



**WTO Public Forum 2012**  
Geneva, 24-26 September 2012

**Questioning the panelists in sessions covering agricultural issues**

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October 11, 2012

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[http://www.wto.org/english/forums\\_e/public\\_forum12\\_e/programme\\_e.htm#session42](http://www.wto.org/english/forums_e/public_forum12_e/programme_e.htm#session42)

**1) At the inaugural session, Monday 24 September 9:30-12:00**

The inaugural session with the speeches of Pascal Lamy and Ms Micheline Calmy-Rey, former President of the Swiss Confederation, was followed by a debate moderated by Andrew Harvey, former BBC presenter, and the following panelists: Ms Sheikha Lubna Al Qasimi, Foreign trade Minister of the United Arab Emirates, Nicholas Staheyeff, Vice-Chairman of eBay International and Ricardo Lagos, Senator of Chile.

I questioned Pascal Lamy: "Jacques Berthelot of the NGO Solidarité: I notice with pleasure that the Director-general has raised the issue of agricultural subsidies in saying that, in bilateral trade agreements, that issue was not considered. Indeed the European Commission has always refused to deal with that issue of agricultural subsidies in all its bilateral trade agreements, arguing that it was a domain reserved to the WTO. Yet to-day that issue of subsidies is fundamental, particularly in the bilateral agreements between the European Union and the ACP (Africa, Caribbean and Pacific) countries, because, if the explicit export subsidies have practically disappeared, a part of the 40 billion euros of agricultural domestic subsidies are also benefitting to the exported products. But I notice also that Ms Micheline Calmy-Rey, despite your vibrant plea against protectionism [*in fact I made a lapsus in saying "for protectionnism" but the sense of my question and the answers from Pascal Lamy and Ms Calmy-Rey did not take into account that lapsus*], you forgot to say that Switzerland is one of the countries having the highest import protection on agricultural products as well as the largest agricultural subsidies. It is the reason why I am pleading to set apart agriculture in the WTO rules, as it was the case during the GATT period which admitted exceptions for agriculture".

The reactions were the following:

Pascal Lamy: "On Mr Berthelot's question I think I will leave the reply to Micheline Calmy-Rey, and she will do it all the more easily that she has no longer any direct responsibility. However, let us say that, for once, I agree with Mr Berthelot: bilateralism does not help matters for disciplines on the part of agricultural subsidies which disrupt international trade and which, as a result, destabilize or may destabilize the developing countries which have a comparative advantage in this field, even if, we must say, insofar as prices are on a rising trend on the medium to long run, the whole part of agricultural subsidies which was linked to the low prices to compensate the agricultural incomes has itself shrunk by as much".

That reply shows that Pascal Lamy forgot to follow the evolution of the CAP since he left his post of European trade Commissioner in 2005 to hold the reins of WTO. Indeed the 40 billion euros of subsidies I have mentioned correspond to the direct payments essentially decoupled,

hence fixed, which did not drop despite the large hikes in prices, notably for cereals and oilseeds in 2007-08 and since the 2010 fall. And, if the majority of US direct payments are anti-cyclical, it is not the case of the fixed direct payments of \$5 billion which remain independent from the price level, even if Democrats and Republicans alike agree to eliminate them in the next Farm Bill.

Micheline Calmy-Rey: before writing her reply, let us quote excerpts of her speech: "Millions of people around the world have to put up with extreme conditions of poverty, food shortage, conflicts and wars... Greater food insecurity and rising food prices around the world... So in this context, it is hard to understand the lack of progress in the negotiations and even more the tendency towards protectionism. Limiting or restricting your imports is often a case of shooting yourself in the foot".

And her reply: "Listen, he... Thanks Pascal... he he he... It is true that the gentleman [Berthelot] is right: Switzerland protects its agriculture, which clearly, in the multilateral negotiations such as Doha was a problem on the table, maybe I should not say a problem but an issue of discussion for Switzerland. What I would like to add here is that they are not recent measures linked to the crisis. Switzerland has been protecting its agriculture for a very, very, very long time. Historically we are an agricultural country, a country of peasants, cultivation is extremely anchored in Switzerland. Today agriculture represents 1-2 per cent of gross domestic product and employs 1-2 per cent of the active population. Nevertheless it is something cultural and extremely difficult for Switzerland, as for other countries for that matter, to open trade in the field of agriculture".

Indeed the last OECD report on agricultural policies, even if we must challenge their evaluation modalities, places Switzerland second, after Norway, of countries with the highest level of agricultural support: "In 2011, public support to agriculture in OECD countries has fallen to 19 % of total agricultural revenues – that is the lowest level ever registered – which is explained by the new evolutions occurring on the international markets of agricultural products and not by explicit policy changes... The European Union has brought back its support level at 20 % of agricultural income. At the other extreme the support to farmers remains relatively high in Iceland (47 %), Korea (50%), Japan (51 %), **Switzerland (56 %)** and Norway (60 %)"<sup>1</sup>.

## **2) Session 5 on "African Agriculture: Trade and Africa's Agricultural Policy in 2025: Possible Ways out of a Debacle"**, Monday 24 September, 12:00-14:00

The moderators were the co-organizers: Matthes Buhbe, Director of the Friedrich-Ebert-Stiftung (FES) of Germany and Marwa Joel Kisiri, Head, African, Caribbean and Pacific Group of States (ACP), Geneva Office, and the panelists were: Aimable Uwizeye-Mapendano of UNCTAD, Ms Fanny Coustaline of the French NGO RONGEAD, Ms Anastazia James Wambura of the Tanzanian Parliament and Bernard Njonga, Chairman of the NGO ACDIC in Cameroon.

