Annexes of

Proposal for
A new European Agriculture and Food Policy
that better meets the challenges of this century

by JM Boussard and A. Trouvé and others, 11 July 2010

Contents:

Annex 1:

What should the EU's policy be regarding agrofuels for transport?

By Jacques Berthelot

The global boom in agrofuels for transport, including in the EU, was driven by the prospect of rising fossil fuel prices and the need to reduce greenhouse gas (GHG) emissions. A Directive 1 adopted on 23 April 2009 requires each Member State to incorporate a 10% share of energy from renewable sources – biofuel or electricity – in the energy required for transport by 2020. I shall deliberately exclude biogas, the merits of which are uncontested, from the analysis that follows.

Global production of agrofuels for transport increased from 59 to 93 billion litres (BnL) between 2007 and 2009, of which ethanol rose from 49.6 to 73.9 BnL and biodiesel from 10.2 to 19.3 BnL.

Whilst the EU-27's production of biofuel rose from 7.9 to 11.7 BnL from 2007 to 2009, the level has actually stagnated since 2008 (11.6 BnL),

All the international institutes consider these biofuels to be largely responsible for the explosion of agricultural commodity prices and hunger riots in 2007/08. Neither the US nor the EU want to give up using them, as they are banking on the profitability of the coming second- and third-generation biofuels (cellulose for ethanol and algae for biodiesel). In any case it is to be expected that these products will compete for land with land used for farm crops and timber, the energy efficiency of which is far superior to that of these biofuels, and that soil fertility will decrease when harvest residues are no longer re-incorporated.

Even if the EU's agrofuels' energy budget is positive, given the production of animal feed co-products, their net environmental and social effects are very negative, for the analyses that conclude that their GHG balances will be positive do not take account of the impacts of indirect (or induced) land use

[1] Cf Directive 2009/28/EC

changes (ILUC) in the rest of the world and under-estimate the impacts of the nitrous oxide emissions linked to the use of inorganic fertilisers. T. W. Hertel's most recent analysis (Hertel, 2010) , which takes account of impacts in the rest of the world, concludes that US maize ethanol will have a negative GHG balance when the production of ethanol reaches the target of 56.7 BnL. In Europe imports will obviously be necessary from the moment when maintaining a minimum of self-sufficiency in food is thought to be desirable. But large imports especially biodiesel will have great ecological and social impact, given that we can already see their perverse effects in Indonesia, Malaysia, and Colombia (Berthelot, 2009), where agricultural and forest land that was previously destined for food production has been converted into land for biofuels.

Of course, Directive 2009/28/EC of 23 April 2009 stipulates that biofuels must allow GHG emissions savings (compared with fossil fuels) of 50% by January 2017 and 60% by January 2018 and the countries of origin will have to implement the ILO's labour and social policy conventions. However, the feasibility of implementing and enforcing such controls remains problematic, and two general social impacts must be underlined, to wit, the future sharp rises in food prices and hunger riots that may result from the continued production of agrofuels, accentuated by the continued encroachment of land in developing countries to the detriment of smallholders.

For all these reasons, we must recommend stopping the industrial production of transport agrofuels in the EU and boosting the sustainable production of fuel wood, biogas, and even crude vegetable oil for use directly on the farm.

Annex 2

Market Power

By Vicki Hird, Independent Food and Environmental Consultant, and others.

Which policy should be promoted for a better distribution of the added value generated in the food chain?

1 - The issues

The CAP, like agricultural policies elsewhere, has generally had a narrow focus on agricultural production, without regard to wider economic and social issues any more than environmental ones. One of the consequences was a rapidly growing concentration in the hands of only a few companies of the supply of seeds and other inputs as well as of retailing, processing and trading operations. These developments have given excessive power to these parts of value chains which has even led to abuses of power. They squeeze the incomes of both consumers and farmers[2]

1.1 The monopoly power of the processing and retailing industries

[2] In Europe the turnover of food and drink industries (from manufacturing to food service) was €2750 billion and of agriculture holdings was €319 i.e. about 11%, yet the agriculture sector spends 20%-30% on average of the costs of consumer food products.

Addressing the last point, in a Preliminary Survey of Evidence, the AAI- Agribusiness Accountability Initiative found that buyer power abuses are practised in at least 17 EU member states (Stichele & Young, 2009). These abuses arise from increasing concentration of market shares by processing industries, and, above all, by supermarket chains in most EU member states, as well as from their buying arrangements at the national level and the EU level. Suppliers now have fewer alternative outlets to sell their produce and this means a change in bargaining power between them and these "downstream" industries.

