

**To what extent can the European Commission still
make use of international trade negotiations to
influence the CAP's reform process?**

An analysis of the EU-MERCOSUR negotiations

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Abstract:

The Common Agricultural Policy (CAP) is one of the European Union's oldest and most debated policy. Since its creation, the CAP has been the subject of heavy criticisms based on three main axioms: its budgetary and environmental costs and its trade-distortive impact. As a response to the attacks formulated within and beyond the Union, the CAP has been engaged in a continuous reform process over the past thirty years. One of the main drivers behind the policy's reforms has undoubtedly been the European Commission and its successive Commissioners for agriculture. In order to have such an impact on the CAP over the years, the Commission extensively relied on the power it derives from being the sole negotiator on behalf of the EU during international trade talks. This paper attempts to establish the extent to which the Commission is still able to influence the CAP through its strategic use of international trade negotiations given the different situation in which the Commission finds itself today compared to the early 1990s. To do so, the analysis provided relies on several theoretical concepts used to outline the toolbox that the Commission has at its disposal in order to still be an important actor in the CAP's reform process. Such concepts are then applied to the EU-MERCOSUR negotiations for an Association Agreement and seem to highlight how the Commission's influence over the Common Agricultural Policy has faded away over the last three decades.

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Introduction

The Common Agricultural Policy (CAP) is one of the European Union's oldest and most debated policy. Implemented in the early 1960s, the CAP finds its roots in the famines that had plagued Europe during the Second World War and the specificities of agricultural markets (the so-called agricultural "exceptionalism"). Yet, despite the strategic and social importance of agriculture, the Union's CAP has been, since its inception, subject to heavy criticisms both from inside and outside of the EU. Such criticisms, articulated around three main axes (the policy's budgetary and environmental costs as well as its distortive impacts on world markets), still linger to this day. Consequently, the CAP remains the subject of numerous debates involving state and non-state actors from the Union and beyond.

Yet, the CAP has been heavily transformed over the years, starting with the famous 1992 MacSharry reform. These reforms, which aimed at curbing the CAP's share of the Union's budget and lessen its trade-distortive impact, have significantly transformed the policy but have not been able to durably turn down criticisms and the CAP seems to be cemented in an ever-ending reform process. In a sense, the Union appears to be always one step behind when it comes to its agricultural policy, always on the defensive and reacting only when pressures on the CAP's internal and external dimensions become untenable.

Many authors have investigated the circumstances and actors that have influenced the CAP and its reform process. An actor in particular, the European Commission, has been praised in the literature for its proactive role behind the policy's evolution. In addition to the use of its sole right of initiative, the Commission has been depicted as an adroit actor, skilfully utilising its role as unique negotiator on behalf of the EU during international trade talks. Effectively, the Commission has, on various occasions, been able to appear as being the real driver of the CAP's reform process through its strategic use of the external pressure applied by the EU's trade partners onto the CAP.

However, times have changed and today's situation is not as favourable to the Commission as it was during the period spanning from the early 1990s to the late 2000s. Indeed, the situation on the international trade scene is rather different since the deadlock of the WTO's Doha Development Round and the consequent reorientation towards bilateralism by most nations, including the EU. Furthermore, the CAP's structure and functioning have been profoundly altered by the successive reforms it went through. Of specific interest here, the Union's agricultural policy has significantly scaled down its protectionist and trade-distortive elements, thus greatly limiting the scope for external pressures.

These evolutions have indirectly weakened the Commission's tool to influence the CAP: its power as sole negotiator. Nevertheless, the CAP remains an overly protectionist policy, mainly because of its high tariffs, and thus still attracts the criticisms of the Union's trading partners during bilateral negotiations. Consequently, the Commission still retains a certain room of manoeuvre to influence the EU's agricultural policy. Thanks to an extensive review of the existing scientific literature, the application of theoretical concepts and a case study, this paper's objective is to establish the extent to which the Commission can still use international trade negotiations in order to influence the CAP's reform process.

This paper is structured as follows: the first chapter introduces the CAP's rationale, structure, functioning and main evolutions. Furthermore, it presents the most common criticisms addressed to the policy. In the second chapter, the internal elements and actors that impede the Union to meaningfully reform its CAP are examined and analysed. In chapter III, the impact of external pressures and their use by the Commission in order to influence the CAP's reform process are examined. Additionally, the effects on the Commission's strategy brought by the CAP's reforms and the changes regarding the international trade environment are discussed. The fourth chapter then tries to provide an answer to this paper's overall question by analysing the negotiations of the potential Association Agreement between the EU and the MERCOSUR bloc. Finally, a short conclusion encompassing the main findings derived is provided.

