

**Chair's Reference Paper**

**Rev. 1<sup>1</sup>**

BLUE BOX

**Structure for Discussion**

***Introduction***

1. The first reference paper on Blue Box outlined some suggestions on how to structure and focus discussion. Subsequent to that we have had some useful debate but not much that I could describe as breakthrough territory. We need now to continue that and see where we can get to. In the meantime it might be worth now considering more concretely some approaches.

2. As you will see below, I have sketched out possible wording concerning the Blue Box cap since we know that there will be a limit and, having spent considerable amount of time discussing the cap, it also appears that Members would be open to reducing it by half from the 5 per cent limit set in the Agreed Framework. This is not meant, however, to overlook the need to continue the discussions on the criteria as it is clear that additional disciplines are favoured by many Members. It is worth noting that we have accepted as a working hypotheses that we will look at a non-concentration approach to see whether it will work, without prejudice to other approaches of a more far reaching nature that are on the table.

***Basic criteria***

3. Paragraph 13 of the Agreed Framework requires that Article 6.5 of the Agreement on Agriculture be amended by changing the wording of the original Article 6.5 ("fixed and unchanging") and adding the category of direct payments that do not require production. Paragraph 14 goes on to say that these and additional criteria will be negotiated. However, for the first part of the new Article 6.5 it would appear that we already have a lot of guidance. Thus for this first part of the new Article 6.5 some wording along the following lines might be considered:

*The value of the following direct payments shall be excluded from a Member's calculation of its Current Total AMS:*

*(a) Direct payments under production-limiting programmes if:*

- (i) such payments are based on fixed and unchanging areas and yields; or*
- (ii) such payments are made on 85 per cent or less of a fixed and unchanging base level of production; or*
- (iii) livestock payments are made on a fixed and unchanging number of head*

*Or*

*(b) Direct payments that do not require production if:*

- (i) such payments are based on fixed and unchanging bases and yields; or*
- (ii) livestock payments made on a fixed and unchanging number of head; and*
- (iii) such payments are made on 85 per cent or less of a fixed and unchanging base level of production.*

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<sup>1</sup> This is a revision of the Chair's Reference Paper issued on 13 April 2006, under n° 2818.

### *Additional criteria*

#### *Cap*

4. Paragraph 15 of the Agreed Framework states that "Blue Box support will not exceed 5 % of a Member's average total value of agricultural production during an historical period." Whatever limit is finally agreed, there are various ways in which this cap could get legal expression. For example, each Member could write the limit into its Schedule or the new Article 6.5 could state that the limit will be x per cent of the average total value of agricultural production during a base period to be agreed. I have the sense that Members would not feel that the expression of the percentage, for example 2.5 per cent, is sufficiently clear and precise for them. Members would want the certainty of knowing what that percentage represents in precise value terms. For that reason, I have the impression that the precise expression of what that percentage would be, expressed in terms of the average total value of agricultural production for the Member concerned, would have to be something that appeared in that Member's Schedule. I note also that the overall reduction in trade-distorting domestic support will also need to be expressed in numerical terms in Members' Schedules – which of course would incorporate this capped limit. Therefore, if delegations find this the appropriate direction to take, we might consider wording along the following lines for the new Article 6.5:

*A Member shall not provide support under Article 6.5 in excess of the commitment set out in Section [ ] Part [ ] of its Schedule.*

5. From the discussions on the first version of this reference paper, Members have shown preparedness to reduce this cap from 5 to 2.5 per cent of the total value of agricultural production. Some suggest that this cap should apply from the start of implementation and, indeed, are seeking, further reduction during the implementation period. Others want to start at 5 per cent and reduce to 2.5 per cent by the end of implementation. For the moment, the draft modalities might, therefore, look something like:

*The maximum permitted level for the value of support under the new Article 6.5 shall not exceed [ ] per cent of the average total value of agricultural production in [the base period] [years .....]. [This limit will be reduced to [ ] per cent by the end of the implementation period.]*

6. Consideration of potential wording of this sort underlines that, apart from the decision on the percentage limit, we still need to agree to the methodology for calculating total value of agricultural production and the base period. As I noted in the reference paper on Overall Reduction in Trade-Distorting Domestic Support there does not appear to be any objection to defining this as the gross value of the total production of basic agricultural products at farm gate prices.

