ROPPA

LET US DARE TO REFORM THE WTO FOR AN EQUITABLE DEVELOPMENT

Inspiring these Benin children to become farmers

The national platforms members of ROPPA

BURKINA FASO
Confédération Paysanne du Faso (CPF)
cpf@fasonet.bf
cpfouaga@yahoo.fr
Tél. : (++226) 50 30 18 44 / 70 33 84 51 / 76 63 19 26

BENIN
Plate-forme Nationale des Organisation Professionnelles Agricoles du Bénin PNOPPA/B
pnoppa_benin@yahoo.fr
Tél. : (++229) 21 37 72 88 / (++ 229) 95 86 75 66

COTE D'IVOIRE
Association Nationale des Organisations Professionnelles Agricoles de Côte d'Ivoire (ANOPACI)
anopaci@yahoo.fr
Tél. : (++225) 22 44 11 76 / (++ 225) 03 01 06 11

GAMBIE
National Coordinating Farmers of Gambia (N.A.CO.F.A.G)
nacofag100@hotmail.com
(++220) 448 32 02/ (++220) 630 07 56

GHANA
Farmers Organisation Network of Ghana
(233) 243 86 35 67 / (233) 244 43 14 56
fongsec@4u.com.gh ; daa@africaonline.com.gh

GUINEE CONAKRY
Conseil National des Organisations Paysannes (CNOP)
paysansdeguine@yahoo.com
(++224) 60 57 16 74 / 64 29 69 45 / (++224) 60 33 58 22

GUINEE BISSAU
QNCOCPA/GB
roppaguinebissau@yahoo.fr
(245) 660 66 96 / 22 18 45 / 722 04 47 / 245 667 40
77 Av. Das Naçoes Unidas Cup de Baixo C.P. 441

LIBÉRIA
Farmers Union Network of Liberia (FUN-INC)
Arjay Farm, Kingsville, Mont.
(231) (0)6 51 02 85

MALI
Coordination Nationale des Organisations Paysannes du Mali
cnopmali@yahoo.fr
(++223) 20 28 68 00 / (++223) 66 76 11 26

NIGER
Plate-forme Paysanne du Niger
pfp_niger@yahoo.fr
(++227) 20 73 23 52 / (++227) 96 01 95 49

SENEGAL
Conseil National de Concertation et de Coopération des Ruraux (CNCR)
cncr@cncr.org
(221) 33 825 56 65 / (221) 77 634 84 67

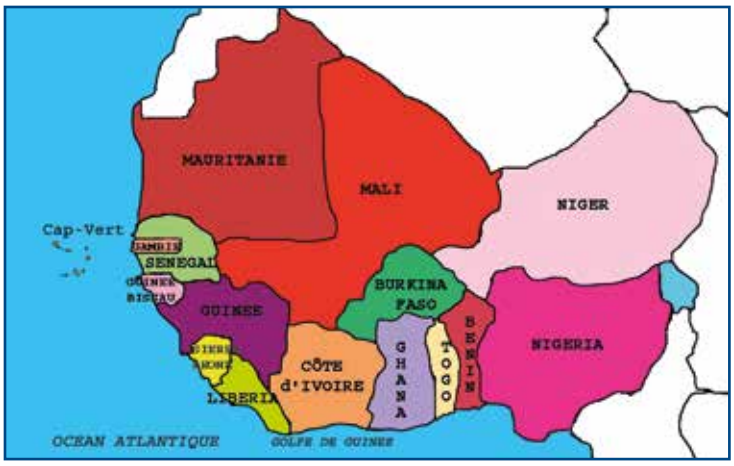
SIERRA LEONE
National Association of Farmers of Sierra Leone
nafs2000@yahoo.com
(232) 228 568
(232) 76 66 11 94 / 76 68 19 05

TOGO
Coordination Togolaise des Organisations Paysannes (CTOP)
ctop03@yahoo.fr
(228) 251 74 42 57 / (228) 912 45 08 / (228) 912 86 55

