From customs duties to total agricultural protection:
the case of the European Union-West Africa trade

Jacques Berthelot (jacques.berthelot4@wanadoo.fr), April 19, 2018

The first objective of the EU bilateral free trade agreements (FTAs) concluded or under negotiation with the majority of emerging countries, but also the Economic Partnership Agreements (EPAs) with the ACP countries (from Africa, Caribbean and the Pacific), is to open their markets, to increase its exports, through tariff reductions, and this in the context of the dominant neo-liberal doxa that increased trade is an essential factor of economic growth.

But all these agreements are careful not to deal with the issue of domestic agricultural subsidies, which could allegedly be negotiated only at the WTO. Yet, while this issue has been at the center of the agenda of the WTO's Agriculture Special Committee since January 2016, the EU and the US have remained adamant about the current rules of the Agreement on Agriculture (AoA). The EU refused to question the notification in the green box of its so-called decoupled direct aids, and the US to change the rules on public stockholding for food security purposes that allow it to notify also in the green box its huge domestic food aid while prohibiting developing countries (DCs), of which India, to do the same. And, in fact, the WTO Ministerial Conference in Buenos Aires (MC11), which was to endorse an agreement on these two complementary issues, did not make any progress.

It is therefore necessary to clarify the debate by jointly considering the issues of agricultural import protection and domestic subsidies, as the WTO invites us to do (Part I); giving examples for some basic food items traded between the EU and West Africa (WA) (Part 2); and by showing that the WTO rules on subsidies are far too restrictive since the much higher competitiveness of agri-food products of developed countries, especially the EU, over that of developing countries is much more due to their current and past non-agricultural support and their past agricultural subsidies than by their current agricultural subsidies (Part 3).

I – Combining agricultural import protection with agricultural subsidies

Paragraph 3 of Annex A of the Doha Work Program (known as the Framework Agreement) of the WTO General Council of 31 July 2004 on the "Framework for the Establishment of Modalities for Agriculture" states: "*The reforms in all three pillars form an interconnected whole and must be approached in a balanced and equitable manner*". These three pillars are market access (i.e. import protection), export competition (i.e. export subsidies) and domestic support. This implies that import protection must include domestic subsidies as they have an import substitution effect and a dumping effect by allowing products to be exported below the average national total cost of production without subsidy. This is of course also the case for explicit export subsidies but, as the EU has not been using it since 2014, it is not included. Indeed, we know that the reforms of the EU CAP (Common Agricultural Policy) and of the US Farm Bill since the 1990s have consisted in reducing their domestic minimum prices (intervention prices in the EU and loan rates in the US) to bring them closer to world prices, offsetting the lower prices by direct payments, in order to export more without dumping – for the GATT there is no dumping as long as we export at the domestic market price – and import

less, as agro-industries have less need to import when they find agricultural raw materials on the domestic market at prices close to world prices. This is confirmed by Article 3 of the WTO Agreement on subsidies which prohibits "*subsidies subject, either exclusively or among other conditions, to the use of domestic over imported goods*".

In concrete terms, this implies that one must add to the tariff – converted into ad valorem equivalent (AVE) in the case of specific tariff (per tonne or head of livestock) or mixed (ad valorem + specific), which dominate for agricultural products imported by the EU – the AVE of subsidies to obtain the total protection rate. The WTO report on "World Trade in 2012"[1] cites the work of Kee et al. 2008, according to whom "*For products subject to agricultural domestic support, in 36% of these tariff lines the AVE of agricultural domestic support is higher than the tariff... The countries with the highest AVEs of domestic support are European Union members... Moreover, the contribution of core NTBs* [non-tariff barriers] *and agricultural domestic support to the overall level of protection (that includes tariffs) also increases with GDP per capita*"[2].

In a speech to the EU Confederation of Agri-Food Industries on 19 June 2003, Pascal Lamy, then the EU Trade Commissioner (before becoming Director-General of the WTO in 2005), highlighted the 4 ways to promote European exports, of which "*the fourth which is simply to obtain supplies on the internal market at competitive prices. This raises the issue of internal prices and the reforms needed to bring them down. Which brings us to internal support, which is also an issue for the WTO. Thanks to a series of CAP reforms, internal prices have become highly competitive, especially for primary products such as wheat. And the performance of the processing industry bears witness to this. We must therefore persevere and also not lose sight of the need to overhaul our system of support so that it has a minimal impact on trade. That is why we have proposed the new CAP reforms and why they are so important in the WTO negotiations on internal support*"[3].

