US total agricultural supports and subsidies from 2007 to 2012

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Since the WTO Ministerial conference in Bali of early December 2013 and the resumption of debates within the normal session and the special session of the Committee on agriculture in Geneva, it is clear that the developed countries are not willing to resume the negotiations to finalize the Doha Round on the basis of the Draft modalities texts presented by the Chairs the 6 December 2008, particularly on agriculture. On the contrary it is strange to see that all developing countries (DCs) are considering these agricultural modalities as a good base to continue the negotiations.

The present paper analyses and comments the US agricultural supports and subsidies from 2007 to 2013, which will help to understand why the US is reluctant to pursue the Doha Round negotiations on agriculture on the basis of the Draft modalities of December 2008. Two other papers will follow later on the EU and DCs positions.
We will present first the amount of agricultural supports and subsidies according to official sources before commenting them.

Summary

The paper begins by presenting and comparing the data on US agricultural supports and subsidies from the three official sources available: OECD, WTO and USDA budgets, reminding the distinction between "supports" – which include "market price supports" not implying subsidies, beside subsidies – and actual subsidies, i.e. public expenditures.

Then the paper analyses the main US under-notifications and mis-notifications of its agricultural supports. The subsidies to crop insurances, which have become the major type of agricultural subsidies in recent years, have been at the same time under-notified and mis-notified in the sense that they are crop-specific and should not have been notified in the non-product specific (NPS) AMS. It is all the more necessary to correct this mis-notification that the 2014 Farm Bill will increase even more the share of crop insurance in total subsidies.

This led us to turn to the issue of capping the product-specific (PS) subsidies established in the Draft modalities. This issue is particularly sensitive for four crops – corn, wheat, soybean and cotton – as they got 77% of all insurance subsidies from 1995 to 2012 and 76.3% also of the other PS subsidies than to crop insurance. These figures are taken from the Commodity Credit Corporation (CCC) which manages the direct payments other than on crop insurances, knowing that the CCC includes in PS subsidies the decoupled payments, which is in line with the WTO Appellate Body's rulings in the cotton case of 3 March 2005.

Then we show the huge under-notification of the dairy market price support (MPS) since 2008 because the AoA rules do not permit to change the rule to compute the dairy AMS from the administered price of the whole milk production made for 1986-88 in the US Schedule of commitments to the sum of the administered prices of butter, cheddar cheese and non-fat dry milk (NFDM). The more so as the US has continued to notify up to 2011 the same allowed total AMS of $19.103 bn calculated on the basis of the whole milk production. And, if the 2014 Farm Bill will eliminate the dairy MPS, the Margin Protection Program which will replace it will increase the PS insurance subsidies and the US would have still to notify the under-notified MPS for a total of about $15 bn from 2008 to 2014.

Although the US did not notify any subsidy on agricultural fuel, the OECD has reported €2.385 bn for all years since 1986 under the label of "energy subsidy".

If the main subsidy for corn ethanol was the volumetric ethanol excise tax credit (VEETC), deleted since 2012, it has benefitted to blenders and not so much to farmers. But the ethanol mandate has been the main driver of the spike in corn prices and producers revenues since 2007 so that we assume a highly conservative estimate of average annual subsidies to corn ethanol of $1.6 bn from 2007 to 2013, to be notified in the PS AMS.

The US notification of irrigation subsidies has been ridiculously low – $221 M on average from 2005 to 2011 –, in contradiction with many official and experts' reports for which they have been of at least 2 bn for most of them so that we propose to retain at least one bn.

The US has notified subsidies to farm credit in the NPS AMS and above all in the green box for an average of $155 M from 2005 to 2011, a notification in the green bow which is not in line with the fact that most loans have been granted to non-disadvantaged farmers. But the US did not notify the large tax exemptions granted to the farm loan program run by the Farm

Service Agency for more than one bn in 2005 but, for conservative reasons, we keep the average $155 M notified from 2005 to 2011 but to be notified in the NPS AMS.

For subsidies to grazing fees, notified for an average of $42 M from 2005 to 2011, we retain the GAO's conservative assessment of $123 M, to be notified as PS subsidies.

Finally it appears that the actual annual PS AMS (or total AMS) supports have exceeded the notified ones by an annual average of $12.574 bn from 2005 to 2011. And the actual PS AMS or total AMS has exceeded the bound allowed AMS of $19.103 bn in 2005, 2006, 2009 and 2011 and the annual average AMS from 2005 to 2011 has exceeded the allowed total AMS by $76 M. And, as the Draft Modalities have foreseen that the US allowed total AMS would have to be cut by 60% in the 5 years of the Doha Round implementation period, and even by 25% on the first day of implementation it is clear that that perspective leads the US to refuse to considers the Draft modalities as a good base to pursue the Doha Round negotiations. The fact that, to the contrary, the notified NPS AMS has been larger than the actual NPS because of the transfer to the PS AMS of subsidies to farm insurance, contracyclical payments and market loss payments cannot compensate the under-notification of the PS AMS as the NPS AMS remains a *de minimis* support.

This brings us to assess the actual applied Overall trade-distorting domestic support (OTDS), that the US would have to cut by 70% in the Doha Round implementation period, reminding that the OTDS is the sum of the allowed AMS + product-specific *de minimis* (PSdm) + non product-specific *de minimis* (NPSdm) + blue box (BB). The real issue for the OTDS is the PSdm because the Draft modalities have cheated with the AoA rules in assimilating those for the PSdm and the NPSdm. In other words, as soon as a product-specific (PS) support reaches 5% of the production value of the product, it loses its allowed PS *de minimis* exemption and gets a PS AMS which is added to the applied PS AMSs and the production value of that product is added to the production value of all products with PS AMSs.

The full impact of changing the PSdm definition can only be understood when coupled with the fact that feed subsidies are input subsidies conferring PS AMSs to all animal products of the developed countries, which have always refused to notify them. As feed is the most important input of all animal products, feed subsidies are conferring PS AMSs to them. Indeed, once added to the PS AMSs production value the $57 bn production value of all meats during the 1995-2000 base period, the production value of products with PS AMSs rises to $107 bn and the production value of products without PS AMSs falls to $87 bn, so that the allowed PSdm in the base period, being 5% of that value, falls to $4.4 bn. Therefore the allowed OTDS in the base period falls from $48.2 to $42.9 bn and the allowed OTDS at the end of the implementation period, once cut by 70%, will fall to $12.9 bn. And the $24.6 bn of allowed OTDS the first day of the Doha Round implementation period is to be compared with the present OTDS of $30.4 bn in 2011: $25.6 bn (total PS AMS) + $481 M (PSdm) + $4.270 bn (NPSdm) + 0 (BB). No comment.

One could go further as the in kind deliveries of $28.3 bn of food in the US nutrition programmes other than food stamps in 2012 are using public stocks and their subsidized market prices can be viewed as administered prices by adding the direct payments to the value of their farm product components. So that the actual AMS to notify for 2012 would be of at least $422 M for corn and $271 M for wheat.

I – The official US agricultural supports and subsidies from 2007 to 2013

Table 1 presents three sources of US agricultural supports and subsidies, from 2007 to 2013: OECD, WTO and USDA budgets.

Table 1 – US total agricultural supports and subsidies from 2007 to 2012

$ million	2007	2008	2009	2010	2011	2012	2013
According to OECD indicators							
TSE	97172	104733	123663	135869	143778	156356	
GSSE	37809	45088	56651	69846	71539	81446	
" of which part of food stamps	28047	31593	44626	56544	62259	68298	
PSE	33178	30765	33045	27973	31596	30170	
" MPS	13072	999	4568	3435	3645	3066	
CSE (transfers to consumers)	26186	28880	33967	38050	40643	44739	
" rest of nutrition programmes	25522	28186	33222	37285	39905	44018	
Total nutrition programmes	53569	59779	77848	93829	102164	112316	
Total other subsidies	30531	43955	41247	38605	37969	40974	
" of which crop insurance	995	10316	7903	8592	7111	10385	
According to the US notifications to the WTO							
Total supports	84682	94537	114739	128739	139485		
Total actual subsidies	78207	89769	109487	124558	134763		
OTDS (AMS + PS&NPS de minimis)	8520	12952	11525	9781	14368		
Total AMS (amber box)	6260	6255	4267	4119	4654		
" MPS	6238	4060	4068	4103	4241		
" " dairy	5011	2925	2827	2845	2835		
Green box (GB)	76162	81585	103214	118958	125117		
" nutrition	54408	60519	78796	94915	103151		
" general services	15624	15290	18242	18191	16268		
" decoupled income support	6130	5776	6176	5852	5698		
" fixed direct payments	5175	4821	5222	4898	4745		
NPS AMS (NPS *de minimis*)	2023	5989	6074	5584	9233		
" crop insurance	801	4509	5426	4712	7461		
PS *de minimis*	237	708	1184	78	481		
Total non-nutrition subsidies	23799	29250	30691	29643	31612		
According to the US Federal Budget							
USDA actual outlays	84435	90796	114440	129460	139396	139717	155872
" Nutrition (GB)	53569	60097	82949	93929	102164	105944	108844
" food stamps	34826	39622	53620	68284	75687	78445	79862
" in kind programmes	21770	22455	29329	25645	31828	35742	31331
" Total CCC	11040	9076	11443	10015	8912	7 928	10137
" direct payments	10420	8184	9821	9180	8271	7 355	8 648
" fixed DP (GB)	3957	4821	5222	4898	4745	3 837	4 955
" conservation (GB)	1 865	1927	1855	1841	1795	1814	2034
" export programs (GB)	160	105	337	405	551	454	466
Crop insurance	3941	5737	7271	3671	11295	14071	5951
Other agricultural subsidies	15885	15886	12777	21845	17025	11774	30940
Total non-nutrition subsidies	30866	30699	31491	35531	37232	33773	47028

