COMMENT ON THE EC-US JOINT PAPER ON AGRICULTURE IN WTO

By Martin Khor, Third World Network 14 August 2003

1. GENERAL

On 13 August the EC and US presented a joint Text on agriculture. It is meant to be a draft text to be adopted by Ministers at Cancun.

It is clear from the paper that it is meant to suit the interests of the US and EC. It does not even aim or pretend to take account of the interests of all Members. Indeed, in introducing the paper at the WTO on 13 August evening and at a press briefing, the EC and US made clear that the paper's function is to try to bridge the differences between EC and US, and they did not discuss nor aim to cover the interests of developing countries or others.

Given the admitted limited function of the paper, it is unfortunate that the proponents drafted it in language meant to be a draft text for Ministers to adopt in Cancun. This can create confusion that it is meant to be the basis for negotiations.

But it is clear that the paper cannot be accepted as the basis for the further negotiations on agriculture modalities as it is drafted to suit only EC and US interests. It is not acceptable that a paper drafted to bridge differences between two members can then be used for all members to "fill in the gaps and figures".

The EC-US paper should thus be treated like other papers that have been submitted throughout the past three years of negotiations, as an input. All other proposals by other members should be equally taken into account. The Chairman of the General Council should maintain neutrality and not accord a superior status to this paper, nor worse, to focus on it as the centerpiece or framework for a Cancun decision.

2. BRIDGING DIFFERENCES AT WHOSE EXPENSE?

Bridging of differences between the US and EC may be a positive action, but only if it results in benefits for all Members, especially developing countries and their farmers, and for world agriculture. But this depends on how it is done. Unfortunately the EC-US approach is basically flawed.

There are at least three negative aspects of how the two have tried to overcome their differences:

1. The differences between the US and EC are sought to be bridged in a manner of an agreement for each to let the other off the hook and to escape their commitments to reduce and stop their protectionism in agriculture.
2. Moreover, the two are united to pry open further the agriculture markets in developing countries, even as they maintain or increase their own protection. The effects will be devastating in their implications for poverty reduction, rural livelihoods and food security as cheap subsidized imports flood the developing world even more.

3. Accordingly, the joint text not only ignores but is counter to the aims of rebalancing the imbalances and injustices of the present AoA and to provide effective special and differential treatment for developing countries.
4. World agriculture trade is likely to be just as distorted, or even more so because the protection will now be more disguised and thus difficult to detect and counter.

In all three pillars of domestic support, export competition and market access, the EC-US text proposes modalities and measures that protect their narrow interests whilst further denying developing countries from defending themselves from aggressive protection and promotion of US-EC products, and indeed forcing developing countries to further open up to these subsidised products.

3. DOMESTIC SUPPORT.

Background

The AoA divides domestic subsidies into amber, blue and green boxes. Many members have argued in the negotiations that it is a flaw of the AoA to consider blue and green box subsidies to be less or non distorting, and have proposed that they also be subjected to disciplines and reductions.

An inefficient farm can remain in business even if amber box subsidies are removed (eg it no longer receives a higher price through price support) provided it receives enough grants and income support schemes. The blue and green box subsidies provide a wide range of grants on various grounds, allowing farmers to remain in business and to also export, even though the prices their receive for their products are below production cost.

Since blue and green box subsidies are allowed without restriction, both the US and EC have planned to shift their subsidies from the amber to the other two boxes. The US is ahead in this. In 1999, its green box subsidies were $50 billion, amber box $16.9 bil and blue box $831 mil. The EU had $47.3 bil in amber, $19.6 bil in blue and $19.7 bil in green box subsidies, according to WTO data. But in a few years, especially with the CAP reform, the EU will also be able to shift more and more of its support to the green box.

It is well known that the overall domestic support in OECD countries have not decreased and in fact has even significantly increased (at least in some years) since the end of the Uruguay Round, because the reduction in amber box subsidies can be offset by increases in other allowable subsidies. And so the OECD farms are even more protected, and since the support is decreasingly price based, the domestic prices can decline and yet the farms remain profitable. In future, these low-priced products can flood other markets even more devastatingly as they do not need even require export subsidies. The protection will be more disguised and thus even more dangerous as it is harder to detect and counter.

