



SUBMISSION BY BRAZIL

ARTICLE 6.5 OF THE AGREEMENT ON AGRICULTURE (AOA) IN PERSPECTIVE

The following submission, dated 11 May 2021, is being circulated at the request of the delegation of Brazil.

1 INTRODUCTION

1.1. In January 2020, a group of Members put forward [JOB/AG/177](#)¹, proposing a "Framework for Negotiations on Domestic Support" (hereinafter referred to as the Framework). The proponents seek an agreement at the WTO to "cap and reduce the sum of current global agricultural trade- and production-distorting domestic support entitlements by at least half by 2030" in a way that is fair, proportionate and reflective of development needs.

1.2. Co-sponsors also propose that the negotiations for this agreement "shall take into consideration all forms of trade- and production-distorting domestic support under Article 6 of the Agreement on Agriculture" (AoA). The proponents have noted that the Framework does not prescribe any modality to this end, does not prejudice how various elements are included or assume that all forms of support must be treated equally. The modalities for reductions such as scope and coverage, reduction formulae, and definitions of terms are left for separate discussions and negotiations to be determined by Members.²

1.3. This document, which has been written by the Brazilian delegation as a contribution to the debate, aims to briefly analyse, from a historical perspective, Article 6.5 (known as the "Blue Box"), one of the "uncapped" categories of domestic support under Article 6. Blue Box expenditure is exempt from the Current Total Aggregate Measurement of Support (CTAMS) calculations, as well as from quantitative limits and from reduction commitments.

1.4. Statistical data are based mainly on Canada's Analytical Tool on Domestic Support, outlined in [JOB/AG/190](#), including the exchange rates, and on Members' notifications.³ A limitation in this analysis, as can be seen in the referred document, is that many Members' domestic support notifications are outdated. In this regard, through the Framework, co-sponsors stated that "the implementation of existing notification obligations under Article 18 of the Agreement on Agriculture, thus strengthening transparency with respect to existing domestic support commitments, is imperative, and that utmost effort must be made to provide all outstanding DS:1 notifications".

1.5. This analysis does not take into full account certain aspects of Article 6.5, such as all Table DS:2 submissions, the specific Blue Box criteria, and Q&A in the Committee of Agriculture in regular

¹ In February 2021, a revised version including a new cosponsor was circulated.

² More information on the rationale for the approach taken in the Framework can be found in document [RD/AG/81/Rev.1](#).

³ Notifications submitted by Members as of 17 November 2020.

session (CoA). We encourage Members to explore these issues further with additional analysis and submissions.

1.6. The main conclusions of this analysis are as follows:

- Since 2001, only five WTO Members⁴ have notified use of support under the Blue Box;
- Global notified use of Blue Box support was lower in 2016 than at the beginning of the century, both in absolute terms and as a share of trade-distorting domestic support (TDDS).⁵ Nevertheless, as new Members start to provide support under this box, one may expect an upward trend in Blue Box expenditure, both in absolute terms and as a share of all global TDDS;
- The share of Blue Box's expenditure in TDDS expenditure varies across Members. For three out of the five Members who have notified this kind of measure since 2001, expenditure under Blue Box currently accounts for more than 20% of TDDS expenditure;
- Blue Box expenditure by Members who currently use such support is usually lower when compared to both their Amber Box entitlements⁶ and expenditure. Currently, four out of the five Members who notify this kind of measure provide Blue Box support that equals less than 5% of (1) their total value of agricultural production (VoP) and (2) their support notified under the Amber Box;
- Available data indicate that level of production has been steady or declining for some products receiving product-specific support (PSS) under the Blue Box. Nevertheless, there are some cases in which level of production is steadily increasing since the establishment of the corresponding Blue Box programme;
- Most Blue Box users provide support to the same products simultaneously under both Amber Box and Blue Box. One cannot rule out that increasing production for some products that receive PSS under the Blue Box is due to concurrent PSS under the Amber Box. Furthermore, in some cases, exemptions related to Blue Box could allow for keeping Amber Box support under "*de minimis*" levels and/or for not exceeding Final Bound Total Aggregate Measurement of Support (FBTAMS) limits;
- There is not enough data-based evidence to allow for a conclusion that Blue Box represents an intermediate step from Amber Box to Green Box support, even if this has been claimed by at least one Member;
- Some problems related to the Blue Box commonly identified by Members under the review process at CoA, such as the ambiguity of and potential to circumvent the FBTAMS commitments through PSS provided under Article 6.5, may be avoided through clarification of concepts and additional transparency requirements; and
- Since this analysis relies on domestic support notifications, Members are encouraged to ensure they meet their DS:1 and DS:2 notification obligations in a timely, accurate, and complete manner. This will help advance our collective understanding of the current situation with respect to domestic support and help inform our ongoing negotiations.

⁴ This analysis considers figures from EU-28 when analyzing its domestic support expenditure and entitlements. As recalled by Brink & Orden, "Croatia, Czech Republic, Estonia, Slovak Republic and Slovenia reported blue box exemptions prior to becoming members of the EU". In: BRINK, Lars & ORDEN, David. "Taking Stock and Looking Forward on Domestic Support under the WTO Agreement on Agriculture". St. Paul, Minnesota: University of Minnesota, Department of Applied Economics, International Agricultural Trade Research Consortium (April 2020).

⁵ TDDS is inclusive of all support provided under Article 6 of the AoA.

⁶ Amber Box entitlements is the summation of Final Bound Total Aggregate Measurement of Support entitlements and both product-specific (PS) and non-product-specific (NPS) "*de minimis*" entitlements.

2 ARTICLE 6.5 ("BLUE BOX")

2.1 DEFINITION

2.1. Under the AoA, Aggregate Measurement of Support (AMS) is defined as the annual level of support provided for agricultural production, with the only exception of the support provided under programmes that meet the criteria of Annex 2 to the Agreement. Nonetheless, domestic support reduction commitments apply to "all of [its] domestic support measures in favour of agricultural producers with the exception of domestic measures which are not subject to reduction in terms of the criteria set out in this Article [Article 6] and in Annex 2 to this Agreement".

2.2. In order to achieve consensus in the AoA negotiations during the Uruguay Round, owing especially to the reform of a Member's agricultural policy that was, at the time, focusing on area and headage⁷ payments, Members agreed that there would be no obligation to include expenditure for policies regarded as "production-limiting" in their CTAMS calculations. Even though these policies are considered coupled payments, expenditure under Article 6.5 is not subject to any payment ceiling under the current AoA.

2.3. Article 6.5 of the AoA states that:

- (a) *Direct payments under production-limiting programmes shall not be subject to the commitment to reduce domestic support if:*
 - (i) *such payments are based on fixed area and yields; or*
 - (ii) *such payments are made on 85 per cent or less of the base level of production; or*
 - (iii) *livestock payments are made on a fixed number of head.*
- (b) *The exemption from the reduction commitment for direct payments meeting the above criteria shall be reflected by the exclusion of the value of those direct payments in a Member's calculation of its Current Total AMS.*

2.4. Although no quantitative limit is applied to the amount of support given in general under the Blue Box, Article 6.5 establishes programme-level limitations under three criteria: (i) area and yield; (ii) base level of production; and (iii) livestock numbers. Production above that limit, defined in reference to a base period, does not qualify for payments under Article 6.5 programmes.

2.2 PROGRAMMES' DESIGN

2.5. According to [G/AG/2](#), all Members introducing a new support measure, or making modifications to an existing measure, for which an exemption from reduction is claimed, must present a DS:2 notification. The notification should explain clearly how the measure meets the criteria for being exempt.

2.6. Concrete examples taken from DS:2 notifications are the best way to address how Article 6.5 programmes have been designed. One Member, for example, has computed the average number of milk cows in a three-year span. It has defined this number as its base level of production and determined that the maximum number of milk cows that would be entitled to receive domestic support was 85% of the base level of production. Although the base level was established in the national level, support is provided in a farm level. Payments are due to farmers possessing a given minimum number of milk cows and are halted after a maximum number of milk cows. Between the minimum and the maximum number of milk cows, full remuneration is paid until a certain level; after that, the rate of per-milk cow payment decreases, reaching zero in the maximum number of milk cows.

2.7. Another Member replaced a PSS programme under Article 6.5 by another Blue Box programme providing PSS for the same product. As indicated in the corresponding notification, this programme has been initiated as a response to aging and decreasing number of farmers and a substantial decline in agricultural income. According to the notification, the new programme conforms to the criteria in Article 6.5(a)(ii), because it is a direct payment under a production-limiting programme and the

⁷ Number of animals held as stock on a farm.

payment made on 85% or less of the base level of production. The payment is made per unit area of production, and consists of two components: (i) the fixed component calculated based on the historical gap between the national average cost of production and farm gate price; and (ii) the variable component, which is paid only in the year when the farm gate price goes below a fixed threshold.

2.3 CONCERNS ABOUT THE CURRENT DEFINITION

2.8. Some Members contend that it is not clear what "production-limiting" means in practice and how that could be demonstrated. This gives rise to a number of related questions about how the Blue Box is used, and to what extent it lives up to its classification as a "production-limiting" type of support.

2.9. At least one Blue Box user has argued that the production-limiting criteria are there to avoid incentives to increase production in order to receive support, which differs from the rationale behind the Amber Box. Practice shows that Members that made use of Article 6.5 production-limiting programmes do not automatically interpret that a limitation of production, let alone a reduction, should follow suit.⁸ In this sense, the limitation is being applied to the amount of area, level of production or headage that can be subsidised. Farmers being allowed to produce above such levels would simply not, in theory, receive domestic support for the additional production. Furthermore, there is no legal impediment for a Member to support those farmers or a sector through other policies classified under different boxes, either the Amber Box or the Green Box.