Sources: http://www.fsa.usda.gov/FSA/webapp?area=about&subject=landing&topic=bap-bu-ce; http://www.rma.usda.gov/aboutrma/budget/2013fygovcost.pdf ; http://www.fns.usda.gov/pd/SNAPsummary.htm

The distinction between "supports" and "subsidies" is present in the OECD and WTO data which take into account, beside actual subsidies, i.e. public expenditures, "market price supports" (MPS) which are not actual subsidies but the amount represented by the multiplication of the quantity of products by either the gap between the current domestic price and the current CIF import price (for OECD) or the gap between the current administered price (minimum guaranteed price) and the CIF import price of the 1986-88 period (WTO).

The data notified to the WTO are only available up to 2011, the OECD data are available up to 2012 and the data of USDA budgets are available up to 2013.

1.1 – OECD agricultural indicators from 2007 to 2012

OECD uses essentially 5 indicators, the most comprehensive being the TSE (total support estimate) which is the sum of the PSE (producers' support estimate), the GSSE (general services support estimate) and the CSE (Consumers' support estimate, for the part "transfers to consumers from taxpayers"). However the PSE contains also the MPS, which has shrunk from the peak of $31.650 billion (bn) in 1999 to 3.596 bn in 2012, so that the difference between the TSE and the MPS represents actual subsidies[1].

The huge nutrition programmes are broken down between the GSSE (under "marketing and promotion", for $66.5 bn in 2012) and the CSE ("transfers to consumers from taxpayers") for $17 bn (out of total CSE of $44 bn) in 2013. The GSSE contains 64% of the Food stamps programme (or SNAP) presented as their "delivery cost" while the CSE contains the remaining 36% supposedly representing the "*farm value per dollar of retail food expenditure of food stamps households*" for $17 bn plus all the other nutrition programmes (Child nutrition, Women and infants, etc.). This way of presenting the distribution of the Food stamps programme costs is highly questionable because most food purchased by food stamps consists of final processed products so that the $66.5 bn represent much more than the only "delivery cost", while the $17 bn of food stamps cost included in the CSE imply that no food stamps can buy imported food, which is not true.

Finally we see that the nutrition programmes have represented on average 69.4% of the TSE, rising from 68.6% in 2007 to 73.8% in 2012 and that the actual other agricultural subsidies have accounted for $38.8 bn on average, from $30.5 bn in 2007 to $41 bn in 2012.

1.2 – Notifications of domestic supports to the WTO from 2007 to 2011

The US domestic supports notified to the WTO are divided between the green box and the amber box as it has no blue box nor exports refunds (which in any case would not be notified among domestic supports).

Total supports have been on average of $112.4 bn from 2007 to 2011 – rising from $84.7 bn in 2007 to $139.5 bn in 2011 –, of which total subsidies accounted on average for $107.4 bn, from $78.2 bn in 2007 to $134.8 bn in 2011, the differences between supports and subsidies being represented by the MPS component of the AMS (difference between current administered prices and 1986-88 CIF prices times the eligible production volume).

The green box (GB) accounted for $101 bn on average or 94% of all subsidies – from $76.2 bn in 2007 to $125.1 bn in 2011 –, in which nutrition programmes represented 78.4 bn on average (77.6% of GB), from $54.4 bn in 2007 to $103.2 bn in 2011 (82.4% of GB). The non nutrition GB was divided between the traditional general services for $16.7 bn on average (and 16.6% of GB) and decoupled income support for $5.9 bn (5.9% of GB), in which the fixed direct payments accounted for $5 bn on average (the rest being the tobacco buyout).

[1] http://www.oecd.org/tad/agricultural-policies/producerandconsumersupportestimatesdatabase.htm

The average total AMS (amber box) was of $5.1 bn – from $6.3 bn in 2007 to $4.7 bn in 2011 –, in which the MPS accounted on average for $4.5 bn (88.9% ot total AMS) – from $6.2 bn in 2007 to $4.2 bn in 2011, the difference representing actual coupled subsidies.

Although not notified we can show the level of the applied OTDS (overall trade distorting domestic support, a concept created by the WTO Framework Agreement of July 2004) which is the sum of total AMS plus product-specific *de minimis* support (PSdm) plus non-product-specific *de minimis* support (NPSdm) plus blue box (non existent for the US). PSdm and NPSdm are normally amber supports but are not counted in the amber box as long as they remain below 5% of the production value of each specific product for PSdm, or of the whole agricultural production value for NPSdm. The average applied OTDS was of $11,4 bn from 2007 to 2011 ($14.4 bn in 2011), of which $5.8 bn for the NPSdm ($9.2 bn in 2011) and $537 million for the average PSdm ($481 million in 2011). The bulk of the NPSdm is represented by crop insurance subsidies: $4.6 bn on average (79.3% of NPSdm), of which $7.5 bn in 2011 (80.8% of NPSdm).

1.3 – USDA executed Budget from 2007 to 2013

Total USDA net outlays per fiscal year (October to September) were of $122 bn on average from 2007 to 2013 – from $84.4 bn in 2007 to $155.9 bn in 2013 –, with nutrition programmes accounting for $86.8 bn on average (71.1% of total), of which $108.8 bn in 2013 (69.8% of total). Food stamps represented $61.5 bn on average (70.8% of nutrition programmes), of which $79.9 bn in 2013 and in kind delivery of food $28.3 bn ($31.3 bn in 2011). We come back on this in part II below.

Apart from nutrition programmes the main other US agricultural subsidies are managed by the Commodity Credit Corporation (CCC, the main task of the Farm Service Agency) – which groups together coupled and decoupled direct payments for an average of $9.8 bn from 2007 to 2013 ($10.1 bn in 2013) – and by the Risk Management Agency (RMA) for crop insurances, for an average of $7.4 bn ($6 bn in 2013 after $14.1 bn in 2012 due to the drought). All the other subsidies were of $18 bn on average (30.9 bn in 2013) and cover the following issues: other activities of the Farm Service Agency (farm loans, conservation), Foreign Agricultural Service (of which export credit guarantees), rural development, natural resources and environment (other conservation subsidies, forest), food safety, marketing and regulatory programmes (animal and plant health inspection), research, education and economics.

II – Comments on these official figures of US agricultural supports and subsidies

The main issue is not so much to question total figures than their distribution between WTO boxes, i.e. their trade-distorting (amber box) or non-trade distorting nature (green box). However there are also noticeable quantitative gaps between OECD and the other sources.

2.1 – The comparison between the three sources in only possible up to 2010.

The average of notifications data and USDA budget are almost the same but the OECD data are higher by $9 bn of 8%. This cannot be explained by the MPS of $5.1 bn in OECD data as it is just 13% larger than in the notifications data ($4.5 bn) even if the USDA budget has no MPS but only subsidies. It cannot be explained either by the nutrition expenditures which are very close in the three sources. It appears that the non-nutrition subsidies are clearly the

lowest in the notifications data: lower by $9.5 bn than in the OECD data and lower by $4.2 bn than in the USDA budget. This underscores an under-notification of actual subsidies to the WTO.

In fact several subsidies were under-notified or not notified at all compared to OECD or USDA data.

2.2 – The main under-notification and mis-notification: crop insurance subsidies

The $4.582 bn of crop insurance subsidies notified on average from 2007 to 2011 were lower by $2.402 bn than the OECD figure and by $1.801 bn than that in the USDA (RMA) budget. This under-notification lies in the fact that only premium subsidies are notified, not total government costs, the other costs consisting of administrative costs, reimbursements to private companies to deliver the policies and payments of underwriting gains. For the agricultural policy specialists David Blandford and David Orden: "*The cost reimbursements excluded from the notifications are made to companies on behalf of the policyholders who are farm producers of the insured crops, and thus should be notified… It is somewhat curious that the crop and revenue insurance delivery costs, which are directly related to delivery of benefits to farmers, are not reported*"[2].

