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Fruit and Vegetables, and the Role They Have Played in Determining the EU's Aggregate Measurement of Support

Alan Swinbank

Emeritus Professor of Agricultural Economics, School of Agriculture, Policy and Development, University of Reading

In its periodic declarations of domestic support to the WTO, the EU has progressively reduced its amber-box declarations in line with its changing system of farm support. Surprisingly, however, in 2007/08 it managed to more than halve its amber box compared with that of the previous year, easily achieving the reduction targets being touted in the Doha Round. This was largely due to a change in the calculations for fresh fruits and vegetables. These had been linked to the entry price system, which was not affected by the 2008 fruit and vegetables reform. Why the EU chose to make this change during the ongoing Doha Round negotiations remains unclear.

Keywords: amber box, CAP, fruit, vegetables, WTO

In January 2011 the European Union notified the World Trade Organization of the support given to its agriculture in 2007/08 (WTO, 2011a). The WTO's domestic support commitments, established in the context of the Uruguay Round Agreement on Agriculture (URAA), are frequently referred to as the *amber*, *blue* and *green boxes*; and as a result of policy changes pursued by the EU since the early 1990s, the common agricultural policy's (CAP) colour scheme has changed markedly. This trend, unexpectedly, was reflected in the EU's 2007/08 declaration; but somewhat surprisingly the EU managed to halve the contents of its amber box between 2006/07 and 2007/08, from €26.6 to €12.4 billion. This was partly the consequence of a paring of its estimates for butter and sugar, and of the *de minimis* rule for maize and wine. But in particular, as measured by the *Aggregate Measurement of Support* (AMS), amber-box support to *fresh* fruits and vegetables virtually disappeared. Consequently, the EU's *Current Total AMS* for 2007/08, at 17 percent of its AMS ceiling (its *Bound Total AMS*), signalled that no further policy changes would be necessary for the EU to accept a 70 percent reduction in its AMS ceiling in the context of the ongoing Doha Round of international trade negotiations.

This article's objectives are to set out the circumstances of that outcome and explore the EU's motives. Accordingly, it proceeds as follows. First it recalls the changing colour of the EU's domestic support declarations from 1995 to 2008, before examining the 2007/08 declaration. Then it outlines the EU's AMS calculations for fresh fruits and vegetables prior to 2007/08, before showing how this linked in with its *entry price* system, and discussing the somewhat arbitrary nature of the AMS calculation. Changes in the EU's support regime for fresh fruits and vegetables in the 1996 and 2008 reforms are then outlined, but it is the 2008 reform that would appear to be the EU's justification for its changed practice. Finally, in a concluding section, the article asks why the EU chose to make this change at this stage in the Doha Round.

