

## **Back to basics: a commentary on the proposals for food aid circulated by the Chair of the WTO Agriculture Negotiating Committee on 7 November 2007<sup>i</sup>**

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### **I. Introduction and summary**

Efforts continue apace to provide modalities for food aid acceptable to members as part of the Export Competition pillar of a new Agreement on Agriculture (AoA). The working document released by the chair of the agricultural trade negotiations on 7<sup>th</sup> November 2007 is intended as a basis for discussions to resolve outstanding issues prior to a new full text of the AoA to be circulated in January 2008. This latest text goes beyond technical revisions. It introduces substantive changes in an attempt to clarify the role of civil society organisations in emergencies and especially in proposing to widen considerably the coverage of disciplines to include “cash” or untied food aid. The question raised is whether this revised text is a step forwards by obliging negotiators to address basic questions so far avoided, or a step backwards in introducing a whole new set of technical and practical issues?

**Background:** The Chair of the Agriculture Negotiating Committee, Ambassador Crawford Falconer (New Zealand) circulated a draft set of modalities on 30<sup>th</sup> April 2007<sup>iii</sup> and then a revised draft on 1 August. The starting point is what was agreed in Hong Kong in December 2005 – the creation of a “safe box” for emergency food aid to ensure that there is no unintended impediment to dealing with emergency situations and disciplines for preventing other non-emergency food aid from having trade distorting effects. The 1 August revised draft<sup>iv</sup> attempted to take account of responses on unresolved issues by members such as the G20 group of developing countries, the Cairns Group and the June 2007 G4 discussions in Potsdam, where the EU and the US tried to reach an understanding on a wide range of DDR issues, including food aid.<sup>v</sup> The 7 November text reflects further informal discussion.

**Back to basics:** Negotiators appeared close to agreement with the 1 August text in adopting a risk based approach to disciplines for categories of food aid that is simple to administer and transparent. Some categories of food are recognised as involving an unacceptably high risk of commercial displacement: first, imported commodities sold into the recipient’s market or monetised, and second in-kind or tied food aid which gives a competitive advantage to the donor country’s exporters. These categories would be subject to disciplines except in specified circumstances. The Safe Box was established to avoid the risk that disciplines might impede responses to genuine humanitarian needs. For non-emergency aid outside the Safe Box in-kind aid would be allowed for providing project aid to final beneficiaries when legitimised by an assessment under the auspices of an international agency. Cash or untied aid involving a low displacement risk would be exempt from disciplines. Some members also felt that there might be other exceptional circumstances in which monetisation might be permitted. There were definitional issues concerning the categories to be resolved.

The current text implies adopting a hybrid approach of risk category and individual transaction based rules. The logic of the changes introduced in paragraphs 9 and 10 is to adopt a transaction based approach for all food aid outside the Safe Box. However, a determination on whether individual transactions have resulted in or are likely to cause commercial displacement is inherently difficult to undertake (as shown by the experiences of the Committee on Surplus Disposal). It is also costly to administer on a transaction by transaction basis and is open to serious abuse if self-administered by or on behalf of the donor.

The text in extending disciplines to cash based, or untied aid actions, including financial support to local food assistance, could become an obstacle to the better practices set out in paragraph 3. This extension of disciplines, combined with restricting the Safe Box to government and international agency actions, may also obstruct NGO operations in some of the most difficult conflict related humanitarian crises. There is a distinct possibility that the new modalities could prove inadequate to achieve the original aim of the Doha Development Round – to eliminate trade distorting practices within a framework that also facilitates development. As those acquainted with the course of the negotiations will appreciate, the issues are all in the details of wording.

#### **Issues for consideration:**

- Emergency aid within the Safe Box: a further step towards a framework for joint governmental and international action through the UN or the Red Cross (See comments on paragraph 4).
- Non-emergency food: the text proposes to extend disciplines to all food aid, whether provided in cash or in-kind. This proposal highlights a basic issue that has been so far avoided - setting out clearly definitions of food aid from a trade perspective? What it meant by:
  - International food aid;
  - Cash and in-kind food aid; and
  - Commercial displacement?
- The extension of disciplines to all food aid also raises a host of technical and practical issues associated with determining when commercial displacement is deemed to arise. Is this determination to be category or individual action based? There may be forms of cash-based action, for example, funding the replenishment of a national food security reserve stock or buying food locally for a schools meal programme that were not previously considered but which under the revised might be subject to disciplines. These definitional issues and some of the implications are considered in comments on paragraph 1 and paragraph 9 and appendix 2.
- Monetisation: the implications of alternative wordings still need careful consideration. Acceptance of optional [bracketed] wordings that allow the greatest flexibility to donors, if combined with a liberal interpretation of the new rules, could allow virtually all forms of existing food aid practices, excepting loans, to continue (Paragraphs 6 and 10).

