

## Extra AMS entitlements under the WTO Agreement on Agriculture continue to confer additional policy space for developed countries

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### Executive Summary

Thirty-two countries, mostly developed, enjoy additional Final Bound Aggregate Measurement of Support (FBAMS) entitlements under the World Trade Organisation (WTO) Agreement on Agriculture (AoA) as fixed additional allowances over *de minimis* limits. These provide a clear bias in their favour and continue to give massive advantages to them in real terms and allow them in turn to dominate global agricultural markets. This has undermined not only developing countries' fair access to export markets but also even their ability to continue and augment domestic agricultural production and productivity amid unfair import competition. However, proposals submitted by developing countries at the WTO, most notably and recently by India and China in 2017, and by the African Group and India both in 2021, to discipline these AMS entitlements have failed to make any headway.

The main findings from this brief are listed below:

- These fixed additional FBAMS entitlements for 32 countries over and above the *de minimis* range from USD 0.39 million for Montenegro to USD 85.47 billion for the European Union (at 2018 current USD). Japan enjoys the highest entitlement for a single country of USD 35.98 billion while the US comes second with an entitlement of USD 19.1 billion.
- About half of these 32 countries are developed country WTO Members but they account for 88.81% of total FBAMS entitlements, while developing country Members account for the residual 11.19%. Of the developed countries, the top six (including the EU as one) account for 87.58% of total FBAMS. The EU, Japan and the US account for 49.05, 20.65 and 10.96 per cent each, while the Russian Federation, Switzerland and Canada account for smaller shares of 2.53, 2.50 and 1.91 per cent each. The UK has a new allotment of GBP 4.94 million since 1 January 2021.

**Third World Network (TWN)** is an independent non-profit international research and advocacy organisation involved in bringing about a greater articulation of the needs, aspirations and rights of the peoples in the South and in promoting just, equitable and ecological development.

Published by Third World Network Berhad (198701004592 (163262-P))

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- Developed countries have made extensive use of these entitlements, as evident through their Current Total AMS (CTAMS) – which is the Amber Box subsidy over *de minimis* – especially during the last few years that also saw the outbreak of the COVID-19 pandemic. The US gave USD 15.98 billion as CTAMS in 2020-21, thus utilising 83.67 per cent of its FBAMS entitlement, up from 68.5 per cent in 2018. The EU gave EUR 5.33 billion as CTAMS in 2019-20 and therefore utilised 7.36 per cent of its entitlement, again higher than for 2018-19. Norway utilised 89.8 per cent and Switzerland 33.75 per cent of their entitlements in 2021, higher than in 2018. Japan utilised a low 4.67 per cent but the absolute amount remained a high USD 1.68 billion in 2019-20.
- The value of production (VOP) is taken to be the indicator of the current size of a country’s agricultural sector and therefore an indicator also of the support needs of the sector. While the FBAMS entitlements, being fixed values, have declined as a share of VOP over time as claimed by developed countries, they still remain high and are, in many cases, much higher than the *de minimis* at 42.80, 40.21, 34.35, 18.53, 6.82 and 5.17 per cent of VOP respectively for Japan, Switzerland, Norway, the EU, Canada and the US (2018 VOP). These shares are in addition to the total 10 per cent of VOP they get as product-specific and non-product-specific *de minimis* as developed countries. In comparison, the other 104 developing countries are allowed only product-specific and non-product-specific *de minimis* of 20 per cent of VOP.
- The CTAMS, or use of the FBAMS entitlements, also remains quite high as a percentage of VOP, indicating significantly extended policy space for the developed countries who enjoy these entitlements as compared with developing countries. CTAMS as a percentage of VOP was 48.8 per cent for Iceland, 30.32 per cent for Norway, 12.80 per cent for Switzerland and 3.54 per cent for the US in 2018.
- Concentration of subsidies has also been a key issue in this debate as FBAMS entitlements allow greater policy space and market power to recipient countries not only in terms of total entitlements but also through the ability to concentrate these subsidies in any product. The recipients enjoy the flexibility to deploy high shares of total subsidies to specific products of their choice. The dairy sector in particular has received very high shares of total CTAMS, going as high as 98.56 per cent in Canada, 84.82 per cent in Switzerland, 57.18 per cent in Norway and 56.2 per cent in the EU. Japan devoted 88.4 per cent of its total CTAMS to beef and veal.
- In addition, developed-country recipients of FBAMS entitlements have also subsidised in a manner often grossly disproportionate to the size of the product sector in question, ranging from around 5 per cent to as high as 285 per cent of VOP (Switzerland, wool sector), resulting in massive policy support above their *de minimis* allowance of 5 per cent of VOP per product. In fact, such concentration makes the concept of *de minimis* completely irrelevant for these countries whereas it is strictly binding for the developing countries who do not have such entitlements.
- The proposed discipline on AMS entitlements is important not only in itself but also has a linkage with other key issues on the negotiating table that have repeatedly been advanced by developing countries over the past several WTO Ministerial Conferences. The permanent solution on public stockholding for food security (PSH) has been consistently blocked. It is inconceivable that a group of developed countries can get extra entitlements that allow them to concentrate subsidies and give product-specific support ranging between 5 and 285 per cent of VOP on top of the *de minimis* allowances, while developing countries are being denied any flexibility to exceed their *de minimis* of 10 per cent of VOP even for upholding farm production and livelihoods and supporting food procurement for public distribution. Such large subsidies have caused major distortions in global agricultural markets, often leading to import surges that have devastated production and livelihoods across developing countries, thus justifying developing countries’ demand for a Special Safeguard Mechanism (SSM) to deal with import surges.

