



Reconciling the views on a permanent solution to the issue of public stockholding for food security purposes

Jacques Berthelot¹

Contents

Introduction

I – Clarification of misunderstandings on the WTO rules on public stockholding

1.1 – The AoA Annex 2 paragraphs 3 and 4

1.2 – First misunderstanding: agricultural products vs food products

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

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

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

1.6 – Fifth misunderstanding: what is a food security stock?

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

III – Changing few words in the AoA could solve the issue and benefit the developed countries

3.1 – The modifications to make in the AoA Annex 3

3.2 – These modifications would find a permanent solution to the Public stockholding for food security purposes

3.3 – The developed countries would benefit even more of the changes in Annex 3

IV – Comments to the G33's proposal

4.1 – The G33's main proposals

4.2 – How to improve the G33's proposal

Conclusion

Introduction

On July 24, 2017 Alan Matthews commented on his blog "*The EU-Brazil WTO proposal on domestic support*"², which full title is "*Proposal on Domestic Support, Public Stockholding for Food Security Purposes and Cotton from Brazil, European Union, Colombia, Peru and Uruguay*"³, circulated to the WTO Members on July 17, 2017. And on 19 July 2017 the G33 Members presented their own "*Proposed Permanent Solution on Public Stockholding for Food Security Purposes*"⁴.

As the debate on this crucial issue is still dividing the WTO Members of developed countries and the bulk of developing countries (DCs) because of the WTO present absurd rules, time is up to apply the same rules to all WTO Members to find a true permanent solution. However to make this possible it is necessary to clarify the several misunderstandings prevailing on the actual WTO rules.

¹ Retired agricultural economist, jacques.berthelot4@wanadoo.fr

² <http://capreform.eu/eu-brazil-wto-proposal-on-domestic-support/>

³ http://trade.ec.europa.eu/doclib/docs/2017/july/tradoc_155777.pdf

⁴ WTO restricted JOB/AG/105

I – Clarification of misunderstandings on the WTO rules on public stockholding

These misunderstandings about the WTO rules are essentially enshrined in the Agreement on Agriculture (AoA) Annex 2 paragraphs 3 and 4 and some Annex 3 paragraphs. For the readers not familiar with the issue, let us paste these two paragraphs of Annex 2.

1.1 – The AoA Annex 2 paragraphs 3 and 4

3. Public stockholding for food security purposes⁵

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.

4. Domestic food aid⁶

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)⁷ 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, represented by India, had again asked that this provision should be officially deleted by the WTO IXth Ministerial of December 2013 in Bali, which agreed only to a "peace clause" allowing India and other DCs running already the same type of public stockholding (PSH) for food security purposes to continue to provide trade-

⁵ 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.

⁶ 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.

⁷ The AMS or Aggregate Measurement of Support is commonly called the *amber box* of coupled trade-distorting domestic supports. It encompasses the product-specific (PS) AMSs and the non-product-specific (NPS) AMS.

distorting subsidies to run their programmes, under restrictive conditions, until a permanent solution is agreed at the WTO. Unfortunately neither the Xth Ministerial of December 2015 in Nairobi nor the on-going debate ever since in Geneva did move the entrenched positions of the two parties, so that an in-depth clarification of the actual WTO rules is in order.

1.2 – 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 billion (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 communities⁸. 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.

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

The concepts of *administered price* and *market price* are not defined in the WTO agreements, although the administered prices are working in opposite ways in developed countries and DCs. While in DCs administered prices – the MSP (minimum support price) in India for example – are set *above domestic prices* to ensure remunerative prices to small farmers, especially just after harvest, and force merchants to pay higher market prices, in developed countries these are *minimum prices set below the prevailing market prices* in order to reduce their level.

According to Wikipedia, "*In the U.S. administered prices are fixed by policy makers in order to determine, directly or indirectly, domestic market or producer prices... In Europe, an administered price is defined either as a price legally set by a government authority, a (heavily) subsidized price, or an oligopolistic price set by large corporations*"⁹.

The reforms of the US Farm Bills and the EU CAP (common agricultural policy) since the 1990s have lowered by steps their administered prices, reducing correlatively their current farm prices, to increase their domestic and external competitiveness – importing less and exporting more – through massive compensatory alleged non-trade-distorting subsidies of the *blue* and *green* boxes¹⁰ and trade-distorting subsidies of the *amber* box.

