



Assessing the AMS of the US domestic food aid in 2012
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As the debate on the agricultural support to public stocks of cereals for food security purposes is still dividing the WTO Members of developed countries and developing countries (DCs) because of the WTO absurd rules on this issue, time is up to apply the same rule to the US public stocks so that it might change its mind.

For this we have to clarify several misunderstandings about the WTO rules enshrined in the Agreement on Agriculture (AoA) Annex 2 paragraphs 3 and 4. For the readers not familiar with the issue, let us paste these two paragraphs.

The AoA Annex 2 paragraphs 3 and 4

3. *Public stockholding for food security purposes¹*
Expenditures (or revenue foregone) in relation to the accumulation and holding of stocks of products which form an integral part of a food security programme identified in national legislation. This may include government aid to private storage of products as part of such a programme.

The volume and accumulation of such stocks shall correspond to predetermined targets related solely to food security. The process of stock accumulation and disposal shall be financially transparent. Food purchases by the government shall be made at current market prices and sales from food security stocks shall be made at no less than the current domestic market price for the product and quality in question.

¹ 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.

4. Domestic food aid²

Expenditures (or revenue foregone) in relation to the provision of domestic food aid to sections of the population in need.

Eligibility to receive the food aid shall be subject to clearly-defined criteria related to nutritional objectives. Such aid shall be in the form of direct provision of food to those concerned or the provision of means to allow eligible recipients to buy food either at market or at subsidized prices. Food purchases by the government shall be made at current market prices and the financing and administration of the aid shall be transparent.

In short the debate turns around the obligation to notify in the AMS (aggregate measurement of support) at the WTO "the difference between the acquisition price and the external reference price", the "acquisition price" being labelled "administered price" for developing countries (DCs) and the "reference price" being that of the years 1986 to 1988 according to paragraph 9 of the AoA Annex 3. The WTO Draft modalities on agriculture of 6 December 2008 had already proposed to get rid of this requirement and the G-33 of DCs, represented by India, had again asked that this provision should be officially deleted by the WTO ninth Bali Ministerial of December 2013, which agreed only to a "peace clause" allowing India and other DCs running already the same type of public stockholding for food security purposes to continue to provide trade-distorting subsidies to run their programmes, under restrictive conditions, until a permanent solution is agreed at the WTO. Unfortunately the tenth Ministerial in Nairobi of December 2015 did not reach a permanent solution so that the debate is still on-going in Geneva.

First misunderstanding: agricultural products vs food products

Paragraphs 3 et 4 deal with "food" or "foodstuffs", not with "agricultural products", and do not specify that these products are purchased to farmers. Thus the Food Corporation of India (FCI) purchases a significant part of rice to rice mills, not to farmers. In 2012 US domestic food aid was of \$114.048 bn (net of administrative expenses) of which \$88.858 bn or 77.9% of total under the SNAP (food stamps) programme and \$25.190 bn or 22.1% for the other programmes delivered in kind to communities³. On this \$1.595 bn were purchased directly to farmers by USDA in 2012, of which almost half were already processed (such as meat), the rest being purchased to agro-industries and wholesalers.

Second misunderstanding: "current market prices" vs "administered prices"

To know what a "market price" is the best source are the US and EU provisions on "non-market economies" which are considered not to use prices in line with their "normal value". Thus, in the US antidumping manual, "For the merchandise under investigation or review, there must be virtually no government involvement in setting prices"⁴. Therefore the provision in paragraph 4 that "Food purchases by the government shall be made at current market prices" is not verified for the US given the large subsidies received by its agricultural products.

² For the purposes of paragraphs 3 and 4 of this Annex, the provision of foodstuffs at subsidized prices with the objective of meeting food requirements of urban and rural poor in developing countries on a regular basis at reasonable prices shall be considered to be in conformity with the provisions of this paragraph.

³ <http://www.obpa.usda.gov/budsum/FY14budsum.pdf>

⁴ US Department of Commerce, *Normal value*, AD Manual, chapter 8.

Now several reports have underlined the necessity to internalize in domestic agricultural market prices the subsidies allocated to the corresponding products:

- The OECD has done it in a report of 2011 where the concept of domestic prices is defined as "*producer prices plus payments linked to the production of a specific commodity*"⁵.