Bernard Njonga came back on the manner the NGO ACDIC<sup>2</sup> has alerted on the issue of imports of frozen chicken then of the maize to feed the local chicken. He stated in particular: "In 1999 we discover that, as a consequence of globalization, the imported frozen chicken ruined the peasants who cannot produce any longer... The peasants accounted for 97% of maize

<sup>1</sup> [http://www.keepeek.com/oecd/media/agriculture-and-food/politiques-agricoles-suivi-et-evaluation-2012\\_agr\\_pol-2012-fr](http://www.keepeek.com/oecd/media/agriculture-and-food/politiques-agricoles-suivi-et-evaluation-2012_agr_pol-2012-fr)

<sup>2</sup> <http://www.acdic.net/ACDIC/index.php>

production. If we are unable to produce maize, it is because there is a complete lack of agricultural policy... The agriculture ministry is completely corrupt... The peasants are the forgotten of globalization... The peasants are landlocked, they cannot sell their products outside their villages. They cannot trade with peasants of other regions of the country: how can you contemplate trade at the global level, that we speak of multilateralism?... One cannot talk about future without identifying the responsibilities. The first responsible as regard agricultural production are the producers themselves: they are amazingly passive, they claim absolutely nothing, they suffer everything, that is a real problem... The second to be blamed are those in power who lack clearly a political vision... What can be thought of that government which hands over 70,000 hectares to another country to produce and export? In 2011 Cameroon imported 543,000 tonnes of rice and produced 122,000 tonnes. The government is also responsible of some natural disasters: there are floods presently in North Cameroon after a dam collapsed, which was built to produce rice and the collapse was due to the lack of maintenance during 30 years. Consumers are also to be blamed as they do not consume local foods, there is no complicity between producers and consumers as we can see here in Switzerland. Fourth responsible: the economic operators who are also Cameroonians, who belong to political-economic lobbies".

My question to the panelists: "I would like to complement what was said by the panelists in underscoring a point they did not alluded to and which is really important: the very low import protection of African agriculture, the very low tariffs. In West Africa the tariff on cereals is 5% (except for rice which is 10%). I assume that in Cameroon they are about the same. In the European Union, except in recent years with high world prices, maize is protected by a duty of 94 euros per tonne. In the United States rice exports to Cameroon – although it could be also US rice exported to Japan which re-exports it as food aid, but this is a complex mechanism – is highly subsidized: on average the dumping rate has been of 45% from 2000 to 2010 but it dropped in the last years when subsidies fell with rising prices. There is a very meaningful example showing the effectiveness of agricultural protection in Sub-Saharan Africa: that of dairy products in Kenya which rose the tariff on milk powder from 25% in 1999 to 40% in 2002 and 60% in 2004 and since then Kenya has become a net exporter of dairy products. Besides its average per capita consumption is of 110 litres per year, against 35 litres on average in Sub-Saharan Africa and 15 litres in West Africa, where the tariff is only of 5% so that imports accounted for 65% of production on average from 2000 to 2010. This is an example which shows that there will neither be any agricultural development of Sub-Saharan Africa, nor a whole development without agricultural development, without a sufficient import protection. It will allow farmers to self-finance their own agricultural investments through remunerative prices, but without being able to finance infrastructures, for which we are facing the low and declining level of external aids and the fact that the African States did not abide by their Maputo commitment".

Bernard Djonga's reaction: "What you are forgetting is that today tariffs have become a political tool. After the 2008 crisis the first decision that the government took was to cut tariffs of large consumption staples and this cut has been maintained up to now. But I agree with you: the more we reduce tariffs, the more we reduce production in Africa".

### **3) Session 6 on "Preferential Agreements, Plurilaterals and Bilaterals: Guardians or Gravediggers of the WTO?"**, Monday 24 September, 14:00-16:00

The session was co-organized by Business Europe and the U.S. Chamber of commerce, moderated by Ms Jennifer Freedman of Bloomberg News, with the following panelists: Ms Arancha González, Chief of Staff, Office of the Director-General, WTO; Winand Quaedvlieg, Vice-Chairman, International Relations Committee, Business Europe; Christopher Wenk, Senior Director, International Policy, U.S. Chamber of Commerce; Ms Anabel Gonzalez, Minister of Trade, Costa Rica; Wayne McCook, Ambassador, Permanent Representative of Jamaica to the WTO; Fernando de Mateo, Ambassador and Permanent Representative of Mexico to the WTO, and Ms Naoko Munakata, Director General, Multilateral Trade System Department, Trade Policy Bureau, Japan.

I asked the following question to Vinand Quaedvlieg of Business Europe : "You are saying, and everybody is saying, that bilateral agreements are a step forward towards more multilateralism, which would be true if those agreements were concluded between equal partners but this is not the case, particularly for the Agreements between the European Union and the ACP countries: they are obliged to grant advantages to the European Union that they would not be able afterwards to negotiate at the WTO because it would be very difficult to withdraw those concessions. Besides Mr Vinand you said that you are very proud about the on-going bilateral agreement with India: I disagree totally because the European Union is asking India to open largely its borders to the European exports of dairy products, despite that the average tariffs on dairy products are of 30% in India against 87% in the European Union. India has 75 million of small milk producers, 80% of whom are women, with 1 or 2 heads on average, more often buffaloes than dairy cows, and besides there are 15 million other operators in the milk chain, mainly small collectors. The production value of milk is larger than the combined production value of wheat and rice. Do you think that provoking a social tsunami is a way to promote development in India? Besides the European Union subsidizes its dairy exports to the tune of 100 euros per tonne of milk-equivalent".

Vinand Quaedvlieg replied: "The question put is that of free-trade agreements which sometimes occur between unequal partners. It is an element to be taken into account because it can create problems but that should not reduce the interest of such agreements. You mentioned the risk of market opening in an Indian agricultural sector but India has also several sectors perfectly competitive with those of the European Union and the United States, for example in chemical products".

