The green box a black box which hides the gold box

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The green box is the master trump of the European Union and United States

1. The green box is the master trump of developed countries, particularly the European Union (EU) and the United States (US), since they have succeeded in safeguarding its untouchable nature, which has allowed them to modify their agricultural policies in the last 15 years so as to put there an increasing share of domestic supports. Thanks to God, developing countries (DCs) and NGOs have opened their eyes and are no longer taken in this sleight of hands of boxes even if there is still some reserve in their critics.

2. The green box constitutes the main shield of the EU and US since questioning it would make the CAP and Farm Bill collapse. It is owing to the green box, and secondarily to the blue box, that the EU and US have been able to propose to cut by 70% and 60% their coupled domestic supports but also to reduce largely their tariffs and eliminate their export subsidies in the middle run. Putting in the green box an increasing share of their subsidies has allowed them to lower progressively their domestic agricultural prices to their world levels and thus to export without any need of export subsidies. At the same time they have been able to propose high cuts in their tariffs since, once the domestic prices aligned on world prices, agri-food industries and traders no longer need to import as they can buy agricultural products at world prices on the domestic market.

3. Since, for economists, protection means any public support improving the competitiveness of domestic products vis-à-vis foreign ones, then import protection is the least protectionist agricultural support. Furthermore it is the only support affordable to poor countries and the only one limited to defensive interests. But the green box, supreme offensive weapon of free-traders, is also their Achille's heel. The more so after the legal precedent of the WTO's Appellate Body's ruling in the US-Brazil cotton case, which has underlined the coupled nature of the "production flexibility contracts " and "direct payments" (Sumner 2005).

4. However the green box subsidies, and the amber and blue subsidies as well, are fully legitimate as long as they are not serving the offensive interests of developed countries, through a hidden dumping legalised by the WTO. The present distinction between subsidies according to their more or less coupled, more or less trade-distorting, nature, thus according to the colour of the boxes in which they are put, is not justified. The only distinction to make is between subsidies benefiting exported products or not, directly or indirectly, taking into account upstream (to inputs and investments) and downstream subsidies (at the transformation and marketing levels). Therefore the Agreement on Agriculture (AoA) should be rebuilt on food sovereignty, the right of every country to protect its defensive interests through an efficient import protection, but forbidding any export made at a price lower than the average national full production cost, taking into account all direct and indirect subsidies.

The recent critics of the green box are invaluable but are not going far enough

5. Several recent papers – of ActionAid (April 2004)[1], Canada (May 2005)[2], G-20 (June 2005)[3], of four NGOs (November 2005)[4] and of Daniel Sumner (December 2005)[5] – have well underlined the multiple reasons to question the non trade-distortive nature of the green box. Building on arguments developed in the specialized literature but also by OECD and USDA, these papers are showing that green box subsidies do increase production because they increase income, reduce risk aversion, generate expectations of new subsidies or their updating, add to other coupled subsidies so that, in their absence, production would not be profitable.

6. However the preceding criticisms are not going far enough and are still leaving a large room for manoeuvre to the green box.

a) When the NGOs' Group declares that "*Green Box payments should only be allowed when payments provide clear benefits for society, that is when directed at small farmers, sustainable agriculture, environmental protection, rural livelihoods and development, food security, or poverty reduction*", it is listing so many exemptions to the criticism of the green box that its plea is losing much in credibility. The G-20 tends to agree on the same exceptions for decoupled income support.

b) In so doing they are mixing up two evaluation levels: the fact that green box subsidies may have all these social and ecological benefits in developed countries should not hide that, at the same time, the people benefiting from these subsidies are farmers and the green subsidies they get are reducing their production costs, so that they can sustain lower prices that those which would prevail lacking the subsidies. With dumping effects when the products are exported and with product-substitution effects at the same time.

c) When the NGOs' Group adds that "*Decoupled income support should only be paid to farmers on low incomes, to avoid payments being used by larger farms to cross-subsidise production and invest in increased production*", it is again confusing the micro-economic dimension – the fact of differentiated effects subsidies have on different categories of farmers, as a consequence of their highly skewed distribution in favour of the largest farmers – with the macro-economic impact at the international trade level.

d) Since these NGOs are fighting hard to abolish all dumping, they should understand that, given the fungible nature of agricultural products involved in most individual export contracts – where it is impossible to differentiate the origin of products according to the producers: from large efficient farmers with low unit production costs or from small farmers in deprived areas with high unit production costs –, dumping has to be defined as an export made at a price equal to the average full production cost of the WTO's Member, taking into account all subsidies granted to all categories of farmers, including green box subsidies to these small

[1] Tim Rice, *5 reasons why a comprehensive review of Green Box subsidies is required within the WTO, ActionAid International*, 28 June 2004.
[2] Canada, *Green Box: Clarification and Review of Criteria*, Detailed Technical Discussions, May 2005.
[3] G-20, *Review and Clarification of Green Box Criteria*, G20 /DS/Greenbox FINAL 02/06/05
[4] ActionAid, Caritas, CIDSE, OXFAM International, *Green but not clean*, Joint NGO Briefing Paper November 2005.
[5] Daniel A Sumner *Boxed In - Conflicts between US Farm Policies and WTO Obligations,* Cato Institute's Center for Trade Policy Studies, December 5, 2005 No. 32.

farmers in the deprived areas. Even if the large producers could export without subsidies, it is necessary to use a simple rule applied at the international level to define dumping, and this can only be the average full production cost of the country without any kind of subsidies.