- In the US cotton case, the Appellate Body's report underlined that "*During the oral hearing, the United States accepted that farmers decide what to plant based on expected market prices as well as expected subsidies*" (paragraph 440)⁶.

- A FAPRI⁷ Report of October 2013 assessing the two Farm Bills adopted in 2013 by the House of Representatives and the Senate presents tables of the expected "*average crop revenue in dollars per acre*"⁸ for several crops for the period 2014-18. In these tables the expected subsidies are added to market sales which, divided by the yield per acre, give the *comprehensive price* or *full price* per crop, although FAPRI does not use this concept but that of "revenue per acre".

- A World Bank paper of November 2008 written by Kim Anderson and Signe Nelgen incorporates also the decoupled subsidies in their indicator of agricultural prices distortion, the NRA [nominal rate of assistance]: "*With this dollar value of decoupled payments, the NRA can be calculated by dividing the result by the value of production at undistorted prices. Since the decoupled part of support in agriculture is steadily increasing in high-income countries, it is of particular importance to integrate this part of support, even though it is less market- and resource-distorting than other distortion measures*"⁹.

- USDA has used extensively the concept of "Net Budgetary Expenditures per Commodity"¹⁰ incorporating the subsidies with the farm price.

All these facts underscore that the "current market prices" at farm level are not real market prices without "*virtually no government involvement in setting prices*". They should therefore be corrected by adding the direct payments to get the *full prices* or *administered prices* comparable to those of DCs which do not grant direct payments by lack of resources.

Eventually the only difference between the US and EU farm prices and the DCs *administered prices* like the Indian "minimum support prices" (MSP) of rice and wheat is that, in the US and

⁵ Jean-Pierre Butault, *Evolution of Agricultural Support in Real Terms in OECD Countries and Emerging Economies*, OECD, 2011, <http://www.oecd-ilibrary.org/docserver/download/5kgkdgf25x20.pdf?expires=1385386110&id=id&accname=guest&checksum=476FE82E1A92E7409C7AAE4E85F48958>

⁶ WT/DS267/AB/R, 3 March 2005

⁷ US Research Center dependent from the US government.

⁸ http://www.fapri.missouri.edu/outreach/publications/2013/FAPRI_MU_Report_06_13.pdf

