

# *Tariffs, trade, and incomplete CAP reform*

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**Alan SWINBANK\***

## Tariffs, trade, and incomplete CAP reform

The original CAP's high levels of border protection on many products involved a variable import levy bridging the gap between world prices and the EU's much higher minimum import price. The Uruguay Round ended this, but tariffication also meant that subsequent CAP reforms reducing EU levels of domestic market price support would no longer trigger lower tariffs. Moreover the Doha Round's plans for tariff cuts are in abeyance. The consequences are: i) for these products, only preferential suppliers penetrate the EU's protected market; ii) negotiation of Free Trade Areas is made more complicated; and iii) "Brexit" is problematic.

**Keywords:** Brexit, CAP, Doha, tariffication, Uruguay

**JEL classification:** Q18

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## Introduction

When the common agricultural policy (CAP) was constructed in the 1960s and 70s one distinctive feature, much remarked upon by outside observers, was its high levels of protection against third country imports. For many products a variable import levy bridged the gap between a fluctuating world market price and the EEC's minimum import price.<sup>1</sup> In the Uruguay Round, *tarification* put a stop to this practice, and modest reductions to the EU's tariff bindings were negotiated.

Tarification, however, resulted in a compartmentalization of CAP decision-making. No longer were the Directorate-General for Agriculture and the Council of Agriculture Ministers responsible, in the main, for determining border protection as part of the CAP. Instead this role had been ceded to the Directorate-General for External Relations (subsequently DG Trade) and the foreign affairs ministers. Moreover, whilst tariffication meant that subsequent increases in the CAP's levels of domestic market price support would no longer be reflected in increased border protection, equally reductions would no longer automatically trigger lower tariffs.

Successive reforms of the CAP have resulted in further cuts in domestic support, but there have been no offsetting reductions in the EU's farm tariffs, despite concerted efforts in the Doha Round to secure multilateral agreement on tariff cuts. One of the aims of the Doha Round, launched in 2001, in the negotiations on agriculture was to secure: 'substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support' (WTO, 2001: 3). Initial plans to complete the Round in 2003 were frustrated, but in 2008 an agreement did seem to be within

reach that would have involved developed-economy members of the WTO (such as the EU) reducing their highest tariffs on agricultural goods by up to 70% (WTO, 2008).

This paper discusses both the continuing failure of the Doha Round to deliver on those promised tariff reductions, through to, and including the 11<sup>th</sup> Ministerial Conference in Buenos Aires in December 2017 (*MCII*); and also the EU's reluctance to do so unilaterally. The consequences of this failure to reduce the EU's tariffs on these highly protected CAP products are profound, as: i) only preferential supplies satisfying specific criteria (e.g. rules of origin) can penetrate the EU's protected market, thus reducing the potential gains from trade; ii) negotiation of Free Trade Area (FTA) agreements is made more complicated than might otherwise be the case; and iii) extricating the United Kingdom from the EU ("Brexit") is more problematic.

To explore these issues the article proceeds as follows. First it explains how the EU's old variable import levy mechanism worked, and how tariffication put an end to this practice. Second it argues that tariffication resulted in a compartmentalization of EU decision-making, and shows how subsequent CAP reforms have resulted in significant reductions in domestic support, with no offsetting reductions in border protection, despite the aspirations expressed at the launch of the Doha Round in 2001. The third substantive section explores the political economy constraints that limit the actions of the EU's trade negotiators and (seemingly) preclude unilateral tariff reductions. Finally the text explores the political economy consequences of the EU retaining these excessively high tariffs, before concluding.

## Variable import levies, and then tariffication

The 'old' CAP of the 1960s and 1970s, certainly as epitomised by the support arrangements for cereals, was dependent upon three key policy measures: high levels of border protection to stop cheap imports accessing the EU and undercutting EU market prices; sale of products into intervention at guaranteed prices should domestic prices weaken;

<sup>1</sup> A first draft of this paper was prepared for the 162nd EAAE Seminar 'The evaluation of new CAP instruments: Lessons learned and the road ahead'. Drafting began when the author was a Visiting Fellow in the Centre for European Studies at the Australian National University in Canberra. The financial support of the Centre, and the hospitality of its members, is gratefully acknowledged. The paper has benefitted from helpful discussions with Carsten Daugbjerg, and the comments of two anonymous referees. The author, however, retains sole responsibility for any errors, omissions, or misrepresentations.