Indeed – here lies the fundamental difference – these lower administered prices were accepted by Western farmers only because they were offset by domestic subsidies, including

⁸ <http://www.obpa.usda.gov/budsum/FY14budsum.pdf>

⁹ http://en.wikipedia.org/wiki/Administered_price

¹⁰ The *blue box* corresponds to the EU fixed direct payments per hectare (cereals and oilseeds), cattle head (bovines and ovines), or litre of milk decided by the CAP reforms of 1992, 1999 and 2004 to offset the reduction of guaranteed ("intervention") prices but farmers received them only if they produced the corresponding products. The *green box* covers two types of alleged non-trade distorting subsidies: 1) the traditional *green box* of in-kind aid to general agricultural services benefitting to farmers collectively: agricultural infrastructures, schools, research, agri-environment, disasters, phytosanitary warnings, etc.); 2) the *green box* of decoupled income support in place in the US from 1999 to 2014 and in the EU since 2005 where farmers continue to receive the average amount of blue box direct payments received in 2000-02 without being obliged to produce anything or being allowed to produce other products than those having benefitted of blue payments.

by the alleged *decoupled*¹¹ fixed direct payments in the EU and US plus *coupled* subsidies, such as the US various types of marketing loan benefits and countercyclical payments – triggered by other administered prices set above current market prices or minimum administered prices – and crop insurance subsidies. In developed countries administered prices are always triggering subsidies, apart from the other means necessary to render them effective: import duties, export subsidies and restrictions, land set aside, production quotas, domestic and foreign food aid, etc¹².

The AoA annex 2 paragraphs 3 and 4 deal with "current market prices", a concept not defined in the AoA. 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*"¹³. Or, in the 2009 edition, according to David A. Gantz: "*Commerce requires for purposes of the affected sector a showing that there is no government involvement in determining prices or production quantities; there is private or collective (rather than full government) ownership; and that all significant inputs are subject to market-determined prices*"¹⁴. It is the reason why the US is presently refusing to grant the status of market economy to China.

Clearly the same can be said of the EU agricultural prices: in both cases the US and EU cannot claim that there is "*virtually no government involvement in setting prices*" of agricultural products because of the large subsidies they are still granting, not only for crops but also for animal products for which "*significant inputs are subject to market-determined prices*", because of the large subsidies to feed crops¹⁵. In other words DCs could sue at the WTO with the highest chance of success the US and EU on the basis of their own laws on non-market economies since their agricultural prices are not those of market economies. Therefore the provision in paragraph 4 of the AoA Annex 2 that "*Food purchases by the government shall be made at current market prices*" is not verified for the US (the EU is not granting significant domestic food aid).

Now several US and international reports have underlined the usefulness or 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*"¹⁶.

- 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*

¹¹ A subsidy is *coupled* when related to the production or price levels, and *decoupled* in the opposite case, when it is not even necessary to produce to get the subsidy.

¹² Harry de Gorter, Merlinda Ingco and John Nash, *Domestic support: economics and policy instruments*, in Agriculture and WTO, World Bank, 2004: http://www-wds.worldbank.org/external/default/WDSContentServer/WDS/IB/2004/08/19/000160016_20040819110032/Rendered/PDF/297950018213154851x.pdf

¹³ US Department of Commerce, *Normal value*, AD Manual, chapter 8.

¹⁴ <http://ia.ita.doc.gov/admanual/2009/Chapter%2010%20NME.doc>;

http://works.bepress.com/cgi/viewcontent.cgi?article=1000&context=david_gantz

¹⁵ Jacques Berthelot, *The EU actual AMS and OTDS in 2013-14*, SOL, 29 April 2017, particularly Annex 2.

¹⁶ 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>

well as expected subsidies" (paragraph 440)¹⁷. Precisely the main subsidies that the US farmers were expecting for sure were the fixed direct payments, whereas the marketing loans benefits and countercyclical payments depended on the vagaries of market prices. The EU farmers can say the same with the SPS (Single Payment Scheme), which has become the Single Base Payment since October 2015¹⁸.

- A FAPRI¹⁹ 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*"²⁰ for several crops for the period 2014-18. In these tables the expected subsidies – only coupled ones in the future as the two Bills and the final Farm Bill signed into law by the President the 7 February 2014 have eliminated the fixed direct payments – 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] – when they write: "*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*"²¹.