7. We have not advanced the issue sufficiently to see a solution, but the Agreed Framework foresees a flexibility in case a Member has placed an exceptionally large percentage of its trade-distorting domestic support in the Blue Box. The overall cap that we have in mind here needs, evidently, not to have the effect of countering the flexibility that is envisaged. In my first reference paper, I flagged that a practicable and equitable approach is needed and one possible way would be through developing a linkage of some proportionality with AMS reduction or, as has recently been suggested, subjecting the Blue Box to cuts similar to the overall cut. We need to be mindful that this flexibility was originally envisaged to be made available to one Member only.

#### *Other criteria*

8. Subsequent to the first version of this paper, we did indeed have a discussion on the non-concentration approach, without prejudice to other approaches that are more far reaching, or indeed to a view that nothing more needs to be said. I should reiterate that the ground rules, as far as I am concerned, remain the same: we are testing whether it is possible to come up with a genuine non-

concentration approach. Based on the discussions to this point we have had some delegations underline that this would work only if two objectives are met: (i) the discipline is effective for both the "old" and the "new" Blue Box to make these payments less trade-distorting; and (ii) the discipline will prevent concentration of permitted support on a single product or a narrow range of products. Worth noting is also the fact that Members seem open to considering a non-concentration discipline on both "old" and "new" Blue Box. Indeed, under the so called "old" Blue Box, we do have a historical record of spending. It means certain approaches may be more technically feasible here, but we obviously need to ensure an appropriate balance when it comes to discussions on both "old" and "new" Blue Box.

9. Some have cautioned, however, that there are situations where a large proportion of production involves one product so over-disciplining could prevent some Members moving towards less trade-distorting policies in the Blue Box.

10. Discussions have alluded to the possibility of pursuing a non-concentration discipline via a limit to a share of the value of overall Blue Box entitlements, e.g. x per cent. The view has been taken by some however, that this would not be sufficient and some kind of "double trigger" involving a proportion of production value should also be applied. Another suggestion has been to complement the non-concentration approach with an offsetting mechanism which would require that any increase in Blue Box expenditure would be offset by a reduction in AMS payments. It seems that it would also respond to concerns regarding the "newcomers".

11. On the issue of the potential "newcomers" to the Blue Box – both in terms of new users of the Blue Box as well as new products supported by such payments, there was no opposition to consider an offsetting mechanism which would require new or additional Blue Box expenditure to be offset by a corresponding reduction in AMS support. However, a point was raised as to how the offsetting mechanism would work in a situation where a Member did not previously use Amber Box support. Some reacted by suggesting that in such situation a Member would not be able to introduce trade-distorting support. The view has been taken that there should be special provisions for developing country Members – 5 per cent of the value of production.

12. It is perhaps worth reflecting that nobody seems to have a conceptual problem with the notion that the Blue Box is intended to be less trade-distorting than AMS. We have not made much detailed progress on how to specify that in an operationally significant way. The option always remains that, if at least the principle is agreed to, some form of *post hoc* disciplines evaluating that principle could be applied via the dispute settlement system. Obviously, the greater the detail specified in relation to that principle, the more precise the guidance would be for any future dispute settlement case, but the basic concept itself, even if not much elaborated, surely has content.

### ***Cotton***

13. With respect to cotton, a specific proposal as to how to fulfil the mandate in paragraph 11 of the Hong Kong Ministerial Declaration as it relates to Blue Box payments has been tabled by the Co-Sponsors of the Sectoral Initiative in Favour of Cotton calling for the Blue ceiling for cotton to be one third of the general Blue Box ceiling.<sup>2</sup> There is a recognition that this issue needs to be addressed but of course it is intimately related to the basic approaches referred to above.

### ***Monitoring and surveillance***

14. There seems to be a general acceptance that strengthened monitoring and surveillance is crucial to ensure transparency of Blue Box measures as well as compliance with commitments. Suggestions have been made in this respect. For example, it has been proposed that a Sub-Committee on Monitoring and Surveillance be established to undertake various tasks comprising of a review of

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<sup>2</sup> TN/AG/SCC/GEN/4 refers.

notifications, peer review, assessment and evaluation, reporting and surveillance. Another proposal is to enhance the format of existing notifications and ensure timely submissions, including by means of a penalty in Current Total AMS for Members with overdue notifications. Also, additional in-depth examinations of Members' notifications could be carried out by the Committee on Agriculture within certain time intervals, with the three Members with the highest amounts of support being reviewed every year. However, this issue may best be addressed once the horizontal modalities for monitoring and surveillance in agriculture are established and at that point, we would be able to assess whether anything else may be required. It is also possible that certain data will be required to be made available in any supporting materials.

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