II - Calculation of the total protection rate adding the tariff and the subsidy for some basic food products traded between the EU28 and West Africa in 2016

Imports of EU28 low and medium quality wheat (code 100199), above the tariff quota of 3.112 million tonnes (Mt), reached 277,576 tonnes in 2016 at a tariff of 95 €/t which, for a CIF price of 195 €/t, corresponded to an AVE of 48.7%. The EU28 exported 2.399 Mt of wheat in WA in 2016 (excluding that included in processed cereal products) at a FOB price of 173.1 €/t with a subsidy of 60.4 €/t, corresponding to a subsidy (or dumping) rate of 34.9%[4]. The total protection rate in AVE was therefore 73.6%. A rate to be compared to that of 5% of the ECOWAS Common External Tariff (CET), which will fall to 0 in the interim EPAs (iEPAs) of Côte d'Ivoire and Ghana which have been implemented since 3 September 2016 and 15 December 2016 respectively.

[1] https://www.wto.org/english/res_e/booksp_e/anrep_e/world_trade_report12_e.pdf
[2] http://siteresources.worldbank.org/INTRES/Resources/469232-1107449512766/ecoj_2209.pdf
[3] *From Doha to Cancun – Challenges and opportunities of the WTO negotiations for the food sector*, General assembly of the Confederation of the EU Food and Drink Industries (CIAA) - Brussels, 19 June 2003, http://trade.ec.europa.eu/doclib/docs/2004/july/tradoc_113875.pdf
[4] *The subsidies to the EU exports of cereal products to West Africa in 2015 and 2016*, SOL, March 17, 2017, https://www.sol-asso.fr/analyses-politiques-agricoles-jacques-b-2/

The EU exports of milk powder (codes 04021019 and 04022118) to WA in 2016 received an average subsidy of 67.2 €/t corresponding to a dumping rate of 27.8%[5]. As the AVE of the EU28 MFN tariff (above tariff quotas) on imports was of 74.6%, the EU28 total protection rate was 102.4%. A rate to be compared, as for wheat, to that of 5% of Côte d'Ivoire and Ghana tariffs of their iEPAs on milk powder which will also fall to 0 at the beginning of their liberalization schedule. Similarly, the subsidy per tonne of liquid condensed milk (codes 04021019 and 04022118) was identical in milk equivalent but the AVE was 98.7%, i.e. a total protection rate of 127.4%.

In 2016 the EU28 imported from the rest of the world 110,209 tonnes of frozen chicken pieces and offal (code 020714) at a FOB price of 1825.8 €/t whereas the NPF specific tariff was 1024 €/t, which corresponds to an AVE of 56.1%. As the EU28 exported 166 413 tonnes of the same product to WA at a fob price of 659.8 €/t and as they received a subsidy of 120 €/t for feed of European origin (mainly cereals), i.e. a subsidy AVE of 18.2%, the total protection rate was 74.2%.

The EU28 imported 921 tonnes of frozen offal of beef (code 020629) in 2016 at an AVE of 116.2% (of which an ad valorem duty of 12.8% plus 3,041 €/t of specific duty at an AVE of 103.4% for a CIF price of 2,929.7 €/t). And the EU28 exported 56 836 tonnes of the same product to WA at a FOB price of 705.5 €/t thanks to subsidies of 1,215 €/t (2013 figure[6]), implying a dumping rate of 172.2% and a total protection rate of 288.4%!

In 2016, the EU28 imported 1,120 Mt of frozen pork offal (code 020649) at a FOB price of 1,201.2 €/t at a zero duty and exported 41,518 tonnes to WA at a FOB price of 541.5 €/t with a subsidy of 217 €/t (mainly for feed of EU origin), equivalent to a total protection rate of 40%.

The following table compares the total protection rates, including subsidies, of the EU28 and the ECOWAS CET and the CI and Ghana iEPAs on the previous products.

The EU28 total protection rate and the tariffs of Côte d'Ivoire and Ghana IEPAs in 2016

AVE	Soft wheat	Milk powder	Condensed milk	Poultry offal	Beef offal	Pork offal
HS codes	100199	04021019, 04022118	040291, 040299	020714	020629	020649
AVE	48,7%	74,6%	98,7%	56,1%	116,2%	0%
Subsidy in AVE	34,9%	27,8%	27,8%	18,2%	172,2%	40%
Total protection rate	73,6%	102,4%	127,4%	74,2%	288,4%	40%
ECOWAS CET	5%	5%	10% or 20%	35%	35%	35%
CI and Ghana iEPAs	0	0	20%	20%	20%	20%
EU28 advantage	68,6%	97,4%	107,4% or 117,4%	54,2%	268,4%	20%

III - The gold box of present and past non-agricultural supports and past agricultural supports

Beyond the need to take into account the subsidies to assess the total agricultural protection rate, it should be underscore that the WTO rules only take into account sector-specific subsidies, in this case agricultural subsidies, and only of the current year or at best of the last few years, according to Articles 1, 2 and 8 of the Agreement on Subsidies and Countervailing Measures:

[5] *The huge dumping of extra-EU exports of dairy products and to the EPAs of West Africa, SADC, CEMAC and EAC in 2016*, April 11, 2017, https://www.sol-asso.fr/analyses-politiques-agricoles-jacques-b-2/

[6] *Les subventions de l'UE28 en 2013 aux exportations de céréales, viandes et produits laitiers extra-EU28, vers les pays ACP et l'Afrique de l'Ouest*, SOL, 9 juillet 2013, https://www.sol-asso.fr/articles-de-2014/

"1.*2 A subsidy as defined in paragraph 1 shall be subject to the provisions of Part II or shall be subject to the provisions of Part III or V only if such a subsidy is specific in accordance with the provisions of Article 2.*

2.1 In order to determine whether a subsidy, as defined in paragraph 1 of Article 1, is specific to an enterprise or industry or group of enterprises or industries… the following principles shall apply…

8.1 The following subsidies shall be considered as non-actionable: (a) subsidies which are not specific within the meaning of Article 2…".

