Review of the EU agricultural distorting supports to rebuild fair and sustainable agricultural trade rules after the Doha Round hibernation

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21 August 2006

OUTLINE

Introduction

1. Pascal Lamy's decision of 24 July 2006 to put the Doha Round negotiations into hibernation makes clear once more that agriculture remains their Achilles' heel. Unfortunately it would remain so even if the Doha Round is taken out of its brain-dead as long as the trade negotiators, very badly informed by the international institutions, their trade experts, some NGOs and therefore the medias, do not understand the fundamental tricks and flaws of the Agreement on Agriculture (AoA) rules on which there are negotiating.

2. The main comments made about the reasons of this breakdown underline the total lack of understanding of this agricultural issue. The US have been fingered at as the main responsible of the collapse of negotiations because of their refusal to lower their domestic trade-distorting supports beyond the level offered the 10 October 2005, but this is quite understandable since it could not even comply with this first offer, at least if it were to abide by the AoA rules, which it does not unfortunately, as we have shown in previous papers[1]. And the EU has also been accused of refusing to open more its domestic market and to lower more its domestic trade-distorting supports than its formal proposals of 28 October 2005, although here again it would have been unable to comply with this offer if it were to abide by the rules[2].

3. Nevertheless, the 22 May 2006, Canada has circulated a report on "Agriculture domestic support simulations" (JOB(06)/151) with this introduction: "*Representatives of Australia, Brazil, Canada, China, the European Communities, Egypt, India, Japan, Kenya, Malaysia, Norway and the United States have undertaken a data simulation exercise on various reduction options for the Total AMS and the Base for the Overall Commitments, using information provided by the European Communities, Japan and the United States. This effort was based on assumptions and indicators agreed by these Members for purposes of this statistical exercise alone. It was undertaken without prejudice to the positions of the Members involved. These Members would now like to share the results of this*

[1] Jacques Berthelot, *Canada's mystifying simulations on the US cuts in its trade-distorting domestic supports*, Solidarité, 1st July 2006; J. Berthelot, *The king is naked: the impossible U.S. promise to slash its agricultural supports*, Solidarité, 7 November 2005.

[2] J. Berthelot, *The empty promise and perilous game of the European Commission to slash its agricultural supports*, Solidarité, 3 November 2005.

simulation exercise, including the data, assumptions and results, with the WTO Membership as a whole".

4. From that date on most Members, the media and NGOs have based their comments and negotiations on these simulations, without understanding their huge flaws. Indeed they were based not only on biased data transmitted by the US, EU and Japan, but they have also ignored the AoA rules, so that they have logically concluded that the EU and US could comply with their offers to reduce their domestic trade-distorting supports without putting their agricultural policies in jeopardy, and that they had even some leeway to increase them beyond their offers. A leeway confirmed by the fact that Peter Mandelson and Susan Schwab have given to understand in the last days of the negotiations that the EU and US could go beyond their October offers if the emerging DCs agreed to open more their domestic markets for industrial products and services and, for the US, if the EU agreed to open more its agricultural market.

5. One of the best evidence of the misunderstanding of the AoA rules and of its intrinsic flaws is the trite news story repeated again and again for years on the amount of subsidies granted to Northern farmers, based on a mix-up between fake market price supports and subsidies. Indian experts and media remain at the forefront for hawking this myth. Thus Biswajit Dhar, head of the Centre for WTO studies at the Indian Institute of Foreign Trade in New Delhi, repeated to the press the 27 July 2006 the mantra that "*the total quantum of farm subsidies given by the developed OECD (Organization for Economic Cooperation and Development) countries works out to $340 billion a year or almost $1 billion a day*"[3]. The Hindustan Times has even written that "*Both the EU and the US spend over $440 billion annually as subsidies for their farmers, which makes it financially unviable for developing countries to export goods to their markets*"[4]. The truth is that agricultural subsidies – i.e. actual public expenditures including the general services delivered in kind and collectively to farmers and not market price supports – have reached in recent years around $45 billion in the US (if we delete about $35 billion of food subsidies to poor consumers which should have been attributed to the Department of Social Affairs) and around €60 billion in the EU, taking into account the Members State aids not accounted for in the EU Budget. For OECD countries as a whole, they have been of the order of $190 billion on average from 2002 to 2004. Clearly that is huge and it is not question to underestimate it. But continuing to circulate largely false figures and to mix up fake market price supports (as we will show for the EU) with actual subsidies is not a good start to understand and convince your trade partners.

6. The 28 October 2005 Peter Mandelson has proposed that, during the Doha Round (DR) implementation period, the EU would reduce by 70% its Final Bound Total AMS (FBTA, AMS for "Aggregate Measurement of Support", also called the amber box) and its allowed "overall domestic trade distorting support" (OTDS), a concept encompassing the FBTA plus the *de minimis* supports plus the blue box (BB). And, at the end of the implementation period, the EU proposed that the allowed *de minimis* (dm) supports should be cut by 80% for all developed countries – the ceiling of the non product specific dm (NPSdm) being thus fixed at 1% of the value of agricultural production (VOP) instead of 5% in the Agreement on agriculture (AoA) – but that the blue box should be maintained at 5% of the VOP. Being understood that, according to the Framework Agreement of 31 July 2004 article 8, the EU is entitled to use its average blue box's applied level of the implementation period instead of 5% of the VOP as the allowed level of the base period since it is higher than this 5% level which should be reached at the end of the implementation period (paragraph 15).

7. However the 70% cut in the OTDS is a minimum, according to paragraph 8 of the Framework Agreement: "*This commitment will apply as a minimum overall commitment. It will not be applied as a ceiling on reductions of overall trade-distorting domestic support, should the separate and complementary formulae to be developed for Total AMS, de minimis and Blue Box payments imply, when taken together, a deeper cut in overall trade-distorting domestic support for an individual Member*".

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[3] http://www.ipsnews.net/news.asp?idnews=34116

[4] KA Badarinath, *Farm fissures too deep for WTO: Talks suspended*, The Hindustan Times, 25/07/2006.

8. Furthermore the EU was contemplating to go even further in the last days of the negotiations, before its hibernation: to lower by 75% instead of 70% its FBTA and OTDS and to reduce the blue box by 50% – i.e. to 2.5% of the VOP –, besides the fact to agree to an average tariff reduction of 51.6% and to a reduction of the number of tariff lines considered as sensible of 4-5% instead of 8%[5]. So that the EU was prepared to get closer to the G-20 and US demands that it should reduce its FBTA by 80% and 83% respectively, its OTDS by 80% and 75%, the US having already asked that the BB should be reduced to 2.5% of the VOP and the dm should be cut by 50%, i.e. should also reach 2.5% of the VOP. This means that, apart from the EU proposal to cut even more its dm (by 80%), the EU proposals are a minimum to be reached.

9. Now that the hibernation of the Doha Round gives the opportunity to ponder over the agricultural trade rules in order to rebuild a fairer agreement on agriculture, the present paper shows the extent to which both the EU October proposals to reduce its domestic trade distorting supports and Canada's simulations confirming their feasibility are totally misleading since they rest on many infringements of the AoA rules, beyond their intrinsic flaws.

I – The main types of flaws in Canada's simulations assumptions

10. They are using as base period either 1995-00 or 1999-01 but both are irrelevant since it cannot start before the Final Bound Total AMS (FBTA) was reached (December 2000 or June 2001) so that it should begin the 1st January or 1st June 2001 and extend till 2005 or at least 2004[6]. Nevertheless we will stick to this 1995-00 base period to confront our calculus with Canada's simulations, although it contradicts the Framework Agreement, and will not consider the 1999-01 period which has only been proposed by the US.

11. Trying to overcome this contradiction, they have created another one in applying the level of the FBTA reached in 2000 during the 1995-00 period, which contradicts the reality but using the average of decreasing BTA from 1995 to 2000 would have given a higher FBTA (€72.919 billion instead of €67.159 billion).

12. They are confusing the 2 allowed dm supports: the allowed PSdm is only 5% of the production value of products without a PS AMS, not 5% of the whole VOP as for the NPSdm.

13. But, above all, they ignore the EU massive cheatings:

- ✓ First on the subsidies to COPs (cereals, oilseeds and pulses) used as feed inside the EU, which should have been put in the amber box as input subsidies, where they confer PS AMSs to all animal products (meats, eggs and dairy products) and to oilseeds and pulses, thus reducing highly the PSdm but also the EU blue box.
- ✓ Then on other processed products
- ✓ They ignore the EU massive cheatings in under notifying or not notifying at all in the amber box irrigation subsidies, subsidies on agricultural loans and insurance, tax rebates on agricultural fuel.

14. Consequently the WTO Members and NGO relying on these simulations have wrongly concluded that the EU proposals would leave it with a significant margin of increase of its applied domestic trade distorting supports even after cutting by 70% its allowed level of FBTA and OTDS. Instead they should have denounced these flawed simulations and the cheatings on which they rest, otherwise they are endorsing them.

15. We will show these flaws and cheatings through the following steps:

- ✓ Feed subsidies confer PS AMSs to animal products and skrink the allowed PSdm and BB.
- ✓ The PS AMSs of other processed products.
- ✓ The exemption of storage costs from the AMS is not justified.

[5] AGRA Presse Hebdo n° 3067 du 31 juillet 2006.

[6] J. Berthelot, *Why the base period for the DR reductions commitments cannot be 1995-00 or 1999-01*, 22 June 2006.

- ✓ The EU large under-notifications in its NPS AMS.
- ✓ The EU green and blue subsidies are coupled and should be added to the EU total AMS

II – Complying with the definition of the product-specific *de minimis*

16. Let us look first at the EU margin of manœuvre to comply with its own proposal of cutting by 70% its FBTA and OTDS, without taking into account at this stage its massive under-notifications but only in complying with the AoA definition on the allowed PSdm.

✓ According to the AoA article 6.4: "*A Member shall not be required to include in the calculation of its Current Total AMS and shall not be required to reduce: (i) product-specific domestic support which would otherwise be required to be included in a Member's calculation of its Current AMS where such support does not exceed 5 per cent of that Member's total value of production of a basic product during the relevant year*".

✓ Unfortunately Canada' projections have followed the attitude of the most powerful WTO Members and also of most experts and NGOs, H. de Gorter and J.D. Cook being an exception: "*Product-specific* de minimis *ceiling is less than 5 percent of the total value of production because support for some products are over five percent of the value of production and so is included in the AMS*"[7].

✓ In other words we have to compute the production value of all products with a PS AMS and to deduct that value from the whole VOP in order to get the total value of products without a PS AMS and the allowed PSdm is 5% of that value in the base period and 1% or 2.5% at the end of the implementation period (according to the EU or US proposals).

Contrary to the US, the EU has not notified the production value of the products with a PS AMS from 1995/96 to 1999/00

Table 1 – EU notified product-specific AMSs from 1995/96 to 2001/02 and average 1995/96-2000/01

In € million	1995/96	1996/97	1997/98	1998/99	1999/00	2000/01	2001/02	Average 95/00
Common wheat	2,593	2,963	2,861	3,091	2,923	2,271	1,237	2,784
Barley	2,247	2,683	2,703	2,686	2,541	2,195	1,640	2,509
Maize	786	936	1045	952	1003	707	380	905
Rye	317	296	313	330	290	238	213	297
Oats	11	13	13	12	12	0	0	10
Sorghum	17	20	23	21	20	16	10	20
Triticale	151	197	231	254	226	210	179	212
Rice	507	540	511	438	393	393	397	464
White sugar	5,754	5,773	5,755	5,755	5,723	5,797	5,720	5,760
" (national)	217	123	112	57	35	12	12	93
SMP	1,806	1,660	1,516	1,508	1,371	1,508	1,371	1,562
Butter	4,210	4,210	4,210	4,210	4,444	4,444	4,444	4,288
Beef	13,962	13,787	13,525	13,375	13,089	11,190	9,708	13,155
Peas, lentils	69	71	70	71	69	69	73	70
Dried fodder	297	297	307	307	313	306	317	305
Olive oil	1,380	1,873	2,268	1,798	2,070	2,070	2,676	1,910
Tobacco	1,040	1005	870	910	985	964	952	962
Fruit & vegetables*	11,099	10,827	10,137	7,425	8,736	8,851	7,476	9,514
Processed fruits*	842	802	747	699	697	606	893	733
Wine	1,706	1,937	1,937	1,828	2,052	807	892	1,711
Seed	92	92	93	108	110	103	99	100
Hemp	8	11	16	26	16	11	3	15
Flax fibre	91	108	109	98	120	82	5	101
Silkworms	0	0	0	0	15	1	1	3
Hops	24	13	13	13	13	13	13	15
Cotton	800	773	809	715	624	795	575	753
Notified total AMS	50,026	51,009	50,194	46,683	47,886	43,654	39,281	48,242

Source: EU notifications to the WTO; dm: de minimis; SMP: skimmed milk powder; NEDP: non exempted direct payments. To save space we have grouped together the 13 fresh fruits and 5 fresh vegetables and the 8processed fruits and processed tomatoes but the details are given in the Annex.

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[7] Harry de Gorter and J. Daniel Cook, *Domestic Support in Agriculture: The Struggle for Meaningful Disciplines*, in Trade, Doha and Development: a window into the issues. 2006

17. It is only for its last two notifications, 2000/01 and 2001/02, that the EU has notified the production value by product, making possible to compute the PSdm level. This might explain why the EU has not availed much of the *de minimis* exemption, contrary to the US. This is another reason not to take the 1995-00 years as the base period for the DR reduction commitments[8].

18. We cannot even rely on the Eurostat data for fruits and vegetables since they do not give the production value of each fruit and vegetable whereas the PS AMSs are notified for each of 13 fresh fruits, 5 fresh vegetables, 8 processed vegetables and processed tomatoes. We can see it on the table 1 in annex which shows the EU notifications of PS AMSs.

19. Eurostat data give the production value of agricultural products at the farm gate, whereas the notifications to the WTO are often made for products at the first processing stage: sugar and not sugar beets, butter and skimmed milk powder and not milk. If it is also meat and not live animal which is notified, this is not a problem since farmers are paid on a meat basis.

Rough estimates of the production value of products with a PS AMS from 1995/96 to 1999/00

20. Table 2 shows that the total average production value of products with PS AMSs has reached €122.922 billion in the 1995/96-2000/01 period so that the production value of the products without a PS AMS is €99.655 billion and the allowed PSdm is 5% of that value, i.e. €4.983.

Table 2 – Production values of EU agricultural products with a PS AMS from 19956-96 to 2000-01

In € millions	1995/96	1996/97	1997/98	1998/99	1999/00	2000/01	2001/02	Average 95-00
Total cereals less durum wheat	23,700	26,923	24,583	22,941	22,262	23,295	22193	23,951
Rice	801	1005	879	757	771	700	763	819
White sugar notified	8,844	9,067	9,360	8,694	8,828	8,783	8,938	8,929
Skimmed milk powder notified	2,822	2,811	2,675	2,523	2,423	2,261	2,261	2,586
Butter notified	6,141	6,210	6,165	6,187	6,120	6,236	6,236	6,177
Bovine meat	25,950	23,015	23,038	23,333	23,029	22,779	20,415	23,524
Olive oil	5,669	7,388	9,164	7,468	7,859	9,059	10,458	7,768
Tobacco	528	625	696	675	574	558	602	609
Bananas (tropical fruits)	597	629	652	740	746	675	701	673
Fresh fruits (total not notified)	13,958	14,719	14,513	15,137	15,832	15,866	17109	15,004
Fresh vegetables (total not notified)	16,948	18,281	19,202	19,768	19,901	21,313	21720	19,236
Wine	13,181	15,060	14,595	16,300	17,183	16,430	15358	15,458
Seed for sowing	614	625	688	759	784	744	632	702
Cotton	1,399	1,162	1,168	1,167	1,295	1,375	1051	1,261
Total value of products with a PS AMS	119,411	124,110	123,060	122,821	124,028	124,099	121,523	122,922
Total agricultural production value	207,400	219,700	217,800	213,500	233,700	243,359	246,418	222,577
Total value of products without a PS AMS	87,989	95,590	94,740	90,679	109,672	119,260	124,895	99,655

Source: Eurostat data on agricultural production values and rough calculus to derive the values of white sugar, skimmed milk powder and butter.

21. In order to derive the production value of sugar from 1995/96 to 1999/00 we apply the average ratio of the production value of sugar to that of sugar beet in 2000/01 and 2001/02, i.e. 171.72%, to the production value of sugar beets from 1995/96 to 1999/00.

22. We do the same to derive the production value of butter using the ratio of the production value of milk to that of butter, as the volume of butter production has remained almost flat over the period.

23. However, since the production of skimmed milk powder (SMP) has decreased by 20% over the period, we derive its annual production values by applying its volume indexes to the average value of 2000/01-2001/02.

24. For olive oil there is a huge contradiction between the value of production notified for 2000-01 and 2001-02 (€9.259 billion on average) and that given by Eurostat (€3.314 billion). The value notified seem much overestimated since with an average price of about €2,000 per ton at that time and an average production of 2.2 Mt, the production value should be around €4.4 billion, closer but somewhat higher than Eurostat data. Another way to check it is that, according to Eurostat, olive oil represented

[8] J. Berthelot, *Why the base period for the DR reductions commitments cannot be 1995-00 or 1999-01*, Solidarité, 22 June 2006.

1.8% of the €249 value of agricultural production (VOP) in 2000, i.e. €4.480 billion, and 1.8% of the €256 M VOP in 2001, i.e. €4.613 billion. Even if the Eurostat production values of olive oil seem a little undervalued, we will nonetheless take them instead of the values notified at the WTO.

25. To check if this approach is not far from reality, we see that the average production value of products with a PS AMS notified for 2000/01 and 2001/02 was €126.160 billion as against €122.922 billion with our approach, a gap essentially due to the overvaluation of olive oil, so that we can consider our estimates as relevant:

The true allowed PSdm changes significantly Canada's projections

26. The average allowed Total AMS for 1995-00 with a 70% cut is €20.148 billion. We should have calculated logically the reduction in the applied Total AMS from the average decreasing Bound Total AMS (BTA) from 1995 to 2000 (€72.919 billion) but this would have been higher than the Final BTA (FBTA: 67.159 billion), which shows the contradiction of using 1995-00 as the base period.

Table 3 – EU allowed and applied agricultural trade-distorting domestic supports from 1995 to 2001

In € billion	1995/96	1996/97	1997/98	1998/99	1999/00	2000/01	2001/02	Average 95/00
Agricultural product° value	207.400	219.700	217.800	213.500	233.700	243.359	246.418	222.577
Allowed AMS	78.672	76.369	74.067	71.765	69.463	67.159	67.159	67.159
Applied AMS	50.026	51.009	50.194	46.683	47.886	43.654	39.281	48.242
" PS AMS	50.026	51.009	50.194	46.683	47.886	43.654	39.281	48.242
Unused ceiling	28.646	25.630	23.873	25.082	21.577	23.505	27.878	24.718
Allowed NPSdm 5%	10.370	10.985	10.890	10.675	11.685	12.168	12.321	11.129
" " 50% cut	5.185	5.493	5.445	5.338	5.843	6.084	6.161	5.565
" " 80% cut	2.074	2.197	2.178	2.135	2.337	2.434	2.464	2.258
Applied NPSdm (€ million)	776	711	487	348	290	538	573	525
Unused NPSdm 5%	9.594	10.274	10.403	10.327	11.395	11.630	11.748	10.604
" NPSdm 2.5%	4.409	4.782	4.958	4.990	5.553	5.546	5.588	5.040
Prod val. PS AMS	119.411	124.110	123.060	122.821	124.028	124.099	121.523	122.922
" without PS AMS	87.989	95.590	94.740	90.679	109.672	119.260	124.895	99.655
Allowed PSdm 5%	4.399	4.780	4.737	4.534	5.484	5.963	6.245	4.983
" " 50% cut	2.200	2.390	2.369	2.267	2.742	3.982	3.123	2.491
" " 80% cut "	880	956	947	907	1.097	1.193	1.249	997
Applied PSdm "	49	33	57	31	17	23	290	35
Unused PSdm 5%	4.350	4.747	4.680	4.503	5.467	5.940	5.955	4.948
" " 50% cut	2.151	2.357	2.312	2.236	2.725	3.959	2.833	2.456
" " 80% cut "	831	923	890	876	1.080	1.170	959	962
Allowed BB (actual BB)	20.846	21.521	20.443	20.504	19.792	22.223	23.726	20.888
Allowed BB at the end of the DR implementation period with 5% of VOP cap								11.129
Allowed BB at the end of the DR implementation period with 2.5% "								5.645

Source: EU notifications to the WTO. BB: blue box. * one cannot use the 1995-00 average for the FBTA and therefore the unused applied total AMS is deducted from €67.159 billion.

27. Since Canada did not comply with the AoA definition of the allowed PSdm:

✓ The allowed base OTDS for 1995-00 is: 67.159 (FBTA) + 11.129 (NPSdm) + 4.983 (PSdm) + 20.888 (BB) = 104.159 (instead of 110.305 according to Canada).

✓ And the allowed OTDS for the implementation period with a 70% cut is therefore of 31.247 (instead of 33.091 according to Canada).

✓ And the sum of the cuts in the three components of the OTDS is:

(1) With a 50% cut in the *de minimis* ceiling and the BB at 5% of VOP:
20.148 (FBTA) + 5.565 (NPSdm) + 2.492 (PSdm) + 11.129 (BB) = 39.334
(2) With a 80% cut in the *de minimis* ceiling (proposed by the EU) and the BB at 5% of VOP:
20.148 (FBTA) + 2.226 (NPSdm) + 997 (PSdm) + 11.129 (BB) = 34.500
(3) With a 80% cut in the *de minimis* ceiling and the BB at 2.5% of VOP:
20.148 (FBTA) + 2.226 (NPSdm) + 997 (PSdm) + 5.565 (BB) = 28.936

28. In that last case it is the sum of the three components of the OTDS that is lower than the final OTDS and it is this ceiling that the applied EU domestic supports should not exceed at the end of the implementation period, should an agreement been concluded on these reduction parameters.

III – Incorporating feed subsidies confers PS AMSs to animal products

The legal basis to consider feed subsidies as input subsidies

29. The AoA states clearly (article 6.2) that "*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*", which implies that developed countries' farmers are not exempted[9]. Besides paragraph 13 of Annex 3 confirms: "*Other non-exempt policies, including input subsidies*".

30. OECD considers rightly feed as the main input of livestock production[10].

31. According to the European Commission, and despite that imported feeds account for about 60 million tonnes (Mt) in 2002, "*Huge quantities of agricultural products go into animal feed, which is the main outlet for EC production of cereals and oilseeds and practically the only utilisation of permanent grassland and fodder grown on arable land. Altogether, feed accounts for three quarters of the Community's UAA (utilised agricultural area). Moreover, animal feed generally represents about 65% of all pig meat and poultry meat production costs*"[11], i.e. is by far the major input of animal products. And it is also by far the first input for the whole agricultural production, with 39.5% of all inputs in 2003, the second most important input being energy and lubricants with 9.7%.

Evaluating the feed subsidies to the EU animal products requires several steps

32. EAGGF gives the amount of annual subsidies to COPs (cereals, oilseeds, pulses) and the distribution between cereals and protein feeds (oilseeds and pulses), but we have to attribute the direct payments (DP) given to set-aside to the various COPs, and we delete the DP to "other arable crops" (rice and durum wheat) not used as feed. If the DP to EU pulses can be attributed fully to feed, we assume that the 31.5% ratio of the average value of the EU oilseeds meals in 2001 in relation to the oilseeds value holds for the entire period. On the other hand, we have to add the DP to dried fodder although they are not included in the blue box COPs but already notified in their PS AMSs. Finally table 4 gives the amount of DP to EU protein feed (we will add further subsidies to skimmed milk powder to feed calves).