- Consistency of the text with other legally binding and voluntary international agreements on food aid and official development assistance (ODA) more generally. Some of the proposals e.g. on ending tied credits will bring food aid into line with other ODA, but others such as the treatment of local and regional purchases as an export competition issue do not appear to be in line with efforts elsewhere to encourage untied aid.

**The purpose and scope of the commentary:** to consider what the latest modifications to the draft text and unresolved [bracketed] text may imply in practice in both trade related and wider developmental terms. It is set out in the form of an annotated version of the draft text – phrases and sections of the text subject to comment are both highlighted in red and underlined. The commentary follows in the form of a blue text box. Some key documents referred to in the commentary, and which may not be readily available to the reader, are included as appendices:

1. DAC definitions of tying status;
2. Forms of food aid – what is reported as international food aid; and
3. A description of WFP’s protracted relief operations.

Two tables are included showing first the amounts of food aid provided by members in the categories of food aid that approximate most closely to the in-kind versus cash distinction used in the text, and second the number of transactions in these categories during 2005. The footnotes in Section II are part of the original WTO text, whereas the endnotes, including references, are part of the commentary.

## II. ANNOTATED VERSION OF WORKING DOCUMENT NO. 3, ANNEX F, POSSIBLE NEW ARTICLE 10.4 OF THE AGREEMENT ON AGRICULTURE, International Food Aid

1. Members reaffirm their commitment to maintain an adequate level of **international food aid** (hereinafter referred to as **food aid**<sup>1</sup>), to take account of **the interests of food aid recipients**<sup>2</sup> and to ensure that the disciplines contained hereafter do not unintentionally impede the delivery of food aid provided to deal with emergency situations. Members shall ensure that food aid is provided in full conformity with the disciplines below, thereby securing the **objective of preventing commercial displacement**.

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Comment: there is a need to clarify the definition of 'international food aid' adopted here because has implications concerning the both coverage of the Safe Box (Paragraph 4) and non-emergency food aid (Paragraph 9) The definition of food aid currently adopted in the Food Aid Convention includes both traded food commodities sourced in the donor country or in third countries or on the international market and also so-called local purchases food procured in the recipient country by a donor, its agent or the recipient government. Does the latter category of aid, which has no obvious direct trade or commercial displacement implications, actually come within the remit of an international agreement on agricultural trade? To do this is inconsistent with the usual treatment of other forms of financial aid provided as local currency support.

The in-kind versus cash distinction introduced in Footnote 1: in principle this should be consistent with DAC definitions on the tying status of aid. These definitions recognise the potential trade distorting effects both of in-kind and also of transactions in cash which are directly financing imports so called DFI – Tied: grants that are tied either contractually or "in effect" to procurement to donor country only (see below Appendix 1).

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<sup>1</sup> Unless otherwise specified, the term food aid is used to refer to both **in-kind and cash-based** food aid donations.

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Comment: See comment above on Paragraph 1 and below Appendix 1.

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<sup>2</sup> It should be emphasised that the recipient government has a primary role and responsibility for the organisation, coordination and implementation of food aid activities within its territory.

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Comment: This new footnote appears to be a restatement of the conventional position of international treaties that governments have sovereign jurisdiction within their own boundaries. However, Paragraph 4 below also recognises that in exceptional circumstances the Secretary General of the UN may declare an emergency.

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### ***General Disciplines Applicable to Food Aid Transactions***

2. Members shall ensure that all food aid transactions are provided in conformity with the following provisions:

- (a) they are needs-driven;
- (b) **they are provided in fully grant form;**
- (c) they are not tied directly or indirectly to commercial exports of agricultural products or of other goods and services;
- (d) they are not linked to the market development objectives of donor Members; and
- (e) **agricultural products provided as food aid shall not be re-exported. However, re-exportation for emergency food aid purposes only is permissible, but only where, for logistical reasons and in order to expedite the provision of emergency food aid for another country in an emergency situation, this occurs as an integral part of an emergency food aid transaction that is itself otherwise in conformity with the provisions of this Agreement.**

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Comment: an important new discipline is introduced by excluding tied food aid loans as a form of export subsidy. This provision would make the treatment of food aid consistent with that of other forms of tied aid credits under the Helsinki Accord.<sup>vi</sup>

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3. The provision of food aid shall take fully into account local market conditions of the same or substitute products. Members shall refrain from providing in-kind food aid in situations where this would cause, or would be reasonably foreseen to cause, an adverse effect on local or regional production of the same or substitute products<sup>3</sup>. Members are encouraged to procure food aid from local or regional sources to the extent possible, provided that the availability and prices of basic foodstuffs in these markets are not unduly compromised. Members commit to making **their best efforts** to move increasingly towards more cash-based food aid.