In conclusion, the FBAMS entitlements remain the primary source of inequity in the AoA. There is glaring irrationality in allowing gigantic additional entitlements for a few countries that confer massive advantages to them in terms of policy space over all other and poorer countries. This should make disciplines on AMS entitlements the first stepping stone towards a concrete revision in the rules of the AoA, and the disciplines should be a non-negotiable issue for developing countries in the coming WTO Ministerial Conference.

Nearly three decades since the World Trade Organisation (WTO) was established, its Agreement on Agriculture (AoA) remains highly relevant for developing countries, because of the constraints it sets on their policy space to support their agriculture sector as well as the additional flexibilities it offers advanced nations to support theirs. The Final Bound Aggregate Measurement of Support (FBAMS) entitlements that mostly developed countries enjoy as additional fixed allowances over *de minimis* limits provide a clear bias in their favour and continue to give massive advantages to them in real terms and allow them in turn to dominate global agricultural markets. This has undermined not only developing countries' fair access to export markets but also even their ability to continue and augment domestic agricultural production and productivity amid unfair import competition. During the recent period, the use of these additional policy flexibilities has clearly indicated the ability of the rich nations to use the AoA rules to their maximum advantage, thus aggravating an already unequal situation.

Interestingly, proposals submitted by developing countries at the WTO, most notably and recently by India and China in 2017,<sup>1</sup> by the African Group in 2021<sup>2</sup> and by India in 2021,<sup>3</sup> to discipline these AMS entitlements have failed to make any headway. Given the multiple food crises that the world faced recently, rational and fair trade rules on domestic agricultural support have become all the more critical. But solutions advanced during the 12th Ministerial Conference of the WTO in June 2022 such as the "Ministerial Declaration on Emergency Responses to Food Insecurity"<sup>4</sup> were largely aimed at ensuring continuous liberalisation of trade as the primary solution by targeting emergency trade-restrictive measures. These failed to address the inequitable AoA rules including on critical issues such as the FBAMS entitlements that have constrained policy space for increasing production and productivity across developing countries.

In addition, as we move towards the 13th Ministerial Conference of the WTO, scheduled to be held in Abu Dhabi in February 2024, the complex dynamics of the overall agricultural trade negotiations and the balance between the issues on the table become increasingly important. The permanent solution for food security for public stockholding (PSH) and the Special Safeguard Mechanism (SSM) are facing continued resistance from developed countries but the disciplines on FBAMS entitlements have languished when the continuation of such entitlements has in fact increased the need to have the outcomes on PSH and SSM.

This brief aims to provide a quick assessment of the current entitlements and their use, juxtaposing this issue in the context of the forthcoming WTO negotiations on agriculture.

## 1. Background

The AoA was one of the major agreements signed under the WTO's umbrella in 1995. It was in fact meant to benefit developing countries as agriculture was an area of so-called comparative advantage to them. The promise of the AoA was to discipline the large domestic and export subsidies that the developed countries were giving to their agriculture sector. These subsidies were seen as trade-distorting; both the scale and the types of support largely given to agribusiness in the Western world gave massive advantage to producers in developed countries over their much smaller counterparts in the developing world. The agreement was meant to bring in rules that would effectively discipline such trade-distorting subsidies. However, in its final iteration, the AoA included provisions that introduced massive inequity in agricultural rules in favour of developed countries.

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<sup>1</sup> WTO document JOB/AG/102, "Elimination of AMS to Reduce Distortions in Global Agricultural Trade", Submission by China and India, 18 July 2017

<sup>2</sup> WTO document JOB/AG/203, "Domestic Support: Disciplines on Final Bound AMS: Communication from the African Group", 12 July 2021

<sup>3</sup> WTO document JOB/AG/216, "Elimination of AMS Beyond De Minimis: Reducing Distortions in Global Agricultural Trade", 14 September 2021

<sup>4</sup> WTO document WT/MIN(22)/W/17/Rev.1, "Ministerial Declaration on Emergency Responses to Food Insecurity", 16 June 2022

In effect, the AoA allowed Amber Box (trade-distorting) support in two forms:

- a) the *de minimis* allowances at 10 per cent of value of production each for product-specific and non-product-specific subsidies for developing countries, with a corresponding 5 per cent for developed countries (Article 6.4 of the AoA);
- b) fixed additional entitlements for 32 countries (counting the European Union as one) over and above the *de minimis* – ranging from USD 0.39 million for Montenegro to USD 85.47 billion for the EU (at 2018 current USD) – under Article 6.3 of the AoA. Japan enjoys the highest entitlement for a single country of USD 35.98 billion, while the US comes second with an entitlement of USD 19.1 billion (Table 1).<sup>5</sup>

This meant that while 32 countries can use *de minimis* plus these additional entitlements amounting to greater policy space, there are 104 developing countries which have access only to the *de minimis* as far as Amber Box support is concerned.<sup>6</sup> In addition, Blue Box subsidies meant to limit production (Article 6.5 of the AoA) and Green Box subsidies (Annex 2 of the AoA) were seen as non-trade-distorting and therefore allowed without limit.

