DOMESTIC SUPPORT

COMMUNICATION FROM THE AFRICAN GROUP

The following communication, dated 9 June 2023, is being circulated at the request of the delegation of Cameroon on behalf of the African Group, for consideration by Members.

1. Total trade-distorting Amber Box support was USD 62.49 billion in 2018. In addition, USD 6.4 billion of Blue Box Subsidies (as provided under Article 6.5 of the Agreement on Agriculture (AoA)) and USD 265.49 billion of Green Box Subsidies (as provided under Annex 2 of the AoA) were given by WTO Members in 2018.

2. While developing countries are allowed a product-specific de minimis support of 10% of the value of production (Vop), and developed Members are allowed a product-specific de minimis support of 5% of Vop, many developed Members have used the extra Final Bound Aggregate Measurement of Support (FBAMS) entitlements under Article 6.3, Blue Box and the Green Box in excess of 5% of Vop, respectively, including on product-specific support, giving them significant extent of additional policy space to subsidize their agricultural production disproportionate to the size of their agricultural sector as indicated by the Vop.

3. There is growing analyses that show that in addition to the FBAMS entitlements which are acknowledged to be trade distorting, the use of Blue Box and of direct payments under the Green Box subsidies (paragraphs 5-13 of Annex 2 under the AoA) have most often been trade distorting. It is also important to note that Article 6.3 allows fixed additional FBAMS entitlements which, even if not fully utilized, allow a potential policy space to support the agriculture sector in a trade-distorting manner.

4. Noting the evidence as described under the sections below on AMS Entitlements, Blue Box and the Green Box, and in continuation of the African Group’s Proposal of 2021 (JOB/AG/203) before MC12, the African Group is tabling the draft Ministerial Decision below to deliver needed disciplines on domestic support specified under Article 6.3, Article 6.5, and Annex 2 of the AoA.

5. Noting that food insecurity is multifaceted and Domestic Support for Food Security Purposes is part of the solution especially the product specific de minimis support being the only policy space that could be used in situations where a Member faces severe food crisis or emergency situation.

FINAL BOUND AMS ENTITLEMENTS

6. Only 32 (counting the EU as 1) Members enjoy FBAMS entitlements totalling USD 174.37 billion (2018 current USD) above the de minimis levels. About half of these are developed country Members accounting for 88.81% of total FBAMS entitlements while the developing country

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1 For greater certainty for the purposes of this Decision, "developing Member" includes least-developed Member.

2 JOB/AG/219, "Update to Canada’s Analytical Tool on Domestic Supports", 23 September 2021.
Members account for the residual 11.19%. The remaining 104 developing country Members have zero FBAMS entitlements.

7. Current Total AMS (CTAMS) to USD 33.64 billion was given in 2018 over and above the de minimis limits, implying these were used from the additional FBAMS entitlements. The US gave USD 15.98 billion as CTAMS in 2020-2021, thus utilizing 83.67% of its USD 19 billion entitlement. The EU gave EUR 5.33 billion as CTAMS and therefore utilized 7.36% of its USD 85.47 billion entitlement in 2020-21. Norway utilized 89.8% of its USD 1.4 billion entitlement and Switzerland 33.75% of its USD 4.35 billion entitlement in 2021, while Canada used 16.91% of its entitlement of USD 3.3 billion. All these utilization rates have increased since 2018. Japan used 4.67% of its USD 35.98 billion entitlement in 2019-20.5

8. The CTAMS was 48.8% of VoP6 for Iceland, 31.32% of VoP for Norway, 12.80% of VoP for Switzerland and 3.54% of VoP for the US in 2018. Therefore, the utilization of the entitlements has enabled these countries to use much greater additional policy space in comparison to the size of their agriculture sector. In many cases these are way above the product-specific plus non product-specific de minimis limit of 10% applicable to developed countries. If the full FBAMS entitlement is taken as a percentage of VoP, it comes to 42.80%, 40.21%, 34.35%, 18.53%, 6.76% and 5.17% for Japan, Switzerland, Norway, EU, Canada and the US, respectively, (2018 VoP)7 which means the entitlements offer a potential and available policy space to use trade-distorting domestic support again disproportionate to the size of the sector as indicated by VoP.