### **4) Session 12 on "Agriculture and farmers' needs: Agricultural Innovation for the 21st Century. Matching the Intellectual Property Framework with Farmers' Needs"**, Monday 24 September 16:00-18:00

The session was co-organized by the Quaker United Nations Office (QUNO) and the International Institute for Environment and Development (IIED), moderated by Caroline Dommen, Representative for Global Economic Issues, QUNO, with the following speakers: Krystyna Swiderska, Senior Researcher, IIED; Guy Kastler, Coordinator, European Coordination Via Campesina (ECVC); Antony Taubman, Director, Intellectual Property Division, WTO.

The interest of this session was the intervention of Guy Kastler, who defended with a profound conviction and strong arguments the farmers' right to produce and exchange their seeds, dismantling the negative effects of the UPOV system and even more of the patents. You should read the detailed report (in French) he has contributed to for the farmers' union Confédération paysanne on that issue<sup>3</sup>.

**5) Session 15 on "African Food Security. New Models for Trade and Development in the 21st Century: An Opportunity-Driven Approach to Building African Regional Markets and Increasing Trade and Food Security"** Tuesday 25 September, 9:00-11:00

The session was moderated by Ms Katrin Kuhlmann, President, TransFarm Africa, with two panelists: Mombert Hoppe, Trade Economist at the World Bank and Antoine Bouet, Senior Research Fellow and Co-leader of the Globalization and Markets Program, International Food Policy Research Institute (IFPRI). However Elijah Manyara, Principal Counselor, Kenyan Permanent Mission Geneva and Nuradin Osman, Director, Operations Africa and Middle East, AGCO Corporation could not participate to the session.

TransFarm Africa seems to be an agribusiness lobby based in Washington and counting among its members several high US civil servants, of whom a former Ambassador to the WTO. Created by Aspen Global Health and Development, its actions are described in two reports of 2011 and 2012<sup>4</sup>. Aspen has branches in several countries of which France where the president is Jean-Pierre Jouyet<sup>5</sup>. AGCO Corporation is a large US firm specialized in agricultural equipments, among which tractors, sold in 140 countries and it runs also two "modern" farms in Sub-Saharan Africa.

Katrin Kuhlman presents the role of TransFarm Africa which is to help lowering intra and extra-Sub-Saharan Africa (SSA) trade barriers. To promote agricultural development in SSA TransFarm Africa focuses essentially on the private sector of "modern" farmers. If Mombert Hoppe described quite accurately the multiple barriers to SSA intra-trade in agricultural products, Antoine Bouet has essentially centred his intervention on the criticism, not specific to SSA, of export restrictions on agricultural products, including outside the periods of high spikes in prices, when the restrictions are then generally implemented to foster the competitiveness of national agro-industries. He stressed vigorously that, in all cases, export taxes are penalizing the producers of unprocessed agricultural products, taking Argentine as an example. He then criticized the export restrictions on rice by India in 2008, which was highly detrimental to Pakistan. Finally Katrin Kuhlman developed a plea for the "private sector", of "African entrepreneurs", the base of a necessary "institutional change".

I have questioned the panelists: "I would have several comments to make. I totally agree with all the internal brakes to intra-Sub-Saharan Africa's agricultural trade mentioned by the first speaker as I have checked them myself. However I wonder to what extent the low tariffs on

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[http://www.confederationpaysanne.fr/images/imagesFCK/file/2012/autre/cov\\_brevets\\_et\\_droits\\_des\\_agriculteurs.pdf](http://www.confederationpaysanne.fr/images/imagesFCK/file/2012/autre/cov_brevets_et_droits_des_agriculteurs.pdf)

<sup>4</sup> <http://www.oecd.org/aidfortrade/48367039.pdf>;

[http://www.aspeninstitute.org/sites/default/files/content/images/ghd/Aspen\\_TFA\\_Two-Page\\_Overview\\_July\\_20\\_2011.pdf](http://www.aspeninstitute.org/sites/default/files/content/images/ghd/Aspen_TFA_Two-Page_Overview_July_20_2011.pdf)

<sup>5</sup> <http://www.aspenfrance.org/En-bref,4.html>; <http://www.aspenfrance.org/Conference-Internationale-Afrique.html>

agricultural products imported from the rest of the world do not provide a good part of the reasons why the Sub-Saharan intra-agricultural trade is so low, particularly in West Africa where they are of 5% on cereals (except 10% on rice) and milk powder. I have already given yesterday in the opening session the example of Kenya with a tariff of 60% on milk powder and which has become a net exporter of dairy products, including in the Middle East and Western Asia, and which enjoys the highest per capita consumption of milk of Sub-Saharan Africa: 115 litres against 35 litres on average in Sub-Saharan Africa and 15 litres in West Africa. I take also the example of maize: 15 years ago CIRAD [French research institute on agriculture in developing countries] had created a process to make pasta from maize and the contacted Senegalese manufacturer told: "Perfect, it is very interesting but you can well imagine that, if I embark on this project, I will make pasta from imported maize which is much cheaper than local maize!" One can understand him but this shows well the fundamental role of tariffs. Furthermore the present large investments on land-grabbing in Sub-Saharan Africa are always linked to the guarantee that investors will be able to re-export the products to the country of origin or to other countries, which will reduce the capacity of these countries to take decisions guaranteeing their own food security in periods of food crises. Let's ponder a little on what occurred in history, in the history of Europe, of the United States and of all the countries today industrialized, as those of Eastern Asia: all these countries have begun by protecting strongly their agriculture. On the other hand you have spoken a lot about the private sector but you did not mention the peasants who constitute 70% of the active population of Sub-Saharan Africa: do they belong or not to the private sector, it makes me wonder? A last word on export restrictions: it is totally fair that a country should prioritize the food needs of its own population, the more so when it is a low income country. If India for example, which is the country with the largest number of chronically under-nourished people, on par with Sub-Saharan Africa, did not put export restrictions on rice in 2008 – and it did it only once the world prices had already risen fast – it would have been obliged to import it on the world market and the end result on the level of rice prices would have been strictly the same".

