

**WTO agricultural negotiations and their impact on trade
of agricultural products among the OIC Member States**
Webinar of October 26-28, 2020 organized by the OIC

US and EU agricultural subsidies and their impact on OIC Member States
Jacques Berthelot (jacques.berthelot4@wanadoo.fr), SOL, November 3, 2020

Outline

- I – The main sources and forms of the EU and US agricultural dumping
- II – Taking into account Green Box (GB) subsidies in assessing dumping
- III – The scandalous cotton subsidies of the US and even more of the EU
- IV – US and EU cereals exports to OIC States, 2010 to 2019
- V – US and EU exports of poultry to OIC States from 2010 to 2019
- VI – The wrong analysis of China, India and African group minimizing the dumping impact of the blue box and green box subsidies
 - 6.1 – The developed countries AMS is a fake market price support
 - 6.2 – All US and EU investments and inputs subsidies are trade-distorting
 - 6.2.1 – The diversion of AoA article 6.2 by the developed countries
 - 6.2.2 – Other AoA provisions on inputs and investment subsidies
 - 6.3 – All Annex 2 subsidies are trade-distorting
 - 6.4 – Why the EU decoupled income support is in the AMS
 - 6.5 – The developed countries AMS is a fake market price support
- VII – Denouncing the US stance on Public stockholding for food security purposes
- VIII – Alternative Agreement on Agriculture and food to reach the SDGs

This word version is extracted from the powerpoint presented at the webinar, which has been improved, but without the graphs and enriched by the analysis of other important issues raised by other panelists and participants. The concise style reflects the one used in powerpoint presentations and the number of footnotes is limited.

Abstract

This study on the impact of agricultural subsidies of the United States (US) and the European Union (EU) was prepared for a three-day seminar on the WTO agricultural negotiations for the Member States of the Organization of Islamic States (OIC).

The persistence of agricultural dumping in the US and the EU lies in the criminal definition of dumping by the GATT – "there is no dumping as long as exports are made at the domestic market price" – which they used to elaborate face to face at the end of the Uruguay Round (1992-93) the rules of the Agreement on Agriculture (AoA) while radically reforming their agricultural policies (CAP and Farm Bill): sharp cuts in guaranteed minimum prices and high compensatory direct aids to farmers in order to ensure their long-term competitive superiority over the infinitely greater number of farmers in developing countries (DCs) that their governments were unable to subsidize at a significant level.

However, the developing countries have ignored the fact that the WTO Appellate Body has ruled four times that all domestic subsidies, including decoupled subsidies, contribute to dumping.

The impact of US and EU agricultural subsidies on OIC countries was presented for three products: cotton, cereals, poultry meat & eggs.

It is distressing to note that recent communications to the WTO from China, India and the African Group have focused their criticism on the so-called coupled subsidies (Amber Box or AMS: Aggregate Measurement of Support) instead of prioritizing those of the "blue box" (BB) and especially of the "green box" (BV) which is the most unstoppable source of dumping since it can increase without limits. Indeed the BB and the BV accounted for 89% of the EU Agricultural Budget and State aids in 2018. This blindness can be explained by the fact that DCs have not understood that the AMS of developed countries is a false market price support, that their investment and input subsidies are trade-distorting, like all those in Annex 2 of the AoA, including of decoupled income. It also denounces the US stance on public stockholding for food security purposes.

The study concludes with the outline of an Alternative Agreement on Agriculture and Food that obliges WTO judges to take into account the priority to be given to the rules of international conventions on human, social and environmental rights over the current WTO trade rules.

* *
*

I – The main sources and forms of the EU and US agricultural dumping

Without going back to colonial times the main reason of the persistence of the EU and US agricultural dumping lies in the criminal definition of dumping in GATT article VI: “no dumping as long as exports are made at the domestic price”.

The EU & US used this definition to devise bilaterally the AoA rules while revising radically the CAP and Farm Bill (1992-93): large cuts in minimal administered prices (*intervention prices* in EU, *loan rates* in US), offsetting their impact on farmers by granting large domestic subsidies alleged non-trade distorting: blue & green box + de minimis amber box (AMS).