- Finally USDA has used extensively the concept of "Net Budgetary Expenditures per Commodity"²² incorporating the subsidies with the farm price.

All these facts underscore that the "*current market prices*" at farm level of the developed countries are not real market prices without "*virtually no government involvement in setting prices*". They should therefore be corrected by adding the subsidies to get the *total prices* or, better, the actual *administered prices* comparable to prices of DCs which cannot grant such payments to their so many farmers by lack of resources.

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 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 payments. The two graphs below compare the US total prices of rice and wheat with the Indian MSP (minimum support prices) from 1986-88 to 2012²³.

¹⁷ WT/DS267/AB/R, 3 March 2005

¹⁸ Jacques Berthelot, *The EU actual AMS and OTDS in 2013-14*, SOL, 29 April 2017, particularly Annex 1.

¹⁹ US Research Center dependent from the US government.

²⁰ http://www.fapri.missouri.edu/outreach/publications/2013/FAPRI_MU_Report_06_13.pdf

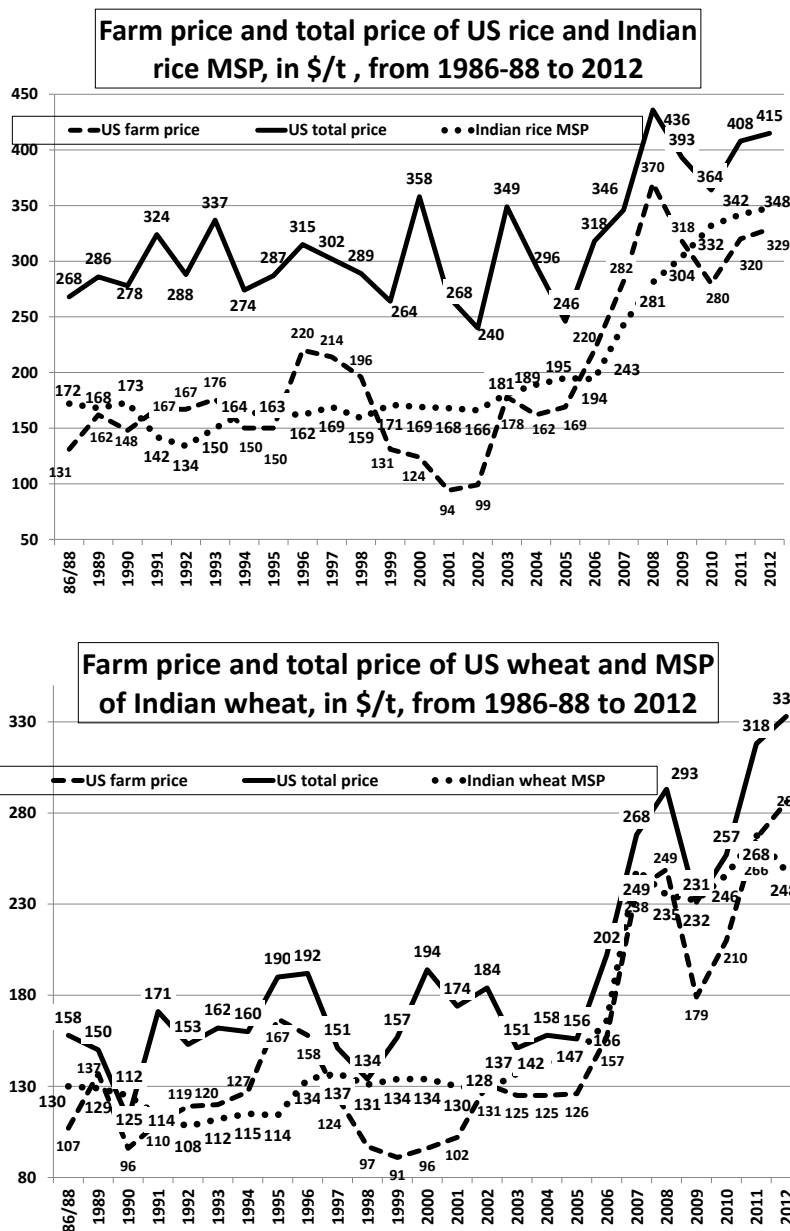
²¹ Kim Anderson and Signe Nelgen, "*Estimates of Distortions to Agricultural Incentives, 1955-2011*", updated in June 2013, http://siteresources.worldbank.org/INTRES/Resources/469232-1107449512766/Note_summarizing_core_updated_database_0613.pdf; *Distortions to agricultural incentives in Asia*,