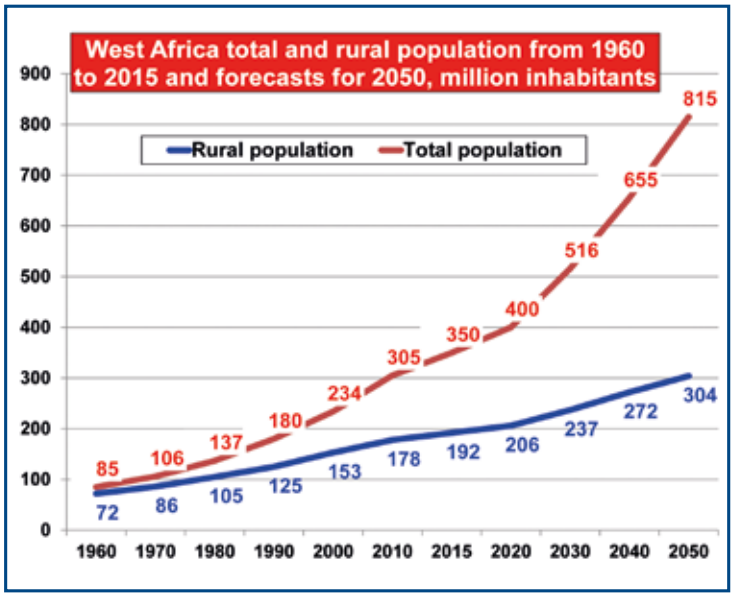
Let us dare to reform the WTO for an equitable development

Fifty-five years after independence, international institutions and international investors swear by the strong development potential of sub-Saharan Africa (SSA), particularly West Africa (WA) and especially the potential to food products. To what extent and under what conditions can West African farmers share this optimism? The race to grab land in SSA, including in WA, led by Asian countries, investment funds and agribusiness companies (including African firms), demonstrates the strong growth potential of WA for increased agricultural production. But the sector faces many constraints, not least the too low agricultural prices preventing farmers to self-finance their production expansion.

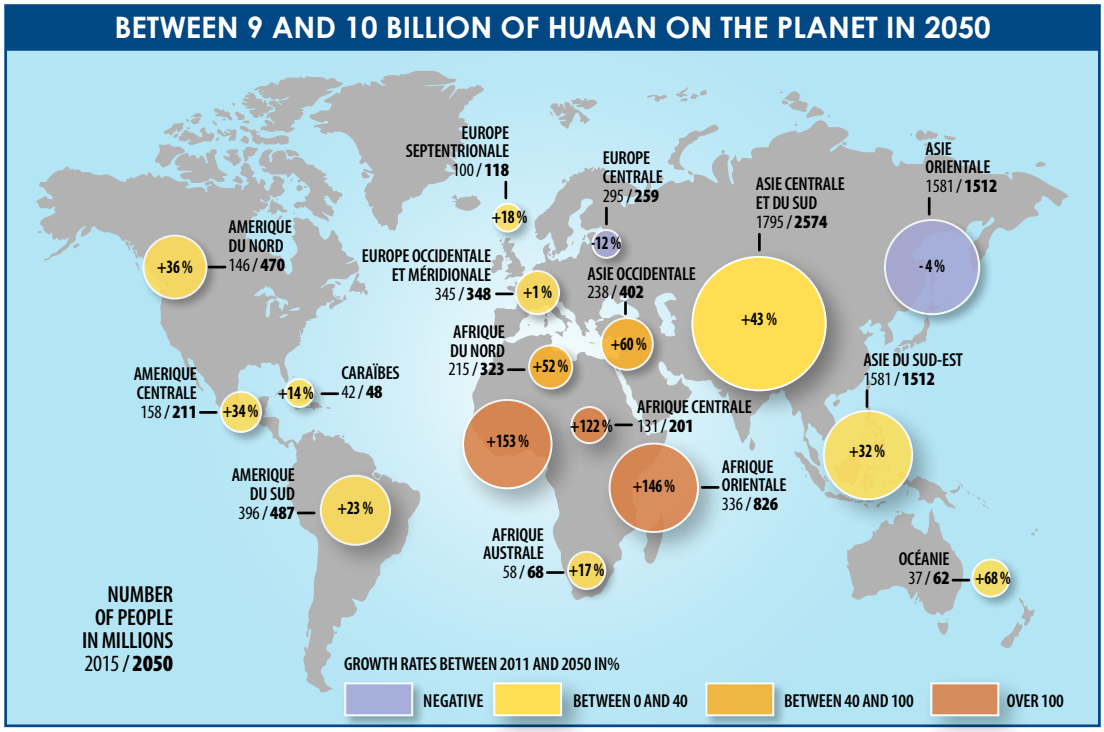
While some challenges cannot quickly be addressed – such as population growth and climate change – others can. The region's food deficit, for example, and the Economic Partnership Agreement (EPA) with the European Union (EU) can be tackled by reforming the agricultural policies of all countries on the basis of food sovereignty principles. For that, five rules of the World Trade Organization (WTO) need to be changed, a proposal developed in more details in this booklet.