2.10. Article 6.5 is also silent on the establishment of the base period against which the fixed area and yields, the level of production or the number of head should be assessed. At least one Member have respected fixed and unchanging reference periods for its Blue Box programmes. At least one Member has established as base period one in which production levels were higher than the production levels immediately before the establishment of the programme. In addition, without clear rules on how to deal with base periods, at least one Member replaced subsequent Blue Box programmes for a same product, among other changes adjusting the base period.

2.11. Blue Box support is a coupled form of support, for payments, even if constrained under Article 6.5 limitations, are dependent on production. In general, coupled agricultural support can have the effect of raising prices for some products, depressing prices for others and can generally exacerbate distortions in the market, depending on how the measure is designed. Furthermore, production levels are not equal to what would have occurred if the policy were not in place. The OECD has highlighted that "there is also evidence that coupled support can exacerbate environmental impacts by incentivizing farmers to expand production and intensify the use of environmentally damaging inputs. It can also undermine efforts to adapt to climate change by locking farmers into producing certain crops even where conditions are becoming increasingly less suitable".⁹

2.12. Furthermore, during demand-side shocks, Blue Box payments provide a powerful incentive to continue to produce even despite market signals. Blue Box payments also affect decisions about where, what, and how to farm, and they put incentives around particular farm sizes and farming models. This could be undesirable both for the Member providing such support where it stifles innovation and for farmers in other countries who are trying to compete without the same financial support.

2.13. The discussion about Article 6.5 has been well summarized in [JOB/AG/160](#), which states that "the Blue Box can be used to achieve policy objectives such as providing a transition to Green Box support and to limit surplus production. Despite these objectives, concerns have been raised regarding the ambiguity of and potential to circumvent the FBTAMS commitments through the existing 'production limiting' criteria in the Blue Box".

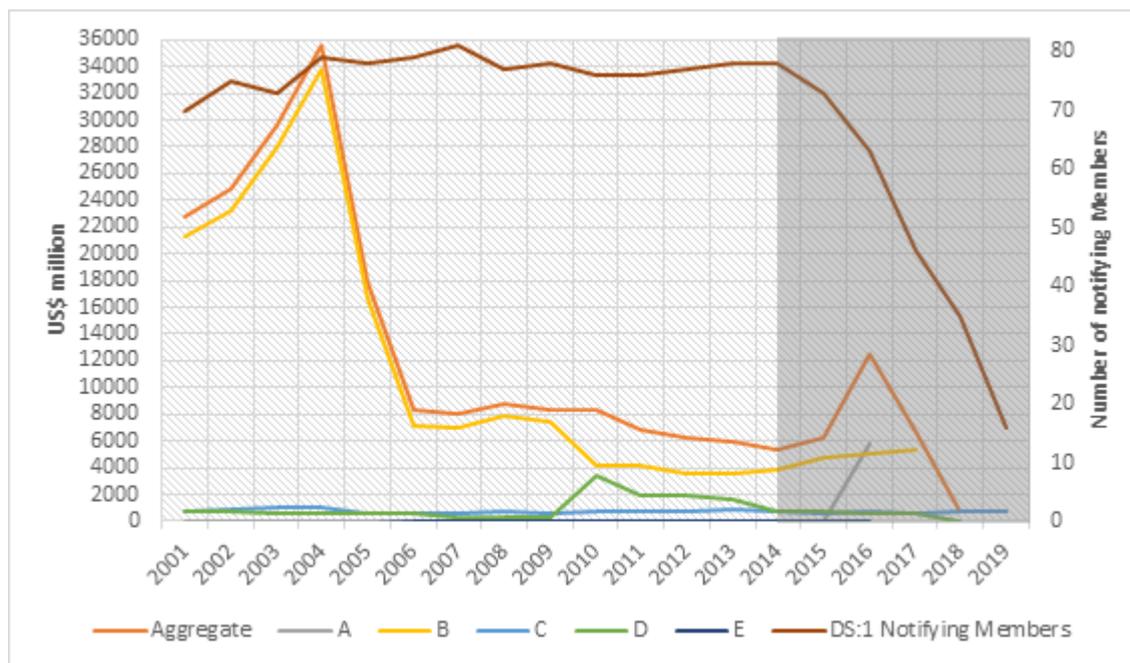
⁸ The "production-limiting" criterion has never been subjected to legal interpretation under the DSB. In this sense, divergence persists on whether the "production-limiting" is a stand-alone criterion or if compliance with (i), (ii) or (iii) implies that a program is "production-limiting".

⁹ OECD. Agriculture Policy Brief. Food systems and the triple challenge (January 2021).

2.4 USERS

2.14. Blue Box compliant support is exemptible for all Members. According to Canada's "Analytical Tool on Domestic Support", since 2001, only five Members have notified support through Article 6.5. Three of them (B,C and D) have notified Blue Box support for the whole period, but one (D) has stated at CoA that its "programme is no longer effective because it was ended after payment to rice produced in 2017", which can be confirmed in its most recent DS: 1 notification for 2018. One Member (E) has been notifying it since 2006. Another Member (A) notified it only for 2016¹⁰ (see Graph 1).

Graph 1: Article 6.5 expenditure by Member since 2001 versus number of DS:1 notifying Members¹¹



2.15. In 2016, Member A accounted for 47.2% of the world's total Blue Box domestic support expenditure, followed by Member B (41.2%), Member C (6.3%), Member D (5.2%), and Member E (less than 0.05%).

2.5 BLUE BOX NOTIFIED USE SINCE 2001

2.16. Blue Box domestic support grew gradually between 2001 and 2004, until it reached a maximum of USD 35.5 billion. Notified expenditure decreased by almost half in 2005 and again in 2006. Between 2008 and 2014, it showed a downward trend, moving from USD 8.9 billion in 2008 to USD 5.3 billion in 2014. Expenditure increased back to USD 12.5 billion in 2016 (see Graph 1). Due to the lack of recent DS:1 notifications from a significant number of Members¹², including from some traditional Blue Box users, Graph 1 notified data for the past years may be underestimating significantly the actual expenditure, and an upward trend cannot be discarded.

2.17. The change in the spending pattern on Blue Box subsidies can be explained by the changes in support granted by its biggest historical user. In 2004, this Member notified USD 33.8 billion under Article 6.5, 95.1% of all Blue Box support notified for that year and around six times the amount it notified for 2017 - USD 5.4 billion (see Graph 1). The significant increase in 2016 is due

¹⁰ Member A's latest DS:1 notification relates to 2016.

¹¹ Notifications from the 28 member States of EU-28, as in 2019, are counted as one for the whole 2001-2019 period, even in cases where the member State was not part of the bloc for some of the years of the series.

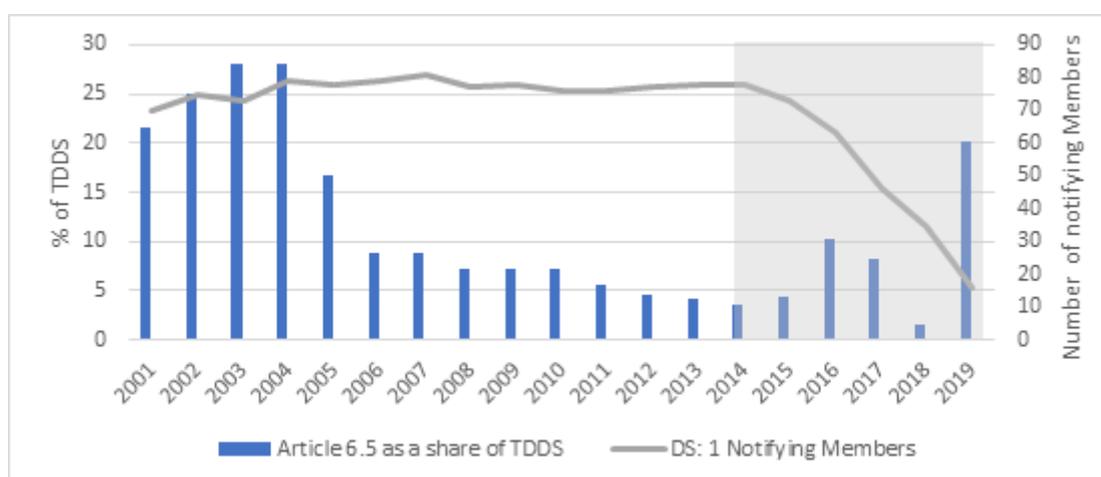
¹² A DS:2 notification issued in 2018 flagged that Member A started implementing a Blue Box support to cotton in 2017, so one can expect a recent increase in its expenditure under this box. In April 2021, a DS:2 notification flagged the launch of a coupled support programme for protein crops implemented by Member F.

to the first and only notification of Blue Box expenditure by a developing Member, which more than compensates the phasing-out trend that had been observed for expenditure under this box in recent years.