But the mis-notification is a much more fundamental issue: they have always been notified in the non-product specific (NPS) AMS, thus not counted in the AMS because of the NPS *de minimis*, when they should have been notified in the product-specific (PS) AMS. Indeed:

2.2.1- OECD presents most US subsidies to insurance as crop specific (lines PS6 to PC20 in the file on US PSE published in 2013) for $4 bn on average from 2007 to 2011 over a total of $6.4 bn, having put as non crop-specific only the administrative costs, reimbursements to private companies to deliver the policies and payments of underwriting gains (lines GSSEK1 to GSSEK3).

2.2.2- The RMA publishes regularly the annual details of insurance policies (number of policies, acres covered, liabilities, indemnities, premium subsidies…) for more than 120 crop products[3]. Furthermore since 2008 several livestock policies specific for cattle (feeder and fed), dairy, swine and lamb have been introduced. But the specificity does not stop here because all the policies are area specific per county and sometimes per township section and even per field when a farmer's fields are not located in the same county or section. They are also specific per farmer who must "*present actual annual crop yields (usually stated on a bushel-per-acre basis) for the last 4 to 10 years*". The CRS (Congressional Research Service) report confirms: *"The availability of crop insurance for a particular crop in a particular region is an administrative decision made by USDA. The decision is made on a crop-by-crop and county-by-county basis, based on farmer demand for coverage and the level of risk associated with the crop in the region, among other factors*". In another report of April 2007 the CRS adds: "*Most crop insurance subsidies (with the exception of adjusted gross revenue insurance) can be linked directly to a specific insured crop*"[4].

[2] David Blandford and David Orden, *United States: Shadow WTO Agricultural Domestic Support Notifications*, IFPRI, November 2008, http://www.ifpri.org/pubs/dp/ifpridp00821.asp
[3] Dennis A. Shields, *Federal Crop Insurance: Background*, Congressional Research Service, December 12, 2013, https://www.fas.org/sgp/crs/misc/R40532.pdf
[4] Randy Schnepf and Jasper Womach, *Potential Challenges to U.S. Farm Subsidies in the WTO* – CRS Report for Congress, Updated April 26, 2007.

In fact crop insurance policies are even more 'coupled' to prices, which are by nature specific, than the various marketing loan benefits as explained by the CRS: "*For both yield- and revenue-based policies, the price used to set the guarantee is based only on the expected price for the upcoming season, and is reset every year. This is in contrast to farm programs which either have price guarantees set in statute or use historical average prices and are designed to protect against longer-term price declines… For many farmers, crop insurance is the most important component of the farm safety net, given the large number of crops available for coverage and the fact that commodity support programs currently offer less protection from price declines than they did previously*".

However one could object that, if premium subsidies are clearly specific, the other components of the subsidies are not, the bulk of which being the payments to private insurance companies (reimbursements to deliver the policies and payments of underwriting gains). But the GAO (Government Accounting Office) has responded to this objection in April 2009: "*We do not agree that gathering and reporting data on commissions paid to insurance agencies by policy would significantly increase the "administrative burden" on RMA and insurance companies. First, RMA… could require that companies report two additional data fields in the policy records they currently submit to RMA—commissions and other compensation… In conjunction with these changes, RMA could develop and provide allocation guidance to prorate compensation that is not provided on a per-policy basis so that this compensation could be apportioned to individual policies*"[5].

The fact that crop insurance should have been notified in the PS AMS is crucial for the US for two reasons: the risk to exceed the caps of PS AMSs and the allowed total AMS of $19.103 bn at the end of the Uruguay Round implementation period (December 2000), which is also the base period for the reduction of supports in the Doha Round implementation period.

2.3 – The risk to exceed the caps of PS AMSs

Capping the PS AMSs was adapted for the US in paragraph 23 of the Revised Draft of agricultural modalities of 6 December 2088: "*For the United States only, the product-specific AMS limits specified in their Schedule shall be the resultant of applying proportionately the average product-specific AMS in the 1995-2004 period to the average product-specific total AMS support for the Uruguay Round implementation period (1995-2000) as notified to the Committee on Agriculture. These shall be tabulated by individual product in the Annex to these modalities referred to in the paragraph above*". This issue is particularly crucial for 4 crops – corn, wheat, soybean and cotton – which have received both the largest share of insurance subsidies as well as of other coupled and decoupled direct payments.

These four crops got 77% of all insurance subsidies from 1995 to 2012, and we understand why the US has notified them in the NPS AMS and why it does not consider the WTO Draft modalities as a good base to resume the talks on the Doha Round, fearing to exceed not only total AMS but also the PS AMS caps. The fact for the US to have succeeded in enlarging for itself alone the relevant period to calculate its PS AMS caps, from 1995-2000 to 1995-2004, was in fact a bad idea as the crop insurance subsidies have been significantly higher from 2001 to 2004 than in 1995-00 and even more from 2005 to 2013 (table 2).

[5] www.gao.gov/products/GAO-09-445

Table 2 – Premium and total crop insurance subsidies for the 4 main crops from 1995 to 2013

$ billion	1995-00	1995-04	2005	2006	2007	2008	2009	2010	2011	2005-11	2012	2013
Notified insurance subsidies in the NPS AMS												
Total crops	886	1296	757	1613	801	5691	5426	4711	7461	3780		
Actual premium subsidies to the main 4 crops												
Corn	209	329	713	871	1739	2116	2038	1749	2916	1735	2689	2827
Cotton	164	191	212	284	199	253	220	320	819	330	561	451
Soybean	146	234	269	585	606	973	350	1069	1608	780	1473	1535
Wheat	120	185	337	364	525	937	1092	686	1121	723	1115	1249
4 crops	640	939	1531	2104	3069	4279	3700	3824	6464	3567	5838	6062
All prem.sub.	938	1366	2337	2682	3823	5691	5425	4712	7463	4590	6977	7284
% 4 crops	68	69	65.5	78.4	80.3	75.2	68.2	81.2	86.6	77.7	83.7	83.2
Tot. insurance sub.	1582	2283	2699	3570	3940	5737	7039	3671	11295	5422	14071	5951
Under-notification	696	987	1942	1957	3139	46	1613	-1040	3834	1642		
Total product-specific insurance subsidies including the share of administrative costs and payments to insurance companies												
Total/prem.sub.	1,687	1,671	1,155	1,331	1,031	1,008	1,298	0,779	1,513	1,181	2,017	0,817
Corn	353	550	824	1159	1793	2133	2645	1362	4412	2047	5424	2310
Cotton	277	319	245	378	205	255	286	249	1239	408	1132	368
Soybean	246	391	311	779	625	981	454	833	2433	917	2971	1254
Wheat	202	309	389	484	541	944	1417	534	1696	858	2249	1020
Total 4 crops	1078	1569	1768	2800	3164	4313	4803	2979	9780	4230	11775	4953

Source: USDA, RMA, *Summary of Business Reports and Data* (http://www.rma.usda.gov/data/sob.html)

Capping the PS AMSs to their level in 1995-04 would imply, for the crop insurance subsidies alone, a very dramatic limitation to the US subsidies to corn, wheat, soybeans and cotton as their average level from 2011 to 2013 has been multiplied by respectively 7.4, 2.9, 5.7, 5.4 and 5.6 for the average of the four crops, in relation to their level from 1995 to 2004.

However PS subsidies are not restricted to crop insurances as shown in table 3 from CCC figures which include coupled but also decoupled direct payments (production flexibility contracts, market loss assistance payments and fixed direct payments), which is in line with the Appellate Body ruling of 3 March 2005 in the cotton case that they are crop-specific despite their alleged decoupled notification: "*upholds the Panel's finding, in paragraphs 7.518 and 7.520 of the Panel Report, that Step 2 payments to domestic users, marketing loan program payments, production flexibility contract payments, market loss assistance payments, direct payments, counter-cyclical payments, crop insurance payments, and cottonseed payments (the "challenged domestic support measures") granted "support to a specific commodity", namely, upland cotton*"[6].