This major flaw of the AoA should be addressed. The Harbinson draft has not adequately dealt with this problem. But it at least recognised some of the problems. It proposed current blue box payments be capped and bound and either reduced by 50% for developed countries or be merged into the amber box. Despite many calls by developing countries and others to also subject the green box subsidies to reduction, Harbinson did not do so, only proposing minor measures to tighten rules. He also proposed amber box subsidies (the AMS) be reduced by 60% over 5 years for developed countries.

Comment on EC-US text

The proposal is that:

1. "Reduce the most trade-distorting domestic support measures in the range of [] %." **This presumably means the amber box subsidies. The percent figure is missing, so it is not possible to assess the actual commitment.**

2. Members may have recourse to less trade distorting domestic support under the following conditions:

(i) for direct payments if.
- such payments are based on fixed areas and yields; or
- such payments are made on 85% or less of the base level of production; or
- livestock payments are made on a fixed number of head.

(ii) support shall not exceed 5% of the total value of agriculture production by the end of the implementation period.

These are directly taken from article 6.5 of the AoA and the measures are blue box measures. The proposal is for continuation of the use of the Blue Box subsidies, in contrast to the view of many developing countries that they be eliminated. This also contrasts with Harbinson which would cap and halve the blue box subsidies or place them in the non-allowable amber box subsidies. Since the US does not have blue box subsidies at present, this text would allow the US to have such subsidies up to 5% of its production level. More data is needed to assess whether under this scheme the EC would have to reduce its blue box subsidies and by how much.

(iii) the sum of allowed support under the AMS, support under 1.2.(i) and de minimis shall be reduced so that it is significantly less than the sum of de minimis, payments under Article 6.5, and the final bound AMS level, in 2004.

The figure of reduction is missing.

There is also no mention of the green box subsidies, meaning that its use can continue without limitation, i.e. they will not be subjected to any reduction or additional discipline. As pointed out, this has already become by far the most important form of domestic subsidy in the US, and the EU will also shift to this category in the next years. Therefore the EC-US text is setting the stage for justification of continued or increased overall domestic support by ensuring that green box subsidies (the most important category) is TOTALLY EXCLUDED from the calculation of domestic support. This is under the fiction that it is non-trade distorting and thus worthy of exclusion. Being excluded from calculation or reduction discipline, the EC and US can continue their massive subsidies and significantly increase them without being accused, in WTO terms, of protection or distortion.

Developing countries are unable to take advantage of this loophole or fraud, simply because they do not have financial resources.

Thus the EC and US have reached an understanding that each will allow the other to exploit this loophole, with the EC shifting as soon as possible to the "less and non distorting" subsidies, and the US allowed if it wants to resort to blue box subsidies up to a limit.

.4. MARKET ACCESS

1. The EC-US text proposes a tariff reduction "formula" blending three aspects:
   - (i) []% of tariff lines subject to a []% average tariff cut and a minimum of []%; for these import sensitive tariff lines market access increase will result from a combination of tariff cuts and TRQS.
   - (ii) []% of tariff lines subject to a Swiss formula coefficient []
   - (iii) []% of tariff lines shall be duty-free.

Comment:

This "formula" is designed to: (1) allow the US and EC to escape having sharply reduce their high tariff rates (some of which are over 200 or even 300 percent) on certain items. (2) capture developing countries into commitments to sharply reduce tariffs for many of their tariff lines.

The developed countries have very high tariffs for a limited number of sensitive products and a generally lower average tariff than developing countries. For example, simple average MFN bound agricultural tariffs are 5.8% in EC and 6.9 % in US but in the range of 30-100 or more percent in most developing countries.

Ideally, the developed countries should commit to eliminating or sharply reducing their agriculture tariff peaks. This could have been done through their being subjected themselves to a cap on their tariffs and/or a harmonisation approach. Developing countries, due to their development status and more importantly due to the unfair competition to which they are subjected by the high subsidies of developed countries, should be allowed to determine their own reduction rates so long as these subsidies exist. They should certainly not be subjected to a Swiss formula type harmonisation approach in which the higher the tariff, the steeper the cut.