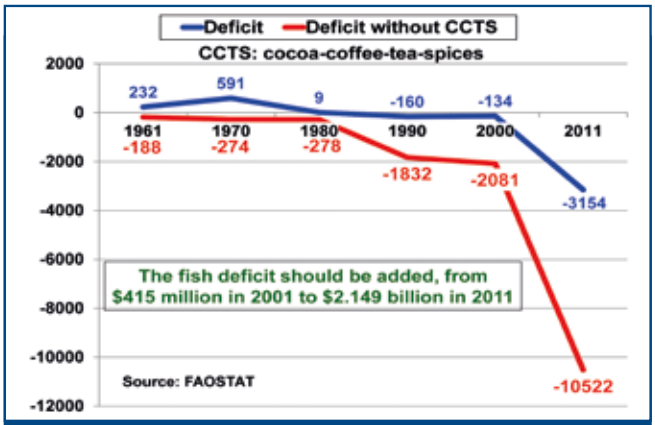
• The demographic challenge of mouths to feed and jobs to create, particularly in agriculture, in WA:
the population grew by over 400% from 1960 to 2015 (an average of 2.6% per year) and is expected to grow by 230% between 2015 and 2050 (a 2.4% per year). If the rural population multiplied 3.8 times from 1960 to 2015 (1.8% growth rate) it will increase another 63 % by 2050 (1.6% growth rate). Though the share of farmers in the rural population is declining rapidly, small towns also provide many agricultural jobs, and size of the rural population is a good indicator of the importance of creating agricultural jobs. Young people in search of employment (15 to 24 years old) will represent on average 20% of the population from 2015 to 2050 and their number is predicted to multiply 2.2 times in that period.



West Africa is the world region with the highest predicted demographic growth by 2050



• **The challenge of a rapidly growing food deficit:** the shortfall in production began in the 2000s and has doubled from 2005 to 2011 - and has multiplied 3.6 times since 2000 if we include the fish shortage. But excluding cocoa-coffee-tea-spices – which are not basic food – the shortage, fish included, increased from $549 million in 2000 to $12.671 billion in 2011.



West Africa food deficit without fish from 1961 to 2011 in $ millions

• **The challenge of climate change and the choice of agricultural production model**: despite the diversity of scenarios, in particular between Sahelian and coastal areas, the majority of forecasts suggest that agricultural yields in West Africa will decrease by an average of 10% by 2050, other things being equal. In this context, agro-ecological production systems are emerging as far more resilient and more competitive than systems that rely on the intensive use of external inputs.

• **The challenge of the WA-EU Economic Partnership Agreement (EPA)**): if the EPA is ratified the food deficit in the WA region will explode. The EPA proposes to liberalize 34% (by value) of food products imported to WA from the EU in 2010-2014, particularly cereals (excluding rice) and milk powder, whose already

minimal duty of 5% would fall to zero at the beginning of liberalization. The cumulative losses of customs duties over the 15 years of liberalization would reach €56.5 billion, including €26 billion for the 12 least developed countries (LDCs). This outcome contradicts the EU's «Everything But Arms» Decision of 2001 and the WTO rules. The losses would still reach €53.2 billion if we deduct the €3.3 billion (€164 million annually) of the Generalised System of Preferences (GSP) duties that the exporters of Ivory Coast, Ghana and Nigeria would have to pay to the EU if WA refuses the EPA. The more so as these duties could be reimbursed to exporters by contributions of the 16 WA States.

The EU Commission financed but refuses to distribute the report on the EPA impact on Nigeria prepared in April 2014 by two researchers of the University of Ibadan, because of its negative conclusions:

- Import duties would fall by 35% and total budget revenues by 5% at the end of the liberalization period (2035).
- The interest rate would rise to 25%, with a negative impact on investment.
- The GDP would fall by 2% (by 8.3 billion dollars).
- There would be a 15% rise in unemployment, with reductions in wages and consumption.
- The trade diversion to the benefit of the EU would reduce Nigeria's imports from the rest of ECOWAS by 3% to 4%, which would reduce regional integration that the EPA claims to promote.