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

²² 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>

²³ Jacques Berthelot, *From administered prices to total prices: application to the Indian, US and EU prices of rice and wheat*, SOL, January 25, 2014, <https://www.sol-asso.fr/wp-content/uploads/2016/06/From-administered-prices-to-total-prices-of-rice-and-wheat-25-01-14.pdf>



1.4 – 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 Food Corporation of India (FCI) was done in rented warehouses of the private sector, which received also subsidies for the construction of new warehouses²⁴. Insofar as it is the State (actually FCI) which manages the outsourcing it seems logical to continue to talk of 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...*

²⁴ <http://dfpd.nic.in/fcamin/annualreport/AnnualReport201213.pdf>

[with] an agreement signed by both parties that includes the terms and conditions of the storage arrangement; i.e., cost, temperature requirements, liability"²⁵. 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"²⁶ –, and the State or District School Commission open bids to purchase the raw or processed foods which require storage.

1.5 – 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 processing²⁷. 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"²⁸. On the other hand the 250,000 shops registered to redeem food stamps are obliged to store perishable goods²⁹.

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" or "crops".

1.6 – 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"³⁰. Amartya Sen has underscored the entitlement principle in his

²⁵ <http://web.extension.illinois.edu/smallfarm/downloads/48937.pdf>

²⁶ http://en.wikipedia.org/wiki/National_School_Lunch_Act

²⁷ <http://web.extension.illinois.edu/smallfarm/downloads/48937.pdf>

²⁸ <http://www.montgomeryschoolsmd.org/departments/foodserv/about/facilities.shtm#Warehouse>

²⁹ <http://www.massresources.org/snap-store-owners-guide.html>

³⁰ <http://www.ers.usda.gov/publications/err-economic-research-report/err155.aspx#.UxXK94Wbv1I>

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*"³¹. 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.

II – 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 bn 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 bn of which \$3.790 bn of administrative costs and \$74.619 bn of benefits which gives \$1,601 per recipient per year or \$133.41 per month³². Total costs of the other programmes of in kind food aid – of which school lunch, school breakfast, WIC (women, infants, children) and small others – was of \$24.6 bn³³. 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.

³¹ 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.

³² <http://www.fns.usda.gov/pd/supplemental-nutrition-assistance-program-snap>

³³ http://www.ers.usda.gov/media/1060737/eib-109_single-pages.pdf

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 dogs³⁴.

On the total US consumers' food purchases of \$1,445 bn³⁵ in 2012, \$1,261 bn 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 allotments³⁶ – was in June 2012 of \$2,201 on a year basis per person for household of 2 persons³⁷, 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 base³⁸. 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 2012³⁹, to which we add the subsidies per tonne⁴⁰ 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.

The following table 1 shows that, for 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 \$12.785 bn in 2012 for its product-specific AMS of 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 exceeded \$15 billion. The administered price (table 2) is the sum of the farm price plus, for crops, the CCC (Commodity Credit Corporation) per product per tonne⁴¹ plus the total insurance cost per product per tonne plus the irrigation subsidies per tonne (as available in the document "*Time is up for Developing countries to sue the US agricultural domestic*

³⁴ <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>

³⁵ <http://www.ers.usda.gov/data-products/food-dollar-series/documentation.aspx>

³⁶ http://www.cnpp.usda.gov/sites/default/files/usda_food_plans_cost_of_food/FoodPlans2003AdminReport.pdf

³⁷ http://www.cnpp.usda.gov/sites/default/files/usda_food_plans_cost_of_food/CostofFoodJune2012.pdf

³⁸ [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)

³⁹ <http://www.oecd.org/fr/tad/politiques-agricoles/estimationsdusoutienauxproducteursetconsommateursbasededonnees.htm#country>

⁴⁰ "*Time is up for Developing countries to sue the US agricultural domestic subsidies*, SOL, 14 January 2016 (<https://www.sol-asso.fr/wp-content/uploads/2016/06/Time-is-up-for-Developing-countries-to-sue-the-US-domestic-subsidies-Solidarit%C3%A9-January-14-2016.pdf>)

⁴¹ https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/AboutFSA/Budget/pdf/msr16_commodity_estimates.pdf

subsidies"⁴²) and, for animal products: the notified AMS and the feed subsidies (available in the same document).