## 2. FBAMS entitlements

As seen in Table 1, total FBAMS entitlements amounting to USD 174.27 billion (2018 current USD)<sup>7</sup> are enjoyed by only 32 (counting the EU as one) WTO Members. Not only do these entitlements represent an additional total allowance over the *de minimis* granted to 104 other, developing countries, but there is also a massive bias even in the distribution of these entitlements between the 32 developed and developing countries.

About half of these 32 countries are developed country Members but they account for 88.81 per cent of the total FBAMS entitlements, while developing country Members account for the residual 11.19 per cent (Table 1). Of the developed countries, the top six (including the EU as one) account for 87.58 per cent of total FBAMS. The EU, Japan and the US account for 49.05, 20.65 and 10.96 per cent each, while the Russian Federation, Switzerland and Canada account for smaller shares of 2.53, 2.50 and 1.91 per cent each (Table 1). The UK has a new allotment of GBP 4.94 million since 1 January 2021.<sup>8</sup> Among developing countries, Mexico has the highest share of 7.1 per cent amounting to USD 12.39 billion, followed by South Korea at 0.8 per cent (with USD 1.35 billion).

<sup>5</sup> WTO document JOB/AG/219, “Update to Canada’s Analytical Tool on Domestic Supports”, 23 September 2021

<sup>6</sup> Developing countries are allowed to provide Development Box subsidies (Article 6.2 of the AoA) on inputs and agricultural infrastructure, as a form of special and differential treatment which is seen as a necessary tool to address their agricultural development needs.

<sup>7</sup> All figures for FBAMS entitlements in this brief are in 2018 current USD.

<sup>8</sup> WTO document G/AG/N/GBR/11, Notification by the United Kingdom on domestic support commitments (Table DS:1 and the relevant supporting tables), 4 April 2022. The UK’s entitlement is carved out from the EU’s.

**Table 1: Total and % shares in FBAMS entitlements (2018-19)**

		<b>Total FBAMS</b>	<b>FBAMS as share of total FBAMS</b>
		(Million USD)	(%)
European Union	Developed	85475.12551	49.047
Japan	Developed	35978.859	20.645
United States of America	Developed	19103.294	10.962
Mexico	Developing	12385.04217	7.107
Russian Federation	Developed	4400	2.525
Switzerland	Developed	4353.280044	2.498
Canada	Developed	3319.139137	1.905
Norway	Developed	1407.808177	0.808
Korea, Republic of	Developing	1354.344355	0.777
Bolivarian Republic of Venezuela	Developing	1130.667	0.649
Brazil	Developing	912.10515	0.523
Saudi Arabia, Kingdom of	Developing	858.2133333	0.492
Thailand	Developing	588.9305804	0.338
Israel	Developing	568.98	0.326
The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu	Developing	469.6252542	0.269
Australia	Developed	352.5520904	0.202
Colombia	Developing	344.733	0.198
New Zealand	Developed	199.4453125	0.114
Iceland	Developed	184.742	0.106
Tajikistan	Developing	183.67	0.105
Viet Nam	Developing	175.275694	0.101
South Africa	Developing	152.2919902	0.087
Ukraine	Developing	111.8876807	0.064
Argentina	Developing	75.021292	0.043
Morocco	Developing	72.98023922	0.042
Papua New Guinea	Developing	34.2	0.020
Tunisia	Developing	22.40384858	0.013
North Macedonia	Developing	19.24955851	0.011
Moldova	Developing	18.1476	0.010
Costa Rica	Developing	15.945	0.009
Jordan	Developing	1.878835211	0.001
Montenegro	Developing	0.393586157	0.000
<b>Total</b>		<b>174270.2314</b>	<b>100.00</b>
<b>Developed Countries</b>			<b>88.81</b>
<b>Developing Countries</b>			<b>11.19</b>

Data source: JOB/AG/219 2021 "Update to Canada's Analytical Tool on Domestic Supports", 23 September.

### 3. Utilisation of FBAMS entitlements

Next, we look at the Current Total AMS (CTAMS), that is Amber Box support (AMS) given above the *de minimis* support, which indicates the actual use of FBAMS entitlements by the recipients. CTAMS given by all Member States amounted to USD 33.64 billion in 2018-19,<sup>9</sup> the latest year for which there are the highest number of notifications. Since the developed countries account for the majority of FBAMS entitlements, this analysis focuses primarily on their use of such support.<sup>10</sup>

**Table 2: CTAMS as % share of FBAMS entitlements**

	2018	Latest year	(Year)
US	68.5	83.67	2020-21
EU	7.07	7.36	2019-20
Japan	16.84	4.67	2019-20
Canada	16.91	16.91	2018
Norway	88.27	89.80	2021
Switzerland	31.82	33.75	2021
Iceland	93.31	79.41	2020
Russian Federation	1.75	2.033	2020

Data source: Relevant DS:1 notifications as notified to the WTO. See text for detailed references.

From the 2018<sup>11</sup> data (see Table 2), it is clear that developed countries have in general significantly utilised their additional entitlements. Iceland used 93.31 per cent of its USD 184.7 million entitlement<sup>12</sup> (though the absolute value is comparatively low), Norway used 88.27 per cent of its USD 1.4 billion entitlement, the US used 68.5 per cent of its USD 19 billion entitlement, and Switzerland used 31.82 per cent of its USD 4.35 billion entitlement in 2018. Japan used 16.84 per cent and Canada<sup>13</sup> used 16.91 per cent of their entitlements of USD 35.98 billion and USD 3.3

billion respectively, while the EU used 7.07 per cent of its USD 85.47 billion entitlement in 2018. Russia, however, has used a very low share of 1.75 per cent of its entitlement.