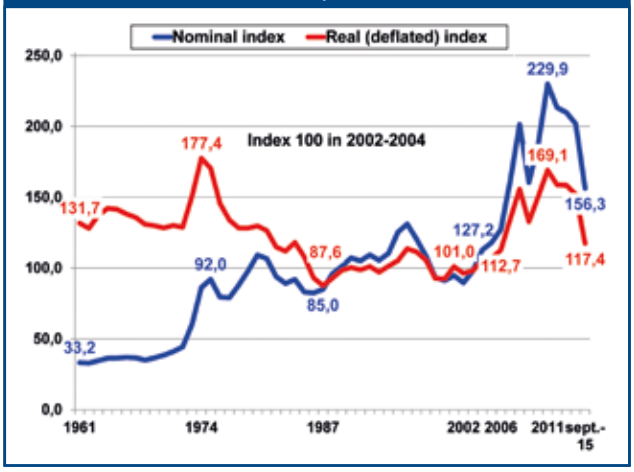
The 5 WTO rules to change to allow food sovereignty

Food sovereignty does not imply food self-sufficiency. Instead it refers to the right of each country to define its import protection and the levels and types of agricultural subsidies as long as the subsidized products are not exported. Countries can choose free trade for those products for which they do not have sufficient potential to increase production at a reasonable cost.

1 REAUTHORIZE GATT exceptions to allow import protection for agricultural products

Free trade has never worked in agricultural markets as they cannot self-regulate. Indeed, faced with a steady food demand in the short term, agricultural production fluctuates with the vagaries of the weather – vagaries that will intensify with climate change – and therefore so do agricultural prices and incomes as well as food prices.

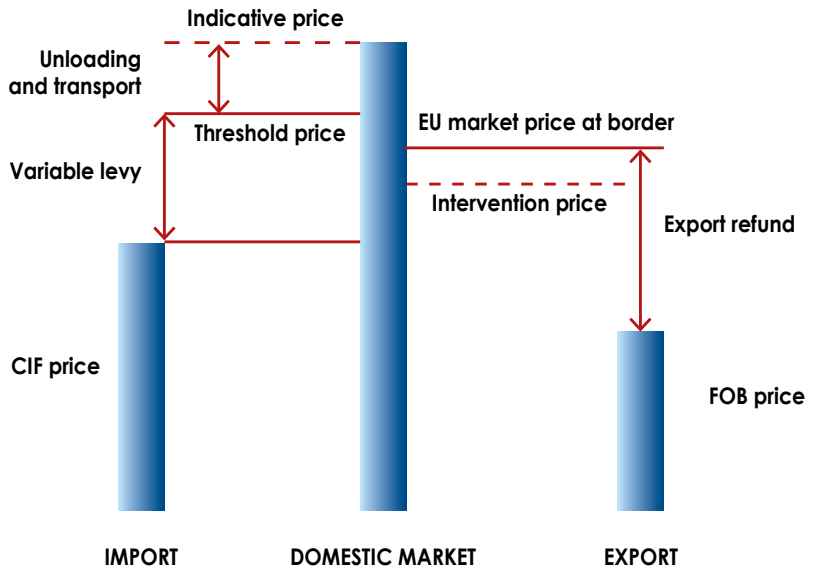
FAO nominal and real index of food products from 1961 to septembre 2015



That is why countries since the time of the Pharaohs have run agricultural policies to regulate supply at the borders and to promote storage.

That is why also the GATT – the international institution created in 1947 to promote free trade – has tolerated agricultural exceptions: there were no limits to the level and types of import protection until 1994, before the WTO. The EU preferred variable levies, which they used for cereals (including the feed given to imported white meats), beef and dairy products. None of these products could enter the EU market at prices below the remunerative prices for the majority of farmers. As for the United States (US), its government preferred to use import quotas.