The US-EC text does not specify the ratio between the three categories (linear cut, harmonisation approach, zero tariff) or percentages for each. According to EC and US, this is to be negotiated. But it is likely the two parties already have some understanding on this among themselves.

This "blend" allows both the EU and US to place most or all of their sensitive high-tariff products in the linear-cut category 1, and their non-sensitive items with lower tariffs in category 2. For some items where they already have zero or very low tariffs, these can be placed in category 3. The formula is thus designed to enable EC and US to have little if any problems.

Further, such a formula suits their longer term interests. As more of the EC subsidies move away from price supports towards direct-payment and grant-based subsidies, both the EC and US will be able to have low domestic agricultural prices as the massive subsidies allow farmers to make profit even though selling at far below production cost. They will thus be able to easily endure steeper and steeper tariff cuts in time.

However, the main burden of this US-EC formula will fall on developing counties. Due to financial constraints, they are unable to subsidise their farmers in any significant way. Their only recourse to defend their farmers' livelihoods and food security is the use of tariffs, especially after quantitative restrictions were prohibited through the AoA. Their bound tariffs are high in a wide range of products. But under the US-EC formula, they would be forced to place a significant part of their imported products under the Swiss-formula harmonisation approach, meaning that many of their products will be subjected to steep cuts. Moreover, even some of their products may be subjected to zero tariff under the third category. Only some of their products can come under the linear cut (or the first option)..

The result is that developing countries will come under intense pressure to very significantly open up their agriculture markets in this round, and be under threat to do so even more severely in future, as the harmonisation approach is introduced, and especially since the developed countries will not need to make use so much of high tariffs when their subsidies shift to the green box.

It is ironic and unfair that developing countries will increasingly lose their only remaining instrument of defence against artificially low-priced and dumped products, when the developed countries will be able to continue to have and increase domestic subsidies.

Indeed, the entire proposal does not mention at all the concept of "special products" (SPs) of developing countries, which is in the Harbinson text as a kind of S and D for developing countries. Developing countries in the negotiations have argued that they should be allowed to select SPs of their own choice, which should then be subjected to only zero or very low reduction commitments.

In the blended approach, the concept of "sensitive products" has been introduced, and all countries (notably including the developed countries) are entitled to place these products in the category for lower reductions under the linear cut.

Thus the S and D measure of SP (strategic or special products) for developing countries has been discarded in favour of a new SP (sensitive products) measure for developed countries to use.

This blended approach should not be accepted, unless it is clear from the start that developing countries are under no obligation whatsoever to commit under the harmoinisation and zero-tariff aspects, which should only be reserved for developed countries.

2. The use of the special agricultural safeguard (SSG) remains under negotiation. A special agricultural safeguard (SSM) shall be established for use by developing countries as regards import-sensitive tariff lines.

Comment: This implies that the SSG, which already exists shall continue. Under the present unfair AoA system, only countries that converted their quantitative restrictions to tariffs under the Uruguay Round can use the SSG. Most of the countries that are eligible to use the SSG are developed countries and developing countries are unable to avail themselves. There have been proposals that developed countries will no longer be able to make use of SSG. The wording of the text implies that they can continue its use.

To remedy the unfair situation, the developing countries proposed an SSM (special safeguard mechanism) for their use. This has been included in the Harbinson draft. However this has faced resistance from several developed countries during the negotiations. They are either against its introduction or would like many conditions to be attached to its use and to eligibility of countries for using it.

The above text places severe restriction to the use of the proposed SSM by stating that it can only be used for "import sensitive tariff lines." This is counter to the proposals by many developing countries that it should apply to all products once certain conditions require the countries to resort to its use.

3. All developed countries will seek to provide duty-free access for at least [] % of imports from developing countries through a combination of MFN and preferential access.

Comment: This is not a legally binding commitment (which LDCs have requested) but is only in the form of a "best endeavour" which is not effective.

4. Having regard to their development and food security needs, developing countries shall benefit from special and differential treatment, including lower tariff reductions and longer implementation periods.