Table 3 – Other non-insurance CCC subsidies: total and to the 4 main crops, 1995 to 2013

$ billion	1995-00	1995-04	2005	2006	2007	2008	2009	2010	2011	2012	2013	2005-13
Total components of the CCC net outlays to crops (other than to conservation which is in green box)												
All crops	10614	11473	14768	17601	8887	6435	8923	7683	6154	5465	6606	9169
CCC net outlays to the main 4 crops												
Corn	4185	3828	6243	8804	3195	1856	2175	1965	1863	1571	2045	3302
Cotton	1395	1780	4245	3982	2592	1604	2176	1668	678	523	671	2015
Soybean	714	1252	1140	591	337	446	596	550	521	431	565	575
Wheat	2064	1879	1232	1080	729	869	1224	1280	1378	905	1254	1106
4 crops	8357	8739	12860	14457	6853	4775	6171	5463	4440	3430	4535	6998
% 4 crops	78.7	76.2	87.1	82.1	77.1	74.2	69.2	71.1	72.1	62.8	68.6	76.3

Source: https://www.fsa.usda.gov/FSA/webapp?area=about&subject=landing&topic=bap-bu-cc
https://www.fsa.usda.gov/Internet/FSA_File/pb08_book3.pdf

Another reason to put in the amber box the *production flexibility contract payments, market loss assistance payments and fixed direct payments* is that a large part of them has been

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https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?Query=%28@Symbol=%20wt/ds267/ab/r*%20not%20rw*%29&Language=ENGLISH&Context=FomerScriptedSearch&languageUIChanged=true#

granted to grains used as feed, which are input subsidies that the AoA Article 6.2 puts in the amber box for developed countries' farmers.

Therefore table 4 adds up tables 2 and 3 to get the sum of PS subsidies for the 4 crops, taken as examples because they are receiving the largest subsidies, in fact 77.6% of all PS subsidies, and their average level from 2011 to 2013 has been multiplied by respectively 1.34, 0.73, 1.66, 1.30 and 1.26 for their average in relation to their level from 1995 to 2004. These ratios are much lower than for the crop insurances subsidies alone because the non-insurance subsidies have been lower from 2005 to 2013 than in 1995-04 as the coupled subsidies (mainly marketing loans benefits) were much lower given higher farm prices.

Table 4 – Total product-specific subsidies to the 4 main crops and all crops from 1995 to 2013

$ billion	1995-00	1995-04	2005	2006	2007	2008	2009	2010	2011	2012	2013	2005-13
Corn	4538	4378	7067	9963	4988	3989	4820	3327	6275	6995	4355	5755
Cotton	1672	2099	4490	4360	2797	1859	2462	1917	1917	1655	1039	2476
Soybean	960	1643	1451	1370	962	1427	1050	1383	2954	3402	1819	1751
Wheat	2266	2188	1621	1564	1270	1813	2641	1814	3074	3154	2274	2137
4 crops	9436	10308	14629	17257	10017	9088	10973	8441	14220	15206	9487	12119
All crops	12196	13756	17467	21171	12827	12172	15962	11354	17449	19536	12557	15610
% 4 crops	77.4	74.9	83.8	81.5	78.1	74.7	68.7	74.3	81.5	77.8	75.6	77.6

2.4 – The huge under-notification of the dairy market price support (MPS) since 2008

The 2008 Farm Bill has changed the way to notify the dairy MPS: instead of continuing to compute it for the whole milk production as fixed in it Schedules of commitments of 1994, it has been computed for three main dairy products: butter, nonfat dry milk (NFDM) and cheddar cheese. Thus the US notification for dairy fell from $5.011 bn in 2007 to $2.925 bn in 2008, $2.827 bn in 2009, $2.845 bn in 2010 and $2.835 bn in 2011.

Table 5 – Under-notification of dairy MPS from 2008 to 2011

$ billion	1995-00	1995-04	2005	2006	2007	2008	2009	2010	2011	2005-11
Notified MPS	4495	4512	4794	4882	5011	2925	2827	2845	2835	3731
Actual MPS	4495	4512	4794	4882	5011	5011	5011	5011	5011	4962
Additional MPS	0	0	0	0	0	2086	2184	2166	2176	1230

Despite the unanimity of US experts who applauded this change, it does not comply with the AoA rules: you cannot change the rule to compute the dairy AMS from the administered price of the whole milk production made for 1986-88 in the US Schedule of commitments[7] to the sum of the administered prices of butter, cheddar cheese and NFDM. 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 used in the tables of supporting material incorporated by reference in Part IV of the Member's Schedule*".
- Paragraph 1 of article 3 states: "*The domestic support and export subsidy commitments in Part IV of each Member's Schedule constitute commitments limiting subsidization and are hereby made an integral part of GATT 1994*".
- Paragraph 5 of Annex 3 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*".

[7] http://www.wto.org/english/tratop_e/agric_e/schedule_e/usa.pdf

Not only the US was not allowed to change its methodology to compute its dairy AMS from 2008, but, to cap it all, it continues to use its allowed total AMS – the final bound total AMS of $19.103 bn – for the Doha Round implementation period incorporating a dairy MPS calculated on the basis of the whole milk production. They have the cake and eat it. 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 of $2.314 bn instead of the notified $5.409 bn for the whole milk. It follows that the US should rectify its notifications of dairy AMS from 2008 to 2011 (last notified year) based on the whole milk, which implies to notify an overdue of $8.612 bn, sum of differences between the AMS notified from 2008 to 2011 and that notified for 2007.

Or they should at least revise their total applied AMS for 1986-88 which was not of $23.879 bn but of $20.784 bn and the final bound total AMS, at the end of the Uruguay Round implementation period in 2000, was not $19.103 bn (80% of 23.879) but only $16.627 bn (80% of 20.784). And the allowed final bound total AMS at the end of the implementation period of the Doha Round, once cut by the 60% foreseen in the Draft modalities of 6 December 2008, will bring it from $7.641 bn to $6.651 bn.

However the new Farm Bill of 7 February 2014 has replaced the Dairy Product Price Support Program and the Milk Income Loss Coverage by the Margin Protection Program. According to the National Milk Producers Federation "*The Margin Protection Program will fit well within our WTO subsidy limits for dairy. By replacing the price support and Milk Income Loss Contract programs, the U.S. dairy industry will retain a significant level of allowable subsidies to be used for programs like the Margin Protection Program. Except for infrequent extreme situations, the Margin Protection Program will stay well below the permissible level of subsidies for dairy within the overall allowable level of support available to U.S. agriculture*"[8]. Maybe but the Margin Protection Program (MPP) will increase the product-specific insurance subsidies and the US would have still to notify the under-notified MPS up to 2014, for a total of about $15 bn from 2008 to 2014.

2.5 – The other under-notifications of the NPS AMS for OECD and other sources

These other under-notifications concern particularly: agricultural fuel, ethanol, irrigation, interest on agricultural loans and grazing fees.

2.5.1- Agricultural fuel: although the US did not notify any subsidy, the OECD has reported the same €2.385 bn for all years since 1986 under the label of "energy subsidy" (line PIV3) described as "*Value of Federal and State exemptions or reductions in excise and sales taxes on diesel fuel for farmers relative to the standard rate taxes on fuel… Data used are problematic and need revision*". Indeed article 1 of the WTO Agreement on subsidies and countervailing measures (SCM) considers there is a subsidy when "*government revenue that is otherwise due is foregone or not collected (e.g. fiscal incentives such as tax credits)*".

2.5.2- Ethanol: as ethanol is an agricultural product for the WTO, ethanol subsidies must be added to the specific AMS. The main subsidy is the volumetric ethanol excise tax credit (VEETC) of $0.51 per gallon (reduced to $0.45 from 2009). However some have objected that VEETC has mainly benefitted to blenders and not so much farmers. Maybe but there is a large consensus that the ethanol mandate, together with VEETC and tariffs on imports, have

[8] http://www.futurefordairy.com/faqs/margin-protection-program.html#pageTop

led to the spike in corn prices (not to speak of other grains and food). Without adopting the figures of international institutions that US corn ethanol boom was responsible fothe spike in international food prices from 2005-06 to 2007-08 – by more than 50% for FAO and OECD, 65% for the World Bank and 70% for IMF –, we can at least take the much modest 13% increase estimated by FAPRI and quoted by ICTSD: "*With no tax credits, tariffs or mandates supporting corn ethanol use, average ethanol production declines by 5.5 billion gallons and corn prices fall by 13.1%*"[9]. The more so as corn prices have risen even more since 2008 despite the termination of VEETC and the tariff on imports in end 2011 because the Congress mandate was much more restrictive. Table 6 shows also the huge rise in the revenues of crop producers which have more than doubled from 2007 to 2012. Therefore extending up to 2013 the FAPRI estimate that 13.1% of the rise in corn prices at the farm level was due to corn ethanol leads us to the highly conservative estimate of average annual subsidies to corn ethanol of $1.562 bn from 2007 to 2013, from $289 M in 2007 to $2.980 bn in 2013, to be clearly notified in the PS AMS.