Antoine Bouet replied: "I disagree with Mr Berthelot. If you tax exports you tax production, you reduce agricultural investments and you reduce food security at the global level. You have the point of view of an agronomist [?] but which is not founded from an economic point".

Antoine Bouet had well explained that his analysis was justified by a general equilibrium model, that it resulted from a scientific economic reasoning. It goes without saying that considerations of national policy escape totally his attention and he prioritizes the alleged "global welfare" of the neo-classical theory of trade over the interests of any specific country, would it be among the poorest. Now, if India is not among the poorest countries, it is nevertheless the State with the largest number of poor and chronically under-nourished.

#### **6) Session 20 on "Demand-driven agriculture. Moving Towards a Demand-Driven Agricultural Sector: Implications for Trade Policy"**, Tuesday 25 September 13:00-15:00

The moderator was Carlos Trojan, Chairman, IPC (International Policy Council) and former Ambassador of the European Commission to the WTO and the panelists: Tim Yeend, Ambassador and Permanent Representative of Australia to the WTO; Manzoor Ahmad, Senior Fellow, International Centre for Trade and Sustainable Development (ICTSD) and former Ambassador of Pakistan to the WTO; Professor Tim Josling, Senior Fellow, The Freeman Spogli Institute for International Studies, Stanford University (and the "father" of the main OECD indicator of agricultural support, the PSE or Producer Support Estimate); Sun Zhenyu,

Former Chinese Ambassador to the WTO; Ms Ellen Terpstra, Chief Executive Officer, International Food & Agricultural Trade Policy Council.

My questions to the panelists: "I have questions to several speakers. First, on reading the theme "Demand-driven agriculture", I was expecting that you would speak of the one billion people chronically undernourished whose demand is not satisfied. I have a question to Tim Yeend: as you mentioned a meeting of the Cairns' Group in 2011 in Canada, to what extent did you consider that the about 40 billion euros of the single farm payment that the European Union notifies in the green box are really non trade distorting? Several of you spoke about the fall in the global reserves of cereals. Did you realize that there is a huge reserve of cereals which could be mobilized: the 127 million tonnes of maize that the United States devote to ethanol, to which we can add the 11 million tonnes of cereals that the European Union devote also to them, not to speak of the sugar beets and also of the rapeseeds processed into biodiesel. I have calculated that, over the seven years 2005-06 to 2012-13 (based for that year on the USDA prospects of its WASDE report) there have been some years when the global demand of cereals has exceeded the global production but not a single year would have been in deficit without the US maize devoted to ethanol. Better, if there had been no US maize at all processed into ethanol, the global production of cereals would have exceeded by 99 million tonnes on average the global demand so that, far from witnessing the price explosions of cereals, we would have seen to the contrary a sharp drop of their prices<sup>6</sup>. About export restrictions, I think it is a false issue. It is totally correct that a poor country as India had put restrictions on its rice exports, including to Pakistan, because it is right that it looks first after the food security of its own citizens, as regards the country with the largest number of chronically hungry. Indeed, in the absence of those restrictions, India would have had to buy rice on the world market at a much higher price, which at the end of the day would not have changed the world price level. Furthermore India triggered export restrictions only after the prices were already rising fast. Finally the deputy-Director of the General Directorate of agriculture of the European Commission, Joao Pacheco, stated the 18 September that "For the first time since at least thirty years, the definition of the European Union agricultural policy is not submitted to pressures of the international trade authorities", surely because the WTO Members did not question the EU notification of its 40 billion euros of allegedly decoupled agricultural subsidies in the WTO green box, hence the fact that they do not have any trade distorting effect, so that the European Union is the good guy. Thank you to react to this various questionings".

The panelists' reactions were the following: they had different points of view on the issues of export restrictions and agrofuels. Manzoor Ahmad quoted the case of Pakistan (his country) which had exported wheat in early 2007 and then, after the huge hike in price, was obliged to re-import at a much higher price. If there are generally stocks in villages that is not the case in towns where the population suffers from price increases. Manzoor Ahmad did not tell it but in fact Pakistan had to put an import tax of 35% on wheat exports in the second semester of 2008, and then to put an export ban and to import 1.7 million tonnes of wheat<sup>7</sup>. Mansoor Ahmad criticized the United States and European Union which have withdrawn huge amounts of cereals from the market to process them into biofuels at a time when the world prices of cereals were rising fast and he added that these transfers of cereals to biofuels were equivalent to very large export restrictions. In other words he meant that, before to give a lecture to the rest of the world on the necessity to forbid export restrictions, the US and EU must begin to put an end to their

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<sup>6</sup> <http://www.solidarite.asso.fr/Papers-2012>

<sup>7</sup> <http://www.thefoodchainblog.com/2010/10/pakistan-contractregulatory-risk-export-controls-are-likely-to-be-imposed-on-wheat-and-cotton-in-the-six-month-outlook-due-to-flood-related-supply-shortage/>

massive diversion of cereals to biofuels. For other speakers export restrictions may be justified to ensure national food security but not as a means to raise prices to increase their profits afterwards on exports. Several speakers have also reacted on the issue of the potential trade-distortive effect of green box subsidies. For Tim Josling and Tim Yeend the reforms of the Farm Bill and CAP have gone in the right direction in reducing the trade-distortive impact of subsidies but the considerable increase in the level of green box subsidies ends up in posing a problem of trade-distortion and all panelists admitted that it is necessary to assess more in depth the trade status of the green box.

