



The EU28 subsidies on its exports of poultry meat and eggs to SADC in 2016

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The SADC poultry producers are suffering heavily from the competition of imports¹ given that poultry is the first agricultural sector and that per capita consumption is one of the highest in the world, at 40.3 kg, close to the US and Brazil levels of 44 kg and almost double the EU level of 22 kg in 2015. Brazil and the EU are the two main exporters although the figures differ. The SAPA (South Africa poultry association)'s figures differ in two documents: in one Brazil accounted for 50.4% of all imports in 2015 in volume against 41.7% from the EU² although in another Brazil accounted for 233,787 tonnes (t) against 269,327 t for the EU³. However for Eurostat EU exports were at 211,764 t in 2015 even if they jumped to 262,199 t in 2016. And, according to the Brazilian government, Brazil was the first exporter to South Africa in 2015 with a market share of 36.3% in value⁴. But these differences might be due to the delays in reporting. If the US exports to South Africa shrunk from 31,338 t in 2011 to 16,246 t in 2014 and almost disappeared in 2015 (55 t) due to avian flu, they rebounded at 36,986 t in 2016, but were still lower than the agreement on 65,000 t of duty-free imports concluded in 2015 with the US in the context of the AGOA renewal. But the present paper focuses on the EU exports because they enter duty free on the SADC market after the EU-SADC EPA entered into provisional application in October 2016, following the already bilateral free-trade agreement between the EU and SA signed on 11 November 1999 and provisionally applied from January 2000: the Trade, Development and Cooperation Agreement (TDCA). In fact the EU exports to South Africa (SA) accounted for 99.1% of poultry exports to SADC in 2016 and 99.5% of exports of frozen cuts and offals (HS code 020714).

Indeed SADC imports of poultry meat from the EU28 have kept rising at a growth rate of 34.3% – from 4,233 tonnes (t) in 2002 to 262,035 t in 2016 –, and the corresponding EU FOB value at a growth rate of 34% also, from €3.5 million (M) to €209.8 M. Despite avian flu bans on imports from some EU28 countries in 2016, EU exports accounted for 46.8% of SA imports in 2016 against 44.3% in 2015⁵.

There has been a lot of debates and analyses in recent years and months about the EU dumping of poultry meat to SA. Unfortunately Willemien Viljoen, Tralac Researcher, develops her recurrent pro free-trade arguments: "*What needs to be emphasised is that trade remedies can only be utilised to the extent necessary to remedy the harm caused by dumping, subsidies or a surge in imports; based on evidence before ITAC... There are a variety of policy options which can be utilized, including domestic support measures, trade remedies, structural reform,*

¹ <http://bilaterals.org/?eu-hits-out-at-south-africa-s&lang=en>: "Over 700 factory workers, trade unions and business executives protested outside the EU office in Pretoria on 1 February 2017. Carrying placards that read: "Stop EU dumping", "We Demand Fair Play" and "No More EU Waste", protesters want to see an end to poultry dumping. It follows a decision made by RCL Foods to axe over 1,000 jobs as chicken supply outstrips demand."

² <http://www.sapoultry.co.za/pdf-statistics/broiler-chairpersons-report.pdf>

³ <https://www.sapoultry.co.za/pdf-statistics/summary-imports-report.pdf>

⁴ <http://www.brasil.gov.br/economia-e-emprego/2016/04/brasil-e-o-maior-exportador-mundial-de-aves-para-a-africa-do-sul>

⁵ Eurostat and <https://www.sapoultry.co.za/pdf-statistics/summary-imports-report.pdf>

*support for new entrants, government procurement, marketing and export promotion and addressing non-tariff barriers; all which can be consistent with the rules of the World Trade Organization and other existing trade agreements"*⁶. And, despite the excellent analysis of Paul Goodison on "*The Impact of EU Poultry Sector Policies on Sub-Saharan African Countries*", stressing that "*While the EU chicken sector receives no direct financial assistance, it has benefitted from wider processes of CAP reform involving a move to direct aid payments to farmers, which has lowered the costs of grains and oilseed used in the production of poultry feed. This has considerably reduced previously high EU poultry feed costs (which account for 70% of costs in poultry meat production)*" he adds unfortunately that "*While all these EU poultry sector support measures are compatible with current interpretations of WTO rules, this does not mean the EU chicken meat regime has no adverse effects on poultry producers in Sub-Saharan Africa*"⁷.

No, the fact that EU poultry feed costs have been hugely reduced by direct aids to the EU feed producers is not compatible with the WTO rules, notably the article 6.2 of the Agreement on Agriculture (AoA) stating that: "*agricultural input subsidies generally available to low-income or resource-poor producers in developing country Members shall be exempt from domestic support reduction commitments that would otherwise be applicable to such measures*", implying that input subsidies of developed countries are not exempted but should be notified in their amber box (or AMS, aggregate measurement of support of coupled support).

