



The new Blue Box: A step back for fair trade

Excerpted from
*Sailing Close to the Wind:
Navigating the Hong Kong WTO Ministerial*

20  years

A PUBLICATION OF THE INSTITUTE FOR AGRICULTURE AND TRADE POLICY

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Summary

"The reality is that no industrial country—not the United States, not Canada, not the countries of the EEC, not the other European states, not, we all know, Japan—leaves its farmers to the free market. None. Those who affirm the beneficence of the free market for agriculture are, as regards the industrially developed countries, speaking of something that does not exist. Perhaps it will in the next world; theology has its claim on that. Not in this world. It does not exist because left to market forces, agriculture has a relentless, wholly normal tendency to overproduce." —John Kenneth Galbraith, "Agricultural Policy: Ideology, Theology and Reality Over The Years," remarks at the National [U.S.] Governors Conference, July 27, 1987.

Background

The Blue Box is the term commonly used to refer to Article 5.6 of the Uruguay Round Agreement on Agriculture (AoA). To break the deadlock on agricultural negotiations under the Uruguay Round, the U.S. and EU brokered a deal in 1992 called the Blair House Accord. The accord exempted from reduction domestic support payments that were linked to production-limiting programs. That is, the level of payment had to be based on fixed areas and yields, or head of livestock; the money was not available to promote production.

At the time, both U.S. domestic agricultural policies and the EU's common agricultural policy (CAP) relied heavily on production-limiting programs. In 1996, the U.S. Farm Bill more or less eliminated Blue Box-eligible programs. The big users of the Blue Box today are the European Union (although this has started to change since the introduction of CAP reforms in the past few years), Japan, Switzerland, Norway and a few other countries. Very few developing countries have Blue Box-eligible programs.

The Blue Box is widely seen as an anomaly within the AoA; one of several ways in which developed

countries could evade reform to their domestic support programs. On the other hand, the Blue Box also reflects one of the continued concerns of many policy-makers with regard to agriculture: how to manage the observed tendency for commodities to be over-produced in open, unregulated markets. The observation that agricultural markets are not self-correcting is well established historically and explains why agriculture is one of the most regulated sectors in many economies. Unmanaged over-supply has significant negative impacts on both producers and on national governments that depend on agricultural exports to generate foreign exchange (as many developing countries do). The largest beneficiaries of unmanaged over-production are the big consumers of agricultural commodities: livestock operations, food processors, some restaurant chains that source directly from farmers (such as McDonald's) and—especially in horticulture—food retailers.

Expanding the Blue Box

In the framework decision adopted August 1, 2004 (known as the July Framework) the U.S. pushed through a proposal to revise criteria for inclusion in the Blue Box. The U.S. proposal added a new set of cri-

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teria to those agreed in the Uruguay Round. The added criteria allowed the inclusion of direct payments to producers that were not tied to production at all. In practice, the expanded definition will almost certainly allow the inclusion of U.S. countercyclical payments, which were declared to belong in the most heavily disciplined Amber Box by a WTO dispute panel ruling on U.S. cotton subsidies.

The U.S. needs to expand the Blue Box to cope with the outcomes of its 1996 and 2002 Farm Bills. The 1996 Farm Bill removed land set-aside policies and other tools that had been designed to bring land temporarily out of production and thereby reduce production. The result was a jump in production, collapsed prices and a spate of new, expensive government interventions to avoid catastrophic effects in rural areas, especially the collapse of rural banks.⁷ Largely as a result of the 1996 Farm Bill, U.S. prices for major row crops (corn, soy, wheat and rice) collapsed between 34 and 42 percent from 1996 to 2000.⁸ The loss of a price floor and the increase in production in the U.S. had a major impact on global prices as well, as the U.S. is a major supplier of these commodities in world markets.

By 2002, the U.S. Congress decided that coping with the farm crisis through repeated one-off emergency payments was not the answer. It chose to reinstitute so-called countercyclical payments, which provide producers with a predictable cushion when prices fall: the payments give farmers the difference between the target price for a commodity set by the U.S. Congress and either the national average market price or the loan rate price set by Congress, whichever is higher. The target price is below average U.S. production costs, but has been higher than world prices in most years. These payments vary enormously from year to year, depending on where market prices are: payments went from \$1.7 billion in 2003 to \$0.8 billion in 2004.⁹ The estimated maximum authorization for countercyclical payments in any given year under the 2002 legislation is \$7.6 billion.¹⁰

The expansion of the Blue Box comes in the context of a dramatic expansion in government payments to farmers (most of them under the undisciplined Green Box category of support, for payments that are considered to be minimally trade-distorting). Understandably, there has been a loud outcry against these subsidies. Yet many of those who know the history of U.S. farm payments and understand how the current system works, say the subsidies are really a symptom of larger underlying problems. As a senior farm organization official complained, “While the total amount of U.S. ag subsidies gets much public attention, little or nothing is said about the collapse of ag marketplace prices for the primary crops, which exceeds the size of the U.S. subsidies.”¹¹