**7) Session 30: "Emerging Powers, National Interests and the Future of Multilateralism"**,  
Wednesday 26 September, 9:00-11:00

Michel Gressot, Senior Advisor, Swiss Agency for Development and Co-operation, Federal Department of Foreign Affairs, moderated the debate and the speakers were: Lin Guijun, Vice-President, UIBE; Ms Sandra Polónia Rios, Director, CINDES; Pedro da Motta Veiga, Director, CINDES; Bipul Chatterjee, Deputy Executive Director, Consumer Unity and Trust Society (CUTS International); Ümit Özlale, Director, Training and Research Institute for Public Policy (TRIPP), Economic Policy Research Foundation of Turkey (TEPAV); Ms Catherine Grant, Programme Head, Economic Diplomacy, South African Institute of International Affairs (SAIIA)

I ask the following questions to the panelists: "Everybody knows that, in the multilateral trade negotiations since the Uruguay Round as well as in the bilateral negotiations, agriculture has been the bargaining chip of the United States and even more of the European Union to open the markets of non-agricultural products and services in emerging countries and other developing countries. We know also that India and China will be facing a sharp rise of their population and that the food deficit of China has been widening fast since 2010 as, beyond more than 50 million tonnes of soybean imports, it has become a net importer of cereals. In fact, among all BRICS, Brazil alone is enjoying large capacities of agricultural exports. We know also that the European Union and the United States, not to speak of Canada and other exporting Western countries, will do everything necessary to keep their agriculture and a minimum food autonomy. We know that the European Union has allegedly greened its agricultural subsidies in putting some 40 billion euros in the green box, but it is a pure sleight of hand. It has eliminated its explicit export subsidies but its domestic subsidies [*compensating the cuts in prices*] have strictly the same effect on the price level of exports. Don't you think that it would be necessary to come back to the situation before the WTO where every country could protect efficiently its agriculture – of course this would not please Brazil – even if it would be necessary to forbid not only explicit export subsidies but also all domestic subsidies benefiting to the exported products? Indeed if this would be implemented the developing countries could maintain a good protection of their industrial products – that time this would not please China – and services because the United States and even more the European Union could no longer make concessions on their agriculture. But you should be well aware that neither the United States nor the European Union will agree to become too much dependent from food imports and, if the green box were to be challenged, the European Union will use what I have called the "gold box" of subsidies non-specific to agriculture".

Among the panelists the representative of Turkey underscored the necessity to treat agriculture differently from other sectors in the international trade rules and he quoted the example of his country which, after having reduced agricultural subsidies, has evolved from a situation of food



surplus to a situation of food deficit. However, his answer puzzled me and, after checking the Comtrade data (codes SITC n° 0, 11, 22 and 4) I saw that Ümit Özlale made a mistake: Turkey has enjoyed an average food trade surplus of 3.386 billion dollars from 2007 to 2011 and even its trade in cereals and preparations was almost balanced (-40 million dollars on average).

**8) Session 35: "The Agreement on Subsidies and Countervailing Measures: Past, Present and Future"**, Wednesday 26 September, 12:00-14:00

The session was moderated by Gary Horlick, International Trade Lawyer, Law Offices of Gary N. Horlick; former International Trade Counsel, US Senate Finance Committee; first Chairman, Permanent Group of Experts on subsidies, WTO, with the following speakers: Dukgeun Ahn, Professor of International Trade Law and Policy, Graduate School of International Studies, Seoul National University; Luca Rubini, Reader in Law, Birmingham Law School, University of Birmingham; Sadeq Bigdeli, Senior Lecturer in Law, University of Waikato, New Zealand.

My questions to the panelists: "Beside the issue of subsidies to products and services having a beneficial impact on climate change that you have extensively discussed, there are also subsidies linked to food security. Now, on four occasions – twice in the Dairy products of Canada case, in December 2001 and December 2002, in the US cotton case in March 2005 and the EU sugar case in April 2005 –, the Appellate Body has ruled that domestic subsidies should be taken into account in assessing dumping. Particularly in the cotton case it ruled that the US fixed direct payments are not in the green box as farmers getting them are forbidden to grow fruits and vegetables and wild rice. Nevertheless the European Union notifies in the green box 90% of its direct payments, allegedly decoupled – around 38 billion euros in 2012 –, although the limits of production are many more than in the US: production quotas on milk and sugar, plantation rights necessary for wine, production caps for tobacco, cotton, olive oil... And there are other reasons why the single farm payment is not in the green box: it is coupled to land (eligible lands are necessary); a large share of the payments are made to inputs (feedstuffs) which cannot be in the green box – and China has imposed countervailing measures and anti-dumping duties on imports of US chicken because of the large subsidies on maize and soybean –; this single payment is coupled because it coexists with coupled payments to the same products; and finally, as the single payment cannot be attributable to a specific product, all agricultural exports of the European Union can be sued for dumping. That is why my question to the panelists is: how is it that these allegedly green subsidies of the European Union have not yet been sued by other WTO Members, taking into account the US precedent on cotton and other elements I have just mentioned? A complementary question: since these direct payments of the European Union, granted to compensate the reduction in agricultural prices close to the world prices level, have an import substitution effect, reducing the need to maintain high tariffs, to what extent the WTO panels are they taking into account this import substitution effect of domestic subsidies, an issue which can be extended to all products and services?".

The moderator replied the following: "The gentleman raises a very good point about agricultural subsidies which were negotiated during the Uruguay Round in clinical isolation from the subsidies Agreement, by different people with different concepts and definitions, which has proven, as you correctly pointed out, quite a problem in litigation. As I understand it – I don't claim to have the exclusive answer – the reason why there has not been more litigations in the way of US cotton and EC sugar is that prices went up because there were certainly cases ready to go on other products but the sharp increase in agricultural prices in recent years made people think there would have a hard time showing any prejudice. That is a practical explanation. The

question of dumping is technically separate from subsidies so you are running into different rules. I disclose that the hearing on chicken challenging the Chinese duties is to-morrow".