Most of the time these abuses arise from solutions that are sought for technical (e.g. logistic) problems. Consider for instance the milk collection in a given area. Two processing firms can compete by collecting milk in the whole area, but collectors will have to travel distances which could be reduced if each of them individually collects the whole production in only half the area. This is a strong incentive to avoid competition and agree that each firm will collect milk in half the area nearest to its milk processing plant, thus benefiting from a monopoly over the farmers in it. Similar situations are frequent in food chains. Even for supermarkets there is no point having two competing stores on both sides of a street, while another nearby district is deprived of any food supply.

As long as a significant number of actual or potential competitors are capable of replacing existing firms as soon as they draw out to benefit from the gain in efficiency, this monopolistic organisation is for the benefit of consumer. This is the reason for which, until recently, this development was successful, and even popular. But as time passes and technical progress leads to larger such partial monopolies the number of possible competitors is rapidly decreasing, thus leaving existing industries with an enormous monopoly power they can exploit to their exclusive advantage. Monopsony or monopoly power abuses have been increasingly discussed and researched, as well as solutions sought, by competition authorities, governments and parliaments, branch organisations and the media in EU member states.

Stichele and Young suggest that evidence of supermarkets' abusive buyer power practices that has been reported and that results in distorted and unfair business-to-business relations and in anti-competitive behaviour includes:

Extra payments or retro-active payments by suppliers to supermarkets, such as payment for advertisements and renewal of stores, sometimes outside contractual arrangements or without assent from the suppliers,

Payments to be able to supply to, and be on the shelves of, supermarkets (listing fees, slotting fees).

Harsh negotiations and threats of de-listing which result in very low payments for suppliers' products.

Late payments which enable supermarkets to gain profits at the expense of suppliers.

Reducing the number of suppliers to a few or just one.

Requiring that suppliers do not sell at lower prices to competitors.

As a result, some suppliers have gone under, or survived on very low profit margins. This survey found that small and medium enterprises (SMEs) in the food sector and farmers have been especially vulnerable.

1.2 'National' escape routes offered to processing and retailing industries operating in the EU

An additional problem arises because cross-border buying groups are made up of supermarkets from different EU countries and operate across EU borders. They open up the potential for anti-competitive collusion between supermarkets (such as sharing information on prices) that is virtually impossible to address through national laws. In terms of buying practices, again they operate in a regulatory void that could be filled by EU-wide legislation. Note that it seems buying groups do not buy directly from producers outside Europe, and that they concentrate on bulk goods rather than fresh produce. However, they do buy some bulk commodities produced in developing countries indirectly through importers, and buying pressures may be squeezing producers further down the chain.

There have been increasing calls for an EU wide response to these issues.[3] Whilst national action can be useful, a number of factors make an EU-wide response necessary. In addition, EU-wide rules are needed to dissuade supermarkets from re-locating to or buying goods in countries with weaker regulation on buyer power (e.g. through subsidiaries). For example, Carrefour moved its HQ to Switzerland when France tightened restrictions on buyer power.[4] The EU is a common market that needs common rules to ensure as wide a playing field as possible.

Supermarkets buy goods across borders in other EU countries for export back to their 'home' country. Because abusive buying practices usually originate from buying staff based in the home country, the exporting country has no way of controlling them.[5] EU-wide rules would fill this 'regulatory void',

So what reforms are required in EU and domestic competition policies and practices to secure fair payments to, and shorter supply chains between, producers and consumers? How could such policies tackle these issues, limit excessive profit margins and break up damaging mono/oligopolies?

1.3 The Need for EU-wide response

It is worth noting that the EU has recently responded to pressure from NGOs and industry and consumer bodies. A recent Communication identifies "significant tensions in contractual relations between actors of the chain, stemming from their diversity and differences in bargaining power. It also highlights the lack of transparency of prices along the food chain as well as the increased volatility of commodity prices. Finally, it shows that the internal market for food is still fragmented across products and Member States".[6] In order to overcome the challenges identified and improve the functioning of the chain, the Commission proposes to promote sustainable and market-based relationships between stakeholders of the food supply chain; increase transparency in the food supply chain; and foster the

3 AAI, MEPS, ActionAid

4 Given that Switzerland is not in the EU, there's nothing to stop supermarkets from re-locating there if EU-wide rules came in. Even so, the chances of major supermarkets migrating to Switzerland en masse are remote.

5 Note however that the UK Supermarkets Code of Practice applies to UK supermarkets direct suppliers based anywhere in the world.

