the total AMS of 2010 was at least of \$15.091 billion if we add the crop insurance subsidies and the fixed direct payments that the WTO Appellate had ruled in March 2005 not to be in the green box and to be crop specific. And, although the notifications have not been made yet for 2011 and 2012 and even if there would not be any other type of subsidies, the grains specific AMSs will already exceed their *de minimis* levels.

- If the EU did notify an average AMS MPS for cereals of €14.259 billion or \$15.731 billion for 1986-88 over a total AMS of €79.299 billion in that period, it managed to eliminate most of that AMS through successive CAP reforms so that its last notified AMS for 2009-10 collapsed to €8.764 billion despite its enlargement to 27 Member states (against 12 in 1986-88). This was achieved owing to the sleight of hands of transferring in the blue box and then in the green box most of the fake MPS linked to administered prices. One evidence that most of the AMS was a fake MPS is that the average CAP budget for 1986-88 was of €25.292 billion (including green box subsidies) when the total AMS only (amber box) was notified at €79.299 billion. In fact the EU should have notified in the AMS for 2010 the €17.163 billion of direct payments to the 281 Mt of EU27 cereals (without rice), of which €16.442 billion hidden in the allegedly fully decoupled Single Payment Scheme and Single Area Payment Scheme.

- The very low world wheat prices of the 1986-88 are clearly the result of the US and EU massive dumping through several channels: explicit export subsidies, share of their domestic subsidies having benefited to wheat and flour exports, export credit guarantees and the high level of their foreign food aid. During that period the average cumulative US+EU dumping rate of wheat and flour was 78.4% (without taking into account foreign food aid), of which 71.2% for the US and 118.5% for the EU. And, given that the average total US+EU quantity of wheat and flour exports accounted for 48% of global exports (a figure underestimated as we did not take into account the wheat and flour incorporated in other exported processed products), we can understand their huge responsibility in depressing the world prices of wheat and wheat flour in that base period.

In that context it is imperative that the provisions on Public stockholding for food security purposes proposed by the G-33, and already included in the Draft modalities of 6 December 2008, be taken up for a formal decision by the WTO ministerial conference (MC9) in December 2013 in Bali.

But the analysis developed here suggests strongly that the WTO developing countries Members, particularly of the G-33, should impose much more drastic changes in the WTO rules on agricultural supports of Articles 1 (on the definition of AMS), 6 and 7 and of the annexes 2, 3 and 4 on the green and amber boxes.

Annex 1 – The US insurance subsidies for the main grains from 2010 to 2012

Table 15 – US insurance subsidies and DP for the main grains from 2010 to 2012

\$ million	2010	2011	2012	Average
Corn				
Production value	64643,3	76939,6	77351,9	72978,3
De minimis: 5% of "	3232,2	3847	3867,6	3648,9
Premium subsidies+DP	2652,1	3670,3	3580,2	3300,8
Total insurance subsidies + DP	3718,7	4266	4171,3	4052
Wheat				
Production value	12827,3	14322,9	17943,3	15031,2
De minimis: 5% of "	641,4	716,1	897,2	751,6
Premium subsidies+DP	1881,6	2145,6	2301,1	2109,4
Total insurance subsidies + DP	2299,7	2374,6	2545,8	2406,7
Barley				
Production value	691,7	813,9	1371,6	959,1
De minimis: 5% of "	34,6	40,7	68,6	48
Premium subsidies+DP	111,5	117,1	142,7	123,8
Total insurance subsidies + DP	123,9	125,5	154,1	134,5
Sorghum				
Production value	1617,9	1268,5	1633,6	1506,7
De minimis: 5% of "	80,9	63,4	81,7	75,3
Premium subsidies+DP	284,9	315,4	338	312,7
Total insurance subsidies + DP	335,8	342,1	368	348,6
Rice				
Production value	3183,2	2737,4	2980	2966,9
De minimis: 5% of "	159,2	136,9	149	148,3
Premium subsidies+DP	347,1	337,7	331,2	338,7
Total insurance subsidies + DP	377,7	346,8	339,7	354,7
Soybeans				
Production value	37547	38498	43194	39746
De minimis: 5% of "	1877,4	1924,9	2159,7	1987,3
Premium subsidies+DP	1622,9	2070,6	2019,3	1904,3
Total insurance subsidies + DP	2274,8	2399	2343,3	2339
Upland cotton				
Production value	6915,8	6393,8	5519	6276,2
De minimis: 5% of "	345,8	319,7	276	313,8
Premium subsidies+DP	1286,7	1184,5	918,7	1130
Total insurance subsidies + DP	1841,3	1350,4	1040,5	1410,7

Annex 2 – The US fixed direct payments for the main grains from 2010 to 2012

Table 16 – The fixed direct payments for the main grains from 2010 to 2012

	2010	2011	2012	Average
Corn				
Base acres (in 1000 ha)	34365	28705	33476	32182
Payment acres (in 1000 ha)	28626	23911	28454	26997
Payment yield (t/ha)	2,863	2,863	2,863	2,863
Payment rate (\$/t)	11,024	11,024	11,024	11,029
Direct payment (\$M)	903,5	754,7	899,4	852,5
Wheat				
Base acres (in 1000 ha)	29984	25685	29265	28311
Payment acres (in 1000 ha)	24976	21396	24875	23749
Payment yield (t/ha)	2,497	2,497	2,497	2,497
Payment rate (\$/t)	19,180	19,180	19,180	19,180
Direct payment (\$M)	1196,2	1024,7	1191,3	1137,4
Barley				
Base acres (in 1000 ha)	3470	2902	3394	3255
Payment acres (in 1000 ha)	2891	2417	2885	2731
Payment yield (t/ha)	2,863	2,863	2,863	2,863
Payment rate (\$/t)	11,009	11,009	11,009	11,009
Direct payment (\$M)	91,1	76,2	90,9	86,1
Sorghum				
Base acres (in 1000 ha)	4737	4349	4652	4579
Payment acres (in 1000 ha)	3946	3623	3954	3841
Payment yield (t/ha)	3,704	3,704	3,704	3,704
Payment rate (\$/t)	13,780	13,780	13,780	13,780
Direct payment (\$M)	201,5	184,9	201,8	196
Upland cotton				
Base acres (in 1000 ha)	7351	7256	6986	7198
Payment acres (in 1000 ha)	6124	6044	5938	6035,3
Payment yield (t/ha)	0,5379	0,5379	0,5379	0,5379
Payment rate (\$/t)	114,64	114,64	114,64	114,64
Direct payment (\$M)	377,6	372,7	366,2	372,2
Rice				
Base acres (in 1000 ha)	1790,8	1766,4	1728,6	1761,9
Payment acres (in 1000 ha)	1491,7	1471,4	1469,3	1477,5
Payment yield (t/ha)	3,8439	3,8439	3,8439	3,8439
Payment rate (\$/t)	5,18	5,18	5,18	5,18
Direct payment (\$M)	297	293	292,6	294,2
Soybeans				
Base acres (in 1000 ha)	20464	17101,5	19893,9	19153,1
Payment acres (in 1000 ha)	17046,6	14245,6	16909,9	16067,4
Payment yield (t/ha)	2,010	2,010	2,010	2,010
Payment rate (\$/t)	16,176	16,176	16,176	16,176
Direct payment (\$M)	554,2	463,2	549,8	522,4