The more so as we do not take into account the hundreds of other subsidies at federal and State levels not only to ethanol but also to biodiesel, which, although not an agricultural product for the WTO, could nevertheless be taken into account according to the AoA Annex 4 paragraph 4 that "*Measures directed at agricultural processors shall be included to the extent that such measures benefit the producers of the basic agricultural products*".

Table 6 – Subsidies to corn ethanol from 1995 to 2013

$ billion	1995-00	1995-04	2005	2006	2007	2008	2009	2010	2011	2012	2013	2007-13
Ethanol Mgal	1383	1779	3904	4884	6521	9309	10938	13298	13929	13218	13312	11504
VEETC $M	697	902	1500	2570	3320	4410	5160	5680	5670			4848*
Corn/ethanolMt	12,4	16,3	33,6	40,7	53,8	77,4	94,2	116,6	127,5	127	118,1	102,1
Farm price/ton	94,5	90,6	81,1	78,7	119,7	165,4	159,	139,9	203,9	244,9	271,3	186,3
"gap from2006					41	86,7	80,3	61,2	125,2	166,2	192,6	107,6
13,1% of gap					5,37	11,36	10,52	8,02	16,40	21,77	25,23	14,1
Ethanol sub $M					289	879	991	935	2091	2766	2980	1562
Corn reven $bn			18,5	22,9	34,1	48,4	42,5	47,2	62,9	69,2	60,4	52,1

http://www.taxpayer.net/library/article/big-oil-big-corn-an-in-depth-look-at-the-volumetric-ethanol-excise-tax-cred; http://www.ers.usda.gov/data-products/feed-grains-database/feed-grains-yearbook-tables.aspx#26766; http://www.ers.usda.gov/data-products/farm-income-and-wealth-statistics/annual-cash-receipts-by-commodity.aspx#.U06rGldFU5w; * from 2007 to 2011 for VEETC

2.5.3- Irrigation: curiously the US notified subsidies on irrigation have been declining continuously from 1995 to 2011 (table 5).

Table 7 – Notified irrigation subsidies from 1995 to 2011 (in $ million)

1995	1996	1997-98	1999-00	2001-03	2004-05	2006-07	2008-10	2011
543	381	349	316	300	269	240	204	189

The notification is presented as "*Based on a "debt financing method." A long term interest rate is applied to the outstanding unpaid balance of capital investment by the Government in irrigation facilities to obtain the subsidy. Irrigators repay the principal but not the interest on the project debt. New estimates are not made every year; the 2005 estimate was assumed for 2007*". Let us try to apply this *"debt financing method*" supposedly used for the notified subsidies to the total reimbursable Federal investment in the Central Valley Project (CVP)'s facilities providing water for irrigation and municipal and industrial (M&I) purposes of $1.3 billion in 2011. And let us assume that the share of irrigation was still the same $1.124 bn that in 1998. Given that the average rate of US treasury bonds of 10 years maturity was of 4.67%

[9] Jane Earley, *US Trade Policies on Biofuels and Sustainable Development*, ICTSD, June 2009.

in the 60s, 7.50% in the 70s, 10.59% in the 80s, 6.53% in the 1990s and around 4% in the 2000s, if we assume an average rate of 5.5% for the whole period, the annual subsidies to CVP irrigation would have been around $62 M, which is clearly far from reality.

The notified subsidies at the WTO are clearly ridiculous because many reports of the General Accounting Office (GAO) have underlined the large level of irrigation subsidies that most experts have evaluated to be of at least €2 bn[10] annually, even if others have estimated at least $1 bn[11] or $1.5 bn. A 2006 report of the Congress Budget Office (CBO) found that irrigators have been required to repay only about 37% of total original costs allocated to them over the decades.

According to the GAO report of 1996 on the Bureau of Reclamation (BR, in charge of managing public water projects), "*The federal government has spent $21.8 billion to construct 133 water projects in the western United States that provide water for various purposes, including irrigation… As of September 30, 1994, irrigators had been allocated $7.1 billion of the $16.9 billion federal investment in water projects considered reimbursable. However, as a result of adjustments made after analyzing the irrigators' ability to pay and relief granted through specific legislation, that amount was reduced to $3.4 billion – or 47 percent of the irrigators' allocated share of the construction costs… In addition, irrigators generally have 40 years or more to repay their share of these costs, often after a period of up to 10 years in which the irrigators receive water to develop their land but are not required to begin payments… For example…the irrigation component of the Tualatin project* [Oregon] *represented $31.5 million… However, because of interest-free financing and a 64-year repayment period, which began in 1976, the federal subsidy provided to the irrigators amounted to $30.6 million, or 97 percent of the construction costs allocated to irrigators*"[12].

The Central Valley Project (CVP) is the US largest irrigation project covering 3/4 of the irrigated land in California and 1/6 of US irrigated land on more than 3 million acres of farmland but it also supplies water to nearly 1 million (M) households. On $1.124 bn in construction costs allocated to irrigators, as of 30 September 1998, they had repaid only $63 M (5.6%) since the beginning of the construction in 1937 and total repayment, after the renewing of water contracts in 2005 is due for 2030! In 1985 already "*Irrigation water users pay an average of $6.15 per acre foot; the cost to the Federal Government is $72.99, resulting in a 91 percent subsidy*"[13]. The water rates do not even cover the operation and maintenance (O&M) costs of water facilities since "*the rates were established under the assumption that operation and maintenance costs would remain stable over time*".

A GAO report of December 2007 on the CVP shows that $523 M of capital construction costs of the San Luis Unit constructed in 1960 were reimbursable by its five water districts but that, as of 30 September 2005, they had paid only $74 M – i.e. $1.6 M per year –, leaving $449 M to be repaid by 2030, i.e. $18 M per year[14]. Another evaluation of the CVP made in

[10] http://home.alltel.net/bsundquist1/ir7.html#A4;
http://wingolog.org/writings/water/html/node89.html;
http://www.newamerica.net/publications/articles/2003/the_new_continental_divide;
http://www.perc.org/articles/article756.php

[11] Robert Repetto, "Skimming the Water", World Resources Institute, Washington DC, 1986; Shanz & l.:
http://www.doi.gov/oepc/wetlands2/v2ch12.html#foot19; Bruce Sunquist :
http://home.alltel.net/bsundquist1/ir7.html#A4

[12] United States General Accounting Office, *Bureau of Reclamation. Information on Allocation and Repayment of Costs of Constructing Water Projects*, July 1996.

[13] http://www.nemw.org/nrsub.htm

[14] http://www.gao.gov/new.items/d08307r.pdf

2013 by the Department of Interior shows that the BR has passed water service contracts which include a provision requiring that BR refunds any excess revenues to contractors rather than applying these revenues to reduce the unpaid capital costs and O&M deficits. The report underlines that "*If recent CVP water delivery trends continue, repayment of the capital investment in the CVP irrigation facilities could be short by between $330 and $390 million by 2030… Provisions of Reclamation Law permit irrigation contractors to apply for relief from their capital repayment obligation based upon an economic analysis showing that they cannot meet that obligation… The difference between the cost-of-service rate and the irrigation contractor's ability to pay is shifted to the CVP power users for repayment through the U.S. Department of Energy. Thus, power users will pay any costs above the irrigation contractor's ability to pay*".

An Environmental Working Group (EWG) investigation has calculated that federal water subsidies were of $416 M in the CVP alone[15], a figure recouped by other sources: CVP uses about 7 M acre-feet of irrigated water annually[16] with a subsidy of around 67 per acre-foot, leading also to $468 M.

The large under-evaluation of irrigation subsidies can be explained by the fact that its main beneficiaries are large agribusinesses rather than small farmers. The EWG report shows that in 2002 10% of CVP irrigators got 67% of the water, for an average subsidy of $349,000 at market rates for replacement water, 27 farms receiving $1 million or more compared to a median subsidy of $7,076, one farm getting $4.2 million which used more water than 70 water user districts.

Incidentally the water rates are as much subsidized in the California State Water Project[17], the US largest State water project which delivers 3 million acre-feet, and large agribusinesses are the main beneficiaries. This was already the case in 1984 as attested by two researchers of the University of California: "*Big landowners are the norm in Kern County. This part of the valley has never been characterized by small holdings. Eight corporations own more than 50 percent of the land in the KCWA service area, and most of the rest is held in parcels of over 2,000 acres… For more than 50 years California agribusiness, operating with probably the most concentrated agricultural land ownership pattern in the nation, has been remarkably resourceful in securing highly favorable irrigation policies from both the federal and state governments*".