6 EU agriculture commissioner Marian Fischer Boel "Food prices in Europe" This Communication is the outcome of an inter-service Task Force, led by Directorate Generals AGRI and ECFIN, into which the services of Commissioners Kroes and Kuneva contributed actively."

integration of the internal market for food and the competitiveness of all sectors of the food supply chain. The Commission is due to report on the advancement of these proposals by the end of 2010. It proposes to expand the membership, status and mandate of the High-Level Group on competitiveness of the agro-food industry to create a forum of discussion for the food supply chain.[7]

This Commission move has been welcomed by farming organisations. The EU farmers' organisation COPA-COGECA said it was a step in the right direction, but called for more measures to help farmers consolidate and increase their negotiating strength. Others have critiqued the research – the AAI suggest that the report seems to be heavily influenced by the comments from the retailers themselves and that the 'remedies are weak (leaving it to member states) and possibly damaging'. It is worth reading the very useful "Misperceptions about retail in the food chain promoted by the commerce sector" by the AAI which details why we must address research into the whole food sector and ensure social and environmental goals are addressed, not just consumer prices. [8]

2 - Proposed mechanisms/remedies

2.1 Shortening the food chains

In the first place we should note that a 'bottom-up' movement is taking place that circumvents the problems outlined above. Citizens get their food straight from the farmer, and farmers form cooperatives that supply directly to consumers or groups of consumers. In France the First AMAP's (Associations pour le Maintien d'une Agriculture Paysanne) were established in 2001 and now there are between 1000rand 1200; they had their first national gathering in December 2009[9.] In other European countries there are similarly rapid developments. In the Netherlands there is one new farmers' cooperative operating on both sides of the German-Dutch border (thus qualifying for Euregio-funds) that is supplying to institutions such as hospitals in the first instance and that may even start a small milk processing plant. It has set itself sustainability and transparency objectives. Farmers' incomes have risen by 15-30% (in some cases the difference between survival and giving up), whereas consumer prices on average have remained the same.[10] Government and EU subsidies were helpful in the first stage when the new distribution-chain was being set up. European funds might facilitate these developments in an equitable way across Europe

2.2 Competition law and other policy areas

Competition policy is the main policy area resorted to in Europe to tackle the problems connected with excessive market power of the processing and retail business. This has not been very successful in the decades after regulation was abandoned, so European laws have not been very effective in curbing the power of the food industry. As we have seen above the excessive market power has even

7 http://ec.europa.eu/economy_finance/thematic_articles/article16028_en.htm

8 AAI Advice to MEP 18th November final draft. AAI. Pers comm. Judith Whately. Nov 2009.

9 See www.miramap.org

10 See http://www.epfs.eu/uploads/EPFS%20website%20good%20pr%20cooperatives%20orgeional.pdf

led to power abuse, especially affecting the producers and Small and Medium Business enterprises, and there are no EU wide rules to curb abuse across borders. The Commission's response to these challenges has been termed inadequate by the EU farmers' body GOPA-COGECA , and also by the AAI who said that the report seems to be heavily influenced by the comments from the retailers themselves.

Other policy areas might be :
- planning law (national - or EU - planning restrictions being used to limit growth at local or even national level of monopolies),
- contract Law (could national or EU contract law be applied/strengthened/enforced to ensure that some abuses of power become unlawful e.g. retrospective discounts, last minute changes in contracts etc?) and
- Company Law (bring in far more accountability to Company Law . CSR - corporate social responsibility - could have an impact if mandatory and enforced.)

However, since no Europe-wide initiatives have been taken yet in these areas it does not seem wise to be more confident about these solutions than about competition law reforms.

Some solutions that have been suggested by Civil Society Organisations are:

- Corporate Social Responsibility, and the 'human rights' angle suggested by IAASTD[11]. Rights-based approaches explicitly recognize the power dynamics involved in hunger and poverty and allow people whose human rights are being violated to gain control of their lives and destinies. This requires a strong role for the (global) government and regulations on investment.
- Dutch dairy farmers commissioned a study into possibilities for self-regulation (e.g. a voluntary quota fund) within the framework of European competition law. But possibilities are very limited; it seems hard to avoid being accused of forming 'cartels'.[12] It should be noted that there is a threshold of 5% of producers in a country beyond which a group of producers is deemed a 'cartel', whereas the threshold for firms to avoid being accused of forming a monopoly, e.g. after a merger, is 60%.