That reaction of the moderator explains why no panelist alluded to the issue of agricultural subsidies during their speeches of 1h30 because they seem totally ignorant about it so that they discussed only the Agreement on subsidies and countervailing measures (SCM). Yet, in the rare panels having dealt with agricultural subsidies, the rules of the SCM are always referred to, besides the rules of the Agreement on agriculture. Incidentally the moderator erred in saying that "*the hearing on chicken challenging the Chinese duties is to-morrow*" because, if the hearing of 28 September was indeed opposing China and the U.S. on countervailing duties, it was on the establishment of a panel, at the request of China, to examine the countervailing duty measures imposed by the U.S. on a wide range of industrial products from China!

Martin Khor, from the South Centre, has then questioned the panelists: "Following from the previous person asking questions on agriculture, and listening to the panel, it appears to me that the developing countries are facing great disadvantages in the subsidies regime in the WTO. Firstly the most distorting subsidies until recently have been in agriculture but these are not within the rules of the subsidies agreement. Until today export subsidies in agriculture are permitted<sup>8</sup> despite the Hong Kong 2005 Declaration. And we know many domestic subsidies in agriculture in developed countries have permitted some of their products to be sold abroad at below production cost. So the exemption of agricultural subsidies and their own complex rules on agricultural subsidies, which are so different from industrial subsidies, places a great disadvantage to the developing countries since they are not the main subsidizers".

**9) Session 42: "EU civil society experience. Civil Society in Action – Monitoring Sustainable Development and Wider FTA Implementation: Lessons to be Drawn from the EU Experience", Wednesday 26 September, 16:00-18:15**

Session moderated by Jonathan Peel, President, Permanent Study Group on WTO and Other International Trade Agreements, EESC, with the following speakers: Staffan Nilsson, President, EESC; Ms Monika Hencsey, Head of Unit, Trade and Sustainable Development, Generalized System of Preferences, Directorate General for Trade, European Commission; Niccolò Rinaldi, Member of the European Parliament, Rapporteur for the Safeguard Clause Regulation for the EU–India Free Trade Agreement; Ricardo Meléndez-Ortiz, Chief Executive, International Center for Trade and Sustainable Development (ICTSD); Marion Jansen, Head, Trade and Employment Programme, International Labour Organization (ILO); Faculty Member, World Trade Institute (WTI); Ms Evelyne Pichenot, EESC Rapporteur on Sustainable Impact Assessments (SIA) and EU Trade Policy.

My question to the panelists: "Since my retirement in 2000 from a position of lecturer in economics in Toulouse I participated to several networks of NGOs and, on their behalf, I am participating to the Advisory Group on International Aspects of the CAP set up in 2012 by the Direction of agriculture of the European Commission. It has had two meetings, in March and June, the first dealing among others on the on-going negotiations of the EU-India bilateral agreement and the second on the Economic partnership agreements (EPAs) between the EU and

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<sup>8</sup> Indeed Article 3.1 of the SCM Agreement on "Prohibited subsidies" states: "*Except as provided in the Agreement on Agriculture, the following subsidies, within the meaning of Article 1, shall be prohibited: (a) subsidies contingent, in law or in fact, whether solely or as one of several other conditions, upon export performance, including those illustrated in Annex I*".

ACP countries<sup>9</sup>. I am extremely critical of these agreements. The European dairy industry wants to compel India to reduce its tariffs on dairy products, which are generally of 30% whereas those of the EU, which are specific, have an average *ad valorem* equivalent of 87%<sup>10</sup>. In fact the European Union is impenetrable to imports of dairy products, except for some products in preferential agreements, particularly with New-Zealand and Switzerland. Now India has 75 millions of small milk producers, of whom 80% are women, with 1 or 2 animals, more often buffaloes than cows, producing 2 litres a day on average. Besides there are 15 millions of other actors in the milk chain, notably small collectors. Furthermore the EU is subsidizing its dairy products to the tune of 100 euros per tonne of milk-equivalent. You told us that the EU free-trade agreements include preliminary assessments of their social and environmental impacts but, in the present case, it is horrendous to negotiate on such bases which would generate a social disaster, but I hope that India is going to resist. The EPAs would also be a disaster and I limit myself to allude to the negative criticisms made by the UK House of Commons in 2005, stressing that it is unacceptable to impose to ACP countries to open their agricultural markets to the European exports as long as they are subsidized. Yet, in all its bilateral free-trade agreements the European Union has always refused to deal with agricultural subsidies, arguing that this issue can only be dealt with at the WTO. Now, if the EU has practically eliminated its export refunds, the 40 billion euros of the single farm payment are also benefitting to its exported products. In France the National Assembly adopted in 2008 a highly critical report on the EPAs and the report prepared in 2010 by Chistine Taubira, the present Minister of Justice, at the request of President Sarkozy, was as much as critical. In the EPAs the European Union imposes to the ACPs to eliminate their tariffs on 80% of its exports to them. Yet small farmers account for 70% of the active population of Sub-Saharan Africa, which must also maintain a protection of its infant industries because development cannot stem from agriculture only. Besides its population would increase by one billion inhabitants until 2050 and it would be affected strongly by global warming. In fact the EPAs are rejected unanimously by the civil society of Sub-Saharan Africa as by their governments, including by those of Cariforum which yet had signed a regional EPA five years ago".

