



**Incompatibility with WTO of direct payments proposed by the EU Commission¹
for the next CAP: SOL on the Council's amendments revised by the Parliament
(jacques.berthelot4@wanadoo.fr), November 18, 2018²
*[SOL's comments in police 12 calibri blue within square brackets]***

*Article 10
WTO domestic support*

Member States shall **design** the interventions based on the types of interventions which are listed in Annex II to this Regulation, including the definitions set out in Article 4, **in a way that they qualify under the criteria** of Annex 2 to the WTO Agreement on Agriculture [(AoA) as well as with Articles 6.2 (input and investment subsidies of developed countries are to be notified in their AMS) and 13 (Annex 2 subsidies can be sued since 2004 and taxed by antidumping and countervailing duties if they are product-specific and cause a serious prejudice to other WTO Members, as just decided by the US anti-dumping and countervailing duties on imports of table olives from Spain) and they should comply with Articles 2, 3, 5 and 6 of the Agreement on Subsidies and Countervailing Measures (ASCM).]

In particular, the Basic Income Support for sustainability [does not comply with the 6 conditions of Annex 2 paragraph 6 so that it is not enough to state in Annex 2 of the present Regulation text that the subsidies are "based on payments entitlements"], the complementary redistributive income support for sustainability, the complementary income support for young farmers and the schemes for the climate and the environment **shall qualify under the criteria of the paragraphs of Annex 2 to the WTO Agreement on Agriculture indicated in Annex II to this Regulation for those interventions** [but the criteria of this Regulation are not enough as these alleged decoupled income supports should also comply with the same criteria as paragraph 6 of the AoA Annex 2.] **For other interventions, the particular paragraphs of Annex 2 to the WTO Agreement on Agriculture indicated in Annex II to this Regulation are indicative and those interventions** may instead respect a different paragraph of Annex 2 to the WTO Agreement on Agriculture if that is justified in the CAP Strategic Plan [But, as a large number of these other EU subsidies are product-specific, according to the ASCM Article 2, they can be sued with antidumping and countervailing duties if they cause a serious prejudice to other WTO Members].

[The present Council Regulation is wrong to delete Article 10 paragraph 2 on cotton: "*Member States shall ensure that the interventions based on the crop-specific payment for cotton provided for in Subsection 2 of Section 3 of Chapter II of this Title respect the provisions of Article 6(5) of the WTO Agreement on Agriculture.*" Indeed, although Greek and Andalusian cotton growers are small producers, paradoxically the EU is a net exporter of cotton and the export very often exceeds the production as in 2017 (290 300 tonnes against 285 300 tonnes). Article 37.c recommending "*directing production towards products better adapted to the needs of the market and consumer demand*" is therefore not respected, except to consider

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/DOC/?uri=CELEX:52018PC0392&from=EN>; Council's and Parliament's comments to the EU Commission's proposals are drafts not yet downloadable

² To understand this document, read first: <https://www.sol-asso.fr/wp-content/uploads/2017/01/Alea-iacta-es-how-Spanish-olives-will-force-a-radical-change-of-the-CAP-7-November-2018.pdf>

that the objective of the CAP is to prioritize exports. Especially since total aid to cotton, 2/3 of which is decoupled, was of 731.7 million euros in 2017 (without pillar 2 subsidies, of which on farm investments, setting up of young farmers, and irrigation) and the aid per exported tonne was of 2,610 euros, 70% higher than the FOB price of 1,512 euros. Besides the total aid for exported cotton is close to that of the US, which produces 10 times more cotton than the EU – which makes it a potential target for US prosecution after that to table olives –, but cotton production has also negative impacts on the EU environment as highlighted in the 2014 impact assessment of the European Commission (https://ec.europa.eu/agriculture/evaluation/market-and-income-reports/cotton2014_en). Therefore the EU cotton dumping shares a large responsibility in lowering the world price of cotton, to the detriment of African farmers, which contradicts the principle of policy coherence for development enshrined in Article 208 of the Treaty on the Functioning of the EU. So that it is necessary to reallocate all the subsidies to cotton to the reconversion of the Greek and Spanish producers and processing industries.]

[Unfortunately the European Parliament's comments of 29.10.2018 (rapporteur: Esther Herranz García) share the same views as the Council:

Amendment 72

Proposal for a regulation

Article 10 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall ensure that the interventions based on the types of interventions which are listed in Annex II to this Regulation, including the definitions set out in Article 3 and the definitions to be formulated in the CAP Strategic Plans set out in Article 4, respect the provisions of paragraph 1 of Annex 2 to the WTO Agreement on Agriculture.

Amendment

Once the strategic plan has been approved by the European Commission, it shall be deemed that the types of interventions which are listed in Annex II to this Regulation, including the definitions set out in Article 3 and the definitions to be formulated in the CAP Strategic Plans set out in Article 4, respect the provisions of paragraph 1 of Annex 2 to the WTO Agreement on Agriculture.

Justification

The Commission should continue to be the guarantor of compliance with the WTO commitments. In addition, the interventions laid down in this Regulation comply with international trade rules.

[And the EP amendment has also deleted the specific paragraph on cotton:

Amendment 73

Proposal for a regulation

Article 10 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that the interventions based on the crop-specific payment for cotton provided for in Subsection 2 of Section 3 of Chapter II of this Title respect the provisions of Article 6(5) of the WTO Agreement on Agriculture.

Amendment

deleted

Justification

The payment complies with WTO rules.