Table 4 – EU direct payments to COPs and total direct payments to protein feed from 1995 to 2001

In € million	1995	1996	1997	1998	1999	2000	2001	Average 95/00
Direct payments (DP) to COPs	15,648	17,193	16,191	15,978	15,128	16,825	18,144	16,161
" to cereals	9,362	10,826	12,161	13,341	11,961	12,295	11,963	11,658
" to oilseeds	2,289	2,381	2,439	2,369	2,429	1,625	2,097	2,255
" to pulses	586	523	252	618	647	524	450	525
" to other arable crops	367	371	386	355	1534	361	287	562
" to set-aside (SA)	2,413	2,271	1,904	1,263	1,284	1,859	1,536	1,832
DP to cereals with part of SA	11,154	12,570	13,681	14,351	12,888	13,839	13,205	13,081
" oilseeds "	2,727	2,764	2,744	2,548	2,617	1,829	2,315	2,538
" pulses "	698	607	283	665	697	590	497	590
DP to EU oilseeds meals: 31.5%	859	871	864	803	824	576	729	800
DP to dried fodder	342	365	367	378	376	381	375	368
Total DP to protein feed	1,899	1,843	1,849	1,846	1,897	1,547	1,601	1,814

Source: EAGGF annual reports.

33. However many other steps are needed to evaluate the DP to the cereals used as feed:

✓ To have comprehensive data on the EU cereal production in the context of feed, we must add the grain equivalent weight of silage maize, knowing that one hectare of silage maize gives at least as much

[9] R. Dennis Olson, *Below cost feed crops*, IATP, June 2006; Timothy Wise, *Identifying the real winners from U.S. agricultural policies*, Global Development and Environment Institute's Working Paper 05-07, Tufts University, December 2005, http://www.ase.tufts.edu/gdae/Pubs/wp/05-07RealWinnersUSAg.pdf

[10] More details on this legal basis in J. Berthelot, *Feed subsidies to EU and US exported poultry and pig meats*, 10 January 2006.

[11] European Commission, *The agricultural situation in the European Union, 2002 Report*, Brussels, 8.1.2004.

yield of grain equivalent in nutritive value as one hectare of grain maize[12] and that silage maize has received the same direct payment as grain cereals.

✓ In 1999 3.857 million hectares (M ha) of silage maize have been grown in the EU-15 (against 3.673 M ha of grain maize), of which about 2/3 are given to dairy cows (DC) and 1/3 to meat cattle. Since we could not find the annual hectarage of silage maize for the EU and since the French hectarage, which accounts for 40% of the EU total, has remained almost flat, we derive the grain equivalent of silage maize (SGE) from multiplying the annual yield of grain maize by 3.857 M ha.

✓ Finally table 5 shows also that the direct payments to COPs used as feed within the EU have on average represented 60.29% of all direct payments to COPs.

Table 5 – EU direct payments to COPs and total direct payments to protein feed from 1995 to 2001

M hectares (Mha), M tonnes (Mt), € billion	1995	1996	1997	1998	1999	2000	2001	Average 95/00
Cereals production (Mt)	179.522	206.141	205.881	211.104	201.221	213.819	199.733	202.948
Silage maize (M ha)	3.857	3.857	3.857	3.857	3.857	3.857	3.857	3.857
Average maize yield (quintals/ha)	79.409	85.012	90.778	87.206	91.343	91.590	89.878	87.556
Maize silage grain equivalent (SGE) (Mt)	30.625	32.789	35.013	33.635	35.231	35.430	34.666	33.787
Total cereals production (with SGE) (Mt)	210.147	238.930	240.894	244.739	236.452	249.249	234.399	236.735
DP to cereals (with part of SA) (€bn)	11.154	125.70	13.681	14.351	12.888	13.839	13.205	13.081
DP to cereals per ton (€/t)	5.308	5.261	5.679	5.864	5.451	5.552	5.634	5.519
Cereals in feed (Mt)	100.896	105.658	109.530	114.848	117.188	110.208	117.482	109.721
Total feed cereals (with SGE) (Mt)	131.521	138.447	144.543	148.483	152.419	145.638	152.148	143.509
DP to feed cereals (€ billion)	6.981	7.284	8.209	8.707	8.308	8.086	8.572	7.929
DP to protein feed "	1.899	1.843	1.849	1.846	1.897	1.547	1.601	1.814
Total DP to COPs used as feed "	8.880	9.127	10.058	10.553	10.205	9.633	10.173	9.743
DP to COPs "	15.648	17.193	16.191	15.978	15.128	16.825	18.144	16.161
DP to feed COPs as % of DP to COPs	56.75%	53.09%	62.12%	66.05%	67.46%	57.25%	56.07%	60.29%

Source: European Commission, DG Agriculture.

The feed subsidies confer PS AMSs to all animal products and slam the blue box

34. Since 60% of EU COPs have been fed to the EU animals on average from 1995 to 2000, 60% of the corresponding subsidies should have been deducted from the blue box and attributed to animal products to which they have conferred PS AMSs.

35. Indeed the exemption of the AoA Article 6 paragraph 5 on the blue box subsidies cannot render useless the preceding provision of paragraph 2 on input subsidies. The WTO Appellate Body has stated that "*One of the corollaries of the 'general rule of interpretation' in the Vienna Convention is that interpretation must give meaning and effect to all the terms of a treaty. An interpreter is not free to adopt a reading that would result in reducing whole clauses or paragraphs of a treaty to redundancy or inutility*"[13].

36. So that a distinction should be made within domestic subsidies to COPs:

✓ Only 40% of them not used as feed – €6.418 billion on average from 1995 to 2000 against €9.743 billion to COPs used as feed – should have been notified in the blue box whereas 60% should have been notified as input subsidies in the PS AMSs of animal products having consumed them.

✓ Once taken out the share of COPs subsidies going to the PS AMSs, the average remaining blue box is only €11.145 billion for the 1995-00 period (table 6), hardly more than the allowed €11.129 ceiling for the implementation period.

Table 6 – The EU blue box net of subsidies to COPs used as feed from 1995 to 2001

In € billion	1995	1996	1997	1998	1999	2000	2001	Average 95/00
Total blue box	20.846	21.521	20.443	20.504	19.792	22.223	23.726	20.888
Blue box to COPs	15.648	17.193	16.191	15.978	15.128	16.825	18.144	16.161
" used as feed	8.880	9.127	10.058	10.553	10.205	9.633	10.173	9.743
Net COP blue box	6.768	8.066	6.133	5.425	4.923	7.192	7.971	6.418
Net blue box	11.966	12.394	10.385	9.951	9.587	12.590	13.553	11.145

[12] Joe Lauer, *The relationship between corn grain and silage yield*, Focus on forage, vol.3, n°7, 2000, University of Wisconsin, USA.

[13] WTO Report of the Appellate Body, *United States - Standards for Reformulated and Conventional Gasoline*, WT/DS2/AB/R, 29 April 1996 (96-1597).

Identifying the cereals feed subsidies going to each EU animal product

37. We have now to distribute the DP going to cereals and protein feed among the different EU animal products: poultry meat and eggs, pig meat, bovine meat, sheep and goat meat and milk. We assume that on average each tonne (t) of meat requires 1.4 t of cereals for poultry and 2 t for pig[14] and that each t of eggs requires 1.5 t of cereals.

38. For bovine meat feed, we assume that:

- ✓ Individual concentrates fed on farm (some being purchased and some produced) are of the same amount as the compound feed.
- ✓ Cereals account for 65% of the concentrates.
- ✓ Energy rich co-products account for 19.3% of the concentrates and 85% are from EU origin[15].

Table 7 – Distribution of feed cereals between the EU animal products from 1995 to 2001

Million tonnes	1995	1996	1997	1998	1999	2000	2001	Average 95/00
Total feed cereals (with SGE)	131.521	138.447	144.543	148.483	152.419	145.638	152.148	143.509
Cereals in poultry and eggs feed								
Production of poultry meat: Mt	8.182	8.358	8.636	8.823	9.148	8.939	9.381	9.019
Cereals in poultry feed (1.4/1)	11.455	11.701	12.090	12.352	12.807	12.515	13.133	12.153
Production of eggs (Mt)	5.262	5.189	5.255	5.348	5.396	5.708	5.633	5.360
Cereals in eggs feed (1.5/1)	7.893	7.784	7.883	8.022	8.094	8.562	8.450	8.040
Cereals in poultry & egg feed	19.348	19.485	19.973	20.374	20.901	21.077	21.583	20.193
Cereals in pig feed								
Production of pig meat:	16.361	16.368	17.287	17.663	18.021	17.596	17.574	17.216
Cereals in pig feed (2/1)	32.722	32.736	34.574	35.326	36.042	35.192	35.148	34.432
Cereals in bovine meat (BM) feed								
Compound feed for BM	11.461	10.906	11.452	11.208	11.509	11.720	14.835	11.376
On farm concentrates (same)	11.461	10.906	11.452	11.208	11.509	11.720	14.835	11.376
Total concentrates for BM	22.922	21.812	22.904	22.416	23.018	23.440	29.670	22.752
" of which cereals (65%)	14.899	141.78	14.888	14.570	14.962	15.236	19.286	14.789
Silage maize grain equivalent	30.625	32.789	35.013	33.635	35.231	35.430	34.666	33.787
" to BM (1/3)	10.208	10.930	11.671	11.212	11.744	11.810	11.555	11.263
EU cereal co-products to BM	3.760	3.579	3.757	3.677	3.776	3.845	4.867	3.732
Total cereals in BM feed	28.867	28.687	30.316	29.459	30.482	30.891	35.708	29.784
Cereals in dairy cows (DC) feed								
EU milk production	121.623	120.714	120.731	120.964	121.715	121.060	121.634	121.135
Compound feed (CF) for DC	23.614	22.087	21.176	23.135	22.695	23.540	20.556	22.708
EU cereals: 55% of CF (Mt)	12.987	12.148	11.647	12.724	12.482	12.947	11.306	12.489
Cereals self-consumption	13.884	13.884	13.884	13.884	13.884	13.884	13.884	13.884
Cereals in cows feed	26.871	26.032	25.531	26.608	26.366	26.831	25.190	26.373
Silage maize to DC (2/3)	20.417	21.859	23.342	22.423	23.487	23.620	23.111	22.525
Cereals co-products to DC	5.721	5.643	5.615	5.728	5.716	5.745	5.696	5.694
Total cereals in DC feed	53.009	53.534	54.488	54.759	55.569	56.196	53.997	54.593
Cereals in sheep and goat feed								
Sheep&goat meat prod°	1.146	1.137	1.114	1.150	1.145	1.150	1.012	1.140
Cereals/sheep & goat feed (2/1)	2.292	2.274	2.228	2.300	2.290	2.300	2.024	2.281
Cereals co-products in " (33%)	0.764	0.758	0.743	0.767	0.763	0.767	0.675	0.760
Total cereals/sheep&goat feed	3.056	3.032	2.971	3.067	3.753	3.067	2.699	3.041
Total cereals in feed								
Total cereals in feed	137.002	137.474	142.322	142.985	146.747	146.423	149.135	142.159

Source: EU Commission, DG Agriculture and Eurostat. SGE: silage maize grain equivalent.

39. For dairy cows (DC) feed, we assume that:

- ✓ 55% of the 22.708 million tonnes (Mt) of average compound feed to DC from 1995 to 2000 were made of cereals, i.e. 12.489 Mt.
- ✓ On farm produced cereals account for 13.884 Mt: according to the FADN for France in 1999, the farms specialized in cow milk had on average 36 DC, i.e. 41.4 DCCU (DC consuming unit, the concentrate of the replacing heifer being estimated at 15% of the DC), with an on-farm self-

[14] See J. Berthelot, *Feed subsidies to EU and US exported poultry and pig meats*, Solidarité, 10 January 2006. We have however changed some figures of this paper which will need a revision.

[15] For more details see J. Berthelot, *The comprehensive dumping of the EU bovine meat from 1996 to2002*, Solidarité, 19 April 2006. We have however changed some figures of this paper which will need a revision.

consumption of 17.2 tonnes of cereals, that is 415.5 kg of cereals per DCCU[16]. Applying the coefficient of 74% of the French DC concentrates consumption in relation to the EU average, the self-consumed cereals in the EU have reached an average of 561 kg per DCCU, or 13.884 Mt for the 24.748 M DCCU. Since the number of DC and of DCCU has decreased from 1995 to 2001 we should reduce accordingly the self-consumption of cereals but, as cereals prices have decreased so that the volume of cereals incorporated in feeds has increased, we assume that both phenomena have cancelled each other out and we use the same volume of self-consumed cereals by EU's DC from 1995 to 2001, that is 13.884 Mt.

- ✓ 2/3 of the EU silage maize has been fed to DCs, for an average of 22.525 Mt.
- ✓ Cereals co-products fed to DC have reached on average 5.694 Mt.
- ✓ Which gives a total average of 54.593 Mt of cereals to DC, i.e. 2,224 kg per DCCU of which 910 kg of silage maize grain equivalent and 1,314 kg of cereals and cereals co-products.

40. For sheep & goat feed, we do not differentiate between meat and milk and assume that each t of meat requires 2 t of cereals and 1/3 of that in cereals co-products.

41. Finally this micro approach leads to a comparable total average of cereals feed for the 1995-00 period as the average figure given by the European Commission: 142.159 Mt of cereals feed against 143.509 Mt.

42. We can now derive the cereals feed subsidies going to each animal product (table 8) and we arrive logically to the same narrow gap with the subsidies computed in table 5.

Table 8 – Distribution of EU direct payments to feed cereals according to the animal products: 1995-01

Million tonnes, billion € (€B)	1995	1996	1997	1998	1999	2000	2001	Average 95/00
Total cereals in feed. (Mt)	137.002	137.474	142.322	142.985	146.747	146.423	149.135	142.159
DP per tonne of cereals (DP/t)	53.08	52.61	56.79	58.64	54.51	55.52	56.34	55.19
Cereals DP/poultry feed (€B)	1.027	1.025	1.134	1.195	1.139	1.170	1.216	1.115
" in pig feed "	1.737	1.722	1.963	2.072	1.965	19.54	1.980	1.902
" in bovine meat feed "	1.532	1.509	1.722	1.727	1.662	1.715	2.012	1.645
" in dairy cows feed "	2.814	2.816	3.094	3.211	3.029	3.120	3.042	3.013
" in sheep&goat feed (€M)	162	160	169	180	205	170	152	168
Total DP to cereals feed (€B)	7.272	7.232	8.082	8.385	8.000	8.129	8.402	7.842

Identifying the protein feed subsidies going to each EU animal product

43. In order to distribute the total protein feed subsidies between the animal products, we start from the average relative distribution of cereals feed subsidies between these products but weight this distribution to take into account that the relative share of protein feed in total feed is not the same for all animal products (personal assumption).

Table 9 – Weight of each animal product in the distribution of EU protein feed subsidies from 1995 to 2000

	Average weight of cereal feed (1)	Share of protein in feed (2)	(1) x (2)	weight of protein feed
Poultry feed	14.20%	20%	28.40	13.37%
Pig feed	24.22%	30%	72.66	34.20%
Bovine meat feed	20.95%	15%	31.43	14.79%
Dairy cows feed	38.40%	20%	76.80	36.15%
Sheep & goat feed	2.14%	15%	3.18	1.50%
All animal productss	100.00%	100%		100.00%

Source: (1) from last column of table 8 (average 1995-00)

44. We can then compute the DP to protein feed going to each animal product from 1995 to 2000 (table 10).

[16] For more details, *The comprehensive dumping of the EU's dairy produce from 1996 to 2002*, Solidarité, 16 January 2006. We have however change some figures of this paper which will be revised. Particularly we had make a mistake in using Blogowski study since it shows that the French consumption of concentrate per tonne of milk was of 74% of the EU average and not 61% as incorrectly mentioned in my dairy paper.

Table 10 – Distribution of EU direct payments to protein feed according to the animal products: 1995-01

€ million	1995	1996	1997	1998	1999	2000	2001	Average 95/00
DP to protein feed	1,899	1,843	1,849	1,846	1,897	1,547	1,601	1,814
" to poultry	254	246	247	247	254	207	214	243
" to pig meat	649	630	632	631	649	529	548	620
" to bovine meat	281	273	273	273	281	229	237	268
" to dairy cows	686	666	668	667	686	559	579	655
" to sheep&goat	28	28	28	28	28	23	24	27

45. We find average DP to feed COPs of €9.663 billion for this period, a figure not significantly different from the €9.743 billion found in table 5 (difference due to subsidies to cereal feed).

Table 11 – Distribution of EU direct payments to feed according to the animal products: 1995-01

€ billion	1995	1996	1997	1998	1999	2000	2001	Average 95/00
" to poultry	1.281	1.271	1.381	1.442	1.393	1.377	1.430	1.358
" to pig meat	2.386	2.352	2.595	2.703	2.614	2.483	2.528	2.522
" to bovine meat	1813	1782	1995	2000	1943	1944	2249	1.913
" to dairy cows	3.500	3.482	3.762	3.878	3.715	3.679	3.621	3.669
" to sheep & goat (€M)	190	188	197	208	233	193	176	202
DP to feed COPs subsidies	9.170	9.075	9.930	10.231	9.898	9.676	10.004	9.663

46. However, before getting total DP going to feed for each animal product we have to add several other subsidies, to SMP and to grass, of which 3 specific to France and one to Nordic Member States:

- ✓ The subsidies to skimmed milk used to feed veal calves, for €513 M on average in 1995-00.
- ✓ Two French feed subsidies put in its Rural Development Plan that the EU considered as in the green box under the pretext they are granted to farmers in deprived areas (ICHN) or that they promote extensive livestock systems (PMSEE and PHAE):
  - ➢ The Compensatory Indemnity for Natural Handicaps (ICHN), 98.5% of which have been granted to feed hectarage in deprived areas, for an average amount of €379 M from 1995 to 2000.
  - ➢ The PMSEE (premium for the maintenance of extensive livestock farming systems), so-called "grass premium" up to 2002 when it was renamed "agri-environmental grass premium" (PHAE), for an average of €194 M in the same period.
- ✓ A specific French rebate on the VAT (value added tax) on agricultural raw materials used as feed and to fertilizers for €65 M in 2004 and 2005. We assume that 50% are going to feed and that the same amount was available along the period[17].
- ✓ The 1999 CAP reform has granted a subsidy to grass silage (budget lines B01-1047 and B01-1068) for Nordic Member States unable to grow silage maize.
- ✓ If the subsidies to SMP are clearly attributed to bovine meat, we assume that 2/3 of the other are attributed to cow milk and 1/3 to bovine meat (to simplify, even if some should go to sheep and goat meats).
- ✓ Finally these five items add €1.119 billion to feed subsidies on average from 1995 to 2000.
- ✓ There are surely many other subsidies granted to feed in the other Member States than France but it is impossible to identify them when you do not read all the EU languages!

Table 12 – Additional subsidies to feed from 1995 to 2004

€ million	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	Average 1995-00
ICHN going to feed	348	429	340	402	368	387	427	447	457	482	500	379
PMSEE and PHAE	208	202	202	193	182	179	172	162	196	211	200*	194
Grass silage	-	-	-	-	-	40*	59	75	73	70	70*	7
Tax rebate/feed	33	33	33	33	33	33	33	33	33	33	33	33
Sub-total	589	664	575	628	583	599	691	717	759	796	533	613
Milk:2/3	393	443	383	419	389	426	461	478	506	531	535	409
Bovine meat:1/3	196	221	192	209	194	213	230	239	253	265	268	197
SMP to calves	594	543	495	473	497	476	336	263	267	239	243	513
Total bovine meat	790	764	687	682	691	689	566	502	520	504	511	710
Total	1,183	1,207	1,070	1,101	1,080	1,075	1,027	980	1,026	1,035	776	1,119

Sources: EAGGF, Ministère de l'agriculture et de la pêche, *Les concours publics à l'agriculture de 1990 à 2004*. * estimates.

47. Table 13 recapitulates now the PS AMSs of EU animal products due to average feed subsidies of €10.789 billion during the 1995-00 period.

[17] alize.finances.gouv.fr/budget/circpdf/1BRE-05-630_Annexes.xls

Table 13 – EU overall feed subsidies to PS AMSs of animal products from 1995 to 2001

€ billion	1995	1996	1997	1998	1999	2000	2001	Average 95/00
Subsidies to poultry feed	1.281	1.271	1.381	1.442	1.393	1.377	1.430	1.358
" to pig meat "	2.386	2.352	2.595	2.703	2.614	2.483	2.528	2.522
" to bovine meat "	2.603	2.546	2.682	2.682	2.634	2.633	2.815	2.630
" to milk "	3.893	3.925	4.145	4.297	4.104	4.105	4.082	4.078
" to sheep & goat " (€M)	190	188	197	208	233	193	176	202
Feed subsidies/animal products	10.353	10.282	11.000	11.332	10.978	10.791	11.031	10.789

Computation of the PS AMSs of the EU animal products

48. If cereals and dried fodder have already been notified with a PS AMS, this was not the case for the other COPs – oilseeds and pulses – which get also a PS AMS together with most animal products just analysed. However the subsidies to sheep and goat feed are within the *de minimis* exemption level: at around 4.5% of the production value of their meat and even much below if we take into account the production value of their milk (we could not identify it). And we do not take into account the production value of bovine meat since it has already been incorporated in the production value of products with a PS AMS (table 3).

Table 14 – EU production value of additional products with a PS AMS from 1995 to 2001

In € billion	1995	1996	1997	1998	1999	2000	2001	Average 95/00
Poultry	9.121	9.260	8.894	8.139	8.844	10.148	9.242	9.068
Eggs	4.364	5.209	5.009	4.511	4.214	5.090	5.044	4.733
Pig meat	25.344	25.437	19.670	18.687	23.581	28.157	22.801	23.479
Bovine meat*	20.076*	19.984*	19.592*	19.617*	19.511*	16.521*	18.098*	19.217*
Milk	37.489	37.913	37.637	37.769	37.360	38.379	41.006	37.758
Sheep & goat meat**	3.962**	4.814**	5.020**	4.378**	4.094**	4.640**	4.902**	4.485**
Oilseeds	2.396	2.512	3.038	3.251	2.743	2.540	2.914	2.747
Pulses (€M)	619	659	739	643	564	476	526	617
Total (*,**)	79.333	80.990	74.987	73.000	77.306	84.790	81.533	78.401

Source: EUROSTAT. *The production value of bovine meat is not included in the total since it has already been taken into account (table 3). **The production value of sheep & goat meat is not included in the total since their feed subsidies are below the *de minimis* exemption level.

49. Finally all this adds €78.401 billion on average to the production value of products with an AMS in the 1995-00 base period (table 14). And the additional applied PS AMSs have reached €11.913 billion on average between 1995 and 2000 (table 15), which gives now an average total applied AMS of €60.155 billion.

Table 15 – EU additional applied PS AMSs from 1995 to 2001

€ billion	1995	1996	1997	1998	1999	2000	2001	Average 95/00
Poultry & eggs AMS	1.281	1.271	1.381	1.442	1.393	1.377	1.430	1.358
Pig meat "	2.386	2.352	2.595	2.703	2.614	2.483	2.528	2.522
Bovine meat "	2.603	2.546	2.682	2.682	2.634	2.633	2.815	2.630
Milk "	3.893	3.925	4.145	4.297	4.104	4.105	4.082	4.078
Oilseeds meals "	859	871	864	803	824	576	729	800
Pulses "	586	523	252	618	647	524	450	525
Total additional applied PS AMS	11.608	11.488	11.919	12.545	12.216	11.698	12.034	11.913
Notified total AMS (table 1)	50.026	51.009	50.194	46.683	47.886	43.654	39.281	48.242
New total applied PS AMS	61.634	62.497	62.113	59.228	60.102	55.352	51.315	60.155

50. We could wonder if we can add these subsidies components of the PS AMSs of milk and bovine meat without double counting since the EU has already notified PS AMSs for them as market price supports linked to the intervention prices of butter, skimmed milk powder (SMP) and bovine meat. Indeed we have to notify them since they are two different types of supports and the EU itself (the US even more) have already notified the two types of supports for the products getting both (for COPs notably in the EU). Furthermore butter and SMP are not the same products as milk since they include value added to milk. However, as we have just said, this does not allow us to take into account twice the production value of bovine meat in the total production value of products with a PS AMS.