e) In other words again, if the national political necessity to grant green box subsidies (and subsidies from other boxes) only to farmers who are the most in need is fully justified – in order to foster a socially and environmentally sustainable and multifunctional agriculture based on small family farms –, this does not allow for that matter to consider these subsidies as not trade distorting, and particularly without any dumping effect since the country is able to export at prices below the full average production cost, taking into account all subsidies.

f) We will not go back to the convincing arguments put forward in the quoted analyses, nor on the reasons why the decoupled direct subsidies of the US ("production flexibility contracts" and "direct payments")[6] and the EU ("single farm payment")[7] are not complying with the criteria of the "decoupled income support" of the AoA Annex 2 paragraph 6. The present analysis will be limited to showing that none of the 13 paragraphs of this Annex 2 on the eligibility conditions of the green box subsidies can survive to a serious scrutiny. And this will be done mostly through examples from the EU and, to a lesser extent, from the US.

The Framework Agreement of August 1st, 2004 has required to review green box criteria

6. The paragraph 16 of the Framework Agreement on agriculture of August 1st, 2004 states that "*Green Box criteria will be reviewed and clarified with a view to ensuring that Green Box measures have no, or at most minimal, trade-distorting effects or effects on production. Such a review and clarification will need to ensure that the basic concepts, principles and effectiveness of the Green Box remain and take due account of non-trade concerns*".

7. This provision underlines the three contradictions of the green box status:
1) It is admitted that it might have trade-distorting effects.
2) It is stated that it obeys to basic concepts and principles, which are a priori those stated in the AoA Annex 2 article 1st.
3) And it is demanded to "*take due account of non-trade concerns*".

In other words, if the two first points stress the necessity to ensure that the green box has no trade-distorting effects, the third says that it whould be maintained in any case, particularly to host subsidies sustaining the multifunctionality of agriculture.

The first observation is that neither the WTO nor any other international institution has ever defined what should be considered as a minimal trade distortion. On the other hand there is a very broad consensus to recognize that any decoupled subsidy has trade impacts (see the arguments developed in the quoted critical analyses). All the more when it is a pure box shifting, i.e. when the so-called decoupling regards subsidies which were previously coupled (amber box) or partially decoupled (blue box) and which have been transferred to the green box through an artificial decoupling.

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[6] Jacques Berthelot, *The King is naked: the impossible U.S. promise to slash its agricultural supports*, Solidarité, 10 November 2005, http://www.wto.org/french/forums_f/ngo_f/pospap_f.htm
[7] Jacques Berthelot, *The empty promise and perilous game of the European Commission to slash its agricultural supports*, 4 November 2005, http://www.wto.org/french/forums_f/ngo_f/pospap_f.htm

The two basic requirements of the AoA Annex 2 Paragraph 1 are economically questionable

8. The AoA Annex 2 Article 1 states:
"*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. Accordingly, all policies for which exemption is claimed shall conform to the following basic criteria:*
(i) the support in question shall be provided through a publicly-funded government programme (including government revenue foregone) not involving transfers from consumers; and,
(ii) the support in question shall not have the effect of providing price support to producers".

a) PFCs and direct payments imply transfers from consumers: 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. Even if this is more indirect in the US than in the EU given the weight of the VAT (value added tax) there.

This is obvious in the EU where more than ¾ of the Budget are eventually paid by consumers:
(1) This quite clear for the VAT which accounts for about 40% of the direct financial resources of the EU Budget.

(2) This is true also for the major part of the 42% of the Budget coming from the Member States' contribution as a proportion of their GDP since:
(i) The VAT represents also a large part of the Member States' (45% in France).
(ii) This is true also for many specific indirect taxes such as excise duties on oil products (8% of the State Budget in France), on tobacco (1% in France), on alcoholic drinks, registration fees (4.5% in France), etc.
(iii) This is also true for corporate income taxes (16% in France) and even for part of the income tax of households who are runing at the same time individual businesses when they can transfer the taxes on prices to consumers.

This general observation is less clear-cut in the US since there is no VAT but nevertheless there are excise duties and turnover taxes and, like elsewhere, private companies are transferring their taxes to consumers through prices. As attested by a specialist: "*In the long run, however, when all costs are taken into account, resources would shift and prices would adjust to take the tax into account in determining price, and as such the producer would be able to shift at least a portion of the burden forward onto consumers*"[8].

b) The green box subsidies bring a clear price support to producers. Indeed, all depends on the manner we interpret "price support" and "producers": the drop in agricultural prices permitted by direct subsidies such as the EU "single farm payment", the former US "production flexibility contracts" and now their "direct payments", and all the other green box subsidies – but even those of the blue box since the Annex 2 is not limited to the green box as attested by its paragraph 1 related to all "*Domestic support policies for which exemption from the reduction commitments is claimed*" – have a clear impact on production and prices.

[8] http://www.window.state.tx.us/taxinfo/incidence/nature.html

(1) The green subsidies compensating reductions in the prices of cereals, oilseeds and pulses used as feed bring a large price to farmers producing animal products: bovine, ovine, hog and poultry meats, eggs and milk.

(2) More generally green subsidies bring a price support to farmers since they can make do with prices lower than the average production cost.

(3) Green subsidies 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.

(4) On the macro-economic level the European Commission has loudly claimed that the full decoupling of the blue box subsidies transferred in the green box would allow the EU farmers to respond better to "market signals", by producing in relation to the market prices rather than to the direct payments differentials linked to the various products. However the prices of most EU agricultural products are no longer market prices since they are much below the average unit production cost. Therefore the green subsidies are bringing a large price support in allowing to maintain prices much below production costs.