It is a pity that most WTO Members, including DCs, are ignoring that the Appellate Body (AB) has ruled four times – in Dairy Products of Canada case of December 2001 & 2002, US cotton case of March 2005 and the EU sugar case of April 2005 – that all domestic subsidies (including the decoupled ones) must be included in assessing dumping.

At the same time the Appellate Body has given in the Dairy Canada case a clear definition of dumping as « *exports at prices lower than full average national production cost without subsidies* ».

II – Taking into account Green Box (GB) subsidies in assessing dumping

Decoupled aids are the most trade distorting as they can rise without limits¹. To attribute to a specific product, especially for the products taken as an example today, the GB aids notified to the WTO one takes the same percentage as that of the value of the product in the total value of the agricultural production. We take US GB notified to WTO minus 93.1% of domestic food aid (6.9% is a subsidy to farmers for Rashmi Banga), minus notified decoupled support plus \$2 bn of irrigation subsidies (GAO and CRS reports) and energy subsidies notified to OECD at \$2.385 bn up to 2012, \$1.038 bn up to 2016 before revising at \$811 M from 2007 and at \$777M from 2015 to 2019!

EU domestic food aid is insignificant and we delete decoupled income (taken already for each product), add €3 bn of energy subsidies (€3 bn in OECD data) and €2 bn of irrigation subsidies.

III – The scandalous cotton subsidies of the US and even more of the EU and their disastrous impact on African producers²

Even if the US has exported 9.5 times more cotton than the EU, the EU subsidies have weighed a lot also on the world cotton price, to the plight of the C4 producers. Yet, even if most models have concluded that the elimination of the US and EU dumping would raise the world price by around 10%, this would not solve the C4 plight as other countries would also raise their production, pushing down again the world price. But clearly they should stop dumping.

In 2019 the EU exported 1,6 million tonnes (Mt) of worn clothes for \$1.36 billion (bn) at a FOB price of 856 \$/t, of which 46% (739,000 t) to OIC at a price 40% lower (515 \$/t), and 581,000 t to SSA for \$591 M, of which \$345 M to West Africa, of which \$55.7 M to C4 (63,734 t). The EU exported 2.1 times more worn clothes than the US and 8 times to OIC.

The long term solution is certainly not to agree with the AGOA “third country duty free import of yarn and fabrics” as it would cut drastically the SSA production of cotton lint.

As the textile industry has been at the basis of development of all developing countries and has created a huge amount of jobs, there is an urgency for Sub-Saharan Africa (SSA) to regain control of its cotton chain, processing its cotton lint in clothes to reduce exports and stop imports, including of worn clothes.

IV – US and EU cereals exports to OIC States, 2010 to 2019

EU exports of cereals to OIC – in cereals weight equivalent (CWE) with the raw cereals included in processed cereals – were 42% larger on average than US exports (15,8 million t, Mt, against 11,1 Mt) although with an average FOB price 25% lower (205 \$/t against 273 \$/t in the US).

¹ <https://www.sol-asso.fr/wp-content/uploads/2017/01/SOLs-alternative-methodology-to-IATP-assessment-of-agricultural-dumping-January-1-2017.pdf>; <https://www.sol-asso.fr/wp-content/uploads/2017/01/Analysis-of-the-main-controversies-on-domestic-agricultural-supports-29-July-2016.pdf>; <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>

² <https://www.sol-asso.fr/wp-content/uploads/2019/01/Would-the-WTO-World-Cotton-Day-solve-the-SSA-farmers-plight-J.-Berthelot-October-17-2019.pdf>; <https://www.agenceecofin.com/coton/1610-81422-politiques-agricoles-l-afrique-doit-sortir-de-ce-mirage-de-vouloir-se-developper-par-l-exportation>

As the US is the first exporter & price maker of cereals, the EU average subsidy/t of CWE, from 2010 to 2019, was twice the US one (63.8 \$/t against 30.8 \$/t), the more so as the share of raw cereals in processed cereals was much lower than in the EU: 0,7% of all CWE, against 5,5% for EU. EU average dumping rate remains 3 times higher than the EU one: 33% against 11,4%.