9. The distribution of FBAMS entitlements is highly skewed even among the entitlement holders as six WTO Members account for 87.58% of total FBAMS entitlements in 2018. The EU accounts for 49% (USD 85.47 billion), Japan 20.64% (USD 35.98 billion), US 10.96% (USD 19.1 billion), Russian Federation 2.52% (USD 4.4 billion), Switzerland 2.49% (USD 4.35 billion) and Canada 1.9% (USD 3.3 billion) of such FBAMS entitlements in 2018.8

10. These additional entitlements add two types of bias to product-specific AMS;

(a) First, these additional entitlements allow for any amount and proportion of the total entitlement to be focused on any product, therefore leading to large concentration in single products. For example, in 2013, the US focused 23% of its product-specific AMS on dairy, 22% on corn and 12% on livestock; the EU focused 39% of its product-specific AMS on butter, 16% on SMP and 29% on common wheat; and Canada focused 65% of its total product-specific AMS on milk alone.9 In recent years, dairy in particular has received very high shares of total CTAMS, going as high as 98.56% in Canada (CAD 717 million, 2018), 84.82% in Switzerland (CHF 381.8 million, 2021), 57.18% in Norway (NOK 5.88 billion, 2021), 56.2% in EU (EUR 3 billion, 2019-20). Japan devoted 88.4% of its total CTAMS to beef and veal in 2019-20 (JPY 163.9 billion) while the US devoted 30.93% of CTAMS to corn (USD 4.95 billion, 2020-21).10

(b) Second, the above allows any product to receive AMS far above the size or need of the sector as indicated by its VoP and above the de minimis levels that other countries are restricted to. As an illustrative example, the US’ use of FBAMS (above de minimis) has ranged between 5.08% of VoP for soybeans (USD 2.3 billion) to as high as 56.2% of VoP in the case of sugar (USD 1.78 billion). Important products such as wheat (13.14% of VoP, USD 1.23 billion), millet (18.91% of VoP, USD 20.24 million), cotton (18.49% of VoP, USD 1 billion), and tobacco (18.21% of VoP, USD 142.88 million) all showed high shares of VoP. The EU’s FBAMS use (above de minimis) on common wheat was 9.4% (EUR 1.96 billion in 2019-20). Japan’s FBAMS use (above de minimis) amounted

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3 Ibid.
4 Quoted figures in this paragraph are from Sengupta, Ranja (2023): “Extra AMS Entitlements continue to confer additional policy space for developed countries”, Briefing Paper, Third World Network, April.
5 All FB entitlement figures are in USD 2018 rates.
6 Iceland does not account for de minimis so CTAMS figures may be an overestimate of the actual.
7 Sengupta, Ranja: “Extra AMS Entitlements continue to confer additional policy space for developed countries”, Briefing Paper, Third World Network, April.
8 Ibid.
9 Ibid.
10 Sengupta, Ranja: “Extra AMS Entitlements continue to confer additional policy space for developed countries”, Briefing Paper, Third World Network, April 2023.
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11. Therefore, the FBAMS entitlements not only allow higher absolute amounts of domestic support to be given by the Members enjoying such entitlements compared to other Members but also allow much higher flexibility and policy space in assigning the support to specific products. According to UNCTAD (2021) "efforts to revive agricultural reform processes at the WTO should prioritize a substantial reduction in the massive levels of trade-distorting domestic support in developed countries as a prerequisite for further discussions on tariff liberalization".

BLUE BOX

12. It is clear that domestic support, including Amber Box support, is a necessary policy tool to meet the needs of the agriculture sector and domestic food security as is evident by developed countries’ extensive use of such support during COVID-19. An OECD paper (2020) shows that among policy measures to agriculture during the early period of the COVID-19 pandemic, "54% of measures undertaken by governments in OECD countries focused on the three categories of support (agriculture and food support, general support and food assistance and consumer support measures), including the largest proportion on agriculture and food support (35%), while 58% of measures undertaken by emerging economies were in the non-support categories (sector wide and institutional, information and co-ordination, trade and product flows and labour measures), including the largest proportion of measures (26%) in the trade and product flow category". However policy space, in addition to financial constraints, remains a major constraint for developing countries to meet the needs of their agriculture sector. On the other hand, the FBAMS entitlements allows most developed countries to use Amber Box support extensively in times of crises.