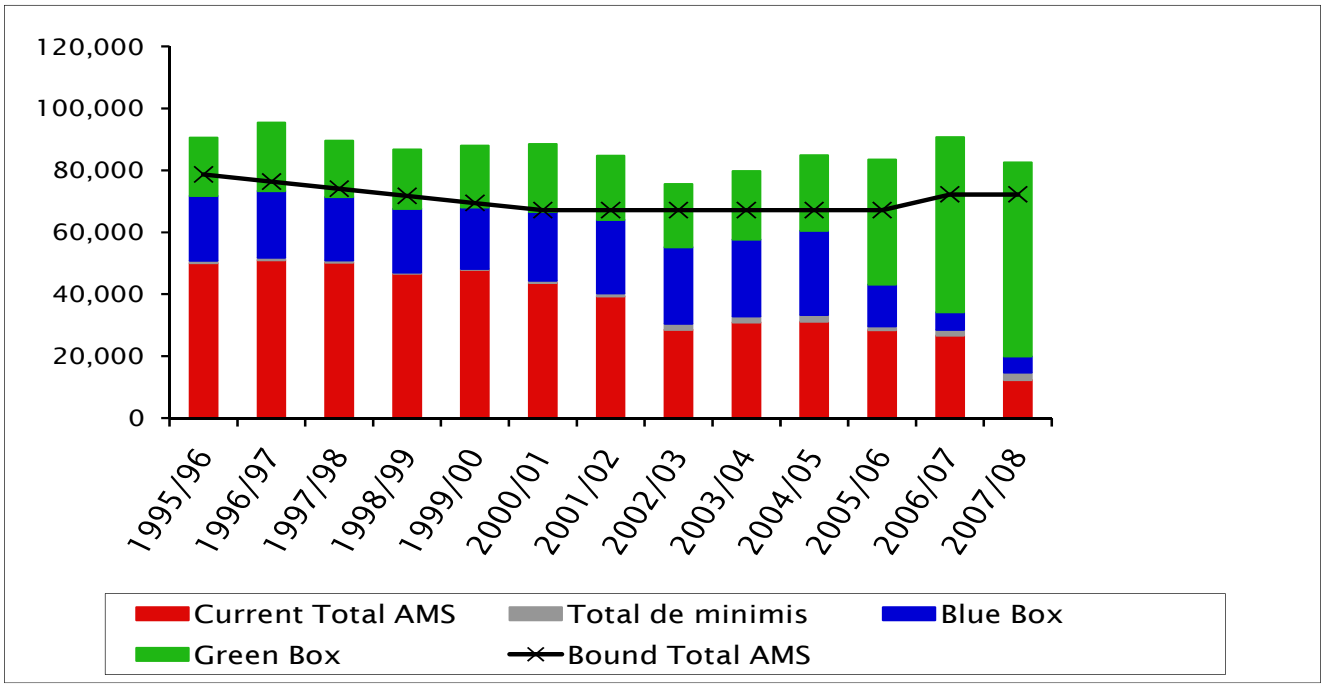
The EU's Domestic Support Notifications, 1995/96–2007/08

Figure 1 summarises the EU's declarations on domestic support commitments from 1995/96 to 2007/08. The MacSharry reforms, decided in May 1992, partially replaced market price support with area and headage payments that were then declared as blue-box support. The Agenda 2000 reforms, agreed in March 1999, resulted in a further tranche of amber-box support turning blue.

The second major change resulted from the Fischler reforms of 2003 (largely enacted from 2005), which were then extended to more product sectors in subsequent years. Direct payments – in particular the area and headage payments of the

MacSharry reforms – were switched into a new Single Payment Scheme (SPS), pushing blue-box expenditures into the green box. Other policy initiatives – the sugar reform in November 2005 for example – began switching amber-box support into the green box; but a number of changes, for example those stemming from the Health Check agreed in November 2008, have yet to be fully reflected in the declarations (Cunha with Swinbank, 2011, chapter 9).

In its 2007/08 declaration the EU declared €31.3 billion of "decoupled income support" – in essence, the SPS – in the green box (WTO, 2011a, 4). Clearly figure 1 would look rather different if this €31.3 billion had been reported as blue- or amber-box support, jeopardising the EU's ability to abide by any tighter constraints imposed by a Doha agreement. On the basis of the December 2008 draft modalities, Josling and Swinbank (2011, 90) report a likely post-Doha Bound Total AMS of €21.7 billion for the EU, a blue-box limit of €6.5 billion, and a new overall constraint – on its OTDS: Overall Trade Distorting Support – of €23.8 billion. Thus the green-box status of the SPS is a crucial plank in the EU's Doha strategy. Whether the SPS is a genuine green-box policy is a question beyond the scope of the present article (but see Swinbank and Tranter, 2005).



Source: EU's declarations in the WTO's document series G/AG/N/EEC/

Figure 1 The EU's domestic support declarations to the WTO (ecu/€ million).

The 2007/08 AMS Declaration

The differences between the EU's 2006/07 AMS declaration, at €26.6 billion, and that of 2007/08 at €12.4 billion, are readily apparent from table 1. Cereals, sugar, butter and wine account for part of the decrease, but the largest reduction is that for fresh fruits and vegetables, clearly requiring further explanation.