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

The green box is a black box: the European Union example

9. There is a tendency to identify the EU subsidies notified in the green box, for example in 2001 (the last notified year) with those classified in the rural development sector of the CAP (Common agricultural policy). This sector covers measures financed by the EAGGF-Guarantee in the CAP "second pillar" – setting up and modernization of farms, early retirement, farmers in disadvantaged areas, investments of agri-food industries, professional training, environmental programmes – and measures financed by the EAGGF-Guidance (the same items but for Objective 1 Regions in the Structural Fonds, those with a GDP per head lower than 75% of the EU average, plus the LEADER programme).

But the EU put also in the green box several measures of the EAGGF-Guarantee "first pillar" such as subsidies for pest and disease control, the extensification premiums for cattle, agrimonetary aids, domestic food aid, marketing promotion and some others.

All these EAGGF subsidies do not exceed €9 billion however, implying that the largest part of the EU notified green box is made of Member-States expenditures not financed by the EU Budget, even if they concern the same items. However, as these national expenditures are not published by the EU Commission, it would be necessary to investigate in all Member-States, which make impossible to distribute the expenditures in the different items. We will make do with the case of France, without being able to totalise since we did not find the amount financed by the EU government for all items[9]. This will stand out that, at least on some items, the EU is under-notifying to the WTO the actual green box subsidies, which is therefore a black box.

[9] André-Jean Moulinier, *L'importance des dépenses nationales dans l'ensemble des concours publics en faveur de l'agriculture*, Notes et études économiques n°20, mars 2004, Ministère de l'agriculture, Paris.

It is also likely that all Member-States do not declare to the EU, which itself cannot notify to the WTO, all infra-national subsidies, those of territorial authorities (Regional Councils and General Councils in the French case)[10]. In France they have granted in 2000 €867 million, of which €193 million for agricultural research and teaching (see below), that is 9.4% of the EU agricultural budget going to France. However the risks of under-notification are not necessarily higher in the federal or quasi-federal countries like Germany, Spain and Italy. The same possible under-notification plays of course also in the US.

Composition of the EU green box in 2001, Members-States subsidies and the case of France

In million ecus or euros	EU			Of which France		
	Notified to WTO	EAGGF expenditures	Members-States	Total	France Budget	EAGGF
Green box notified to WTO	20 661					
EAGGF-Guarantee: Rural Development		4,363				
EAGGF-Guidance: Rural Development		1,418				
Early retirement & cessation of farming	802	198*	604	140	116	24
Disadvantaged areas	2,420	920*	1,500	432	219	213
Agri-environnemental programmes	5,519	2037*	4,482	374	208	166
Structural adjustment: investments**	**5,355					
- Setting up and modernization of farms	**	**185*		533	397	136
-Transformation & marketing	**	**82*		77	69	8
Forestry measures		493*		398	350	48
Adaptation of rural areas		338*		383	246	137
Other rural development measures		96*				
Training of farmers	148	14*	134	34	34	0
Agricultural research and teaching	704	0	704	1,857	1,856	1
Pest and disease control	1,724	565	1,159	627	593	34
Inspection services d'inspection	226					
Extension and advisory services	231					
Other agricultural services	164					
Marketing and promotion services	1,299	49	1,250	92	87	5
Agricultural disasters	399	0	399	20	20	0
Domestic food aid	243	273		129	54	75
Agrimonetary aids	166	480	0			
Infrastructures services	1,141	0	1,141			
Extensification premium (bovine cattle)		914	0			232
Mandatory slaughter for bovine cattle		55				43
Producers' groups of fruit & vegetables		343				75
Vineyard restructuration-reconversion		373		20	14	6
Community Fund for tobacco		9				-
Quality improvement for olive oil		36				0
Total	20,661	8,878	11,783			1,264

* Measures of EAGGF-Guarantee ** this post on adjustment aids encompasses a large array of investments
Sources: notifications to the WTO; EAGGF 2001; Assemblée nationale, *Les concours publics à l'agriculture en 2001*, Projet de loi de finances pour 2003.

We could judge however that the lack of transparency and of possible checking of the green box subsidies is not a serious concern since they are not limited by the WTO and are supposed to be not trade-distorting.

[10] Marielle Berriet-Solliec, Thérèse Volay, Jean-Paul Daubard, *Les concours publics des Collectivités territoriales à l'agriculture en 2000*, Notes et études économiques n°20, mars 2004, Ministère de l'agriculture, Paris.

The questionable distinction of the G-20 between paragraphs 2-4 and 5-13 of the AoA Annexe 2

10. The G-20 communication of 2 June 2005 proposes to distinguish between two types of green box subsidies "*according to their capacity to distort trade or effect production*":
i) The programmes of provision of general services, public stockholding for food security and domestic food aid (Annex 2: Paragraphs 2-4) have been generally found to be non- or minimally trade-distorting and have enabled Members to pursue rural development and other objectives. Such policies can be assimilated to the provision of public goods.
ii) In contrast, the programmes of direct payments to producers (Annex 2: Paragraphs 5-13), specially the way they are currently designed, have been found to influence trade and production and therefore could not be characterised as having "no, or at most minimal, trade-distorting effects or effects on production".