Yet, according to the Public Law 97-293 of October 12, 1982 as amended on December 21, 1995, "*irrigation water may not be delivered to a qualified recipient for use in the irrigation of lands owned by such qualified recipient in excess of nine hundred and sixty acres of class I lands or the equivalent thereof*"[18]. Yet the US Internal revenue code, 2011 edition (Title 26, subtitle A, Chapter 1, sub-chapter B, part II, Sec. 90), continues to state: "*The term "illegal Federal irrigation subsidy" means the excess (if any) of— (A) the amount required to be paid for any Federal irrigation water delivered to the taxpayer during the taxpayer year, over (B) the amount paid for such water*"*… The term "Federal irrigation water" means any water*

[15] http://archive.ewg.org/reports/Watersubsidies/execsumm.php
[16] http://www.pacificresearch.org/pub/sab/enviro/watermkts/watermkts.html
[17] http://oldweb.geog.berkeley.edu/PeopleHistory/faculty/R_Walker/Walker_35_Storper.pdf
[18] http://www.usbr.gov/rra/Law_Rules/public%20law%2097-293.pdf

made available for agricultural purposes from the operation of any reclamation or irrigation project referred to in paragraph (8) of section 202 of the Reclamation Reform Act of 1982"[19].

Given that the 10 M acre-feet of irrigation water in the CVP and SWP represent only 11% of 91.2 bn acre-feet of irrigation water used nationally in 2008 and even if a good share of total acre-feet are less subsidized, we can conclude very conservatively that the US subsidies on irrigation were of at least $1 bn annually. The more so as we could have added the subsidized electricity to transport water and the EQUIP subsidies on irrigation equipment. David Blanford and David Orden would certainly agree with our conservative estimate when they wrote: "*The United States does not seem to include the subsidies to agricultural irrigators that arise from lower repayment of capital costs based on assessed "ability to pay," with the reduced capital cost charges to farmers being paid instead by hydroelectric power authorities of the projects… No notification is made for subsidies that might exist related to maintenance and operating costs (which irrigators apparently are required to pay), nor for water charges to agriculture that are below charges to other users. No entry is provided concerning preferential charges for electricity used in agriculture, either to move water from its source to farmland or for on-farm use of electricity*"[20].

2.5.4- Interest on agricultural loans: the US has notified subsidies to farm credit in the NPS AMS and in the green box. In the NPS AMS they remained at $48.8 M annually (rounded at $49 M) from 1995 to 2007 but disappeared from 2008 to 2011, so that the average from 2005 to 2011 was of $21 M, with the following explanation, unchanged since 1995: "*Various credit related programs for agriculture are funded by State governments to: supplement Federal programs, promote the "family farm," assist during economic downturns, and promote new enterprises and technological innovations. The data are latest available from results of a discontinued mail survey by the U.S. Department of Agriculture, Economic Research Service, reported by G. B. Wallace and others in "State Credit Subsidy Programs for Agriculture," Agricultural Income and Finance Situation and Outlook Report, pp. 10-14 (December 1990). The last estimate was made in 1994*".

Table 8 – Notified subsidies to interest on farm loans from 1995 to 2011

$ billion	1995-00	1995-04	2005	2006	2007	2008	2009	2010	2011	2005-11
Not. NPS AMS	49	49	49	49	49	0	0	0	0	21
Not. Green box	101	103	75	132	120	119	120	221	150	134
Total notified	150	152	124	181	169	119	120	221	150	155

Source: notifications to the WTO

And an average of $155 M was notified in the green box with the following explanation, also unchanged since 1995: "*Program includes (i) short-term and long-term loans made at preferential interest rates and (ii) guarantees of private loans. Eligibility (clearly defined in regulations) determined by status as owner-operator of a family-sized farm in situations of structural disadvantage (cannot obtain credit elsewhere)*".

Clearly these notifications do not match the actual government costs given by an USDA report to Congress of 2006[21] showing that, beyond the operational costs (subsidy plus administration expenses) we should not forget the write-offs, i.e. the losses net of recoveries.

[19] http://www.gpo.gov/fdsys/pkg/USCODE-2011-title26/html/USCODE-2011-title26-subtitleA-chap1-subchapB-partII-sec90.htm

[20] www.ifpri.org/PUBS/dp/IFPRIDP00821.pdf

[21] Charles Dodson and Steven konig, USDA, *Evaluating the Relative Cost Effectiveness of the Farm Service Agency's Farm Loan Programs*, USDA, Farm Service Agency, August 2006, http://www.fsa.usda.gov/FSA/webapp?area=home&subject=ecpa&topic=fla

The more so as we did not take into account the emergency loans, whose subsidy cost have been of $30 M on average from 1995 to 2000 and $19 M from 1995 to 2004 but with average write-offs of $599 M and $440 M from 1995 to 2004, as they could be notified in the green box. Even if the report underscores that "*A large share of direct loans was made to groups deemed to be marginally creditworthy by private sector lending standards. Direct loans are much smaller in size and reflect the smaller family farming clientele that they serve… Primary beneficiaries of direct loan programs include socially-disadvantaged and beginning farmer groups. Socially-disadvantaged groups include racial and ethnic minorities and women*", contrary to guaranteed loans which went to more creditworthy farmers. In fact "*Direct programs accounted for only about one-fourth of all dollars obligated, but because of their lower average loan size accounted for half of all borrowers served*" and, eventually, the average subsidies to guaranteed loans were a little higher than those to direct loans: $82 M against $79 M from 1995 to 2004 and $81M against $78 M from 1995 to 2000.

Table 9 – Farm loan program costs from 1995 to 2004

$ million	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Av. 1995-00	Av 1995-04
Loan subsidy costs	155	140	120	130	186	227	161	174	161	158	160	161
Write-offs	446	399	344	310	308	254	229	245	238	222	344	300
Total subsidies	601	539	464	440	494	481	390	419	399	380	503	461
Administrative costs	243	217	220	220	220	219	269	280	284	286	223	246
Overall cost	844	756	684	660	714	700	659	699	683	666	726	707

Source: http://www.fsa.usda.gov/FSA/webapp?area=home&subject=ecpa&topic=fla

Even if "*The majority of targeted funds went to beginning farmers, who received over 80 percent of all targeted direct FO* [farm ownership] *and 65 percent of all targeted guaranteed loans over the period*", a GAO report casts some doubt on the socially-disadvantaged status of beginning farmers: "*USDA generally defines a beginning farmer or rancher as one who has operated a farm or ranch for 10 years or less—without regard for age—and who materially and substantially participates in its operation... Another [analysis] indicates that roughly one-third of beginning farms in 2005 had no agricultural output and were likely operated by individuals interested in a rural residential lifestyle*"[22].

Despite official reports that most subsidized farm loans go to small and deprived family farmers, this claim is challenged by Karen Krub of the Farmers' Legal Action Group: "*Smaller farmers continually report being told that they can only get financing if they expand their operations. Farmers wanting relatively small loans can't get them. The Agency and guaranteed lenders seem convinced that only big operations are desirable borrowers, whatever an applicant's actual financial situation. This is particularly a concern when the bigger loans quickly consume available funding… In particular, there are concerns that the "family farm" eligibility requirement is not enforced for guaranteed loans, so that the funds are used up by large-sum borrowers whose eligibility is questionable at best. FSA seems to be making little effort to promote the guaranteed loan program and Interest Assistance Program among lenders in underserved areas, particularly lenders with high numbers of borrowers who would be considered "socially disadvantaged applicants," and helping those lenders to understand and participate in the programs*"[23].

[22] GAO, *Additional Steps Needed to Demonstrate the Effectiveness of USDA Beginning Farmer Programs*, September 2007 (http://www.gao.gov/new.items/d071130.pdf)

[23] Farmers' legal action group, Inc, *FLAG Testimony*, Senate Committee Hearing on USDA Farmer Loan Programs, June 13, 2006 (http://www.flaginc.org/topics/news/Testimony20060613.pdf)

On the other hand OCDE has calculated an average of $312 M in the 1995-00 base period, of which $156 M of "farm operating loans" in the section of "variable input use" and $56 M also of "farm ownership loans" in the section of "fixed capital formation". Then OECD estimated an average of $238 M from 1995 to 2004 but of only 114 M from 2005 to 2011. The fact that OECD has considered these subsidies as payments to fixed and variable inputs means that they are coupled subsidies of the amber box, which is in line with the AoA article 6.2 according to which input subsidies and investment subsidies are not exempted from being notified in the AMS for farmers of developed countries, the more so as they were not for the largest part granted "*in response to objectively demonstrated structural disadvantages*" (AoA Annex 2 paragraph 11.a).