Table 1 – AMS of 8 products of the US 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	3664,43*	337.1	90,4	246.7	904
Corn flour	33,9	15,38	45,084	1066,75**	319.1	78,5	240.6	256,7
Rice	20,4	9,25	45,084	417,03	581.9	407,6	129,8	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	421,1	176,1	245	3072,3
Eggs (retail weight)	32,8	14,88	45,084	670,85	1405,2	779,1	626,1	420
Total				22180				12785

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/wp-content/uploads/2016/06/Time-is-up-for-Developing-countries-to-sue-the-US-domestic-subsidies-Solidarite%20C3%A9-January-14-2016.pdf>; OECD: <http://www.oecd.org/fr/tad/politiques-agricoles/estimationsdusoutienauxproducteurssetconsommateursbasededonnees.htm#country>

* 2748.32 tonnes of wheat flour converted in 3664.43 tonnes of wheat (75 per cent of flour in one tonne of wheat)

** 693,39 tonnes of corn flour converted in 1066,75 tonnes of corn grain (65% conversion rate)

Table 2 – The administered prices of the 8 products in 2012

\$/tonne	Wheat	Corn	Milled rice	Poultry meat	Pig meat	Bovine meat	Eggs	Milk
Farm price	285.50	273.2	475.56	1534.1	1933.1	4645.2	1402.83	407.85
Feed subsidy				136.8	170.9	160.4	(poultry)	8.67
Notified AMS				2.4	0	7.7	2.4	4.54
CCC subsidy	14.76	5.75	62.4					
Insurance subsidy	35	18.94	11.61					
Irrigation subsidy	1.84	1.23	32.34					
Administered price	337.1	319.1	581.9	1673.3	2104	4813.3	1405.2	421.1

Alan Matthews writes that the EU-Brazil's "proposal suggests that an amount up to [10%] of the value of production for staple food crops could be exempted, with the 10% figure in square brackets indicating that the specific figure is open to further negotiation. This figure bears a superficial similarity to the 10% of the value of production that developing countries can already exempt as *de minimis* product-specific support". With the 10% ceiling proposal, the US should have notified for 2012 at least \$11.458 bn for meats, eggs and milk (table 3). This would have been 5.5 times larger than the Indian corresponding AMS for rice plus wheat (table 4)!

Table 3 – Percentages of domestic food aid in US production of the 8 products in 2012

Million tonnes	Wheat*	Corn**	Milled rice	Poultry meat***	Pig meat	Bovine meat	Eggs	Milk
Production	61.300	273.2	6.348	19.292	10.554	11.848	5.577	91.040
Food aid	3.664	1.067	0.417	2.250	1.194	1.667	0.671	12.540
Food aid/production	5.98%	0.39%	6.57%	11.66%	11.31%	14.07%	12%	13.77%

Source: USDA FAS PS&D (<https://apps.fas.usda.gov/psdonline/app/index.html#/app/advQuery>); * wheat flour converted in wheat grain at the rate of 75% flour for grain; ** corn flour converted into corn at the conversion rate of 65%; *** poultry meat: broiler and turkey meats.

Table 4 – Indian AMS of rice and wheat in 2011-12 and 2012-13

	MSP	Exchange rate*	MSP	1986-88 reference price	MSP-ref. 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

⁴² <http://www.sol-asso.fr/analyses-politiques-agricoles-jacques-b/>

* 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. Yet it is India which is condemned by the WTO rules while the US notifies all its domestic food aid in the green box!

III – Changing few words in the AoA could solve the issue and benefit developed countries

The concept of agricultural *support* is broader than that of agricultural *subsidy* as it encompasses "market price support" (MPS) through import protection and export subsidies, albeit in different ways for OECD and the WTO AoA. For OECD the MPS represents the gap between domestic farm prices and current world prices (the border price of each country) rendered at farm gate, encompassing import protection as well as export subsidies. The MPS is "financed" essentially by consumers, considering that they are entitled to buy their food and other agricultural products at world prices and that import duties prevent them to do it. However, in the OECD approach, a part of the MPS may be financed by taxpayers when there are explicit export subsidies, but this has always been the minor part of the MPS, particularly in DCs where they have hardly existed and they have also been eliminated since 2014 in the EU and earlier in other developed countries.