11. Let us begin by scrutinizing up to which point the subsidies – the public agricultural expenditures reaching farmers collectively and in kind – that OECD classifies in the GSSE (*general services support estimate*) and which represent the difference between the TSE (*total support estimate*) and the PSE (*producer support estimate*), can be considered as non trade-distorting or minimally trade-distorting.

For the G-20 these measures "*have been generally found to be non- or minimally trade-distorting*" and "*can be assimilated to the provision of public goods*". Such assessment is too hasty for the reasons developed below.

Agricultural services reaching farmers collectively and in kind

12. The "general services", although delivered in kind and collectively to farmers, have the effect to increase agricultural production and to reduce its costs. Their coupled nature is unquestionable. These subsidies, granted for decades or even centuries, explain to a very large extent the gap in yields and production costs between developed countries and DCs. Under the pretext that these subsidies are provided collectively to farmers, one tends to depreciate their efficiency, which mirrors well the individualistic behaviour of our time.

a) 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*"[11].

b) In another fundamental report of September 2003, Daryll Ray and his colleagues underline that the public financing of research and extension have been the main source of productivity gains and of the competitiveness of the US agriculture: "*US taxpayers bankrolled a system of research stations and extension services to generate and disseminate new technologies. The system has been a tremendous success. It continues to ensure that each new generation of Americans will have access to ample quantities of safe food at reasonable prices. 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*

[11] 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).

today's low prices and failing small farms if the cumulative growth in agricultural productivity had not taken place"[12].

That is why all countries, even the poorest, have done their best to allocate a minimum of financial resources to agricultural research and extension, but it is precisely the tremendous gap between the resources of developed countries and DCs which explain also the same enormous gap between their productivity levels.

c) Daryll Ray enlarges his assessment by saying that "*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*"[13].

The green box is hiding the gold box

13. We are close here to another absurdity and limitation of the WTO rules, namely article 2 of the Agreement on subsidies and countervailing measures, which takes only into account the present "specific" subsidies, here agricultural subsidies. That is why we have proposed to put in a "gold box" all types of past and present non agricultural supports and the past agricultural supports, including particularly a high import protection.

a) These present and past non agricultural supports have reduced largely the unit production cost of agri-food products in rich countries vis-à-vis those in DCs, particularly on the following items:
(i) efficient transport and information infrastructures, which reduce greatly their corresponding costs. For example, the US spends $647 million a year only to maintain the navigability of the Mississipi river;
(ii) general education and research;
(iii) health and pensions of farmers financed by society at large, at least in the EU;
(iv) wealthy consumers with an ever increasing purchasing power, able to pay fair prices to farmers, even if these prices are too low;
(v) Democratic States able to enforce commercial contracts, to recover tariffs correctly, etc.

b) All in all, the present higher competitiveness of Western agri-food products relatively to that of DCs results much less from the difference in the present agricultural supports – the only ones considered by the WTO – than from the present and past non agricultural supports and past agricultural supports, for decades and even centuries, particularly through a huge import protection.

c) It is why, even if the WTO would decide stricter criteria for the green box, developed countries would still be able to increase their gold box subsidies to maintain their farmers' competitiveness. For instance, instead of maintaining specific agricultural institutions to sustain farmers, they would have just to integrate these institutions in broader institutions so that the specific nature of the subsidies would disappear.

[12] 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.
[13] Daryll Ray, *What is an agricultural subsidy?*, Agricultural Policy Analysis Center, University of Tennessee, 26 mars 2004.

Analysis of some general services

14. The main element in the US "general services" is "State programs for agriculture", for the following amounts:

In million dollars	1995	1996	1997	1998	1999	2000	2001
State programs for agriculture	2,785	2,948	3,067	3,334	3,573	4,274	4,349

a) The justification given by the US in the notification is: "*State governments provide a number of generally available services. Includes extension, marketing, and research. Excludes state credit programs. Amount reported is net of producer fees and taxes paid for various services*".

b) Then the AoA Annex 3 paragraph 4 states that "*Specific agricultural levies or fees paid by producers shall be deducted from the AMS*", one possibility which is only applied on purpose in the AoA for input subsidies of the amber box and not for green box subsidies. Indeed, since the basic condition for all green box subsidies stated in Annex 2 paragraph 1.a is that puisque la condition fondamentale de toutes les subventions de la boîte verte inscrite à l'article 1.a de l'Annexe 2 est que "*the support in question shall be provided through a publicly-funded government programme*", if farmers have to contribute to those services, that means they are not pure general services but that they get from them individual financial benefits which effect their production costs and productivity, then their production level. One reason more to consider them as coupled and to be put in the non product specific AMS.

15. The main item of the "general services" notified by the EU is "*Pest and disease control*", with an average €1.263 billion from 1995-96 to 2001-02 and €1.724 billion in 2001. As France alone has already spent €545 million on a total €1.159 billion by all 15 Member-States, a large under-notification to the WTO is likely here.

The justification given is: "*Plant and animal health control and protection; supply of vaccines; salaries of personnel; launching aid for livestock health protection groups*". It is clear that these expenditures have the effect of reducing the negative impact of predators and illnesses on vegetal and animal production and are therefore coupled subsidies. The fact they are publicly financed does not change anything to the impact on production and prices since they are reducing farmers' production costs and enhancing their yields. By the way in most DCs this type of collective expenditures is much lower or symbolic, lacking the financial resources.

16. The EU items "Research" and "Training services" have been notified for €852 million in 2001. Here too it is clear that, on the macro-economic level, agricultural research and training have had as an objective and effect, in the EU as in the US, to improve the productivity and competitiveness of agriculture, with therefore an impact on production and prices, even if the link is neither direct nor immediate.