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Comment: this paragraph is wholly aspirational, enjoining members to make 'best efforts'. That is made clear in footnote 3 which elaborates with respect to the "Safe Box" the circumstances in which members might consider it appropriate "to depart from the strict application of this obligation", and in undertaking an emergency operation only "to minimise, any adverse effects on local or regional production through the provision of in-kind". Furthermore, the extension of disciplines to cash aid (Paragraph 9) appears to remove any tangible incentive to local and regional sourcing.

Nevertheless in accepting the genuineness of this commitment, recent donor practices in procuring locally and regionally or through the provision of cash aid could be taken as a bench-mark against which to review progress towards untying food aid. Table 1 below shows donor procurement during 2005 in terms of local, triangular (regional/untied) and direct sourcing from their own market).

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<sup>3</sup> It is conceivable that there could be circumstances where strict application of this obligation would have the effect of acting as an unintended impediment to the capacity of Members to respond fully and effectively to genuine need with in-kind food aid in an emergency situation envisaged under paragraphs 4 to 8 below. It is recognised therefore that, in such an emergency situation, Members may be **permitted to depart from the strict application of this obligation**, but only and strictly to the extent that this is a necessary and unavoidable consequence of the nature of the emergency itself such that to act in strict conformity would manifestly compromise the capacity of a Member to respond effectively to meet humanitarian need. Furthermore a Member shall in any case be obliged to avoid or, if this is not possible in the circumstances, **to minimise, any adverse effects on local or regional production** through the provision of in-kind food aid otherwise in conformity with the provisions of paragraphs 4 to 8 below.

***Further Disciplines for Food Aid Transactions in Emergency Situations (Safe Box)***

4. To ensure that there is no unintended impediment to the provision of food aid during an emergency situation, food aid provided under such circumstances (**whether cash or in-kind**) shall be in the ambit of the Safe Box and, therefore, deemed to be in conformity with this Agreement, provided that:

- (a) there has been a declaration of an emergency by the recipient country, or, the Secretary-General of the United Nations; or
- (b) there has been an emergency appeal from a country<sup>4</sup>, a relevant United Nations agency, including the World Food Programme and the United Nations Consolidated Appeals Process; the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies; [a relevant regional or international intergovernmental agency, **a non-governmental humanitarian organisation of recognised standing traditionally working in conjunction with the former bodies**]; and

in either case, there is an assessment of need undertaken by a relevant United Nations agency, including the World Food Programme; the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies<sup>5</sup>.

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Comment: the bracketed wording in 4(b) raises an important issue regarding the role of NGOs – is the agreement to allow or disallow an emergency appeal by an NGO when it is not actually working in conjunction with a UN agency or the Red Cross? Such a role would appear to be circumscribed, but not precluded in the final section of the paragraph 4 (“ in either case...” ) combined with Paragraph 5 making a needs assessment a necessary condition for an action to be included in the Safe Box.

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5. Following the emergency declaration or appeal as provided for in paragraph 4 above, there may well be a period where the needs assessment outcome is pending. For the purposes of this agreement, this period will be deemed to be 3 months in duration. Should any Member consider that the food aid concerned would fail to satisfy the conditions provided for under paragraph 4 above, no initiation of dispute settlement on these grounds may occur until that period has elapsed (provided that the relevant United Nations agency responsible for the needs assessment has not, within this period, given a negative assessment). Where, within or by the end of this period, the relevant UN agency has carried out a positive needs assessment and the other conditions of paragraph 4 have been satisfied, the food aid concerned will remain in the Safe Box thereafter provided it is also in conformity with all the other relevant provisions of this Agreement.

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Comment: An expert opinion should be sought on whether this provision might be an impediment to a timely emergency response.

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<sup>4</sup> [It is understood that an NGO can be involved in this triggering whether by working with a donor or recipient country.]

<sup>5</sup> Needs assessment should be done with the involvement of the recipient government and may involve a relevant regional intergovernmental organization or an NGO, but while the latter bodies may be so involved, it shall be the relevant United Nations agency that is responsible for initial authorization and ultimate approval of the needs assessment.

6. [There shall be no monetization for food aid.]

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Comment: This is a critical restriction limiting the Safe Box to food that is to be distributed directly to affected populations. It is only envisaged that monetisation would occur where the various additional criteria in Para 10 are satisfied. This restriction is consistent with normal UN and donor practice that emergency relief should be freely distributed to final beneficiaries.