However the AoA definition of MPS is totally absurd for three reasons: 1) it is calculated as the gap between the present administered price and the border price of the 1986-88 period, multiplied by the eligible production; 2) it does not imply any actual subsidy; 3) it does not bring any additional support to that of other policy measures: import duties, export subsidies and restrictions, domestic subsidies to the exported products, land set aside, production quotas, aids to stockholding, foreign and domestic food aid.

It is why SOL proposes to make minor changes in the AoA rules to put an end to this absurd definition of MPS. These modifications would find a permanent solution to the crucial issue of Public stockholding for food security purposes and the developed countries would benefit even more of the changes in the AoA Annex 3 as this would almost eliminate their notifications of MPS which is, for most of them, the bulk of their current AMS.

3.1 – The modifications to make in the AoA Annexes 2 and 3

In Annex 2 we should delete the words "in developing countries" in footnote 5 of paragraph 3 and footnote 6 of paragraph 4 so that these footnotes apply to all WTO Members.

In Annex 3 it would be enough to delete the words that we have underlined and not put in italics below: "fixed" in paragraphs 8 to 11, "for the base period" in paragraph 5, "shall be based on the years 1986 to 1988 and" in paragraphs 9 and 11, and "in the base period" in paragraph 9:

- Paragraph 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.*

- Paragraph 8: "*Market price support: market price support shall be calculated using the gap between a fixed external reference price and the applied administered price multiplied by the quantity of production eligible to receive the applied administered price. Budgetary payments made to maintain this gap, such as buying-in or storage costs, shall not be included in the AMS.*"

- Paragraph 9: "*The fixed external reference price shall be based on the years 1986 to 1988 and shall generally be the average f.o.b. unit value for the basic agricultural product concerned in a net exporting country and the average c.i.f. unit value for the basic agricultural product concerned in a net importing country in the base period. The fixed reference price may be adjusted for quality differences as necessary*".

- Paragraph 10: "*Non-exempt direct payments: non-exempt direct payments which are dependent on a price gap shall be calculated either using the gap between the fixed reference price and the applied administered price multiplied by the quantity of production eligible to receive the administered price, or using budgetary outlays*".

- Paragraph 11: "*The fixed reference price shall be based on the years 1986 to 1988 and shall generally be the actual price used for determining payment rates*".

On the other hand there would be nothing to change to the Article 1(d) of the definition of the "equivalent measurement of support" in the first part of the AoA: "*Equivalent Measurement of Support*" means the annual level of support... (ii) with respect to support provided during any year of the implementation period and thereafter, calculated in accordance with the provisions of Annex 4 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". And there would be nothing to change in Annex 4.

3.2 – These modifications would find a permanent solution to the issue of Public stockholding for food security purpose

Deleting these words would allow a positive interpretation of the footnote 5 of paragraph 3 of the AoA annexe 2 on "*Public stockholding for food security purposes*" without having to change the footnote itself as its last line on "*provided that the difference between the acquisition price and the external reference price is accounted for in the AMS*" does not mention that the reference price is a "fixed" one nor that it is the price of "the base period".

So that this would put an end to the on-going debate to find a permanent solution to this public stockholding issue. India and other DCs using such programmes would have just to notify in their AMS the gap between their administered price – the "minimum support price" (MSP) in India – and the current world price at their border, times the eligible production.

For India for instance, according to the report of the Commission for Agricultural Costs and Prices of March 2015, "*MSP of paddy converted into rice has been consistently lower than both domestic and international prices*"⁴³ so that the AMS on rice would be negative, that is at zero. The same plays for civil year 2016 where the MSP for common rice was of \$315.2 per tonne⁴⁴ against a FOB price of \$391 for Thailand 100% grade B or \$371 for Thailand 15% broken⁴⁵. As for wheat exports the same Commission states that "*Exports of wheat during 2011-12 to 2013-14 is attributed to lower domestic wholesale prices than international prices, thus making Indian wheat export competitive (Chart-3.2)*"⁴⁶. And the USDA GAIN report of 24 February

⁴³ <http://cacp.dacnet.nic.in/>

⁴⁴

https://gain.fas.usda.gov/Recent%20GAIN%20Publications/Grain%20and%20Feed%20Annual_New%20Delhi_India_2-23-2017.pdf

⁴⁵ <https://www.ers.usda.gov/publications/pub-details/?pubid=81656>

⁴⁶ <http://cacp.dacnet.nic.in/ViewQuestionare.aspx?Input=2&DocId=1&PageId=40&KeyId=532>

