Real restrictions or just trade chill? Do trade agreements substantially limit development of local and sustainability food systems?

Local / sustainable policy workshop

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Framing the discussion

- Common view in policy and business circles - WTO Agreement on Agriculture (AoA) and the Canadian Agreement on Internal Trade (AIT) significantly limit instruments to support local / sustainable food.
- My preliminary thesis - although some restrictions, Canadian governments have far more latitude than typically acknowledged, and more substantial drivers can be used without triggering trade disputes.
- Not addressing directly how trade agreements facilitate global influence of food TNCs and the constraints they apply.

Current actors in local / sustainable development

- Mostly NGOs, some food service firms, some farm organizations, and sub-national governments linking local and sustainable
- Many other actors supporting local, including generic buy local programmes of provinces
- Many actors supporting various interpretations of sustainable, including FPT Growing Forward, though environmental programming a minor part of overall FPT agricultural expenditures

Common instruments used to favour local / sustainable development

- Direct payments to producers
- Educational programmes and extension services for producers
- Tripartite funded BRMs
- Grants for supply chain infrastructure development and other types of regional economic development
- Protocols, certification and branding
- Procurement
- Removing SME impediments – reversing support for scale increases

Commonly cited obstacles to domestic food system development

- Article III GATT – treatment no less favourable for domestic and imported goods (referenced in other agreements)
- General Agreement on Trade in Services
- WTO Agreement on Agriculture (Uruguay Round – Doha not completed)
- Agreement on the Application of Sanitary and Phytosanitary Measures (SPS) and Codex Alimentarius
- Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS) – restrictions on seeds
- Agreement on Government Procurement
- Canadian Agreement on Internal Trade
- The emerging Canada – EU Trade Agreement (CETA)?

Article III GATT

- Based on the idea that “like products” have to be treated similarly, regardless of source; can’t apply taxes, charges, or NTBs to imported product to support domestic industry, but disputes usually only triggered when tariffs and charges involved
- But are local / sustainable products “like” with imported conventional products?
- Paragraph 8 allows for exemptions for government procurement of products for government purposes without resale – food for government employees?
- Article III provisions do not prevent subsidies to domestic producers through government purchases of domestic products

WTO AoA themes

- Who is covered? – not the MASH sector or NGOs
- Green box provisions – bundle local and sustainable together as environmental programming
- Amber box – “cap room” and de minimus provisions

WTO AoA launched with 3 pillars

- Market access: eliminate import quotas and NBTs, replace with tariffs which are progressively reduced (36% in 95-2000)
- Export subsidy (red box) reductions: different % depending on volume or value; originally intent to eliminate red box, but didn’t happened immediately, though agreement to do so was apparently reached during Doha negations in 2005
- Domestic support reductions: three boxes, Amber, Blue and Green

AoA (WTO) - impacts

- Canada progressively eliminated domestic support programmes that could be seen as trade distorting, particularly a range of stabilization programmes in grains and oilseeds
- Supply management remains, with relatively limited changes to required import quotas, but border controls replaced with over quota import tariffs that progressively fall (1995 over-quota tariff for cheddar cheese was 289%, and butter 351.4%. These fell to 245.7% and 298.7%, respectively, by 2000). No agreement on changes since then

Amber

- measures that are trade distorting and can lead to increased production, such as “product-specific” subsidies such as guaranteed prices (i.e. the “loan deficiency payment” in the US or the “intervention price” in the EU), and “non product specific subsidies” on inputs or investments.