However the European Commission has decided, admittedly through a consensus with other Members, to notify only a small part of the expenditures on agricultural research and to eliminate those in agricultural schools and colleges, which it considers as having a too indirect and uncertain impact on farmers, and to notify only the expenditures directly linked to them, such as the training sessions for farmers or their counsellors.

Which explains that the expenditures of the French Ministry of agriculture on agricultural research and teaching – €2.072 billion on average from 2000 to 2002 and €1.857 billion in 2001 – are much higher to those notified to the WTO for the whole EU. And this although the Ministry of agriculture does not meet all the costs of agricultural research and teaching which are also covered by the Ministry of National Education, which runs two of the five agronomic national colleges and has many laboratories devoted to agricultural research.

It is here that the link with the gold box is the most apparent. If it were necessary for WTO constraints on the green box, it would not be very dificult to transfer all the agricultural research and teaching under the Ministry of national education and such transfers could also be used for other types of general agricultural services.

17. The AoA presents very contradictory provisions on Marketing and promotion services.

a) Since Annex 2 paragraph 2 put them in the green box "general services", the EU has notified them for €902 million on average 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*".

In million ecus-euros	95/96	96/97	97/98	98/99	99/00	00/01	01/02
Marketing and promotion services	462	604	762	1,094	1,072	1,023	1,299

b) It is quite clear that these 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.

c) Furthermore Annex 3 paragraph 13 puts in the "*Other non-exempt policies including input subsidies and other policies such as marketing cost reduction measures*", whereas Annex 4 paragraph 4 states that "*Equivalent measurements of support shall be calculated on the amount of subsidy as close as practicable to the point of first sale of the product concerned. Policies directed at agricultural processors shall be included to the extent that such policies benefit the producers of the basic products*". It is clear that subsidies to agri-food industries bring benefits to farmers by providing value added and outlets to their products, even if they do not pass on enough of that value to farmers (even when they are cooperatives).

The partial exception of domestic food aid

18. Domestic food ai dis a particular case an dit does not seemed justified to consider it as having a large impact on the production or price level, and this despite its tremendous amount in the US where it has represented 70% on average of the US green box from 1995 to 2001:

In $ billion	1995	1996	1997	1998	1999	2000	2001
Domestic food aid	37.470	37.834	35.963	33.487	33.050	32.377	33.916
Green box	46.041	51.815	51.252	49.824	49.749	50.057	50.672
Domestic food aid/green box	81.4%	73.0%	70.2%	67.2%	66.0%	64.7%	66.9%
Production aid equivalent	2.6	2.6	2.5	2.3	2.3	2.2	2.3

Indeed imputing domestic food aid to the Agriculture Department Budget seems anachronistic since it would have been more logical to impute it to the Social Affairs Department. After all this food aid aims simply to allow poor US citizens to feed themsleves cheaply with food stamps, when European countries prefer to guarantee basic welfare benefits to allow the poor citizens to buy their food at market prices. Furthermore the agreed shops selling this food sell also imported food. Nevertheless part of that food comes from agri-food surpluses collected by the Commodity Credit Corporation and has therefore the effect of supporting the prices of the corresponding products, and the food aid is here clearly coupled.

J.-C. Debar and A. Blogowski have estimated for 1996 "the net equivalent aid to agricultural production"[14] of the US domestic food aid, on the following bases: 1) 88.4% of US consumers purchases of food were of an US origin in 1996; 2) the share of those purchases at the retail prices going to farmers was **{** XE "*farmers*" **}**25%; 3) every dollar granted in food stamps induces a net additional consumption of food between 20 to 45 cents. It results that "the net equivalent aid to agricultural production" has reached $2.6 billion in 1996 according to an average hypothesis, that is 6.9% of the domestic food aid value, a percentage we can extrapolate in a first approximation to the other years. It is clear that $2.6 billion more in the US non product-specific AMS is far from being negligible, particularly after their October proposal to reduce their total AMS by 60% and their overall trade distorting domestic support by 53%.

Total US subsidies wrongly notified in the green box

In $ million	1995	1996	1997	1998	1999	2000	2001
US green box	46,041	51,825	51,249	49,820	49,749	50,057	50,672
Of which domestic food aid	37,470	37,834	35,963	33,487	33,050	32,377	33,916
Less net equivalent aid to production: 6.9%	2,585	2,611	2,481	2,311	2,280	2,234	2,340
True green box (without decoupled food aid)	11,156	16,602	17,767	18,644	18,979	19,914	19,096

A similar evaluation can, be made for the EU domestic food aid, although it is extremely low in relation to the US domestic food aid. On the other hand here all the agri-food products delivered to NGOs do come from agricultural surpluses and have a higher impact on the production and prices levels. On the €243 million notified for 2001, we can at first sight double the US percentage of the "net equivalent aid to production", at 13.8%.

Total EU subsidies wrongly notified in the green box

In € million	95-96	96-97	97-98	98-99	99-00	00-01	01-02
EU green box	18,718	23,628	18,167	19,168	19,931	21,848	20,661
Of which domestic food aid	289	400	295	276	278	271	243
Less net equivalent aid to production: 13.8%	40	55	41	38	38	38	34
True green box (without decoupled food aid)	18,469	23,283	17,808	18,930	19,691	21,615	20,452

Eliminating from the green box the actually decoupled part of the EU domestic food aid, it appears that the EU green box is somewhat higher than the US one, the more so in dollars in the recent years where the euro has risen against the dollar.