Comment: This severely restricts S and D to very limited measures which are similar to the S and D under the Uruguay Round. Since the Uruguay Round, developing countries have realised the ineffectiveness of such S and D measures, and have embarked on a programme, endorsed by Doha, to strengthen existing S and D measures and to ensure that strong S and D measures are entrenched in the new negotiations, including in agriculture. The proposal above is very superficial and does not even attempt to seriously consider the S and D issue.

5. EXPORT COMPETITION

The Doha mandate calls for "reductions of, with a view to phasing out, all forms of export subsidies."

The US has been pressing that the EU eliminate its export subsidies whereas the EC has responded by demanding the US act on its export credits. Both credits and subsidies are distorting and adversely affect the developing countries.

In the EC-US text, the two parties have accommodated each other in their own narrow interests. Instead of agreeing to commit to a clear timetable for totally eliminating expolrt subsidies and credits, the two parties have agreed on what they call a "parallel" approach. The US will be soft on the EU with regard to its subsidies and the EU will be soft on the US with regard to its credits.

Export Subsidies

In the US-EC text: With regard to export subsidies:

- Members shall commit to eliminate over a [] year period export subsidies for the following products of particular interest to developing countries [...] ;
- for the remaining products, Members shall commit to reduce budgetary and quantity allowances for export subsidies.

Comment: Thus only a limited number of products will be subjected to elimination of subsidies. Moreover it will be very confusing and problematic to sort out what is meant by "products of particular interest to developing countries." The formulation on export subsidies will allows the EU to continue to maintain its export subsidies in areas such as sugar and dairy products. This is counter to the spirit and letter of the toughly-negotiated Doha Declaration that all forms of export subsidies be reduced with a view to phasing out. In the US-EU text, it is clear there is an understanding between the two that only some products, selected on questionable criteria, will be subjected to elimination.

Export Credits

In the US-EC text, with regard to export credits:

-Members shall commit to eliminate, over the same period as in 3.1-1" indent the trade distorting element of export credits through disciplines that reduce the repayment terms to commercial practice ([] months), for the same products in 3.1 indent in a manner that is equivalent in effect;

- for the remaining products, a reduction effort that is parallel to the reduction in 3.1 2nd indent in its equivalent effect for export credits shall be undertaken.

Without prejudging the outcome of the negotiations, reductions of, with a view to phasing out, all forms of export subsidies mentioned in 3.1 and 3.2 will occur on a schedule that is parallel in its equivalence of effect on export subsidies and export credits.

Comment: The above text is clear that elimination of export credits will be only scheduled for those same products for which export subsidies are eliminated. Thus, there is a US-EC understanding that if one side is unwilling to eliminate its subsidy or credit for certain products, then the other side will also not commit to eliminate. This may be an understanding of interest to the US and EU, but it is at the expense of other countries, and counter to the Doha mandate that all forms of export subsidy be eliminated.

6. SIGNIFICANT NET FOOD EXPORTING COUNTRIES

The text says: As far as S&D treatment for developing countries is concerned, the rules and disciplines will need to be adjusted for significant net food exporting countries.

Comment: This is an unacceptable proposal. Firstly, there is no basis to create a new and dubious category of countries. This is certainly not part of the Doha mandate. Secondly, this seems like an attempt to distinguish between different types of developing countries, with some types having rights of S and D, and others deprived of these rights. This is a dangerous attempt at distinguishing between developing countries on very dubious grounds. Thirdly, it is very difficult to determine what is a significant net food exporting country. In any case, on principle, the exercise should not even start.

7. CONCLUSION

Any attempt to have the US-EC text as the basis for negotiations for Cancun or beyond should not be accepted.

Instead, developing countries should increase their efforts to put forward their own proposals for modalities.

A useful test as to the seriousness of the EC and US efforts to reduce their protection and to liberalise their agriculture sector would be the extent to which, in the end, they plan to reduce the volume of production.

In this regard, it is interesting to note that some studies show that production of most agricultural and livestock products in the EU countries are projected or planned to increase in the next many years.

(Annex 1 and 2 tables refer).

The aim of the EU-US text seems therefore to perpetuate their protection and promotion of their agriculture sectors rather than to reform the global agriculture system for the benefit of developing countries or the system itself.