Chapter I: The Common Agricultural Policy

In this chapter, different aspects of the Common Agricultural Policy (CAP) are analysed in order to provide the reader with a good overview of the policy, its creation, objectives, functioning, successes and criticisms.

I. What is the CAP?

a. Creation of the CAP

Understanding the history and the creation of the CAP is crucial to apprehend its later developments and current state. Indeed, the evolution of the CAP has been subject to a certain path dependency, which started even before the signature of the Rome Treaties in 1957 and the establishment of the European Economic Community (EEC).

First of all, one must keep in mind that agriculture has always been an activity full of risks and uncertainty. The agricultural sector is not only subject to the usual market fluctuations that every economic sector must go through but it also suffers from the issue of weather uncertainty. Despite the technological developments achieved over the centuries, farming still is a risky business. The instability of the agricultural sector gives rise to two important problems for nations: the risk of facing insufficient food supplies and terribly poor rural communities.

Hence, the nature of the agricultural sector itself could arguably be a sufficient rationale for government intervention in order to reduce the uncertainties associated with the activity. However, state intervention and the development of agricultural policies in Western Europe only started in the late 19th century. In the 1880s, future superpowers like Russia and the United States began to massively export cheap wheat into Western Europe, forcing governments to take important measures to counter this foreign competition (Isoni, 2015). The need for state intervention was further strengthened by the events that took place during the first half of the 20th century. Indeed, the Great Depression of the 1930s created significant price instabilities and the two World Wars shattered European economies and decimated the continent's population (Zobbe, 2001). As a result, by the end of the Second World War, every single Western European state was assisting their respective agricultural sectors, mainly through the fixing of prices well above the market price (Isoni, 2015). Therefore, long before the creation of the CAP, there was already a long tradition of state interventionism in

agriculture throughout Europe. The current CAP bears this heritage, as government aid has proven extremely difficult to reduce and still is to this present day.

International talks with regards to a certain integration of the agricultural production at the European level began just a few years after the end of World War II. Seventeen nations met in the context of the OEEC (Organisation for European Economic Cooperation) between 1952 and 1954 in order to come up with a solution to the two main issues that burdened agriculture: the supply of food¹ and the protection of farmers' revenues, whose incomes were far below than those earned in other sectors. However, the discussions were doomed to failure because of the very different views on a hypothetical integration of European agriculture. France and the Netherlands defended the idea of integrating agricultural markets under a supranational authority, while the United Kingdom rejected all plans involving any form of supranationalism and which excluded the Commonwealth countries from the agreement. Despite the collapse of the talks, these negotiations enabled each country to discover a little bit more about their neighbours' preferences in terms of agricultural policy, thus paving the way for future discussions (Zobbe, 2001).

The interest for these analogous preferences materialised during the Messina conference in 1955 during which the participants acknowledged the crucial role of agriculture in the integration process despite the rather small share of the sector in national GDPs. The creation of the CAP was agreed upon in the Treaties of Rome but its functioning remained, in 1957, an open question to be answered in future negotiations.

The design of the CAP thus began in 1958 under the community method², with the Commission having the exclusive right of initiative. The Commission gathered politicians from the different member states, civil servants and multiple organisations representing the food and farming sectors in Stresa in July 1958³. Though the negotiations were complicated, member states agreed on the goals that the future CAP was to achieve. One of the most important of these objectives was the support of prices for agricultural products by governments, coupled with structural policy measures designed to allow farmers' incomes to

¹ In the aftermath of the famines that plagued Europe throughout the war years, sufficient food supplies was seen as a priority. Furthermore, the dependency on food imports was considered as a political weakness and foreign currencies were scarce, as well as national gold reserves, as they had been depleted during the war (Zobbe, 2001).

² The CAP had to be carried out under the Community method as state interventions in the agricultural sector could not remain a national competence given that it went against the principles of the common market and the free movement of goods (Massot, 2020).

³ Such a blend of community and intergovernmental methods, combined with the advice and counsel from non-state actors is, in essence, still used nowadays in the context of the CAP.

keep up compared to those earned in other sectors (Isoni, 2015). In Stresa, member states also came up with the three principles of the CAP: free intra-community trade, community preference and common financing. The implementation process of the CAP started in 1962 and it fully entered into force in 1967.