Indeed the US Congressional Research Service has acknowledged that "*Program commodities such as corn are feed inputs for livestock*"⁸ and OECD that "*Input subsidies are typically explicit or implicit payments reducing the price paid by farmers for variable inputs (for example... feed)*"⁹. The fact that the US and the EU notify in their AMS some secondary feed subsidies attest clearly that they are perfectly aware that feed subsidies are coupled input subsidies but they have refused to notify their huge subsidies to feed cereals, oilseeds and pulses (COPs): the US has notified in the AMS the subsidies to grazing fees on public lands and to several forage insurance programmes and the EU the subsidies to dried fodder and skimmed-milk fed to calves. Thus, on average from 1995 to 2014, the US feed subsidies have reached \$5.313 bn, incorporated in dairy products (\$587 million), beef (\$1.479 bn), pig meat (\$1.242 bn), poultry meat and eggs (\$1.957 bn), these feed subsidies accounting on average for 14.4% of the feed costs. But the EU feed subsidies, essentially hidden in the decoupled Single Payment Scheme, are presently much higher, at €14.740 bn, of which €3.260 bn to beef, €5.360 bn to pig meat, €3.680 bn to poultry meat and eggs and €2.441 to cow milk.

The huge US and EU cheating in that area has been largely promoted by the OECD tortuous concept of "excess feed cost" used to assess its other ambiguous concept of PSE (producer's support estimate). OECD considers that the livestock producers are penalized as they have to pay their feedstuffs at the domestic prices, higher than the world prices, received by the growers of COPs. Catherine Moreddu of OECD wrote in an exchange of e-mails with me in 2004: "*The excess feed cost due to the price support of cereals is deducted from the price support of animal products. Therefore it is not possible to take it into account a second time in input subsidies*".

⁶ <https://www.tralac.org/discussions/article/11213-the-ongoing-chicken-wars-put-in-perspective.html>

⁷ http://ihu.dk/media/cms_page_media/45/The_Impact_of_EU_Poultry_Sector_Policies_on_Sub-Saharan_African_Countries.pdf

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http://wikileaks.org/wiki/CRS:_Potential_Challenges_to_U.S._Farm_Subsidies_in_the_WTO:_A_Brief_Overview,_June_1,_2007

⁹ <http://www.oecd.org/agriculture/agricultural-policies/1937457.pdf>

This statement could have been at best debated when the world prices of COPs were low so that this alleged "excess feed cost" – represented by the gap between domestic prices and world prices – was large, but since the world prices of COPs have skyrocketed from 2008 to 2014 the "excess feed cost" has disappeared in OECD data. Yet the feed subsidies are still there, hidden for the EU in its alleged fully decoupled SPS (single payment scheme, now the single base payment since the CAP reform of 2015) and SAPS (single area payment scheme for 10 new member States of Eastern EU). If the direct payments to COPs are fully received by the COPs' producers, the producers of animal products get the implicit but real subsidies corresponding to the lower prices they pay for the COPs of EU origin, prices that would be much higher in the absence of the subsidies granted to COPs' producers in compensation for the reduction in their administered prices during the CAP reforms of 1992 and 1999. We can invoke here the concept of "cross-subsidization" which has been central in the panels and WTO Appellate Body's rulings in the cases of Dairy products of Canada in December 2001 and December 2002 and in the EU sugar case in April 2005. So that the part of the COPs devoted to animal feed has conferred product-specific AMSs to the animal products having consumed this subsidized feed¹⁰.

The problem is that the EU and US are denying that their feed subsidies have a dumping effect because they do not notify them at the WTO and they refuse to treat them in their FTAs, particularly in the EU EPAs, alleging that this issue can only be dealt with at the WTO, where they refuse at the same time to change the present rules, rules that they are violating! And the EU claims that its subsidies cannot be challenged because 95% of them are fully decoupled and notified in the green box does not hold either because the SPS (now the SBS) are violating the 5 conditions required by the AOA Annex 2 paragraph 6 on "Decoupled income support" to be in the green box (see pages 18 and 19 of the paper "*Analysis of the main controversies on domestic agricultural supports*"). So that both the EU and US refuse to change the rules on agricultural domestic support in the on-going negotiations at the WTO.

Yet the EU Commission should remember that the poultry and pig CMOs (common market organizations) were linked to the cereals CMO from the beginning of the CAP as attested by John A. Usher in 1988: "*Pigmeat, poultry and eggs may be considered together to the extent that they are treated as ancillary to the common organization of the market in cereals, and that the legislation governing them, currently Council regulations 1759/75 on pigmeat, 2771/75 on eggs, and 2777/75 on poultry meat, has always been enacted in parallel with the legislation governing the common organization of the market in cereals*"¹¹. Indeed the variable levies, export refunds and monetary compensatory amounts on pigmeat, poultry and eggs were derived from those on cereals. This close connection between the CMOs for cereals and poultry and pig meats is an evidence that the reduction in cereal prices, offset by direct aids, was one of the main reasons, not to say the first, to reform the CAP in 1992 and 1999, these direct aids being designed as a substitute for import duties and export refunds on poultry and pig meat. Consequently, direct aids to the COPs are as coupled subsidies as the import duties and export refunds they replaced.