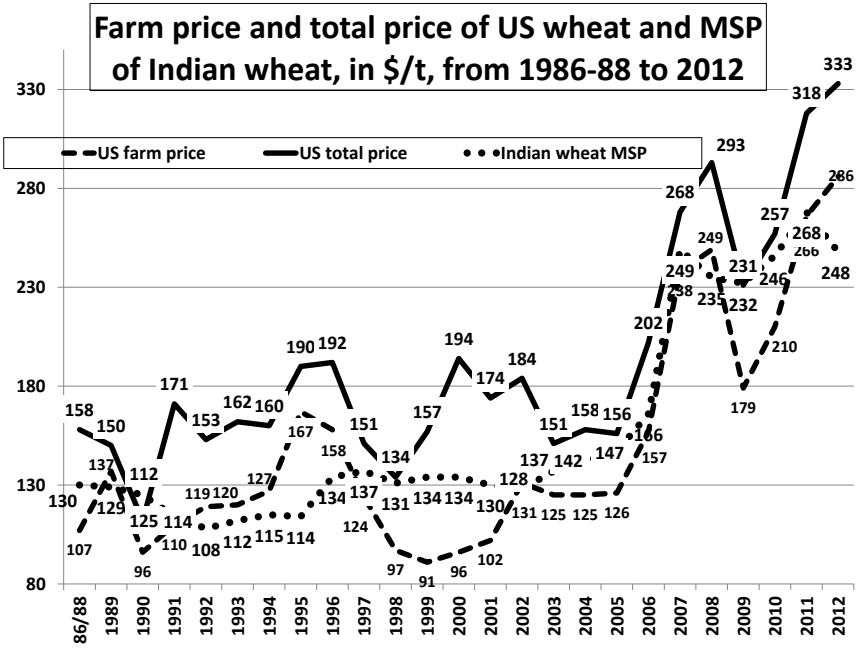
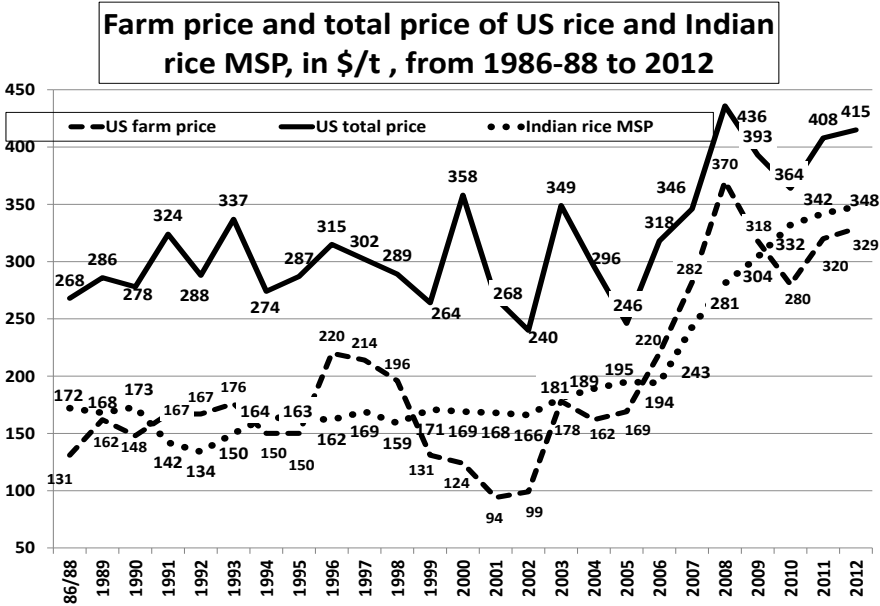
⁹ Kim Anderson and Signe Nelgen, "*Estimates of Distortions to Agricultural Incentives, 1955-2011*", updated in June 2013, http://siteresources.worldbank.org/INTRES/Resources/469232-1107449512766/Note_summarizing_core_updated_database_0613.pdf; *Distortions to agricultural incentives in Asia*,

<http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTRESEARCH/0,,contentMDK:21960058~pagePK:64214825~piPK:64214943~theSitePK:469382,00.html>

¹⁰ http://www.fsa.usda.gov/Internet/FSA_File/pb12_tbl35.pdf;

<http://www.fsa.usda.gov/FSA/webapp?area=about&subject=landing&topic=bap-bu-cc>

EU cases, the subsidy is not granted at the purchasing time and incorporated in the price but is granted along the year according to various types of coupled and decoupled payments¹¹.



Third misunderstanding: public stocks are not necessarily managed by a public company

This is not the case even in India where the storage of food distributed to beneficiaries is largely outsourced to private companies. On 30 June 2012 64% of the storage of rice and wheat controlled by the FCI was done in rented warehouses of the private sector, which received also

¹¹ From administered prices to total prices: application to the Indian, US and EU prices of rice and wheat, Solidarité, January 24, 2014, http://www.solidarite.asso.fr/Papers-2014?debut_documents_joints=40#pagination_documents_joints

subsidies for the construction of new warehouses¹². Insofar as it is the State (actually FCI) which manages the outsourcing it seems logical to continue to talk about public stocks.

In the US the USDA's instructions to the States' agencies managing the distribution of food for the School lunch and School breakfast programmes are that "*Recipient agencies are responsible for providing and maintaining proper storage for the commodities received. Commodities may be stored within the confines of the recipient agency's facility or at an outside storage facility... [with] an agreement signed by both parties that includes the terms and conditions of the storage arrangement; i.e., cost, temperature requirements, liability*"¹³. As most meals for lunches and breakfasts are prepared by the schools themselves – "*Meals come from a number of different sources, they can come from on-site production, vended meal from a NSLP [National School Lunch Program] caterer or in most schools provided by the local school board centralized kitchen*"¹⁴ –, and the State or District school Commission open bids to purchase the raw or processed foods which require storage.