The subsidies of paragraphs 5 to 13 on various types of direct payments to farmers

19. The subsidies of paragraphs 5 to 13 refer to: "*5. Direct payments to producers; 6. Decoupled income support; 7. Government financial participation in income insurance and*

[14] J.-C. Debar et A. Blogowski, *Les programmes d'aide alimentaire intérieure***{** XE "aide alimentaire intérieure" **}** *aux Etats-Unis*, Notes et études économiques, n°9, mars 1999, Ministère de l'Agriculture et de la Pêche, p.51-75. A short presentation is made in Jacques Berthelot, *L'agriculture, talon d'Achille de la mondialisation*, L'Harmattan, 2001, pp. 286-90.

income safety-net programmes; 8. Payments (made either directly or by way of government financial participation in crop insurance schemes) for relief from natural disasters; 9. Structural adjustment assistance provided through producer retirement programmes; 10. Structural adjustment assistance provided through resource retirement programmes; 11. Structural adjustment assistance provided through investment aids; 12. Payments under environmental programmes; 13. Payments under regional assistance programmes".

a) The G-20 estimates rightly that subsidies covering these paragraphs – which share the common characteristic of being granted in cash to individual farmers – "*could not be characterised as having "no, or at most minimal, trade-distorting effects or effects on production"*". It is therefore necessary first to ensure that they "*meet the fundamental requirement that they have no, or at most minimal, trade distortion effects or effects on production*", that is that they are "*not involving transfers from consumers*" nor "*have the effect of providing price support to producers*".

b) We have already explained (paragraph 8) why these conditions of paragraph 1 are highly questionable since most taxes end up being paid by consumers and since all green box subsidies are reducing the production cost of the benefiting products, even if they help at the same time farmers to fulfil other non market functions.

c) We will not go back either on the reasons why the decoupled income support (Annex 2 paragraph 6) cannot be put in the green box since they have been presented in detail for the US "production flexibility contracts" and "direct payments"[6] and the EU "single farm payment"[7].

20. The G-20 underlines also other conditions in order that the green box subsidies would not distort trade: "*i) Eligibility conditions for receiving these direct payments should be such that the wealth effects of payments are minimised; ii) Support should continue to be provided through publicly-funded government programmes, not involving transfers from consumers and should not require production: i.e. land, labour or any other input shall not be required to be put to agricultural use; iii) Credible and time consistent policies with no changes in the eligibility rules, base periods or eligible products or farmers; iv) Depending on the impact of the programmes, coupled programmes providing support to products receiving direct payments; and v) Review of benchmarks and conditions for other direct payments*".

21. Le G-20 proposes to earmark these subsidies to farmers "*of low levels of income, landholding and production*". However the poor farmers of developed countries would most often be considered as the rich farmers in DCs.

The G-20 falls also into a trap when it asks that the base period would be "unchanging" (instead of "unchanged"), thus supporting the trick of developed countries enshrined in the new Framework Agreement definition of the "old" and "new" blue box, and which allows not only to update the acreage, yields and cattle heads in relation to the levels of the old blue box but also to create blue subsidies for new products.

22. When the G-20 writes that *"Land, labour, or any other factor of production shall not be required to be in agricultural use*", it shares the illusion promoted spread by the EU and US that, under the pretext that farmers are not obliged to produce to get these "decoupled" subsidies, many of them will not actually produce. This has been clearly refuted by D. Ray, D. de la Torre and K. Tiller who have well shown that, whatever the level of prices or subsidies,

farmers tend to produce on all their lands since there is no alternative use for them than agricultural production, particularly in the US vast plains. And everybody knows that, lacking supply management, the tendency of farmers is to produce more, not less, when prices or subsidies drop, in order to try to make up through an increased volume, even if the unexpected effect will be to accentuate the slump in prices. D. de la Torre illustrates this by saying that, if subsidies drop, instead of growing "maize and soybean", the Middle West farmers will grow "soybean and maize"!

23. Paragraphe 7 on the**{** XE "boîte verte" **}** "*Government financial participation in income insurance and income safety-net programmes*" put in the green box**{** XE "*boîte verte*" **}** public subsidies not **{** XE "aides publiques" **}**exceeding "*70 per cent of the producer's income loss*", on the condition that the loss exceeds 30% of average gross income in the preceding three-year period and that "*The amount of any such payments shall relate solely to income; it shall not relate to the type or volume of production (including livestock units) undertaken by the producer; or to the prices, domestic or international, applying to such production; or to the factors of production employed*".

Knowing that any agricultural income represents the gap between agricultural revenues and costs, and that agricultural revenues come from multiplying production volumes by their prices, who could explain how an agricultural income subsidy would not be related to the volume of production or their prices? Indeed those who wrote this Annex have considered the world political leaders as half-wit, or knew they would not enter into those detailed technicalities! The more so when we know that EU and US agricultural prices are already very much below production costs as a consequence of the other amber and blue subsidies going to the same products.

Therefore when the point d) specifies that "*Where a producer receives in the same year payments under this paragraph and under paragraph 8 below (relief from natural disasters), the total of such payments shall be less than 100 per cent of the producer's total loss*", it does not take into account the amber and blue subsidies already available to farmers. Especially if the income loss comes from a drop in price and not in production volume, the marketing loan and counter-cyclical payments allow already to compensate part of the price drop.