IV – The PS AMSs of other processed products

51. We have still to add PS AMS for other transformed products having used subsidized agricultural products but without double counting also the production value of these products. This point has been underlined by Oxfam[18] and the lawyer firm Sidley & Austin[19].

52. Both reports have underlined that several EU processed agricultural products might be sued for dumping since they have received prohibited subsidies as contingent on the use of domestic raw products instead of imported ones. This contradicts clearly GATT article III.4 on the "national treatment", a provision specified in article 3.1 of the Agreement on subsidies and countervailing measures (SCM): "*Except as provided in the Agreement on Agriculture, the following subsidies, within the meaning of Article 1, shall be prohibited:… (b) subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods*".

53. Processed fruits and vegetables:

- ✓ The EU Regulation states explicitly that "*A Community aid scheme is hereby introduced to assist producer organisations supplying tomatoes, peaches and pears harvested in the Community for the production of the processed products listed in Annex I*"[20].
- ✓ However, since the corresponding subsidies of the EU processed fruits and vegetables have already been notified in the EU PS AMS for €733 M on average from 1995 to 2000, we cannot count them twice.
- ✓ The case of EU processed tomatoes, which receive about €300 M in subsidies, is explored more in-depth by Sidley and also by Bradley J. Rickard and Daniel A. Sumner. They differ in their estimates of the subsidy rate for the tomatoes grower: 65% for the first and 43% for the second. Sidley adds that the EU share of world exports is of 84% for canned tomatoes ($188 M), 38% of tomato paste ($330 M) and 14% of tomato sauce/ketchup ($54 M). Unfortunately the neo-classical model built to appraise the economic impact of a 50% reduction in the EU subsidies to tomatoes for processing finds that there is a "welfare loss" for DCs (mainly LDCs) because, even if their farmers and manufacturers gain $5.3 M a year, their consumers lose more so that they face a welfare loss of €3.4 billion[21]!

54. About €600 M of distillation subsidies of excess table wine allow the EU to export spirits at prices below their production cost and thus shutting DCs exports out of the market. Here also we have already taken into account these coupled subsidies.

55. On tobacco domestic subsidies, Oxfam arguments against them are not so strong: "*By depressing EU prices, tobacco subsidies reduce the revenues that exporters and producers from other countries receive for selling tobacco in the EU market. If the removal of EU tobacco subsidies increase the price of tobacco in the EU market by 10 per cent, exporters in the developing countries listed could gain as much as $120m in additional export revenue*". However the EU Impact assessment report acknowledges that "*Unlike most European agricultural products, domestic prices are generally between one third and half of world prices (except for Greek oriental tobaccos)… For all the analyses presented below it is assumed that if the coupled tobacco premium is at least one third lower than in the baseline, tobacco prices would increase by 100% in Italy and Spain and 25% in Greece. The huge gap between domestic producer prices for tobacco and prices paid by first processors for tobacco imported from outside the EU, also taking into account the different stages of processing, transport and*

[18] OXFAM, *Truth or consequences. Why the EU and the USA must reform their subsidies, or pay the price*, Briefing paper n° 81, November 2005.

[19] Sidley & Austin LLP, *EC agricultural subsidies for Mediterranean products and the WTO*, June 2006, Montpellier (aic.ucdavis.edu/research1/scottMontpellierPresentation.ppt).

[20] Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organization of the markets in processed fruit and vegetable products.

[21] Bradley J. Rickard and Daniel A. Sumner, *Domestic support and border measures for processed horticultural products: analysis of the EU tomato protection and subsidies*, Draft paper, April 2006, University of California, Davis.

insurance costs and differences in quality, shows that there is room for price increases of this magnitude"[22]. Anyhow, these tobacco subsidies are already in the PS AMS.

56. Subsidies to encourage consumption of concentrated butter "*made from either cream or butter manufactured in the Community*".

57. Oxfam could have added the other items of article 13 of Council regulation (EC) n° 1255/1999 on the common organisation of the market in milk and milk products stating that much larger subsidies to butterfat are opened: "*When surpluses of milk products build up, or are likely to occur, the Commission may decide that aid shall be granted to enable cream, butter and concentrated butter to be purchased at reduced prices: (a) by non-profit making institutions and organisations; (b) by military forces and units of comparable status in the Member States; (c) by manufacturers of pastry products and ice-cream; (d) by manufacturers of other foodstuffs to be determined; (e) for the direct consumption of concentrated butter*",

✓ All the more that "manufacturers of pastry products" and "of other foodstuffs" are exporting part of their production and that the subsidies to manufacturers have represented €337 M on average from 2001 to 2003 against only €12 M for concentrated butter.

✓ We can apply the average ratio of 75.1% of these subsidies to all subsidies to butterfat during this 2000-04 period to estimate the amount of these subsidies from 1995 to 2000 for which the DG Agriculture gives only the total subsidies to butterfat and we arrive at €392 M on average from 1996 to 2004 and €428 M from 1995 to 2000.

✓ On the other hand we do not take into account the subsidies to non-profit institutions, military forces and, as Oxfam does, to direct consumption of concentrated butter, since that is the concern of social policies more than agricultural trade policies.

✓ However, as butter has already a PS AMS, we cannot count twice its production value in the total production value of products with a PS AMS. On the other hand we should add the production value of the EU production of cream whose average production has been 2.089 Mt from 1995 to 2000 but we have not been able to find its value.

Table 16 – Subsidies to EU butter and other milk fats to manufacturers of pastry and other products: 1995-04

€ million	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Subsidies to butterfat	646	625	598	584	520	449	480	469	443	402
Subsidies to butterfat to manufacturers (M€)	485	469	449	439	391	337	348	355	342	303
" to concentrated butter (M€)	?	?	?	?	?	?	13	12	12	12

Source: EAGGF annual reports.

58. Subsidies "*on aid for the production of casein and caseinates from skimmed milk*". Indeed the Commission regulation n° 2921/90 of 10 October 1990 states: "*1. Aid shall be granted to producers of casein and caseinates only if these products have been produced from skimmed milk of Community origin or raw casein extracted from milk of Community origin*".

✓ These subsidies, which have represented €207 M on average from 1995 to 2000 and €225 M from 1995 to 2004, should be added to the EU AMS as a non exempted direct payment that the EU has "forgotten" to notify, the more so as a significant part of these EU casein and caseinates are exported so that these domestic subsidies are also export subsidies.

✓ Even if the production subsidies – in fact input subsidies – to casein are quite significant and apply to the whole production including that consumed in the EU, they have represented 3.8 times the value of casein and caseinates exports from 1995 to 2000 and 3.8 times from 1995 to 2004.

✓ Therefore we add these subsidies in the PS AMSs but without counting twice the production value of liquid skimmed milk which is already included in the production value of full milk.

Table 17 – Subsidies to EU skimmed milk (SM) converted into casein, from 1995 to 2004

€ million	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Average 95/00
Million tonnes of liquid SM for casein	4,819	4,645	4,568	4,789	5,265	5,345	5,830	4,911	5,438	5,949	4,905
Subsidies to liquid SM for casein (M€)	197	207	180	181	247	232	144	193	317	352	207
Export of casein and caseinates (M€)	50	59	51	49	51	71	71	63	57	102	62

Source: EAGGF annual reports.

[22] European Commission, *Tobacco regime. Extended Impact Assessment*, 2003.

59. Let us however make some comments on these Oxfam and Sidley analyses:

✓ In underlining that the EU is violating the GATT and SCM Agreement clause of "national treatment", they are clearly providing arguments to DCs to defend themselves against the EU prohibited subsidies with a dumping effect.

✓ Oxfam is right to underline the dumping effect of subsidies to EU raw agricultural products used in exported processed products. Therefore we wonder why Oxfam, together with many other NGOs, is not applying this analysis to the largest EU input subsidies, i.e. to the EU COPs used as feed incorporated in the exported animal products.

✓ However, in line with its traditional free trade stance for developed countries which should reduce as much as possible their import protection from DCs exports, Oxfam does not make any distinction between the subsidies going to transformed products for the EU domestic market and those benefiting directly or indirectly to exported products. For Solidarité, all countries should have the right of food sovereignty, i.e. the right to protect efficiently their domestic market provided they do not harm other countries through direct or indirect dumping.

V – The exemption of storage subsidies from the AMS is not justified

60. According to paragraph 8 of the AoA Annex 3 on "Domestic support: calculation of the aggregate measurement of support": "*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*". Despite this provision there are three good reasons to notify the storage subsidies in the AMS.

61. First, it is highly questionable to exclude from total AMS the storage subsidies which are granted to support the domestic prices, thus are explicitly coupled.

✓ These storage subsidies contradict the basic principle of the AoA Annex 2 paragraph 1 that "*Domestic support policies for which exemption from the reduction commitments is claimed shall meet the fundamental requirement that… (ii) the support in question shall not have the effect of providing price support to producers*".

✓ They contradict also paragraph 13 of the same AoA Annex 3 which includes, among the "*Other non-exempt policies*", "*other policies such as marketing cost reduction measures*": clearly the subsidies to private storage and expenditures of public storage are part of the marketing process and are used to mitigate the drop in agricultural prices.

✓ It is illogical to exclude from the AMS these storage subsidies since the partial market price support brought by the intervention stocks would not exist without them.

✓ EU storage subsidies, sugar excluded (they are self-financing through producers' contributions), have been quite significant: €899 M on average from 1995 to 2004 and €966 M from 1998 to 2004 when public storage have represented 81% of the total (the detailed of storage costs is not available on the DG Agriculture website from 1995 to 1997).

Table 18 – EU Subsidies to private and public storage from 1995 to 2004

€ million	1995	1996	1997	1998	1999	2000	Aver.98-00	2001	2002	2003	2004	Aver. 1998-04
Total storage subsidies*	-60	1,053	1,235	1,659	1,225	639	1,174	841	1,147	928	322	966
Subsidies to public storage				1,507	1,006	377	963	676	963	755	178	780
" net depreciation costs				1,169	467	-43	531	339	635	432	-20	426
" technical+financial costs				338	539	420	432	337	328	323	198	355
" public stocks of cereals			72	1,084	712	464	753	185	220	267	45	425
" rice			18	62	45	66	58	30	38	76	62	54
" wine+alcohol				144	129	170	148	217	251	212	144	175
" dairy products				45	188	-232	# 0	-74	357	197	45	75
" bovine meat				145	-36	-83	9	320	100	3	145	85
" olive oil				26	-32	-9	-5	-2	-2	0	26	1
Subsidies to private storage*				152	219	262	211	165	183	173	145	186
" dairy products				96	114	116	109	91	97	75	57	92
" wine & alcohol				55	41	50	49	62	69	62	57	57
" pig meat				0	46	92	46	5	3	35	30	30
" olive oil				1	14	0	5	1	9	0	0	4
" sheep & goat meats				0	3	4	2	0	0	0	0	1
" bovine meat				0	0	0	0	6	4	0	0	1

Sources: annual EAGGF reports. * The subsidies to private storage of sugar are excluded as they have been self-financed by producers' contributions.

✓ The main products in the public stocks have been from 1998 to 2004: cereals (54.5% of the total, of which 78% from 1998 to 2000), wine and alcohol (22.5%, of which 15.4% from 1998 to 2000), bovine meat (10.9%, almost nil from 1998 to 2000), dairy products (9.6% and 0 from 1998 to 2000) and rice (6.9%, of which 7.7 from 1998 to 2000).

✓ On the other hand subsidies to private storage have concerned mainly 3 products, in decreasing order: dairy products, wine & alcohol and pig meat.

✓ What is surprising is that the basic price opening the possibility for the EU Commission to trigger subsidies to private storage does not imply the notification of an "equivalent measurement of support" despite it is also a market price support. Which proves that, contrary to an intervention price which triggers automatically a public buying-in, the subsidies to private storage are considered as more "WTO" compatible since the EU Commission can decide to subsidize it or not. And this explains also why the EU has eliminated most intervention prices since the 1999 CAP reform.

✓ Above all the storage costs of public stocks include the net depreciation costs (posted price net of the gap between the buying and selling price) for 54.6% of all costs on average from 1998 to 2004 and depend on the prices fluctuations, the technical and financial costs being more or less stable or at least depending only on the average length of storage and the interest rate level. Note that negative figures do not necessary mean a destocking but that the anticipated depreciation price at which the stocks have been posted has been more than offset by the price at which the stock has been sold eventually.

✓ Even if the EU is obliged to notify the sale of its intervention stocks together with export refunds, the notification does not include the storage subsidies but only the gap between the domestic market price and the world price at the time of export, as it is stated by the AoA article 9.1.b: "1. *The following export subsidies are subject to reduction commitments under this Agreement… b) The sale or disposal for export by governments or their agencies of non- commercial stocks of agricultural products at a price lower than the comparable price charged for the like product to buyers in the domestic market* ". This gap between the two prices corresponds more or less to the export refund but includes only a part of the depreciation costs.

Table 19 – EU notified export subsidies and volume of exports from intervention stocks from 1995 to 2002

€ million	1995	1996	1997	1998	1999	2000	Aver.98-00	2001	2002
Storage subsidies on cereals				1,084	712	464	753	185	220
Notified sales of wheat stocks	71.6			68.5	119.4	14.8	45.7		
" of coarse grains	125.9	32.9	33.0	203.9	362.2	63.7	136.9	40.3	92.4
" of all cereals	197.5	32.9	33.0	272.4	481.6	78.5	182.6	40.3	92.4
" of tobacco	18.2	3.4					3.6		
" exported volume: 1000t	11.2	2.0					2.2		
" of alcohol	51.2	118.5	105.5			95.6	45.9	52.8	
" exported volume: 1000 hl	450.0	1,070.4	961.5			891.0	487.2	500.0	
" of bovine meat			2.8	25.7	51.4		13.3		
Total subsidies on exported stocks	266.9	154.8	141.3	298.1	533.0	174.1	261.4	93.1	92.4

Sources: notifications of export subsidies to WTO (the blanks do not mean the absence of subsidies but of available data (the EAGGF details are not available before 1998 on the DG Agriculture website).

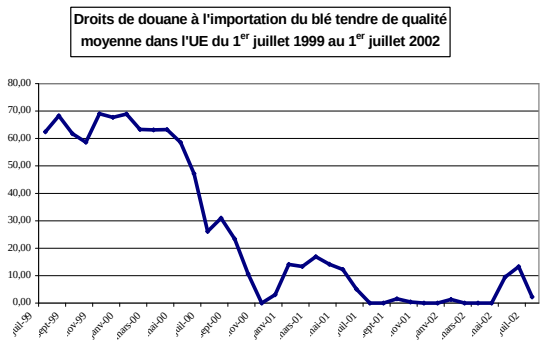
62. Second, it is all the more unfair to exempt the storage subsidies of developed countries from being notified in the amber box (AMS) that most stocked products are eventually dumped on DCs markets and that the AoA demands that DCs put in their AMS "*the difference between the acquisition price and the external reference pri*ce" of their "*Governmental stockholding programmes for food security purposes*" (footnote 5 to paragraph 3 of AoA Annex 2).

63. The third reason relates to the fact that the administered prices – the "intervention prices" in the EU – and the public stocks they trigger contribute little by themselves to supporting the domestic prices.

✓ The domestic prices are supported mainly by border measures: first by import protection and then by export subsidies and other intervention measures (set aside, production quotas or caps, foreign and domestic food aid). Therefore total subsidies to intervention stocks should be classified as export refunds and not only the gap between the domestic price at the time of export and the world price.

✓ Since public intervention does not bring an actual market price support by itself, this is a first reason why the quoted provision of Annex 3 paragraph 8 does not hold:

- The gap between the fixed reference price and the applied intervention price remains the same as long as the intervention price is not changed and whatever the changing gap between the current world price and the current domestic price.
- Thus, while the wheat intervention price remained at €119.19 per tonne from 1995 to 1999, the world price dropped by 52.4% (table 20) but the AMS/t has stayed at 32.69 €/t since the world reference price of 1986-88 was at 86.5 €/t. And, although the intervention price has been lowered at 101.31 €/t since July 2001 and as remained at that level up to now, the AMS/t has stabilized at 14.8 €/t although the average world price (in $) has increased by 21.7% from 2001 to 2005, and even by 35.3% from 2000: from 103 $/t in 2000-01 to 114 $/t in 2001-02, 141 $/t in 2002-03, 151 $/t in 2003-04, 136 $/t in 2004-05 and 139 $/t in 2005-06.
- Of course the average world wheat price has evolved in the opposite direction of world stocks as it is clear from table 20: the world price has dropped by 52.4% from 1995 to 1999 when the world stocks rose by 37.1% and the world price has risen by 35.3% from 2000 to 2005 while the world stocks have dropped by 33.5%.
- But this has not been the case in the EU which is a price taker for wheat and where the intervention stocks are miniscule in relation to world stocks. The evolution of the EU intervention stocks has been mainly influenced by the euro exchange rate, the production level due to climate vagaries, naturally the evolution of the intervention price and the entrance of the new Member States, particularly Hungary since 2004.
- From 1995 to 2002, when the euro has depreciated against the dollar, the EU wheat stocks have risen from 1995 to 1997 because the world price has dropped after the peak of 1995-96 and they have jumped in l998 after a good crop and have remained high in 1999 when the world price was the lowest and world stocks the highest.
- So that even if the world price in euro was the lowest in 1998 and 1999 (it is the US price of SRW n°2 FOB Mexico Gulf and not the CAF price in Rotterdam, the gap between the two being of at least 25 $/t) the average domestic price has remained above the intervention price since there is at least 10 €/t between the farm gate and the storage place[23], also because of large exports boosted by a jump in the export refund per tonne whereas the imports remained low since the entrance price was calculated at 155% of the intervention price which was still high (at 119.19 €/t).
- The drop in the intervention price in July 2000 and July 2001 (decided by the 1999 CAP reform) has had the main effect to lower the entrance price (= CIF price + import duties, the maximum entrance price being of €157 €/t since July 2001) and thus to boost the imports, the more so as the harvest was very low in 2001 and the intervention stocks had almost disappeared. The following graph shows the collapse of the import duty of common wheat of an average quality in the EU between early 2000 and July 2001. But it is not the intervention price per se which has triggered increased imports: it is the fact to have decided at the end of the Uruguay Round to base the cereals entrance price on 155% of their intervention price level.



- In 2003 the EU has changed its import regime for the common wheat of average and low qualities: it has opened a tariff rate quota (TRQ) of 2.982 Mt with an in-quota tariff of 12 €/t, the imports beyond the TRQ being taxed at 95 €/t. This has been effective to stop the explosion of imports

[23] http://www.agpb.fr/fr/chiffre/prix.asp

in 2001 and 2002 even if the imports of wheat of high quality and hard wheat have continued to enter at zero duty.

- From 2004 on the intervention stocks have exploded mainly because of the enlargement and the non competitiveness of the wheat from Hungary or Poland on the deficit markets of Spain or Portugal. Indeed transporting cereals from Hungary to Portugal costs 60€/t and the EU Commission has been obliged to finance this cost in 2004-05 for about 400,000 t (€24 M to add to the storage costs) and has renewed partially the operation in 2005-06 to limit the growing volume put into intervention, not only for wheat but also for maize. Indeed the average wheat farm price in the EU-10 has been of 89 €/t in 2004 against €113.6 €/t in the EU-15. In Hungary the average wheat price was of €93.1 in 2004 and €82.3 in 2005 so that Hungary had 48% of the EU-25 intervention stocks of cereals in 2005-06 (6.8 Mt on 14.2 Mt).

- Incidentally we see that, despite the intervention price of 101.31 €/t, the farm gate price was much lower because the farmers had to face the delivery costs to the storage places and, in the case of Hungary, they have been obliged to store a part in other Member States. However, for the new Member States it is clear that the intervention has limited the slump in the domestic price but this might also question the economic rationale to have the same intervention price all over the EU-25(27) and for all cereals before subsidizing an increase in the stockholding capacity which is presently insufficient for a normal harvest but also heavy infrastructures costs to improve the navigation on the Danube.

- Therefore not to take into account in the AMS the public storage costs is all the more illogical that at least 80% and most often 90% of these stocks are eventually dumped on the world markets at prices much below production costs, even without mentionning the storage costs themselves.

Table 20 – The weak significance of the EU common wheat AMS linked to the intervention price: 1995-2005

€ per tonne, Mt	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006*
EU production (Mt) **	88	100	95	104	98	105	92	104	90	124	115	127
Ending stocks (Mt)	10	11	12	16	13	15	13	16	12	25	25	25
Intervent. stocks (Mt)	0.5	0.5	2.5	6.4	3.1	0.7	0.5	2.8	2.5	11	5.4	4.9
Storage costs (M€)	62	-47	72	1084	713	464	185	219	268	45		
Intervention price (€/t)	119.19	119.19	119.19	119.19	119.19	110.25	103.31	103.31	103.31	103.31	103.31	103.31
86/88 refer. Price (€/t)	86.5	86.5	86.5	86.5	86.5	86.5	86.5	86.5	86.5	86.5	86.5	86.5
AMS per tonne (€/t)	32.69	32.69	32.69	32.69	32.69	23.75	16.81	16.81	16.81	16.81	16.81	16.81
EU farm price (€/t)°	139.3	139.0	129.8	118.3	117.0	118.1	118.4	107.2	115.7	105.7	100	
World price SRW $/t*	198	158	129	100	97	103	115	143	153	142	142	145
Exchange rate $/€	1.1749	1.1749	1.1749	1.1211	1.0658	0.9236	0.8956	0.9456	1.1312	1.2439	1.2441	
World price SRW: €/t	168	134	110	89	91	109	126	151	135	114	114	
World stocks (Mt)	186	199	240	253	255	251	241	206	165	170	167	
EU wheat imports: Mt	2.7	1.8	3.1	3.6	3.4	3.8	6.0	14.1	6.6	6.9	7.0	7.0
EU wheat exports: Mt	16.2	13.8	14.8	13.3	16.1	15.3	12.7	13.0	13.8	12.1	12.1	15.2
" export refunds (M€)	119	318	178	500	509	108	9					
" from inter. stocks "	72	0	0	69	119	15	0					
Export refund per ton	7.3	12.8	14.2	33.2	37.9	7.1	0.7					

Sources: Eurostat; ONIC; OECD (for the EU farm gate price); FAO (for final stocks and the world price of wheat (SRW: Soft Red Winter n°2 FOB Gulf Ports); European Central Bank for the exchange rate €/$ (Statistics pocket book, July 2006). * prospects; ** EU-25 from 2004. °: it is a weighted average of the farm gate price but from 2002 the prices are missing for Denmark and Italy (they have accounted for 8.77% of the total EU-15 production on average from 1995 to 2004) and from 2003 for France (which represents 38.0% of the EU-15 production from 1995 to 2004) but the EU weighted price incorporates the EU-10 in 2004. For wheat imports and exports instead of the annual supply balance tables of the DG Agriculture for marketing years we have relied on its agricultural trade statistics for civil years 1995-04 (http://ec.europa.eu/agriculture/agrista/tradestats/index_en.htm)

VI – The changes in the applied PS AMSs and allowed PSdm

64. Adding in the PS AMSs the butterfat subsidies to manufacturers (table 16), the subsidies to liquid skimmed milk for casein production (table 17) and the subsidies to storage (table 18) increase now the average applied PS AMSs to €61.901 billion for the 1995-00 period (table 21).