13. At least during a crisis, policy space on de minimis needs to be expanded for developing countries who need to support their agricultural production and livelihoods through the easiest forms of domestic support including the use of market price support for strengthening the operation of the public food distribution programmes and non-exempt direct payments. According to UNCTAD (2021) "with the threat of food shortages and rising levels of hunger caused by the COVID-19 crisis, the survival of billions of people also requires strong public distribution systems. Expanding policy space and South-South coordination could ensure the flexibility needed by countries in procuring and distributing food, especially at times of crisis".13

14. The use of Blue Box subsidies under Article 6.5 of the AoA stands at USD 6297 Million (2018). The EU, Japan, Norway, and Iceland have been the most consistent users of the Blue Box while the US has used it in single years. Among developing countries China has used the Blue Box consistently since 2016 up to 2020.15 It is important to note that the Blue Box allows more policy space compared to the de minimis, and also allows both Amber Box and Blue Box subsidies to be simultaneously given to any product thus further expanding policy space to give subsidies to particular products in an unlimited manner. The EU, for example, has used both types of support for sugar beet, seeds, dairy - milk and milk products, sheep and goat meat, 

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14 JOB/AG/219, "Update to Canada’s Analytical Tool on Domestic Supports", 23 September 2021.

tobacco, beef, dairy, sheep and goat meat, olive oils, fruit and vegetables in 2016 (Sharma et al. 2020).16

15. While the Blue Box was meant to be "production limiting" and therefore not trade distorting, it is not clear whether Article 6.5(a) and its sub-conditions under 6.5(a)(i-iii) has ensured that such measures be should "production limiting". An UNCTAD (2003)17 paper indicated that Blue Box measure is aimed to limit surplus production. However, as Sharma et al. (2020)18 shows, Members are actually not required to reduce the area or production for a Blue Box measure, but just show that the payment is on "limited" production. This makes the Blue Box measures potentially trade distorting.

16. It is also important to note that the Blue Box was meant as a tool to enable Member countries shift their trade-distorting subsidies under the Amber Box to the non-trade-distorting Green Box. Given 28 years have passed since the AoA was signed, member States which have made use of Article 6.5 since 1995 have had sufficient opportunity to fulfil that objective.

GREEN BOX

17. An increasing body of theoretical and empirical evidence19 shows that large amounts of Green Box support as specified under Annex 2 of the AoA given by developed countries under paragraphs 5-13 of Annex 2 of the AoA are not in reality decoupled from production, and have created distortions in global trade and often undercut producers in developing and least-developed countries. The channels through which the decoupled payments under the Green Box can affect production include risk effects, land price effects, credit effects, labour participation effects, and expectations effects.

18. In particular, a 2007 research paper by the United Nations Conference on Trade and Development (UNCTAD)20 India shows that Green Box subsidies offered by developed countries are production enhancing and trade distortive and can impact global markets, and a reduction can benefit developing countries in several ways; by increasing production in specific countries including in net food-importing countries as well as globally; increasing their self-sufficiency; increase exports, employment and wages across developing countries leading to poverty alleviation.21

19. Further, a 2016 paper by the Commonwealth Secretariat22 shows that such subsidies have helped the US and the EU increase their total factor productivity by 3.9% and 4.6% and technical efficiency by 2.5% and 4.8%, respectively. There has also been significant box shifting between from the Amber Box or Aggregate Measure of Support (AMS) to the Green Box or Annex 2 support so as to allow such support to be given without limit.

20. Though the data available for recent years is sporadic, Annex 2 or Green Box subsidies given in 2020 by the US was USD 188.73 billion, and by China USD 182.05 billion, while India gave

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21 Page 53, ibid.
USD .3 billion and Japan USD 23.42 billion, and the latest figure notified by the EU was USD 76.98 billion in 2019. Direct payments accounted for 87.87% of total Green Box payments for the EU (2019), 2.56% for the US (2020), 28.4% for Japan, 38.1% for China, and 25.38% for India. Further Norway and Switzerland gave USD 1 billion and USD 3 billion of Green Box subsidies, respectively, in 2021, out of which 85.76% and 69.8% were direct payments.

21. A recent analysis of data provided by Canada in 2020 shows that 28 WTO Members provided total Annex 2 support above USD 100 million in 2016, the latest year in which the maximum number of Members has reported. Looking at average of 2016-2018 data (excluding missing notifications), direct payments covering paragraphs 5-13 of Annex 2 constitute above 30% of total Annex 2 support for 12 out of these 28 WTO Members while this share is between 10-20% for another 5 WTO Members. The highest share of direct payments was for the EU at 88.61% followed by Norway at 88.01%.