An alternative wording of Paragraph 6 that is under discussion - [There shall be no monetization for in-kind food aid except for least developed countries in exceptional circumstances for delivery of food aid to final recipients] - would

- i. risk moral hazard by allowing donors to inadequately fund emergency aid, and
- ii. risk emergency food aid disrupting a thin local market for example in the abnormal conditions during a drought and in immediate recovery from such a crisis.

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7. A notification will be required on an ex-post basis by donors at six month intervals in order to ensure transparency.

8. Subject to its continued conformity with other provisions of this Agreement, food aid that is in conformity with paragraph 4 may be provided for as long as the emergency lasts subject to an assessment of continued genuine need as a result of the initial onset of the emergency. It is for the relevant United Nations agency to make such determination.

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Comment: This wording would appear to permit the Safe Box operation to continue indefinitely provided that there is a need for food aid to those affected by the initial on-set of the emergency. The typical form of emergency operations lasts only for 6 to 12 months and then has to be formally extended. For that reason WFP has, for example, established a category of protracted relief and recovery operations that is planned in advance and can provide multi-year assistance, and so it may be organised outside of the Safe Box under the conditions of Paragraph 9 (see below Appendix 3).

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***Further Disciplines for Food Aid Transactions in Non-emergency Situations***

9. Further to the disciplines applicable under paragraphs 1 to 3 above, **food aid in non-emergency situations outside the Safe Box** shall be:
  - (a) based on an assessment of need by an identified multilateral third party organisation, which may include humanitarian non-governmental organisations working in partnership with specialised United Nations agencies;
  - (b) targeted to the need as identified in that assessment;
  - (c) provided to address specific developmental objectives or nutritional requirements as identified in the needs assessment; and
  - (d) **provided consistently with the objective of preventing commercial displacement. Commercial displacement shall arise where: (text to be provided).]**

Comment: This is a key paragraph because the new proposed wording extends the disciplines on non-emergency aid and so the remit of the Agreement to include cash or untied aid. (In contrast Paragraphs 9 and 10 of the previous draft released on 1 August restricted the disciplines to in-kind aid.)

It is unclear why the provisions of a trade agreement concerned with export competition should include untied aid on a wholly grant basis, and especially forms of local currency or budgetary support within a recipient country. OECD's convention is to assume that untied aid, as provided by international financial institutions, the UN and bilateral agencies, is unlikely to have trade distorting consequences. Financial aid for local currency support in a recipient country has not previously been a matter of concern under international trade rules (see above comment on local purchases in Paragraph 1). OECD treats partially untied aid, where tendering or procurement is extended to other developing countries, as in effect untied. This convention is intended to promote trade between developing countries, (see Appendix 1).

To extend disciplines to cash/untied aid has potentially serious practical implications:

- i. Many cash or untied food aid transactions are small local and regional purchases (Table 2). The likely consequences of the disciplines under 9(a), 9(b) and 9(c) would be to discourage these operations.
  - ii. Sub-paragraph 9(d) on "Commercial displacement" requires both a definition and also a procedure for determining when displacement may occur. The previous versions of the text in focusing solely on in-kind aid implied that this particular category – sourcing restricted to the donor market – involved a high risk of commercial displacement, and so could be permitted only under specific conditions. The more general application implies instead an evidence-based determination for individual actions. So a new or revised procedure will be needed to replace the existing FAO Rules on Surplus Disposal that are widely recognised to be ineffective in determining whether a transaction risks commercial displacement. But it is difficult to envisage how a theoretically valid and operational workable determination procedure could be devised to cover a wide range of country, commodity specific and both ex-ante and ex- post situations.
  - iii. Extending the coverage of the AoA in this way could also introduce a very large administrative burden in reporting and monitoring (see comments on Paragraph 11).
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10. Monetisation of in-kind food aid shall be [prohibited except][permissible, but Members will endeavour to constrain it to situations] where is it necessary to fund activities that are directly related to the delivery of the food aid to the recipient, or for the procurement of agricultural inputs. Such monetisation shall be carried out under the authority of and in accordance with the criteria established by a relevant United Nations agency working in partnership with the recipient government such that commercial displacement is avoided or, if not possible, at least minimised.<sup>6</sup>

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Comment: The first bracketed alternative wording is in accord with the G20 and AG positions. The second alternative is an open door leaving it to individual members to determine what they consider to be appropriate. If monetisation is to be permitted to fund input supply, then there is need to clarify the precise intention through more careful wording. An assessment procedure to be used by the supervising agency for looking at potential commercial displacement is implied in the final sentence, but not specified.

The new footnote 6 again suggests a procedure through which the donor and recipient, who may have an interest in proceeding, would determine what is an acceptable level of commercial displacement is “to be avoided or, if not possible, at least minimised.” Smaller scale regional traders including unrecorded trade would appear to be especially vulnerable, given that a formal objection is required from members of the Committee on Agriculture.