<sup>2</sup> The European Economic Community (EEC) of the 1960s and 1970s has evolved into today's European Union (EU). In this paper where it seemed most appropriate for the flow of the text, the acronym EEC is used, but elsewhere EU is used as the default without attempting to correctly specify the evolution from EEC to EU.

and payment of export subsidies (called export refunds by the EU) to encourage traders to sell surplus products to third country markets. As a result EU market prices were often well in excess of world market prices (for examples see Ritson, 1997: 3). The basic, if flawed, rationale for this policy was that, by raising farm-gate prices, and hence farm *revenues*, farm *incomes* would be boosted too. But small farmers, with little to sell, would not have much gain, whereas larger farmers with more sales would do disproportionately well; farm *costs* would tend to rise and absorb much of the increase in farm revenues, in particular the resultant increase in land prices would benefit landowners rather than tenant farmers; and a larger population would be retained on the farm, thus depressing ‘the individual earnings of persons engaged in agriculture’.

The international community’s ire frequently focussed on the disruptive impact of the EU’s export subsidies: indeed by the mid-1980s the USA and the EU were engaged in an export subsidy war in which each used taxpayers’ money to try to expand their export markets. As a USDA report acknowledged, the purpose of the Export Enhancement Program of 1985 was ‘to aggressively recapture lost markets’ (Porter & Bowers, 1989: 19). However, the system of market price support would have been impossible to maintain had border protection not kept cheap imports out of the EU’s protected market. Moreover, the insulating effect of the EU’s variable import levy was insidious, not only blocking access to its protected market from more competitive overseas suppliers, but also tending to create price instability on world markets (see Johnson (1975) for a discussion of the likely impact of national price stabilisation schemes).

Dam’s extensive review of the EEC’s emerging support arrangements for cereals clearly identified how the variable import levy would work:

‘The essential idea is to set in advance the desired internal price . . . . The import levy is then varied as often and as much as necessary to make up the difference between the lowest price on the world market and the target price. . . . The variable levy has some dramatic economic effects for a deficit area. It places the entire burden of adjustment to variations in local supply and demand on third-country suppliers. No matter what quantity is produced (short of a surplus) or demanded locally, domestic suppliers receive the promised prices.’ (Dam, 1967: 217-8).

In the annual farm price review under the ‘old’ CAP the Council of Ministers set support prices for the following year (Harris & Swinbank, 1978). By way of example, the evolution of support prices for sugar for the period 1972/3–1976/7 is shown in Table 1. Annually, on a proposal from the Commission, the Council of Ministers fixed both a common intervention, and a threshold (*i.e. minimum import*), price for white sugar, as reported in the Table, although with booming world commodity prices in 1974 a second round of price fixing took place. Over this period the threshold price for sugar was being set some 16/17 per cent above the common intervention price.

Tarification, a central plank of the Uruguay Round *Agreement on Agriculture* (Daugbjerg & Swinbank, 2009: 55-6), changed all that. The old systems of border protection – not only the EU’s variable import levy, but other coun-

**Table 1: Intervention and Threshold Prices for Sugar, 1972/3 to 1976/7 (Units of account per tonne\*)**

	1973/4	1974/5	1974/5**	1975/6
Common Intervention Price	235.7	252.2	264.8	304.5
Threshold Price	276.0	294.7	308.0	355.2
Council Regulation No.:	1637/73	1600/74	2496/74 & 2518/74***	660/74

\* This unit of account is not directly comparable with later units. See Ritson & Swinbank (1997)