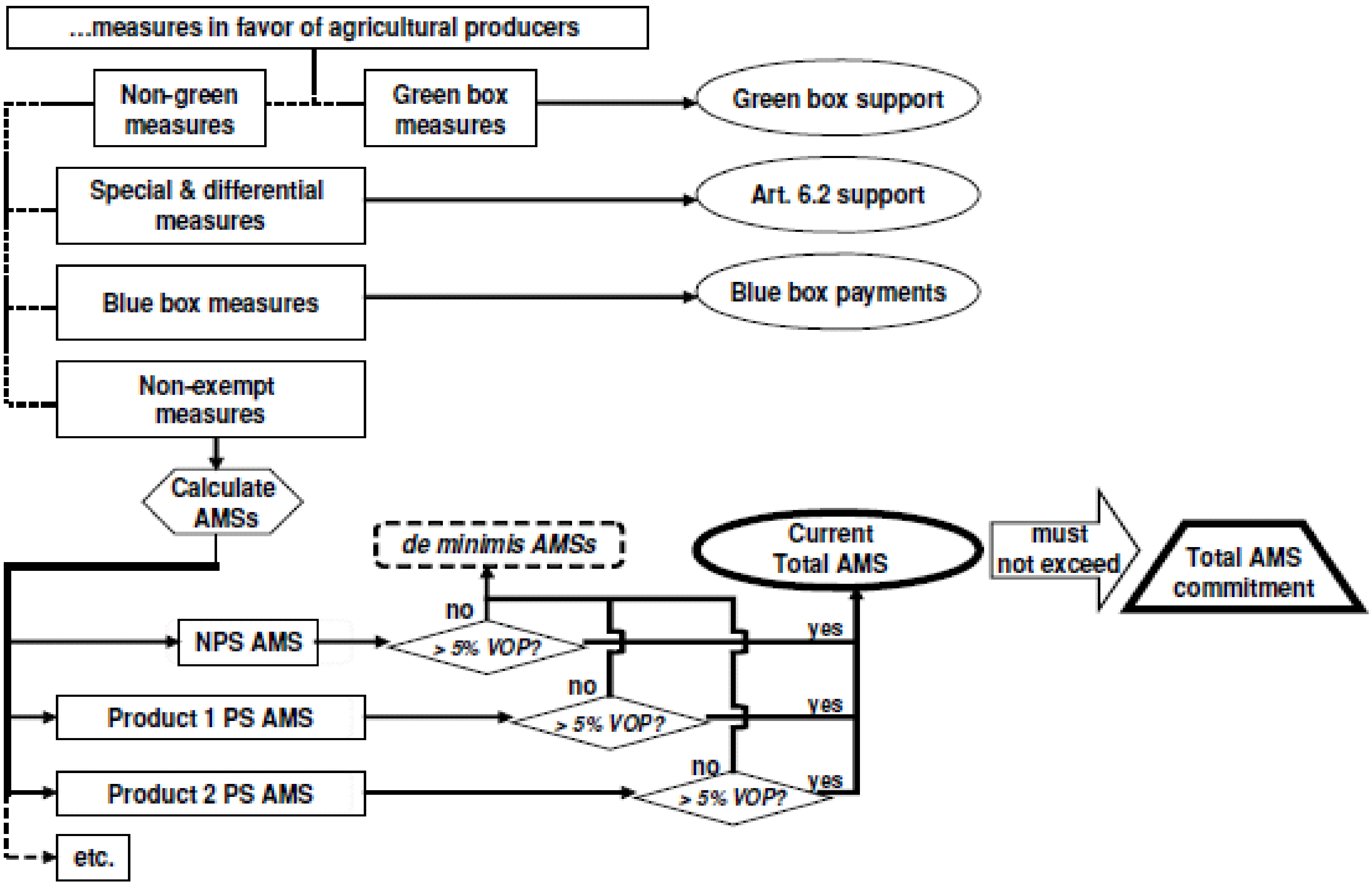
Blue

- programs that direct payments to farmers for programs to limit production, e.g., US Conservation Reserve Program which pays farmers to set marginal land aside
- No limits on payments
- Canada does not typically use such programmes, though ALUS might qualify?

Green

- measures that are assumed to have no effect on production, such as public sector financing of research, assistance for marketing crops, supports for environmentally-sound practices, pest and crop disease management, infrastructure, food storage against famine, income insurance, emergency programs, and so-called ‘decoupled payments,’ (direct payments not linked to production levels).
- some 70% of US and 30% of EU payments in this category; can be increased without limits
- Increasingly payments for environmental services are considered green box – this is an opportunity to transform ag payments

Schema of 94 AoA (Brink, 2009)



AMS

- For the purpose of Current Total AMS calculations, price support is generally measured by multiplying the gap between the applied administered price and a specified fixed external reference price (“world market price”) by the quantity of production eligible to receive the administered price.

Example of AMS calculation

- **Wheat**:
  > Intervention price for wheat = **$255** per tonne
  > Fixed external reference price (world market price) = **$110** per tonne
  > Domestic production of wheat = **2,000,000 tonnes**
  > Value of wheat production = **$510,000,000**
  > Wheat AMS (AMS 1)
  ($255–$110) x 2,000,000 tonnes = **$290,000,000**
  (*de minimis* level=$25,500,000)