Niccolò Rinaldi focused its reply on India as he is in charge to monitor the negotiations for the European Parliament: "India: the negotiations are going on, it is always very difficult to square the circle. There would be disruptions of local agriculture? Yes that is a risk that we have to avoid during the negotiations possibly not to have the problem later on. My role as a draft person in the international trade committee is to work on safeguards of the agreement. And we do have also the possibility to have social safeguards: this is what for instance we manage to have in the article 25 of the Cariforum EU free trade agreement when we might suspend at request of one of the two parties the agreement on specific sectors, not only when we do have disruptions in terms of market – because there are huge quantities, unexpected quantities of specific products coming to the market and no more competition – but also when we do have social distress of the society. It is not yet being implemented in the case of Cariforum but in so to say more complex and socially more exposed cases such as the one in India it could definitely be. The Parliament does not take part to the negotiation but we do monitor the negotiation and it is something that we have to take into account. There are a lot of issues on agriculture. We are far from having agreed on something specific. As you are part of the Consultative committee to the Commission what have been its reactions? And what could be the reactions from the

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<sup>9</sup> J. Berthelot, *Time is up to stop the EU-ACP EPAs negotiations*, Solidarité, Advisory Group on International Aspects of the CAP, 25 June 2012, Brussels, <http://www.solidarite.asso.fr/Papers-2012>

<sup>10</sup> J. Berthelot, *Solidarité's statement on the CAP international aspects*, Solidarité, Advisory Group on International Aspects of the CAP, Brussels, <http://www.solidarite.asso.fr/Papers-2012>

agricultural organizations from the European side? Because they are also very vocal in terms of demands, in terms of pretending: access to markets, trade barriers... It is always a difficult compromise negotiation exercise that we have to go through but again experience shows that we have the articles in treaty in trying to overcome the problems".

As for Ms Monika Hencsey she replied that the various reforms of the Common agricultural policy have permitted that the agricultural subsidies of the European Union are no longer trade-distorting, implying that the notification in the WTO green box of the single farm payment has validated its non-trade distorting nature!

### Conclusions

The various sessions dealing more or less with agriculture issues to which I attended and the reactions of the panelists to my questions can be summarized as follows:

1) If they were several sessions devoted to agriculture, the agricultural issues were hardly mentioned in the other broader sessions, and the rules of the WTO Agreement on agriculture (AoA) are unknown, even by the lawyers specialized on subsidies who know only the Agreement on subsidies and countervailing measures (SCM).

2) Even Pascal Lamy, who was a vibrant defender of the CAP when he was the EU trade Commissioner from 1999 to 2004<sup>11</sup>, apparently does not know that the present Single farm payment (SFP) – which represents about 90% of all the EU direct payments – is a fixed payment, allegedly decoupled, which does not change with the prices level! At least he recognizes that "*agricultural subsidies which disrupt international trade and which, as a result, destabilize or may destabilize the developing countries which have a comparative advantage in this field*", without differentiating between formal export subsidies and domestic subsidies benefiting to the exported products.

3) The former President of the Swiss Confederation, Ms Micheline Calmy-Rey, confirmed that "*It is something cultural and extremely difficult for Switzerland, as for other countries for that matter, to open trade in the field of agriculture*".

4) It is the reason why the EU and U.S. have devised in the AoA a mystifying typology of agricultural subsidies according to which some types of subsidies are allegedly less trade-distorting (blue box) or not trade-distorting at all (green box). This actual sleight of hand has no economic justification, but the U.S. and even more the EU are hanging on it and have won over the mainstream agricultural economists to their way.

However, not content with having allegedly decoupled most direct payments in the Single farm payment (SFP), the European Union has almost succeeded in hiding out of sight these subsidies, so that they could not be challenged. The first step was at OECD, which has revised in 2007 its indicators of agricultural support, particularly the PSE (producers support estimate), reducing largely the possibility to assess subsidies to specific products, even if the PSE concept was already fundamentally biased<sup>12</sup>: "*PSEs for individual commodities are no longer calculated.*

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<sup>11</sup> J. Berthelot, *Anthology of Pascal Lamy's statements on agricultural protectionism*, Solidarité, December 19, 2009, <http://www.solidarite.asso.fr/Papers-2009>

<sup>12</sup> J. Berthelot, *Comments on the OECD's concepts of PSE and 'excess feed cost'*, Solidarité, July 4th, 2010, [http://www.solidarite.asso.fr/Papers-2010?debut\\_documents\\_joints=10#pagination\\_documents\\_joints](http://www.solidarite.asso.fr/Papers-2010?debut_documents_joints=10#pagination_documents_joints)

*Instead, a country total PSE is divided into Single Commodity Transfers, Group Commodity Transfers, All Commodity Transfers; and Other Transfers to Producers. This change reflects the fact that as a result of policy reform, support in many OECD countries is less tied to an individual commodity. Support is being increasingly provided to groups of commodities or all commodities in general, or without obliging a recipient to engage in commodity production at all. In this situation the link between some support transfers and individual commodities becomes less apparent"<sup>13</sup>. No wonder that this new OECD Manual was elaborated at the request of the European Commission and financed by it.*