In the 1960s, the CAP was born and it seems important to briefly discuss one of its main outcomes: the policy was to be financed in common and prices were to be fixed above the world market price. Such conditions were vital for France and were clearly in the country's advantage. Indeed, as can be observed in table 1, more than 20% of the labour force employed in France worked in the agricultural sector and agriculture accounted for close to 10% of the country's GDP. Furthermore, France saw a favourable CAP as the perfect tool to stabilise the social and economic situation of its rural population, to maintain a relative economic parity with Germany and to preserve its political dominance within the newly created community. Hence, in relative terms, France had a lot more to win from the CAP than Germany or the UK⁴. As a matter of fact, the creation of the CAP can be understood as an agreement or consensus between the EEC's big member states, France and Germany. France's agricultural sector was to be heavily supported and granted access to the German market. In return, France would open its market to German industrial firms (Isoni, 2015; Zobbe, 2001).

Table 1: Main agricultural indicators of some European countries, 1955-1960 (Source: Zobbe, 2001)

	Agriculture s share of GDP, percent		Agriculture s share of total employment, percent		Agriculture s share of total trade, percent (average 1955-59)		Net foreign trade in agricultural products. in 1960 US\$ (average 1955-59)
	1955	1960	1955	1960	Export	Import	
Belgium ⁴⁾	7.9	7.3	9.3	7.6	5.4	17.2	-386.4
Lux.	9.3	7.6	19.4	16.4			
Holland	11.4	10.5	13.2	11.5	33.6	19.6	+310.0
Germany	8.0	6.0	18.5	14.0	2.8	32.9	-2,124.6
France	11.4	9.7	26.9	22.4	14.9	29.2	-836.0
Italy	20.7	15.1	40.0	32.8	22.6	20.6	-114.2
EEC (6)	11.5	9.0	21.2	17.5	15.9	23.9	
UK	4.8	4.0	4.6	4.3	6.5	41.8	-4,013.6
Denmark	18.4	14.4	24.9	21.2	65.7	20.3	+502.2

⁴ Although the UK did not take part in the Messina conference and did not sign the Rome Treaties, a British representative (Russell Frederick Bretherton) was initially involved in the Spaak committee in 1955, witnessing the UK's initial interest for a common market (Young, 1989). The idea of giving up part of its sovereignty unto a supranational authority was, however, not conceivable for the British government, thus leading to the UK's withdrawal of the committee.

Therefore, the establishment of the CAP did not create state interventionism in the agricultural sectors of Western Europe. Rather, the CAP was inherited from the long tradition of supportive agricultural policies in place in the six founding member states. Furthermore, the negotiations around a common agricultural policy in the 1950-60s and the outcome of these also show the crucial involvement of France in the debate and the importance of consensus, especially among the larger member states.

b. Objectives of the CAP

Article 39 of the Treaty on the Functioning of the European Union (TFEU) presents the five formal objectives of the CAP:

- i. Increasing the agricultural productivity by promoting technical progress and by ensuring the rational development of agricultural production and the optimum utilisation of the factors of production, in particular labour.
- ii. Ensuring a fair standard of living for the agricultural community, in particular by increasing the individual earnings of persons engaged in agriculture.
- iii. Stabilising markets.
- iv. Assuring the availability of supplies.
- v. Ensuring that supplies reach consumers at reasonable prices.

These objectives have not been fundamentally altered since the signature of the Treaties of Rome. This is in part due to the rather flexible and vague wording of the given objectives, which enabled numerous and important reforms to be carried out since the 1980s (Massot, 2020). In essence, the two original axioms that were the rationale behind the creation of the CAP are still present to this day: the CAP is to have an economic (objectives i, iii and iv) and a social dimension (objectives ii and v). Hence, the CAP's main point is, still to this day, to ensure sufficient food supplies to EU citizens and to protect both EU producers and consumers.

Nevertheless, the CAP's objectives have also evolved over the years in order to tackle the new challenges that have arisen over time such as climate change, sustainable development and land countryside management (European Commission, 2020). Furthermore, many treaty provisions have been added to the aims of the CAP: public health (Art. 168 TFEU), animal welfare (Art. 13 TFEU), economic, social and territorial cohesion (Art. 174 to 178 TFEU), etc. In addition to that, new programs like the European Green Deal and the Farm to Fork Strategy, launched by the von der Leyen Commission, include multiple facets focusing on agriculture. Therefore, besides the maintenance of the CAP's original objectives, a myriad of

new goals have been set as a response to the evolution of the environment and climatic situations and thanks to an accrued public consciousness with regards to such issues (Massot, 2020).

c. Reforms of the CAP

Although the objectives of the CAP have remained essentially unchanged since the policy's creation, it has undergone numerous reforms over the years.