\*\* A second increase within the year, from 7 October 1974

\*\*\* A Commission, rather than Council, Regulation

Source: Regulations published in the *Official Journal of the European Communities*

tries’ protective mechanisms as well – created uncertainty for traders, and they could not readily be subjected to bilateral concessions on tariff reductions in trade negotiations. Consequently the Uruguay Round negotiators decided that all existing systems of border protection would be converted into conventional tariffs (fixed in either *specific* or *ad valorem* terms) by computing the difference between a representative internal price with an appropriate external price over the ‘base period’ 1986–8. These tariffs would be *bound*: that is they became part of the country’s WTO Schedule of Commitments and could not be increased without the consent of other WTO Members in accordance with GATT Article XXVIII procedures. Moreover, as part of the Uruguay Round agreements, developed countries agreed to reduce these bound tariffs by 36% on average, over a six-year implementation period, and by no less than 15% for any particular tariff line. The EU also agreed additional constraints on the tariffs it would charge on cereals (and, at the time, husked rice) to ensure that the duty-paid import price for cereals would not exceed 155% of the effective domestic support price (Swinbank, 2017: 4). WTO Members can charge lower tariffs than these bound rates (*i.e. applied tariffs*), but whatever tariff is charged has to be applied on a most-favoured-nation (MFN) basis.<sup>3</sup>

Countries undertook their own calculations, which were barely scrutinised by other WTO negotiators in the run-up to the meeting in Marrakesh in April 1994 that finalised the round. Thus, for white (refined) sugar, the EU declared a tariff equivalent of 524 ecu per tonne, and committed to reduce this by 20 per cent to reach a new bound rate of 419 ecu per tonne in 2000 (Swinbank, 2004).<sup>4</sup> The maths that underpinned this determination is interesting: the internal support price for white sugar over the base period (1986–8) was said to be 719 ecu per tonne, from which was subtracted an external price of 195 ecu per tonne.

In closing this section it is important to make two points. First, that tarification, and the limited tariff reductions agreed in the Uruguay Round, resulted in very high tariffs

<sup>3</sup> GATT Article I provides for most-favoured nation (MFN) treatment in that no WTO Member is to receive treatment less advantageous than that offered to the most favoured nation, except in three circumstances: i) in a Free Trade Area (FTA) or Customs Union sanctioned by GATT Article XXIV; ii) when preferential access is offered to developing countries, as in a General System of Preferences (GSP); or iii) when country-specific tariff rate quotas (TRQs) were grandfathered into Members’ Schedules of Commitments at the conclusion of the Uruguay Round.

<sup>4</sup> This ecu (European Currency Unit) translates directly into today’s euro (€).

on a number of CAP products: €419 per tonne in the case of white sugar cited above. Second, the EU's border protection on agricultural products was now fixed. The displaced variable import levy had automatically increased as support prices went up, and similarly might be expected to have decreased had support prices been cut. But that link was now broken. Indeed, as outlined below, despite significant reductions in the EU's support price for white sugar, the MFN tariff remains at a prohibitively high €419 per tonne, rather like the stranded carcass of a beached whale.

In 2014 about 70% by value of the EU's agri-food imports were traded under the WTO's MFN regime, with the remainder under concessional schemes for developing countries and FTA agreements. Of that 70%, some 43 percentage points came in over a zero MFN tariff (European Commission, 2015). This is not particularly surprising: it included tropical beverages (such as tea, coffee and cocoa), soybeans, and some cereals subject to a tariff suspension. The tensions discussed in this article focus on the 20% of agri-food imports in 2014 that paid the full MFN tariff, and those that failed to penetrate the EU's market because MFN tariffs for beef, dairy products, sugar, etc., were prohibitively high.

## CAP reform and the failure of Doha

The 1992 MacSharry Reform was in part prompted by impasse in the Uruguay Round, but it then gave the EU enough policy leeway to accept the constraints of the *Agreement on Agriculture* in 1994: a document that had been crafted with the EU's "reformed" CAP in mind (Daugbjerg & Swinbank, 2009). The 1992 deal reduced support prices for cereals and beef, and introduced partially decoupled – taxpayer-funded – payments to compensate farmers for their implied revenue loss, *but it did not* alter the basic market-price support arrangements, and the variable import levy mechanism. Thus Regulation 1762/92, setting out the new support arrangements for cereals, progressively lowered the threshold price. In the currency unit of the time, it was set 45 ecu per tonne higher than the target price for each of the 1993/94, 1994/95, 1995/96, and subsequent marketing years (Council of the European Communities, 1992: Article 3).