Annex 1

PROJECTED IMPACT OF COMMISSION REFORM PROPOSALS

MAJOR CEREALS CROPS

Product	**2000**	**2001**	**2002**[1]	**2004** (MTR)	**2009**[2] (MTR)
Soft Wheat (mil tonne)					
Production	95.8	84.4	97.2	96.98	108.20
Maize (mil tonne)					
Production	38.6	40.1	40.7	40.15	41.99
Barley (mil tonne)					
Production	51.6	48.3	48.5	50.95	51.51
Durum Wheat (mil tonne)					
Production	8.9	7.7	9.2	8.98	9.62
Rice (mil tonne)					
Production	1.55	1.43	1.49	1.70	1.79
Rye (mil tonne)					
Production	5.4	6.3	5.4	4.88	4.72

Source: European Research Office,
"The Likely Impact of CAP Reform on EU Positions in Cancun," 2003.

[1] Figures for 2000 to 2002 are drawn from "***Prospects for Agricultural Markets 2002-2009***" European Commission Directorate General for Agriculture, June 2002. For production of wheat, maize, barley and rye they are drawn from, Table 1.5, Chapter 1 Figures for the production of rice are drawn from table 1.15. and cover the season 1999/00 2000/01 and 2001/02.

[2] Figures for 2004 and 2009 are drawn from the "***FAPRI Analysis of the European Commission's Mid Term Review Proposals***", FAPRI, University of Missouri, December 2002, Table 2..

Annex 2

PROJECTED IMPACT OF COMMISSION REFORM PROPOSALS

MAJOR LIVESTOCK PRODUCTS

Product	2000	2001	2002	2004 (MTR)	2009 (MTR)
Beef[3]					
(mil tonne)					
production	7.45	7.70	7.57	7.28	6.94
exports	0.577	0.495	0.560	0.64	0.48
Pork[4]					
(mil tonne)					
production	17.56	17.57	17.93	17.86	18.32
exports	1.346	1.093	1.200	1.39	1.47
Poultry[5]					
(mil tonne)					
production[6]	8.80	9.13		9.10	8.57
9.0exports	1.01	0.97		0.96	1.04
1.06					

predicting lower production and higher exports for the baseline than the Commission June 2002 Prospects for Agricultural markets report.

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[3] Figures for 2000 to 2002 are drawn from "***Prospects for Agricultural Markets 2002-2009***" European Commission Directorate General for Agriculture, June 2002, table 1.16, while figures for 2004 and 2009 are drawn from the "***FAPRI Analysis of the European Commission's Mid Term Review Proposals***", FAPRI, University of Missouri, December 2002, Table 4.

[4] Figures for 2000 to 2002 are drawn from "***Prospects for Agricultural Markets 2002-2009***" European Commission Directorate General for Agriculture, June 2002, table 1.17, while figures for 2004 and 2009 are drawn from the "***FAPRI Analysis of the European Commission's Mid Term Review Proposals***", FAPRI, University of Missouri, December 2002, Table 4.

[5] Figures for 2000 to 2002 are drawn from "***Prospects for Agricultural Markets 2002-2009***" European Commission Directorate General for Agriculture, June 2002, table 1.18, while figures for 2004 and 2009 are drawn from the "***FAPRI Analysis of the European Commission's Mid Term Review Proposals***", FAPRI, University of Missouri, December 2002, Table 4.

6. It should be noted that there is a discrepancy between the June 2002 Commission market predictions for poultry and the baseline projections used in the FAPRI model (both with regard to the production and exports), with FAPRI p

Source: European Research Office,
“The Likely Impact of CAP Reform on EU Positions in Cancun,” 2003.

Annex 3

13 August 2003

<u>EC - US Joint Text</u>

Agriculture

Members reconfirm the objectives as established in paragraphs 13 and 14 of the Doha declaration, including the objective to establish a fair and market-oriented system through fundamental reform in agriculture. Members recognize that reforms in all areas of the negotiations are inter-related, that special and differential treatment for developing countries will be an integral part of the negotiations, and that non-trade concerns should be taken into account.