Table 21 – New EU applied PS AMSs with subsidies to butterfat, casein and storage, from 1995 to 2001

€ million	1995	1996	1997	1998	1999	2000	2001	Average 95/00
Former applied PS AMS (table 15)	61,634	62,497	62,113	59,228	60,102	55,352	51,315	60,155
Butterfat subsid. to manufacturers (table 16)	485	469	449	439	391	337	348	428
Subsidies to liquid SM for casein (table 17)	197	207	180	181	247	232	207	144
Storage subsidies (table 20)	-60	1053	1235	1659	1225	639	841	1174
New total applied PS AMS	62,256	64,226	63,977	61,507	61,965	56,560	52,711	61,901

65. Adding the production value of animal products, oilseeds and pulses getting PS AMSs to that of the products already notified with a PS AMS increase the production value of products with AMSs to €201.323 billion on average in the 1995-00 period (table 22) so that the production value of products without a PS AMS shrinks to €21.253 billion on average.

Table 22 – EU production value of products with and without an allowed PS AMS from 1995 to 2001

In € billion	1995/96	1996/97	1997/98	1998/99	1999/00	2000/01	2001/02	Average 95/00
From table 3	119.411	124.110	123.060	122.821	124.028	124.099	121.523	122.922
From table 14	79.333	80.990	74.987	73.000	77.306	84.790	81.533	78.401
Prod. value with PS AMSs	198.744	205.100	198.047	195.821	201.334	208.889	203.056	201.323
Total agricultural production value	207.400	219.700	217.800	213.500	233.700	243.359	246.418	222.576
Prod. value without PS AMSs	8.656	14.600	19.753	17.679	32.366	34.470	43.362	21.253

66. Which means that the allowed PS *de minimis* will be reduced to €1.063 for the 1995-00 base period (table 23) with an exemption cap at 5% of the production value, reducing much the margin to increase the low applied PSdm.

Table 23 – EU allowed and applied EU PS *de minimis* from 1995 to 2001

In € million	1995/96	1996/97	1997/98	1998/99	1999/00	2000/01	2001/02	Average 95/00
Ag product° value: €bn	207.400	219.700	217.800	213.500	233.700	243.359	246.418	222.577
" with PS AMSs "	198.744	205.100	198.047	195.821	201.334	208.889	203.056	201.323
" without PS AMSs "	8.656	14.600	19.753	17.679	32.366	34.470	43.362	21.253
Allowed PSdm	433	730	988	884	1,618	1,724	2,168	1,063
Applied PSdm (tab. 3)	49	33	57	31	17	23	290	35
Unused allowed PSdm	384	697	931	853	1,601	1,701	1,878	1,028
Allowed NPSdm 5% "	10.370	10.985	10.890	10.675	11.685	12.168	12.321	11.129
" " 50% cut "	5.185	5.493	5.445	5.338	5.843	6.084	6.161	5.565
" " 80% cut "	2.074	2.197	2.178	2.135	2.337	2.434	2.464	2.258
Applied NPSdm	776	711	487	348	290	538	573	525
Unused NPSdm 5% "	9.594	10.274	10.403	10.327	11.395	11.630	11.748	10.604
" NPSdm 2.5% "	4.409	4.782	4.958	4.990	5.553	5.546	5.588	5.040

Sources: EUROSTAT and notifications to the WTO.

67. Therefore:

- ✓ The allowed OTDS for 1995-00 becomes: 67.159 (FBTA) + 11.129 (NPSdm) + 1.063 (PSdm) + 11.145 (BB) = 90.496 (instead of 110.305 for Canada)
- ✓ And the allowed OTDS at the end of the implementation period with a 70% cut is €27.149 billion (instead of 33.091 according to Canada).
- ✓ And the sum of the cuts in the three components of the OTDS is:

(1) With a 50% cut in the *de minimis* ceiling and the BB at 5% of VOP:
20.148 (FBTA) + 5.565 (NPSdm) + 532 (PSdm) + 11.129 (BB) = 37.374
(2) With a 80% cut in the *de minimis* ceiling (proposed by the EU) and the BB at 5% of VOP:
20.148 (FBTA) + 2.226 (NPSdm) + 213 (PSdm) + 11.129 (BB) = 33.716
(3) With a 80% cut in the *de minimis* ceiling and the BB at 2.5% of VOP:
20.148 (FBTA) + 2.226 (NPSdm) + 213 (PSdm) + 5.565 (BB) = 28.152

- ✓ Here the 70% cut in the OTDS is, in the three contemplated cases, more constraining that the sum of cuts in the three components.

VII – The EU large under-notifications in its NPS AMS

We will look first at the EU outright under-notifications before questioning the decoupled nature of the blue and green boxes subsidies.

The EU has not notified other input subsidies to be put in the NPS AMS

68. Irrigation subsidies:

- ✓ General overview:
  - ➢ The AoA Annex 2 paragraph 2.vii includes in the permitted subsidies: "*infrastructural services, including… water supply facilities, dams and drainage schemes… In all cases the expenditure shall be directed to the provision or construction of capital works only, and shall exclude the subsidized*

provision of on-farm facilities other than for the reticulation of generally-available public utilities. It shall not include subsidies to inputs or operating costs, or preferential user charges".

- However, according to the EU Water Framework Directive 2000/60 of 23 October 2000, "*Article 9. Member States shall take account of the principle of recovery of the costs of water services, including environmental and resource costs, having regard to the economic analysis conducted according to Annex III, and in accordance in particular with the polluter pays principle*". Annex III specifies that this should be done "*taking account of long term forecasts of supply and demand for water in the river basin district and, where necessary: estimates of the volume, prices and costs associated with water services, and estimates of relevant investment including forecasts of such investments*". Which means that the principle should be to recover all costs, including investments costs not only of the past but also allowing to face the necessary future investments.
- According to OECD, drawing from the Water Framework Directive objectives, "*in Spain, as in all EU member States, any water user will become in 2010 liable for all water service costs, irrespectively of how water supply is performed, the origin of the water and type of users. The fact that any unjustified exception will make the violating country subject to financial sanctions ensures that the policy is potentially applicable to all irrigators*"[24]. It might be however too optimistic to think that all EU Member States will comply fully with the Directive, for example "*Spanish irrigators claimed the right to be "an exception" to the user pays principle contained in the EU water framework directive at a national congress held in Mallorca this week. If the principle is introduced without concessions a third of irrigated Spanish farmland would become uneconomic with the resultant negative social and economic impact, said Andrés del Campo, president of the national federation Fenacore. Irrigated agriculture consumes 75-80% of Spain's water. Farmers claim that their profitability depends on current subsidies for water supplies*"[25]. The more so as "*Spain has over half a million illegal boreholes used to irrigate agricultural land that is often supported by EU agricultural subsidies, claims WWF in a new report released today*"[26].
- The EU is very far from this objective. The specific EU expenditures on irrigation are not clearly notified. Presumably the bulk of the water infrastructures expenditures are notified in the green box under the heading "Infrastructural services" for the following amounts:

Table 24 – EU notified subsidies on infrastructural services, mainly irrigation and drainage: 1995-01

€ million	1995	1996	1997	1998	1999	2000	2001	Average 1995-00
Notifications	770	1324	593	595	2,353	949	1,141	1,097
To irrigation	513	883	395	397	1,569	633	761	731

Sources: EU notifications to the WTO.

- However these infrastructural services encompass other infrastructures than for irrigation and drainage only: "*provision of electricity and water supply; farm roads; construction of reservoirs; flood protection*", and we do not know the share going to irrigation and drainage but we will assume that 2/3 were attributed to them.
- According to the "presentation and sources" of OCDE's annual report on "*Agricultural policies in OECD countries. Monitoring and evaluation*", the EU has notified to OECD 43 subsidies items under the heading "*payments based on the use of variable inputs*", of which: "*Irrigation subsidies (Spain): national expenditures on payments to finance the activities of irrigation associations and payments to public enterprises in charge of the improvement of irrigation infrastructure (50% EU co-financing)*". And the EU has notified 65 subsidies items under the heading "*payments based on the use of fixed inputs*", among which: "*Irrigation programme in Corsica, Mezzogiorno and Greece*", "*National funds for water infrastructure improvement (France)*", "*Irrigation* (*France): Government subsidies to drainage and irrigation projects*", "*Irrigation programme (Portugal): EU co-financed programme in favour of small traditional on-farm irrigation*", without mentioning several drainage measures, which should be included at least partially in the overall irrigation subsidies since there are a necessary technical complement. However in the table giving the overall PSE (producer support estimate), OECD presents only 9 measures for the section "*payments based on the use of variable inputs*" without the

[24] OECD, *Transition to full-cost pricing of irrigation water for agriculture in OECD countries*, 21February 2002.
[25] http://www.endseuropedaily.com/articles/index.cfm?action=article&ref=20996
[26] WWF/Adena, *Soluciones a la escassez de agua en Espana: como paliar les efectos de la sequi*a, http://www.wwf.org.uk/news/n_0000002597.asp

irrigation in Spain and, under the heading "*payments based on the use of fixed inputs*", OECD presents only 13 measures of which 3 lines for irrigation (Corse, Mezzogiorno, Greece) and 2 for drainage (Ireland) but without any figure for these specific measures!

- Incidentally, DCs should demand that OECD publishes all the detailed notifications made by its Member Countries since they are much more detailed than the notifications made to the WTO. This would contribute enormously to the transparency of the OECD Members subsidies.
- As OECD does not provide the detailed figures for these irrigation subsidies, we cannot draw any conclusion other than noticing that the EU does notify some irrigation subsidies other than on heavy infrastructures. Yet, contrary to the US which has rightly notified its irrigation subsidies in its NPS AMS – although for a miniscule amount in relation to its actual subsidies[27] –, the EU has not notified any subsidy on irrigation operating costs in its NPS AMS.
- According to Eurostat, the irrigable area of the EU-15 was of 14.6 M ha in 2003, the main countries being: Italy (3.977 M ha), Spain (3.828 M ha), France (2.724 M ha), Greece (1.521 M ha), Portugal (0.675 M ha), Germany (0.485 M ha), Denmark (0.449 M ha) and Netherlands (0.351 M ha). However it is Netherlands where the percentage of arable land which is irrigated is the highest (60%), followed by Greece (36%), Italy and Portugal being at 24.5%, Denmark at 20%, Spain at 19% and France at 12%[28].
- Therefore we propose to count at least a conservative €1.2 billion in irrigation subsidies including the estimated €731 M on average notified in the green box in "infrastructures services" but which should have been notified in the amber box, given also their huge amount in Spain and Italy and even in France, not to speak of Greece and Portugal. These subsidies are reflected in the huge underpaid water by EU irrigating farmers, even without accounting for the pollution costs which should be incorporated according to the Directive 2000/60 and the "polluter pays principle", so that the actual subsidies should largely exceed several € billion, as can be concluded from the following examples from some Member States.

✓ In Spain:

- "*The tariffs charged to the irrigation cooperatives are approx. in average 1 pts m3 (around $60 per Hectare per year)…Subsidies used to range from 60% to 100% of waterworks with a 1.5% interest rate charged on a loan to cover the residual investment needs, if any… The total charged from the different tariffs have been around 1,189 million dollars in 8 years but the amount collected is even lower. Annually this has meant around 140-152 million dollars. The income is insufficient to cover the annual current water bill of central government alone (of around 190 million döllars including the costs of Basin Confederations). This is explained, in part, because the compensatory character of the existing tariff system means that only pay for water those benefited by waterworks. This means, for example, that as much as 50% of the irrigation farmers are exempted from paying, sometimes because irrigation infrastructure might be already amortised so those farmers cannot be charged for water under a system based on a compensatory philosophy. Secondly, Basin Confederations find it difficult with their highly participated structure to charge beyond covering administration and running costs. Maintenance and conservation tend to be delayed and included in the investment budget as replacements*"[29].
- Furthermore there is also "*a discharge charge to internalize environmental costs… Farmers have been exempt from paying discharge charges. It is generally accepted to be too difficult to apply the "polluter pays principle" to agricultural production. A better way is by using incentives. These would include financial support to those farmers who comply with the requirements of good agricultural practice*".
- In a recent paper the same author, who is working in the Ministry of environment, presents the concrete example of the Jucar Basin covering the Valencia region, with 350,000 ha irrigated, i.e. 10% of the total irrigated in Spain in 1995 (3.531 M ha) and 9.3% of the total in 2003 (3.772 M ha)[30].

[27] J. Berthelot, *The king is naked*, Solidarité, 7 November 2005.
[28] http://afeid.montpellier.cemagref.fr/Vision.htm However the rates of actually irrigated agricultural land seem too large and are closer to the irrigable land.
[29] Josefina Maestu, *Evolution of water tariffs in Spain and present debates*, CIHEAM, Options Méditerranéennes, Série A/n°31, 1997.
[30] http://www.mapa.es/es/estadistica/pags/anuario/Anu_04/indice.asp

In water districts where the reservoirs have been amortized, for a total cost of irrigating water of €0.18/m^3, the irrigating farmers have to pay €0.10/m^3 but the recovery rate is 56%, i.e. they pay actually €0.056/m^3 or 31% of the cost[31]. In areas where the amortization of the reservoirs is still going on, for a total cost of irrigating water of €0.22/m^3, the irrigating farmers have to pay €0.095/m^3 but the recovery rate is 42%, i.e. they pay actually 20% of the cost. Even if we presume that the eventual recovery rate is 100% – part of the payments being simply overdue – and assuming that the areas with amortized dams account for 25% of the irrigated area since that from groundwater accounts for 75%, on the whole the subsidy rate is of €0.096/m^3, and, for 2.789 billion m^3 in 2003[32], this represents a subsidy of €268 M for the Jucar Basin alone. Even if we assume that 50% of irrigators are exempted from paying because of their water rights and as the Jucar Basin represents only 10% of the irrigated area in Spain, this would imply a total subsidy of €1.134 billion.

- According to Pedro Arrojo, one of the best experts on the issue, in Spain "*prices really paid by irrigators hardly reaches €0.06/m^3 from superficial water and varies from €0.06 to €.21/m^3 from groundwater*".
- Finally the total irrigation subsidies foreseen by the Spanish Rural Development Plan for 2000-06 accounted for €4.484 billion of which €1.976 billion for the Objective 1 regions, which means average annual subsidies of €640 M[33].
- Among the irrigation and drainage infrastructures financed by the European Regional Development Fund (ERDF), the programme "Combating the effects of drought" in Spain for the period 1997-99 accounted for €56.6 M (and the Spanish Authorities €18.9 M) under the headings "hydraulic infrastructures and environmental actions" while the EAGGF has contributed €51.1 M (and the Spanish Authorities €17.0 M) under the heading "modernisation of irrigation systems and measures to combat erosion"[34]. For the 2000-06 period the structural funds going to Andalusia alone under Objective 1 amount to €2.2 billion for the program "environment, natural habitats and water resources", without further details however on the funds going to irrigation proper[35].

✓ In France:

- For AFEID, "*Pricing water at full cost is often impractical, especially for agricultural users, because of the high initial investments*"[36].
- According to Sébastien Loublier, "*The rate of subsidization of irrigation infrastructures is generally between 60% and 80% of the total investment value for collective networks, 90% for irrigation works of regional or national interest and 30% for the individual investments of some farmers (young farmers, mountainous areas…)*"[37], knowing that the collective networks managed 44% of the irrigated area in 2000, of which 52% by the ASA ("*associations syndicales agricoles": farmers' associations managing the irrigation networks*), 38% by various collective associations and 10% by public bodies, and 56% of the irrigated area being run by individual irrigators.
- For the ASA "*The capital value of the collective irrigation network represents today €2.5 billion of which €2 financed by the public authorities... Often the share of initial investments subsidized by the State-Region tandem is of 50-60%. The Département is the actor whose participation is the most variable. If one of its objectives is agricultural development, it completes the subsidies… to reach a total subsidies rate of 80%, maximum threshold generally admitted… Subsidies devoted to ASA irrigating under pressure represent €60 M per year for initial investments and €25 M for the second generation investments*", which means €85 M.

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[31] Josefina Maestu, *The Pilot Jucar River Basin. Economical analysis of water uses and cost recovery*, Conference on "Economic Analysis according to the WFD: Status of Implementation", Ecologic, Berlin, 20-21/11/2003.

[32] Demarcacion geografica del Juncar, *Informe para la Comision Europea sobre los articulos 5 y 6 de la Directiva marco del agua*, Abril de 2005; Pedro Arrojo Agudo, *PHN: tornar las claves del fracaso en argumentos de futuro*, alojamientos.us.es/ciberico/archivos_acrobat/sevillaponenarrojo.pdf

[33] http://www.mapa.es/ministerio/pags/hechoscifras/espanol/pdf/24.pdf

[34] ERDF programme N° 97.00.10.002 (http://ec.europa.eu/regional_policy/reg_prog/po/prog_696.htm)

[35] http://ec.europa.eu/regional_policy/country/prordn/details.cfm?gv_PAY=ES&gv_reg=ALL&gv_PGM=2000ES161PO003&LAN=5

[36] AFEID (Association Française pour l'Étude des Irrigations et du Drainage), *Water for food and rural development. Frenc actors' vision*, 2001, http://afeid.montpellier.cemagref.fr/Vision.htm

[37] Sébastien Loubier, *Gestion durable des aménagements d'hydraulique agricole : conséquences sur la tarification et les politiques publiques en hydraulique agricole*, thèse de l'Université de Montpellier, juillet 2003, http://www.isiimm.agropolis.org/index.php?page=readings&iddoc=390.

- As the ASA accounted in 2000 for 22.6% of the 1.575 M ha irrigated, i.e. 360,589 ha, of which those under pressure accounted for 75% of that area (270,442 ha) with subsidies of €85 M, i.e. of 314 €/ha, and assuming that the subsidy rate for ASA is of 75%, meaning a cost of the subsidized investments of 419 €/ha. We assume that the ASA under gravity (90,147 ha) receive a subsidy lower by 1/3 to those of the ASA with under pressure irrigation (209 €/ha), i.e. €57 M. We assume that the 38% of the collectively irrigated area of other irrigators associations received a subsidy of 80% of the ASA, i.e. 251 €/ha on 263,507 ha or €66 M. We assume also that the subsidy of the 10% of collectively irrigated area run by public bodies is 90% of an investment cost 50% higher than for the cost of ASA under pressure irrigation since they have to finance heavy infrastructures, i.e. 566 €/ha on 69,334 ha, getting to €39M. And finally we assume that the subsidies going to the individual irrigators on 56% of the irrigated area (882,560 ha) are granted to 50% of the area at 30% of the investment cost of the ASA irrigating under pressure (126 €/ha), implying a subsidy of €56 M. On these bases, the total subsidy to French irrigated farmers would be of €303 M yearly.
- According to AFEID, "*Tariffs within ASAs…aim to recover the required expenses (loan reimbursement, maintenance and operational costs) but do not generally include provision for the renewal of infrastructure. The construction of most of the modern collective irrigation networks since 1960 have been funded by 50% subsidies from State agencies, and by loans contracted by users. The annual financial burden includes reimbursement of the capital and interest, for a duration of 15 to 20 years. During this period, users pay a cost, which covers the reimbursement of loans, but not necessarily costs for maintenance of the infrastructure, and as soon as the reimbursing phase is complete, water tariffs are reduced*". And, for the individual irrigators, who account for 58% of the irrigated area, "*The average fee per cubic meter of water consumed is low, consequently it does not influence water consumption, at least in a collective irrigation system. This will soon change, as a significant rise in irrigation fees is currently being debated… The recovery of the fees is generally achieved in the collective systems of ASAs and SARs* [Sociétés d'aménagement régional] *but is less successful for individual irrigation schemes*". For instance, the irrigation fees paid to water agencies by individual irrigators in 1999 for groundwater or river extraction varied between 0.0041 €/m^3 and 0.0053 €/m^3 in the Adour-Garonne Basin, the minimum being 0.0003 €/m^3 for river extraction in the Rhône-Méditerranée-Corse Basin and the maximum 0.017 €/m^3 for groundwater or river extraction in the Seine-Normandie Basin.
- The Adour-Garonne Bassin (AGB) Agency represents 42.6% (645,000 ha) of the French irrigated area with 1 billion m^3 extracted (but the Agency charges the fees on the basis of 758 M m^3), of which 34% in collective irrigation and 66% by individual irrigators.
    - The irrigation costs for the 30,000 irrigators themselves (not including the €150 M of water distribution within the fields) and for an average consumption of 1,800 m^3/ha represent €107 M, i.e. between €0.09 €/m^3 and €0.16 €/m^3, according to the type of extraction and the individual or collective management method[38].
    - The irrigators have to make two types of payments: the water price (tariff) to cover the costs of maintenance (energy consumed, salaries, etc.) and renewal (capital costs) of the services provided by collective water districts (CACG, ASA or other collective networks), and the resource and pollution fees linked to the non availability or lower quality of water for other users which are paid to the Agency by all irrigators.
    - The tariff charged for water extracted from rivers (on 165,000 ha) is fixed at 50 €/ha up to a quota of 2000 m^3/ha, which implies a price of €0.025/m^3, with an additional charge of €0.10/m^3 above the quota. The 64 M m^3 of water under pressure were charged by CACG in 2003 at €0.14/m^3. And the price paid by the 18,526 irrigators belonging to 766 collective irrigation networks went from 0.11 €/m^3 to 0.16 €/m^3.

[38] Comité de bassin Adour-Garonne, *L'Etat des ressources en eau du Bassin Adour-Garonne*, mai-octobre 2005 (dce.eau-adour-garonne.fr/download.asp?download=stockfile/nid_466/documentsaconsulter/etatres.pdf); annexes (dce.eau-adour-garonne.fr/.../nid_466/documentsaconsulter/etatdeslieuxannexes_chapitre.pdf).

- It is interesting also to stress that, in the Rhône-Méditerranée-Corse Basin, the water price charged by SCP to other water users for the same untreated water was twice the price paid by irrigators (0.29 €/m^3 against 0.15 €/m^3)[39].
- At the national level for the average water cost are estimated between 0.11 and 0.32 €/m^3 for individual irrigators[39].
- The resource and pollution fees paid to the AGB Agency by the irrigators were of €3.1 M on average from 1997 to 2002, i.e. represented 3% of the total fees of €103 M collected from all users (0.37% for the pollution fee and 10.2% for the resource fee or 0.043/m^3 for this fee), although the irrigators consume more than 1/3 of the water on average and 80% in summer, which implies additional investments for the Agency.
- As for the subsidies to irrigators the Agency confesses that "*the annual amount of investments made by farmers is badly known… For irrigation, the investments taken into account are mainly the water meters, the equipments saving water and the small reservoirs [lacs collinaires]. The investments on equipments for pumping, drilling, irrigation networks and the irrigation equipment are not at this stage integrated in the estimates… The sources used give only a partial vision of the financing modes realised by farmers, particularly for everything concerning irrigation where the Conseils généraux and Conseils régionaux ere very important financing bodies but it has not been possible to get data*". This lack of knowledge is all the more surprising for an institution highly staffed but reflects the political will of the Board, in which farmers are represented – particularly maize growers, knowing that maize accounts for 70% of the irrigated area –, to not question farmers' privileges. On these bases, the Agency advances the figure of €16.2 M in irrigators' investments for which they have received €5 M in subsidies. And the Agency adds that the regional farmers raising cattle had also to face €21.4 M in depollution investments (the "PMPOA" programme) for which they have received €11.3 M in subsidies. Adding the two types of investments the subsidy rate was of 43%.
- On the other hand, in the Bretagne-Loire Basin Agency, the subsidy rate on irrigation investments has been of 55% (€60 M on €110 M).

➢ Finally for the 6 French Basin Agencies covering the whole territory, the irrigation subsidies have been estimated at €249.8 M, including the subsidies to depollution investments of farmers raising cattle (PMPOA) but underestimating the subsidies of the territorial authorities (Conseils Régionaux and Conseils Généraux). These have granted €48 M to irrigation in 2000[40], without taking into account their large subsidies for the treatment of waste waters, part of their pollution being attributable to agriculture.

➢ We could enlarge the subsidy concept by acknowledging that if the resource and pollution fees paid to the Agencies by the irrigators are so low it is because the other users have to pay much higher fees to cover the Agencies costs, even if they are also subsidized to some extent.