2.6 BLUE BOX SUPPORT VIS-À-VIS ARTICLE 6 AND VOP

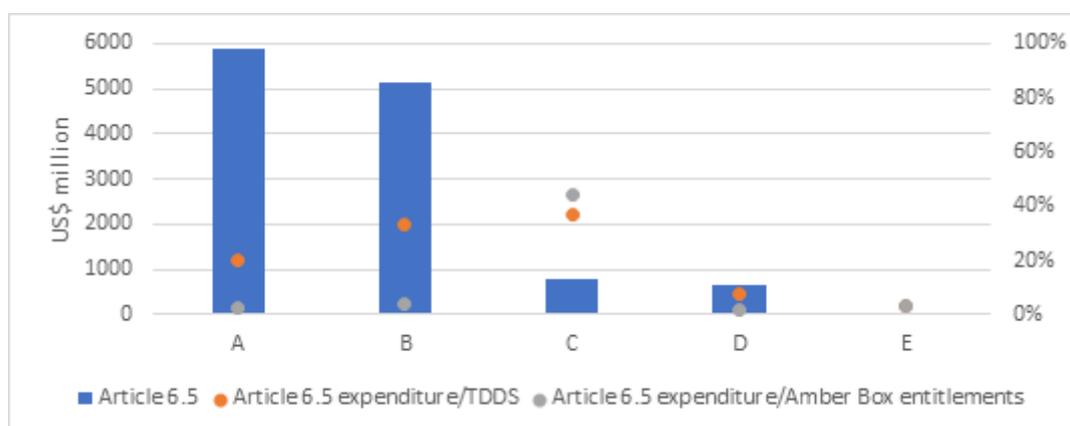
2.18. The downward trend in Blue Box expenditure since 2004 came coupled with a reduction in its relative importance in the context of Article 6 expenditure (see Graph 2). In 2016, Blue Box support accounted for 10.2% of global Article 6 expenditures, while in 2001 it accounted for 21.5% of all expenditure under Article 6. While it remains to be seen if Blue Box expenditure will increase as some main users catch up on their pending notifications for recent years, its use by new Members could also reflect a more sophisticated approach to the trade distorting policy mix. In the near future, it will be important to continue to monitor any changes in Blue Box expenditure and its impact in the structure of support given under Article 6, both at the individual and at the global level.

Graph 2: Article 6.5 support as a share of global TDDS since 2001¹³



2.19. The Blue Box support share is more significant to the policy mix under Article 6 for some Members than for others (see Graph 3 and Annexes 2 and 3). Most Members implementing Blue Box programmes have recently notified expenditure that is relatively low when compared with their TDDS and their Amber Box entitlements¹⁴, especially if one takes into account the peak reported for Blue Box in the past.

Graph 3: Article 6.5 support in USD million and in relation to TDDS and Amber Box entitlements in 2016 – by Member



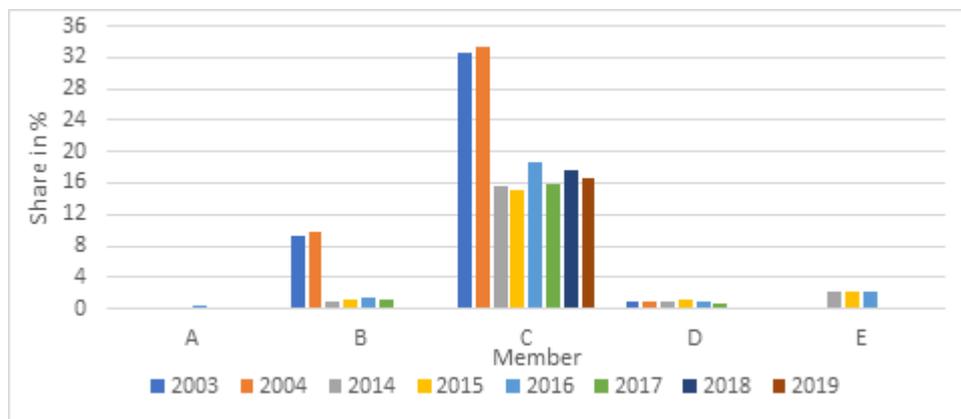
¹³ The number of notifications per year as in Graph 1.

¹⁴ For additional data on Article 6.5, Amber Box and Article 6, please refer to Annex 1.

2.20. In general, Article 6.5 users account individually for a larger share under global Amber Box expenditure (both PS and NPS "*de minimis*" plus CTAMS) than their respective share under global Article 6 expenditure (see Annex 3). Regarding entitlements, for two Members, their share in global Amber Box entitlements is higher than the share in global Article 6 (TDDS) expenditure, while for the other users their shares are lower. This could be explained by the fact that – for different reasons – these Members have two of the largest Amber Box entitlements among the Membership.

2.21. In past years, Blue Box support as percentage of the VoP has also been showing a downward trend among its long-term users (see Graph 4). For example, it accounted for more than 5% of Member B's VoP in 2005, but by 2015 it accounted for around 1.2%. Regarding Member C, subsidies under Blue Box reached the equivalent of one third of its VoP in 2004, decreasing to around 16% in its latest notifications. In the case of Member D, its notifications from 2014 to 2017 show a level of expenditure equivalent to around 1% of its annual VoP. From 2007 to 2016, the share of Blue Box in Member E's VoP declined from 3% to 2.1%.

Graph 4: Article 6.5 as percentage (%) of VOP for all Members that have notified use of this Box since 2001



2.7 PSS UNDER THE BLUE BOX

2.22. Dairy¹⁵ and meat¹⁶ (especially beef) have been the products that have been regularly benefitting from Blue Box support for most Members (3), followed by cereals (in particular rice and maize/corn) (2). In terms of amount provided, the highest value recorded for a Blue Box programme was a per hectare compensation payment given by a Member B to producers of cereals¹⁷, oilseeds and protein plants, grass silage, including energy crops, and set aside in 2004. In a more disaggregate level, the highest value of PSS under the Blue Box in one year was that provided to corn by another Member A in 2016. As a whole, the meat sector followed by the dairy sector have received the highest share of PSS under the Blue Box since 2001, whether by payments based on level of production or fixed number of head.

2.8 PSS UNDER THE BLUE BOX IN RELATION TO "PRODUCTION-LIMITING"

2.23. Although raw data notified by Members and a comparison between only PSS under the Blue Box and level of production cannot provide for a strong correlation between these two variables, as other factors (such as market conditions) should be taken into account, level of production does not seem to be always steady due to the implementation of a programme under Article 6.5. In some cases, it increases indeed, even if Blue Box support also increases.

¹⁵ For this analysis, this category includes milk and goat milk.

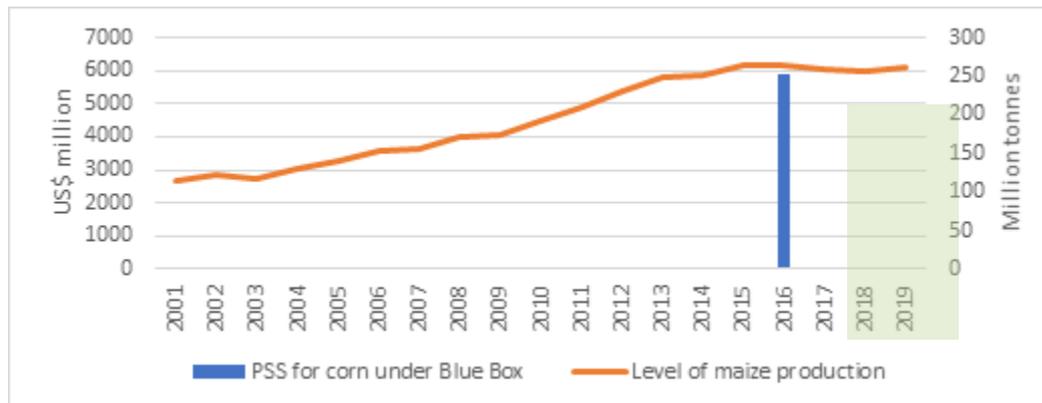
¹⁶ For this analysis, this category includes beef, veal, pork/pigmeat, ewe/sheep, goat and poultry.

¹⁷ Blue Box notified programmes refers to this group of products in general, without pointing out which specific products benefit from support. For this analysis, this category may include wheat, barley, maize, sorghum, rice, and other cereals.

2.24. Graphs 5 to 14 present a comparison between PSS under the Blue Box and levels of production for programmes implemented by Article 6.5 users. Data on level of production presented in this analysis were extracted from OECD Agricultural Policy Monitoring and Evaluation.¹⁸

2.25. Member A has only notified Blue Box support once: for corn, in 2016. It has not provided any new DS:1 notification since then. According to OECD, Member A's domestic production of corn/maize rose from 2003 to 2015 to a maximum 265 million tons in 2015, and has been kept stable, slightly below 2015 levels, ever since (as of 2019) (see Graph 5).

Graph 5: Member A – Corn/Maize – Blue Box notified support versus level of production



2.26. Member B has been notifying Blue Box support for different groups of products since 1995. There are limitations for establishing a correlation between support under the Blue Box and level of production, as, for instance, many programmes comprise more than one product. However, for illustrative purposes, this analysis will present data¹⁹ for maize, durum wheat, rice, milk/dairy and beef and veal.

2.27. For maize (see Graph 6), there was a PSS programme in place under the Blue Box until 2003, when the level of production remained stable between 30 and 40 million tonnes. After that, other non-specific Article 6.5 programmes were created, including for cereals in general. Under these programmes, the level of production increased up to a peak of more than 77.5 million tonnes in 2014.

- For durum wheat (see Graph 7), production decreased from 2004 to 2007, coinciding with the phase-out of a PSS programme under the Blue Box. Since then, the level of production is relatively stable, even without a specific Article 6.5 programme for durum wheat.
- For rice (see Graph 8), production increased in 2004, when PSS under the Blue Box reached its peak, and it decreased in 2013 and 2014, in the absence of a specific Article 6.5 support for rice.
- For milk²⁰ (see Graph 9), its level of production was stable from 1995 to 2003, then, in 2004, it increased along with an increase in PSS for milk producers, as a new additional programme was introduced. From 2004 to 2010, despite modifications in the PSS programmes, support declined to the current level, accompanied by a mild increase in production.²¹

¹⁸ <http://www.oecd.org/agriculture/topics/agricultural-policy-monitoring-and-evaluation/>.