Table 1 shows that the EU28 subsidies to its exports of poultry meat and preparations and eggs to the 6 countries of SADC reached €41.443 M in 2016, for an average dumping rate of 19%

¹⁰ See "*Analysis of the main controversies on domestic agricultural supports*", Solidarité, July 28, 2016, <http://www.sol-asso.fr/analyses-politiques-agricoles-jacques-b/#>

¹¹ John A. Usher, *Legal aspects of agriculture in the European Community*, Oxford European Community law series, 1988.

(ratio of total subsidies to FOB exports value). The EU28 subsidies were also of €60.418 million and €23.695 million to its exports of cereals products and dairy to SADC in 2016¹².

The methodology on feed subsidies is set out in the document "*The EU dumping of cereals, dairy and meats in 2012, total and to ACP countries*" of March 5, 2014, but feed subsidies have been revised downwards, taking only into account the consumption index (kg of livestock feed per kg of meat, estimated at 2 for poultry meat – it is a little lower for chicken but higher for turkey – and 3 for pig meat) and the calculation of the subsidy per tonne of cereals was revised in the document "*Reappraisal of the UE dumping on cereals to West Africa from 2006 to 2014*" of May 11, 2015, downloadable on SOL website¹³. Additional aid under the second pillar of the Common Agricultural Policy (CAP) and the national or Community exceptional aid granted in 2015 and 2016 for the products in crisis because of price slumps are not taken into account so that dumping is underestimated. We have thus estimated an average aid of €120 per tonne of carcass equivalent (tce) in 2016.

Table 1 – EU28 subsidies on its exports of poultry meat and eggs to SADC in 2015

	Exported final products			Tonnes carcass-equivalent		Subsidies (120 €/tce)	
	tonnes	€	FOB/t	tce/t	tec	euros	dumping rate
0105 Live poultry	29,2	7148980	2448,3	0,79	23,1	2768,2	0,04%
020711 Fresh or chilled fowls of gallus domesticus	188,1	141690	753,3	1,3	244,5	29343,6	20,7%
020712 Frozen fowls of gallus domesticus	7758,4	5491430	707,8	1,3	10085,9	1210310,4	22%
020713 Fresh or chilled cuts and offals of gallus	3536,9	2183410	617,3	1,3	4598	551756,4	25,3%
020714 Frozen cuts and offals of gallus domesticus	242993	195583710	804,9	1,3	315890,9	37906908	19,4%
020725 Frozen turkeys, not cut in pieces	40,5	74910	1849,6	1,3	52,7	6318	8,4%
020726 Fresh or chilled cuts and offals of turkeys	355,7	268420	754,6	1,3	462,4	55489,2	20,7%
020727 Frozen cuts and edible offals of turkeys	6394,8	5259350	822,4	1,3	8313,2	997588,8	19%
020741 Fresh or chilled fowls of ducks, not in pieces	3749	322490	860	1,3	4873,7	584844	181,4%
020742 Frozen ducks, not cut in pieces	92,9	193230	2080	1,3	120,8	14492,4	7,5%
020743 Fatty livers of ducks, fresh or chilled	0,2	5220	2610	1,3	0,3	31,2	0,6%
020745 Frozen cuts and edible offals of ducks	2	34480	1724	1,3	2,6	312	0,9%
020760 Meat and offal of domestic guinea fowl	297,7	209590	704	1,3	387	4644,2	22,2%
020990 Poultry fat	10,1	6060	600	1,3	13,1	1575,6	26%
Sub-total meat of poultry	265448,5	216922970	817,2	1,3	345068,2	41408179	19,1%
16022010 Preparations of goose or duck livers	1,3	24050	18500	1,3	1,7	202,8	0,8%
160231 Meat or offal of turkeys	19,9	84310	4236,7	1,3	25,9	3104,4	3,7%
160232 Meat or offals of gallus domesticus	103,7	331630	3198	1,3	134,8	16177,2	4,9%
160239 Prepared meat of ducks, geese, guinea fowl	2,8	15300	5464,3	1,3	3,6	436,8	2,9%
Sub-total preparations	127,7	455290	3565,3		166	19921,2	4,4%
0407 shelled eggs	3,5	21690	6197,1	1	3,5	420	1,9%
0408 not shelled eggs	69,3	339080	4892,9	1,7	117,8	14137,2	4,2%
Total	265649	217739000	819,6		345355,5	41442657,4	19%

Therefore the claim of the EU Delegation to the Republic of South Africa made in its press release of 16 March 2017 on "*Poultry crisis: what does it mean for markets and consumers? An EU perspective*" that "*the EU does not provide any export subsidies to poultry farmers exporting to Africa*" is totally irrelevant and we encourage SA, together with other ACP countries, to sue the EU at the WTO. Because this structural EU dumping cannot be fought by temporary anti-dumping fees, countervailing duties or safeguards measures.

¹² *The EU28 dumping of its dairy products to SADC in 2016*, SOL, March 22, 2017; *The EU28 dumping of its dairy products to SADC in 2016*, SOL, March 21, 2017, <https://www.sol-asso.fr/analyses-politiques-agricoles-jacques-b-2/>

¹³ <https://www.sol-asso.fr/articles-de-2015/>