22. Total Annex 2 support exceeds 5% of the annual value of production (VoP) for 12 of these 28 Members (16 Members overall) and exceeds 10% of annual VoP for 9 (11 overall) out of the 12. Just direct payments alone exceed 5% of the annual VoP for six of these 28 Members, and exceeds 10% of VoP for three Members, namely the EU, Norway and Switzerland. It is important to note that developed countries get a total of 10% of VoP as product-specific and non product-specific de minimis allowance. Moreover, most of such support has gone to very large farmers or companies in developed countries such as the US or the EU.

23. Therefore, domestic support specified under paragraphs 5-13 of Annex 2 of the AoA must be disciplined in order to minimize their trade-distorting impacts. Further, the historical bases on which these payments are made must be fixed and unchanging. The use of such subsidies must also be limited to producers who really need such subsidies, and therefore only to those who account for low levels of income, landholding and production.

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24 G/AG/N/CHE/122, Notification by Switzerland on domestic support commitments (Table DS:1 and the relevant supporting tables), 24 January 2023. Converted to USD using exchange rate data from International Financial Statistics (IMF).
25 G/AG/N/NOR/122, Notification by Norway on domestic support commitments (Table DS:1 and the relevant supporting tables), 21 December 2022. Converted to USD using exchange rate data from International Financial Statistics (IMF).
27 Update to Canada’s Analytical Tool on Domestic Supports, JOB/AG/190, 7 December 2020.
The Ministerial Conference,

- **Having regard** to paragraph 1 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization;
- **Recognizing** that domestic support disciplines under the Agreement on Agriculture (AoA) need to be reviewed and redesigned in a fair and equitable manner while preserving and integrating special and differential treatment;
- **Acknowledging** also that such an exercise must include identification and redress of the existing elements of inequity as well the gaps in the existing rules that allow trade-distorting domestic support to continue;
- **Acknowledging** that some Members have enjoyed additional policy flexibility in their domestic support allowances through the extra Final Bound Aggregate Measurement of Support (FBAMS) entitlements under paragraph 6.3 of the AoA which has allowed them not only higher total subsidies but has also allowed them to concentrate these in any product without the product-specific de minimis limits that other Members are obliged to meet;
- **Recognizing** that Blue Box subsidies under paragraph 6.5 of the AoA are most often not decoupled from production and that the Blue Box was meant to be an interim tool to shift subsidies from the Amber Box to the Green Box. Further Blue Box support allows users to give additional subsidies in comparison to the size of the agriculture sector as indicated by the value of production (VoP) and therefore must be curtailed;
- **Noting with concern** that large amounts of Green Box support given by some Members as direct payments under paragraphs 5-13 of Annex 2 of the AoA are not decoupled from production; are often much higher in comparison to the size of the agriculture sector as indicated by the VoP, and, have in turn created distortions in global trade and impacted producers in developing and least-developed countries;

Decides that the relevant provisions of the AoA shall be understood and applied as provided for below.

**FINAL BOUND AMS ENTITLEMENTS**

[ALT 1 (1(a) to 1(d)]

1(a) All Members with FBAMS entitlements exceeding applicable de minimis levels; (i) either accounting for a share of 10% or above in all Members’ total FBAMS entitlements, or (ii) accounting for 8% of global exports of WTO Members averaged over the last five years in that product shall cap their product-specific AMS for each agricultural product at their de minimis level within a period of two calendar years from the date of this Decision.

1(b) All other Members with FBAMS entitlements exceeding applicable de minimis levels shall cap their product-specific AMS for each agricultural product at their de minimis level within a period of three calendar years from the date of this Decision.

1(c) In addition, all Members with FBAMS entitlements exceeding applied de minimis levels shall cap their non product-specific AMS at their de minimis level within a period of five calendar years from the date of this Decision.
1(d) {Alt 1: Developing country Members\textsuperscript{1} with FBAMS entitlements exceeding applicable de minimis levels covered under paragraphs 1(a), 1(b) and 1(c) above shall have double the time period specified in paragraphs 1(a), 1(b) and 1(c) to cap their relevant AMS at the de minimis level.}

{Alt 2: Developing country Members with FBAMS entitlements exceeding applicable de minimis levels covered under paragraphs 1(a), 1(b) and 1(c) above shall have double the time period specified in paragraphs 1(a), 1(b) and 1(c) to cap their relevant AMS at 50\% of its average value in the last five calendar years as notified to the WTO.}

ALT 2 (1(a) to 1(d))

1(a) All Members with FBAMS entitlements exceeding applicable de minimis levels shall cap their product-specific AMS at their de minimis level in respect of each agricultural product where the product-specific support has exceeded 25\% of the VoP as notified to the WTO any time within the last five calendar years, within a period of two calendar years from the date of this Decision.