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### *Monitoring and Surveillance*

11. Food aid donor Members shall be required to notify to the Committee on Agriculture, on an annual basis, the following data:

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Comment: First, the credibility of the Safe Box will depend on periodic and full review of its performance.

Second, a realistic monitoring process should focus attention on the transactions involving the highest risk of commercial displacement. The WFP INTERFAIS reported almost 8000 food aid transactions in 2005 (Table 2). Some 38% were direct transfers, sourced in the donor country. Monitoring for cash or untied could be limited to a statement of transactions that are already reported to WFP INTERFAIS along with the cost as reported to the OECD DAC. In the case of non-emergency in-kind/tied aid covered by Paragraphs 9 and 10 there would be additional information to be provided in conjunction with the assessment by the UN agency providing supervision and guidance on the issues of commercial displacement and distortion to local and regional markets. Once modalities are agreed, then there is a need for a careful technical discussion on essential information requirements and also on practicalities.

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<sup>6</sup> [Where a Member seeks to provide food aid involving monetisation not carried out as provided for under this provision, a written notification on the proposed transaction (or programme of transactions) shall be forwarded to the Committee on Agriculture for its consideration and review. Such a notification shall specify in writing all the circumstances applicable including the rationale for the proposed transaction, all details of the proposed transaction and how it is proposed that commercial displacement will be avoided or, if not possible, at least minimised. The Committee on Agriculture shall review the notification at a Special Session of the Committee on Agriculture to be called within 30 days of the receipt of notification, or at its next scheduled meeting if it occurs sooner. In the event that Members do not object to the transaction, following the review, the proposing Member may proceed accordingly. In the event that some Members do object to or seek modifications to the transaction, and the proposing Member still wishes to proceed, the matter shall be referred immediately to a standing panel of experts which shall render their judgement on the proposed transaction within thirty days. Any proposed transaction will be stayed pending that judgement, which shall be binding.]

**Endnotes to commentary**

- <sup>i</sup> WORKING DOCUMENT No. 3, ANNEX F, 'Possible New Article 10.4 of the Agreement on Agriculture, International food aid.' is to be found at:  
[http://www.wto.org/english/tratop\\_e/agric\\_e/chair\\_workdoc\\_novo7\\_e.htm](http://www.wto.org/english/tratop_e/agric_e/chair_workdoc_novo7_e.htm)  
The Chair's previous 1 August 2007 text: Committee on Agriculture - Special Session - Revised Draft Modalities for Agriculture TN/AG/W/4 01/08/2007 07-3296, initially circulated as job128 (2) of 070721, is at:  
[http://www.wto.org/english/tratop\\_e/agric\\_e/agchairtxt\\_1aug07\\_e.htm](http://www.wto.org/english/tratop_e/agric_e/agchairtxt_1aug07_e.htm)
- <sup>ii</sup> Dr E J Clay is Senior Research Associate, Overseas Development Institute, London [ [e.clay@odi.org.uk](mailto:e.clay@odi.org.uk). ] This paper is the fifth in a series of ODI IEDG Background Papers by Dr Clay on food aid within the WTO Doha Development Round offering a developmental perspective and looking for a constructive resolution of the negotiations. The previous papers are on the ODI WTO portal at:  
[http://www.odi.org.uk/wto\\_portal/post\\_wto/food\\_aid.pdf](http://www.odi.org.uk/wto_portal/post_wto/food_aid.pdf)  
[http://www.odi.org.uk/wto\\_portal/post\\_wto/clay\\_background2.pdf](http://www.odi.org.uk/wto_portal/post_wto/clay_background2.pdf)  
[http://www.odi.org.uk/wto\\_portal/post\\_wto/Clay\\_background\\_3.pdf](http://www.odi.org.uk/wto_portal/post_wto/Clay_background_3.pdf)  
[http://www.odi.org.uk/wto\\_portal/post\\_wto/Clay\\_background\\_4.pdf](http://www.odi.org.uk/wto_portal/post_wto/Clay_background_4.pdf)
- <sup>iii</sup> Communication from the Chairman of the Committee on Agriculture Special Session, 30 April 2007  
[http://www.wto.org/english/tratop\\_e/agric\\_e/agchairtxt\\_30apro7\\_e.doc](http://www.wto.org/english/tratop_e/agric_e/agchairtxt_30apro7_e.doc) See Clay, Edward. 2007, "Resolving the outstanding issues on food aid: "Response to the Communication from the Chairman of the Committee on Agriculture Special Session, 30 April 2007" [http://www.odi.org.uk/wto\\_portal/post\\_wto/Clay\\_background\\_3.pdf](http://www.odi.org.uk/wto_portal/post_wto/Clay_background_3.pdf)
- <sup>iv</sup> Reference to 1 August paper.
- <sup>v</sup> See WTO Committee on Agriculture Special Session, 'G-20 REACTION ON THE AGRICULTURE CHAIR'S CHALLENGE PAPER', JOB(07)/70, 22 May 2007 which draws heavily on the wording of the 2006 "Joint Submission to the WTO Doha Round Negotiating Committee on Agriculture by the African and LDC Groups on Food Aid", WTO Committee on Agriculture Special Session, TN/AG/GEN/13, 6 March 2006 and WTO 2007 Committee on Agriculture Special Session. 'CAIRNS Group's PROPOSAL ON FOOD AID', JOB(07)/68 22 May 2007 and on Potsdam *Bridges*, Vol. 11(22) 20 June 2007, <http://www.ictsd.org/weekly/07-06-20/story2.htm>
- <sup>vi</sup> OECD, 1991. 'The Arrangement on Guidelines for Officially Supported Export Credits'. Paris.