Among the developing countries, Israel and Argentina<sup>14</sup> in 2018 used up 110 and 94.72 per cent of their entitlements, while Mexico, in spite of having the largest entitlement among developing countries, used only 0.48 per cent of it.

From the data available for the last 3-4 years, which also witnessed the COVID-19 pandemic, it is clear that developed countries have used these entitlements even more extensively (see Table 2) during this period. Based on its 2022 notification,<sup>15</sup> the US gave USD 15.98 billion as CTAMS in 2020-21, thus utilising 83.67 per cent of its entitlement,<sup>16</sup> up from 68.5 per cent in 2018. According to its latest notification<sup>17</sup> for 2019-20 (which catches just the first few months of the pandemic), the EU gave EUR 5.33 billion as CTAMS and therefore utilised 7.36 per cent of its FBAMS entitlement, higher than for 2018-19.<sup>18</sup> Norway utilised 89.8 per cent<sup>19</sup> and Switzerland 33.75

<sup>9</sup> Calculations based on WTO document JOB/AG/219, "Update to Canada's Analytical Tool on Domestic Supports", 23 September 2021.

<sup>10</sup> This specific exercise is conducted on the basis of data provided by Canada in its 2020 and 2021 submissions to the WTO; in addition, other relevant notifications have been used for updating and adding to the analysis.

<sup>11</sup> 2018 refers to the calendar year or the agricultural year 2018-19, depending on Member States' notifications.

<sup>12</sup> WTO document G/AG/N/ISL/55, Notification by Iceland on domestic support commitments (Table DS:1 and the relevant supporting tables), 31 January 2022. Note that Iceland does not notify *de minimis* and the figures reported here are not adjusted for inflation.

<sup>13</sup> WTO document G/AG/N/CAN/151, Notification by Canada on domestic support commitments (Table DS:1 and the relevant supporting tables), 22 April 2022

<sup>14</sup> WTO document G/AG/N/ARG/50, Notification by Argentina on domestic support commitments (Table DS:1 and the relevant supporting tables), 6 July 2022

<sup>15</sup> WTO document G/AG/N/USA/166, Notification by the USA on domestic support commitments (Table DS:1 and the relevant supporting tables), 11 October 2022

<sup>16</sup> In addition to Green Box support of USD 188.73 billion.

<sup>17</sup> WTO document G/AG/N/EU/79, Notification by the European Union on domestic support commitments (Table DS:1 and the relevant supporting tables), 7 July 2022

<sup>18</sup> In addition to Green Box support of EUR 68.51 billion and Blue Box support of EUR 4.8 billion.

<sup>19</sup> WTO document G/AG/N/NOR/122, Notification by Norway on domestic support commitments (Table DS:1 and the relevant supporting tables), 21 December 2022

per cent<sup>20</sup> of their entitlements in 2021, higher than in 2018. Russia increased its utilisation marginally from 1.75 per cent in 2018 to 2.033 per cent in 2020.<sup>21</sup>

Japan however shows a drastic decline in its utilisation from 16.84 per cent in 2018 to 4.67 per cent in 2019-20<sup>22</sup> even though the absolute amount remained a high JPY 185.4 billion or USD 1.68 billion.<sup>23</sup> Iceland also shows a significant decline from 93.31 per cent in 2018 to 79.41 per cent in 2020.<sup>24</sup>

A proposal by India and China on AMS submitted in 2017<sup>25</sup> before the 11th WTO Ministerial Conference, as well as a proposal submitted by the African Group in July 2021<sup>26</sup> before the 12th Ministerial Conference, pointed out the flexibilities and biases FBAMS entitlements entail. The African Group proposal pointed out for example that these entitlements introduce two kinds of biases. First, these confer the ability to give additional support above the *de minimis* (as discussed above). Second, FBAMS entitlements also allow recipient countries to concentrate the full support or any percentage of it on any product. Another proposal by India in September 2021<sup>27</sup> pointed out that in addition to the two types of flexibilities mentioned above, CTAMS could also be high compared with the total value of production (VOP) or in respect of VOP of specific products, or be concentrated in the hands of just a few farmers. The next two sections take up some of these issues with updated analysis.

#### 4. Current Total AMS in comparison with the need: An analysis based on value of production

An interesting set of results arises when CTAMS figures are compared with VOP figures (Table 3). In Article 6.4 of the AoA, the *de minimis* allowances are put forward as a percentage of VOP as the latter is supposed to be the indicator of the current size of the agricultural sector and therefore an indicator also of the support needs of the sector. The same rationale can be applied to the case of the AMS entitlements.<sup>28</sup>

CTAMS, i.e., Amber Box support over and above the *de minimis*, accounted through the FBAMS entitlements was 48.8 per cent of VOP for Iceland,<sup>29</sup> 30.32 per cent of VOP for Norway, 12.80 per cent of VOP for Switzerland and 3.54 per cent of VOP for the US in 2018. This means the utilisation of the entitlements has enabled these countries to use much greater additional policy space in comparison with the size of their agriculture sector and, in many cases, way above the product-specific plus non-product-specific *de minimis* limit of 10 per cent applicable to developed countries. In fact, these subsidies as a percentage of VOP are sometimes even greater than the corresponding developing-country *de minimis* limit of 20 per cent.