The second step was to make as if the decoupled subsidies (SPS or SFP: Single Payment Scheme also called Single Farm Payment) did not exist at all. This is the case for instance when it is said that the white meats (pork and poultry) – not to speak of the intensive production of beef and milk –, were not concerned by the CAP reforms since 1992, hence are not subsidized, even though more than 60% of their production costs are made of feedstuffs in which the cereals and pulses are almost entirely from EU origin as well as 30% of the oilseeds meals, which get huge subsidies. Then the European Commission assesses the comparative profitability of farms according to their main orientation<sup>14</sup>, but it can no longer assess the profitability of products as we cannot distribute the SPS among products. Yet several reports have shown that the increasing shift from coupled payments to decoupled ones did not change significantly the productions chosen by farmers. This was first shown in the U.S. for the Flexibility contract payments (FPC) and the Market loss assistance payments where "*Combined impact of PFC and MLA payments is usually less than 10%*" on changes in land allocations<sup>15</sup>. The same low impact on production changes was found for the EU SFP: in UK "*The impact of full decoupling on aggregate cereal areas and production levels again appears to be negligible*"<sup>16</sup>; in Ireland "*The evidence from Ireland suggests that a number of farmers will use their decoupled payment to subsidize unprofitable production. If this practice becomes apparent to members of the WTO, it will be difficult for the EU to claim that the SFP scheme has no production or trade distorting effects... The question we raise here is, if there is widespread cross subsidisation of unprofitable production, can the SFP scheme be considered a green box policy?*"<sup>17</sup>. Indeed this reminds us that the EU was condemned by the Appellate Body in April 2005 in the sugar case on the basis of the cross-subsidization of C sugar by A and B sugars. The same lack of change in productions was also observed at the EU level: "*On the whole we observe only very limited variations in the acreage and production in the arable sector in relation to the period before the reform, and no difference between the Member States having chosen total decoupling and those having chosen partial decoupling*"<sup>18</sup>. And how could we claim that the SPS and other decoupled subsidies are not trade-distorting when they accounted in 2011 for 91.7% of all direct aids in the EU27 (€36.830 billion over €40.178 billion), 65.4% of all EU agricultural subsidies (€56.345 billion, but without State aids to agriculture of around €10 billion) and 44.4% of the farmers' entrepreneurial income (€78.419 billion)<sup>19</sup>? The European Commission acknowledges that "*The profitability of farms depends very much on the receipt of direct payments. Without Pillar I and Pillar II payments the share of profitable farms would fall below 20%. Field crops, grazing livestock and mixed farms in particular would be affected. In these sectors even the vast*

<sup>13</sup> OECD, *The PSE manual*, 2010, <http://www.oecd.org/tad/agriculturalpoliciesandsupport/psemanual.htm>

<sup>14</sup> [http://ec.europa.eu/agriculture/rca/publications\\_fr.cfm#CEREAL](http://ec.europa.eu/agriculture/rca/publications_fr.cfm#CEREAL)

<sup>15</sup> <http://www.farmfoundation.org/projects/documents/Abler.pdf>;

<http://www.oecd.org/agriculture/agriculturalpoliciesandsupport/34997377.pdf>

<sup>16</sup> <http://www.oecd.org/agriculture/44739016.pdf>

<sup>17</sup> <http://www.agresearch.teagasc.ie/erc/downloads/workingpapers/05wpre01.pdf>

<sup>18</sup> [http://ec.europa.eu/agriculture/eval/reports/decoupling/index\\_fr.htm](http://ec.europa.eu/agriculture/eval/reports/decoupling/index_fr.htm)

<sup>19</sup> Eurostat, the EAGF for 2011 and the EU Budget for 2013 (which gives the outturn for 2011)

*majority of large farms would not be profitable, as only 20-25% of these farms would be able to cover all of their costs*"<sup>20</sup>.

And never mind that the Appellate Body ruled the 3 March 2005 that the US fixed direct payments are not in the green box as there has not been any new prosecution on agricultural subsidies. In any case, as I have told the panelists, it is clear that the U.S. and the EU will never agree to weaken their agriculture to the point where they would become too dependent on food imports. So that, even if the green box subsidies were challenged successfully at the WTO, either they would use instead non-specific subsidies – those that apply to all sectors and not specifically to agriculture – or they would change the AoA rules, coming back to the pre-WTO era where the GATT admitted exemptions for agriculture, particularly the right to use variable levies and import quotas. At least the agricultural trade economists present in session 20 concluded that more in-depth investigation is necessary to assess the extent to which the green box is really non-trade distorting.

5) It is interesting to note that for Mansoor Ahmad, former Ambassador of Pakistan to the WTO, export restrictions – which have become for Western countries one of the main reasons for the hikes in food prices – are justified to protect the food security of urban poor in the export restricting developing countries. Instead for him the transfers of huge quantity of cereals to biofuels by the U.S., and to a much lower extent by the EU, during this time of prices hikes were equivalent to very large export restrictions.

6) During the Public Forum, I circulated the following papers to download at <http://www.solidarite.asso.fr/Papers-2012>:

J. Berthelot, *Rebuilding the Agreement on Agriculture to solve the crisis of multilateralism*, Solidarité, September 22, 2012

J. Berthelot, *Solidarité's comments on the two WTO Secretariat papers on food security*, Solidarité, 11 septembre 2012

J. Berthelot, *The WTO rules have increased the distortions in agricultural trade*, Solidarité, 11 septembre 2012

J. Berthelot, *The overwhelming responsibility of the United States (US) and European Union (EU) in the explosion of world prices of cereals*, Solidarité, August, 17th 2012

J. Berthelot, *Basic principles for an Alternative Agreement on Agriculture*, Solidarité, 23 September 2012

And the French versions: <http://www.solidarite.asso.fr/Articles-de-2012>

J. Berthelot, *Refonder l'Accord sur l'agriculture pour sauver la crise du multilatéralisme*, Solidarité, 22 septembre 2012

J. Berthelot, *Commentaire de Solidarité sur deux contributions de Conseiller à l'OMC sur la sécurité alimentaire*, Solidarité, 11 septembre 2012

J. Berthelot, *Les règles de l'OMC ont accru les distorsions dans les échanges agricoles*, Solidarité, 11 septembre 2012

J. Berthelot, *La responsabilité écrasante des Etats-Unis et de l'Union européenne dans la flambée des prix céréaliers mondiaux*, Solidarité, 17 août 2012

J. Berthelot, *Eléments pour un Accord alternatif sur l'agriculture*, Solidarité, 23 Septembre 2012

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<sup>20</sup> [http://ec.europa.eu/agriculture/rica/pdf/hc0301\\_income.pdf](http://ec.europa.eu/agriculture/rica/pdf/hc0301_income.pdf)