## Appendix 1: OECD DAC definitions of tying status<sup>7</sup>

### 1. Directly financing imports (DFI)

- a) DFI – Untied - Bilateral loans or grants whose proceeds are fully and freely available to finance procurement from substantially all aid recipient countries and from OECD countries.
- b) DFI - Partially Untied - Procurement is limited to donor and substantively all aid recipients. Bilateral loans and grants which are tied contractually or "in effect" (see note) to procurement of goods and services from the donor country and from a restricted number of countries, which must include substantially all aid recipient countries.
- c) DFI – Tied: grants and loans that are tied either contractually or "in effect" to procurement to donor country only. In addition this category includes official subsidies to domestic exporters that are recorded as ODA.

### 2. Aid in-kind

Goods which have been purchased in the donor country and are ready for consumption or use on arrival in the recipient country. Thus defined, aid in-kind is classified as tied by definition. Most, but not all, aid in-kind consists of either food aid or emergency and distress relief. However, not all food or emergency aid is necessarily in-kind.

### 3. Not directly financing imports (NDFI)

Items under this heading are classified as untied by definition as being wholly fungible.

- a) Budget & BOP Support: the provision of freely usable foreign exchange to the recipient.
- b) Local Cost Financing: outlays made to finance the procurement of goods and services on the local market, i.e. bought from a local enterprise which produces them, or carried in the stocks of a local enterprise for sale to all comers, irrespective of the fact that they may originally have been imported. e.g. wages and salaries made to locally recruited project personnel. Commitments to finance local costs are classified as untied since the corresponding foreign exchange is available to the recipient economy to purchase imports from whatever source it thinks fit.
- c) Debt Relief: debt reorganisation that, by enabling the recipient to forgo making service payments, makes the corresponding amount of foreign exchange freely available)
- d) Other: Contributions to non-governmental organisations and official funds in support of, or intended for, direct equity investment and that are recorded as ODA, providing that there are no formal or informal restrictions which would cause them to be considered as "in effect" tied.

On the basis of these definitions untied aid would include categories 1a and all of 3 (Not Directly Financing Imports), partially untied aid includes only category 1b and tied aid includes categories 1c and 2.

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<sup>7</sup> This annex is an extract from Clay and Turner, 2007 and based on OECD DAC documentation.

## **Appendix 2: Forms of food aid – what is reported as international food aid?**

The draft agreement has a trade rather than aid focus – it is concerned with preventing “commercial displacement”, and so with the actions of aid donor exporters that seek through restrictions on procurement to give a competitive advantage to exports of commodities produced and processed in their own countries. Other binding and voluntary agreements such as the Food Aid Convention, the declarations of the WFP Executive Board and the OECD, are, in contrast, concerned with food aid as a form of aid. There is, therefore, a need to adopt a working definition of international food aid that is appropriate to this trade perspective, whilst being consistent with definitions adopted for aid purposes. Clarity on this point will also make it possible to determine what aid transactions should be the object of monitoring and reporting under the Agreement.

There is no exact equivalent to the in-kind and cash distinction adopted in the draft text to be found in the definitions of food aid in other international agreements on food aid or aid more generally. As a consequence there are no exact equivalents to the distinction in statistical data collated and reported by the FAO, WFP or OECD. So it is not possible to say precisely how much food aid was provided in cash or in-kind. Nevertheless, it is possible to do two things. First, estimate approximates of volumes and expenditure according to these cash and in-kind categories can be inferred from existing data. Second, it is possible to indicate the reporting and monitoring implications of decisions to focus on in-kind aid or to extend coverage to all aid which is classified by either the OECD or WFP as food aid.