Fourth misunderstanding: no minimum storage time required to speak of public stocks

The AoA says nothing about a minimum duration required to speak of public stocks. For the \$25 billion of EU food purchased by USDA and other States' agencies before being distributed in kind to the beneficiaries of food aid programs other than food Stamps (SNAP), mainly in School lunches and breakfasts, the storage time is certainly much shorter than in India but, even in India, a significant portion of rice and wheat is distributed by the FCI and the States after a short storage life.

The USDA's instructions to States agencies force them to "*use all food donated by the USDA within six months of receipt*", which applies both to the raw agricultural products and to those transmitted by the States to agro-industries for further processing¹⁵. The importance of storage in the school lunch and breakfast programmes is attested, as an example, in the Montgomery county of Maryland: "*The Food and Nutrition Services Center includes a 22,500 square foot warehouse that contains the inventory of products needed to prepare school meals. Through annual, monthly, and weekly production planning and menu development, foods are purchased in bulk quantities, stock is rotated to ensure freshness... The food service warehouse receives, stores, and distributes food and supplies to schools, Montgomery County agencies, non-profit organizations, and school systems in other counties. The warehouse consists of 15,000 square feet of dry storage, 10,000 square feet of frozen food storage, and 1,500 square feet of refrigerated storage*"¹⁶. On the other hand the 250 000 shops registered to redeem food stamps are obliged to store perishable goods¹⁷.

Thus the US mobilizes public food stocks even if they are broken up into thousands of points and if they are more often stocks of final food products than of unprocessed agricultural products, but the AoA deals with "foodstuffs" or "food", not with "agricultural products".

¹² <http://dfpd.nic.in/fcamin/annualreport/AnnualReport201213.pdf>

¹³ <http://web.extension.illinois.edu/smallfarm/downloads/48937.pdf>

¹⁴ http://en.wikipedia.org/wiki/National_School_Lunch_Act

¹⁵ <http://web.extension.illinois.edu/smallfarm/downloads/48937.pdf>

¹⁶ <http://www.montgomeryschoolsmd.org/departments/foodserv/about/facilities.shtm#Warehouse>

¹⁷ <http://www.massresources.org/snap-store-owners-guide.html>

Fifth misunderstanding: what is a food security stock?

There is no restrictive definition of what is a food security stock and actions to fight food insecurity occur in several ways. For USDA *"In 2012, 85.5 percent of U.S. households were food secure throughout the year. The remaining 14.5 percent (17.6 million households) were food insecure... Food and nutrition assistance programs of the U.S. Department of Agriculture (USDA) increase food security by providing low-income households access to food, a healthful diet, and nutrition education"*¹⁸. Amartya Sen has underscored the *entitlement* principle in his famous book *Poverty and Famines: An Essay on Entitlement and Deprivation* (1981), a book in which he argues that famine occurs not only from a lack of food, but from a lack of financial access to food.

The USDA follows implicitly Amartya Sen's conclusions by channeling 22.1% of its domestic food aid through direct delivery of food in kind and 77.9% through food stamps which are a direct financial aid to deprived households. These two alternative ways of fighting food insecurity should lead to consider that this second way of food assistance through financial aid is a kind of food security stock for the deprived beneficiaries so that there is no logical reason to apply to these alternative ways different treatments concerning the AMS notifications. At the end of the day the deprived beneficiaries get the food they need and the US farmers get the same benefit of selling their products either directly to USDA which delivers them to the States' services managing the School lunches and other programmes or to traders and agro-industries from which the authorized shops sell food products in exchange of food stamps.

Furthermore we can invoke the jurisprudence of the WTO Appellate Body on *"payment on the export financed by virtue of governmental action"* in the Dairy Products of Canada case (December 2001 and December 2002) and in the EU Sugar case (April 2005). In the Canada case, the US supported the view of the panel *"which requires governmental action to be "necessary" or "vital" to the transfer of economic resources in determining whether payments are "financed by virtue of governmental action"... Therefore, the Panel's conclusion that processors are receiving payments "financed by virtue of government action" should be upheld"*¹⁹. For the Appellate Body *"As the Panel observed, we held in the original proceedings that the word "payments" in Article 9.1(c) "encompasses 'payments' made in forms other than money"... It is not contested, in this appeal, that "payments" can include payments-in-kind in Article 9.1(c) of the Agreement on Agriculture"*. Therefore the WTO Dispute Settlement Body should consider that the US domestic food aid is channelled through two US government actions: either through payments-in-kind in the non SNAP programmes or through payments in food stamps to the SNAP recipients.