2.3 Agrarian policy

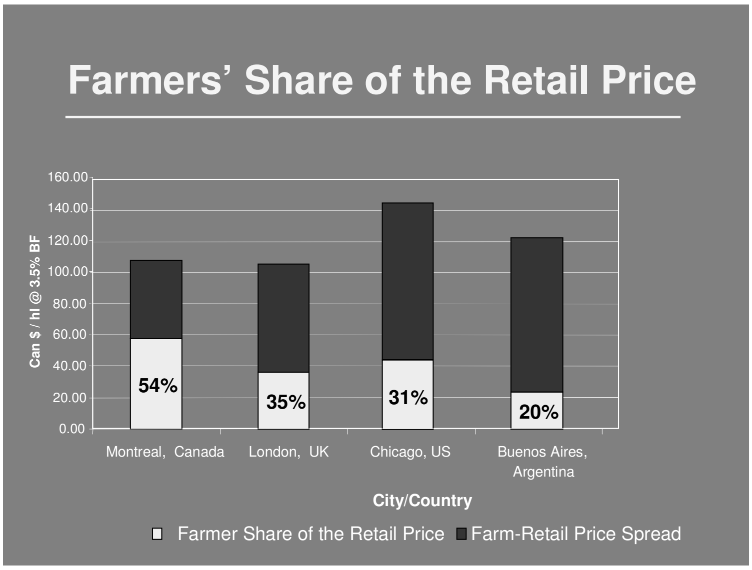
Some organisations and agricultural scientists are convinced that the supermarket power and abuses could be curbed in a more regulated European system. They point to the example of Canada, where according to a 2007 survey of the situation in the US, the UK, Canada and Argentina, the Canadian farmer gets the largest share of the consumer's dollar, as much as 54%, whereas a dairy farmer in Argentina where the free market reigns supreme in dairy gets only 20%. (see figure A2.1). (In the summer of 2009 when farmers in Europe got only 20 Eurocents for a litre of milk and blocked the

11 see http://www.agribusinessaction.org/clearinghouse/documents/AAI%20ENGLISH_.pdf

12 Advice for the NMV 20 October 2009 'Possibilities for self-regulation between agricultural policy and competition law', University of Utrecht. In the context of the exceptions, such as article 81(3) of the EC Treaty and article 86(2) of the EC Treaty, public interests can be taken into consideration by the Commission (or the Netherlands Competition Authority - NMA) to determine whether cartel agreements are or are not allowed. However, the margin left for this within the context of article 81(3) of the EC Treaty is limited, and article 86 (2) of the Treaty only applies if dairy farmers are entrusted with tasks of general economic interest.

streets in their capitals and in Brussels the price in Canada was still 40 cents.) But the consumer profits as well: the dairy package in supermarkets in Argentina or the US is more expensive than that in the quota-market of Canada and the EU. And even the processors seem to profit because they get a stable year-round supply of milk and can plan their work more successfully. [13]

Figure A2.1 :



Canadian farmers are members of the provincial marketing boards and sell all their milk to it. The marketing boards are governed in every province by dairy farmers. They have the legal authority to regulate, decide on prices and inspect the milk quality. The farmers and representatives of the government decide on these issues together in annual meetings. Representatives of the industry and retailers are also present at the meetings; they can voice their opinion but have no voting rights.

Because the Canadian dairy farmers get a price for their milk that covers the average cost of production the dairy farmers do not receive any subsidies. That means the citizen pays less taxes. Norway and until recently Switzerland are other countries where supply management was practised. It should be noted though that Norway is an importing country and not an exporting country.

Another way to protect farmers' incomes is the price-band system through which a country may be linked to the world market prices and yet give its own farmers some protection. This worked satisfactorily in Bolivia where the farmers in the Andes cannot compete on the world market yet need to sell their products on the local market so as to support their families and their rural communities. [14]It is a mechanism of variable import tariffs that entails import tariffs being raised when the world market price is low and lowered when the world market price is high. This results in a sort of 'elasticity' stabilising the domestic price for the processing industry.

[13] For more information see the presentation of Ron Versteeg at NMV conference, in http://www.epfs.eu/DocDetail.aspx?l=007.011&lang=ENG&id=105

[14] Giel Ton, 2004, http://www.epfs.eu/DocDetail.aspx?l=007.016&lang=ENG&id=238

3. Conclusion of annex 2

When reviewing the above three options for remedies for the excessive market power of processing and retail companies the solutions in the legal field seem hard to achieve because the weaker party is, well, the weaker party, in the current EU policy framework. The ‘agrarian policy’ is difficult to achieve because the political will is lacking. The ‘shorter food chains’ option is as yet only a modest development.

But doing nothing at all is not an option because threatening the livelihoods of both the farmers and the Small and Medium Businesses may well threaten our food security in the future. It is worth noticing that such a situation calls for state intervention, in order to correct market failures.