For cereals the reduction is basically due to the AMS for maize in 2007/08, which had been calculated at €450 million, falling out of the total due to the *de minimis* rule. This is an either-or rule. If support accounts for less than 5 percent of the value of production, then the AMS is reported as zero. If, however, it amounts to 5 percent or more, then the full value becomes part of the Current Total AMS. Largely as a result of a sharp increase in the value of production, the maize AMS fell to 4.8 percent of the value of production in 2007/08. For wine, however, the *de minimis* rule was largely triggered by a fall in its AMS to €608 million, some 3.8 percent of the value of production. In 2006/07 it stood at 5.8 percent of the value of production. Conclusion of the Doha Round was expected to see the trigger reduced to 2.5 percent of the value of production. One product for which there was no possibility of the *de minimis* rule being triggered was tobacco, with its AMS amounting to 86 percent of the value of production.

Table 1 Summary Comparison of the EU's 2006/07 and 2007/08 Current Total AMS Notifications (€ million)

	2006/07	2007/08
All cereals	4,535.2	3,980.6
Sugar	6,766.5	3,550.3
Skimmed milk powder	908.2	976.2
Butter	3,581.3	2,742.1
Tobacco	415.9	385.9
Wine	875.2	0.0
Apples	2,651.9	0.0
Tomatoes	2,149.2	0.0
All other fresh fruit & vegetables	3,923.0	1.7
All processed fruit & vegetables	610.8	508.0
All other products	215.1	209.4
	26,632.3	12,354.2

Source: WTO, 2010 & 2011a

Reductions in the AMSs for butter and sugar reflect, in part, policy reform, and the consequential decrease in the "applied administered price" that the EU uses to determine market price support. The Fischler reform resulted in a 25 percent cut in the intervention price (now renamed the reference price) for butter, in four steps, the last effective in 2007. Although intervention prices were fixed, buying-in to intervention was actually by a tender mechanism, with the European Commission fixing the buying-in price at not less than 90 percent of the intervention price. Then in September 2007 the system was simplified, and intervention agencies were authorised to buy butter at 90 percent of the intervention price (European Commission, 2007b). Up until 2006/07 the EU used the unabated intervention price as the applied administered price, but in 2007/08 changed its practice and used 90 percent of the intervention/reference price (reflecting, presumably, the minor policy change enacted). Thus the 2007/08 "applied administered price" has had two reductions applied compared to that for 2006/07: the final cut from the Fischler reform, and a belated recognition that buying-in takes place at 90 percent of the intervention price.

This shaving of the applied administered price also extended to sugar. Its "applied administered price" fell from €631.9 per tonne in 2006/07, equal to the then intervention/reference price, to €433.2 in 2007/08, largely accounting for the sharp fall in the sugar AMS. But what explains the figure of 433.2? The sugar reform of 2005 ushered in a number of changes, including a significant reduction in support prices through to 2009 and a phasing out of intervention buying. On a temporary basis intervention was available at 80 percent of the following marketing year's reference price.[1] Thus the €433.2 is 80 percent of the 2008/09 reference price of €541.5 per tonne. Consequently an "applied administered price" of €323.5 is to be expected in the 2008/09 AMS calculation. With unchanged production this will further reduce the sugar AMS, pushing it down to €1.9 billion.

The AMSs for Fresh Fruits and Vegetables

For both the base period and each subsequent annual notification through to 2006/07, the EU calculated an "Equivalent Measurement of Support" for 16 fresh fruits and vegetables that had been subject to the EU's *reference price* system (a forerunner of the current entry price system, introduced below). The details are set out in the technical annex to this article. The total reported for the base period was 8.7 billion ecu, compared to a Total AMS, over all products, of 73.5 billion ecu (i.e., 11.9 percent of the total). In 2006/07, the last year in which the EU calculated its AMSs for fresh fruits and vegetables in this way, the €8.6 billion reported represented 32.3 percent of the EU27's declared Current Total AMS for the year. In the intervening

years, as in the base period and 2006/07, apples and tomatoes dominated. The basic formula for each of the 16 products was:

AMS =
volume of production eligible for support
multiplied by
(Applied Administered Price – External Price)

There were three variables in the calculation:

- first, the volume of production eligible for price support. This varied from year to year, but EU enlargement in 2004 and 2007 did not dramatically change these numbers.
- second, the applied administered price. This was the same as the entry price, and reduced over time, but not by as much as 20 percent, the rate at which many of the EU's tariffs for fresh fruits and vegetables were reduced in accordance with the URAA. Later we explain why this has been the case.
- and third, the products subject to an applied administered price (i.e., the entry price system). Cabbage lettuce, endives (chicory) and aubergines were subject to reference prices through to the 1994/95 marketing year but were excluded from the entry price system, and curiously they did not form part of the EU's Total AMS calculations for the base period (Swinbank and Ritson, 1995, 349).

The fourth element, the external price, remained unchanged throughout, as in all AMS calculations.

Reference Prices, Entry Prices and Maximum Tariff Equivalents

The EU's import protection for fresh fruits and vegetables consists of an *ad valorem* tariff (which often varies on a seasonal basis) *plus* – for the 16 fresh fruits and vegetables discussed in this article – a minimum import price regime.

Reference prices were the original minimum import prices. If imported products were found on sale on the EU's internal market at prices below a specified wholesale price (in effect determined by the reference price), then subsequent shipments of that product from that country of origin were penalised by levying what was referred to as a *countervailing charge*.[2] This applied until: i) market prices rose so that the reference price was respected; ii) shipments ceased; or iii) the period of applicability of reference prices came to an end (Swinbank and Ritson, 1995). Reference prices might apply all year round (as with apples and lemons), or only for part of the year, and could vary seasonally.

Under the URAA, WTO members were obliged to tariffy their non-tariff barriers and then reduce all tariffs by 36 percent on average. The EU chose to replace one minimum import price regime (reference prices) by another (entry prices), at broadly the same minimum import price level (Swinbank and Ritson, 1995, give more details), but to be applied at the time of import, and not retrospectively. In effect the countervailing charge, from the old reference price regime, was converted into a *maximum tariff equivalent* (expressed in ecu, later euro, per tonne): the maximum additional tariff that the EU could apply under the post-1995 regime if shipments were offered at less than the entry price.

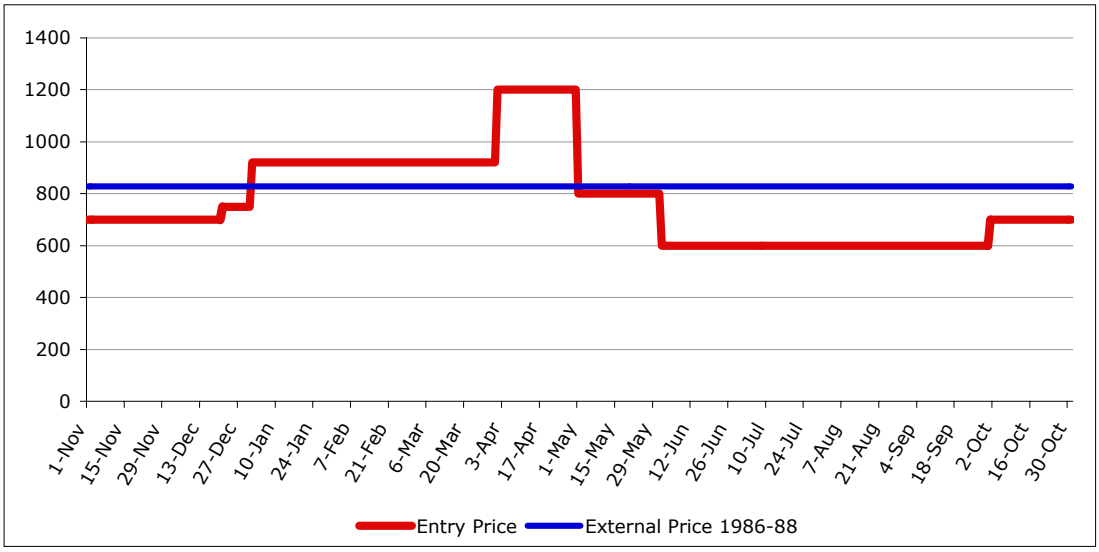
By way of example, prior to the Uruguay Round the EU's MFN tariff on sweet oranges ranged from 4.0 percent during the EU's off-season to 20 percent in its main production season. The EU committed to a 20 percent reduction in its tariff over the URAA's six-year implementation period (European Communities, 1994a). In addition, from 1 December to 31 May, an entry price (at a flat rate of 372 ecu/tonne) was to apply. This entry price of 372 ecu/tonne also served as the applied administered price for sweet oranges for the base period AMS calculation (as detailed in the technical annex to this article). Note then that the applied administered prices used for the base period AMS calculations were *not* the minimum import prices of the historic base period 1986-88, but rather the newly established entry prices for the post-1995 trade regime.