V – US and EU exports of poultry to OIC States from 2010 to 2019

Feed subsidies are almost the only ones to poultry (and hogs) farmers in the EU and US, if we except the EU refunds up to 2013, as they did not receive direct income aids. But the US and EU deny the reality of feed subsidies to the producers of animal products (meat, eggs and milk) as they are received by the producers of feed crops – cereals, oilseed meals, pulses (COPs) – even though 2/3 are devoted to domestic feed. However even if it is the US and EU producers of COPs who get the feed subsidies the producers of animal products would have to buy the COPs at much higher prices if the producers of COPs were not subsidised: it is the concept of “cross-subsidization” which also denies the false OECD concept of “excess feed cost”.

After showing the quantity, value and FOB prices of the US and EU poultry and eggs exports to OIC – where the US exported 57% more on average : 538,000 t against 342,000 t – we divide raw poultry export tonnage by 0.72 to get liveweight tonnage, times 2 to get feed weight, of which 75% is made of cereals and 25% of soymeal. As the EU soymeal is imported and gets no subsidies the protein feed of EU origin (oilseed meals and pulses) is of 15% only. US average subsidy/t of raw exports (\$11.25) was 2.4 times lower than in EU (\$32.26) because of high EU export refunds up to 2013, but only 29% lower in 2018-2019 (MFP&COVI19 programmes). Dumping rates were closer: 12.7%&16.1%, but 66% higher in US in 2018 and 2019.

VI – The biased analysis of China, India and the African group minimizing the dumping impact of the blue box and green box subsidies³

It is very unfortunate that China, India and the African Group at the WTO have focused their main criticisms against the developed countries amber box – so called AMS –, the more so as they did not realize that about 90% of their notified AMS is a fake market price support (MPS) not implying actual subsidies, because it does not bring additional support to that of other measures: import duties, export restrictions, land set aside, production quotas, foreign and domestic food aid. If the MPS is notified in the supporting table DS:5, when the products get actual subsidies they are notified in supporting table DS:6 (non-exempt direct payments) or DS:7 (other product-specific AMS).

6. 1 – The developed countries AMS is a fake market price support

In 8 Western developed countries the MPS accounted for 72.8% of their notified AMS, of which 98.1% for Canada, 96.6% for the EU28 and even 106.8% for Norway (!), so that the actual subsidies in the AMS was of only 27.2%.

If the MPS is of only 38.8% of US AMS, it is because it has deleted the dairy MPS since the 2014 reform of the Farm Bill. And, from 2008 to 2013, it has hugely under-notified its dairy MPS, with a huge impact on its allowed final bound AMS which is not \$19.1 bn but \$16.6 bn.

³ <https://www.sol-asso.fr/wp-content/uploads/2019/12/Unifying-the-developing-countries-stances-on-the-Green-and-Blue-Boxes-SOL-12-13-2019.pdf>

6.2 – All US and EU investments and inputs subsidies are trade-distorting

6.2.1 – The diversion of AoA article 6.2 by the developed countries

According to the AoA article 6.2 “investment subsidies which are generally available to agriculture in developing country Members and agricultural input subsidies generally available to low-income or resource-poor producers in developing country Members shall be exempt from domestic support reduction commitments *that would otherwise be applicable to such measures*”.

If this article is understood as the DCs “development box”, the developed countries have ignored the last words “*that would otherwise be applicable to such measures*” and did not notify to the WTO in their AMS but in the Green Box most investments subsidies and inputs subsidies, particularly the largest ones: to feed.

6.2.2 – Other AoA provisions on inputs and investment subsidies

Annex III paragraph 13 provides: “*Other non-exempt measures, including input subsidies and other measures such as marketing-cost reduction measures*”.

For Annex IV paragraph 4: “*Measures directed at agricultural processors shall be included to the extent that such measures benefit the producers of the basic agricultural products*”.

6.3 – Why all AoA Annex 2 provisions are trade-distorting

Paragraph 1.a: “*the support in question shall be provided through a publicly-funded government programme... not involving transfers from consumers*”: the distinction between market price support – financed by consumers – and subsidy – financed by taxpayers – is not convincing since the vast majority of taxes are ultimately passed on to consumers.

Paragraph 1.b: “*the support in question shall not have the effect of providing price support to producers*”: even decoupled income support provides clear price support to producers as the prices would necessarily be higher without these subsidies.