Since this increase in domestic support contradicted Doha objectives (and at a minimum the spirit, and quite possibly the letter, of the AoA), a diplomatic offensive was undertaken to legitimize countercyclical payments in the Doha Framework. In defending the U.S. negotiating position for the Doha Round, Ambassador Robert Zoellick explained “the framework even creates an opportunity to place partially decoupled U.S. safety-net programs created in the 2002 Farm Bill—known as countercyclical support—into the blue box, something not possible under current rules.”¹²

The July Framework also restricted Blue Box programs to be less trade-distorting than Amber Box measures and proposed a cap on Blue Box spending levels of 5 percent of a country’s total value of agricultural support. Under the AoA, Blue Box spending was unrestricted.

U.S. Sen. Saxby Chambliss, chair of the Senate Agriculture Committee, has told U.S. Trade Representative Robert Portman that to gain his support for a WTO agreement, it must include countercyclical payments in a new Blue Box.¹³

The Group of 20 (G-20) developing countries has proposed several criteria to ensure that the revolutionary expansion of the Blue Box in the July Framework does not result in a still greater expansion of trade-distorting support than was permitted under the Uruguay Round. However, the U.S. has refused to consider additional

criteria. The only U.S. concession, contained in its October 12 negotiating position, was to reduce the Blue Box cap to 2.5 percent of the total value of agriculture. This could make it difficult to accommodate all the countercyclical payments in some years; for the U.S. the 2.5 percent cap is equivalent to just under \$5 billion.

Why expand the Blue Box?

For the U.S., the need to expand the Blue Box is clear. The WTO dispute panel ruling in the case brought by Brazil against U.S. cotton programs rejected the U.S. categorization of countercyclical payments as unconstrained Green Box payments and allocated them to the Amber Box, to be included in the aggregate measure of support (AMS). Furthermore, the appellate body rejected U.S. arguments that countercyclical payments for cotton did not violate U.S. commitments.¹⁴ Until the Doha Round is concluded and a new agreement is put in place, the U.S. is vulnerable to further disputes because it has not respected the spending limits agreed to when it signed the AoA.

In March 2005, an analysis by the Australian Bureau of Agriculture and Resource Economics (ABARE) helped reignite debate among WTO members about the proposed Blue Box. ABARE determined, “The new blue box provision would allow additional market distorting support and would weaken current WTO domestic support disciplines,”¹⁵ particularly by allowing price-related support, such as the U.S. countercyclical payments. If the U.S. had notified countercyclical payments to the WTO as price related aggregate measures of support (AMS), the U.S. would have exceeded its U.S.\$19.1 billion Uruguay Round AMS ceiling.¹⁶ ABARE concludes, “The capacity for the United States to provide support for its farm program crops within current WTO rules is already clearly large, and will be made even larger through extending blue box eligibility to counter-cyclical payments.”¹⁷

Response from other countries to Blue Box Expansion

The EU has little interest in seeing the Blue Box capped and is likely to block the U.S. proposal of a 2.5 percent cap. The so-called Group of 10 (which includes Japan, Switzerland, Norway and South Korea) will certainly object to such a low ceiling. The U.S. will then have conveniently have found others to fight its own (surely unwelcome) concession.

Why did other countries accept the expansion? This is more difficult to assess. Before the July Framework was agreed, the G-20 and other developing countries had sought restrictions on the Blue Box, not its expansion. The U.S. managed to pass its proposal anyway. In part, this was probably to lock in the acceptance by the EU to agree a date for the elimination of export subsidies. WTO members worried that to block an agreement, after the failure of ministers to advance on the Doha Agenda at the Cancún ministerial conference, could prove fatal to securing new agreements at all. The expectation of the G-20 and some others seems to have been that additional restrictions on the Blue Box would be added in the final agreement.

The subsequent attempts to impose further criteria to restrict the use of an expanded Blue Box, however, evident in proposals from the G-20 and the Group of 33, have been resisted by the U.S. The U.S. position as of October 12 was that a cap of 2.5 percent of the total value of production (half the proposal made in the July Framework) was sufficient additional constraint to satisfy these countries’ concerns.

What next?

The expansion of the Blue Box confronts developing countries directly with the question of what they should do when developed countries continue to preach the virtues of increased trade liberalization while negotiating to protect the vice they claim to abhor. The G-20 has suggested further disciplines on the expanded Blue Box payments to include an exclusion of commodities that receive other forms of trade-distorting support and to cap the non-production linked Blue Box payments

by product, not just with an overall ceiling.¹⁸ The U.S. has refused to entertain these proposals: its support is concentrated in a small number of program crops, particularly those used for feedstuffs that enable highly subsidized meat and dairy exports.¹⁹ Countercyclical payments would not conform to either discipline proposed by the G-20.