➢ According to the National Assembly report on the foreseen budget for 1999, the subsidies granted to irrigation infrastructures alone in 1998 were of €147 M. A report of the Ministry of agriculture adds that the irrigation subsidies granted by the State and the "Collectivités locales" in 2003 concerned the creation of 7,671 ha and the modernization of 13,247 ha[41]. Which implies that the subsidies on the operating costs of the irrigation bodies were not accounted for.

✓ In Italy,

➢ "*Farmers pay much less than other users, and their charges do not yet include depreciation costs. Capital replacement is therefore still dependant on the general government budget. Some estimates indicate that farmers' charges cover only about 60 per cent of total fixed and variable costs*

[39] CEMAGREF, Groupement de Bordeaux, *Les analyses socio-économiques réalisées par les Agences de l'eau dans le cadre de l'état des lieux. Analyse des méthodes et présentation des principaux résultats pour l'agriculture*, septembre 2005.

[40] Marielle Berriet-Solliec, Therèse Volay et Jean-Paul Daubard, *Les concours publics des collectivités territoriales à l'agriculture en 2000*, Notes et Etudes Economiques n°20, Ministère de l'agriculture, mars 2004, pp. 83-105

[41] http://www.agriculture.gouv.fr/spip/IMG/pdf/ens121_instalmodern_2004.pdf#search=%22co%C3%BBt%20budg%C3%A9taire%20des%20pr%C3%AAts%20agricoles%20bonifi%C3%A9s%22

(Vacca et al., 1994)… In fact, the public budget continues to pay 100 per cent of capital cost and a significant share of operational costs"[42].

➢ For the Calabria region alone, the National Rural Plan has foreseen €1.083 billion in subsidies to natural resources for the 2000-06 period, in which water subsidies, mainly for irrigation, account for a good part, of which €84 M financed by EAGGF[43].

✓ We should not forget that, beyond the low price of irrigated water in relation to its cost for taxpayers, the EU irrigators are also subsidized on their irrigation equipments and energy (e.g. electricity for pumping in Portugal).

✓ Furthermore the CAP direct payments are always much higher for the irrigated crops than for rainfed crops: this is true for COPs (including for COPS non fed to EU animals, already taken into account) as for cotton and rice for example and the gap between the two subsidies rates should have also be included in the PS AMS or at least in the NPS AMS.

69. Tax rebates on agricultural fuel for at least €2 billion (and likely much more).

✓ Let us remind that, according to the Agreement of subsidies and countervailing measures article 1: "*Article 1: Definition of a Subsidy 1.1 For the purpose of this Agreement, a subsidy shall be deemed to exist if:… (ii) government revenue that is otherwise due is foregone or not collected (e.g. fiscal incentives such as tax credits)*".

✓ Admittedly the EU is supposed to have notified its fuel tax rebates to OECD since, among the 43 subsidies items included in the notified "payments based on the use of variable inputs", we find "*Fuel tax rebates (Austria, Czech Republic, Denmark, Estonia, France, Germany until 2000, Greece, Hungary, Latvia, Lithuania, Netherlands, Poland in 1993, Portugal, Slovak Republic, Slovenia and Spain until 1989): value of tax exemptions on diesel fuel for farmers relatively to the standard rate taxes on fuel. Calculated in a budget year basis and allocated to all commodities proportionally to the share of their value in total value of agricultural production. [Figures for Italy not available]*"[44]. However the €3.168 M given for all these 43 measures on average from 1995 to 2004 are clearly much under-notified.

✓ They have already reached at least €714 million in France on average from 1995 to 2003, this rebate having increased in the 2005 and 2006 with the increase in oil prices. According to the Senate, there are even higher than the amounts transmitted by the Ministry of agriculture.

Table 25 – Tax rebates on agricultural fuel used by French farmers from 1995 to 2003

€ million	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	Average 1995-03
Finance Ministry*	592	654	685	713	722	763	770	761	771			714
Senate**								976	1,025	1,230	1,300	

Source: * estimate of the French ministry of finances provided by the Ministry of Agriculture; ** values quoted by the French Senate in its annual report of the foreseen annual State Budget ("Loi des finances").

✓ The tax rebates were likely even higher in Germany until January 2005 "*when the Berlin government cancelled much of the former tax rebate on conventional agricultural diesel. Ten years ago, farmers were paying the equivalent of 17 cents Cdn a litre in mineral oil tax instead of the 65 cents paid by diesel auto drivers. Now, diesel is taxed at almost exactly the same rate everywhere, which means that most of the fuel used on the farm is costing over $1.40 Cdn a litre. I say "most of the fuel" because farmers still get a tax rebate for some diesel amounting to around 16 cents a litre for a maximum 8,370 litres per farm*"[45].

✓ At least Hungary (for €67 M in 2001 and €72 M in 2002) and Slovenia (€3 M in 2003) have notified their tax rebates on agricultural fuel in their NPS AMS, which shows clearly that the EU-15 and US have cheated.

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[42] OECD, *Agriculture water pricing in OECD countries*, ENV/EPOC/GEEI(98)11/FINAL, 4 May 1999.

[43] http://www.dps.tesoro.it/documentazione/qcs/POR_rmp/POR_Calabria_testo_e_all/POR%20Calabria_per%20capitoli/V_POR_Calabria.pdf

[44] http://www.oecd.org/dataoecd/55/45/35010389.htm

[45] http://www.betterfarming.com/2005/bf-may05/europe.htm

✓ Another reason to confirm the under-notification of at least €2 billion is that the US has notified $2.385 billion to OECD from 1995 on this item even if it did not notified anything to the WTO. Yet oil prices were 3 to 4 times lower in the US than in France and Germany and the number of EU farmers and agricultural equipments are much larger in the EU.

✓ More generally we would underline here the huge tax rebates in general to the French agriculture: €2.9 billion estimated in 2006 for the general budget without taking into account the rebates on local taxes and social contributions)[46].

The EU has under notified its NPS AMS

70. Interest subsidies on agricultural loans for at least €200 M beyond the €420 M notified on average for 1995-00 in its NPS AMS.

✓ The subsidies have been granted for medium to long-term loans since subsidies on short term agricultural loans have almost disappeared in the 90s because the interest rates for all types of credit have dropped. However subsidies to short term loans are used frequently in France to help farmers facing cash flow problems. In fact to-day most European farmers can find cheap interests from ordinary banks since they can pledge their direct payments which constitute a strong guarantee for the banks.

✓ To some extent the EU could pretend that if its interest subsidies notified in the NPS AMS are low it is because it has notified in its green box most of the investment loan subsidies, at least those for the setting up of young farmers since article 8.2 of Council Regulation (EC) No 1257/1999 of 17 May 1999 has foreseen that setting-up aid can be granted as "*an interest subsidy on loans taken on with a view to covering the costs arising from setting up*".

✓ But, contrary to the US notifications to OECD which distinguish in the PSE the subsidies to farm operating loans (notified in the paragraph "payments based on use of variable inputs") and those to farm loans other than operating loans (notified in the paragraph "payments based on use of fixed inputs"), it is unclear what type of loans are concerned by the EU subsidies notified in its NPS.

✓ However in France alone the subsidies on agricultural loans have already been almost equal to those notified in the EU NPP AMS from 1995 to 2000 and have even been higher from 1997 to 2000 (table 24). The Ministry of agriculture states that "*The effective average rate of the European financial participation for the rebates on agricultural loans has been of 24.5% on the period 1994 to 2004*"[47]. As the EU should notify all its Member States' subsidies and not only the Community's subsidies, taking into account all the other Member States' subsidies would show significant under-notifications so that €200 M is a minimum.

Table 26 – EU notified subsidies to agricultural loans for investments from 1995 to 2005

€ million	1995	1996	1997	1998	1999	2000	2001	2002	2003	Average 1995-00
EU notifications	618	599	458	313	271	261	295			420
French subs./agr.loans	476	497	501	360	332	270	298	249	278	406
" EU share	99	91	101	223	90	3	60	45	59	101
" France share	377	407	400	137	242	267	196	190	219	305

Sources: EU notifications to the WTO, French ministry of agriculture.

71. Subsidies on agricultural insurances for at least €800 M beyond the average €96.9 M notified during the 1995-00 period (and €143.3 from 1995 to 2001), given their extensive use in Spain and Italy (table 27).

✓ Subsidies to agricultural insurances proper are generally distinguished from subsidies to compensate agricultural disasters. The AoA has put the first in the AMS, and generally WTO Members notify them in the NPS AMS even if they are product-specific as in the US, and the second in the green box. In practice however the frontier between the two types is not easy to trace so that the so-called compensatory subsidies for agricultural disasters cover often usual agricultural risks. This is particularly the case in Spain. In the cases of specific agricultural disasters covering more than one Member State such as the BSE crises of 1996 and 2003, specific subsidies are provided by the EU which authorizes also specific State aids.

[46] http://www.assemblee-nationale.org/12/budget/plf2006/b2568-04.asp#P397_37590

[47] http://www.agriculture.gouv.fr/spip/IMG/pdf/ens121_instalmodern_2004.pdf#search=%22co%C3%BBt%20budg%C3%A9taire%20des%20pr%C3%AAts%20agricoles%20bonifi%C3%A9s%22

✓ The AoA Annex 2 paragraph 8 specifies that, to be in the green box, "*Payments (made either directly or by way of government financial participation in crop insurance schemes) for relief from natural disasters*" are "*determined by a production loss which exceeds 30 per cent of the average of production in the preceding three-year period*". However most EU Member States are generally less demanding and, furthermore, they do not take into account the blue and green subsidies received by farmers on their affected production factors (hectarage and cattle heads).

✓ According to the European Commission, "*Only in Austria and Spain, insurances subsidies are larger than those to compensate natural disasters. Between 1988 and 1997, countries spending the most in that instance are Italy with €3,850 million, 71% of which to compensate natural disasters, and Spain with €1,467million of which 79% have been insurances subsidies*"[48]. Which means that the average actual subsidies on agricultural insurances proper, excluding agricultural disasters, have been in that period of €112 M in Italy and €116 M in Spain.

✓ This is confirmed by the following data, where we see that the subsidies have doubled in Spain in relation to that former period. We see also that the Spanish subsidies alone were larger that the notified EU-15 agricultural insurance subsidies in the 1995-00 period (€110.9 M against €96.9).

✓ The agricultural insurances proper are not extensively used in France, being almost limited to hail, and consequently the subsidies are very low.

➢ In cases other than "natural disasters" which apply in exceptional circumstances and affect more people than only farmers, the French government may declare a state of "agricultural disasters" and the "National Fund guaranteeing against agricultural disasters" (FNGCA) intervenes for non insurable damages when the level of losses represents 27% of the harvest value and 14% of the gross agricultural production value of the farm[49].

➢ If these thresholds are less demanding that the AoA Annex 2 paragraph 8, on the other hand the rate of compensation by the FNGCA is low, being generally capped at 30% of the rate of the lost production volume and independently of the production value.

➢ However, beyond the FNGCA subsidies (for an annual average of €156 M at 1998 prices from 1980 to 1998), other compensations are provided through other means: a special Fund grants rebates on loans for agricultural disasters (€54 M on average), exceptional aids through public Boards by product (€27 M), territorial public bodies ("Conseils Régionaux" and "Conseils Généraux"), and tax rebates on agricultural land (€43 M)[50]. Which implies that the average subsidies have been of €301 M annually in this long period.

➢ Without forgetting some rebates on farmers' social security contributions or income tax and postponement of their payments. Naturally we should not forget that the blue and green direct payments are also there to alleviate the impact of farmers' losses, although this does not hold for all productions, particularly wine and fruits and vegetables.

➢ Furthermore the French insurance benefits have been progressively enhanced since 2002: farmers can, when their profit is higher by 20% than during the average of the 3 last years, deduct up to 40% of their taxable income and up to €26,000 per farm to constitute a provision against climatic or economic vagaries during 7 years. And they can use these provisions to pay their premium for a new revenue insurance created in 2005, with higher subsidies rates than previously, financed by the FNCGC with a ceiling a €30 M per year. 60,000 such policies have been subscribed in 2005 with €18 M subsidies[51].

➢ Since the French agricultural guidance law adopted in 2006 will extend progressively this type of insurance to most agricultural products with subsidies from the FNGCA, the non insured productions will shrink and the specific regime of agricultural disasters with them, so that the distinction between agricultural insurances and agricultural disasters will disappear, in the same line as

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[48] Sr. D. Ramiro Sáez Gómez, *Les assurances agricoles vues depuis l'Union européenne*, Commission Européenne, Conférence Internationale: "Les assurances agricoles et la garantie des revenus", Madrid,13 et 14 Mai 2002.

[49] Guy Bertaux, *Quelle protection pour les risques agricoles?*, 2000. http://www.juritel.com/Liste_des_chroniques-1.html

[50] Christian Ménard, *Gestion des risques climatiques en agriculture*, Rapport au Gouvernement, janvier 2004; Joseph Guimet, *Les conséquences économiques et sociales des crises agricoles*, Projet d'avis du Conseil économique et social, 25;10-04.

[51] Loi d'orientation agricole : fiche 10 : l'assurance récolte et la déduction pour aléas, Ministère de l'agriculture et de la pêche, http://www.iamz.ciheam.org/options/om_b51/PDFs/CHAP%2003-Tsakiris.pdf

in Spain. Which shows that the notification of all insurances subsidies to cover agricultural risks should be put in the amber box.

Table 27 – Subsidies to agricultural insurances and agricultural disasters in 5 European Member States: 1995-05

€ million	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
EU notifications of agricultural insurances subsidies in the NPS AMS and subsidies to natural disasters in the green box											
Insurance subs.	118.0	101.9	458.2	35.3	21.0	277.0	278.4				
Disasters subs.	328.8	375.5	327.7	182.6	365.5	390.6	398.8				
Total subsidies	446.8	477.4	785.9	217.9	386.5	667.6	677.2				
Subsidies to agricultural insurances and agricultural disasters in Spain											
Insurance premia	226	248	255	293	303	343	352	463	504	523	666
Insurance subs.	93	111	101	105	110	131	136	195	209	209	279
" rate	40.9%	45.0%	39.6%	38.9%	39.1%	37.3%	39.2%	42.2%	41.5%	39.9%	41.9%
Disaster subs.				7	22	2	3				
Subsidies to agricultural insurances and agricultural disasters in Italy											
Insurance premia				218	243	258	236	256	264	268	236
Insurance subs.				101	103	103	103			152	156
" rate										56.7%	66.3%
Disaster subs.				207	145	145	145				
Subsidies to agricultural insurances and agricultural disasters in Portugal											
Insurance premia				52	61	61	61				
Insurance subs.				45	52	38	38				
" rate											
Disaster subs.				9	-	0	2				
Subsidies to agricultural insurances and agricultural disasters in Austria											
Insurance premia				41	43	46	47				
Insurance subs.				21	20	21	22				
" rate											
Disaster subs.				4		2	6				
Subsidies to agricultural insurances and agricultural disasters in France											
Insurance premia				175	169	143	146				
Insurance subs.				4	4	5	5				
" rate											
Disaster subs.	#300	#300	#300	#300	#300	#300	#300	?	?	?	
Prod° vagaries*	56	53	37	37	28	117	51	34	326	255	
Total subsidies to agricultural insurances in the 5 EU countries											
Insurance subs.				276	289	298	304				
Disaster subs.				527	520	449	456				
Total				803	809	747	760				

Sources: ENESA, *Balance de los seguros agrarios del plan 2005*, Noticias del Seguro Agrario, n°47, Marzo/Abril 2006. ISMEA, *Analisi preliminare dei risultati della campagna assicurativa 2005*, 7 novembre 2005. Raffaele Borriello, Assicurazioni, gestione dei rischi in agricoltura e garanzia dei redditi, ISMEA, Roma, 25 marzo 2003. Christian Ménard, *Gestion des risques climatiques en agriculture*, Rapport au Gouvernement, janvier 2004.

✓ Besides, if one should not lament on the "green" subsidies to EU farmers suffering from agricultural disasters, we must acknowledge that only rich countries' farmers can avail of them since poor countries do not have the budgetary means to afford them. As, furthermore, agricultural disasters are more frequent and profound in DCs and as their farmers do not avail of the investments and inputs allowing to mitigate their impact (irrigation, drainage, dikes, pesticides, fertilizers…), clearly these subsidies contribute to increase the competitiveness of Northern agricultural products in relation to that of Southern ones, which is the broad economic definition of protection and of a trade-distorting support. That is why we should not distinguish between the subsidies for agricultural insurances and disasters and all of them should be put in the amber box.

The EU has put in the green box its investments subsidies and those to marketing and quality

72. The EU has thought it could avail of the AoA Annex 2 paragraph 11 provision on "*Structural Adjustment Assistance provided through Investment Aids: Construction of processing, packaging and storage centres and equipment; land improvement (levelling, fencing, etc.). Aid for farm modernization granted through subsidies or equivalent interest concessions; purchase of machinery and equipment, animals, buildings and plantations etc. Aid for young farmers*", and this for an average of €5.638 billion over the 1995-00 period.

Table 28 – The EU notified "Structural Adjustment Assistance provided through Investment Aids": 1995-01

€ billion	95-96	96-97	97-98	98-99	99-00	00-01	01-02	Average 1995-00
Agricultural investment aids	6.603	4.972	4.897	5.401	5.745	6.210	5.355	5.638

73. The EU has also notified in the green box an average €902 M of "Marketing and promotion services" from 1995-96 to 2001-02 with the following explanation: "*Aid to encourage establishment of producer groups and ease administrative overheads; schemes to improve marketing network, quality and presentation of produce; certification*".

Table 29 – The EU notified Marketing and promotion services in the green box from 1995 to 2001

€ million	95/96	96/97	97/98	98/99	99/00	00/01	01/02	Average 1995-00
Marketing and promotion services	462	604	762	1,094	1,072	1,023	1,299	902

74. Yet the AoA article 6.2 stating that "*investment subsidies which are generally available to agriculture in developing country Members... shall be exempt from domestic support reduction commitments that would otherwise be applicable to such measures*" implies clearly that they are subject to reduction for developed countries. However the EU has put these subsidies in the CAP "second pillar" devoted to "rural development" and considers that all its second pillar expenditures are in the green box!

75. Yet subsidies to agri-food industries and marketing units, that the EU has included in its investment aids of the AoA Annex 2 paragraph 11 ("*Construction of processing, packaging and storage centres and equipment*") or in the "Marketing and promotion services" under the "general services" of Annex 2 paragraph 2, are put in the amber box by Annex 4 paragraph 4 ("*Policies directed at agricultural processors shall be included to the extent that such policies benefit the producers of the basic products*") and by Annex 3 paragraph 13 ("*Other non-exempt policies, including input subsidies and other policies such as marketing cost reduction measures*").

76. It is also clear that the subsidies to producer groups to cover the wages of their technicians and sellers are a direct aid to farmers since they lower their marketing costs. There is no justification to put them in the green box.

77. During the WTO Committee on agriculture meeting of 1st October 1998, the EU claimed that its farm investments subsidies were in line with paragraph 11 which limits them "*to assist the financial or physical restructuring of a producer's operations in response to objectively demonstrated structural disadvantages*", since its "*national or regional programmes of investment aids are always adapted at problems of specific structures: small farms, obsolete technical equipment, low diversification of agricultural activities, for example*", which is untrue since the beneficiaries have been farms larger than the average.

- ✓ The subsidies appropriated for the setting up of farmers and investment in agricultural holdings in the Rural Development Plans for 2000-06 were of €6.506 billion, i.e. €929 M yearly on average, and those for marketing and processing of €3.760 billion, i.e. €537 M on average[52].
- ✓ These appropriations include clearly a large part of the Member States subsidies which are much higher than those financed through the EAGGF for non Objective 1 Member States.
- ✓ For example in France, the subsidies for setting up young farmers and farms modernization have reached €797 M in 1997 (of which only €166 from the EU EAGGF budget) and €611 M in 1999 (of which €157 M from the EU). Admittedly these subsidies include those to agricultural loans which should not be counted a second time. On the three years 2000-02, the share of the French State aid's in expenditures for setting up young farmers and farms modernization has represented on average 78.9% and the EU share only 21.1%.
- ✓ The new beneficiaries in 1999 had an average agricultural area of 77.9 ha against a national average of 41 ha. Furthermore the new EU regulation in force since 2000 no longer caps the agricultural income eligible to setting-up subsidies or investments in agricultural holdings subsidies. Indeed in 2004 farmers getting investments subsidies for their farm modernisation plan had 91 ha on average against 47 ha for the average French farm.
- ✓ In 2000 the average amount of subsidies per set up young farmer was €53,500, i.e. €321 M for 6000 young farmers, of which only 62% were put in the public accounts for agriculture (i.e. €199 M),

[52] European Commission, *Impact Assessment of Rural Development Programmes in View of Post-2006 Rural Development Policy*, Annex 2, financial information (http://ec.europa.eu/agriculture/eval/reports/rdimpact/annex2.pdf).

33% being rebates on taxes and social security contributions and 5% being subsidies granted by local public authorities[53]. With the subsidies to farm modernization the public accounts expenditures were of €573 million[54].

✓ In 2004 and 2005 farm investments have benefited from €110 M in income tax rebates and young farmers from an additional income tax rebate of €20 M[55].

✓ Naturally France does not notify these taxes rebates and social security contributions rebates to the EU so that the Commission itself does not notify them to the WTO. If we could argue to take into account the social security rebates as being outside the economic sphere, this is not the case for taxes rebates on agricultural income.

✓ Among the last concessions that Peter Mandelson intended to make in the Doha Round negotiations by end July 2006 was to take the investment aids out of the green box, which is a clear confession of the illegality to have put them there[56].

Yet several EU-10 Member States have given a lesson of loyalty in abiding by the AoA rules

78. The Czech Republic has notified its subsidies to "young starting farmers" in its NPS AMS along with many other subsidies that the EU puts in its green box: improvement of genetic performance of seed and livestock, infection fund, guarantee fund for farmer and forest, irrigation subsidies etc. More generally its subsidies notified in the NPS AMS are 5 times larger than those notified in its green box[57].

79. The Slovak republic has done the same at least for 2001. Slovenia has notified in the NPS AMS the tax rebates on agricultural fuels, subsidies to farm investments and subsidies to rural tourism.

80. In Hungary also the NPS AMS was 55% larger than the green box in 2001 and 91% larger in 2002.

Incorporating some Member States' subsidies increase much the EU agricultural subsidies:

81. State Aids to EU agriculture have reached on average €15.613 billion each year from 1995 to 2000 (at constant 1995 prices) and €14.147 billion from 2001 to 2004[58]. These State aids concern mostly subsidies very often illegally put in the green box and exclude public expenditures for farmers of a social nature.

82. The EU Commission specifies that "*Expenditure figures are currently not available by type of aid measure (investment aid, crisis management etc) used by the various Member States in the agricultural sector. However, an analysis of the 1 277 decisions taken by the Commission between 1 June 2000 and 1 October 2005 provides a useful overview of the situation in the EU-15 Member States*", which means that the distribution of these notifications (table 30) is a first approximation of the amounts per type of aid: those on investment subsidies strictly speaking have accounted for 20% of the measures, and we reach 42% when including the "producer group start up" and "technical support".

Table 30 – Main types of State aid measures for the agricultural sector, EU-15, 2000-2005

Type of aid	June 2000 - September 2005	% of total
On-farm investments	186	11
Processing & marketing investments	125	7
Producer group start up	58	3
Technical support (1)	366	21
Crisis management (2)	494	29
Research & development	78	5
Promotion & advertising	100	6
Other	310	18
Total	1 717	100

Source: http://ec.europa.eu/comm/competition/state_aid/scoreboard/stat_tables.html; (1) Technical support consists of: technical aid, quality products: control and soft aid; (2) Crisis management consists of natural disaster, adverse weather, animal diseases, TSE, BSE, plant disease, insurance premia, closing of production and rescue & restructuring. Source: DG Agriculture.