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<sup>20</sup> WTO document G/AG/N/CHE/122, Notification by Switzerland on domestic support commitments (Table DS:1 and the relevant supporting tables), 24 January 2023

<sup>21</sup> WTO document G/AG/N/RUS/37, Notification by Russian Federation on domestic support commitments (Table DS:1 and the relevant supporting tables), 17 October 2022

<sup>22</sup> WTO document G/AG/N/JPN/276, Notification by Japan on domestic support commitments (Table DS:1 and the relevant supporting tables), 12 May 2022

<sup>23</sup> Converted to USD at 109.01 JPY per dollar based on exchange rate for 2019 from Canada's submission in WTO document JOB/AG/219, op. cit.

<sup>24</sup> WTO document G/AG/N/ISL/57, Notification by Iceland on domestic support commitments (Table DS:1 and the relevant supporting tables), 31 January 2022. Note that Iceland does not notify *de minimis* and the figures reported here are not adjusted for inflation.

<sup>25</sup> WTO document JOB/AG/102, "Elimination of AMS to Reduce Distortions in Global Agricultural Trade", Submission by China and India, 18 July 2017

<sup>26</sup> WTO document JOB/AG/203, "Domestic Support: Disciplines on Final Bound AMS: Communication from the African Group", 12 July 2021

<sup>27</sup> WTO document JOB/AG/216, "Elimination of AMS Beyond De Minimis: Reducing Distortions in Global Agricultural Trade", 14 September 2021

<sup>28</sup> For an interesting analysis on AMS entitlements and Amber Box support in relation to VOP, see Sharma, Sachin, Teesta Lahiri, Suvayan Neogi and Raihan Akhter (2020): "Revisiting Domestic Support Negotiations at the WTO: Ensuring a Level Playing Field", Centre for WTO Studies, CWS/WP/200/56. India's proposal on the AMS (2021) also raises the issue of high CTAMS or Amber Box support in comparison with VOP.

<sup>29</sup> Iceland does not use/report under *de minimis*. The reported figure of 61.46 per cent does not include *de minimis* allowances. Actual CTAMS will be lower if Iceland accounted for *de minimis*.

If the full FBAMS entitlements, which indicate the potential policy space available to the entitlement holders, are taken as a percentage of VOP (Table 3), it comes to 42.80, 40.21, 34.35, 18.53, 6.82 and 5.17 per cent for Japan, Switzerland, Norway, the EU, Canada and the US respectively (2018 VOP). As stated by Sharma et al. (2020),<sup>30</sup> even though, as argued by the recipient developed countries, this percentage has declined over time given the fixed value of the entitlements, it still represents massive additional policy space to use trade-distorting domestic support. And this is disproportionate to the size of the agriculture sector. Even if this whole entitlement is not used, the fact that it can potentially be fully utilised gives massive market power to agricultural products from the developed countries and undermines production and exports from developing ones.

## 5. Concentration

When we look at a product-specific picture, the FBAMS entitlements allow greater policy space to recipient countries not only in terms of total entitlements but also through the ability to concentrate these subsidies in any product. The product-specific *de minimis* limits other countries' ability to give support above 5 (developed) or 10 (developing) per cent of VOP. But the FBAMS entitlements have no such restrictions either in terms of VOP or in terms of share in CTAMS, thereby allowing unlimited policy space to support any specific agricultural product and “out-subsidise” producers in other countries who have to adhere to the *de minimis* allowance.

As mentioned earlier, the issue of subsidy concentration on specific products was specifically raised and targeted in the proposals by India and China (2017), the African Group (2021) and India (2021). The concentration of support in any product without any limit can significantly increase the support well beyond the *de minimis* limits of 5-10 per cent. The India-China proposal (2017) had pointed out that in 2013, the US had allotted 23 per cent of its product-specific AMS on dairy, 22 per cent on corn and 12 per cent on livestock; while the EU focused 39 per cent of its product-specific AMS on butter, 16 per cent on skimmed milk powder (SMP) and 29 per cent on common wheat; and Canada focused 65 per cent of its total product-specific AMS on milk alone.

**Table 3: CTAMS and FBAMS entitlements as % share of VOP (2018)**

	CTAMS as % of VOP	FBAMS as % of VOP
Argentina	0.14	0.15
Australia	0	0.78
Bolivarian Republic of Venezuela	NA	NA
Brazil	0	0.62
Canada	1.15	6.82
Colombia	0	1.34
Costa Rica	0	0.70
European Union	7.07	18.53
North Macedonia	NA	NA
Iceland	48.83	63.14
Israel	7.44	6.71
Japan	7.21	42.80
Jordan	NA	NA
Saudi Arabia, Kingdom of	NA	NA
Korea, Republic of	0.01	2.84
Mexico	0.1	21.76
Moldova	NA	NA
Montenegro	NA	NA
Morocco	NA	NA
New Zealand	0	1.16
Norway	30.32	34.35
Papua New Guinea	NA	NA
Russian Federation	0.09	5.14
South Africa	0	0.70
Switzerland	12.8	40.21
The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu	NA	NA
Tajikistan	0	8.76
Thailand	NA	NA
Tunisia	0	0.42
Ukraine	NA	0.34
United States of America	3.54	5.17
Viet Nam	NA	NA

Data source: JOB/AG/219 2021 “Update to Canada’s Analytical Tool on Domestic Supports”, 23 September, and relevant DS:1 notifications for 2018.