Tarification was implemented later, after the Marrakech Agreement was signed in April 1994. As the European Commission explained in proposing the changes:

The fundamental change introduced by the new import arrangements is the replacement of variable charges (levies, compensatory amounts, etc.) and other types of non-tariff import restrictions ... by stable, degressive tariffs. The introduction of such tariffs will be effected, in legal terms, by means of a suitable amendment to the Common Customs Tariff ... . The replacement of variable charges by the CCT duties implies the repeal of all the rules which refer to their calculation, i.e. in particular all provisions on the fixing of threshold prices, reference prices, etc. and the rules laid down for the calculation of variable charges applying to derived products' (Commission of the European Communities, 1994: 35).

Accordingly, in December 1994, agriculture ministers repealed the core CAP provisions fixing threshold prices and

determining variable import levies (Council of the European Union, 1994).<sup>5</sup> Tarification was adopted with far less media publicity, and farm lobby opposition, than had been evident in the long debate over the MacSharry package.

Tarification severed the formal link that had previously existed between the import tax charged and levels of domestic market price support. This became evident in the *Agenda 2000* CAP reform, when some domestic support prices were reduced, but without any offsetting reductions in tariffs. As Swinbank (1999: 398) observed: 'It is conceivable that in the years to come, CAP reform will entirely remove domestic support and export subsidies, and yet high import tariffs could be retained.' Indeed, successive "reforms" of the CAP have further reduced domestic support, but there has never been a compensating reduction in tariffs (or even a proposal to reduce MFN tariffs). The cumulative impact this has had can readily be illustrated for butter and sugar, as presented in Table 2.

**Table 2: Butter and White Sugar: €/tonne**

	Intervention Price for 1992/3*	Support Price in 2017	MFN Tariff from 2000	Within-quota TRQ Tariff**
Butter	3,535.3	2,463.9	1,896	700
White Sugar	640.1	404.4	419.0	98.0

\* As reported in (European Commission, 1994: T61 & T67), and then converted by the author into today's euro (€) by applying the coefficient 1.207509 to the support prices reported at the time

\*\* For butter, the TRQ extended to New Zealand; for sugar, the so-called CXL TRQ

Source: Ritson & Swinbank, 1997; WTO (2016), Certification of Modifications and Rectifications to Schedule CLXXIII – European Union, WT/Let/1220 (Geneva: WTO); Regulation 1308/2013.

Thus after the farm price review determining support prices for the 1992/3 marketing year, intervention prices for these products were €3,535.3 per tonne for butter and €640.1 for sugar, as reported in Table 2. Tarification, and the limited tariff reductions agreed in the Uruguay Round, resulted in the bound tariffs of €1,896 and €419 per tonne (for butter and white sugar respectively) that have applied from 2000 until the present. These were formidably – indeed prohibitively – high tariffs for MFN suppliers to pay. In the case of sugar, some developing countries had (and still have) access to the EU market with a zero duty, and other suppliers have since secured limited Tariff Rate Quota (TRQ) access paying a within-quota tariff of €98 per tonne (so-called CXL sugar). New Zealand has access to a country-specific TRQ to access the EU's butter market, at a within-quota tariff of €700 per tonne, but no longer fully avails itself of this opportunity.

The sugar regime was excluded from Ray MacSharry's CAP reform, and only modest reductions in support prices for dairy products were achieved. A reform of the dairy regime was agreed in principle in 1999 (as part of *Agenda 2000*), but not implemented until the Fischler Reform of 2003. This reduced the 2003 support price of €3,282.0 per tonne by 25 per cent to €2,463.9 in 2007, where it has remained ever since. As there was no corresponding reduction in either the MFN tariff, or New Zealand's preferential rate, the net effect was to increase by €818 the element of redundant "protection" in the tariff, and eliminate New Zealand's tariff advantage. As

<sup>5</sup> Some border measures do, however, remain part of the CAP. This Regulation also dealt with the need to constrain the deployment of export refunds to comply with WTO limits.

the tide retreated the stranded whale carcass was left far from the sea!

For sugar, the reforms did not kick in until 2005/6, following a WTO Dispute Settlement case in which the EU had been found to be exceeding WTO limits on its exports of subsidised sugar (Ackrill & Kay, 2011). This “reform” brought the EU’s support price for white sugar down by 36 per cent, from €631.9 to €404.4 per tonne. Consequently the MFN tariff on sugar is now *greater* than the official support price.