2017 states that "After nearly a decade of exporting wheat, India turned into a net importer in MY 2016/17 on relatively weak international market prices. India's MY 2017/18 imports are forecast at 5 MMT, assuming weak international prices and no changes in the existing import policy (zero import duty and unchanged SPS requirements)... MY 2017/18 wheat and wheat product exports are forecast at 500,000 MT, mostly to Nepal and wheat products to African and middle east markets, as Indian wheat is likely to remain uncompetitive even in the major neighboring markets"⁴⁷. So that the recurrent US accusation that India is dumping its rice and wheat on the world markets is totally unfounded.

3.3 – The developed countries would benefit even more of the changes in Annex 3

These minor modifications to the wording of paragraphs 5 and 8 to 11 of annex 3 would be highly beneficial to the developed countries themselves, particularly the EU, as this would almost eliminate their notified current MPS in their Supporting table DS:5, so that they should not oppose the proposed modifications.

Indeed this MPS not implying actual public expenditures has accounted for 98.1% of the EU notified AMS for 2013/14 (last notified year): €5.860.3 bn over €5971.7 bn – of which €2.016 bn for common wheat, €1.135 bn for skimmed milk powder and €2.709 bn for butter – over a total AMS of €5.972 bn. Canada's MPS of 2012 represented 97.2% (CAN\$485.4 M over CAN\$499.5 M) of its last notifications for 2013. Switzerland's MPS represented also 97.2% of its AMS for 2013 (CHF2.482 bn over CHF2.556 bn) and in Norway it represented even 108.8% of its total AMS in 2013 (NOK11.684 over NOK10.739), a strange thing! The US might be more reluctant to delete the MPS in the AoA as the 2014 Farm Bill has already deleted the dairy MPS notified at \$2.9226 bn for 2012 over the \$4.328 bn MPS (which was of 63% of its \$6.860 bn of AMS) but it would have still to notify a MPS of \$1.406 bn for sugar.

IV – Comments to the G33 proposal

On 19 July 2017 the G33 Members presented their own "Proposed Permanent Solution on Public Stockholding for Food Security Purposes". This proposal does not differ substantially from that already made in the Job/AG/27 document issued on 17 July 2014.

4.1 – The G33's main proposals

- Inserting a new Annex 6 to the AoA stating that "*developing country Members and Least Developed Country Members shall be eligible to implement current and future programmes in respect of public stockholding for food security purposes*", adding that these "*programmes for the acquisition of foodstuffs at administered prices by the Government with the objective of supporting low income or resource poor producers... and its subsequent distribution at subsidized prices with the objective of meeting food security requirements of urban and rural poor... shall not be required to be accounted for in the Aggregate Measurement of Support*".

- References to this Annex 6 should be made in the AoA articles 6.1, 7.1, 7.2(a), 7.2(b), 18.3, Annex 3 and footnote 5 of Annex 2.

- An Annex on the statistical information to notify at the WTO.

47

https://gain.fas.usda.gov/Recent%20GAIN%20Publications/Grain%20and%20Feed%20Annual_New%20Delhi_India_2-23-2017.pdf

4.2 – How to improve the G33's proposal

Although the G33's proposal of PSH is quite positive for DCs, of which LDCs, it is too short as it should have been extended to all WTO Members instead of focusing only on DCs as the present AoA rules. This would respond to the WTO Director-General Roberto Azevedo's concern when, in his meeting with trade envoys from 27 countries on 17 March 2017, he said "*that the permanent solution is neither an Indian issue, nor an issue of the G33 farm coalition... it is a "collective members' issue" and therefore, every member has to work hard to find the permanent solution given the short time before the eleventh ministerial meeting*"⁴⁸.

The second comment is that the G33 proposal on PSH is also too short as it takes at face value the concepts of "administered price" and "market price" which are not defined in any WTO agreement.

Therefore the following recommendations should improve the G33's proposal:

- To add, in the preamble of the proposed Annex 6: "**Recognizing** that the concept of administered prices is not defined by the WTO Agreements so that in the developed countries they should be understood as their minimum support prices set below current farm prices plus the offsetting domestic subsidies".