[53] http://www.agriculture.gouv.fr/spip/IMG/pdf/ens121_instalmodern_2004.pdf
[54] http://alize.finances.gouv.fr/budget/plf2003/bleus/03/SVMN03m-13.htm
[55] alize.finances.gouv.fr/budget/circpdf/1BRE-05-630_Annexes.xls
[56] AGRA Presse Hebdo of 31 July 2006.
[57] WTO, G/AG/N/CZE/52 of 17 February 2004.
[58] European Commission, DG Competition, *State Aid Scoreboard –Statistical tables,* 19-12-2005 http://ec.europa.eu/comm/competition/state_aid/scoreboard/stat_tables.html

83. The last WTO trade report 2006 confirms that the EU State aids accounted to €13.040 billion in 2001 and "*If this figure is added to Community outlays, total spending by the EU and its Member States on agriculture amounted to €57,625 million in the 2001 fiscal year*"[59].

84. Even if the largest part of the Member States aids are clearly accounted for by the EU in the field of rural development where the co-financing has always been the rule for at least 50% in the non Objective 1 regions, the extent to which State aids are under-notified to the Commission is unknown. For example, according to the French Senate commenting in April 2004 a report of the National Court of Auditors: "*By a Government order ("arrêté") of 16 October 2000, CNASEA has been agreed as the claims office of almost all measures foreseen by the NRDP (National Rural Development Plan) in accordance with the regulation 1257/99 concerning the support to rural development (RDR)… Several measures paid by CNASEA are however only financed by the national budget. They must then be notified to the European Commission but, according to the services of the Ministry of agriculture, only one of them would have been notified, which lets a serous doubt hanging on the legality of the others*"[60].

85. The Commission regulation n°1860/2004 of 6 October 2004 on *de minimis* State aid, come into force the 1st January 2005, allows each Member State to grant up to €3,000 per farm or agri-food industry during a 3 year period without having to notify it as a State Aid to the EU Commission. This aid can have any objective provided it is not based on price or the volume of products put on the market, not related explicitly to exports and not contingent upon the use of domestic over imported products. The regulation put a ceiling to these aids per Member State based on the value of its agricultural output so that the amount is quite different among EU-25 farms: on a total of €952 M over 3 years, i.e. an average of €96.4 per farm, the French farm could get €294 but its Polish colleague only €21. Of course this small State aid not notified to the Commission should not hide the much larger State aids to EU farmers that the EU Commission does not notify entirely to the WTO, far from it.

86. Not only State aids to agriculture are not all notified to the EU Commission and hence to the WTO but aids from lower public territorial entities are even less notified: in France alone the agricultural subsidies of the public territorial Authorities (Collectivités locales: Conseils Régionaux et Généraux, or even Communes) are pratically not notified although they have reached €776 M (forest excluded) in 2000, of which €180 M were investments subsidies to set up young farmers, for farm modernization and to processing undertakings[61], and €897 M in 2002[62].

- ✓ These €180 M are almost identical to the whole agricultural Budget of Senegal (including investments budget) for 2005 (€185 M)[63].
- ✓ For example the Midi-Pyrénées region has granted about €60 M to agriculture in 2005, of which €31 M by the "Conseil Régional", mainly on agricultural investments subsidies of which €15 M for cattle buildings[64], and the rest by its 8 Conseils Généraux (Départements) to various actions, mainly for setting-up farmers, irrigation subsidies (€152/ha in Tarn), insurance subsidies against hail, interest rate subsidies, to develop quality products, etc.
- ✓ For the Rural Development Plan for 2007-13, the EU Regulation 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) states that there should be an equilibrium between 4 axes: axe 1 (Improving the

[59] WTO, World Trade Report 2006: Subsidies, Trade and the WTO, http://www.wto.org/english/res_e/reser_e/world_trade_report_e.htm

[60] Sénat, *Pour une évolution des missions du Cnasea (centre national pour l'aménagement des structures des exploitations agricoles)*, Rapport d'information n° 276 (2003-2004) de M. Joël Bourdin, fait au nom de la commission des finances, déposé le 28 avril 2004, http://www.senat.fr/rap/r03-276/r03-276_mono.html

[61] Marielle Berriet-Solliec, Therèse Volay et Jean-Paul Daubard, *Les concours publics des collectivités territoriales à l'agriculture en 2000*, Notes et Etudes Economiques n°20, mars 2004, pp. 83-105, Ministère de l'Agriculture.

[62] http://www.assemblee-nationale.fr/12/cr-cpro/05-06/c0506013.asp

[63] http://www.izf.net/izf/ee/pro/index_frameset.asp?url=http://www.izf.net/IZF/EE/pro/senegal/3041.asp

[64] http://www.midipyrenees.fr/DossierDetail.asp?i=15&d=

competitiveness of the agricultural and forestry sector), axe 2 (Improving the environment and the countryside), axe 3 (The quality of life in rural areas and diversification of the rural economy) and axe 4 (Leader), with minimal rates per axe: 10% for axe 1, 25% for axe 2, 10% for axe 3 and 5% for axe 4. However France is proposing to distribute the EU allocation of €5.2 billion, which is increased to €10.072 billion with the national contribution, as follows: 31,5% on axe 1 and 57% on axe 2 but just the minimum 10% on axe 3 and less than the minimum (1,5%) on axe 4[65]. In fact the €3.240 billion of the whole axe 1 correspond to actions enhancing the competitiveness of EU French agricultural products but also a good part of the €5.345 billion devoted to axe 2, which includes €3.400 devoted mainly to the IUHN subsidies to raise cattle in difficult areas and other agri-environmental measures mainly focused on the same farmers, but also many measures on irrigation, supposedly to minimise the detrimental practises for the environment.

Adding these under-notified subsidies raises the NPS AMS to €10 billion

87. Let us recapitulate the subsidies not already included in the notified (applied) NPS AMS of €528 (table 30) for the 1995-00 period which might be added: the €5.638 billion on investments subsidies, €1.2 billion of irrigation subsidies, €2 billion in tax rebates on agricultural fuel, €600 M on agricultural insurances and €200 M on agricultural loans, which will raise the NPS AMS to around €10 billion on average. Although the investments subsidies have fluctuated somehow around the average, there is no reason to think that the other subsidies have varied much (if the irrigation subsidies might have risen the reverse has occurred for agricultural loans). Let us underline that this addition is highly conservative not only because we have shown evidence of higher amounts on many cases on these items but also because we have not included many other items: the €902 subsidies on marketing and promotion services, other tax rebates, many non notified national and under-regional subsidies.

Table 31 – EU rectified applied non-product-specific AMS from 1995 to 2001

€ million	1995	1996	1997	1998	1999	2000	2001	Average 1995-00
EU notified non-product-specific AMS								
Farm loan	618	599	458	313	270	261	295	420
Agricultural insurance	118	128	28	35	21	277	278	101
Fertilizers	40	1	1					7
Sub-total	776	728	487	348	291	538	573	528
Additional not notified NPS AMS								
Agricultural investment aids	6,603	4,972	4,897	5,401	5,745	6,210	5,355	5,638
Tax rebates on agricultural fuel	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Irrigation subsidies	1.2	1.2	1.2	1.5	1.5	1.5	1.5	1.2
Subsidies on agricultural loans	200	200	200	200	200	200	200	200
Subsidies on agricultural insurances	500	500	500	500	500	500	500	500
Sub-total	10,503	8,872	8,797	9,301	9,645	10,110	9,255	9,538
Total	11,279	9,600	9,284	9,649	9,936	10,648	9,828	10,066

Source: Notifications to the WTO and our analysis.

88. Table 32 shows that the margin of increase of the NPS *de minimis* for the base period 1995-00 had almost disappeared along the 1995-00 period so that the EU could only propose to reduce it by 9.0%. We are very far indeed from the EU proposal to reduce it by 80%!

89. Furthermore the applied NPSdm had been exceeded in 1995-96 so that the €11.279 billion of NPS AMS for that year would have been transferred to the total AMS which would have jumped to €73.535 billion for that year, increasing the average applied Total AMS of the 1995-00 period to €63.628 billion.

90. Which means that the possible margin of reduction of the FBTA would have shrunk to €3.531 billion (67.159 – 63.628), i.e. by 5.55% in relation to the average for the 1995-00 period. We are far indeed from the 70% cut proposed by the EU!

[65] Ministère de l'agriculture et de la pêche, *Orientations pour l'élaboration du programme de Développement Rural pour l'Hexagone 2007-13*, http://www.agriculture.gouv.fr/spip/actualites.pdrh_a6265.html

Table 32 – EU allowed and applied NPS *de minimis* and total AMS from 1995 to 2001

€ billion	1995/96	1996/97	1997/98	1998/99	1999/00	2000/01	2001/02	Average 95/00
Allowed NPSdm 5%	10.370	10.985	10.890	10.675	11.685	12.168	12.321	11.129
" " 50% cut	5.185	5.493	5.445	5.338	5.843	6.084	6.161	5.565
" " 80% cut	2.074	2.197	2.178	2.135	2.337	2.434	2.464	2.258
Applied NPSdm	11279	9600	9284	9649	9936	10648	9828	10066
Unused NPSdm 5%	-0.909	1385	1606	1026	1749	1520	2493	1063
" " 50% cut	-6.094	-4.107	-3.839	-4.311	-4.093	-4.564	-3.667	-4.501
" " 80% cut	-9.205	-7.403	-7.106	-7.514	-7.599	-8.214	-7.364	-7.808
Applied blue box (tab. 6)	11.966	12.394	10.385	9.951	9.587	12.590	13.553	11.145
Applied PS AMS (table 21)	62.256	64.226	63.977	61.507	61.965	56.560	52.711	61.901
New applied PS AMS	73.535	64.226	63.977	61.507	61.965	56.560	52.711	63.628
Allowed total AMS	78.672	76.369	74.067	71.765	69.463	67.159	67.159	72.916
Unused total AMS	5.137	12.143	10.090	10.258	7.498	10.599	14.448	9.288

Sources: EUROSTAT and notifications to the WTO.

VIII – The EU green and blue subsidies are coupled and should be added to the EU total AMS

We begin by the green subsidies since it will be easier to show the coupled nature of the blue subsidies afterwards.

The "single farm payment" (SFP) which concentrates since 2006 90% of EU direct payments should be notified in the amber box

87. The EU has always claimed that the SFP – also labelled the "single payment scheme" (SPS) but which refers more to the regulation framing the SFP – is in the green box and it is indeed the first reason of the ongoing CAP reform since June 2003 in order to shift to the green box the blue box subsidies which were threatened by the expiry of the Peace clause the 31 December 2003 and even by the Framework Agreement which, for the first time, has considered them as coupled. However the SFP does not comply with 3 of the 5 conditions required to be a "Decoupled income support" (paragraph 6 of Annex 2 of the AoA):

✓ It is based on the amount of direct payments received from 2000 to 2002, a criterion not allowed by the condition a) of paragraph 6.

✓ It contradicts the condition b): EU farmers cannot produce what they want since many productions are either forbidden (fruits and vegetables; milk and sugar beet if farmers have no production quota) or capped (rice, cotton, tobacco and olive oil – during a transition period of 2 to 4 years before being integrated in the SFP – and not beyond the milk or sugar beet quotas). Now, the only interdiction to grow fruits and vegetables has been enough to condemn the US direct payments to cotton as coupled (Appellate Body of 3 March 2005).

✓ It contradicts the condition d): EU farmers must show each year that they have eligible hectares to receive the SFP so that it is still coupled to the hectarage.

✓ Despite the restrictions put on the expansion of some productions as just shown, the EU farmers will be free to expand most of the others, including those still benefiting from former blue direct payments in some Member States (particularly France and Spain for arable crops and cattle but also for cattle in few others) and from the new temporary blue payments created by the CAP reform (sugar from 2006 to 2011, milk from 2004 to 2006, tobacco from 2004 to 2008, olive oil in 2004). But this will render impossible to comply with the basic condition that the "old" blue payments be granted "*under production-limiting programmes*", a condition confirmed by the Framework Agreement of 31 July 2004. In other words the coexistence for the same products of blue payments requiring production limiting programmes and of alleged green payments (SFP) requiring the freedom to produce anything has coupled both types of payments and conferred PS AMSs to them.

✓ Therefore the SFP should be notified in the PS AMSs and not in the NPS AMS since it has replaced the specific subsidies to COP, bovine and sheep meats, rice, tobacco, cotton, olive oil, milk and sugar.

✓ Some authors have recognized it: "*However, the WTO panel ruling on the Brazil-U.S. cotton dispute has questioned whether the U.S. direct payments belong in the Green Box. The panel concluded that the U.S. direct payments "do not fully conform" to the guidelines for Green Box direct payments. The major reason for this conclusion is the restriction on the production of fruits and vegetables on the*

payment base acreage (WTO 2004b). By the same argument, the EU Single Farm Payments would not conform to the Green Box requirements"[66].

✓ And, as acknowledged by A. Gohin, "*If this CAP reform and its SFP does not really change production (as the FAPRI or the OECD studies suggest), then one might question the very probable classification of the SFP in the green box at the World Trade Organization (WTO)*"[67].

88. The EU has foreseen SFP budgetary appropriations of €14.635 billion for calendar year 2005 (imputable to the 2006 Budget) and €28.424 billion for 2006 (2007 Budget) for the EU-15, and of €1.740 billion and €2.285 billion respectively for the "single area payment scheme" (SAPS) of the EU-10, i.e. of respectively €16.375 billion and €30.709 billion of alleged fully decoupled payments for the EU-25.

89. On the other hand this shift from blue to green has reduced the EU appropriations for the direct payments (of the blue and amber boxes) to €6.484 billion in 2006.

The notification in the NPS AMS of the traditional green box subsidies[68] will skyrocket this AMS much beyond the de minimis ceiling

90. Consequently the *allowed* NPS *de minimis* will disappear so that its value would be added to the total *applied* AMS with the other blue and green subsidies. Let us remind first the main reasons why the traditional green supports of the AoA Annex 2 are coupled:

91. The basic principle of Paragraph 1 that "*Domestic support policies for which exemption from the reduction commitments is claimed shall meet the fundamental requirement that they have no, or at most minimal, trade distortion effects or effects on production*", i.e. "*shall conform to the following basic criteria: (i) the support in question shall be provided through a publicly- funded government… not involving transfers from consumers; and, (ii) the support in question shall not have the effect of providing price support to producers*" is fundamentally flawed since:

✓ From a domestic macro-economic point of view the distinction between market price support – financed by consumers – and subsidy – financed by taxpayers – is not convincing since most taxes end up being paid by consumers, and this is particularly verified in the EU given the importance of the VAT (value added tax) in the EU and Members States' Budgets.

✓ The green box subsidies bring a clear price support to producers:

➢ They bring a large price support to farmers, and particularly those producing COPs and animal products, as they can make do with prices lower than average production costs.

➢ They bring an enormous price support to agri-food industries since the prices of their main inputs are reduced, which makes them more competitive, on the domestic market, at the export level and at the import level as well, reducing their need of export subsidies and tariffs.

✓ Since these two conditions of paragraph 1 apply to all specific green subsidies of paragraphs 2 to 13 of Annex 2, we see already that they cannot be put in the green box.

92. It would be too long to detail all the specific reasons why the subsidies of paragraphs 2 to 13 are not green and the reader should see the in-depth analysis just made by Grey et al. on behalf of the Dairy Farmers of Canada[69].

93. There is a tendency among those criticizing the green box, even the G-20, to admit that we should not question the legitimacy of the "general services subsidies" (Annex 2 paragraphs 2-4) even we can question the other subsidies of paragraphs 5 to 13. This is not founded on a sound economic analysis.

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[66] Chad E. Hart and John C. Beghin, *Rethinking Agricultural Domestic Support under the World Trade Organization*, in Kym Anderson and Will Martin, Agricultural Trade Reform and the Doha Development Agenda, World Bank and Palgrave Macmillan, 2005.

[67] Alexander Gohin, *Assessing the 2003 CAP Reform: Sensitivity to the Decoupling of Agenda 2000 Direct Payments*, INRA and EU Commission, Tradeag working paper 06/04.

[68] J. Berthelot, *The green box a black box which hides the gold box*, Solidarité, 9 December 2005..

[69] Grey, Clark, Shih and Associates, Limited, *Green box mythology: the decoupling fraud*, Study prepared for dairy farmers of Canada, Ottawa, June 2006.

✓ Thus for Daryll Ray, Head of the University of Tennessee Agricultural Policy Analysis Center, "*WTO has declared that such research and education related expenditures have a minimal effect on trade. Such a declaration is inconsistent with the notion that any public policy that causes changes in production shifts the supply curve. In practice, these activities have a direct impact on price and trade, whether that be a set-aside program or yield enhancing research*"[70].

✓ He adds in another paper: "*US taxpayers bankrolled a system of research stations and extension services to generate and disseminate new technologies. The system has been a tremendous success… The other side of the coin is that publicly-sponsored research and extension services contribute to price and income problems. Clearly, neither the US nor the rest of the world would be facing today's low prices and failing small farms if the cumulative growth in agricultural productivity had not taken place*"[71].

✓ And he extends his assessment to infrastructures subsidies: "*Little attention has been paid to legacy investments in the infrastructure of agricultural areas. These legacy investments… all influence production decisions in one way or another and that influence continues year after year while the influence of direct payments are limited to a given year*"[72].

✓ IFPRI confirms the huge benefits that subsidies to agricultural research and extension have brought to developed countries and could bring to India: "*IFPRI research shows that investments in R&D have the highest impact on agricultural growth per million rupees invested. The rates of return to public investment in research have been as high as over 60 percent, and in extension, over 50 percent. India currently invests only about 0.5 percent of its agricultural GDP in agricultural research, compared with 0.7 percent in the developing countries as a whole and as much as 2–3 percent in the developed countries*"[73].

94. We concur with Hart and Beghin: "*But a program's ability to distort trade is in the eye of the beholder… Recent disputes within the WTO (such as the U.S.-Brazil cotton dispute) have questioned the trade impacts of some of these Green Box programs, however*"[11].

95. Eventually these authors suggest that "*If the negotiations included strict guidelines on non-trade-distorting domestic support, we can imagine that the negotiations might take considerably longer and be even more contentious. One potential way to avoid this situation is to provide a temporarily generous definition of the Green Box, which would allow buyout or phase out of Amber and Blue Box forms of support. Then a progressive phase down of the Green Box would discipline remaining farm support over time*". Since these authors acknowledge that all subsidies are coupled – since they influence necessarily the production and prices level –, why then don't we recognize it right away to avoid the perpetuation of a hidden dumping under these allowed domestic subsidies?

96. The USDA Secretary seems aware of the danger: "*Complaints appear especially likely against the subsidy payments that governments in the United States, the E.U. and Japan give their farmers. Brazil had won a major case against U.S. cotton subsidies and another against European sugar subsidies, and it was expecting a final Doha agreement would curb other subsidies. If the talks "come to a flat end, I think you would have other countries looking at our programs; it just seems inevitable," U.S. Agriculture Secretary Mike Johanns said Monday*"[74]. After the WTO's Appellate Body ruling on cotton that the US direct payments were not fully decoupled since the cotton farmers were not allowed to grow fruits and vegetables, the EU Agriculture Commissioner Mariann Fischer Boel underlined herself that the SFP could also be litigated on the same grounds.

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[70] Daryll Ray, *Is food too important to be left to WTO?* Agricultural analysis policy center, University of Tennessee, November 29, 2002 (http://www.agpolicy.org).

[71] Daryll Ray, Daniel de la Torre Ugarte, Kelly J. Tiller, *US Agricultural Policy: Changing course to secure farmers livelihoods worldwide*, Agricultural Policy Analysis Center, University of Tennessee, September 2003.

[72] Daryll Ray, *What is an agricultural subsidy?*, Agricultural Policy Analysis Center, University of Tennessee, 26 mars 2004.

[73] J. von Braun et al., *Indian agriculture and rural development*, IFPRI, 2005.

[74] Paul Blustein, *WTO System Could Weaken After Breakdown Puts Globalization on Unclear Path*, The Washington Post, 26 July 2006.

97. However, in pleading to eliminate the differentiation between the AoA boxes, we do not share the neo-liberal authors' idea that all subsidies should be eliminated as well as import protection. Instead we are advocating the right of food sovereignty for all countries – the right to maintain a high import protection and a high level of domestic subsidies – provided they do not export agricultural products at prices lower than their average full production cost, taking into account all direct and indirect subsidies, upstream (on inputs and investments) and downstream (on processing and marketing) the production level.

Why the blue box is coupled and subject to reduction commitments

98. **The AoA Article 6.5 and its new wording in the Framework Agreement cannot limit production as they were supposed to do it:**

✓ In the EU-15 the cereals production has risen by 11.9% between 1992 and 2002 (from 181 to 215 Mt), the average yield having risen by 1 t (from 4.72 t/ha to 5.67 t/ha).

✓ The only way to limit production would have required production quotas and deterrent penalties when they are exceeded, as it has been done efficiently for the EU milk quotas.

✓ Not only the former and the new wordings of the "old" article 6.5.a (in the Framework Agreement, confirmed by the Hong-Kong Declaration of 18 December 2005) have not limited and cannot limit production, they have not limited and cannot limit either the corresponding subsidies since this article do not require that the amount per tonne or cattle head be "*fixed and unchanging*". Indeed the CAP reform of 1999 has increased the payment per tonne of cereals from €54.34 (1995-1999) to €63 from July 2001, which had been an incentive to increase yields in order to increase production. The payment per bovine head has increased even more and new payments were decided (extensification premium and slaughter premium), although the production did not increase as other factors prevented it (namely the milk production quotas which, in a context of a still increasing milk yield per cow, require less cows to produce the quotas).

✓ The set-aside payments linked to COP payments are even more coupled since they are justified by the reduction in the production level. And this coupled nature was all the more significant that the rate of set-aside was adjusted from one year to the other in relation to the world price level and that the set-aside was rotational and not fixed (in that case it would have been applied on the marginal lands, with a much lower impact on the production level).

99. ***The coexistence of blue payments with the alleged green SFP will couple the first even more***

✓ Indeed, with the SFP, farmers will be allowed to produce as much as they want for the products without caps, and notably to increase the area in COP and the number of bovine heads, thus defeating the basic condition that these payments are justified "*under production-limiting programmes*". This results clearly from the paragraph 28 of the Preamble and Article 51 of the Council regulation n° 1782/2003 of 29 September 2003: "*(28) In order to leave farmers free to choose what to produce on their land, including products which are still under coupled support, thus increasing market orientation, the single payment should not be conditional on production of any specific product. However, in order to avoid distortions of competition some products should be excluded from production on eligible land*".

✓ Therefore SFP condemns blue payments to become coupled and fall in the amber box, and reciprocally the presence of coupled payments with the SFP is coupling it as well.

✓ It is amazing to see that the Framework Agreement has recognized formally for the first time that blue payments were part of the "overall domestic trade distorting support" and has nevertheless created a second blue box whose level is directly linked to changes in the current price level, in order to accommodate the US countercyclical payments. But the EU is also contemplating to use it to accommodate the necessary reduction in its applied PS AMSs for wine and fruits and vegetables in order to meet its offer to reduce its allowed total AMS and OTDS by 70% at the end of the implementation period.

The explosion of the EU applied AMS after incorporation of the blue and green boxes

100. We have first to rectify the notified traditional green box by taking out the investment subsidies already transferred to the NPS AMS and the majority of the domestic food aid[75] (table 28).

Table 33 – EU rectified green box from 1995 to 2001

€ billion	1995	1996	1997	1998	1999	2000	2001	Average 95/00
Notified green box	18,779	22,130	18,167	19,168	19,931	21,848	20,661	20,004
Less investments aids	6,603	4,972	4,897	5,401	5,745	6,210	5,355	5,638
Less domestic food aid*	249	345	254	238	240	233	209	260
Less 2/3 of infrastructures sub. (table 23)	513	883	395	397	1569	633	761	732
Net rectified green box	11,414	15,930	12,621	13,132	12,377	14,772	15,097	13,374

* see footnote 75

101. The new applied total AMS results from the addition to its level already identified (in table 32) of the rectified blue box (from table 23), the rectified green box (from table 33) and the applied total NPS AMS (table 32) which has to be reintegrated in the applied total AMS since the *de minimis* exemption level has been exceeded by the integration of the green box in the NPS AMS. We see that the actual applied total AMS was already well beyond the average allowed total AMS by €25.297 billion during the 1995-00 period and by €27.411 billion in 2000, at the end of this AsA implementation period.