Since the Doha Round is supposed to be the Development Round, why the next AoA would not modify the provisions of this paragraph to extend it to the North-South relations, in a framework close to the former EU-ACP STABEX which would establish "*Developed countries mandatory financial participation in income insurance and income safety-net programmes for developing countries' farmers*", or at least of LDCs? This would clearly be the only type of subsidy that would deserve to be put in the green box, and not exempted from increases!

24. Paragraph 8 on subsidies for natural disasters affecting agriculture refers to "*Payments (made either directly or by way of government financial participation in crop insurance schemes) for relief from natural disasters*". These payments are also "*determined by a production loss which exceeds 30 per cent of the average of production in the preceding three-year period*", owing to which they may cover 100% of the loss (without being drawn simultaneously with those of paragraph 7). But, as in paragraph 7, amaber and blue subsidies are not considered. And we know that crop insurance subsidies are highly under-notified, particularly in the US[6].

If one should not lament of course on this type of subsidies for farmers suffering from natural disasters, we are alos obliged to acknowledge that only rich countries' farmers can avail of them since poor countries do not have the budgetary means to show such a solidarity. As, furthermore, natural disasters are generally much more frequent and profound in DCs and as their farmers cannot avail as much of the investments allowing to mitigate their impact (irrigation, drainage, dikes, pesticides…), 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.

25. Paragraph 9 on "*Structural adjustment assistance provided through producer retirement programmes*" is even more clearly a type of subsidies specific to rich countries, where farmers are paid, not to reduce the overall agricultural production in the objective for example to open additional outlets to DCs, but on the contrary to allow to the remaining farmers to improve their competitiveness through a higher size, so as to be able to sustain the competition with imported products and to go on exporting with less export subsidies. They are clearly coupled subsidies. Naturally thus type of subsidies would be acceptable if rich countries would no longer export at prices below their average full production cost, without any direct or indirect subsidy.

26. Paragraph 10 on "*Structural adjustment assistance provided through resource retirement programmes*" aims at almost the same objective that the preceding programme and should be criticized on the same lines. The exhibited objective is to reduce production through a reduction of the main production factors, notably lands and cattle. However, since it contains the same provisions that the programme 7 ("*Payments shall not be related to either the type or quantity of production or to the prices, domestic or international, applying to production undertaken using the land or other resources remaining in production*"), one can question the actual objective.

If one wants really to reduce production, then the retired lands should be the most productive, and therefore the subsidies would be a function of production. And if the actual objective is not to lower production but to make the farmers more competitive, this paragraph allows to finance the retirement of the less productive lands so as to grant a disguised income subsidy to farmers. The retirement instruments would necessarily have the effect of reducing production, then would be coupled: production quotas, set aside, uprooting of plantations, destruction of young animals, etc.

The debates on structural adjustment assistance provided through investment aids

27. The subsidies of paragraph 11 on "*Structural adjustment assistance provided through investment aids*" are justified by the EU as follows: "*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*". These subsidies have reached in the EU €5.598 billion on average from 1995-96 to 2001-02:

In million ecus-euros	95-96	96-97	97-98	98-99	99-00	00-01	01-02
Investment aids	6,603	4,972	4,897	5,401	5,745	6,210	5,355

a) The EU has thus put in the green box its subsidies to farm investments, which contradicts the AoA article 6.2 which puts them in the amber box for developed countries since they are

only exempted from reductions for DCs: "*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*".
On the other hand we see in the table of paragraph 9 above that the EAGGF has just spent €185 million in 2001 on the two items "Setting up and modernization of farms ", of which it has given €136 million to France alone, which tends to show an under-evaluation, difficult to explain, of EAGGF expenditure.

b) Subsidies to agri-food industries and marketing units, included in the package of investment aids of paragraph 11 ("*Construction of processing, packaging and storage centres and equipment*"), are however put in the amber box by Annex 4 paragraph ("*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*").

c) Developed countries declare that their farm investments subsidies are in line with the provisions of paragraph 11 which limit them "*to assist the financial or physical restructuring of a producer's operations in response to objectively demonstrated structural disadvantages*", to the fact that "*The payments shall be given only for the period of time necessary for the realization of the investment in respect of which they are provided*", and that "*The payments shall be limited to the amount required to compensate for the structural disadvantage*".

(1) These paragraph 11 subsidies have been the focus of many questionnings within the WTO Committee on agriculture in 1998 and 1999. During the Committee meeting of 1st October 1998**{** XE "OMC" **}**, representatives of Australia**{** XE "Australie" **}**, Brazil**{** XE "Amérique latine:Mercosur: Brésil" **}**, Canada**{** XE "Canada" **}** and US have asked the EU representative on the EU compliance of its subsidies to the setting up of young farmers and the modernization of farms with the provisions of paragraph 11**{** XE "Accord agricole de l'Uruguay Round" **}{** XE "*boîte verte*" ***}*{** XE "bonification d'intérêt" **}**. The EU has answered that they are decoupled subsidies since ***{** XE "aide découplée" **}**"the payment is strictly determined by the costs and types of investment and not linked to the production volume or price. Payments are strictly related to the investment concerned. There is no obligation for beneficiaries to produce a particular product*"[15].

(2) One stays stunned after such an answer. The more so as the European Commission acknowledges that the EU farms are more and more specialised: "*The Europe of fifteen is dominated by the specialised types of farming which grouped 80% of farms…in 1995. Specialisation…is going on since 1995*"[16]. The purchase of lands has itself the effect of increasing the specific production for which the investment subsidies have been granted. The EU representative added that "*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.