As previously mentioned, the CAP originally functioned on a system of fixed prices, guaranteed to the producers and which were well above those of the world market. This policy of guaranteed price fulfilled the initial objective of ensuring sufficient food supplies in Europe and even went further. Indeed, by the early 1980s, European farmers were growing too much food, leading to massive production surpluses (European Commission, 2020). The problem was that by fixing prices, independent from the volumes produced, farmers were incentivised to produce up to the point where their marginal costs of production reached the guaranteed price (Isoni, 2015). Furthermore, despite the huge food surpluses, consumers faced high prices for agricultural products (Borrell and Hubbard, 2000). But other problems arose. Several third countries, especially the US and less-developed trading partners such as the ACP countries (the African, Caribbean and Pacific group of states), started to complain about the CAP, arguing that it created unfair competition and resulted in the dumping of foodstuffs⁵ (Isoni, 2015). Moreover, disputes concerning the CAP emerged within the EEC itself. Discords mainly concerned the extensive share of the EEC's budget that was being absorbed by the CAP⁶. Finally, this policy of fixed prices led to the over-exploitation of arable land and the depletion of soils, causing major environmental costs (Borrell and Hubbard, 2000). For all these reasons, the CAP's fixed price system had become untenable by the end of the 1980s and the policy was in crucial need for reforms.

The guaranteed price mechanism was gradually abolished by the 1992 "MacSharry" reform, named after the Irish commissioner for trade at the time. Fixed prices were thus slowly abandoned and replaced by direct payments to compensate farmers for the income loss (Massot, 2020). Two forms of direct aid were implemented, a payment per hectare for grown products and a payment per head for livestock. The MacSharry reform was not only a

⁵ Although these accusations were probably rightly founded, one must keep in mind that the World Trade Organisation (WTO) did not yet exist and that international trade rules were governed by the General Agreement on Tariffs and Trade (GATT, 1947), which did not cover agricultural products (Nègre, 2020).

⁶ The UK was revolted by the CAP's funding method, which made the country a significant net contributor to the common policy. In 1979, Margaret Thatcher's "we want our money back", addressed to the then leaders of the EEC, personified this anger against the CAP.

response to the internal criticisms directed towards the CAP but was also designed to facilitate the EU's signature of the future WTO's Agreement on Agriculture⁷ (Nègre, 2020). This 1992 reform was a real turning point in the CAP's history as it was the first real step aside from its original paradigm, which stated that agriculture was a national interest that required a special government support and which was best achieved through a guaranteed price mechanism (Daugbjerg, 2003). Furthermore, the MacSharry reform paved the way for future reforms and for a shift in the CAP's paradigm.

Since then, four major reforms of the CAP have been implemented: the Agenda 2000 (1999), the "mid-term" review (2003), the "health check" (2009) and the 2013 reform that prepared the 2014-2020 period. These reforms are very complex and technical in nature but more or less follow three broad objectives (Massot, 2020). The first one was to make European farms more market-oriented and thus less dependent on state aid. This was done through an alignment to the prices of the world market and an increasing decoupling of the public financial aid from the volumes or quantities produced. Secondly, the CAP was to be more closely bounded to environmental issues. In this sense, one could cite for example the policy of cross-compliance, which required farmers to meet certain environmental standards in order to receive funds, or the expansion of investments in favour of rural development and territorial protection. Finally, these reforms attempted to increase the CAP's budgetary discipline by freezing and ultimately reducing the cost of the policy.

Therefore, the CAP has up to now been modified by five major reforms, which were the result of both internal and external pressures. These reforms have, over the years, altered the CAP's original paradigm while maintaining the initial objectives of the policy. Nevertheless, the CAP's goals have also evolved over time and gave the CAP a multifunctional dimension aiming towards wider objectives.

d. Financing and structure of the CAP

The underlying cost behind the financing of the CAP has been and still is a frequently debated issue. As stated above, disputes concerning the CAP's share in the EU budget are not new. Currently, the CAP absorbs about a third of the Union's budget (37,2% in 2018), with funds reaching €408 billion over the 2014-2020 period (European Commission, 2019). The CAP thus remains a substantial expenditure for the EU even though its share in the overall budget has been steadily declining since the mid 1980s as can be observed in figure 1. Indeed, the

⁷ The Agreement on Agriculture was negotiated during the eighth round of multilateral trade negotiations, the Uruguay Round (from 1986 to 1994), which resulted in the creation of the WTO in 1995.