102. Which implies that not only the EU could not propose any cut in its allowed FBTA but it would have had to bleed its applied total AMS from the start of the AoA implementation period in 1995, which would of course have provoked a political tsunami in the EU, forcing it to rebuild its CAP on food sovereignty without dumping, to the benefit of the small farmers in the EU and of their colleagues most in the rest of the world. Which means that the EU would have spared enormous sufferings the world over if it had not decided, together with the EU, to build AoA rules so complex, non transparent and even absurd that they could avoid to comply with.

Table 34 – EU allowed and applied total AMS from 1995 to 2001

€ billion	1995	1996	1997	1998	1999	2000	2001	Average 95/00
Blue box (table 6 & 23)	11.966	12.394	10.385	9.951	9.587	12.590	13.553	11.145
Green box* (table 19)	11.414	15.930	12.621	13.132	12.377	14.772	15.097	13.374
Applied NPSdm (table 32)	11.279	9.600	9.284	9.649	9.936	10.648	9.828	10.066
Applied total AMS "	73.535	64.226	63.977	61.507	61.965	56.560	52.711	63.628
New applied total AMS	108.194	102.150	96.267	94.239	93.865	94.570	91.189	98.213
Allowed total AMS	78.672	76.369	74.067	71.765	69.463	67.159	67.159	72.916
Excess total applied AMS	29.522	25.781	22.200	22.474	24.402	27.411	24.030	25.297

103. All these conclusions would trigger a shrug of the EU trade negotiators and hopefully destabilise somehow many others. However we could find hardly any intellectually honest trade expert who could challenge these conclusions which have the merit to get rid of this box-shifting farce and of the non trade distorting nature of the blue and green subsidies. Even OECD and World Bank experts are admitting more and more explicitly that all green box subsidies have a clear impact on production and prices, although their Institutions themselves remain at the order of their powerful Members' policies.

104. Be extremely cautious: you should not infer from these figures that the EU has been subsidizing its farmers in the 1995-00 period by an average €98.213 billion a year since the majority of this amount was a fake market price support and not actual expenditures: the last have represented only €4.821 billion or 9.9% of the €48.528 billion of the average applied PS AMS from 1995 to 2000 and €4.808 or 13.8% of the average applied AMS of 2001 to 2004, the rest being market price supports through intervention prices or "equivalent measurements of supports" not involving actual expenditures (table 27 further on). Notifying these fake market price supports has only blurred the negotiations and misled most WTO Members and NGOs. What is the more surprising is that these amber domestic supports continue to be presented as the most trade-distorting ones! What they are distorting first of all is the understanding of most WTO Members' negotiators, beginning by Pascal Lamy and the G-6!

[75] As explained in J. Berthelot, *The green box*…, op.cit.: from the notified domestic food aid we have deducted an equivalent production subsidy representing a true coupled payment, however negligible (average of €42 million).

105. This is another reason to rebuild the AoA on sound economic foundations, i.e. not only by taking into account all subsidies – whatever the colour of the box in which they are put, implying that the boxes should disappear altogether – but also by getting rid of the alleged market price support component of the amber box as many neo-liberal experts have underlined themselves:

✓ Merlinda Ingco (World Bank) and Harry de Gorter (Cornell University): "*The AMS is, therefore, a misleading indicator of domestic support… Trade negotiations need to single out amber box policies that are truly domestic support policies and therefore are not conflated with market access or export subsidy policies… The purpose of the URAA was to define, quantify, and reduce trade-distorting policies, but we argue here that the URAA has not properly defined and quantified (and hence reduced) trade-distorting domestic support measures in many instances. Hence, a major challenge is to address the imbalances in the definition and quantification of agricultural support so that a level playing field is established and effective reductions in trade distortions are ensured*"[76].

✓ FAO: "*AMS should be defined as only that support that is financed by the taxpayer, in other words, the budgetary expenditure on support. Consumer financed payments should be omitted from the calculation to avoid double counting with border support*"[77].

✓ Jean-Pierre Butault and Jean-Christophe Bureau from INRA: "*It is unclear what kind of economic support is now reflected by the AMS… The AMS per se is no longer meaningful… The methodology used to calculate the fruits and vegetable AMS does not seem to rely on sound economic analysis… The changes in EU policies, and the reliance on a world price observed some 20 years ago as a reference have led to a complete disconnection of what is measured and what is the actual support provided to EU farmers. Clearly, the objective of reducing the AMS should be seen as a useful political target, but the AMS per se has no longer any meaning*"[78].

✓ The best EU example is given by the elimination the 1st July 2002 of the intervention price of bovine meat which has allowed to reduce its total AMS by 24.5% or €9.7 billion from one day to the other, without any impact on the market price – the producer price has increased by 7.4% in 2002, 0.9% in 2003, 5.2% in 2004 and 8% in 2005 – or on farmers' income since the elimination of the intervention price was more than offset by the increased direct payments, from €2.9 billion in 1999 to €6.0 billion in 2002 decided by the 1999 CAP reform. And this despite the collapse of intervention stocks from 222,500 t at the end of 2001 to 213 t at the end of 2003, because other factors have played to increase the price: lower production linked to milk quotas and maintenance of high tariffs (66% on boneless fresh or chilled meat, 100% on boneless frozen meat and 16.6% on canned meat).

✓ Furthermore, once eliminated the EU's intervention price on bovine meat, and consequently the AMS on bovine meat which represented 47.5% of the €20.671 billion of bovine meat production value in 2001-02 – much above the *de minimis* ceiling of 5% of that value –, this elimination has created a new *de minimis* support for bovine meat of €1.129 billion. The same has occurred for olive oil as shown on table 27 further on.

106. ***The issue of capping the PS AMSs***

✓ Paragraph 9, bullet 3, of the Framework Agreement decided that "To prevent circumvention of the objective of the Agreement through transfers of unchanged domestic support between different support categories, product-specific AMSs will be capped at their respective average levels according to a methodology to be agreed". Although no agreement has been reached on the base period, a large majority agreed on the 1995-00 base period, only the US proposing the 1999-01 period since it corresponds to much higher PS AMS than the 1995-00 period.

✓ However, after the above profound rectification of the EU applied PS AMS and total AMS, capping the PS AMSs is no longer an issue worth arguing. In the past we have argued that capping the PS AMSs would have the unexpected result of creating a new FBTA much lower than the existing one so that the EU and US would not be able to comply with their proposals to cut their FBTA by 70% and

[76] Harry de Gorter, Merlinda D. Ingco, and Laura Ignacio, *Domestic support economics and policy instruments*, in Merlinda D. Ingco and John D. Nash, editors, *Agriculture and the WTO. Creating a trading system for development*, The World Bank and Oxford University Press, 2004.

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

[78] Jean-Pierre Butault and Jean-Christophe Bureau, *WTO Constraints and the CAP: Domestic Support in EU25 Agriculture*, TRADEAG, Working paper 2006.06, INRA and European Commission.

60% respectively[79]. The problem now is to cut drastically the applied AMS which have risen above the allowed FBTA so as to fit within its ceiling. Or, rather, the real issue is to rebuild completely the AoA on sound economic and political bases.

IX – Simulating the EU AMS and OTDS up to the Doha Round implementation period in a double enlargement context: to EU-25 and then to EU-27

107. Given our conclusions that all EU actual agricultural subsidies are coupled and that the EU has no margin of manoeuvre to reduce its allowed FBTA and OTDS since, to the contrary, its applied FBTA and OTDS are already much higher, simulating the evolution of these supports seem useless. However we will make some comments on Canada's simulations and on some other authors' simulations, in the context of the CAP reform initiated in June 2003 and still going on and of the EU enlargement to 25 since 2004 and to 27 from 2007 on. Therefore this section does not used the preceding rectifications made to the EU notifications but analyses the forecasts made by the EU Commission in their own logic. These forecasts would be clearly non feasible as soon as some DCs would decide to prosecute the EU massive cheatings, which might be sooner than expected by the EU Commission.

108. First let's look at the possible evolution of the EU production, based first on the Eurostat supply balance for each product from 2001 to 2004, then on the EU Commission prospects for the main agricultural products (cereals, oilseeds, milk and meats) of the EU-25 up to 2012 and, when the Eurostat data are not available, on Faostat or OECD database. The data are related to the EU-15 up to 2003, to EU-25 from 2004 to 2006 and to EU-27 (with Bulgaria and Romania, or EU-2) from 2007 onwards. We have not taken into account fruits and vegetables given the lack of detailed data.

Table 35 – EU production of the main products from 1995-00 to 2004 and prospects up to 2012

Million tonnes	95/00	2001	2002	2003	2004	2005	2006	2007	2008	2012
Cereals	202.948	206.141	205.881	187.067	289.972	250.300	256.600	280.797	286.110	293.807
Rice (paddy)	2.621	2.605	2.616	2.690	2.862	2.595	2.569	2.574	2.579	2.584
Oilseeds	13.814	13.382	13.104	12.716	20.039	20.400	21.700	25.249	26.978	30.898
Bovine meat	7.644	7.713	7.502	7.387	8.048	7.963	8.082	8.270	8.174	7.930
Pig meat	17.216	17.574	17.873	17.904	21.213	21.120	21.278	22.124	22.285	22.693
Poultry meat	9.019	9.381	9.382	9.065	10.990	11.076	11.153	11.581	11.656	12.005
Eggs	5.360	5.633	5.684	5.475	6.300	6.400	6.500	6.798	6.798	6.798
Sheep&goat	1.140	1.012	1.042	1.025	1.055	1.038	1.038	1.159	1.157	1.141
All meats & eggs	40.379	41.066	41.448	40.827	47.606	47.597	48.051	48.350	48.485	48.968
Milk	121.238	121.818	121.247	121.854	141.324	142.090	145.000	151.989	152.303	151.989
Sugar	17.033	16.778	16.892	15.204	19.924	21.300	17.040	15.549	13.845	13.632
Tobacco (1000 t)	354	356	340	346	348	353	318	356	337	262
Cotton "	491	570	476	435	516	478	458	437	416	333
Wine (M hl)	166	159	151	153	183	165	165	169	166	156
Olive oil	1.989	2.714	2.153	2.687	2.155	1.829	2.083	2.040	1.996	1.820

Source: Eurostat, EU Prospects for agricultural markets and income 2005-12, OECD, FAO prospects by product. * For meats and eggs the data for 1995-00 and 2001 and 2002 are for the EU-15 and, from 2003 onwards for EU-25.

- ✓ For cereals, we have extended the data observed up to 2005 (or 2004) to 2012 by applying the average percentage of production of EU-2 relative to the EU-25 from 2001 to 2004 to the forecasts made by the EU Commission for the EU-25 to the following years 2006-12 or by FAO (for rice).
- ✓ For rice (in fact paddy, i.e. unmilled rice) the FAO expects that the EU-15 production would decrease by 0.01% yearly from 1998-00 to 2010 (3,000 t per year) so that we will add the EU-10 tiny production (1.33% of the EU-15 on average from 2001 to 2004) extend up to 2012 the average EU-15 level from 2001 to 2004 (2.693 Mt minus 3,000 t per year) and add the average tiny production of the EU-10 (24,000 t) to that from 2007 to 2012. In fact it is likely that the production will drop significantly more since at least 58% of the direct payments will be decoupled (put in the SFP).
- ✓ For oilseeds (rapeseed, sunflower, soybean), we use the percentage (15.29%) of the EU-2 production (3.073 million t) in relation to the EU-25 production in 2004.

[79] See J. Berthelot, *The empty promise and perilous game of the European Commission to slash its agricultural supports*, Solidarité, 3 November 2005 and J. Berthelot, *The king is naked: the impossible U.S. promise to slash its agricultural supports*, Solidarité, 7 November 2005.

✓ For bovine meat, we have used the FAOSTAT data for the EU-2 in 2001-04 and used the average percentage of the EU-2 production in 2003 and 2004 in relation to the EU-25 production of these years (2.68%) to derive the EU-27 production from 2007.

✓ For pigmeat we have used the percentage (3.31%) of the average production of the EU-2 for 2003 and 2004 (707,000 t) in relation to the EU-25 projected volume for these years (21.268 Mt) to deduct the EU-27 expected production from 2007.

✓ We have done the same for poultry meat: percentage of 3%.

✓ Lacking FAO data on eggs, we have applied the same percentage as for poultry.

✓ And for sheep & goat meats: percentage of 11.29%.

✓ For milk we have used the average percentage of the EU-2 in relation to the EU-25 production from 2001 to 2004 (4.46%) to derive the EU-27 projected production from 2007 to 2012, assuming that this EU-2 2001-04 average production will correspond to their milk quotas.

✓ For sugar, no prospect has been made by the Commission for the EU-25 up to 2012.

➢ The EU-10 (new Member States) have received a quota of 2.958 Mt upon their adhesion in May 2004. For 2004 (2004-05 marketing year) the EU-25 production has been of 20.684 Mt (of which 17.506 Mt of A & B quotas and 3.068 Mt of C quotas).

➢ The 30 September 2005 the EU Commission had reduced the A & B quotas by 1.892 Mt (to 15.614 Mt), has decided to reduce them by 2.5 Mt for the 2006-07 marketing year and is expecting to reduce them by 6.2 Mt in 3 years, mainly through negative and positive financial incentives:

➢ Reduction by 36% of the reference price (formerly intervention price) of sugar and by 40% that of sugar beet in 4 years, public intervention being maintained for 4 years at an intervention price fixed at 80% of the reference price. Afterwards aid to private storage might be granted.

➢ Restructuring premium for the sugar undertakings renouncing their quotas because of an insufficient competitiveness at these lower prices, knowing that they have to hand over at least 10% of the aid to the producers of sugar beet, cane or chicory (for inulin syrup).

➢ A decoupled payment to growers, put in the SFP, to compensate 64.2% of the price reduction.

➢ However an additional quota of 1.2 Mt could be granted for the 2006-07 marketing year against a payment of €730 per tonne.

➢ The sharp quotas reduction ensues the obligation for the EU to eliminate all its subsidized exports, including of "C" sugar, condemned by the WTO Appellate Body ruling of April 2005, i.e. about 6 Mt: 3 Mt of C sugar + 1.6 Mt of ACP sugar + 1 Mt of "B" sugar still allowed by the WTO but that the EU has agreed in the WTO Framework Agreement of July 2004 to eliminate in 2013 as all other formal export refunds, even if the date of this elimination fixed by the Hong Kong Declaration of 18 December 2005 for the end of 2013 might be postponed if the Doha Round is not finalized.

➢ In fact the reduction of the EU production will be even higher since the EU "Everything but arms" (EBA) Decision of 2002 has foreseen the full opening of the EU market to LDCs' sugar exports and the EU is still committed to import the ACP sugar. Which means that the reduction would likely be of at least 8 Mt. On the other hand Bulgaria and Romania will get 169,413 t of "A" sugar (including isoglucose) and 10,547 t of "B" sugar, which are however lower than their domestic consumption.

Table 36 – The main provisions of the sugar reform to reduce its production quotas

€ per tonne	2005	2006	2007	2008	2006 and after
White sugar reference price	631.9	631.9	631.9	541.5	404.4
Raw sugar guaranteed price	523.7	496.8	496.8	448.8	335.2
Sugar beet minimal price	47.67	32.86	29.78	27.83	26.29
White sugar intervention price (maximum 600,000 t)	505.52	505.52	433.2	323.52	323.52 (last year)
Restructuration premium to quit production	730	730	730	625	520 (last year)
Total amount estimated " (€ billion)		1.144	4.501	3.000	-
Undertakings' contribution financing restructuring "		2.196	2.125	1.391	

✓ Raw tobacco:

➢ At least 40% of the €968 M in direct payments will be fully decoupled and put in the SFP from 2006 to 2009 and 100% will be put there from 2010. However, as Greece, Belgium and Portugal will put 100% of their payments in the SFP from 2006, about 62% of the total (€600 M) will already be transferred to the SFP from 2006.

- However from 2010 half of the total (€468 M) will be devoted to restructuring programmes in tobacco-growing areas as part of rural development.
- There is no forecast of the evolution of production but it would likely decrease significantly as a consequence of decoupling, the more so as it has already decreased by 20% from 1990-92 to 2000-02 and that 50% of the payments will be devoted from 2010 to restructuring the tobacco farms.
- It is not surprising that Greece has chosen to decouple fully its direct payments from 2006 since "*the profitability of tobacco farms in Greece is the lowest among all the sectors and all the countries… Even if tobacco producers in Greece attain the best margins per hectare, their total income is the lowest. This can be explained by the very small size of tobacco farms in Greece, where the availability of UAA per working unit, and in particular of tobacco area, is very low, and the use of labour input per hectare is probably not very efficient*"[80].
- Given that Greece accounted for 36.4% of the production quotas in 2003 and 2004, we could table that its production could be halved at least by 2012, and that the whole EU-25 production could be reduced by 1/3 at that time, that is to 222,709 t.
- But first let us simulate what would be the EU-27 production from 2007 in the absence of decoupling: the average production of Bulgaria + Romania has been of 71,765 t from 2001 to 2005, which has represented 19.4% of the EU-25's average production of 369,563 t. However they will receive only 59,449 t of production quotas upon accession in 2007, i.e. 17.8% of the 334,064 t of the EU-25's quotas in 2004. Assuming that this same percentage of reduction would apply to the EU-2 as for the EU-25, 262,000 t of raw tobacco would be produced in 2012.

✓ For cotton, things are simpler since the EU-10 does not produce any nor Romania and that of Bulgaria is negligible (2,587 t in 2004).

- Here too the €945 M in coupled aid for 2005 (in the 2006 EU Budget) has disappeared in 2006, 35% (€330.8 M) being transferred in the blue box as an area payment and 65% (€614.3 M) integrated in the SFP.
- It is foreseeable that decoupling 65% of the direct payments will induce many small growers to leave the production.
- At least, now that the Doha Round is in a coma, it is foreseeable that new litigations will be pursued at the WTO and the EU cotton might be one target, after several WTO Appellate Body rulings that dumping should be judged whenever exports are sold at prices below the average domestic production cost. Thus, even if the EU does not grant any export refund, it has nevertheless exported on average 41.7% of its production of 506,000 t from 1997 to 2003, and even 58.6% in 2003 (255,000 t).
- Which means that the EU cotton production will be reduced sooner or later by that amount and we will assume that it will be reduced in 2012 by 1/3 of the average production of 2001-04, i.e. from 499 Mt to 333 Mt, i.e. by 20,750 t a year.

✓ For wine, there is not a significant trend in the evolution of production although there has been a decreasing trend in the EU consumption and an increasing trend in the volume of imports so that the stocks remain at a very high level even for quality wines. The share of the EU-10 has represented 3.81 of the EU-15 production from 2002 to 2005, and the entrance of the EU-2 will add about the same volume as that of the EU-10 (7.5 M hl in 2004 against 7.4 M hl in EU-10). The reform of the wine CMO is not yet decided although the EU would like to shift part of the direct payments to the SFP, as usual, which, together with the foreseeable increase in imports following the drop in tariffs due to the possible finalization of the Doha Round sooner or later and of a possible bilateral agreement with Mercosur, all these events would reduce the EU-27 production, let us say by 10% at least by 2012 in relation to the average 167 M hl for the EU-25 from 2002 to 2005, applying the same reduction to the EU-2 average production of 7 M from 2000 to 2005.

✓ For olive oil, the EU data are only available up to 2003 but the US Foreign Agricultural Service in Brussels gives estimates for the EU-25 from 2004 to 2006[81]. One can expect a reduction in production following the new CMO since 60% at least of the direct payments (of the 2000-02 period) are put in the SFP and the rest in the blue box (area payment), the proportion in the SFP being larger

[80] EU Commission, *Tobacco regime*, op. cit.
[81] USDA Foreign Agricultural Service GAIN Report, *EU-25 Oilseeds and products, Annual 2006*. 11 June 2006.

since only Spain, Malta and Slovenia have not opted for the full decoupling which is also mandatory for the farms under 0.3 ha of olive trees. The reduction of production would most likely occur in Greece and Portugal, which have accounted for 20% of the EU-15 production from 2000 to 2002 and where the profitability is the lowest[82]. This is confirmed by USDA: "*CAP reform of the olive sector is expected to lead to long term reductions as less competitive producers leave the industry*". The production of EU-10 is negligible (0.4% of the quotas of EU-15), which also mentions the request made by 6 EU-25 Member States to lower the tariffs on olive oil. It seems that Bulgaria and Romania are not producing olive oil either since they have preferential imports from Turkey. So that we can assume that the EU production could at least be reduced by 10% in 2012 from the average 2.022 Mt from 2004 to 2006, i.e. to 1.820 Mt.

Let us look at the last notifications of the new EU-12 Member States (table 37)

109. As we cannot avail of the production value of the products with an AMS for these countries we will limit ourselves to appraising the extent to which they would increase the margin of flexibility of the EU-15 in the future for the allowed FBTA and OTDS.

✓ As several new Member States have notified in their own currencies or in US dollars, we have converted them in euros, using the exchange rates provided by the EU Commission[83] and the IMF data on the exchange rate of the SDR (special drawing right) used by Latvia. We have also put the notifications for 2003 for 4 countries having already notified them. In fact only 3 countries out of 14 have not notified for 2002 (as the EU-15): Bulgaria, Lithuania (its file is not accessible on the WTO website for any year) and Malta whose last notification is related to 2000 and which has only notified a tiny green box, but it is hardly an agricultural country (8,000 hectares of arable land!).

✓ These figures show that:

- The EU-12 has the same FBTA as the EU-10 since Bulgaria and Romania have none.

- Considering itself as a developing country, Cyprus has availed of the right to notify its input and agricultural subsidies in the specific category of S&DT (special and differentiated treatment) established by the AoA article 6.2, instead of putting them in the NPS AMS, which is thus empty. Which confirms that the EU-15 should have put them in the NPS AMS instead of in its green box (investment subsidies) or blue box (feed subsidies). However it is clear that, from 2004 on, these Cyprus subsidies should be reintegrated in the EU-25 NPS AMS.

- The applied total AMS (€1.539 billion in 2001 and €1.334 billion in 2002) represented only 30.3% and 26.3% of the FBTA so that the EU-12 would not undermine the EU proposal to cut its FBTA by 70%, apart that this proposal is not feasible as we have shown if the EU had complied with the AoA rules.

- We cannot calculate the EU-12 allowed OTDS for the 1995-00 period since the agricultural production value is only available from 1998 (table 23), and we have even less the production value of each product, which prevents to compute the allowed PSdm. We see at least that the allowed NPS AMS and BB was of €1.129 billion for the 1998-00 period and of €1.169 for 2001. Which means that the applied NPSdm represented in 2001 72.45% of the allowed NPSdm, leaving a much smaller margin of reduction than for the EU-15. However the margin is huge for the blue box (BB) as it is only present in 4 countries.

- The green box is relatively large, even larger than the sum of the applied OTDS (AMS + NPSdm+ PSdm+BB).