Also, the G-20 proposals would depend on prompt and stringent notification of all domestic support and export subsidy payments to the WTO, something the U.S. has so far refused to discuss, even though notification is the bedrock of transparency in the “fair and open agricultural trading system” mandated by the Doha Declaration.²⁰ At a minimum, WTO members should insist the next AoA include specific rules to ensure timely notifications, particularly by the three largest users of domestic support in agriculture: the U.S., the EU and Japan.

The proposed expansion of the Blue Box runs directly counter to fair trade rules. It was included at the behest of the United States and allows U.S. farm policy to maintain the status quo: a highly unsustainable domestic agriculture sector, which is destroying family-scale agriculture in the U.S. and the livelihoods of millions of small-scale farmers and farm workers all over the world.

Developing countries have responded accordingly. The G-33 and G-20 have both made proposals suggesting that any product that receives trade-distorting domestic support should be eligible to face border restrictions in importing developing countries. The G-33 has specifically said that products receiving trade distorting support should automatically be eligible as special products. These proposals make eminent sense and should cover both Amber and Blue Box programs, as well as export subsidies. There is no reason that developing countries should pay the price for the policy and market failures of poorly designed U.S. farm bills.

Annex 1: July Framework text on the Blue Box²¹

Blue Box

13. Members recognize the role of the Blue Box in promoting agricultural reforms. In this light, Article 6.5 will be reviewed so that Members may have recourse to the following measures:

- ▷ Direct payments under production-limiting programmes if:
 - such payments are based on fixed and unchanging areas and yields; or
 - such payments are made on 85 percent or less of a fixed and unchanging base level of production; or
 - livestock payments are made on a fixed and unchanging number of head.

Or

- ▷ Direct payments that do not require production if:
 - such payments are based on fixed and unchanging bases and yields; or
 - livestock payments made on a fixed and unchanging number of head; and
 - such payments are made on 85 percent or less of a fixed and unchanging base level of production.

14. The above criteria, along with additional criteria will be negotiated. Any such criteria will ensure that Blue Box payments are less trade-distorting than AMS measures, it being understood that:

- ▷ Any new criteria would need to take account of the balance of WTO rights and obligations.
- ▷ Any new criteria to be agreed will not have the perverse effect of undoing ongoing reforms.

15. Blue Box support will not exceed 5 percent of a member’s average total value of agricultural production during an historical period. The historical period will be established in the negotiations. This ceiling will apply to any actual or potential Blue Box user from the beginning of the implementation period. In cases where a member has placed an exceptionally large percentage of its trade-distorting support in the Blue Box, some flexibility will be provided on a basis to be agreed to ensure that such a member is not called upon to make a wholly disproportionate cut.

References

7. Daryl E. Ray, Daniel de la Torre Ugarte and Kelly J. Tiller, "Rethinking U.S. Agricultural Policy: Changing Course to Secure Farmer Livelihoods Worldwide," Agricultural Policy Analysis Center, at <http://www.agpolicy.org>
8. "This Says It All," American Corn Growers Association, April 2000, based on U.S. Department of Agriculture figures.
9. From the 2006 Budget Estimates, available at the USDA website. <http://www.fsa.usda.gov/dam/bud/CCC%20Estimates%20Book/2006PresBud/Output%20Tbls%20Est%20Bk/CCC%20and%20PL480%20EXPENDITURES_Output%202.pdf>
10. I. Roberts (2005), WTO Agreement on Agriculture: The blue box in the July 2004 framework agreement, ABARE. Australia. Free online at <http://www.abareonlineshop.com/product.asp?prodid=12989>
11. John Hansen, *Midwest Ag Journal*, September 29, 2003.
12. "Daschle Calls For U.S. to Rescind WTO Subsidy Reduction Commitment," *Inside U.S. Trade*, August 6, 2004.
13. Letter from Chambliss to Portman, October 9, 2005. http://www.insidetrade.com/secure/dsply_nl_txt.asp?f=wto2001.ask&dh=199752662&q=Chambliss.
14. "Appellate Body Favors Brazil In Cotton Subsidies Challenge," *Inside U.S. Trade*, March 4, 2005.
15. "WTO Agreement on Agriculture: The Blue Box in the July 2004 framework agreement," ABARE (March 2005)
16. *Ibid.*, 10.
17. *Ibid.*, 21.
18. Goh Chien Yen, "G20 proposes disciplines on trade distorting domestic support," Third World Network, 5 July 2005.
19. Berthelot, "Why the blue box subsidies are coupled," (15 December 2004) at <http://solidarite.asso.fr/actions/Agriculture.htm>
20. Martin Khor, "G20 and G33 present papers on Blue Box and de minimis support," *North South Development Monitor* (SUNS email edition), no. 5761 (16 March 2005); "WTO members Seek Changes To Language On Blue Box Farm Supports," *Inside U.S. Trade*, 25 March 2005 and Alexandra Strickner and Carin Smaller, "The July Scramble," *Geneva Update*, 27 June 2005 at <http://www.tradeobservatory.org>
21. WTO document reference WT/L/579, p. A-3.