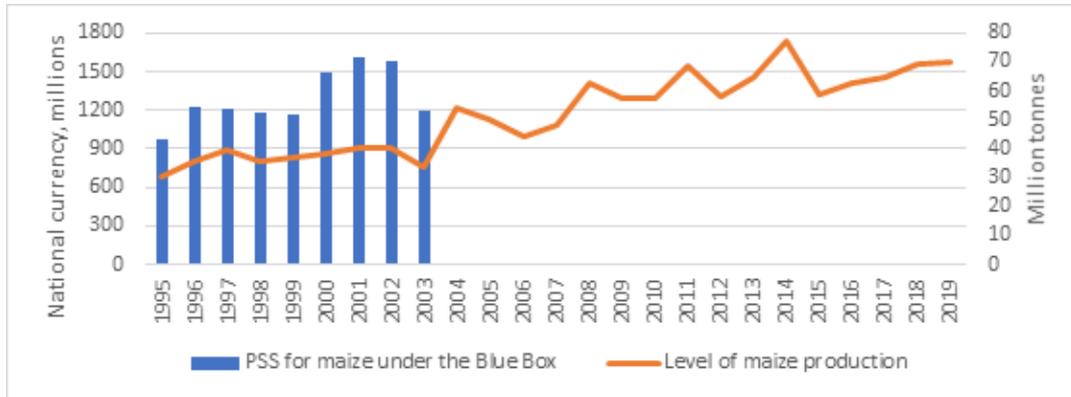
¹⁹ For this analysis, Blue Box support was that notified by the Member from 1995, and VoP comprises the aggregate production according to OECD.

²⁰ PSS for milk and dairy products has comprised three different programmes all over the years (sometimes concurrently provided): suckler cows premium, dairy payments to milk producers and voluntary coupled support for dairy.

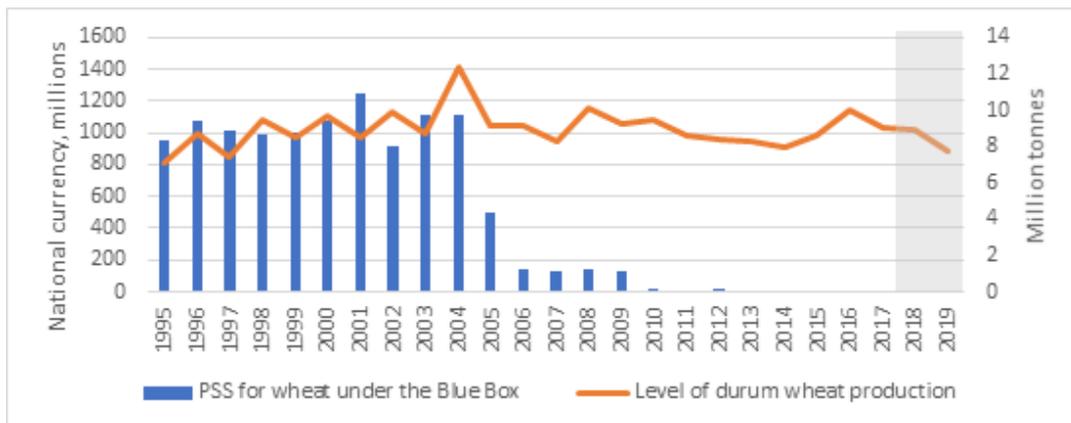
²¹ It should be noted that support for milk production can stimulate an increase in dairy herd, which allows for a consistent increase in production, despite the subsequent reduction in support.

- For beef and veal²² (see Graph 10), from 1999 to 2004, support increased, leading to a gradual recovery of the production. However, as support significantly decreased from 2004 to 2006, production remained stable. From 2010 to 2013, production decreased as Blue Box support was phasing out. In 2015, with a decoupled support programme, both support and production increased from 2013 levels.

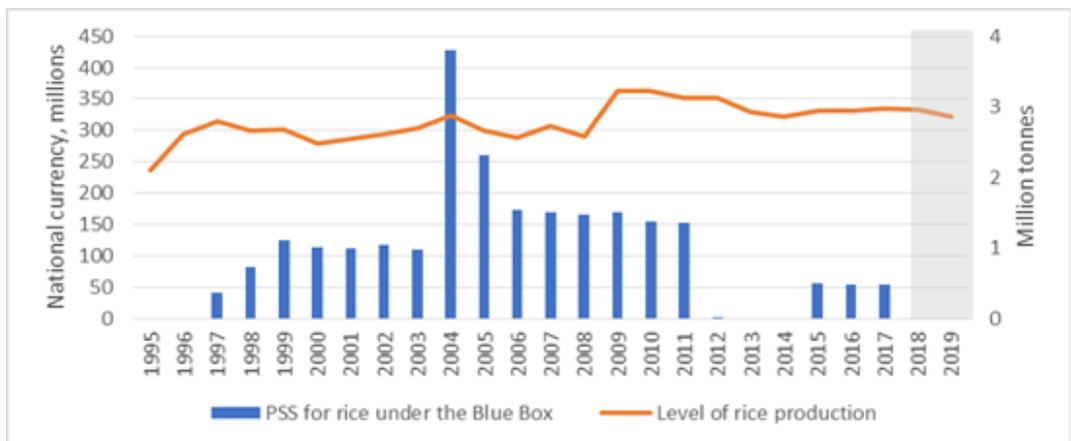
Graph 6: Member B – Maize – Blue Box notified support versus level of production



Graph 7: Member B – Durum wheat – Blue Box notified support versus level of production

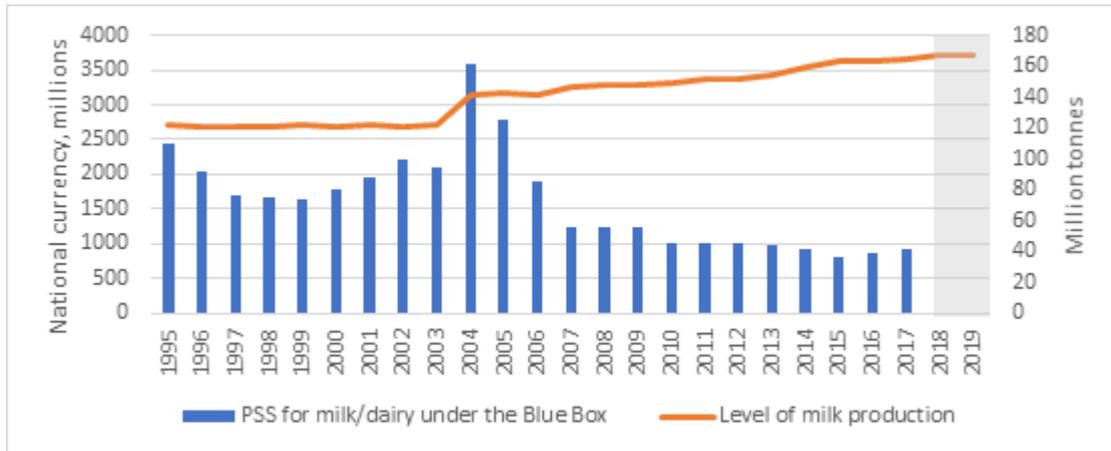


Graph 8: Member B – Rice – Blue Box notified support versus level of production

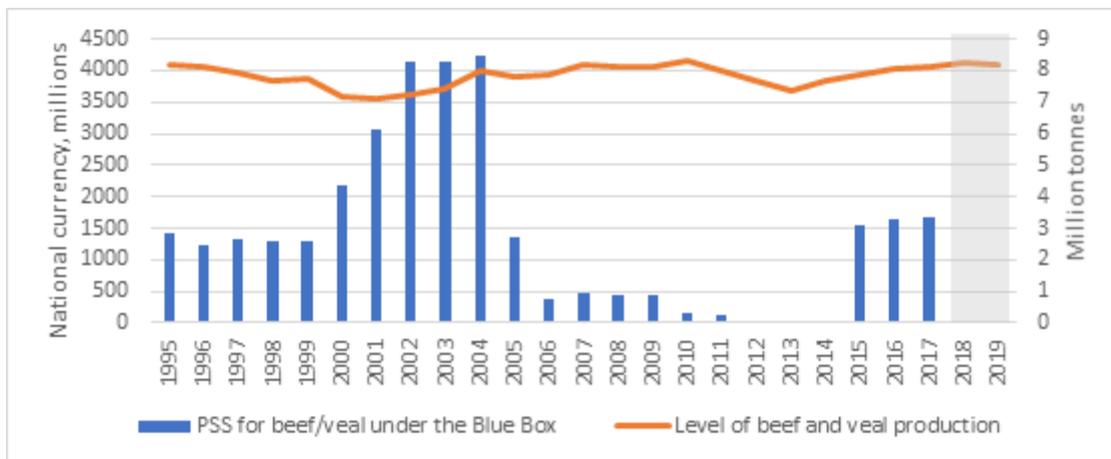


²² PSS for beef and veal has comprised different programmes all over the years (sometimes concurrently provided), such as special premium for beef and veal, beef supplementary payments, slaughter premium within nationally fixed maximum number of head and voluntary coupled support.