Assessment of the US AMS for important food items of its domestic food aid in 2012

According to the USDA budget there were \$88.858 billion of SNAP food aid in FY 2012 which, divided by the 46.609 million individual recipients, implies \$1,906 per recipient. However the USDA data base on SNAP shows a total value of only \$78.410 billion of which \$3.790 billion of administrative costs and \$74.619 billion of benefits which gives \$1,601 per recipient per year or \$133.41 per month²⁰. Total costs of the other programmes of in kind food aid – of which

¹⁸ <http://www.ers.usda.gov/publications/err-economic-research-report/err155.aspx#.UxXK94Wbv1I>

¹⁹ Canada – Measures Affecting the Importation of Milk and the Exportation of Dairy Products. Recourse to Article 21.5 of the DSU by New Zealand and the United States, WT/DS103/AB/RW, WT/DS113/AB/RW, WTO, Appellate Body, 3 December 2001.

²⁰ <http://www.fns.usda.gov/pd/supplemental-nutrition-assistance-program-snap>

school lunch, school breakfast, WIC (women, infants, children) and small others – was of \$24.6 billion²¹. We assume that the number of full time equivalent beneficiaries of these other in kind programmes is proportional to the ratio of their total costs: $x/46.609 = 26.6/74.6$ so that $x = 15.370$ million. Which gives total full time equivalent beneficiaries of 61.979 million in 2012.

We have now to assess the per capita food consumption of the US food aid recipients, the number of recipients on an annual full time equivalent basis, the value of the 2012 administered prices of several important food aid products and their 1986-88 reference prices, which will allow to assess the product-specific AMSs of these food aid products.

Most of the domestic food aid recipients are poor, which is reflected in their food diets. However, if the recipients of food stamps consume less fruit and vegetables and more "empty calories" such as sugary drinks and saturated fat than higher income beneficiaries, they consume as much beef and pork as the average US consumer and more poultry and eggs, chili con carne and hot dogs²².

On total US consumers' food purchases of \$1,445 billion²³ in 2012, \$1,261 billion or 87.25% were from US origin and we assume that this percentage applies also to the food items purchased through the SNAP programme and the other programmes of in kind food aid.

To what extent the average food aid benefit of \$1,601 per recipient in 2012 covers his annual food expenditures? The average US cost of food at home for the "thrifty plan" – which serves as the basis for food stamp allotments²⁴ – was in June 2012 of \$2,201 on a year basis per person for household of 2 persons²⁵, which corresponds to the average number of recipients per SNAP household. This implies that the SNAP benefit of \$1,601 per recipient covers 72.74% of his food expenditures – knowing that food stamps can only cover food consumed at home and without alcoholic beverages and hot products –, and we could extend this percentage to the recipients of in kind programmes. Or, put differently, the number of beneficiaries covering all their food needs would be of 45.084 million (72.74% of 61.979 million).

The US annual per capita food consumption per product is available on the USDA ERS data base²⁶. As it is given per pound of product we convert it in kg, and then multiply by 45.084 million full-time equivalent consumers. As it would be too much time consuming to trace all food items consumed by the food aid recipients we will concentrate on cereals, meats, eggs and dairy products. The reference prices for 1986-88 are available on the OECD ESP data base for the US as well as farm prices for 2012²⁷, to which we add the subsidies per tonne²⁸ to get the administered prices. Even if 12.75% of the US food is of foreign origin, this is not the case for cereals, meats and dairy and eggs for which almost 100% are of domestic origin.