<sup>30</sup> Sharma, Sachin, Teesta Lahiri, Suvayan Neogi and Raihan Akhter (2020): “Revisiting Domestic Support Negotiations at the WTO: Ensuring a Level Playing Field”, Centre for WTO Studies, CWS/WP/200/56



**Table 4a: US: Product-specific Amber Box subsidies (over *de minimis*) (2020-21)**

Product	Value (USD Million)	Share of product in total CTAMS (%)	Share of product in VOP (%)
Corn	4944.562	30.93	7.69
Beef Cattle and Calves	3676.44	23.00	8
Soybeans	2323.443	14.54	5.08
Sugar	1783.485	11.16	56.2
Wheat	1233.812	7.72	13.14
Cotton	1054.553	6.60	18.49
Sorghum	206.568	1.29	11.68
Tobacco	142.873	0.89	18.21
Legumes & Pulses	102.749	0.64	5.54
Sheep and Lambs	81.66	0.51	7.66
Peanuts	80.06	0.50	6.18
Barley	80.022	0.50	10.15
Canola	76.491	0.48	11.95
Sunflower	66.978	0.42	10.6
Oats	33.179	0.21	16.91
Honey	29.272	0.18	9.44
Millet	20.241	0.13	18.91
Plums/Prunes	13.902	0.09	5.93
Flaxseed	9.088	0.06	14.57
Rye	8.381	0.05	13.56
Sesame	5.211	0.03	41.21
Wool	4.042	0.03	10.53
Safflower	2.986	0.02	9.09
Mustard	2.168	0.01	9.91
Papaya	0.981	0.01	32.13
Buckwheat	0.938	0.01	13.72%
<b>Total</b>	<b>15984.085</b>	<b>100</b>	

Data source: G/AG/N/USA/166, Notification by the USA on domestic support commitments (Table DS:1 and the relevant supporting tables), 11 October 2023.

If we look at recent years, the US has used AMS above *de minimis* in 26 agricultural products (Table 4a) in 2020-21. Similar to the data shown in the India-China proposal (2017), these subsidies were significantly concentrated. Corn (30.93 per cent), beef cattle and calves (23 per cent), soybeans (14.54 per cent) and sugar (11.16 per cent) account for the highest shares of above 10 per cent of total CTAMS, indicating the US continued to fully use the flexibility to concentrate these subsidies on specific products.

However, since the AMS above *de minimis* was distributed over 26 products in 2020-21 as opposed to 15 products in 2018-19, product-specific shares both as a share of VOP and in total, especially of sugar, have come down. This could possibly be a consequence of the COVID-19 crisis where more products needed support.

If we compare the subsidies in relation to the VOP, such additional support (to the *de minimis*) has ranged from 5.08 per cent of VOP for soybeans to as high as 56.2 per cent of VOP in the case of sugar.<sup>31</sup> After sugar, sesame (41.21), papaya (32.13), millet (18.91), cotton (18.49), tobacco (18.21) and oats (16.91) enjoy subsidies amounting to more than 15 per cent of VOP (Table 4a). The subsidy has exceeded 5 per cent of VOP for all products, and exceeded 10 per cent in 15 products, therefore allowing a minimum of 10-15 per cent of VOP as total Amber Box support after including the *de minimis* of 5 per cent.

In 2019-20, the EU gave AMS above *de minimis* to more than 15 products (Table 4b). Some products such as butter and wheat alone account for 56.18 and 36.69 per cent of the total CTAMS respectively. Dairy (butter and skimmed milk powder) accounts for 56.2 per cent of the total. Fruits and vegetables take up most of the rest. Interestingly, the EU does not report on CTAMS (above *de minimis*) as a percentage of VOP in its notifications except in the case of common wheat where AMS was 9.4 per cent of VOP. Just the case of common wheat alone shows an Amber Box allowance of 14.4 per cent of VOP, much higher than developed countries' *de minimis*.

<sup>31</sup> In fact, according to US notifications, sugar received subsidies equivalent to 65.6 per cent of VOP in 2018-19. In 2020-21, since the AMS was distributed over 26 products as opposed to 15 products in 2018-19, sugar's share both as a share of VOP and in total has come down.

**Table 4b: EU: Product-specific Amber Box subsidies (over *de minimis*) (2019-20)**

Product	Value (EURO Million)	Share of product in total CTAMS (%)	Share of product in VOP (%)
Butter	2994.4	56.18	N.A.
SMP	0.9	0.02	N.A.
Common Wheat	1955.7	36.69	9.4
Other Livestock	9.2	0.17	N.A.
Fruit & Vegetables	207.1	3.89	N.A.
Beekeeping	49.5	0.93	N.A.
Apricots	0.2	0.00	N.A.
Nectarines	0.7	0.01	N.A.
Aubergines	0.1	0.00	N.A.
Melon	0.6	0.01	N.A.
Watermelon	0.6	0.01	N.A.
Satsumas	0.2	0.00	N.A.
Flowers	28.5	0.53	N.A.
Cider	3	0.05	N.A.
Potatoes	35.1	0.66	N.A.
Other Crops Products	43.5	0.82	N.A.
Other products not mentioned	0.5	0.01	N.A.
<b>Total</b>	<b>5329.8</b>	<b>100</b>	

Data source: G/AG/N/EU/79, Notification by the European Union on domestic support commitments (Table DS:1 and the relevant supporting tables), 7 July 2022.