Graph 9: Member B – Milk/Dairy – Blue Box notified support versus level of production



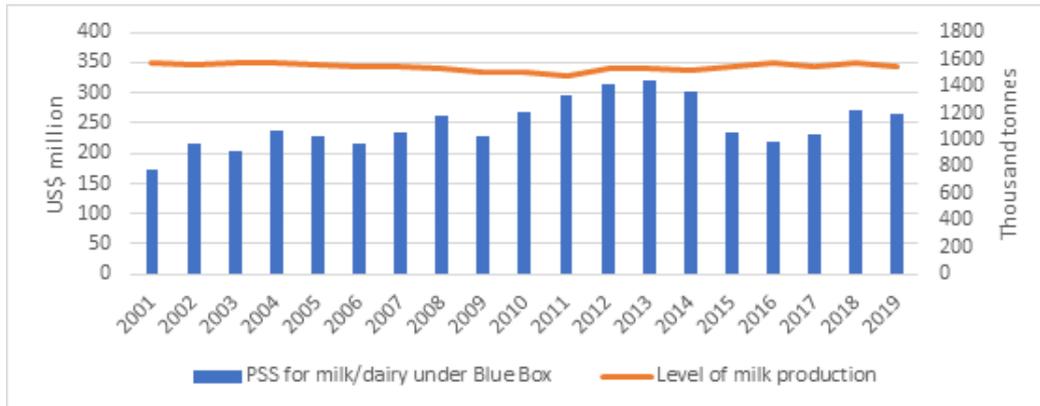
Graph 10: Member B – Beef and Veal – Blue Box notified support versus level of production



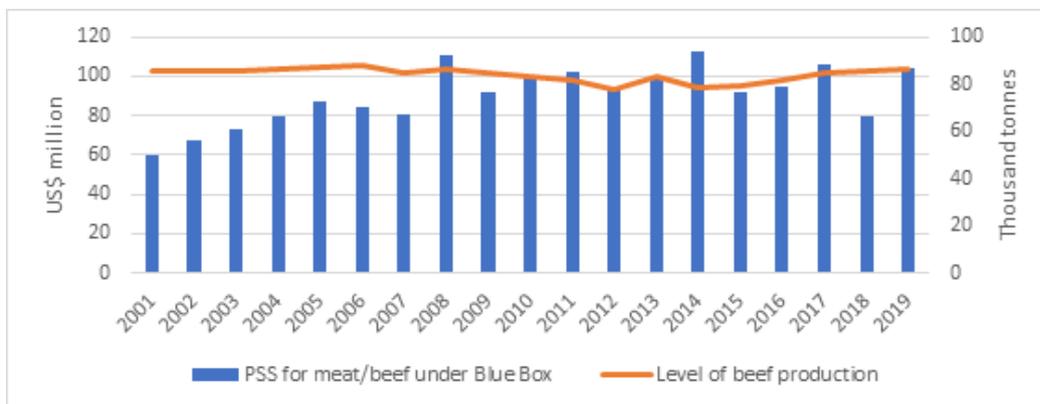
2.28. Since its first DS:1 notification back in 1995, Member C has notified Article 6.5 support for dairy and meat products (see Graphs 11 and 12).

- According to the OECD, its level of milk production has fallen from 1.78 million tons in 1995 to 1.54 million tons in 2019 (when it launched an additional Blue Box programme for dairy products), with a nadir in 2011 (1.48 million tons);
- Regarding beef specifically, its level of production in 1995 was 84.3 thousand tonnes, reaching a peak of 95.6 thousand tonnes in 1999 and a nadir of 78 thousand tonnes in 2012. In 2014, this Member launched an additional Blue Box programme specific for beef, which did not lead to an increase of PSS support under the Blue Box when compared to the beginning of last decade. However, its level of beef production has been increasing since 2014, reaching 86.34 thousand tonnes in 2019.

Graph 11: Member C – Milk/Dairy – Blue Box notified support²³ versus level of production

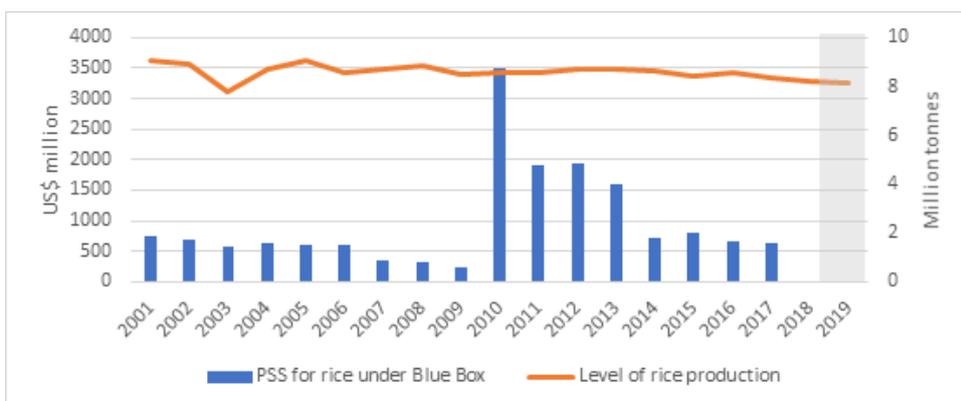


Graph 12: Member C – Meat/Beef – Blue Box notified support²⁴ versus level of production



2.29. Member D started providing Blue Box support to rice in 1998, when its level of production was around 9 million tonnes according to OECD (see Graph 13). Since then, it has fluctuated around 8.5 million tonnes, but there is a downward trend in production since 2013, leading to 8.15 million tonnes in 2019. As previously indicated, this Member has announced its Blue Box programme is terminated after 2017.

Graph 13: Member D – Rice – Blue Box notified support versus level of production

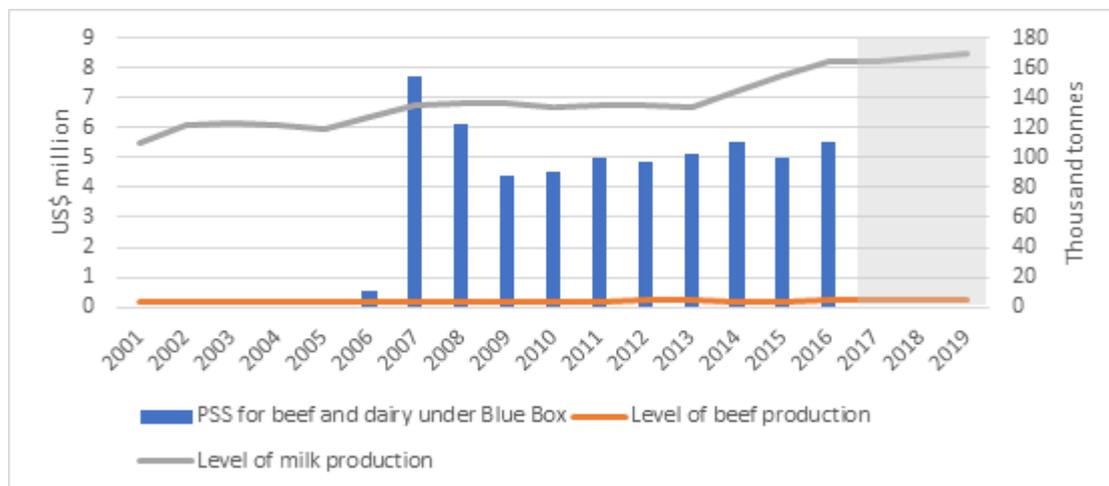


²³ For this analysis, graphs only shows PSS under payments based on fixed are and yields either for milk/dairy either for meat/beef. Payments based on livestock were not included.

²⁴ For this analysis, graphs only shows PSS under payments based on fixed are and yields either for milk/dairy either for meat/beef. Payments based on livestock were not included.

2.30. Member E has provided Blue Box support to dairy and beef since 2006 (see Graph 14). According to OECD, its level of milk production was 136.7 thousand tonnes in 2006, increasing gradually to a peak of 170.15 thousand tonnes in 2019. Regarding beef, its level of production was 3.4 thousand tonnes in 2006, also increasing up to 5.03 thousand tonnes in 2019.

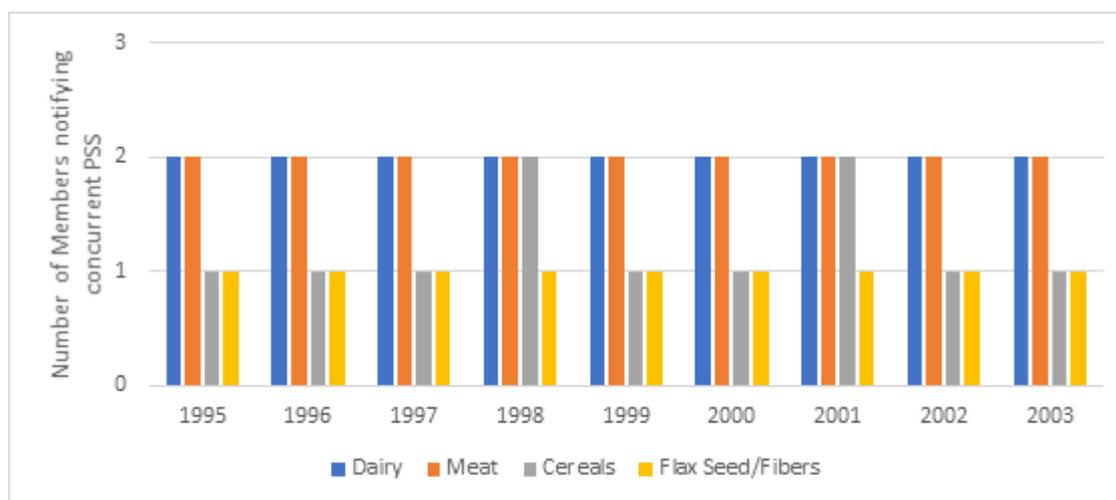
Graph 14: Member E – Beef and Dairy – Blue Box notified support²⁵ versus level of production