### **Box 1: Delivery Modes**

The commodities delivered as food aid may be procured directly in the donor country (direct transfer), within the recipient country (local purchase), or in a third country (triangular purchase). Transactions referred to as direct transfer do not correspond to “tied aid” or “in-kind” donations as the best offer in answer to an international tender procedure to procure commodities from a cash contribution may originate from the donor country without such a condition being necessarily imposed by the donor.

Local purchases account for the food aid procured in a country and used as food aid in the same country.

Triangular operations are transactions by which a donor provides commodities that have been purchased or exchanged in a third country as food aid to a recipient country.

Direct transfers include all food aid originating from a donor country.

Occasionally, there may be local purchases in and triangular transactions from countries that are not developing countries.

(Extract from WFP INTERFAIS Report “2006 Food Aid Flows p vii)

The WFP INTERFAIS compiles data for food aid transactions that meets OECD criteria for ODA funded by all DAC members and also developing countries and NGOs. These transactions are classified according to delivery mode (Box 1). These data indicate an upper limit estimate of levels of in-kind food aid and, importantly, the likely scale of monitoring and reporting requirements that focus on in-kind aid or all food aid.

The WFP category of 'direct transfers' includes all food aid in-kind as well as a few internationally tendered (untied/cash) transactions that happened to have been sourced in the donor country. So if disciplines were to focus on in-kind food aid, then detailed monitoring could be confined to the WFP direct transfers category.

Local purchases were not recognised in the original 1967 Food Aid Convention as a trade-related agreement. Local purchases were only subsequently recognised in 1986 as a form of food aid because some donors wished their financing of these in-country transactions to be included in fulfilment of their obligations under the Food Aid Convention. FAO also chose to report on food aid shipments from a commodity trade perspective, and so did not include local purchases. However, when WFP in beginning to report on food aid as deliveries of food from 1987 included local purchases. These in-country purchases are all 'cash transactions', but are they 'international food aid' in the sense that they potentially have trade implications?

The category of triangular transactions includes what would be regarded as untied and partially untied aid in terms of OECD definitions. They are all "cash transactions" in terms of the implicit definition adopted in the draft text.

Table 1 showing food aid in terms of WFP's delivery modes can be used to infer levels of in-kind and cash or tied and untied food aid. Very approximately food aid in cash is equivalent to what WFP categorises as Local Purchases and Triangular Transactions (acquired in recipient or imported from third countries, mostly other developing countries). In-kind aid is broadly equivalent to 'Direct transfers', food aid sourced in the donor country. **Table 1** suggests that when measured in tonnes of commodities **food aid in cash was over 31% and in kind under 69%** of total food aid. However, there are huge differences in donor behaviour - the US provided 99% of its food aid in-kind, whereas the other 24 members of the OECD DAC provided 62% of their food aid in cash and 38% in kind. Cash aid from the EU and European countries is over 90%.

The monitoring and reporting implications of including or excluding food aid in cash within the proposed disciplines are indicated in **Table 2**. There were almost 8000 transactions reported to WFP for 2005, and 62 % were local or triangular purchases, with respectively a mean size of only 529 and 534 tonnes. So including local purchases and triangular transactions within the disciplines would involve the monitoring and reporting of a large number of small transactions. The mean size of donor country sourced transactions was 1869 tonnes.

The current *de minimis* limits of the FAO Rules on Surplus Disposal are for "transactions of relatively small size" to "be notified to the CSSD ex post facto as soon as practicable" are defined as follows: 10000 tons for grains, 1000 tons for rice, 400 tons for DSM and 200 tons for butteroil, all aggregate quantities over a 12-month period.

**TABLE 1 SOURCES AND TYING STATUS OF FOOD AID IN 2005**

Donor/ Agency	Direct Transfers (DTs) (Tied)	Triangular purchase (Untied)	Local purchase (Untied)	Donor Total	As % of total DTs	DTs as % Donor Total
Norway	1,209	49,152	41,789	92,150	0.0	1.3
Switzerland	705	24,965	21,639	47,309	0.0	1.5
UN	10,886	204,852	155,389	371,127	0.2	2.9
EU	111,485	723,681	621,802	1,456,968	2.0	7.7
NGOs	23,277	39,134	88,066	150,477	0.4	15.5
Others	61,136	104,777	139,641	305,554	1.1	20.0
Australia	67,366	31,445	52,665	151,476	1.2	44.5
Japan	229,586	99,348	73,934	402,868	4.0	57.0
Canada	228,893	16,046	30,560	275,499	4.0	83.1
USA	3,975,934	25,092	25,356	4,026,382	70.1	98.7
China	570,356	4,388	1,838	572,198	10.1	99.7
Korea, Rep. of	392,743	72	406	393,221	6.9	99.9
<b>Total</b>	<b>5,673,576</b>	<b>1,318,568</b>	<b>1,253,085</b>	<b>8,245,229</b>	<b>100.0</b>	<b>68.8</b>
DAC24	1,008,710	905,575	754,729	2,669,014	11.3	37.8

Source: WFP INTERFAIS

Notes: EU: EC and bilateral food aid of the 15 member states acceding up to 1995.