²¹ http://www.ers.usda.gov/media/1060737/eib-109_single-pages.pdf

²² <http://www.ers.usda.gov/amber-waves/2014-november/snap-households-must-balance-multiple-priorities-to-achieve-a-healthy-diet.aspx#.VpyvzSrhDcs>; <http://www.fns.usda.gov/sites/default/files/ops/NHANES-SNAP07-10.pdf>

²³ <http://www.ers.usda.gov/data-products/food-dollar-series/documentation.aspx>

²⁴ http://www.cnpp.usda.gov/sites/default/files/usda_food_plans_cost_of_food/FoodPlans2003AdminReport.pdf

²⁵ http://www.cnpp.usda.gov/sites/default/files/usda_food_plans_cost_of_food/CostofFoodJune2012.pdf

²⁶ [http://www.ers.usda.gov/data-products/food-availability-\(per-capita\)-data-system.aspx](http://www.ers.usda.gov/data-products/food-availability-(per-capita)-data-system.aspx)

²⁷ <http://www.oecd.org/fr/tad/politiques-agricoles/estimationsdsoutienauxproducteursetconsommateursbasededonnees.htm#country>

²⁸ "Time is up for Developing countries to sue the US agricultural domestic subsidies, Solidarité, 14 January 2016 (<https://www.sol-asso.fr/analyses-politiques-agricoles-jacques-b/>)

The following table shows that, for these 8 products only – three cereals (wheat flour, corn flour, rice), three meats (beef, pork, poultry), dairy in milk equivalent and eggs – the US should have notified to the WTO \$14.880 billion in 2012 for its product-specific AMS linked to its domestic food aid. It is likely that the assessment of the AMS linked to all food products consumed by all US food aid recipients would have reached \$20 billion.

US AMS of important items of the domestic food aid programmes in 2012

	2012				\$ per tonne			\$ million AMS
	Pound	Kg	Million persons	1000 tonnes	Administered price 2012	Reference price 86-88	Admin-reference prices	
Wheat flour	134,4	60,96	45,084	2748,32	507,3	135,2	372,1	1358,6
Corn flour	33,9	15,38	45,084	693,39	412,6	112,1	300,5	276,8
Rice	20,4	9,25	45,084	417,03	407,6	129,8	277,8	154
Beef	81,5	36,97	45,084	1666,76	5758,2	1522,5	4235,7	9378,6
Pork	58,4	26,49	45,084	1194,28	2265,6	1464,6	801	1270,9
Poultry (chicken+turkey)	110	49,90	45,084	2249,69	1913,2	1084,5	828,7	2476,5
All dairy milk equivalent	613,2	278,15	45,084	12540,11	429,4	176,1	253,3	4219,8
Eggs (retail weight)	32,8	14,88	45,084	670,85	1488	779,1	708,9	631,7
Total				22180				14880

Source: [http://www.ers.usda.gov/data-products/food-availability-\(per-capita\)-data-system.aspx](http://www.ers.usda.gov/data-products/food-availability-(per-capita)-data-system.aspx); <https://www.sol-asso.fr/analyses-politiques-agricoles-jacques-b>; OECD: <http://www.oecd.org/fr/tad/politiques-agricoles/estimationsdusoutienauxproducteursetconsommateursbasededonnees.htm#country>

We can compare this US AMS of some of its food aid programmes with the Indian AMS of its domestic food aid in rice and wheat for 2011-12 and 2012-13.

Indian AMS of rice and wheat in 2011-12 and 2012-13

	MSP	Exchange rate*	MSP	1986-88 reference price	MSP-reference price	Procurement	AMS
2011-12	INR/t	INR/\$		\$/t		1000 tonnes	\$ million
Wheat	12850	52.5175	244,68	264	-19,32	28335	0
Paddy	10800	52.5175	205,65				
Rice equivalent	16615,4	52.5175	316,38	262,51	53,87	35041	1887,7
2012-13							
Wheat	13500	58.4235	231,07	264	-32,93		0
Paddy	12500	58.4235	214				
Rice equivalent	19230,7	58.4235	329,16	262,51	66,65	34044	2269

* average of annual exchange rates of 2011 and 2012 and of 2012 and 2013

Source: <https://www.irs.gov/individuals/international-taxpayers/yearly-average-currency-exchange-rates>; <http://dfpd.nic.in/procurement-figures.htm#>; <https://www.rbi.org.in/scripts/PublicationsView.aspx?id=15815>;
Domestic support notifications to the WTO

The conclusion is clear-cut: there is no competition between the US and Indian AMS of their domestic food aid programmes.