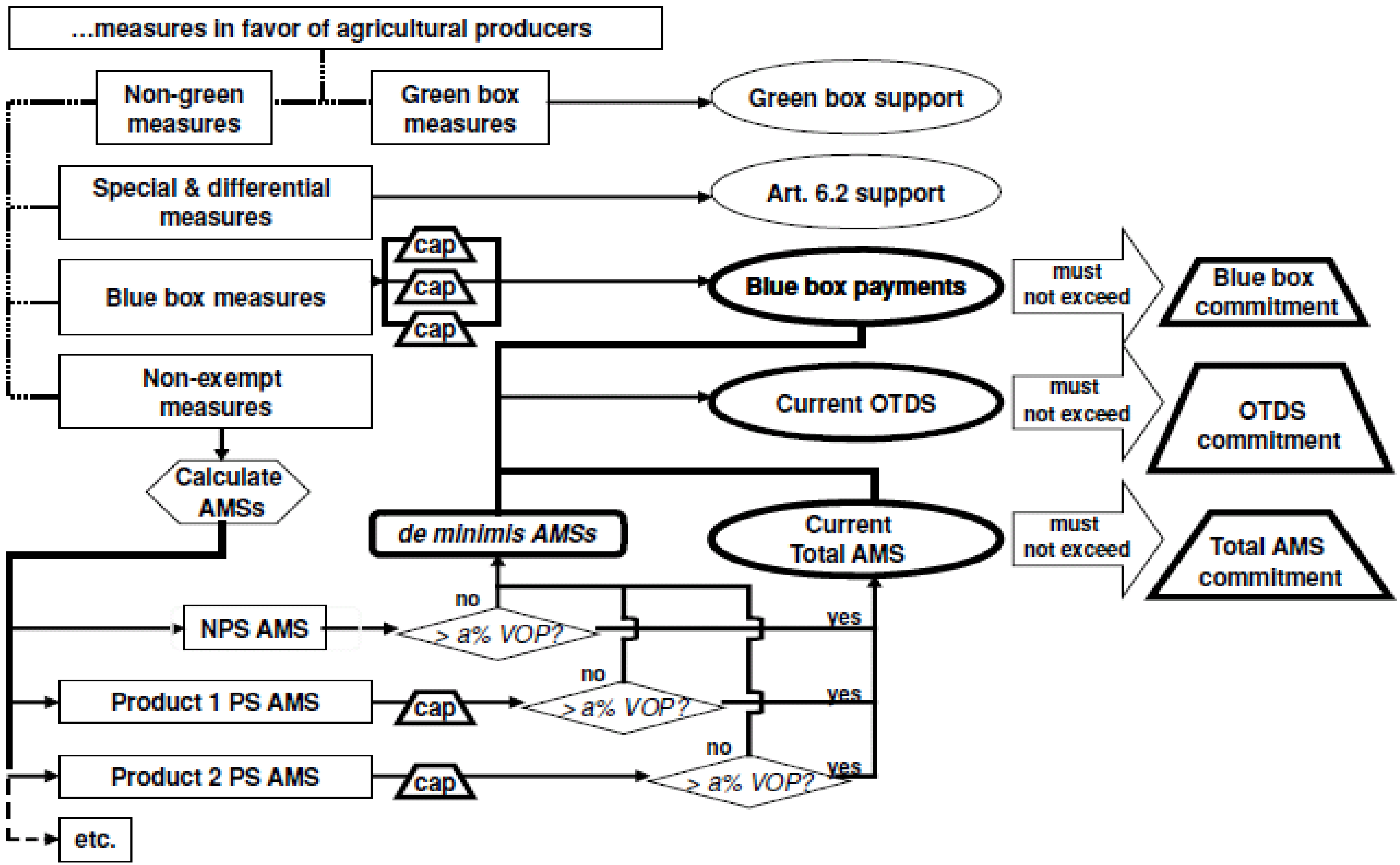
Canada - Year 2000

- Green box: \$2.3 billion (no limits)
- AMS max was \$4.3 billion (falling from \$5.2 billion in 1995)
- Amber box: \$2.1 billion (product and non-product specific supports) but only \$848 million counted towards max because most provisions below 5% of total farm income, the *de minimus* provision (may also be measured by value of production for specific commodities)
- Higher in years since, but no official calculations yet (except 2001)

Doha Round

- Started in 2001 to update rules from 1995
- So far failed to reach agreement
- If adopted according to a recent draft (2008), reductions in domestic support measures for some countries, modest reductions in supply managed overquota tariffs, caps on Blue Box, and some reductions for some countries in de minimus provisions

Interpretation of latest Doha round proposal (Brink, 2009)



WTO Agreement on Government Procurement

- Makes it difficult to favour a local food service provider, but doesn't necessarily impede local/sustainable food targets in contracts
- Central government contracts valued under $217,000 may be exempt and perhaps even higher for sub-central agencies
- Covers many provincial departments, but many MASH entities and NGOs exempt depending on province
- Some sub-central agencies also exempt if procurement relates to regional development objectives

Canadian Agreement on Internal Trade (AIT)

- As with AGP, difficult to favour a local food service provider, but not necessarily impede local/sustainable food targets in contracts
- Any good being resold to public not covered. Since food purchased by food service often resold to the public, it would appear to be exempt.
- Exemptions for regional development?

Draft CETA

- Goes beyond many WTO and AIT provisions
- Sub-national governments, including MASH, would not be able “to restrict tendering to Canadian companies, or stipulate that foreign companies bidding on public contracts accord some preference for local or Canadian goods, services, or workers” (Shrybman, 2010:4)
- But if GATT article III doesn’t apply?
- And contract value exemptions?

Preliminary conclusions

- Bundling local /sustainable may create new opportunities for exemptions and re-categorization of initiatives to permissible status
- Canada generally has subsidy room under AoA agreement
- Sub-national governments, para-governmental agencies and NGOs often exempt – important consideration in an era of increasing regulatory pluralisms
- Innovative ideas that don’t fall into existing categories can fly under the radar?
- More maneuvering room than often presented

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