The EU has from time to time suspended its import duties on farm products: for example for cereals in 2007 as a ‘reaction to the exceptionally tight situation on the cereals markets and the record price levels’ (European Commission, 2007), or the supply difficulties faced for industrial (non-food) uses of sugar (Noble, 2012: 21). The EU’s *Everything but Arms* initiative, and a number of FTAs, have opened-up the EU’s market to selected suppliers; and some limited adjustments have been made to tariffs and Tariff Rate Quotas in its Schedule of Commitments lodged with the WTO as a result of EU enlargement and other renegotiations of particular tariff lines. But, in the main, its *bound* tariffs are unchanged from those determined in the Uruguay Round, and the *applied* tariffs it charges on a MFN basis remain aligned with its bound rates.

### **... and the failure of Doha**

Meanwhile the Doha Round had trundled on. The first skirmishes had occurred as WTO Members prepared for their 3rd Ministerial meeting in Seattle in late 1999. That September the EU’s Council of farm ministers had discussed the forthcoming negotiations. Whilst affirming their commitment to the *European Model of Agriculture*, they conceded that: ‘The European Union ... is prepared to negotiate for lowering trade barriers in agriculture .... However, it must also obtain, as a counterpart, improvements in market opportunities for its exporters’ (Council of the European Union, 1999).

The Seattle Ministerial, however, did not result in the expected launch of a Millennium Round; and it was not until 2001 that the *Doha Development Agenda* (DDA) – the Doha Round – got underway (WTO, 2001). The EU’s basic approach was still defensive. In January 2003 the EU rejected the more ambitious proposals for tariff reductions advocated by the USA and the Cairns Group,<sup>6</sup> and proposed instead a repeat of the Uruguay Round formula: ‘an overall average tariff reduction of 36% and a minimum reduction per tariff line of 15%’ (European Commission, 2003). This was rather less generous than that negotiated in the previous round however, for a 36 per cent reduction of a lower base would have produced a smaller reduction in absolute terms.

In fairness to the EU it should be noted that the timing was not propitious. The Doha timetable had envisaged that the “modalities” for agriculture (i.e. a fairly detailed blueprint for the final agreement) should be established by 31 March 2003 (WTO, 2001: 3), and the chair of the agricultural negotiating committee was eager to receive input from WTO

<sup>6</sup> A group of like-minded states led by Australia that took its name from the coastal resort in Queensland, Australia (Kenyon & Lee, 2006).

Members so that the first draft modalities document could be written. Although the EU’s Commissioner for Agriculture and Rural Affairs, Franz Fischler, had launched an ambitious *Mid-term Review of the Agenda 2000* reform package – which in the summer of 2003 would be enacted as the first phase of the Fischler Reforms (Cunha & Swinbank, 2011) – this was not yet the EU’s confirmed, let alone official, policy. Consequently the EU was not yet in a position to make a more ambitious offer to its WTO partners.

The Fischler Reform, further decoupling support for key arable and livestock products, and the extension of this decoupling principle to most other products in 2004/5, including the sugar reform overseen by Marian Fischer-Boel, and her “Health Check” Reform concluded in November 2008, fundamentally changed the EU’s circumstances and hence its freedom of manoeuvre in the Doha negotiations (Daugbjerg & Swinbank, 2011). Brief mention should perhaps be made of the most recent recalibration of the CAP, to configure the policy for the post-2013 period, but by then WTO pressures were no longer a force capable of driving CAP reform (Swinbank, 2015).<sup>7</sup>

In none of these reforms had it ever been suggested that farm ministers should also enact reductions in border protection as part of the package. And that is true of the European Commission’s latest thoughts on a post-2020 CAP. In its discussion paper on *The Future of Food and Farming* the European Commission (2017: 25) makes only one (passing) reference to the WTO, followed by one mention of imports when commenting: ‘it cannot be ignored that *specific agricultural sectors cannot withstand full trade liberalisation and unfettered competition with imports*. We therefore need to continue to duly recognise and reflect the sensitivity of the products in question in trade negotiations and explore ways how to *address the geographical imbalances* of advantages and disadvantages that affect the farm sector within the Union as a result of EU trade agreements’ (emphasis in the original).