CAP accounted for 73% of the Union’s budget back in 1985. It also consumed 0,66% of the EU’s GDP in the early 1990s, compared to 0,35% in 2018 (European Commission, 2019). However, despite the decrease in the CAP’s share of the budget, the funds allocated to the policy have not fallen in real terms since the 1990s (Massot, 2020).

Figure 1: Evolution of CAP expenditure in total EU expenditure, measured in 2011 constant prices
(Source: European Commission, 2019)

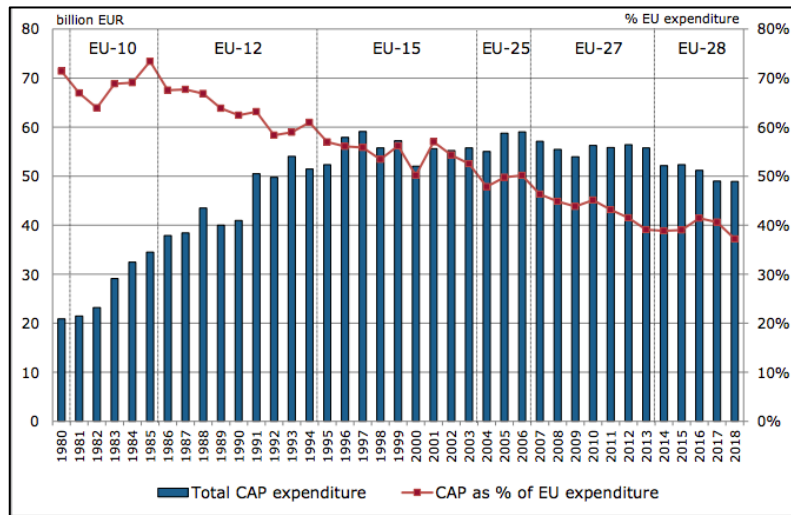
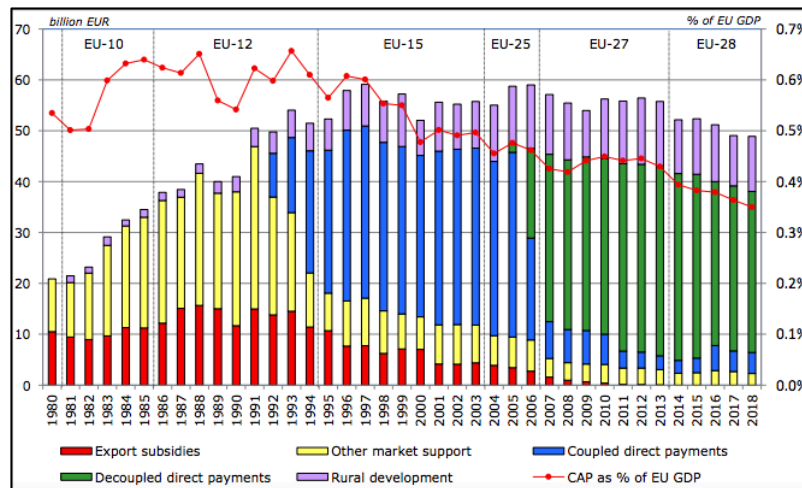


Figure 2: Evolution of CAP expenditure and CAP reform path, measured in 2011 constant prices
(Source: European Commission, 2019)



The CAP follows a rather complex structure, built around two pillars. The first pillar deals with two broad areas: direct payments to farmers and market measures. Direct payments consist in annual payments to farmers, which were introduced by the MacSharry reform in

order to compensate for the end of the guaranteed price mechanism⁸. Thirty per cent of these payments are related to “greening measures”, which aim at preserving the quality of arable lands and soils in the EU. In addition to that, there are cross-compliance rules which farmers ought to respect in order to be granted direct payments. These rules concern quite wide dimensions such as animal welfare, food safety and the protection of water resources. Market measures on the other hand, consist of so-called “safety nets” and have been introduced to financially help farmers to overcome periods of crises caused by drops in prices due to surplus production or resulting from falls in demand created by public panic with regards to health issues.