But there is more to tell about farm loan subsidies. Indeed, beside the Farm loan program run by the Farm Service Agency, with a market share of only 3% of farmers' indebtedness in 2007, the Farm Credit System (FCS) is a government-sponsored enterprise owned by its cooperative members-borrowers and regulated by the Farm Credit Administration to provide loans to farmers, ranchers, agro-industries and for rural houses and rural infrastructures. The FCS enjoys substantial tax exemptions and highly favorable cost of borrowed funds which amounted in 2005 to about $1.2 bn. And, contrary to the farm loan program, the FCS lends primarily to large creditworthy farmers, as their average acreage in 1999 was of 935 acres against 600 for bank customers and the average market value of farm products sold by FCS customers was of $311,000 against $168,000 for that sold by all farms with debts[24]. No wonder that its share of farm credit was of 32% in 2002 against 40% for commercial banks[25].

For all these reasons we will consider that the average $155 M notified from 2005 to 2011 is a highly conservative estimate and should be notified in the NPS amber box.

2.5.5- Grazing fees: subsidies to grazing fees on public lands have been notified for an average of $42 M from 2005 to 2011 after $50 M from 1995 to 2000 and $50 M from 1995 to 2004. However, according to a GAO report of September 2005, the net US expenditures on grazing amounted to $123 million in 2004: "*In fiscal year 2004, federal agencies spent a total of at least $144 million. The 10 federal agencies spent at least $135.9 million, with the Forest Service and BLM accounting for the majority. Other federal agencies have grazing-related activities, such as pest control, and spent at least $8.4 million in fiscal year 2004. The 10 federal agencies' grazing fees generated about $21 million is fiscal year 2004 – less than one-sixth of the expenditures to manage grazing*"[26].

The Center for Biological Diversity reacted to the GAO's report: "*The current grazing fee is calculated using a formula established in the Public Rangelands Improvement Act of 1978 (PRIA)… The 2005 report noted that the BLM and Forest Service grazing fee decreased by 40 percent between 1980 and 2004, while fees charged by private ranchers increased 78 percent over the same period… Independent economists have estimated that the costs may be closer to $500 million annually*[27]. However these economists have made a broader assessment of public costs and concluded: "*Taking into account the many direct and indirect federal*

[24] American bankers' association, *Who Finances America's Family Farmers? A review of the recent USDA Agriculture Economics and Land Ownership Survey*, http://www.aba.com/Solutions/AgriculturalBanking.htm

[25] Bert Ely, *The Farm Credit System: Lending Anywhere But on the Farm*, November 2006, www.aba.com/NR/.../Horizons2006ELYFINAL.pdf

[26] Government Accountability Office (GAO)'s report of September 2005 (http://www.gao.gov/new.items/d05869.pdf).

[27] http://www.biologicaldiversity.org/swcbd/programs/grazing/GrazingFeePetition.pdf

expenditures that benefit or compensate for impacts of livestock grazing on federal lands, the full cost of the federal grazing program to the U.S. Treasury is likely to approximate $500 million annually. Considering the many other indirect costs borne by state and local government agencies, individuals and private institutions due to resource damage and impaired opportunities for recreation and other non-commercial land uses, the full cost to the U.S. public could approach $1 billion annually"[28].

However we will stick to the GAO's conservative assessment of $123 M, implying to add $81 M on average to the $42 M notified from 2005 to 2011. And, as these subsidies are granted only to cattle (essentially bovine and ovine cattle) they are clearly PS subsidies.

6) Total under-notified US AMS from 1995 to 2011

Table 10 recapitulates the net PS subsidies and NPS subsidies which have been notified and should have been notified from 1995 to 2011 and compare the net PS subsidies with the allowed $19.103 bn.

The under-notified components of the AMS are taken from the previous tables: insurance subsidies from table 2, corn ethanol subsidies from table 6, the MPS to dairy from table 5, subsidies to grazing fees is the simple subtraction of the low notified subsidies from $123 M, and other PS subsidies to all crops from table 4. Which shows that the actual annual PS AMS (or total AMS) subsidies have exceeded the notified ones by $2.563 bn from 1995 to 2000, by $4.313 bn from 1995 to 2004 and by $12.574 bn from 2005 to 2011. And the actual PS AMS or total AMS has even exceeded the bound allowed AMS of $19.103 bn in 2005, 2006, 2009 and 2011 and the average margin of the allowed total AMS less the actual AMS has shrunk from $6.139 bn in 1995-2000 to $4.287 bn from 1995 to 2004 and has disappeared, at -$76 M, from 2005 to 2011.

The WTO Revised draft of agricultural modalities of 6 December 2008 has foreseen that the Final Bound Total AMS (FBTA) would be cut for the US by 60% in six steps over five years, including by 25% the first day of the Doha Round implementation period (paragraphs 13.b and 15). Which means that the FBTA will be reduced by $4.327 bn to $14.327 bn this first day and then by $1.427 bn each of the five following years, to come to $7.641 bn at the end of the implementation period. It is clear that the present level of the applied total AMS renders this perspective impossible. And even if the 20014 Farm Bill has eliminated the market price support for dairy, it will increase instead the crop insurance on dairy. As for the new crop insurance for cotton, the STACK programme, Brazil has just make clear that it will actually increase the trade-distorting effect of the present cotton policy so that it has decided to sue rapidly the US at the WTO[29].

However the actual NPS AMS is lower than that notified because the largest components have been transferred to the PS AMS: crop insurances, counter-cyclical payments and market loss payments. Despite the under-notification of subsidies on irrigation and farm loans, the actual net annual NPS AMS has been overestimated by $1.837 bn from 1995 to 2000, $2.928 bn from 1995 to 2004 and $3.428 bn from 2005 to 2011.

[28] http://www.biologicaldiversity.org/publications/papers/assessing_the_full_cost.pdf
[29] http://www.fibre2fashion.com/news/textile-news/newsdetails.aspx?news_id=162136

Table 10 – The under-notified total AMS for all crops from 1995 to 2011

$ billion	1995-00	1995-04	2005	2006	2007	2008	2009	2010	2011	2005-11
Allowed AMS	19103	19103	19103	19103	19103	19103	19103	19103	19103	19103
Notified AMS	10401	10504	12938	7742	6260	6255	4267	4119	4654	6591
Under-notified components of total AMS										
Crop insurance	696	987	1942	1957	3139	46	1613	-1040	3834	1642
Corn ethanol					289	879	991	935	2091	741
+ grazing fees	72	73	84	85	85	78	78	78	77	81
+ dairy MPS	0	0	0	0	0	2086	2184	2166	2176	1230
Other PS subsidies	12196	13756	17467	21171	12827	12172	15962	11354	17449	15486
Total PS AMS	12964	14816	19493	23213	16340	15261	20828	13493	25627	19179
Excess over notified	2563	4312	6555	15471	10080	9006	16561	9374	20973	12574
Allowed-actual AMS	6139	4287	-390	-4110	2763	3842	-1725	5610	-6524	-76
Under-notified NPS AMS										
Notified NPS AMS	3749	4300	5862	3430	2023	9262	6074	5387	9233	5896
Less notified subsidies transferred to PS subsidies: crop insurances, counter-cyclical payments, market loss payments										
Crop insurance	886	1296	757	1613	801	5691	5426	4711	7461	3780
CCP	0	664	4749	1488	893	1220	221	17	0	1227
Market loss payment	1822	1838	0	0	0	0	0	0	0	0
Sub-total	2708	3798	5506	3101	1694	6911	5647	4728	7461	5007
Plus remaining NPS subsidies										
SURE programme						2100	167	395	1442	586
Irrigation subsidies	624	658	731	760	760	796	796	796	811	779
Farm loans	101	103	75	132	120	119	120	221	150	134
Other NPS subsidies	146	109	49	52	51	4	13	14	95	40
Sub-total	871	870	855	944	931	3019	1096	1426	2498	1539
Net NPS AMS and over-notified NPS AMS										
Net NPS AMS	1912	1372	1211	1273	1260	5370	1523	2085	4270	2428
Over-notified AMS	1837	2928	4651	2157	763	3892	4551	3302	4963	3468

III – The US could not cut its OTDS by 70% in the Doha Round implementation period

The Draft Modalities of 2008 (paragraph 3.b) have also required that the US would reduce by 70% its Overall trade-distorting domestic support (OTDS) at the end of the Doha Round implementation period. As for the FBTA the reduction should be made in six steps over five years but the first step occurring the first day of the implementation period would be of one-third (paragraph 5.a). Let us remember that the OTDS is the sum of the FBTA + product-specific de minimis (PSdm) + non product-specific de minimis (NPSdm) + blue box (BB). As we have already analyzed the challenges the US will face with the reduction in its FBTA and as the US has no applied BB an as its NPSdm is low, let us concentrate on the PSdm.