Norway covered eight products under its AMS above *de minimis* in 2021, of which milk received the highest share of 57.18 per cent of the total, followed by barley (13.52 per cent) and pork (12.98 per cent). The AMS as a share of VOP ranged between 21.94 per cent for sheep and 89.36 per cent for oilseeds, again indicating support much higher than *de minimis* limits even of developing countries (Table 4e).

**Table 4c: Japan: Product-specific Amber Box subsidies (over *de minimis*) (2019-20)**

Product	Value (JPY Billion)	Share of product in total CTAMS (%)	Share of product in VOP (%)
Beef and Veal	163.9	88.40	20.8
Starch	2.5	1.35	NA
Sugar	19	10.25	27.6
	<b>185.4</b>	<b>100</b>	

Data source: G/AG/N/JPN/276, Notification by Japan on domestic support commitments (Table DS:1 and the relevant supporting tables), 12 May 2022.

**Table 4d: Canada: Product-specific Amber Box subsidies (over *de minimis*) (2018)**

Product	Value (CAD Million)	Share of product in total CTAMS (%)	Share of product in VOP (%)
Milk	717	98.56	10.8
Sheep	10.5	1.44	5.6
<b>Total</b>	<b>727.5</b>	<b>100</b>	

Data source: G/AG/N/CAN/151, Notification by Canada on domestic support commitments (Table DS:1 and the relevant supporting tables), 22 April 2022.

In its latest notification for 2019-20, Japan covered only three products and concentrated 88.4 per cent of its total AMS above *de minimis* of JPY 185.4 billion just on beef and veal, devoting another 10.25 per cent to sugar. The subsidies for both products substantially exceeded 20 per cent of VOP (Table 4c).

In 2018, Canada gave AMS above *de minimis* to only two products. It devoted CAD 717 million, amounting to 10.8 per cent of VOP and 98.56 per cent of its total AMS of CAD 727.5 million, to milk, the highest share for any product across the top six FBAMS entitlement holders (Table 4d).

Switzerland also covered eight products under AMS above *de minimis*, and milk accounted for a mammoth 84.82 per cent of its total product-specific AMS in 2021. VOP shares are all above 5 per cent: from 8.86 per cent for seeds to a record high of 285 per cent for wool. Even though the value of the subsidy for wool is comparatively low at CHF 0.57 million, it remains

a prime example of a sector that has received subsidies much in excess of its size (Table 4f).

Lastly, the Russian Federation conferred on four products its relatively small total AMS above *de minimis* of USD 89.47 million in 2020, with deer (meat) receiving the highest share (52.07 per cent), followed by grapes (33.41 per cent), flax & hemp (9.46 per cent), and wool (5.06 per cent). But in terms of

**Table 4e: Norway: Product-specific Amber Box subsidies (over *de minimis*) (2021)**

Product	Value (NOK Million)	Share of product in total CTAMS (%)	Share of product in VOP (%)
Wheat	703.12	6.84	73.24
Barley	1390.18	13.52	73.91
Oats	582.55	5.67	74.4
Rye	85.18	0.83	74.72
Oilseeds	66.13	0.64	89.36
Milk	5879.14	57.18	61.2
Pork	1334.17	12.98	33.38
Sheep	241.1	2.34	21.94
<b>Total</b>	<b>10281.57</b>	<b>100</b>	

Data source: G/AG/N/NOR/122, Notification by Norway on domestic support commitments (Table DS:1 and the relevant supporting tables), 21 December 2022.

**Table 4f: Switzerland: Product-specific Amber Box subsidies (over *de minimis*) (2021)**

Product	Value (CHF Million)	Share of product in total CTAMS (%)	Share of product in VOP (%)
Tobacco	4.24	0.94	44.21
Oilseeds	20.8	4.62	19.4
Soybeans	2.2	0.49	27.5
Other grain legumes	5.2	1.16	42.28
Seeds	1.6	0.36	8.86
Sugarbeet	33.7	7.49	38.34
Milk and milk products	381.8	84.82	17.65
Wool	0.57	0.13	285
<b>Total</b>	<b>450.11</b>	<b>100.00</b>	

Data source: G/AG/N/CHE/122, Notification by Switzerland on domestic support commitments (Table DS:1 and the relevant supporting tables), 24 January 2023.

subsidy concentration as a percentage of VOP, Russia's subsidy to the meat sector amounts to 91.85 per cent of VOP while its subsidy to flax & hemp comes up to 38.7 per cent of VOP, thus indicating high support in comparison with the size of the sectors.

In an interesting case from developing countries, Argentina has focused its entire AMS above *de minimis* on only one product, tobacco, but its

notification does not provide information on VOP or on the support as a percentage of VOP.<sup>32</sup>

In sum, it is clear that the developed countries that hold FBAMS entitlements have used them extensively and have enjoyed the flexibility to deploy any share of the total subsidies to specific products of their choice. The dairy sector in particular has received very high shares of total CTAMS, going as high as 98.56 per cent in Canada, 84.82 per cent in Switzerland, 57.18 per cent in Norway and 56.2 per cent in the EU. Japan devoted 88.4 per cent of its total CTAMS to beef and veal. In addition, the developed countries have also subsidised in a manner often grossly disproportionate to the size of the sector, with the subsidy ranging from around 5 per cent to as high as 285 per cent of VOP (Switzerland, wool), resulting in massive policy support above their *de minimis* allowance of 5 per cent of VOP per product. In fact, such concentration makes the concept of *de minimis* completely irrelevant for these countries whereas it is strictly binding for the developing countries who do not have such entitlements. This gross inequity has perpetuated the developed countries' ability to undercut competitive producers in developing countries.