Annex 3

Domestic food aid and the farm income safety net: the pillars of **the United States' agricultural policy**

By Sophie Devienne

Agriculture occupies only 1.7% of the US's labour force and accounts for only 1.2% of its GDP. However, agricultural exports play a very important role in the country's economy. The United States effectively has a pre-eminent place on the global market for a large number of its agricultural commodities. These achievements can be put down mainly to family farms (98% of the farms and 86% of agricultural output) with high acreage per worker (140 ha on average) and high regional specialisation in line with the territory's agri-environmental conditions[15]. They are also linked to active government intervention, the foundations of which go back to the Agricultural Adjustment Acts of 1933 and 1938 that were adopted as part of the New Deal.

The US farm policy of the 1930s: stabilise prices and guarantee farmers' incomes

The agricultural policy of the 1930s was devised at the height of the Great Depression and thus designed to support agricultural prices and to guarantee the farmers' income security by regulating supply and demand, as follows:

- regulation of production through a compulsory land reserve programme to be eligible for guaranteed prices for staple commodities (cereals, sugar beets, cotton, peanuts, and tobacco. Government intervention was also instituted for dairy products and pigs.);

- regulation of market supply: All farmers were entitled to store their harvests with the CCC (Commodity Credit Corporation), which doubled as a federal storage facility, in exchange for an advance payment set at the level of the support price which was the loan rate. It was a non recourse loan: If the market price remained below the loan rate over the next nine months, the farmer could forfeit his harvest to the CCC and keep the advance that he was paid. If the market price rose above the loan rate, on the contrary, the farmer could withdraw his harvest and pay back the loan, plus interest, that he got from the CCC. The loan rate was set at a high level enabling the farmers to make investments;

- support for domestic demand: The distribution of food to the needy was replaced in 1938 by a food stamp programme. These food stamps were abandoned during World War II and then reinstated in 1961. Starting in 1946 the USDA began developing an aid programme for school cafeterias as a remedy for the problem of child malnourishment in the poorest families. The domestic food aid policy, which gave a powerful boost to domestic consumption of US food commodities, would subsequently be renewed at regular intervals by various farm bills.

Starting in the 1950s: a more and more offensive policy toward the world market

High, stable prices gave the farmers enough security for investment, and they consequently made investments, and continued to do so until the present, at a rapid pace: Motorisation, mechanisation,

[15] Notice, nevertheless, that 9% of farms, with a gross product of more than 250000$, were producing 63% of the over all gross product, while 84%, with a gross product less than 100000$ were responsible for only 7% of the total.)

the use of chemicals, genetic selection, and specialisation enabled the farms to count on a steady rise in yields and labour productivity. Consequently, surpluses began piling up in the CCC's storage facilities starting in the 1950s and had to be exported by means of subsidies. Starting in the 1950s US agricultural policy strove to support exports more and more whilst keeping farm income security at the heart of its intervention scheme:

the institution of an international food aid scheme in 1954: Public Law 480 (the common name for the Agricultural Trade Development and Assistance Act of 1954) was designed to promote exports to developing countries through food loan and grant programmes. It was complemented from 1985 through 2008 by the Export Enhancement Program (EEP), i.e., an offensive export support policy that was a true retaliatory measure in reaction to Europe's export refunds.

the gradual lowering of the loan rate: The prices at which farmers were encouraged to sell their crops on the market were lowered in 1964 to global market price levels, then below global market prices as of 1985. The cuts in the loan rates (support prices) were offset by direct aid aimed at ensuring the payment of target prices, set by the government, for staple commodities from 1973 on. Marketing assistance loans were generalized in 1991. These loans encourage farmers to withdraw their harvests from the CCC's stocks when the market price is below the loan rate because the farmers then pay back, at these prices, the advances that they have been paid and pocket the difference. They are also eligible for these subsidies even if they have not stored their commodities with the CCC. So, the marketing loans encourage farmers to put their crops on the market instead of storing them in government silos, even when the prices are very low.

<u>The 1996 turnaround: the rapidly abandoned attempt to return to the market</u>

The Federal Agriculture Improvement and Reform (FAIR) Act of 1996 was designed to enable US agriculture to make the most of the promising prospects of an expanding global market and rising agricultural prices that came on the scene at the time. It thus instituted the following:

abandoning the regulation of production, which made it possible to mobilise the United States's agricultural production potential. The only vestige that remains is the environmental set-aside programme (Conservation Reserve Program - CRP) created in 1985 (13.5 million ha).

abandoning the target price and decoupling the direct aid given to farmers.

However, the global market did not expand, agricultural commodity prices collapsed as of 1997, and the government tried to compensate for the drops in farm revenues by paying out emergency aid and then by proposing high subsidy levels for crop and turnover insurance (60 percent of the insurance policies' premiums, on average) starting in 2000. Today, 80 percent of the arable acreage is covered by one of the insurance programmes eligible for government subsidies.