That is why SOL (formerly Solidarité) proposed at the WTO Ministerial Conference of Hong Kong in December 2005 to put in a "gold box" all types of past and present non-agricultural support and past agricultural support[7].

Indeed, the higher current competitiveness of Western agri-food products, especially of the EU, compared to those of developing countries (DCs), especially of ACP countries, is much less the result of the gap in their current level of tariffs and/or agricultural subsidies – the more so when calculated per capita or full-time AWU (agricultural worker unit) equivalent – than of current and past non-agricultural support and past agricultural support, for decades and even centuries, including strong import protection and domestic and export subsidies, as well as export taxes.

These past and present non-agricultural supports have greatly reduced the unit production cost of agri-food products in Western countries, particularly the EU, compared to those in DCs, in particular thanks to the following elements (non-exhaustive list):

- efficient transport and information infrastructures (including intangible infrastructure, of which research);

- free general access to education, at least for primary and secondary education, including for specific agricultural education;

- health and pensions of farmers largely financed by all taxpayers, at least in the EU;

- affluent consumers (compared to those of the DCs), with increasing purchasing power, able to pay minimum prices to farmers, even if they are too low; unlike the situation of poor DCs, where the purchasing power of consumers is very low and often decreasing;

- low inflation rates: in December 2016 it was at 1.1% in the euro area and 2.1% in the US compared to 18.5% in Nigeria and 15.4% in Ghana;

- low interest rates, especially on subsidized agricultural loans;

- high protection of agricultural imports and infant industries for decades;

- relatively democratic States able to enforce commercial contracts, to fight corruption (but

[7] *The green box: a black box which hides the gold box*, Solidarité, December 6, 2005, https://www.wto.org/english/forums_e/ngo_e/posp56_e.htm

not against tax evasion in tax havens), to collect tariffs and prevent the illegal extortion of money by the forces of order (army, police, customs officers);
- looting of the DCs resources during the centuries of slavery and colonization;

- neo-colonial exploitation since, by the indebtedness of DCs vis-à-vis developed countries and international institutions under their control, and unfair free trade agreements.

That is why, even if the WTO decided stricter criteria for the green box, developed countries could still increase their gold box subsidies to maintain the competitiveness of their farmers and agri-food industries. They will always find the means to ensure their food sovereignty. In particular, instead of maintaining specific agricultural institutions, it will be sufficient to integrate them into larger institutions so that the specific nature of subsidies will disappear and could not be sued at the WTO.

A good example is the public funding of transportation infrastructure that is not specific to agricultural products but is highly beneficial to them, as shown by the subsidies to improve the navigability of the Mississippi: "*Congress' passage of the Waterways Resources Reform and Development Act recognized the importance of maintaining vital waterways like the Mississippi River… The Mississippi River is a vital artery for grain shippers moving product from the Midwest to the Gulf of Mexico. For many years, the grain industry has been vocal about the need to update some of the river's nearly 100-year-old locks and dams... The world is coming to the breadbasket of America for its food stocks and we need to be ready… Another reason to invest in Mississippi River infrastructure is the expected increase in traffic from the expansion of the Panama Canal. The canal is anticipated to open later this year, and will lead to a 12% decrease in the cost of transporting grain from the U.S. Corn belt to Asia... The upgrades planned for U.S. waterways and railways will help preserve one of the United States' most competitive advantages to foreign buyers — affordable transportation costs*"[8].

On the other hand, the cost of transporting goods by cargo from Lagos in Nigeria to Tema in Ghana is higher than that of Lagos to Rotterdam because there is no shipping company regularly operating this route.

Conclusion : Given the triple challenge facing the ACP countries, of which of WA – demographic explosion, increasing food deficit, global warming – their politicians must stop being at attention to the rules of the WTO, shaped by the EU in concert with the US to defend their selfish interests, and should denounce them when they contradict the Sustainable Development Goals adopted by the United Nations in 2015.

For its part, the EU must renounce to impose EPAs and denounce those already signed or implemented in order to give hope to the young Africans deprived of a future at home and who risk their lives to come to the EU that does not want to receive them.

[8] http://www.feedandgrain.com/magazine/u.s.-invests-in-key-rail-and-river-infrastructure