2.9 CONCURRENT PSS UNDER THE BLUE BLOX AND THE AMBER BOX

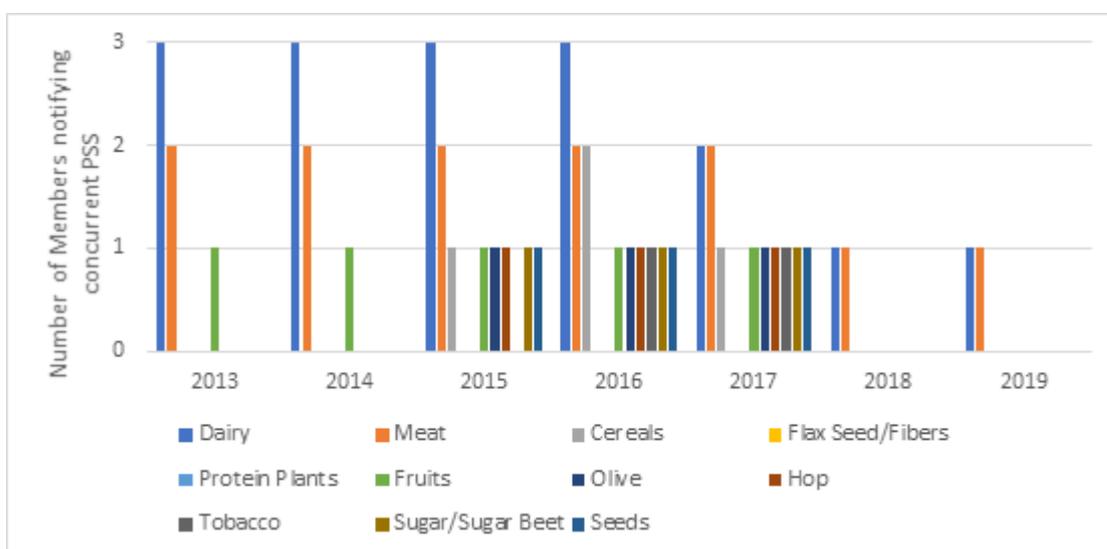
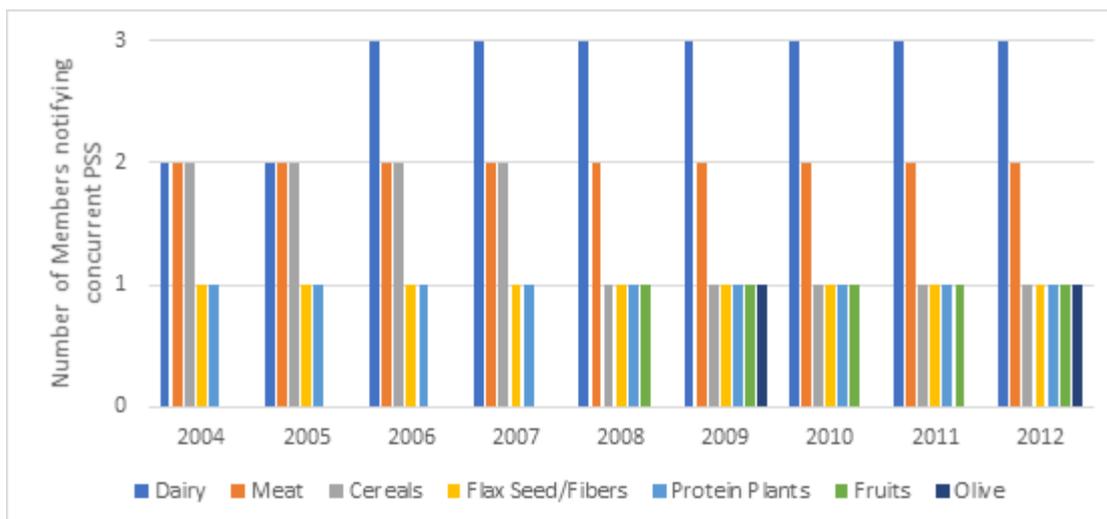
2.31. As stated by Brink & Orden, "when blue box payments are product-specific, being able to exempt them can be significant for a Member facing potentially binding limits on product-specific AMSs".²⁶ According to the authors, a Member could potentially use the Blue Box to circumvent its FBTAMS commitments. Graph 15 shows the number of Members that have been notifying PSS under both boxes for selected products:

Graph 15: Number of Members concurrently notifying Blue Box and Amber Box support to selected products – per year



²⁵ Through data notified to the WTO, one cannot disaggregate PSS for dairy and beef provided under the Blue Box by this Member.

²⁶ BRINK & ORDEN, op.cit.



2.32. In general, PSS for the some product under the Blue Box is lower than that under the Amber Box. Nevertheless, there is no uniform pattern among the five users.

2.33. At least three Members have notified Amber Box expenditure that exceeded their "de minimis" levels for a product receiving PSS under both boxes, despite the exemptions granted to the Blue Box. There are also some cases where the exemption to the Blue Box allowed Member's PSS under the Amber Box to be kept either below "de minimis" levels or below FBTAMS limits. Finally, there are many cases where Blue Box support provided to products that also received PSS under the Amber Box, if not exempt from the CTAMS calculation, would have hardly exceeded "de minimis" levels.

2.34. Member A provided PSS under both boxes for corn in 2016. In the three previous years (2013-2015), PSS for corn under the Amber Box grew from 10.9% of the VoP to roughly 25%. In 2016, when it provided PSS to corn under the Blue Box, concurrent PSS under the Amber Box fell to 13.2% of the VoP. For 2016, even if one adds specific support for corn under the Amber and the Blue Boxes, the value is lower than the Amber Box support for the product in 2015. Nevertheless, this Member exceeded its Amber Box "de minimis" for corn in 2016.

2.35. For Member B, the range of products that benefit from PSS Blue Box is wide and, for most of such products, it has also provided PSS support under the Amber Box. At the beginning of this century, even benefiting from the exemptions given to the Blue Box in the CTAMS calculation, its Amber Box expenditure exceeded "de minimis" levels for most of the products that received concurrent PSS. However, Member B has managed to keep its Amber Box support under its FBTAMS

limit. More recently, not only has its Blue Box support significantly been reduced, but also PSS under Amber Box has been kept under "*de minimis*" levels for most products. If its Blue Box accounted for CTAMS, it would be kept within this Member's entitlements in recent years.

2.36. For most²⁷ dairy and meat products, in addition to Blue Box support, Member C has resorted to its FBTAMS since 1995, although it has phased out administered target prices for several products over the last two decades including for poultry, beef, eggs and sheep/lamb meat. Regarding dairy products, there is no evidence that a new PSS programme under the Blue Box in 2019 led to a similar decrease in PSS under the Amber Box for milk. For this Member, administered target price for milk supplements Blue Box support in a coordinated production limited scheme. Regarding meat, reductions in PSS for poultry and beef under the Amber Box did not imply a proportional increase in PSS for meat under the Blue Box, although the volume of subsidies under Article 6.5 for livestock increased from 2006 to 2013. In addition, Blue Box support for meat seems to represent little compared to Amber Box PSS support provided by this Member, except for specific support for beef since 2014, when it launched a specific programme under Article 6.5. In 2018, PSS for beef was notified under the Amber Box due to extra slaughtering and non-compliance with Blue Box criterion caused by extreme drought, resulting in exceeding the "*de minimis*" level for that product. If Blue Box aggregate expenditure was not exempt and was added to the CTAMS, there would have been at least one violation of Member C's FBTAMS limit since 2001.

2.37. Member D only notified concurrent PSS for rice in 1998 and from 2004 to 2008. In 1998, it exceeded its "*de minimis*" level for rice. Since then, PSS for rice under the Amber Box was provided below "*de minimis*" levels. In 2018, it did not provide neither Blue Box neither Amber Box PSS for rice. Available data indicate that PSS would be kept under the "*de minimis*" levels for the period 2004-2008 even if Blue Box support was not exempt for the CTAMS calculation.

2.38. For dairy products²⁸, Member E has resorted to its FBTAMS since 1995. It has provided concurrent PSS to dairy under both the Blue and the Amber Box since 2006. Blue Box support has been always low if compared to PSS under the Amber Box for this product, but if Blue Box was not exempt from CTAMS calculation, Member E's Article 6.5 programme would have contributed to a breach in its FBTAMS limit in 2016.

2.39. An analysis of concurrent support can also include its effect on level of production. In some of the cases illustrated through Graphs 5 to 14 above, concurrent PSS can be the reason why level of production is increasing despite the "production-limiting" objective of the Blue Box.

2.40. Some of the situations described above may justify Members' concerns under the review process at CoA about Blue Box PSS' potential to circumvent the FBTAMS commitments and not to fulfil the "production-limiting" objective. Increasing the quality of information notified through the DS:2 format, clarifying concepts and/or establishing additional transparency requirements could address these concerns.

2.10 TRANSITIONING FROM BLUE BOX EXPENDITURE

2.41. Some Members argue that the Blue Box can constitute an intermediate step from Amber Box support to the Green Box. For instance, to a question posed at CoA on the reason why a Blue Box payment was introduced instead of integrating that support immediately into decoupled direct payment, a Member has replied that "transitional fruit and vegetables payments are provided during the phase-in of decoupling of support for certain fruit and vegetables for processing". On the opposite, at least one Member has recently affirmed at CoA that it is looking at moving away from Blue Box back to the Amber Box. In addition, another Member has reiterated that its Article 6.5 programmes are permanent, not transitory, and are essential for addressing non trade concerns.