Variable levies and export refunds in the EU soft wheat market from 1962 to 1994

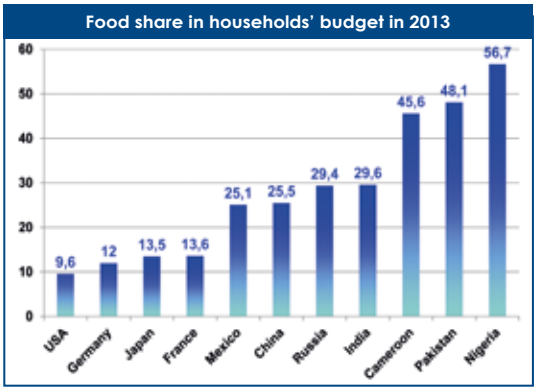


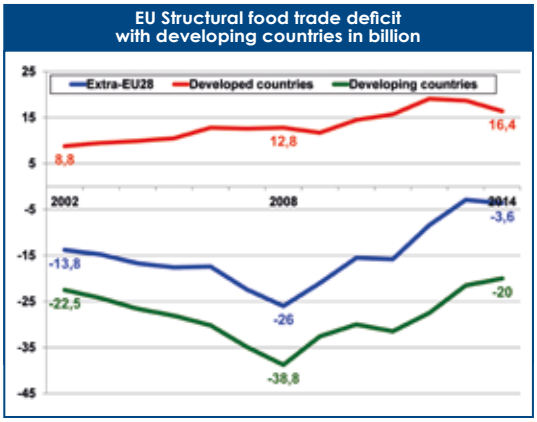
On 5 March 1955, the US got a specific GATT waiver (approved by a majority of two thirds of the «Contracting Parties», in fact by 33 votes against 5) to erect protections on all its agricultural products under section 22 of the Agricultural Adjustment Act (AAA) of 1933, after threatening to leave the GATT if it were not granted. This «temporary» exemption remained in effect until the WTO was established in 1994 and has been used to restrict imports of sugar, peanuts and dairy products. Section 22 of the AAA *«requires that restrictions in the form either of fees or of quantitative limitations must be imposed on imports whenever the President of the United States finds, after investigation, that such products are being or are practically certain to be imported in such quantities and under such conditions as to render ineffective or materially interfere with any programme or operation undertaken by the United States Department of Agriculture or any agency under its direction with respect to any agricultural commodity or product thereof, or to reduce substantially the amount of any product processed in the United States from any agricultural commodity or product thereof, with respect to which such a programme is being undertaken, and has required the President not to accept any international obligation which would be inconsistent with the requirements of the Section».*

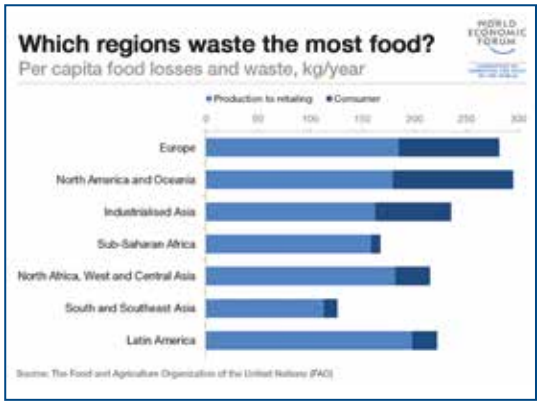
Furthermore the US exerted pressure on Australia to use «voluntary export restrictions» on beef in the 1970s and even more in the 1980s and the EU did the same on New Zealand in the 1980s for its mutton exports.

Restructuring agricultural policies on the basis of remunerative prices will mean a gradual rise in agricultural prices in developed countries over several years to lower the share of subsidies in farmers' income. Such a price adjustment will eliminate some of the price differential that now exists between developed countries (particularly the EU) and developing countries.

Food prices should be increased progressively in developed countries for two other reasons:







• To allow the sharp reduction needed in the share of animal products (meat, eggs, fish, dairy) in household consumption in order to have enough vegetable products (cereals, tubers, legumes, fruits and vegetables, etc.) and water to feed the 9.7 billion world inhabitants expected by 2050.

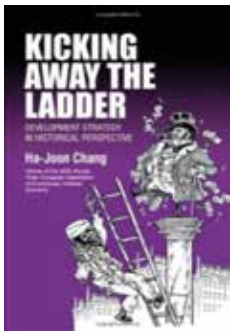
At this point it should be stressed that despite a small surplus in the EU agricultural trade balance in recent years, it faces a huge structural food trade deficit, essentially vis-à-vis the DCs as the EU has a surplus in its trade with developed countries (Western OECD countries plus Russia). The main deficit lies in fish: €16.4 billion in 2014 of which €11.2 billion with DCs. Without its surplus of €20 billion in drinks (including €8 billion on DCs) – which are not basic staples – its food deficit would be huge. The EU claim that its mission is to feed the world's hungry is farcical.

• To reduce food waste, which rises ever higher as the share of food in the household budget is reduced. Waste at the consumer level is 115 kg per capita in the US, 95 kg in the EU, yet only 11 kg in South and Southeast Asia and 6 kg in sub-Saharan Africa.

2 REFORM the definition of dumping in the GATT and the Anti-Dumping Agreement

Unfortunately the GATT did not put any limits on export subsidies (including domestic subsidies benefitting to exported products), a loophole that both the EU and US abused. The combined US and EU12 wheat and flour (in wheat equivalent) exports in the 1986-1988 period accounted for 45.5% of world exports – at least 50% with the wheat included in exported processed products – and, as the US was already the world «price maker» for wheat, the combined US and EU dumping rate of 97% was responsible for a global wheat price which had not been as low since 1973. That the WTO Agreement on Agriculture (AoA), paragraph 9 of Section 3, states, *«the fixed reference price shall be based on the years 1986 to 1988»* for all countries is therefore totally unacceptable: the prices were badly distorted by dumping at that time.