If the entry price was not respected, then an additional duty (the maximum tariff equivalent) of up to 89 ecu/tonne could be applied; but this too reduced by 20 percent over the six-year implementation period. The maximum tariff equivalent (of 89 ecu/tonne) was the arithmetical difference between a so-called external price for 1986-88, of 283 ecu/tonne, and the entry price (372), and the same is true for the other 15 external prices in the AMS calculations, allowing for some arithmetical oddities.[3]

The applied administered price (*aka* the entry price) for sweet oranges was reduced by 18 ecu, from 372 ecu/tonne in the base period to a final rate of 354 ecu/tonne (i.e., by 20 percent) (and similarly for the other 15 products, allowing for a few arithmetical oddities). Thus a 20 percent reduction in the maximum tariff equivalent, in this instance, translated into a 4.8 percent fall in both the entry price and the applied administered price (*but*, because the maximum tariff equivalent *is* the unit rate AMS, a 20 percent cut in the AMS).

Although the new entry prices were derived from the old reference prices, not all the transcriptions were straightforward (Swinbank and Ritson, 1995, provide details). Figure 2 shows the base entry prices (i.e., before the URAA reductions) for tomatoes over a full 12-month period. It will be noted that the entry price for this product (and

for others) varies through the year, with a peak of 1,200 ecu/tonne in April. This "peak" entry price, combined with an external reference price of 828 ecu/tonne (also shown in figure 2), produced the AMS for tomatoes, even though it was only valid for one month a year, *and* the external reference price exceeded the entry price for more than half the year. Moreover, this April "peak" was only introduced in early 1994, prior to the Marrakesh meeting. An unpublished document of December 1993 listed an entry price of 920 ecu/tonne for the entire period 1 January to 30 April, with a maximum tariff equivalent of 92 ecu/tonne (Swinbank and Ritson, 1995, 352). Clearly had this last-minute change not been made, the AMS for tomatoes would have been much smaller. It is difficult to avoid the conclusion that the AMS for tomatoes does seem to have been a rather arbitrary construct.



Sources: *entry price:* European Communities (1994a), Code 0702;
external price: European Communities (1994b, supporting table 9).

Figure 2 Base entry price for tomatoes (ecu/tonne) before URAA reductions.

A Doha agreement would undoubtedly lead to a sharp reduction in import tariffs, including – presumably – the maximum tariff equivalents on entry price products. In the URAA the 20 percent cut in tariffs on these products was reflected in a 20 percent cut in both the *ad valorem* tariff and the maximum tariff equivalent, and consequently in the AMS. Thus a 70 percent reduction in the tariff, in the Doha Round, would have resulted in a 70 percent reduction in the AMSs for these 16 products, had the EU not already set them at zero.