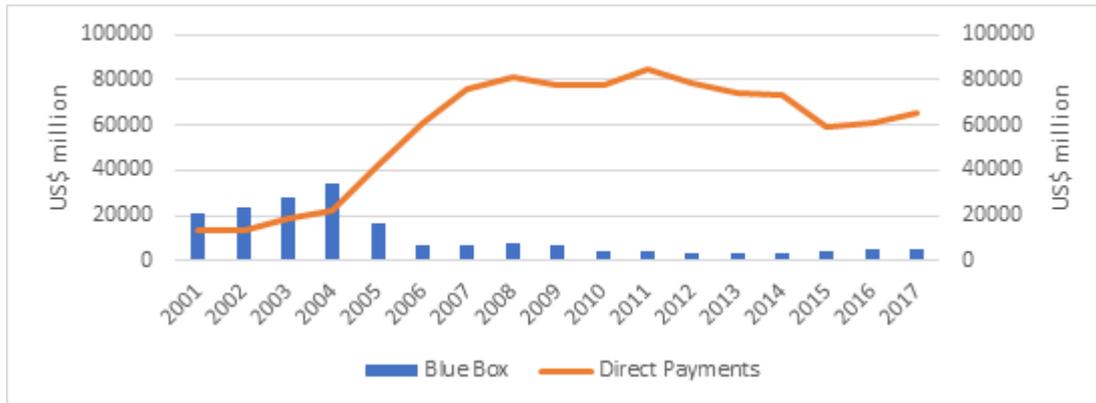
²⁷ In 2007, it did not grant PSS for poultry under the Amber Box. Since 2008, PSS for poultry under the Amber Box has fallen below the "*de minimis*" levels. Since 2010 - with the exception of 2018, PSS for beef under the Amber Box has also fallen below the "*de minimis*" levels.

²⁸ Although Member E has not been notifying its value of production, data can be achieved through OECD Agricultural policy monitoring and evaluation website: <http://www.oecd.org/agriculture/topics/agricultural-policy-monitoring-and-evaluation/>.

2.42. Although notifications cannot provide enough data to allow for any definitive conclusion, a comparison between expenditures under the Blue Box and under Green Box's direct payments (paragraphs 5 to 13 of Annex 2 of the AoA) indicates that increases (or decreases) in Blue Box are not directly linked to decreases (or increases) in direct payments for all Members.

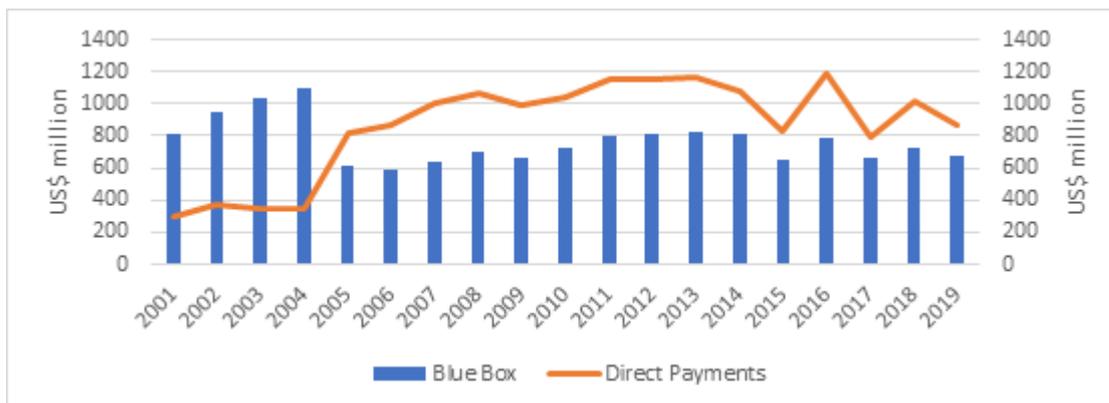
2.43. For Member B, Article 6.5 expenditure decreased, in particular from 2004 to 2006. In the same period, direct payments under the Green Box almost tripled, from USD 22.8 billion to USD 61.4 billion, and then they reached a peak in 2011 (USD 84.5 billion) (see Graph 16 and Annex 1).

Graph 16: Blue Box versus direct payments under the Green Box notified support since 2001 – Member B



2.44. As for Member C, between 2004 and 2005, at the same time a NPS Blue Box programme was terminated, leading to a big drop in the volume of subsidies provided under Article 6.5, this movement was offset by an increase of direct payments under the Green Box. Since then, expenditure on direct payments does not appear to be related to fluctuations in expenditure under the Blue Box (see Graph 17).

Graph 17: Blue Box versus direct payments under the Green Box notified support since 2001 – Member C

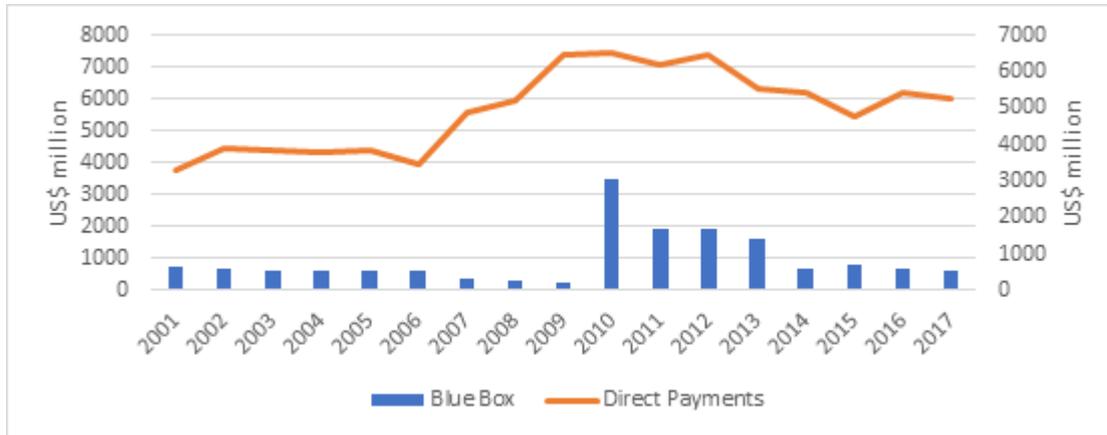


2.45. For Member D, regarding Green Box, direct payments significantly increased in 1998 (the year it started providing Blue Box support) and 1999, without a corresponding reduction in Blue Box expenditure.²⁹ However, when direct payments sharply increased again in 2007 and 2009, Blue Box support decreased. In 2010, through a new programme, Blue Box PSS support expanded, but, at the same time, direct payments also registered their historical peak. From 2011 to 2013, when Blue

²⁹ In national currency. [JOB/AG/190](#) provides data in USD for 2001 on as reflected in Graphic 18.

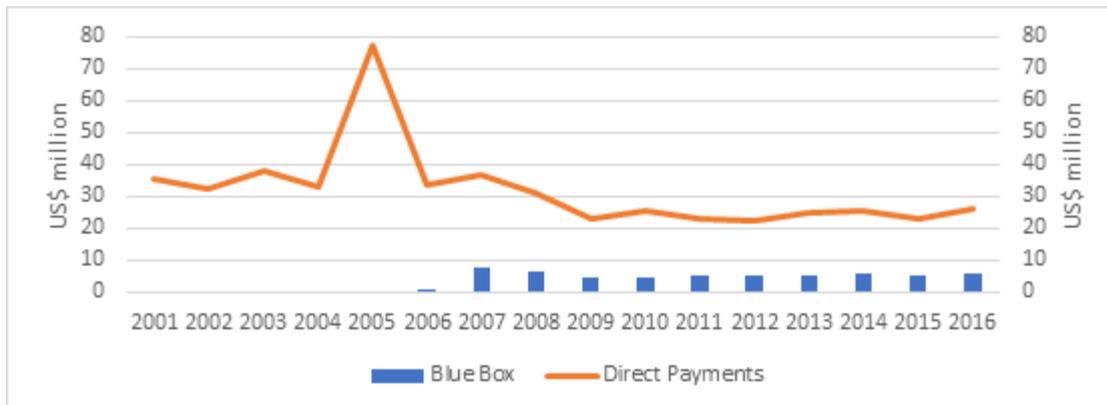
Box expenditure kept high levels compared to the previous decade, direct payments revealed some stability before a significant drop until 2015³⁰ (see Graph 18).

Graph 18: Blue Box versus direct payments under the Green Box notified support since 2001 – Member D



2.46. For Member E, except for a singular peak in 2005, a year before the launch of its Blue Box support for dairy and beef, direct payments under the Green Box have been stable enough over time (see Graph 19).

Graph 19: Blue Box versus direct payments under the Green Box notified support since 2001 – Member E



3 FINAL REMARKS

3.1. This document aims to contribute to Members' discussions by offering a comprehensive view (mainly on the basis of DS:1 notifications) on the usage of domestic support under the Blue Box.

3.2. Since 2001, Blue Box notified use has been limited to only five Members. Data suggest that Article 6.5 support (both in absolute terms and as a share of all support provided under Article 6) was lower in the past few years than at the beginning of this century. However, as seen in 2016, more Members may show an interest in using this box, which may change the relative importance of this box at the individual and collective level. Thus, in terms of the future of domestic support negotiations as determined by Article 20 of the AoA, excluding it from future rules and modalities would render the outcome outdated from its outset.

³⁰ In 2018, no Blue Box support was provided, and there was no significant change in direct payments under the Green Box.

3.3. In addition, on the one hand, data indicate that most Article 6.5 users have notified expenditure that is relatively low to their TDDS. Moreover, also for most of them, Article 6.5 expenditure equals currently less than 5% of their Amber Box entitlements.

3.4. On the other hand, most Article 6.5 users provide support to the same products simultaneously under both Amber and Blue Boxes. Although notifications cannot provide a clearer picture due to lack of important data (mainly value and level of production), by resorting to supplementary data from OECD, one could find that some Blue Box programmes have been provided to products whose level of production has increased since then and that there were cases in which exemptions related to Blue Box could allow for Members to keep their Amber Box PSS under "*de minimis*" levels and/or not to exceed FBTAMS limits. Despite the legitimate objectives behind 6.5 programmes, including addressing non-trade concerns, this finding fuels the concerns of Members who want clearer rules on the "production-limiting" objective of the Blue Box and the relationship between both the Blue Box and the Amber Box in cases of concurrent PSS, especially when taking into account the uncapped character of Article 6.5.