Paragraph 2.g states that expenditures on agricultural infrastructures “*shall not include subsidies to inputs or operating costs*”.

Paragraph 11 on “*Structural adjustment assistance provided through investment aids*” are in the GB only “*in response to objectively demonstrated structural disadvantages*”, a limit that developed countries have ignored. Indeed all EU investments subsidies are in the CAP “second pillar” on rural development which is totally notified in the GB.

Even Annex 2 subsidies are actionnable under the Agreement on Subsidies and Countervailing Measures when specific and causing adverse effects to other WTO Members.

6.4 – Why the EU decoupled income support is in the AMS

- 1) It is coupled to agricultural area: farmers must show they have eligible hectares.
- 2) It is coupled with the BB “*under production-limiting programmes*”, among which to cotton, coupling their decoupled aid as it loses a full production flexibility.

- 3) Decoupled aids to feed and biofuels are input subsidies.
- 4) It contradicts condition that "*No production shall be required... to receive such payments*" but the EU requires to maintain "*minimum stocking rates*".
- 5) As it cannot be assigned to a particular product, it can be assigned to any product of which it lowers the sale price below the EU average total national production cost, which is the AB dumping definition.

VII – Denouncing the US stance on Public stockholding for food security purposes⁴

As the US refuses DCs arguments the same absurd methodology shows the US domestic food aid (DFA) was of \$12.8 bn in 2012 for 8 basic DFA products:

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

VIII – Alternative Agreement on Agriculture and Food to reach the SDGs⁵

The objective of the AoAF is to contribute to food sovereignty of WTO Members, unlike the AoA first objective prioritizing access to other Members' market with "*substantial progressive reductions in agricultural support and protection*". This implies that Members shall refrain from any export dumping and from importing agricultural and food products violating human, social and environmental rights in their countries & exporting countries.

This does not imply food self-sufficiency, that many Members are unable to achieve, but the freedom to choose the openness of its agricultural and food imports, including their free trade.

The distinction in the AoA and the Agreement on Subsidies and Countervailing Measures (ASCM) between non-specific subsidies and specific subsidies, and between export subsidies and domestic subsidies in the Amber, Blue or Green Boxes, has no scientific basis and should be abolished: all subsidies reduce the export price below the national average total cost of production and increase the competitiveness of the products receiving them. They have both a dumping effect when exported and an import substitution effect identical to that of customs duties.

The AoAF will rest on a hierarchy of norms subjecting WTO agricultural trade rules to international human, social and environmental rights rules. To make them effective, one of the

⁴ <https://www.sol-asso.fr/wp-content/uploads/2017/01/Une-solution-permanente-au-probl%C3%A8me-crucial-des-stocks-publics-de-s%C3%A9curit%C3%A9-alimentaire.pdf>

⁵ <https://www.sol-asso.fr/wp-content/uploads/2020/01/Reconstruire-IOMC-pour-un-d%C3%A9veloppement-plan%C3%A9-durable-J.-Berthelot-12-juillet-2020.pdf>; <https://www.sol-asso.fr/wp-content/uploads/2019/01/Accord-sur-lagriculture-et-lalimentation-AsAA-de-IOMC-SOL-22-01-2019.pdf>

three members of the Panels and Appellate Body appointed for a dispute should be an expert in international conventions on human and social rights and the environment.

Annex: list of the 58 Member States of OIC

Afghanistan, Albania, Algeria, Saudi Arabia, Azerbaijan, Bangladesh, Barein, Benin, Brunei, Burkina Faso, Cameroun, Comoros, Côte d'Ivoire, Djibouti, Egypt, United Arab Emirates, Gabon, The Gambia, Guinea, Guinea Bissau, Guyana, Irak, Iran, Indonesia, Jordan, Kazakhstan, Kirghystan, Kuwait, Lebanon, Lybia, Malaysia, Maldives, Mali, Morocco, Mauritania, Mozambique, Niger, Nigeria, Oman, Uganda, Uzbekistan, Pakistan, Palestine, Qatar, Senegal, Sierra leone, Somalia, Sudan, South Sudan, Suriname, Syria, Tajikistan, Chad, Togo, Tunisia, Turkmenistan, Turkey, Yemen