- To delete all the words mentioning only DCs and LDCs:

1- in paragraph 5 of the first page (Decides...): "*WTO Members may use the provisions under Attachment 1 to this Decision and Members shall not challenge through the WTO Dispute Settlement Mechanism the compliance of a Member with its obligations under Articles 6.3 and 7.2(b) of the Agreement on Agriculture with respect to any use by that Member of these provisions.*"

2- In attachment 1 on Annex 6: "*Domestic Support Measures by Members: Public Stockholding for Food Security Purposes*". *Notwithstanding any other provision contained in this Agreement, Members shall be eligible to implement current and future programmes in respect of public stockholding for food security purposes that are consistent with the criteria set forth in this Annex*".

3- Deleting also the distinction among WTO in paragraphs 1.a and 1.b

4- In attachment 2: the same in article 6.1: "*A sentence to be added at the end of the Article that "Exceptions to domestic support measures specified in Annex 6 will apply to Members, notwithstanding anything stated in this Agreement". No changes required in the rest of Attachment 2.*

5- No changes in Attachment 3

6- In the Annex "name of Member" in "enumeration of the programmes" we should delete "food crops covered" because paragraphs 3 and 4 of WTO Annex 2 speak of "food" or "foodstuffs" and not of "crops" which is too restrictive because it does not include processed crops nor animal products. And it would be almost impossible to enumerate all processed food (particularly for

⁴⁸ <http://www.twn.my/title2/susagri/2017/sa591.htm>

the US) but we should add two restrictions (as in the US domestic food aid): "*Foodstuffs covered: all foodstuffs from national origin and except alcoholic beverages*".

7- On statistical information we should delete the annual purchases and releases in quantity for processed food but we can maintain it in value. But it would be almost impossible to give the administered prices equivalent of all processed food taking into account the market prices of the raw crops or animals plus the offsetting subsidies for the developed countries even if SOL has been able to do it for 8 US food products. Deleting table 2 is even more justified because otherwise the G33's proposal limits domestic food aid only to raw crops and we don't see why we should not include processed food in the food aid.

Conclusion

At the AoA Committee on Agriculture in Special Session of 8 March 2016 the Chair Vangelis Vitalis stated that "*domestic support has been identified by many of you quite explicitly as a key potential outcome for MC11*"⁴⁹. Indeed adopting the present proposals would be a potential outcome for the WTO XIth ministerial conference (MC11) in Buenos Aires in December 2017 as it would put an end to the hot issue of Public Stockholding for food security purposes advocated by most DCs for many years and already proposed in the Agricultural modalities of 6 December 2008, while benefitting at the same time the developed countries in getting rid of most of their notified current AMS. In any case, if the developed countries would not agree to change the WTO present rules on PSH an in-depth interpretation of them would force the USA to notify its huge domestic food aid in the same way as DCs.

Improving the G33's proposal would be coherent with the SOL's proposal made in part III above. The benefit for the developed countries should not be frowned upon by the DCs as this would not absolve the developed countries of their massive cheating in the notification of their actual trade-distorting domestic subsidies, taking account particularly the four Appellate Body's rulings – of December 2001 and December 2002 in the Dairy Products of Canada case, of March 2005 in the US cotton case and of April 2005 in the EU Sugar case – that domestic subsidies should be taken into account in assessing dumping. However this simplification would be only a first step in the necessary revision of all the WTO rules on agricultural domestic supports⁵⁰.

Furthermore this simplification of the AoA rules would satisfy all agricultural trade economists, including those pleading for open trade⁵¹, who have been complaining of the absurdity of the WTO rules on market price support.

⁴⁹ https://www.wto.org/english/news_e/news16_e/statment_agng_09mar16_e.pdf

⁵⁰ *Analysis of the main controversies on domestic agricultural supports*, SOL, May 1st, 2017: <https://www.sol-asso.fr/analyses-politiques-agricoles-jacques-b-2/>

⁵¹ William R. Cline, *The Doha Round, Agriculture, and the Developing Countries*, USDA, 2007 Agriculture Outlook Forum, USDA 01-02/03/07; Harry de Gorter et J. Daniel Cook, *Domestic Support in Agriculture: The Struggle for Meaningful Disciplines*, 2005, http://siteresources.worldbank.org/INTRANETTRADE/Resources/239054-1126812419270/7.DomesticSupport_updated_on12Dec05.pdf; David Orden, Tim Josling and David Blanford, introduction to their book "*WTO Discipline on Agricultural Support*", Cambridge University Press, 2011.