These reductions in the maximum tariff equivalent will translate, on a euro for euro basis, into a direct reduction in the entry price. This, together with the inflation that has eroded their real protective effect since 1995, may well render the entry price

on some products redundant; but for the moment they still remain in force. Academics still study their protective effect, whilst some lobby groups complain about the lack of border protection. In response to one such complaint, the European Commission in September 2010 commented that, "… taking into account the sensitivity of the EPS *[entry price system]* in the context of WTO negotiations, the Commission has made clear its intention to postpone the discussion on the review of the system until the conclusion of the Doha Round. Thus, no change of the EPS has been pursued so far." However it went on to note that, given "the current state and perspectives for a conclusion of the Doha Round", it might be appropriate to reconsider its stance (in European Parliament, 2010, 3).

Reform of the Fruit and Vegetables Regime

If the entry price system remains in force, on what pretext did the European Commission change its AMS calculations for these 16 fresh fruits and vegetables for the 2007/08 domestic support commitment declaration? On the same date (12 January 2011) that it submitted its domestic support declaration, the EU also tabled a notification concerning "new or modified domestic support measures exempt from reduction", the larger part of which concerned a "reform of the fruit and vegetables sector" applicable from 1 January 2008 (WTO, 2011a & 2011b).

According to the EU, this 2008 reform involved:

- integrating the fruit and vegetables sector into the Single Payment Scheme;
- encouraging growers to join producer organizations;
- abolishing export subsidies for fruit and vegetables;
- increasing EU funding for promotion and organic production; and
- requiring a minimum level of environmental spending (WTO, 2011b, 2).

There is no mention of the entry price system in the document, nor any attempt to justify the major revisions it had made to its AMS calculations for fresh fruits and vegetables, and so it is unclear whether we should infer that the EU was suggesting that the 2008 reform validated the new practice.

There were, nonetheless, two significant changes regarding the SPS and green-box support (European Commission, 2007a). The first is that land on which fruit and vegetables are grown became eligible for the single payment. When the SPS was first formulated, the general rule was that fruits and vegetables *could not* be grown on land on which the single payment was being paid: a provision that seemed to endanger the green-box status of the SPS following the WTO Dispute Settlement Body's ruling, in *US–Upland Cotton*, that a similar U.S. provision debarred its supposedly decoupled

payments from the green box (Swinbank and Tranter, 2005). Second, support for *processed* fruits and vegetables was decoupled over a phased transitional period, with new SPS entitlements created to the value of €800 million, which eventually will all fall within the green box (WTO, 2011b, 5).

Although the role of producer organizations was modified by the 2008 reform, their function remained largely unchanged from that assumed in 1996, when the sector was last "reformed". A distinctive feature of the support mechanisms for fresh fruits and vegetables prior to the 1996 reform was the extensive use of *withdrawal*, a form of intervention. Producer organizations were able to withdraw 11 products from the market and then claim financial compensation (at the withdrawal price) from the EU. Quite large quantities of produce could be withdrawn; but as the Court of Auditors (2006, 47) subsequently noted, "The reform of the fruit and vegetable policy in 1996 limited the quantities of surplus produce that could be disposed of under the withdrawals aid scheme, and cut the compensation paid to growers for those withdrawals. The Commission data shows that this has resulted in a substantial reduction in the quantities of withdrawals within the EU aid scheme …." It also reported that "producer organisations explained that the reduced aid rates for withdrawals phased in since 1996, together with increased controls, make it no longer worthwhile to claim the aid on their surplus production."

Discussion, Unanswered Questions and Concluding Comments

Two overarching questions emerge from the earlier discussion: i) why did the EU calculate such large AMSs for fresh fruits and vegetables for the base period; and ii) why did the EU choose January 2011 as the moment to excise these large AMSs from its Current Total AMS?

One possible explanation of the large AMSs for the base period is that they formed part of a European Commission/EU strategy to maximise its Bound Total AMS, to give it scope to secure significant cuts in the future. Given the interrelationship between the applied administered price and the entry price for these products, the 20 percent tariff cut the EU agreed to in the Uruguay Round resulted in a 20 percent reduction in their AMSs, matching the requirement for domestic support reductions. By extension, a 70 percent cut in tariffs at the end of the Doha Round would have delivered a 70 percent cut in the AMSs. An alternative explanation, however, is that this was not part of a master plan, but the result of a decentralised procedure, with commodity specialists each trying to interpret the URAA to the best of their ability, and with relatively limited overall coordination. Maybe the archives at

some future date will shed light on this. For the moment, this author's hunch is that the latter is more likely.