1(b) All other Members with FBAMS entitlements exceeding applicable de minimis levels shall cap their product-specific AMS at their de minimis level in respect of all other agricultural products within a period of three calendar years from the date of this Decision.

1(c) In addition, all Members with FBAMS entitlements exceeding applicable de minimis levels shall cap their non product-specific AMS at their de minimis level within a period of five calendar years from the date of this Decision.

1(d) {Alt 1: Developing country Members with FBAMS entitlements exceeding applicable de minimis levels covered under paragraphs 1(a), 1(b) and 1(c) above shall have double the time period specified in paragraphs 1(a), 1(b) and 1(c) to cap their relevant AMS at the de minimis level.}

{Alt 2: Developing country Members with FBAMS entitlements exceeding applicable de minimis levels covered under paragraphs 1(a), 1(b) and 1(c) above shall have double the time period specified in paragraphs 1(a), 1(b) and 1(c) to cap their relevant AMS at [50]\% of its average value in the last five calendar years as notified to the WTO.}

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2(a) Notwithstanding paragraphs 1(a) to 1(d) above, any developing country Member experiencing a severe food crisis may have recourse to a product specific de minimis that can exceed 10\% of VoP but not more than (10+X\%) of VoP for a period of three calendar years from the year when the crisis has begun as assessed by the affected Member or until the end of the crisis as assessed by the affected Member, whichever is longer. This option is available for food products where the affected developing country accounts for less than 1\% of global exports. An eligible Member may use this option as soon as it has assessed that a severe food crisis has begun in accordance with paragraph 2(b).

2(b) A "severe food crisis" shall be understood to have occurred when for the food product in question;

(i) the domestic net availability falls below 80\% of the Olympic average of the five years preceding the year when the affected Member assesses a severe food crisis has begun, or

(ii) the total public and private domestic expenditure exceeds 130\% of the Olympic average of the five years preceding the year when the affected Member assesses a severe food crisis has begun, or

\textsuperscript{1} For greater certainty for the purposes of this Decision, "developing Member" includes least-developed Member.
(iii) the domestic average price exceeds 130% of the Olympic average of the five years preceding the year when the affected Member assesses a severe food crisis has begun.

NOTIFICATION

2(c) Members using paragraph 2(a) above shall file their annual domestic support (DS:1) notifications for the relevant years. In addition, such Members shall also file a notification on meeting the conditions specified under paragraph 2(b) above within the first calendar year of exceeding the de minimis limit.

BLUE BOX

3(a) Direct payments in any year under production-limiting programmes for a specific product as allowed under the terms of Article 6.5 of the AoA by a Member which has used such subsidies between 1995 and the date of this Decision may not exceed 2.5% of the Olympic Average of preceding five years VoP of that product.

3(b) For Members which have not used such subsidies between 1995 and the date of this Decision but use it in the future, the provision under paragraph 3(a) will be applicable after a period of 20 years from the date of this Decision.

NOTIFICATION

3(c) Any Member which uses the Blue Box shall file annual notifications as required under the provisions of the AoA.

GREEN BOX

4(a) Total domestic support specified under paragraphs 5-13 of Annex 2 of the AoA shall be capped at 5% of the annual VoP within a period of three calendar years from the date of this Decision.

4(b) When paragraph 8 of Annex 2 of the AoA is used in certain year(s), total domestic support specified under paragraphs 5-13 of Annex 2 of the AoA shall be capped at 5% of the average VoP of the preceding five-year period excluding the highest and the lowest entry, within a period of three calendar years from the date of this Decision.

4(c) Support specified under paragraphs 5-13 of Annex 2 of the AoA may be given without limit to farmers with low levels of income, landholding, factor use and production in developing and least-developed Members.

4(d) The base periods for programmes under paragraphs 5-13 of Annex 2 of the AoA shall be defined, fixed and unchanging.

NOTIFICATION

4(e) The base periods for programmes under paragraphs 5-13 of Annex 2 of the AoA shall be notified to the Committee on Agriculture within a period of one calendar year from the date of this Decision, along with a list of the products eligible for each programme notified under paragraphs 5-13 of Annex 2 of the AoA which is to be updated within one calendar year of any change.