[15] Request made to the EU Representative by representatives from Australia**{** XE "Australie" **}**, Brazil**{** XE "Amérique latine:Mercosur: Brésil" **}**, Canada**{** XE "Canada" **}** and the United States during the meeting of the WTO Committee on Agriculture**{** XE "Commission européenne" **}** in O**{** XE "OMC" **}**ctober 1998 (see the WTO website).
[16] Commission européenne, *Agriculture, environnement, développement rural : Faits et chiffres. Les défis de l'agriculture*, 1999.

(3) This tendency to favour farms above the average can be traced back from the period of "development plans" which started in 1974: Member-States in the North of the EU, large farms, most favoured regions and the productions requiring large investments have benefited the most. Italy has only got 1% of the financing. Hardly 20% of plans went to disadvantaged regions. 70% of the 77,600 farms having benefited a development plan at the end 1977 (less than 2% of EU-9 farms) had between 20 and 100 hectares whereas the average for the EU-9 was 16 hectares and 2/3 of farms were below 10 hectares.
(4) In France subsidies for the setting up of young farmers and the modernization of farms have reached €793 million in 1997 (of which €166 from the EU EAGGF budget) and €611 million in 1999 (of which €157 from the EU)[17], of which 74% for the setting up of farmers and 24% for the modernization of farms[18]. 64% of farmers younger than 40 set-up from 1997 to 1999 have benefited from such a subsidy, the other ones did not since their projected income was not high enough. And if those having a projected income higher than 140% of the reference income (average district income of salaried workers) are in principle excluded from getting the subsidy on setting-up, the 70% granted from the start have not to be refunded and there is no income cap to get subsidized investment loans, even if the loans themselves arte capped. As for the investment subsidies on the modernization of farms, particularly the "material improvement plans", the new beneficiaries in 1999 had on average an agricultural area of 77.9 hectares against a national average of 41 hectares.

(5) Above all, the new EU regulation in force since 2000 no longer caps the income to be eligible to setting-up or farm modernization investments subsidies. This is all the more paradoxical that they are granted within the "second pillar", so-called "rural development", that the EU notifies entirely in the green box. This is indeed the main but not confessed reason of the EU willingness to increase progressively the second pillar subsidies in relation to the first pillar.

Although the first condition for green subsidies is that "*they have no, or at most minimal, trade distortion effects or effects on production*", these investment subsidies have clearly the effect of increasing production, being excluded only those which effect is "*to increase the production of products without normal outlets on the markets*"[19]. Knowing that the production within the dairy and sugar quotas is considered as having normal outlets even if 10% of the EU milk production and 30% of sugar production require, after transformation, the highest export subsidies in the EU (€1.1 billion for dairy products in 2001 and €1 billion for sugar), knowing that the hidden dumping on sugar is much higher than this notified amount, as judged by the WTO Appellate Body on 9 April 2005.

(6) During the Committee on agriculture meeting of 6 November 2002, the US has asked the EU to specify how the paragrph 11 subsides are distributed among the different items, but the EU representative has replied he did not avail of this information! Indeed the green box is a black box.

28. Subsidies of paragraph 12 refer to "*Payments under environmental programmes*", knowing that "*The amount of payment shall be limited to the extra costs or loss of income involve in complying with the government programme*". Since it is said explicitely that the payments may cover all the extra costs linked to a better environment protection, this means that they are linked to costs, hence also to prices, and are thus coupled. Since they reduce

[17] Assemblée nationale, *Concours publics à l'agriculture française en 2000*, Loi de finances 2001, octobre 2001.
[18] CNASEA, *Rapport d'activité 1999*, mai 2000.
[19] Commission européenne, Article 6.2 du règlement nº 950/97 et article 6 du règlement n° 1257/1999.

pollutions, they increase the production potential for the future and are thus linked to production and coupled. Besides they bring additional competitive benefits to developed countries farmers relatively to DCs farmers who do not get such subsidies.

29. Finally paragraph 13 subsidies are related to "*Payments under regional assistance programmes*", which should be "*limited to producers in disadvantaged regions… on the basis of neutral and objective criteria clearly spelt out in law or regulation and indicating that the region's difficulties arise out of more than temporary circumstances*". But, since the very large majority of DCs' farmers, "*on the basis of neutral and objective criteria clearly spelt out*" by all the reports of international institutions, are suffering infinitely more from "*region's difficulties… of more than temporary circumstances*" than farmers in the disadvantaged regions of developed countries, the subsidies they got on this item are increasing the competitiveness of their products in relation to those of the DCs' colleagues, which is again the broad economic definition of protection and thus of coupled subsidies.

Conclusion: the green box is dead and should be buried quickly

30. To conclude, except the majority of domestic food aid, all the EU and US green box subsidies are actually coupled and subject to reduction, for an average of $19.3 billion in the US from 1999 to 2001 and of €20.6 billion en the EU, amounts finally very close.

However those amounts have increased very much in the EU since 2005 with the start of the implementation of the CAP reform adopted in June 2003 (cereals, oilseeds, pulses, milk, rice), followed in April 2004 (cotton, tobacco, olive oil) and November 2005 (sugar), and the process is not finished: all these reforms have transferred most blue box subsidies and also several market price supports in the green box.

To rebuild national agricultural policies and the AoA on food sovereignty without dumping, DCs, farmers organisations and NGOs from North and South should denounce more strongly this mystifying concept of decoupling and get rid of the blue and green boxes, at least as regards trade relations.