<u>Restoration of the safety net as of 2002 and major support for the development of biofuels under the energy security policy</u>

The unfortunate experience of the 1996 FAIR Act led the US government to come back to the principles that had guided US farm policy since the 1930, that is, giving farmers income security. The Farm Security and Rural Investment Act of 2002 restored the target price, a veritable safety net for farmers: Counter-cyclical payments, decoupled from production but not from prices, could be added, if necessary, to the marketing loans and decoupled direct payments to guarantee this target price. If the market price is higher than the target price, then only the decoupled direct payments continue to be paid out. The 2008 Farm Act (Food Conservation and Energy Act of 2008) extended these highly protective provisions in parallel with stepped-up domestic food aid (63 percent of the USDA's US$95 billion budget in 2008, compared with only 15 percent for the aid paid directly to farmers). This policy has helped to support agriculture as well as the entire agribusiness sector. In parallel, the biofuels development policy is also helping to support the domestic soybean and above all maize markets.

The domestic food aid programme has been strengthened in reaction to the economic crisis

The American Recovery and Reinvestment Act (ARRA) that was adopted in February 2009 reinforces the domestic food aid policy (to the tune of an additional 15 billion dollars each year) by raising the amount of aid that may be accessed via food stamp entitlements. One of the main objectives assigned to US agriculture is thus indeed to contribute to domestic food security, since 70 percent of the USDA's budget is allocated to it, i.e., $108 billion for 2011. Of this amount, $80 billion covers the food stamps that go to close to 40 million Americans today (this figure is up 22 percent over the previous year) and doubtless 43 million in 2011. In return, the support that is given to the neediest categories of the population's food consumption benefits the agricultural sector and the entire economy. Moreover, US economists consider it to be one of the most effective and fastest-acting strands of the Obama administration's economic recovery policy. The US farm policy thus does indeed appear to be a food policy first and foremost[16], even though the safety net for farm income remains an important objective (close to US$12 billion for direct aid, from which President Obama would moreover like to exclude the largest farms, and US$7.5 billion for the insurance programmes), far behind export support (US$2.5 billion, including $500 million to promote exports, compared with US$320 million in 2009).

[16] In this respect, it has been remarked that it could have been implemented by the department of social affairs, instead of by the USDA.

Annex 4: Compatibility with WTO rules

By Jacques Berthelot

Refounding the CAP on food sovereignty is not more incompatible with WTO rules than the current CAP

The objective to refound the CAP on remunerative prices without dumping – in other words, on food sovereignty – is clearly incompatible with the rules of the Agreement on Agriculture, whose… long-term objective is to provide for substantial progressive reductions in agricultural support and protection sustained over an agreed period of time, resulting in correcting and preventing restrictions and distortions in world agricultural markets.

That raises three points:

A - The current CAP violates the WTO rules to a high degree

The question whether refounding the CAP on Food Sovereignty is compatible with the WTO rules should be evaluated with reference to the WTO Draft Modalities for Agriculture of 6 December 2008 which is still being debated and which is meant to modify the Agreement on Agriculture (AoA). It is about greater market access and the decrease of domestic support and export subsidies. Since rebuilding the CAP on food sovereignty would imply raising import protection significantly it is incompatible with this Draft Modalities which stipulates that the developed countries will have to reduce their agricultural tariffs by at least 54% as compared to their average level in the period 1995-2000.

Furthermore, the EU will not be able, as it has proposed, to reduce by 80% at the end of the implementation period of the Doha Round, the level of the overall trade-distorting domestic support (OTDS) that it was allowed to use during the period 1995-2000. This is the offer made to the Developing Countries on condition of their acceptance of greater access to their domestic market for the EU industrial exports and services .

However the OTDS allowed to the EU is in fact lower than the level which has been calculated, whereas its applied level is much higher than the level notified to the WTO.

The allowed OTDS is lower than that calculated because the EU and the other developed countries did not take into account the subsidies on animal feed which are clearly input subsidies that the AoA considers as trade-distorting, hence which have to be notified in the ‘Aggregate Measurement of Support’ or AMS (in the WTO jargon, corresponding to the so-called 'amber box') of animal feed and of the livestock products made from this feed. As a result the allowed OTDS in the 1995-2000 period was only €90.5 billion instead of €110.3 billion calculated by Canada, and a reduction by 80% would reduce it to €18.1 billion instead of €22.1 billion (Berthelot, 2010).