By 2008, with soaring prices on world commodity markets (Piesse & Thirltle, 2009) the EU was able to complete its switch from a defensive to an offensive stance in the WTO. This new confidence could already be seen in 2003. Then the Council had declared: ‘This reform is ... a message to our trading partners .... It signifies a major departure from trade-distorting agricultural support, a progressive further reduction of export subsidies, a reasonable balance between domestic production and preferential market access, and a new balance between internal production and market opening.’ But it also stressed that the bargaining process was still in play: ‘the margin of manoeuvre provided by this reform in the DDA can only be used on condition of equivalent agricultural concessions from our WTO partners. ... Europe has done its part. It is now up to others to do theirs’ (Council of the European Union, 2003: 3-4).

Despite this optimism, and an ill-fated venture with the USA to influence the outcome of the negotiations, the Cancún Ministerial in September 2003 ended in failure; with the EU’s stance on agriculture probably a contributory factor

<sup>7</sup> Swinnen (2015: 4) writes: ‘The question with the 2013 CAP decisions is not so much whether they are radical reforms (the consensus on this is “no”), but whether they are captured appropriately by the term ‘reforms’ at all’.

(see for example Bhagwati, 2004). In debriefing the European Parliament, the EU's Trade Commissioner concluded that the Round was: 'if not dead then certainly in intensive care' (Lamy, 2003). Bhagwati (2004: 55), however, considered the outcome 'more of a hiccup than a permanent end to the Doha process.'

The subsequent trajectory of the negotiations was dramatic and convoluted, but by June 2008 a fairly detailed *Revised Draft Modalities for Agriculture* was on the table (see WTO, 2008, 'Rev.4', for the final December 2008 draft of this text). In conceding that the negotiators had failed to achieve the hoped-for breakthrough, Pascal Lamy (2008) – by now the WTO's Director-General – did claim that 'from a technical point of view, the issues are not intractable. In fact [*he continued*] from a purely technical perspective, you are not that far from an agreement on those issues. The bad news is that individual positions – and the position overall – have not changed significantly.'

Successive CAP reforms had meant – according to the EU – that most of its domestic support payments were no longer trade distorting, and accordingly it believed it would face no further constraints if the tighter limits on trade distorting support envisaged in Rev.4 were implemented.<sup>8</sup> A series of reductions in intervention and other domestic market price support mechanisms, combined with the effects of inflation and the buoyant world market prices being experienced in 2008, meant the EU could now envisage a ban on the use of export subsidies: indeed it had committed to that outcome in Hong Kong in 2005.

With EU farmers no longer reliant on market price support, and the EU able to countenance the demise of the export subsidy regime, the final element of CAP reform – removal of its excessively high border protection inherited from the 'old' CAP of the 1980s – was surely feasible. Rev.4 had proposed a 'tiered formula' for tariff reductions, with developed countries' highest tariffs being reduced by up to 70 per cent over a five-year period (WTO, 2008: 14).

After 2008 WTO negotiators switched their emphasis from the *Single Undertaking* – the understanding that nothing could be agreed until everything was agreed – which had successfully underpinned the Uruguay Round, to a more piecemeal approach. In Hong Kong in 2005 ministers had already agreed – in the context of the Single Undertaking – to the 'elimination of all forms of export subsidies' (WTO, 2005: 2); but then in Nairobi in 2015, no longer bound by the Single Undertaking, it was decided that 'Developed Members' would 'immediately eliminate their remaining scheduled export subsidy entitlements' (WTO, 2015: 2) – although, on closer reading, 'immediate' meant by 2020 for some products.

Although some WTO Members had hoped that some progress could be made on the agriculture dossier at their 11<sup>th</sup> Ministerial Conference (*MCII*) in December 2017, including a tightening of disciplines on domestic support, this proved impossible (Bridges, 2017). There was certainly no movement on agricultural tariffs, in part because of con-

tinued disagreement over a Special Safeguard Mechanism (SSM) to benefit developing countries. Indeed, some months earlier the Special Agriculture Committee chair had reported 'that a substantial outcome on market access is not feasible for MCII' (WTO, 2017a).