It was pressure from agribusiness – anxious to reduce the prices at which they bought agricultural commodities so as to improve their competitiveness and profits through increased exports – and the definition of dumping in the GATT and the Anti-Dumping Agreement (ADA) that prompted the US and the EU to change the rules of agricultural trade in the mid-1980s.



Having reached the top of the ladder of agricultural competitiveness thanks to decades of high import protection and high export subsidies, the US and the EU created a double trap for developing countries (DCs) to prevent them from climbing the same ladder: in 1986 they launched the Uruguay Round of trade negotiations, where they wrote together the AoA rules while changing radically their agricultural policies, the Common Agricultural Policy (CAP) and the Farm Bill.

Those radical changes included the EU and the US reduction of their minimum guaranteed agricultural prices in the early 1990s – and the EU continued their reductions in the CAP reforms of 2003 and 2004 – while compensating their farmers for the income loss with subsidies that they defined in the AoA as not trade distorting, so as to improve the competitiveness of their agricultural products by importing less and exporting more.

At the same time, the AoA required all countries, including developing countries other than the LDCs (least developed countries), to reduce their import protections – the LDCs having been constrained already to do the same by the structural adjustment policies of the World Bank and IMF –, knowing that the DCs did not have the means to significantly subsidize their large number of farmers.

But it is the scandalous definition of dumping in the GATT and the ADA that was the most decisive reason for the radical change in the CAP and Farm Bill price policies.

For economists and the average citizen, there is a dumping when exports are sold at prices lower than their production costs. However, for the GATT and ADA, there is no dumping as long as exports are sold at the domestic "market prices", even if those prices are lower than national production costs. This explains why the US and the EU have taken advantage of this definition to lower their agricultural prices.

According to the GATT article 6, *«a product is to be considered as being introduced into the commerce of an importing country at less than its normal value, if the price of the product exported from one country to another (a) is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country».*

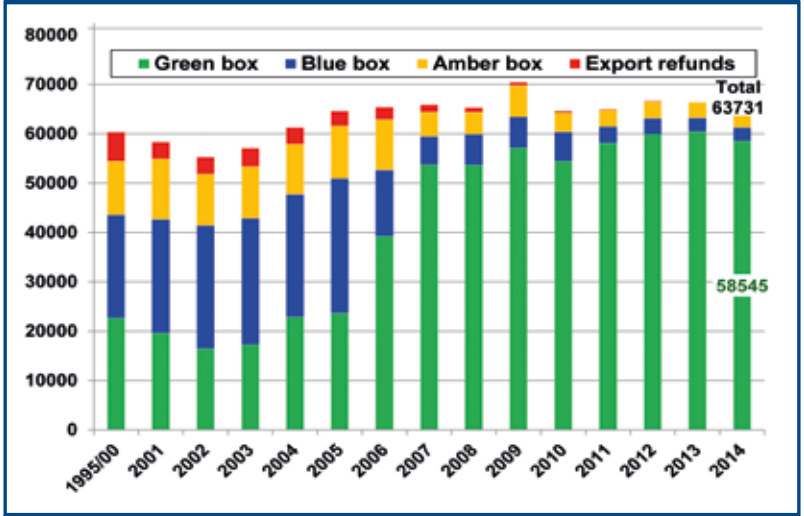
And, according to the ADA article 2, «a product is to be considered as being dumped, i.e. introduced into the commerce of another country at less than its normal value, if the export price of the product exported from one country to another is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country».

It is therefore necessary to add after these two almost identical definitions: «Normal value and in the ordinary course of trade shall be understood to imply that domestic prices were not reduced by subsidies benefitting to exported products».

3 ABOLISH the distinction among subsidies according to their alleged level of trade distortion as written in the AoA.

The distinction in the AoA between subsidies according to their alleged level of trade distortion, represented by the colour of the «box» in which they are notified to the WTO, has no scientific basis: amber («Aggregate Measurement of Support» or AMS, called «coupled» because the payments are linked to the level of prices or production), blue («semi-coupled» because you must produce the products for which the subsidy is granted, even if the level of subsidy is limited and production is capped) or green («decoupled» because it is not necessary to produce anything to get them).

EU agricultural subsidies among boxes in million



Green box: decoupled direct aids + rural development + State aids; amber box: coupled direct aids + market interventions

All subsidies reduce production costs and increase the competitiveness of the targetted products. They have both a dumping effect when the products are exported and an import substitution effect. The most trade distorting subsidies to exported products are paradoxically those of the green box because their level is not capped.