3.5. In terms of negotiation modalities, any discipline that only takes into account Amber Box entitlements will misestimate significantly the weight of certain Members in assessing their distortion potentials in production and world trade. Hence, the exclusion of Article 6.5 seems detrimental to modalities that seek to ascribe obligations that correspond to Members' role in the current distortion of the international agricultural trading system and would be harmful to the interests of the majority of WTO Members. Moreover, several Members have been pointing out the need to clarify some concepts and/or to establish additional transparency dispositions to limit the potential distortive impact of this type of subsidies on international trade and production. Taking into account mainly data communicated by Members through notifications, this document shows some areas in which further and better information is needed for better assessments within the ongoing negotiations.

3.6. Finally, regardless of the approach that would be applied to the reduction of Article 6 entitlements and the manner in which Article 6.5 will be considered in the negotiations, the outcome should be consistent with the principle of proportionality in the reductions, in line with the guidelines proposed by the "Framework for Negotiations on Domestic Support". The use of a proportional approach ensures that the greater a Member's participation in the global trade distorting potential³¹, the greater its contribution to the reduction efforts should be. The successful implementation of this principle has the greatest potential to generate a "level playing field" in the international agricultural system. Along with the other elements in the Framework it would prevent leakages or excessive burdens in terms of the reforms that would be required.

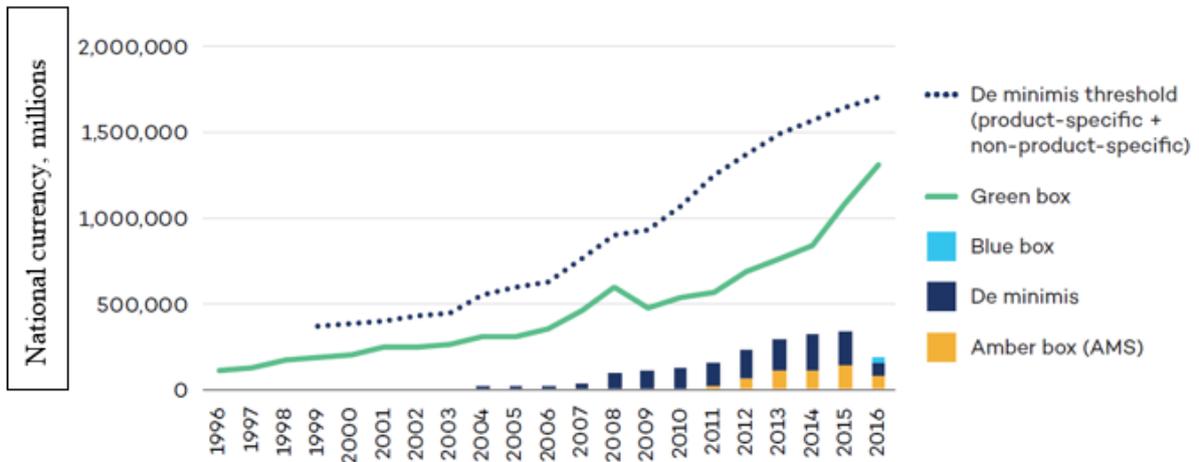
³¹ Without prejudice to Members' positions, the "trade-distorting potential" as defined by Costa Rica in [RD/AG/76](#) is a good example of a quantitative approach to this concept.

ANNEX 1

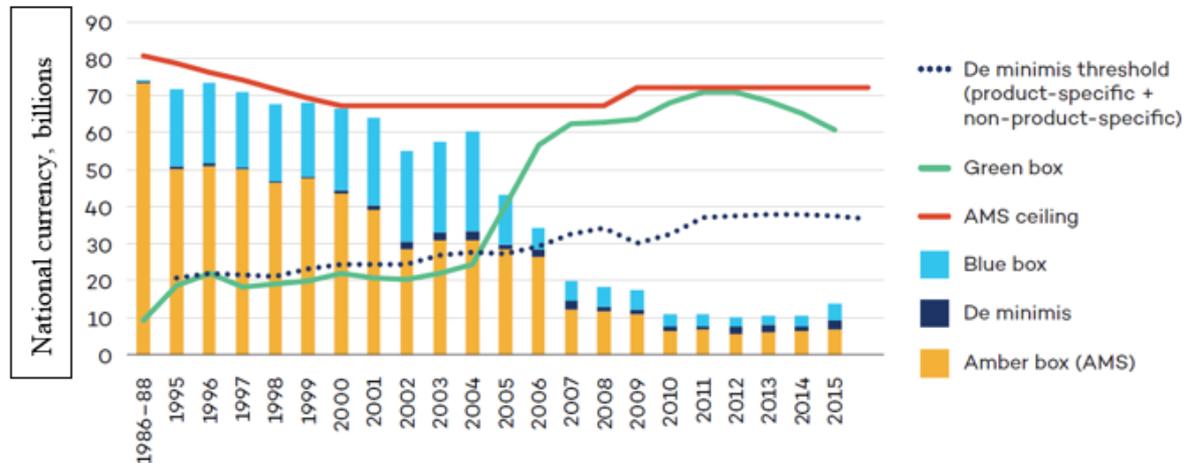
DOMESTIC SUPPORT BY ARTICLE 6.5 USER¹

For the graphs below, IISD and IFPRI classified Green Box as support notified falling under Annex 2 of the AoA; AMS ceiling as FBTAMS limits; Blue Box as support notified under Article 6.5 of the AoA; "de minimis" as support notified below PS and NPS "de minimis" levels; and Amber Box (AMS) as only CTAMS.

Member A



Member B

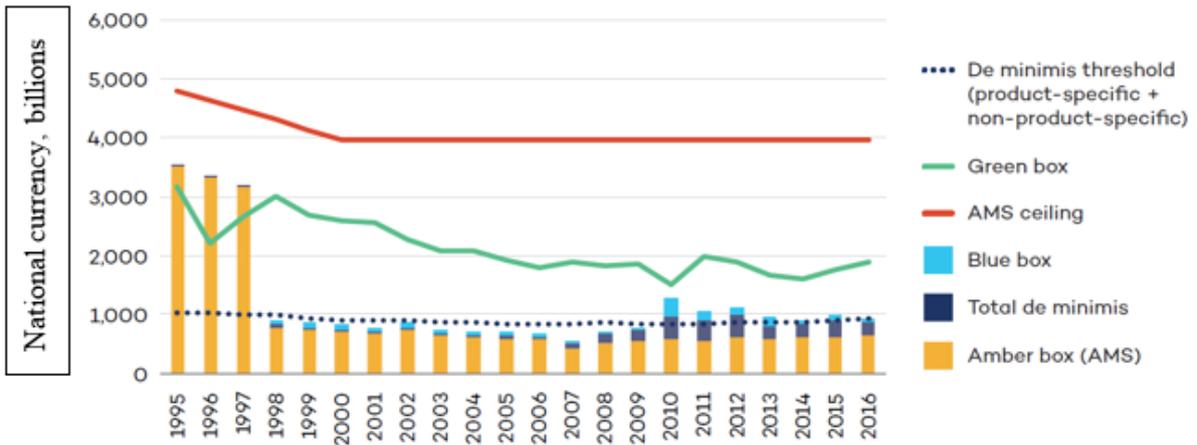


¹ Source: IISD and IFPRI calculations, based on WTO notifications. In: Glauber et alii. "What National Farm Policy Trends Could Mean for Efforts to Update WTO Rules on Domestic Support". Winnipeg: IISD, April 2020. The study does not include a corresponding table for Member E.

Member C



Member D



ANNEX 2ARTICLE 6.5 VERSUS AMBER BOX SUPPORT¹

Member	Article 6.5 expenditure (largest amount notified)/Amber Box expenditure (latest notification)	Article 6.5 expenditure (latest notification²)/ Amber Box expenditure (latest notification²)	Article 6.5 expenditure (largest amount notified)/Amber Box entitlements³ (based on latest VoP available)	Article 6.5 expenditure (latest notification²)/ Amber Box entitlements³ (based on latest VoP available)
A	25.2%	25.2%	2.3%	2.3%
B	334.8%	53.3%	27.0%	4.3%
C	86.2%	53.1%	64.5%	39.7%
D	44.3%	8.0%	8.0%	1.4%
E	4.5%	3.4%	3.8%	2.9%

¹ As in [JOB/AG/190](#), support figures have been rounded up to the nearest entire number.

² As of 17 November 2020.

³ For FBTAMS, as per 2019 exchange rates.

ANNEX 3ARTICLE 6.5 USERS' SHARE IN GLOBAL¹ AMBER BOX AND ARTICLE 6 SUPPORT IN 2016²

Member	Amber Box entitlements ³	Amber Box expenditure	Article 6 expenditure
A	27.4%	29.7%	24%
B	15.1%	13.3%	12.8%
C	0.2%	1.7%	1.7%
D	5.9%	10.1%	7.1%
E	0.0%	0.2%	0.1%

¹ "Global" refers to all Members with available data as of November 2020, not only those who have notified Article 6.2 support.

² Only 63 Members presented their DS:1 notification for 2016, according to [JOB/AG/190](#). Amber Box and Article 6 expenditure may change due to other Members' incoming notifications.

³ As in [RD/AG/74](#). If one takes into account only the 101 Members analysed in [JOB/AG/190](#), three Members' shares would be slightly different: 28% for Member A; 15.4%, for Member B; and 6.1%, for Member D.