## Institutional and political economy constraints

Two broad sets of questions emerge from the foregoing discussion. First if, as suggested above, WTO Members were close to an agreement on agriculture in 2008, why was it not possible to conclude the deal; and secondly why, with adherence to the Single Undertaking undermined by subsequent Ministerial decisions, is an agreement to reduce agricultural tariffs still elusive? Had WTO Ministers agreed such a package, the EU – committed as it says it is to a rules-based system of international trade – would presumably have complied.<sup>9</sup>

Second, if the Doha Round process has faltered, and the EU is in a position to unilaterally reduce its excessively high MFN tariffs on key CAP products (for example beef and sugar), why does it not do so? As discussed in the next section, these high tariffs are now an impediment to the pursuit of its wider trade agenda, so why does the EU persist?

Quite why the Doha Round has (as yet) failed to deliver on its initial promise of major cuts in agricultural tariffs, and a significant tightening of the disciplines written into the Uruguay Round *Agreement on Agriculture* apart from the 2015 decision to eliminate export subsidies, is a topic that will exercise scholars for years to come, and will not be discussed here. All that can be offered is two brief, tentative, observations.

First that in an organisation (of 160+ members) built on consensus, whose *modus operandi* is based on a balanced exchange of "concessions" across a complex array of issues, agreement is intrinsically problematic, unless some outside pressure can force change. The USA and the EU, it might be argued, managed this in the Uruguay Round by terminating their membership of GATT 1947, together with all their obligations to GATT's other Contracting Parties. In its place they set up a new international trade agreement – the WTO – and invited the other members of the old GATT to join, provided they accepted the whole package of WTO agreements as a Single Undertaking, which they all did (Daugbjerg & Swinbank, 2009: 90-3; Steinberg, 2002).

The USA and the EU no longer have hegemonic powers to coerce WTO members, and it is difficult to envisage a repeat of the American and European Uruguay Round ploy. The USA is still however a major force in the WTO, and as such does exercise veto powers. Thus a second factor explaining the *current* impasse is the stance of President Donald Trump's administration. In a frank discussion at the Center for Strategic and International Studies (2017) in September 2017, prior to the WTO Ministerial, the United States Trade Representative Robert Lighthizer made clear

<sup>8</sup> In WTO jargon, support that had previously been classified as Amber or Blue Box support had now been switched into the Green Box. See Daugbjerg & Swinbank (2009: 59-62) for an explanation of Amber, Blue and Green Boxes. Whether the revised payment systems could legitimately be defended as Green Box support is a moot point.

<sup>9</sup> The EU has for example implemented the decision to eliminate export subsidies (WTO, 2017b).

the USA's lack of enthusiasm for multilateral, as opposed to bilateral, trade agreements, its distrust of the WTO's Dispute Settlement procedures, and predicted that 'it's unlikely that the ministerial in Buenos Aires is going to lead to negotiated outcomes'. Without American backing the ministerial was unlikely to make substantive process. Indeed, 'Ministers were unable to reach consensus on a ministerial declaration, despite multiple drafts being circulated . . . Instead, ministerial conference chair Susana Malcorra issued a summary of the week's discussions under her own responsibility' (Bridges, 2017).

The second question posed above was why, if the EU is in a position to unilaterally reduce its excessively high MFN tariffs on many CAP products, it does not do so? There are probably several parts to the answer: the compartmentalization of decision-making coupled with the mercantilist traditions of trade negotiators; political economy constraints with weak consumer voices no match for a well-resourced farm lobby (dispersed costs *versus* concentrated benefits); and the belief that preference erosion would weaken the existing benefits enjoyed by the EU's preferential suppliers and reduce the EU's bargaining position in future FTA negotiations.