Whatever the explanation, the resulting AMSs were rather odd, and somewhat arbitrary, as was seen over tomatoes. But they did give the EU future scope to reduce its Current Total AMS.

Japan led the way. In its 1998 AMS submission it eliminated its AMS for rice, sharply reducing its Current Total AMS. Godo and Takahashi (2011, 176) explain that, in a 1998 policy guideline, the Japanese Ministry of Agriculture, Forestry and Fisheries had "announced that government rice procurement should be limited to purchase of rice stocks for food security", although there was no corresponding revision to the Staple Food Law. They point out that intervention in the rice market had become progressively less effective following policy changes in 1969, perhaps justifying the AMS change, but they comment that there was "not a clear-cut turning-point year" that could readily be identified. The fragility of the concept of an applied administered price in AMS calculations was plain to see. Presumably other WTO members watched with interest: if it could be credibly claimed that the applied administered price had been abolished, then the corresponding AMS would fall away to zero.

But why did the EU choose January 2011 to make this change? To some extent the date was probably accidental: it just happened to be when the European Commission made its domestic support commitment declaration for 2007/08. So a preliminary question might be: when did the European Commission decide to use the 2008 "reform" of the fruit and vegetables regime to justify a change in its AMS submission? Had the plan already been hatched in 2008, or even earlier, with it then simply being a matter of waiting for the 2007/08 AMS declaration to be made; or did it emerge much later as the 2007/08 submission was being prepared? If the European Commission knew in 2008, this presumably made it easier to accept the proposed 70 percent cut in the EU's Bound Total AMS in the Doha draft modalities. If the EU's Doha negotiators knew, did they share that information with the member states? And if other WTO members had known, might they not have demanded a *larger* reduction in the EU's Bound Total AMS? Indeed, might they not do so now?

In relation to the Doha negotiations, it does seem a little curious that the EU unilaterally conceded that its Bound Total AMS could be reduced by *more than* the 70 percent reduction on the table before the negotiations were concluded and, moreover, that this had been achieved, seemingly, without any substantive policy change. This would not appear to have given the EU a negotiating advantage – others could now demand more – but it might have assuaged fears in the member states. If the latter,

there has – as yet – been little public attempt to explain to the farm lobby that the AMS reduction has already been achieved.

Why did the EU not wait until the review of the entry price system had been concluded, in the wake of a Doha agreement? A reform of the entry price system, to *comply* with Doha, could have produced an AMS reduction after the event. Entry prices for many products are probably not protective, and could readily be abolished without major impact on the sector; and a Doha agreement in any event would reduce the level of entry prices (rendering them even less protective) and their associated AMSs.

The 2008 reform of the fresh and processed fruit and vegetable regimes did produce notable outcomes in a WTO context. It allowed SPS payments to be made on land growing fruits and vegetables, removing one (but not necessarily all) of the possible concerns about the green-box compatibility of the SPS. And it began the process of decoupling the aids for processed fruits and vegetables, pushing support from the amber box to the green box. But it did not change the entry price system, and hence any claim that it eliminated the AMSs on these 16 fresh fruits and vegetables is contentious.

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Endnotes

1. See articles 3 and 18 of Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector, *Official Journal of the European Union*, L58, 28 February.
2. Article 25 of Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables, *Official Journal of the European Communities*, L118, 20 May.
3. Both the entry price and the external reference price had appeared as early as 1990 in EU documents (European Communities, 1990). Apart from the entry price for tomatoes (and that for cucumbers), which is complicated because of the application of coefficients under the old reference price system that had to be applied depending upon whether the imported tomatoes were produced in the field or a greenhouse, all the other numbers remained unchanged. The EU said of the external reference price that it had "been calculated as a 1986 to 1988 average representative world market price or import price" (op. cit.: Annex IV, 2).