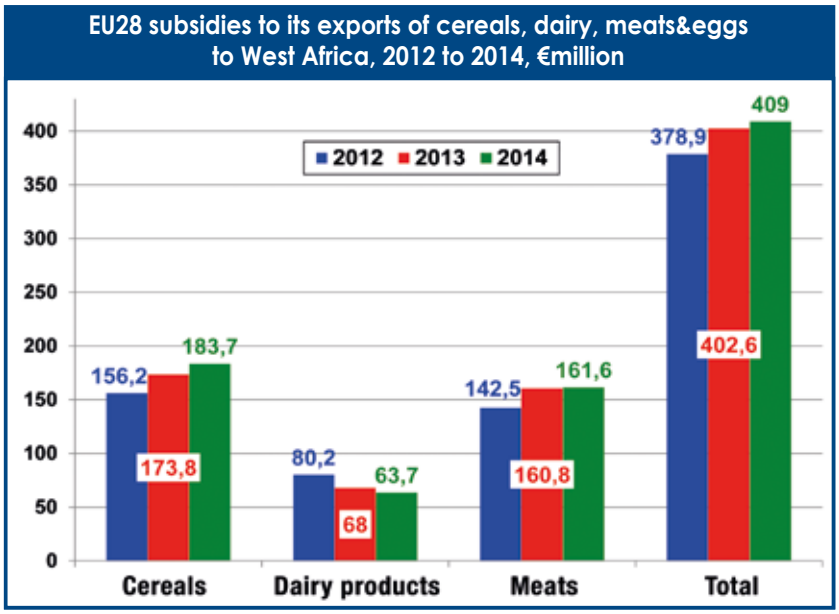
4 REWRITE the AoA article 9: *«All domestic subsidies to an exported product are properly export subsidies as well»*

The WTO Appellate Body has held four times – in the «Dairy products of Canada» case of December 2001 and December 2002, in the «US Cotton» case of March 2005 and in the «EU sugar» case of April 2005 – that domestic subsidies are to be taken into account in assessing dumping. But the WTO Members refuse to recognize a legal value of precedent in the rulings of the WTO panels and Appellate Body.

During the plenary session of the WTO Public Forum on September 30, 2015, J. Berthelot questioned the representative of the Appellate Body, Ms Yuejiao Zang, one of the contributors, asking her to confirm these Appellate Body's rulings. She confirmed them implicitly stating that the WTO Members are not obliged to recognize a legal precedent in the panels' and Appellate Body's rulings but she stated that these rulings do have the legal weight of precedent for the members of the panels and Appellate Body when they adjudicate on similar cases.

Among domestic subsidies we must not forget input subsidies, particularly on animal feed, which oblige the developed countries (AoA article 6.2) to notify the feed subsidies in the amber box (AMS) of animal products (meat, eggs, dairy) that consumed the feed, but they refuse to do it.

Until 1992, the EU regarded pig and poultry meats and eggs as processed cereals, the variable import levies and export refunds on these products being based on



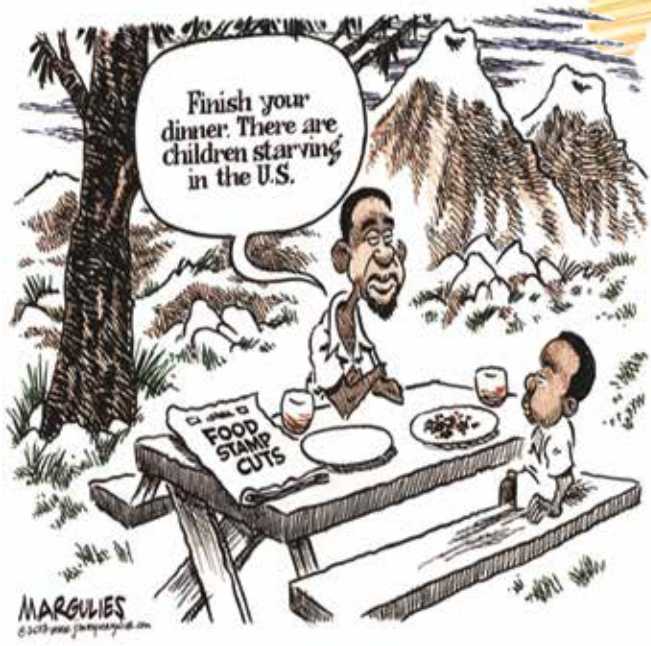
their content of cereals processed into meat. The reduction of grain prices compensated by direct aids in the 1992 and 1999 CAP reforms aimed to use these aids as substitutes for customs duties and refunds on these products. They were also used for the intensive production of beef and milk.
In 2014 113 million euros of subsidies were granted to the EU exports to Nigeria, of which 47.6 million on cereals, 31.1 million on dairy products and 34.3 million on poultry (largely reexported by Benin).