The first issue here is that the Draft modalities have cheated with the AoA rules. Indeed there is a contradiction between paragraphs 1 and 30. Paragraph 1 states: "*The base level for reductions in…"Base OTDS" shall be the sum of: (a) the Final Bound Total AMS…; plus (b) for developed country Members, 10 per cent of the average total value of agricultural production in the 1995-2000 base period (this being composed of 5 per cent of the average total value of production for product-specific and non-product-specific AMS respectively)* [not underlined in the text]". However paragraph 30 reproduces correctly the AoA article 6.4 rules when it states: "*The de minimis levels referred to in Article 6.4(a) of the Uruguay Round Agreement on Agriculture for developed country Members (i.e. 5 per cent of a Member's total value of production of a basic agricultural product in the case of product-specific de minimis* [not underlined in the text] *and 5 per cent of the value of a Member's total agricultural production in the case of non-product-specific de minimis) shall be reduced by no less than 50 per cent effective on the first day of the implementation period*". In other words, as soon as a product-specific (PS) support reaches 5% of the production value of the product, it loses its allowed PS *de minimis* exemption and gets a PS AMS which is added to the applied PS AMSs and the production value of that product is added to the production value of all products with PS AMSs.

This contradictory definition of the PSdm has been reproduced from the previous Draft modalities of 17 July 2007 (paragraphs 1 and 27), 7 February 2008 (paragraphs 1 and 30) and 10 July 2008 (paragraphs 1 and 30), so that this contradiction in the Draft modalities should be clarified to know for sure what will be the rule if the Doha Round is concluded. The main reason why this revised draft modalities has tried to change the rule on PSdm is that the EU has not been able or willing to notify the production value of each product having a calculated AMS up to 1999-2000, the production value having only appeared from 2000-01, although Solidarité has been able to make these calculations[30]. This explains why the simulations published in May 2006 by Canada on the impact of the EU, US and Japan offers on their FBTA and OTDS reductions, on their behalf and endorsed by the WTO, had already used 5% of the value of the whole agricultural production for PSdm.

However the full impact of changing the PSdm definition can only be understoood when coupled with the fact that feed subsidies are input subsidies conferring PS AMSs to all animal products of the developed countries, the DCs being largely exempted by the AoA article 6.2 for "*input subsidies generally available to low-income or resource-poor producers in developing country Members*". Yet we have seen that the US notifies already subsidies to grazing fees on federal lands – so that it recognizes that feed subsidies are input subsidies to notify in its AMS –, but it has refused to notify by far its most important feed subsidies, those to feed grains which have reached an annual average of $4.372 bn in the 1995-00 period. As feed is the most important input of all animal products, feed subsidies are conferring PS AMSs to them. Indeed the Congressional Research Service has acknowledged that "*program commodities such as corn are feed inputs for livestock*" (footnote 4). For OECD also, "*Input subsidies are typically explicit or implicit payments reducing the price paid by farmers for variable inputs (for example, fertilisers, feed, seeds, energy, water, transportation, insurance)*"[31]. And, in its manual on national accounts for agriculture, OECD specifies as part of the "total intermediate consumption of farm origin": "*Animal feeding stuffs… supplied by other agricultural holdings*" or "*purchased from outside the agricultural sector*" or "*produced and consumed by the same holding*".

The US (and EU) cheatings in that area have been promoted by the OECD tortuous concept of "excess feed cost": "*The excess feed cost due to the price support of cereals is deducted from the price support of animal products. Therefore it is not possible to take it into account a second time in input subsidies*". If this concept could have been debated when the world prices of cereals was low so that this alleged "excess feed cost" represented by the difference between the domestic prices of cereals, oilseeds meals and pulses used in feed and their world prices was large, it appears totally illogical now that their world prices have skyrocketed since 2008 so that the "excess feed cost" has totally disappeared in the OECD PSE. Yet the feed subsidies are still there which is the best refutation of this mystifying OECD concept of "excess feed cost".

Once added to the US PS AMSs the production value of $57.075 bn of all meats during the 1995-2000 base period, the production value of products with PS AMSs rises from $49.734 bn to $106.987 bn so that, given an average agricultural production value of $194.139 bn, the production value of products without PS AMSs falls to $87.152 bn and the allowed PSdm in

[30] J. Berthelot, *Thorough review of the EU agricultural distorting supports to rebuild fair and sustainable agricultural trade rules after the Doha Round hibernation*, Solidarité, 21 August 2006, http://www.solidarite.asso.fr/Papers-2006

[31] OECD, *Methodology for the measurement of support and use in policy evaluation*, 2002.

the base period, being 5% of that value, falls to $4.358 bn[32]. Therefore the allowed OTDS in the base period falls from $48.224 bn – in Canada's simulations of 19 May 2006: 19.103 (FBTA) + 9.707 (PSdm) + 9.707 (NPSdm) + 9.707 (BB) – to $42.875 bn: 19.103 (FBTA) + 4.358 (PSdm) + 9.707 (NPSdm) + 9.707 (BB). And the allowed OTDS at the end of the implementation period, once cut by 70%, will fall to $12.863 bn. In fact, according to the Draft modalities of 6 December 2008, the OTDS will fall the first day of the Doha Round implementation when the FBTA will be reduced by one third – to $12.735 bn –, the PSdm and NPSdm by 50% – to $2.179 bn and $4.854 bn respectively – and the BB also by 50%, hence to $4.854 bn, making a total OTDS of $24.622 bn. Let us be clear however: the total PS AMSs have not increased by the fact that feed grains have been used as input subsidies for animal products this has simply increased the share of the production value of products with PS AMSs in the whole agricultural production value.

This $24.622 bn of allowed OTDS the first day of the Doha Round implementation period is to be compared with the present OTDS of $30.378 bn in 2011: $25.627 bn (total PS AMS) + $481 M (PSdm) + $4270 M (NPSdm) + 0 (BB). No comment.

One could go even further as it has been shown[33] that the in kind deliveries of $28.3 bn of food in the US nutrition programmes other than food stamps in 2012 are using public stocks and that their subsidized market prices can be viewed as administered prices because their "current market prices" are not real market prices without "*virtually no government involvement in setting prices*"[34]. They should therefore be corrected by adding the direct payments to the value of their farm product components to get the *comprehensive price* or *full price* comparable to prices of countries, mainly DCs, which do not grant such payments by lack of resources.

Therefore the US should also notify in the AMS the amount corresponding to the gap between these equivalent administered prices and the 1986-88 border prices times the volume of products consumed in its nutrition programmes. We have shown that in 2012 the US nutrition programmes have used 4,587 Mt of wheat and 8,972 Mt of corn in the end food products, including as feed in animal products[35]. Table 4 above has shown that total subsidies to corn amounted to $6.995 bn in 2012 (not taking into account those to corn ethanol), implying, for a production of 323.6 Mt, a subsidy per tonne of $21.62. In 2012 the US AMS per tonne of corn used in nutrition programmes was of $188 given a total price for corn of $266.5 – $244.9 of market price plus $21.6 of subsidy – and the average FOB price of $78.5 in 1986-88. The subsidies to wheat reached in 2012 $3.154 bn for a production of 54.37 Mt, implying a subsidy per tonne of $57. And the US AMS for wheat was of 236 $/t: 342.7 $/t of total farm-gate price – including 285.7 $/t of market price and 57 $/t of subsidies – less 106.7 $/t for the average FOB price of 1986-88. Multiplied by the quantities of corn and wheat consumed in the nutrition programmes, the corresponding total AMS was of 1.687 bn for corn and $1.083 bn for wheat. However one should restrict the calculation of the AMS to the products included in the nutrition programmes other than food stamps which do not imply public

[32] J. Berthelot, *Simulations of the possible cuts in the US agricultural trade-distorting domestic supports*, Solidarité, http://solidarite.asso.fr, 21 June 2007.

[33] *Comments to the "U.S. Question to India" at the WTO Committee on agriculture of 29 January 2014*, Solidarité, 5 March 2014, http://www.solidarite.asso.fr/Papers-2014

[34] US Department of Commerce, *Normal value*, AD Manual, chapter 8.

[35] *Analysis of the G-33's proposal to change the AoA provision on Public stockholding for food security*, Solidarité, January 25, 2014, http://www.solidarite.asso.fr/IMG/pdf/Analysis_of_the_G-33_proposal_on_Public_stockholding_for_food_security_25-01-2014.pdf

stocks so that the actual AMS to notify would be around a quarter of that total, or $422 M for corn and $271 M for wheat. But extending this calculation to all basic products – notably dairy products and sugar – included in the final processed food consumed in children nutrition programmes, WIC programmes and others would increase significantly the AMS to notify.