Ministers agree to intensify work to translate the Doha objectives into reform modalities, including by adopting the following approaches for reduction commitments and related disciplines on key outstanding issues on market access, domestic support and export competition.

1. The Doha declaration calls for "substantial reductions in trade-distorting domestic support". All developed countries shall achieve reductions in trade distorting support significantly larger than in the Uruguay Round, that will result in Members having the higher trade distorting subsidies making greater efforts.

Reductions shall take place under the following parameters:

1.1. Reduce the most trade-distorting domestic support measures in the range of [] % -

1.2. Members may have recourse to less trade distorting domestic support under the following conditions:

(i) for direct payments if.
- such payments are based on fixed areas and yields; or
- such payments are made on 85% or less of the base level of production; or
- livestock payments are made on a fixed number of head.
(ii) support under 1.2.(i) shall not exceed 5% of the total value of agriculture production by
the end of the implementation period.
(iii) the sum of allowed support under the AMS, support under 1.2.(i) and de minimis shall be reduced so that it is significantly less than the sum of de minimis, payments under Article 6.5, and the final bound AMS level, in 2004.

1.3. reduce *de minimis by* [] %.

2. The Doha declaration calls for "substantial improvements in market access." Negotiations should therefore provide increased access opportunities for all and in particular for the developing countries most in need and take account of the importance of existing and future preferential access for developing countries.

To achieve this, commitments shall be based on the following parameters:

2.1. The formula applicable for tariff reduction shall be a blended formula under which each element will contribute to substantial improvement in market access. The formula shall be as follows:

(i) []% of tariff lines subject to a []% average tariff cut and a minimum of []%; for these import sensitive tariff lines market access increase will result from a combination of tariff cuts and TRQS.
(ii) of tariff lines subject to a Swiss formula coefficient [] (iii) of tariff lines shall be duty-free.

2.2 For the tariff lines that exceed a maximum of [] % Members shall either reduce them to that maximum, or ensure effective additional market access through a request:offer process that could include TRQS.

2.3. The use of the special agricultural safeguard (SSG) remains under negotiation.

2.4. A special agricultural safeguard (SSM) shall be established for use by developing countries as regards import-sensitive tariff lines.

2.5. All developed countries will seek to provide duty-free access for at least [] % of imports from developing countries through a combination of MFN and preferential access.

2.6. Having regard to their development and food security needs, developing countries shall benefit from special and differential treatment, including lower tariff reductions and longer implementation periods.

3. The Doha mandate calls for "reductions of, with a view to phasing out, all forms of export subsidies." To achieve this, disciplines shall be established on export subsidies, export credits, export state trading enterprises, and food aid programs.
Reduction commitments shall be applied in a parallel manner according to the following parameters:

3.1 With regard to export subsidies:
- Members shall commit to eliminate over a [] year period export subsidies for the following products of particular interest to developing countries [...] ;
- for the remaining products, Members shall commit to reduce budgetary and quantity allowances for export subsidies.

3.2 With regard to export credits:
-Members shall commit to eliminate, over the same period as in 3.1-1" indent
the trade distorting element of export credits through disciplines that reduce the repayment terms to commercial practice ([] months), for the same products in 3.1-1st

indent in a manner that is equivalent in effect;
- for the remaining products, a reduction effort that is parallel to the reduction in 3.1 2nd indent in its equivalent effect for export credits shall be undertaken.

3.3. Without prejudging the outcome of the negotiations, reductions of, with a view to phasing out, all forms of export subsidies mentioned in 3.1 and 3.2 will occur on a schedule that is parallel in its equivalence of effect on export subsidies and export credits.

3.4. Disciplines shall be agreed in order to prevent commercial displacement through food aid operations.

3.5. Disciplines, including ending single desk export privileges, prohibition of special financing privileges, and disciplines on pricing practices shall be established for export state trading enterprises.

4. As far as S&D treatment for developing countries is concerned, the rules and disciplines will need to be adjusted for significant net food exporting countries.

5. Issues of interest but not agreed: Peace clause, non-trade concerns, implementation period, sectoral initiatives, continuation clause, GIs, and other detailed rules.