DAC24 - excluding USA

**TABLE 2 GLOBAL FOOD AID DELIVERIES BY MODE OF TRANSACTION IN 2005**

	Direct Trans.	Triangular Purchases	Local Purchases	Total
Total Tonnage	5,673,576	1,318,568	1,253,085	8,245,229
Percent of total	68.8%	16.0%	15.2%	100.0%
Number of transactions	2993	2451	2369	7813
Percent of total	38.3%	31.4%	30.3%	100.0%
Mean transaction size	1896	538	529	1055

Source: WFP INTERFAIS

### **Appendix 3: WFP Protracted Relief and Recovery Operations (PRROs)**

PRROs are the means by which WFP responds to protracted relief and recovery needs in situations where such assistance is needed for an extended period, especially during and in the immediate aftermath of complex emergencies and severe, multi-year droughts. The focus is on helping to re-establish and stabilise livelihoods and food security to the extent that circumstances permit while providing continuing relief, where necessary. There is flexibility to adapt the balance between relief and recovery during implementation in response to changes in the overall situation.

A PRRO requires thorough preparation based on an in-depth analysis of the situation, collaboration with development-oriented partners, and an appropriate level of community/beneficiary participation in planning as well as implementation. It should include an explicit exit strategy, including appropriate elements of capacity building, and aim to provide a basis for ongoing development activities.

The primary objectives of a PRRO are to:

- ensure that the food needs of the most vulnerable are met through targeted assistance;
- rehabilitate cases of acute malnutrition;
- rebuild and encourage self-reliance and restoration of positive coping mechanisms;
- restore and promote social cohesion and human capacity, capitalising on the important contributions of women in these processes;
- restore/create productive capacity and physical infrastructure which address constraints to household food security (specifically labour and energy constraints), and allow for more time for further development activities; and to
- ensure better access to food by strengthening local food distribution and marketing systems.

#### **Components of a PRRO**

A PRRO includes two components:

- protracted relief – when a population's basic nutritional needs still cannot be met without continued free distributions. This includes situations in which a refugee or IDP population remains in a host area for a period of years without achieving self-reliance. Activities may include helping the refugees develop a degree of self-reliance and minimising environmental damage caused by their presence.
- recovery – the progressive introduction and intensification of activities supporting recovery (land clearance, for instance, or the repair of schools and roads) to help meet the longer-term needs of affected populations.

The balance between the two components will depend on the situation, in particular on security conditions, the stability and predictability of the situation and hence the scope for promoting and supporting recovery. The assistance strategy will be designed and the PRRO prepared on the basis of the most-likely scenario at the time of planning. The balance between activities will be adapted during implementation as the situation and needs evolve.

## **PRROs and when they are used**

PRROs are the means by which WFP responds to protracted relief and recovery needs in situations where such assistance is needed for an extended period, especially during (and in the immediate aftermath of) complex emergencies and long-term droughts. The focus is on helping to re-establish and stabilise livelihoods and food security to the extent that circumstances permit while providing continuing relief, where necessary.

A PRRO requires more thorough and detailed preparation than an EMOP and must be based on a thorough (in-depth) analysis of the situation. It also requires greater collaboration with development-oriented partners, greater community/beneficiary participation in planning as well as implementation, and more emphasis on capacity building.

**Normally, a PRRO follows on from an EMOP and starts not more than 24 months after the onset of the crisis.** The preparation of a PRRO normally takes several months and approval several more months (except for small projects <\$ million that do not require EB approval), so the process of preparing a PRRO must start at least 6(?) months before the intended start of implementation, i.e. less than 18(?) months after the start of the EMOP. The necessary assessments must be undertaken before that.

**Exceptionally, a PRRO may start earlier or without a preceding EMOP.** Transitioning from an EMOP to a PRRO before 24 months may be appropriate when the situation stabilises quickly, extensive recovery activities can start early and the operation is small scale (<\$ million and therefore not requiring EB approval). Starting directly with a PRRO may be appropriate when the focus is on recovery from the outset or shortly thereafter and there is no need for substantial quantities of relief and the operation is small scale.

(Source: The WFP web-site - [www.wfp.org](http://www.wfp.org))