On the other hand the OTDS actually applied by the EU is much higher than the level notified to the WTO for the product-specific (PS) component of the AMS (PS AMS) as well as for its non product-specific component (NPS AMS). The PS AMS was under-notified in the 1995-00 period because the subsidies for animal feed, which are input subsidies, had conferred PS AMS to them and to all livestock products that had consumed the feed. And the non product-specific subsidies were even more under-notified since 2005, first because the Single Farm Payment created by the CAP reform of 2003 cannot be notified at the WTO in the Green Box of subsidies considered as non trade distorting, even if the EU did so all the same, and secondly because the non product-specific subsidies (NPS AMS) were severely under-notified in comparison with the notifications the EU made to the OECD. Finally, even if the trade-distorting measures (OTDS) notified for 2006-07 (the last year there was notification) were said to be €34.2 billion, they were in reality €80.6 billion.

The European farmers have a lot to worry about if the EU massive under-notifications are prosecuted at the WTO by other Members. Indeed China has just imposed anti-dumping duties on imports of US poultry meat because "of the subsidised corn and soyabeans used in chicken feed"[17].

Moreover the EU cheats regarding its dumping for it does not pay attention to the fact that the dispute settlement body of the WTO has judged several times since 2001 that dumping should take domestic subsidies on exported products into account. The total subsidies on cereals exported by the EU-27 for instance were €1.921 billion in 2006, in which the formal export refunds of €206 million constituted only 10.7% against €1.715 billion, or 89.3%, for the domestic subsidies. As the value of the exported cereals was €3.583 billion, the level of dumping was of 54,7%.

Therefore one should redefine export subsidies as ‘all subsidies benefiting exported products, directly or indirectly, including the animal feed consumed by the livestock products. ‘

B - Past experience and future challenges prove that liberalisation of the agricultural markets is not viable

Not a single country, no Southern country either, has industrialised without effectively protecting its agriculture as well as its industry from imports, which is proved by the fact that Sub-Saharan Africa (SSA) has not industrialised. And yet 9 billion human beings will have to be fed enough in 2050 in a context of climate warming, particularly in the developing countries where there are already one billion chronically undernourished people and where 30 years of globalisation have turned into a gigantic food deficit in the poor countries[18]. The effectiveness of import protection becomes evident for example when we compare Kenya and the WAEMU (West African Economic and Monetary Union of 8 French speaking countries): import tariffs on milk powder have risen in Kenya from 25% in 1999 to 35% in 2002 and to 60% since 2004, whereas they have remained at 5% in WAEMU. As a result Kenya is a growing net exporter of dairy products and consumes 112 litres per person, whereas an equivalent of 64% of the milk production of West Africa is imported and the consumption per person is only 35 litres.

In the EU-27, in spite of an average agricultural tariff of 10.5% when one takes preferential import tariffs to developing countries into account, the average tariff on cereals is 50% (compared to 5% in the WAEMU), for milk powder it is 87% (compared to 5%), for sweetened products 59% (compared to 20%) and for frozen meat 66% (compared to 20%). This has allowed the EU to maintain a minimal

17 http://www.ft.com/cms/s/0/c585639c-5277-11df-8b09-00144feab49a.html

18 It amounts to $79 billion in 2007 if the 5 best performers of the net exporting developing countries are excluded (Brazil, Argentina, Thailand, Malaysia, Chili). The food deficit of Sub-Saharan Africa has jumped from $1.9 billion to $8.1 billion between 1995 and 2007 and, if one excludes the trade in coffee, cacao, tea and spices, it has risen from $5.4 billion to $12.7 billion, equal to the level of North Africa.

food sovereignty on its basic diet, although this has not prevented its food trade deficit increasing from €11 billion in 2000 to €20.3 billion in 2009, after even €27.9 billion in 2008.

It is essential that the EU should feed itself in 2050 without competing with Asia and the Near East for basic foodstuffs which undoubtedly only Latin America will have in excess.

C - The Agreement on Agriculture (AoA) should be refounded on food sovereignty.

The current rules of the AoA need urgent reform and the EU is the only member of the WTO that can refound the CAP and the AoA simultaneously on food sovereignty without dumping. In order to avoid dumping in the future, and to foster a sustainable and multifunctional agriculture at the same time, the CAP should base agricultural incomes on remunerative prices, which necessitates a careful regulation of production by means of an effective protection of imports and domestic supply management. This is completely contradictory to the practice of the current CAP, which has persisted in breaking down the existing instruments in the name of decoupling the subsidies so that they could be notified into the so-called WTO green box. That implies that the process of refounding the AoA on the same basis of food sovereignty without dumping must run parallel to the process of refounding the CAP.

But will that improve the working of the agricultural markets in the EU, in the developing countries and at the global level?
And which strategy should be adopted to achieve a consensus in the EU and the WTO?