<sup>32</sup> WTO document G/AG/N/ARG/50, Notification by Argentina on domestic support commitments (Table DS:1 and the relevant supporting tables), 6 July 2022

**Table 4g: Russian Federation: Product-specific Amber Box subsidies (over *de minimis*) (2020)**

Product	Value (USD Million)	Share of product in total CTAMS (%)	Share of product in VOP (%)
Deer	46.59	52.07	91.85
Grapes	29.89	33.41	7.85
Flax & hemp	8.46	9.46	38.7
Wool	4.53	5.06	9.36
<b>Total</b>	<b>89.47</b>	<b>100</b>	

Data source: G/AG/N/RUS/37, Notification by Russian Federation on domestic support commitments (Table DS:1 and the relevant supporting tables), 17 October 2022.

In addition, if these figures are looked at with respect to the farming population, the difference is, if anything, even starker. Sharma et al. (2020) argue that “there is a massive difference between the actual per farmer Amber box and total domestic support between developed and developing members. For instance, per farmer amber box support was higher than US\$ 7000 in

Canada, Norway, Switzerland and the USA, whereas for most developing members it was less than US\$ 150”.<sup>33</sup>

## 6. FBAMS disciplines in the context of recent negotiations on agriculture

As mentioned earlier, there have been several proposals on FBAMS disciplines. The proposals pointed out the anomaly of these entitlements and the recipients’ ability to concentrate such support on specific products, thus giving them immense scope to distort trade and exert market control over these products. The proposals made recommendations to discipline product-specific and non-product-specific AMS by reducing them to the relevant *de minimis* levels (i.e., 5 per cent for developed and 10 per cent for developing countries), i.e., by eliminating the use of these additional FBAMS entitlements.

However, there has been continued resistance to any discussion on this issue, and no actual negotiations have even started in the WTO. Instead, proposals from several developed countries and more advanced members of the Cairns Group suggest disciplines on overall domestic support that would impose commitments on all Members without specifically addressing the issue of FBAMS entitlements, which are the largest element of inequity in the domestic support rules of the AoA.

The proposed discipline on AMS entitlements is important not only in itself but also has a linkage with other key issues on the negotiating table that have repeatedly been advanced by developing countries over the past several WTO Ministerial Conferences.

The pending permanent solution on the food security proposal on public stockholding, referred to in short as PSH, attempts to allow developing countries greater flexibility in their *de minimis* limits while providing market price support to farmers for procurement for public stockholding programmes. It is inconceivable that while a group of developed countries can get extra entitlements that allow them to concentrate subsidies and give product-specific support ranging between 5 and 285 per cent of VOP on top of the *de minimis* allowances, developing countries are being denied any flexibility to exceed their *de minimis* of 10 per cent of VOP even for upholding farm production and livelihoods and supporting food procurement for public distribution. The current rules of calculation allow them only to give such low subsidies per unit of production (eligible production) that when converted to a procurement price even after incorporating the full *de minimis*, this price is way below the current domestic wholesale market price for many developing countries. Therefore, if governments were to actually try to procure stocks at this price in order to abide by WTO rules, they will never be able to actually make any procurement for their PSH programmes, thus rendering these programmes unviable and incapable of meeting domestic food security needs. But even as a permanent solution to this problem is repeatedly blocked, AMS entitlements of developed countries with much higher trade-distorting potential are still continuing.

<sup>33</sup> Sharma, Sachin, Teesta Lahiri, Suvayan Neogi and Raihan Akhter (2020): “Revisiting Domestic Support Negotiations at the WTO: Ensuring a Level Playing Field”, Centre for WTO Studies, CWS/WP/200/56

It is clear that such subsidies significantly boost the market power of the recipient agricultural products. In fact, it has been claimed that such large subsidies that confer an advantage over what the other 104 developing countries get have distorted global agricultural markets, often leading to import surges that have devastated production and livelihoods across developing countries. Therefore, the continuation of FBAMS entitlements justifies both the call to discipline such entitlements, as well as developing countries' demand for a Special Safeguard Mechanism to deal with import surges. Developed countries continue to link the SSM with further market access but as long as the FBAMS entitlements exist, the SSM should be automatically warranted.

## **7. Way forward towards MC13**

As the 13th WTO Ministerial Conference is fast approaching, it is imperative for developing countries to strongly raise the issue of disciplining FBAMS entitlements. These remain the primary source of inequity in the AoA. There is glaring irrationality in allowing gigantic additional entitlements for a few countries that confer massive advantages to them in terms of policy space over all other and poorer countries. Disciplines on AMS entitlements should be the first stepping stone towards a concrete revision in the rules of the AoA. As discussed above, this inequity also underpins many of the other issues on the negotiating table such as PSH and SSM that developing countries have asked to be addressed. Without these entitlements being eliminated, there cannot even be the vestige of equity in global agricultural trade and, by automatic linkage, in domestic markets across developing countries. This should be a non-negotiable issue for developing countries in the coming Ministerial Conference.

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