The compartmentalization of decision-making following tariffication, shifting the forum from agriculture to trade, has been outlined above. The Directorate-General for Agriculture and Rural Development no longer has the responsibility, or authority, to fix (most) import taxes, as it did prior to 1995. The common commercial policy is one of the EU's exclusive competences, vested in the European Commission, with DG Trade 'the EU's prime negotiator and guardian of an effectively implemented EU trade policy' (DG Trade, 2017). (The Commissioner for Agriculture and Rural Development also plays an active role in trade negotiations.) Trade negotiators are loath to unilaterally allow increased market access to domestic markets if that improved access is unlikely to be reciprocated in some form – "concessions" in the trading partner's tariff schedule, for example. Moreover, even if negotiators in the stalled Doha Round negotiations saw little scope for a mutual exchange of "concessions", those tariff barriers could still be useful bargaining chips in future multilateral and bilateral trade talks.

## **Consequences: preferences, free trade areas, and Brexit**

Standard economic trade theory predicts that high tariffs restricting access to the EU's market will impose costs (higher prices, and a reduced range of available products) on European consumers and the wider economy. Access, in the main, will be limited to suppliers that have preferential agreements, be they generic schemes available to developing countries, FTAs, or country-specific TRQs grandfathered into the EU's Schedule of Commitments in the Uruguay Round. Even if, by chance, preferential access has been granted to the world's lowest cost suppliers (and often not!), the gains from trade will be abated by the additional customs procedures needed to check rules of origin, and TRQs may limit the volume supplied.

The EU's protective tariffs on agricultural products are not *fully* reflected in EU market prices, particularly for those products for which the EU has emerged as a net-exporter, but some protective effect (which the farm lobby welcomes) remains. Third countries that have preferential access to these protected markets (for beef, sugar, etc.) are likely to bring diplomatic pressure to bear on the EU if they suspect that new trade initiatives will lead to preference erosion, whereas trade partners that do not have comparable access will seek to achieve the same through multilateral (i.e. Doha, or its successor) or bilateral (i.e. FTA) negotiations, or even by challenging the EU's regime in Dispute Settlement proceedings.

When the EU concludes FTAs, particularly with countries that have competitive farm sectors, agricultural commodities and food and drink products are often not fully liberalised. Instead, particular products might be written out of the agreement, or quantities limited by TRQs. Thus the EU-Canada *Comprehensive Economic and Trade Agreement* (CETA) excludes trade in eggs and poultry products, and the duty free import of pork and beef into the EU is limited by TRQs.<sup>10</sup> Access for beef is one of the major requests of Mercosur, which is met by strong resistance by the EU's beef producers (see for example White, 2018). Thus, as with multilateral negotiations, agricultural protectionism can block (or prolong) FTA negotiations.

One egregious example of the distortive effect of the CAP's unreformed agricultural tariffs currently playing out relates to the United Kingdom's attempts to leave the EU, and the issues this raises for trade across the Irish border (Swinbank, 2017 & 2018). In short, what the UK has been arguing for some time is that it is seeking to leave the EU's customs union and single market (and the CAP), giving it the freedom to negotiate FTAs with other countries around the world, whilst maintaining an open – frictionless – border between the Republic of Ireland and Northern Ireland (which is part of the UK) *and* maintaining the integrity of the UK's own internal market. How this particular conundrum will be solved is as yet unclear, but the challenge posed by the CAP's high tariffs is a key concern with which policy makers must grapple.

## **Concluding comments**

In 1992 the EU agreed a package of CAP reform that began a progressive dismantling and decoupling of farm support. In 1995, following a successful conclusion of the Uruguay Round of trade negotiations, agricultural tariffs were first bound, and then reduced. Those bound tariffs are the ones that are still applied on a MFN basis: since that initial bundle of tariff cuts there has been no systematic reduction in the EU's agricultural tariffs despite a succession of CAP reforms. On some key products (beef, sugar, etc.) these MFN tariffs are prohibitively high, and exports to the EU are only commercially feasible if preferential access arrangements are in place.

Past CAP reforms have been incomplete, and high tariffs on selected products continue to protect some farming

<sup>10</sup> CETA explained: <http://ec.europa.eu/trade/policy/in-focus/ceta/ceta-explained/> (last accessed 26 February 2018).

activities distorting resource use in the agricultural sector. They impose costs on Europe's consumers and frustrate potential overseas suppliers. Moreover, they complicate the EU's wider trade diplomacy, including the ongoing Brexit negotiations. With the EU's institutions deliberating on the form that the post-2020 CAP should take, perhaps now is the time to complete CAP reform.

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