In the new system the EU remunerative agricultural prices will be guaranteed by variable levies (tariffs) so that farmers whose production cost is lower than the EU average production cost will be remunerated by those prices without needing subsidies. Such subsidies will be reserved for the farmers who have above average production costs or who produce too little but who should keep farming for reasons of multifunctionality. The subsidies will be capped per working unit, the cap itself differing among the EU Member States. In order to avoid that these remunerative prices should lead to overproduction when all dumping is forbidden, production ceilings will be established per product at the European level and distributed among Member States, taking the comparative advantages of each State into account as well as the need to promote a multifunctional agriculture and to minimize transport costs. Those national ceilings will be broken down to production rights per farm according to rules that can vary from State to State, especially regarding the transfer of rights from one region to another or from one farm to another. Indeed the survival of the European farmers is linked to their control of the domestic market on which they sold 77.5% of their production from 2005 to 2007. So it is clearly in the EU's interest to refound the CAP and the AoA on food sovereignty and to produce its own animal feed, renouncing exports in return because of its general dumping: indeed as the Single Farm Payments, allegedly fully 'decoupled' (i.e. the farmers are not obliged to produce to get them!), can no longer be attributed to a certain product they can be attributed to all of them. However that will not prevent the EU from exporting at times when the world prices are higher than the domestic prices without subsidies.

Now that the crisis has reduced the buying power of the European consumers who have lost their jobs it seems impossible to convince them that they will gain by refounding the CAP on remunerative prices for the farmers. Nevertheless they will pay lower taxes to finance the CAP and there will be fewer unemployed people, a less polluted environment, better quality products and a more vibrant countryside. The lower public expenses on the CAP and its perverse effects will free funds to help citizens in unfavourable conditions to overcome temporary higher food prices. Indeed that effect will be limited since food represents only 15% of families' budgets, of which 3% goes to agricultural prices (as they represent around 20% of the consumer prices), and the recovery of economic growth will soon level out those price increases. In the same way it should be possible to convince the agri-food businesses that those changes are in their interest, especially since they will involve more regular and predictable prices of their agricultural supplies.

Finally, two other points deserve consideration:

A - Such effective protection will not prevent the EU from granting a preferential access to its domestic market to the poorest countries:

That should be arranged without demanding reciprocity, especially with regard to the products grown in the South as well as in the North (sugar, rice, tobacco…), on condition that increased exports benefit their small farmers and do not disadvantage their poorest consumers. The bilateral agreements will be revised along the lines of these principles and the Economic Partnership Agreements (EPAs) imposed on the ACP countries will be abolished, especially since these countries are reluctant to sign them. All the more so now that the EPAs are no longer a WTO constraint because the conflict about bananas – which was at the root of the complaint of Latin America's developing countries against the preceding Lomé agreement, forcing the EU to replace this agreement by EPAs – was recently resolved.

B - It will be necessary to allow variable levies to stabilise domestic agricultural prices

Until now the WTO has forbidden variable levies (tariffs) because they were alleged to increase the fluctuations of the world prices and to be less transparent than fixed tariffs for importers and exporters. Those arguments are hardly tenable if one admits that global price fluctuations are due to malfunctioning of the markets rather than to unexpected events. Moreover, it is inconsistent to forbid variable levies because the WTO allows them in many forms that do not carry that name although they make up the difference between the domestic price and the world price just as well.[19]

The variable levies are even more indispensable in the developing countries because they guarantee stable import prices so that the farmers can safely invest and the banks can grant them loans in full security. This is not the case with fixed tariffs which follow the high volatility of the world prices, generally established in US dollars, to which is added the large volatility of exchange rates against the US dollar.

If such principles would be implemented political space would open up to refound agricultural policies and the AoA on food sovereignty. It would not be a revolution since the GATT allowed it until 1995. The new element would be that this time all direct or indirect dumping would be forbidden. That is a necessary condition if we want to feed humanity properly in 2050.

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19 In this way: 1) they allow frequent adjustments of applied tariffs as long as they are lower than the 'bound tariffs' notified to the WTO, i.e. the highest level the applied tariff can take for each product; 2) they allow variable export duties, those used recently by many developing countries to protect domestic prices: although strongly criticized, they were legal for the WTO; 3) the export refunds and domestic subsidies to exported products are negative variable levies; 4) the domestic subsidies are also disguised variable levies because, by compensating farmers for lower agricultural prices, the agro-industries do not need to import as much; 5) the WTO does not forbid import subsidies, which are negative variable levies in periods of sudden world price increases and Senegal had imposed them on rice; 6) the EU has defended variable levies in the Argentina-Chili panel on price-bands for imports and the FAO supports them if they are lower than the bound tariffs.