[82] European Commission, *The olive oil and table olives sector*, DG Agriculture working paper, 2004.
[83] http://www.ecb.eu/stats/exchange/eurofxref/html/index.en.html

Table 37 – Last notifications of the new EU-12 Member States in 2001 and 2002

€ million	FBTA	Total AMS	PS AMS	NPS AMS	Blue box	Green box
Poland 2001	3521	511	438	73		727
" 2002	"	384	313	71		723
Hungary 2001	753	623	298	325 (5.6% VOP)		210
" 2002	"	663	283	380 (6.6% ")		199
Czech Republic 2001	412	167	3	164	24	247
" 2002	"	177	26	151	25	166
Slovenia 2001	62	14	6	8	31	174
" 2002	"	14	5	9	54	169
" 2003	"	13	4	9	46	173
Slovak Republic 2001	236	175	24	151		30
" 2002	"	47	31	16	12	116
" 2003	"	53	28	25	27	118
Latvia 2001		20 (dm)	11 (dm)	9 (dm)		70
" 2002		22 (dm)	9 (dm)	13 (dm)		70
" 2003		20 (dm)	11 (dm)	9 (dm)		74
Estonia 2001	None	1 (dm)	0	1 (dm)	13	17
" 2002	"	2 (dm)	0	2 (dm)	12	33
" 2003	"	3 (dm)	2 (dm)	1 (dm)	13	44
Lithuania						
Cyprus 2001*	92	49	49	0		176 + 18*
" 2002*	"	57	57	0		182 + 4*
" 2003*	"	87	87	0		181 + 11*
Malta 2000						2
Total EU-12 2001	5076	1539 + 21 dm	818 + 11 dm	721 + 10 dm	68	1669
" 2002	"	1342 + 24 dm	715 + 9 dm	627 + 15 dm	103	1662
Romania 2001		259 (dm)		232 (dm)		104
" 2002		76 (dm)		0		153
Bulgaria 2001		31 (dm)		5 (dm)		27
Total UE-12 2001	5076	1539 (+ 311 dm)	818 (+ 11 dm)	721 (+ 247 dm)	68	1800
Total UE-12 2002	"	1334 (+ 100 dm)	715 (+ 9 dm)	627 (+ 15 dm)	103	1815
VOP EU-10 1998-2000	22586					
VOP EU-10 2001	26685					

Sources: notifications to the WTO. * Cyprus has put in an exempted specific box (of S&DT) its investments and inputs subsidies, instead of in the NPS AMS.

Table 38 – Agricultural production value of the EU-25, EU-15 and EU-10 from 1998 to 2005

€ billion	1998	1999	2000	2001	2002	2003	2004	2005	Aver. 98-00
UE-25	260.341	255.392	265.277	277.066	268.732	267.389	279.668	272.770	260.337
UE-15	236.797	234.567	241.888	250.381	242.954	244.191	252.994	245.291	237.751
UE-10	23.544	20.825	23.389	26.685	25.778	23.198	26.674	27.479	22.586
Allowed NPSdm EU-25									13.017
Allowed NPSdm EU-15									11.888
Allowed NPSdm EU-10									1.129

Estimates of PS AMS and PS de minimis until 2012

110. The following table 39 distinguishes the types of PS AMS, between market price support linked to intervention price or equivalent measurement of supports and the actual subsidies (non exempt direct payments). The data draw partially from the analysis of Geraldine Kutas but she overestimated PSdm for bovine meat and olive oil and they are based mainly on the following data and assumptions:

✓ From 2004 to 2006 the data are for the EU-25 and from 2007 on for the EU-27 (with Bulgaria and Romania).

✓ For products with AMS in the form of market price supports linked to intervention prices, the only changes for the not yet notified years up to 2012 are related to the expected production volumes when no reduction has been decided for the intervention prices since the reference price of the 1986-88 period remains obviously the same. Which means that the main changes are related to the drop or even the elimination of the intervention prices decided by the CAP reform, that of March 1999 for bovine meat, and that of 2003-06 for rice, skimmed milk powder, butter, sugar and olive oil.

✓ The AMS for rice almost disappears in 2003 since the intervention price has been halved from €298.35/t to €150/t, but is still slightly higher than the world reference price of €143.3 in 1986-88, so that there is still a tiny AMS of about €17 million. But compensatory direct payments have been granted, 58% of them being put in the single farm payment (SFP) in 2006 and 42% remaining in the blue box.

✓ As decided by the 1999 CAP reform, the bovine meat intervention price has been eliminated the 1st July 2002 so that it has no longer an AMS. However, as the feed subsidies have conferred a PS

AMS to bovine meat, the elimination of its intervention price from July 2002 has given rise to a PSdm of 5% of the production value of bovine meat!

Table 39 – EU estimates of applied product specific AMSs and PSdm from 1995-00 to 2012

€ million	95/00	2001	2002	2003	2004	2005	2006	2007	2008	2009	2012
AMS: market price support (MPS)											
Cereals	6,736	3,659	3,639	4,784	4,397	4,360	4,372	4,384	4,386	4,412	4,470
Rice	464	397	417	17	17	17	17	17	17	17	17
Bovine meat	13,155	9,708	0	0	0	0	0	0	0	0	0
Skimmed milk powder	1,562	1,372	1,379	1,391	1,279	1,126	1,089	1,059	1,031	1,003	960
Butter	4,288	4,444	4,432	4,437	3,997	3,457	3,104	3,060	3,020	2,987	2,905
Sugar	5,852	5,732	5,880	8,631	8,631	6,141	4,166	3,098	2,696	2,654	2,570
Olive oil	1,910	2,676	2,120	2,120	2,120	0	0	0	0	0	0
Wine*	959*	0	0	0	0	0	0	0	0	0	0
Sub-total MPS	34,926	27,988	17,867	21,380	20,441	15,101	12,748	11,618	11,150	11,073	10,920
Fruits and vegetables**: partly equivalent measurement of support (EMS) and partly non exempted direct payments (NEDP)											
EMS + NEDP	10,268	8,369	9,135	10,017	10,017	10,017	10,017	10,017	10,017	10,017	10,017
Total subsidies	1,580	1,558	1,551	1,532	1,573	1,573	1,573	1,573	1,573	1,573	1,573
- export refunds	94	51	46	29	26	26	26	26	26	26	26
Actual F&V dom. subs.	1,487	1,507	1,505	1,503	1,547	1,547	1,547	1,547	1,547	1,547	1,547
AMS reduction margin	8,781	6,862	7,630	8,514	8,470	8,470	8,470	8,470	8,470	8,470	8,470
AMS: non exempted direct payments (NEDP)											
Potatoe starch	166	212	223	161	117	117	117	123	124	125	128
Wine*	752*	892	1,213	1,092	1,153	1,153	1,153	1,153	1,153	1,153	1,153
Tobacco	962	952	950	924	937	21	21	21	21	0	0
Cotton	753	575	873	835	0	0	0	0	0	0	0
Dried fodder	305	317	318	313	160	160	160	162	162	163	163
Pulses	70	73	72	70	64	0	0	0	0	0	0
White sugar (Italy)	93	12	12	12	12	12	12	12	12	12	12
Nuts	-	-	-	-	97	97	97	99	99	99	99
Energy crops	-	-	-	-	68	68	68	68	68	68	68
Seeds/sowing	100	99	88	107	56	29	29	29	29	29	29
Minor textiles***	119	93	12	18	18	18	18	18	18	18	18
Hops	15	13	13	13	13	13	13	13	13	13	13
Sub-total NEDP	3,334	3,154	3,774	3,545	2,695	1,688	1,689	1,698	1,699	1,680	1,683
Total applied AMS											
Total AMS	48,528	39,511	30,782	34,940	33,153	26,806	24,454	23,334	22,867	22,771	22,621
Share of actual subsidies in applied total AMS											
Total NEDP in PS AMS	4,822	4,745	5,279	5,048	4,242	3,235	3,235	3,245	3,246	3,227	3,230
% of "	8.38%	12.01%	17.15%	14.45%	12.80%	12.07%	13.23%	13.91%	14.20%	14.17%	14.28%
de minimis PS AMS											
Bovine meat	-	-	1,129	1,129	1,112	1,155	1,217	1,245	1,23,0	1,212	1,194
Sheep & goat meat	4,485	4,902									
Olive oil	-	-	-	-	-	350	399	399	382	374	349
Durum wheat		453	476	702	530	574	580	586	592	598	610
Oats											
Potato starch	166	216									
Pig meat	18	33	3	10							
Cereals	23	8									
Milk	-	212									
Vegetables	8	3									
Total applied PSdm	49	709	1,608	1,841	1,642	2,079	2,196	2,230	2,204	2,184	2,153

Source: WTO notifications, *wine: for 1995-99 the wine AMS has been of €1.892 billion on average, being mainly an equivalent measurement of support (guide price) whereas the actual subsidies have been of €753 million; **the AMS of fruits & vegetables is composed mainly of market price supports other than administered prices but the direct payments have accounted also for around €1.5 billion yearly; **** hemp & flax fibre and silkworms. The data are for EU-15 up to 2003, for EU-25 from 2004 to 2006 and EU-27 from 2007 on.

✓ The interpretation of the table could be misleading if we do not take into account the double enlargement in 2004 (to the EU-10) and 2007 (EU-2). Despite these two enlargements the applied PS AMS continue to decrease in its market price support component as in the actual subsidies component.

✓ Actual subsidies have represented only 11.9% of the notified PS AMS from 1995 to 2000 and their share would increase progressively to 14.3% by 2012, as the EU Commission is going along replacing the market price support by actual subsidies of the blue and green boxes

✓ The decrease in actual AMS subsidies is much smaller than the reduction in the total PS AMS: the first would be reduced by €25.907 billion or 53.4% from the average 19995-00 to 2012, while the second would be reduced by only €1.592 billion or 33.0% and has even increased in 2002 and 2003 for wine and cotton.

✓ Therefore we understand why the EU Commission wants to generalize the full decoupling of all the common market organizations (CMOs) by transferring to the SFP the remaining market price supports. We see that there is still the possibility to reduce or even eliminate the €8.5 billion PS AMS of the fruits and vegetables CMO even if it is difficult to replace it by a decoupled payment given the high volatility of their prices linked to climatic vagaries and to a reduced import protection.

X – Conclusions: come back to the EU actual agricultural subsidies

111. Conclusions which do not address the EU massive cheatings

✓ The following table 40, based on the EU data only, show that the total EU agricultural budget ("Total EAGGF" in the last section of the table) is more or less reached and sometimes exceeded by the addition of the blue box and green boxes alone. It is sometimes exceeded because the notified traditional green box contains expenditures financed by the EU-15 Member States, although many national expenditures are not notified by the EU to the WTO or even to the EU as they should be.

✓ When we add the Member States payments to the EAGGF we see still a huge gap with the sum of the three boxes (amber, blue and green) which confirms that most amber box are not actual subsidies but fake market price supports.

✓ However the actual subsidies are in fact higher since we have shown that many subsidies, particularly at the national and sub-national levels, are not notified to the EU Commission which itself does not notify everything to the WTO, even not in the green box.

Table 40 – EU amber, blue and green box notifications and forecasts from 1995 to 2007 (EU-25 from 2004/05)

€ billion	95/96	96/97	97/98	98/99	99/00	00/01	01/02	02/03	03/04	04/05+	05/06	06/07°	07/08°
Total agricultural production value and allowed non-product-specific de minimis (5% of ag. Production value), in € billion													
Ag prod. **	207.4	219.7	217.8	213.5	233.7	243.4	246.4	242.5	242.4	277.2			
All. NPSdm	10.370	10.985	10.890	10.675	11.685	12.170	12.320	12.125	12.120	13.860			
Notified amber box (the bulk of the PS AMSs are not subsidies but fake market price support), in € billion													
Allowed AMS	78.672	76.369	74.067	71.765	69.463	67.159	67.159	67.159	67.159	67.159	67.159	67.159	67.159
Applied AMS	50.026	51.009	50.194	46.683	47.886	43.654	39.281	28.498¤	30.943¤	31.796¤			
" PS AMS	50.026	51.009	50.194	46.683	47.886	43.654	39.281	28.498¤	30.943¤	31.796¤			
PSdm:€ million	49	33	42	31	16	23	243						
NPSdm "	777	777	486	348	291	538	574						
Blue box, in € billion													
Sub-total	20.846	21.521	20.443	20.504	19.792	22.223	23.726	26.214	25.907	24.221	18.650	18.106	6.483
COP	15.648	17.193	16.191	15.978	15.128	16.825	18.144	18.590	17.123	16.909	16.853	7.667	1.562
Beef+sheep	5.198	4.328	4.252	4.526	4.664	5.398	5.582	7.072	8.784	7.312	427	268	175
Dairy											1.370	1.473	641
Traditional green box notified, in € billion													
Green box	18.779	22.130	18.167	19.168	19.931	21.845	20.661						
New green box for the alleged decoupled income supports (Single farm payment in the EU-15, Single area payment in the EU-10), in € million													
SFP												14,635	28,424
SAP											1,449	1,740	2,285
Total											1,449	16,375	30,709
All EU agriculture budget (including rural development, mostly put in the traditional green box), in € billion													
	95/96	96/97	97/98	98/99	99/00	00/01	01/02	02/03	03/04	04/05	05/06	06/07°	07/08°
Total EAGGF	37.021	42.684	44.003	42.590	43.242	41.828	43.474	44.732	46.669	46.322	52.698	55.037	54.249
-EAGGF-Gar.	34.490	39.324	40.423	39.068	39.468	40.437	42.131	43.178	44.379	43.579	48.720	51.037	50.988
-EAGGF-Gui.	2.531	3.360	3.580	3.522	3.774	1.391	1.343	1.554	2.290	2.743	3.587	4.000	3.261
Direct aids(1)	20.902	26.273	26.521	25.434	25.411	25.529	27.925	28.706	29.626	29.825	33.856	34.817	37.661
Ag market (2)	12.201	10.307	11.162	10.771	10.827	10.093	8.196	8.812	6.360	5.090	8.534	8.509	5.696
" refunds (3)	7.802	5.705	5.884	4.826	5.573	5.646	3.401	3.432	3.684	3.384	3.934	2.624	1.489
Rural dev. (4)	3.363	5.212	6.197	6.214	8.168	4.176	4.364	4.364	4.680	6.462	6.330	7.711	7.631
Rural dev. (5)	5.894	8.572	9.777	9.736	11.942	5.567	5.707	5.918	6.970	9.205	9.917	11.711	10.892
State aids to agriculture, not included in the European budget													
State aids*	16.675	16.389	16.847	14.325	15.105	14.334	13.906	14.494	14.082	14.107			
Sum of EAGGF + State aids													
	53.696	59.073	60.850	56.915	58.347	56.162	57.380	59.226	60.751	60.429			
Sum of the notified blue box + green box													
	39.625	43.651	38.610	39.672	39.723	44.068	44.387						
Sum of the notified amber box + blue box + green box													
	89.651	94.660	88.804	86.355	87.609	87.722	83.668						
Gap between actual EU subsidies (EAGGF + State aids) and the three notified boxes													
	35.955	35.587	27.954	29.440	29.262	31.560	26.288						

Sources: EU notifications to the WTO; EAGGF annual reports; EAGGF-Gar: EAGGF Guarantee; EAGGF-Gui: EAGGF-Guidance; + from 2004/05 on, the figures are for the EU-25; * including refunds on minor products (rice, tobacco, olive oil…); ° EU budget forecasts; ¤ Canada' simulations; (1) direct aids include blue and amber payments (for olive oil, tobacco, fruits & vegetables (of which bananas); (2) agricultural market interventions include export refunds, storage costs and other interventions (for fruits & vegetables, wine, cotton, dry fodder, sugar); (3) The detailed refunds per product is given in the following table; (4) Rural development expenditures included in the EAGGF-Guarantee section; (5) Total rural development = (4) + EAGGF-Guidance section.

* Data on State aids are provided in million euro at constant 1995 prices but have been re-referenced on the year 2004
http://ec.europa.eu/comm/competition/state_aid/scoreboard/statistics/s1_europe.html

112. Conclusions addressing the EU massive cheatings and the inconsistency of the AoA rules

✓ The present analysis has shown the extent to which the EU proposals to reduce its allowed agricultural trade-distorting domestic supports are not feasible and the large margin of manoeuvre opened instead to the DCs or other developed countries to challenge these supports at the WTO.

✓ The analysis has underlined not only the EU massive cheatings but also the inconsistency of many basic AoA rules:

➢ Particularly the inconsistency of the PS AMS linked to administered prices which is a fake market price support although it is always presented as the most trade-distorting support.

➢ And more broadly the inconsistency of the boxes game: all subsidies should be put on the same footing, in a single box, as long as the country is not exporting.

✓ In doing this analysis, Solidarité is not advocating to rebuild the AoA on more free trade lines. To the contrary it is pleading for the right of every country, from the North and the South, to devise its agricultural policy on the right of food sovereignty – implying to maintain an efficient import protection, preferably based on variable levies, and to grant any type of domestic subsidies – as long as it does not harm other countries through direct or indirect dumping. Dumping being defined, along the lines ruled by the WTO Appellate Body in recent cases, as exports made at below the national average production cost, taking into account upstream (on inputs and investments) and downstream (on processing and marketing).

ANNEX 1 – Details of the product-specific AMS of EU fruits and vegetables

Table 1bis – EU notified product-specific AMSs for fruits and vegetables from 1995/96 to 2001/02

€ million	1995/96	1996/97	1997/98	1998/99	1999/00	2000/01	2001/02	Average 95/00
Fresh fruits and vegetables								
Bananas	203	207	208	178	234	327	212	226
Apples	2,517	2,101	1,953	1,918	2,192	2,249	2,060	2,155
Pears	742	595	612	551	603	629	543	622
Apricots	115	141	102	102	155	128	121	124
Cherries	199	140	97	96	139	145	118	136
Peaches/Nectarines	449	469	228	400	587	503	472	439
Table grapes	375	221	232	223	219	213	217	247
Plums	129	69	65	59	71	67	69	77
Lemons	227	384	407	291	421	425	281	359
Clementines	165	163	180	183	233	205	167	188
Mandarins	48	66	62	33	41	39	32	48
Satsumas	23	40	36	22	37	32	16	32
Oranges	329	454	423	277	430	424	321	390
Cucumbers	656	435	611	589	575	539	535	568
Courgettes	n.a.	250	164	174	166	161	171	153
Artichokes	232	212	224	224	109	108	195	185
Tomatoes	4,690	4,880	4,531	2,105	2,518	2,655	1,944	3,563
Cauliflower	-	-	17 dm	10 dm	17 dm	4 dm	3 dm	0
F&V not mentioned	-	-	2	-	6	2	2	2
Total	11,099	10,827	10,137	7,425	8,736	8,851	7,476	9,514
Processed fruits and vegetables								
Tinned pineapple	2	2	2	6	6	7	7	4
Processed citrus	182	158	148	108	177	129	213	150
" lemons	35	41	41	36	38	32	52	37
" peaches	73	73	44	66	78	78	63	69
" plums	48	42	21	33	22	30	41	33
" pears	29	39	34	42	24	25	31	32
" figs	-	6	6	6	7	7	6	5
" tomatoes	343	320	336	402	345	298	367	341
" grappes	130	121	115	-	-	-	113	61
	842	802	747	699	697	606	893	733

Source: EU notifications to the WTO

ANNEX 2 – The EU export refunds according to EAGGF and notifications to the WTO

The following tables show the EU export refunds registered by the EAGGF or appropriated up to 2007 (table 41) and those notified to the WTO (table 42).

✓ The export refunds registered by the EAGGF have reached on average €5.384 billion from 1995/96 to 2002/03, i.e. €1.117 billion more than the €4.267 billion notified to the WTO.

Table 41 – EU export refunds according to EAGGF from 1995/96 to 2007/08

€ million	95/96	96/97	97/98	98/99	99/00	00/01	01/02	02/03	03/04	04/05	05/06	2006°	2007°
Arable crops	1129	320	532	479	883	824	260	99	176	72	288	215	165
Rice*								41	38	22	18	5	3
Sugar	1,314	1,232	1,116	1,370	1,593	1,439	1,008	1,168	1,021	988	1 479	801	380
Fruits & vegetable	240	98	84	58	40	46	51	46	29	26	41	30	30
Wine	37	41	60	41	27	22	23	24	20	13	26	19	15
Dairy products	2,290	1,616	1,763	1,427	1,439	1,671	1,107	1,160	1,595	1,495	1,434	841	356
Bovine meat	1,761	1 559	1 499	775	595	661	363	387	296	251	233	155	69
Pig and poultry meat**	319	240	152	165	386	348	116	104	116	131	80	143	127
Processed products	574	491	566	553	573	572	436	410	431	380	335	415	344
Total***	7,802	5,705	5,884	4,826	5,573	5,646	3,401	3,432	3,684	3,384	3,934	2,624	1,489

Sources: EAGGF annual reports (99/00 means the fiscal year going from 15 October to 14 October). * the EU DG Agri website does not detail the rice expenses before 2001. **including refunds on eggs. ***including refunds on some products (rice, tobacco, alcohol, olive oil…) ° EU Budget appropriations.

Tableau 42 – EU notified export subsidies to the WTO from 1995/96 to 2002/03

€ million	95/96	96/97	97/98	98/99	99/00	00/01	01/02	02/03
Wheat and wheat flour	118.7	317.5	177.7	500.3	509.3	108.3	8.5	141.2
Coarse grains	303.4	389.0	273.2	764.1	730.2	191.5	112.8	167.0
Total cereals	422.1	706.5	450.9	1,264.4	1,239.5	299.8	121.3	308.2
Rice	30.3	72.2	32.6	25.6	26.4	32.3	30.3	24.9
Sugar	379.0	525.0	779.0	794.8	470.1	372.7	482.8	292.5
Fruits & vegetables	81.7	72.0	31.7	36.1	42.7	30.9	24.4	18.4
Wine	51.1	59.6	37.2	29.3	26.2	23.7	22.9	17.9
Olive oil	62.1	39.0	7.8	-	-	-	-	-
Raw tobacco	18.2	3.4	-	-	-	-	-	-
Alcool	51.2	118.5	105.5	121.2	218.6	95.6	52.8	90.4
Produits laitiers	1,562.3	1,725.2	1,359.3	1,385.4	1,812.4	1,012.2	952.4	1,571.1
Viande bovine	1,506.5	1,526.7	840.7	642.9	766.1	383.3	388.4	285.1
" porc et volailles	216.1	151.0	163.5	463.1	332.2	98.7	86.2	110.2
Produits transformés	491.1	565.9	553.1	573.4	719.5	414.0	411.6	413.6
Total*	4,871.7	5,565.0	4,631.3	5,336.2	5,653.7	2,763.2	2,464.1	2,854.3

Source: Notifications à l'OMC.

✓ This gap cannot be explained by the timelag linked to the fact that the EAGGF data are established on the EU fiscal year, from the 15 October to the 14 October whereas the notifications are made for the marketing year, generally from the 1st July to the 30 June, but mainly by the following points:

- The EU has not notified to the WTO its export refunds on the white sugar linked to the previous imports of raw sugar from ACP countries and financed by the EAGGF, the only refunds notified being for the exports of "B sugar" financed by the producers' contributions. The gap between the two is quite significant since the EAGGF registers an average of €1.280 billion against €512 M for the notifications. This gap of €768 M on sugar refunds explains already 68.8% of the total between the EAGGF and notifications. We know that the EU has been condemned the 9 April 2005 by the WTO Appellate Body for this lack of notification but also for having forgotten to notify its exports of "C" sugar which, although being exported without refunds, have been nevertheless indirectly cross-subsidized through the high prices received for the A and B sugar sold on the domestic market which have taken care of the fixed costs of the C sugar which has thus been exported at a price much below its average production cost.
- Whereas the notifications take into account the exports at a high loss of the EU intervention stocks, the EAGGF registers only the export refunds proper and does not identify, at least on the EU website, the share of the exported stocks. This difference appears somehow for cereals where the notifications have been higher on average (€602 M against €566 M) and is even larger if we delete the 1995-96 year.

- The EAGGF registers higher export subsidies than the notifications for dairy products (€1.559 billion on average against €1.423 billion) and bovine meat (€950 M against €792 M).
- Since the EAGGF does not register the exports at a loss of the intervention stocks and that its total refunds are nevertheless higher than those notified, beyond the sugar specific case, this hides certainly other significant under-notifications of export subsidies to the WTO.

✓ By the way the fact that the EU has notified its export refunds for the 2002/03 marketing year since the 27 January 2005 proves that it could have notified as well its domestic subsidies for the same marketing year and that it was deliberately that it refused to do it and that is was not due to the non availability of data.