5 CHANGE the AoA rules on public stocks

Footnote 5 of paragraph 3 of Annex 2 should be deleted, as India on behalf of the G33 requested at the Bali Ministerial Conference: *«provided that the difference between the acquisition price and the external reference price is accounted for in the AMS»*. Because the footnote implies notifying in the AMS the difference between the administered purchase price of the current year – which is above the market price that merchants pay spontaneously at harvest time, to stimulate production – and the so-called «reference price,» which is the average border price of the 1986-1988 period at the beginning of the Uruguay Round (import prices if the country was a net importer or export prices if it was a net exporter)! It is economic nonsense since we saw that world prices (in the case of wheat) had not been as low as they were in that period since 1973 due to the huge US and EU dumping. But this provision is also totally unfair vis-à-vis developing countries as their inflation rate since 1986 has been structurally much higher than the average rate in developed countries.

In any case, there is no reason to differentiate between the «administered price» paid to farmers in developing countries and the so-called «market price» paid to those in developed countries (paragraph 4 of Annex 2 of the AoA) as the latter are not actually market prices, being heavily subsidized. To know what a «market price» is, the best source is in the US and EU provisions on countries «without market economies», considered to be using prices different from their «normal values». Thus, according to the US Anti-Dumping Manual, *«For the merchandise under investigation or review* [anti-dumping], *there should be virtually no government involvement in setting prices»*. Developing countries could sue the US and EU at the WTO with the best chance of success, based on their own laws showing that their agricultural prices are established outside the rules of «market economies».

Therefore, the $ 11.5 billion of US agricultural products contained in its domestic food aid (whose total value was $ 115 billion in 2014, including delivery costs) was not paid to farmers at «market prices» without subsidies. They should be notified in the AMS of these products, even though all the US domestic food aid is notified in the green box.



Therefore all domestic food aid programmes of all countries should be notified in the green box.

West Africa has begun to set in place a system of regional food security stocks, complementing national and villages' stocks. The regional system of stocks is designed to deal with exceptional climatic crises and will amount to only 176,000 tonnes after 8 years (plus virtual financing for an additional 235,000 tonnes). The system is not sufficient to offer protection against economic crises due to falling world prices in the present context where tariffs are already very low and due to decline further if the EPA is finalized.

Given the improbability of an increase in the level of Official Development Assistance in general and for food production in particular to keep up with the population growth anticipated in West Africa, the region's food security and the reduction of youth unemployment can only be achieved in the medium and long term through remunerative and stable agricultural prices, allowing farmers to self-finance the necessary increase in food production. This implies a gradual increase of agricultural prices both through the use of variable levies on imports and the constitution of public stocks purchased at remunerative prices at harvest time, stocks that would be distributed at subsidized prices to poor consumers. This would follow the example of what is done in India and in other countries like the United States (with food stamps and subsidized school meals). This would totally change the level of stocks compared to that currently programmed.

In conclusion, to achieve all these objectives it is essential that ECOWAS become a full WTO member to speak on behalf of its 15 member States – as the EU does on behalf of its 28 member States – by negotiating bound agricultural tariffs which would allow ECOWAS to change the level of its applied duties in line with the economic environment. These agricultural bound duties – the only ones negotiated at the WTO – would be set at the average bound tariff of its 15 member States (Liberia will accede to the WTO in Nairobi in December 2015), an average weighted by the importance of their imports from third countries, which is around 90%. The way would then be free to convert many

tariff lines of the ECOWAS Common external tariff (CET) into variable levies. Indeed FAO in 2001 and the EU (in the Argentine-Chile case in 2002 and 2007) have recognized that this should be permitted as long as variable levies do not exceed the bound duties and remain transparent. ECOWAS could then weigh heavily on WTO decisions and other bilateral trade partners, as would the other Regional Economic Communities of sub-Saharan Africa that chose to take the same path.

ROPPA, Network of family farmers' organizations and agricultural producers of West Africa

Executive Secretariat:
09 BP 884 Ouagadougou 09, Burkina Faso
Tel. : (226) 25 36 08 25 - Fax : (226) 25 36 26 13
e-mail : secretariat@roppa-afrique.org
roppa2000@yahoo.fr

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Protestant Service of Development,
Caroline-Michaelis-Str.1, 10115 Berlin,
www.brot-fuer-die-welt.de

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