The second pillar of the CAP focuses on rural development. To this end, a wide range of instruments is used: farm advisory services, investments, cooperation mechanisms and so on. As opposed to the first pillar, the design of development programs are handled at the national, regional and sometimes local levels in order to provide specific solutions to the very different needs of the EU’s rural areas (Pe’er et al, 2017).

The first and the second pillars of the CAP are financed through two different funds, respectively the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD). These two funds, and thus the pillars themselves, are granted very unequal sums of money from the EU as it can be observed by comparing figures 3 and 4. The first pillar accounts for about three quarters of the entire CAP budget⁹ (74,3% over the 2014-2020 period) and the second pillar for only 25,7%. It must be noted however, that member states may transfer parts (between 15 and 25%) of one pillar’s funds unto the other. The sharp increase in the importance of direct payments since the 1990s is mainly due to the step-by-step abandon of the guaranteed price mechanism and the gradual cessation of export subsidies (Massot, 2020).

⁸ The justification behind these payments is that the market does not fully compensate farmers for the public goods they produce. Agricultural products would thus be undersupplied without direct payments (Pe’er et al, 2017).

⁹ Within the first pillar, market measures were allocated 5,65% of the EAGF during the 2014-2020 period, the rest of the fund was entirely dedicated to direct payments.

Figure 3: The European Agricultural Guarantee Fund in 2018, in millions of euros (Source: European Commission, 2020)

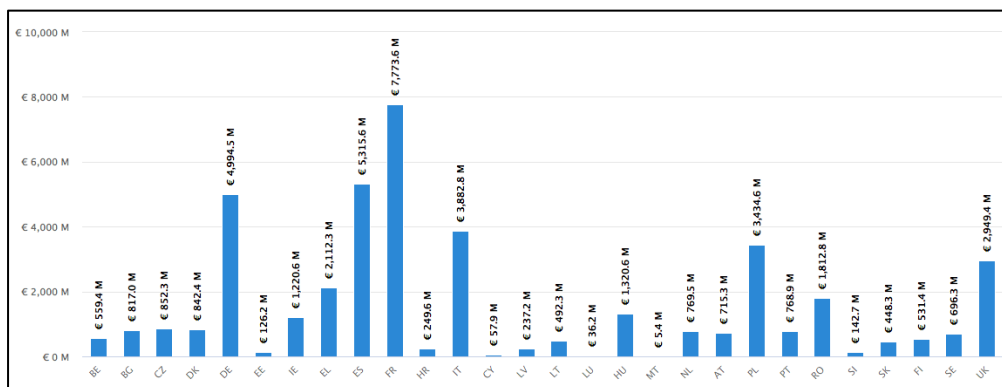
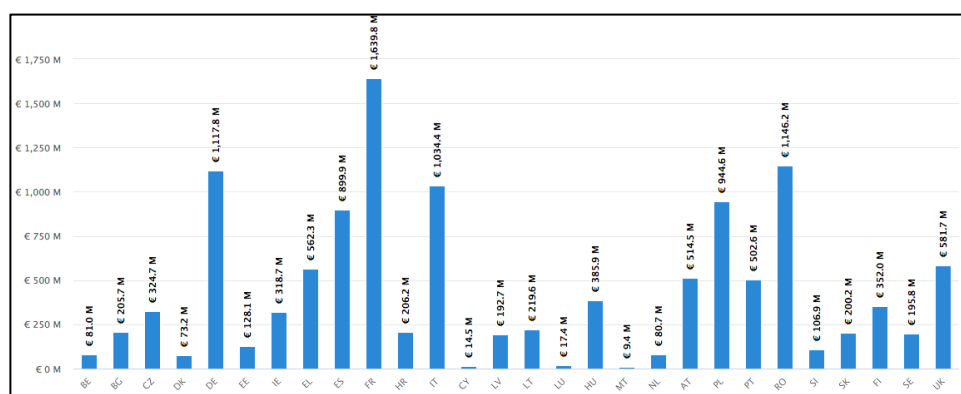


Figure 4: The European Agricultural Fund for Rural Development in 2018, in millions of euros (Source: European Commission, 2020)



An interesting observation can be made from figures 3 and 4: the two funds are very unevenly distributed across member states. Indeed, close to half of the EAGF (49,3%) is shared between four countries, namely France (16,9%), Spain (12,1%), Germany (10,8%) and Italy (9,5%). The underlying reason behind this unequal distribution is the mechanism used to allocate the direct payments between European farms. The amount of the direct payments that are granted to a farm depends on the latter's size, independent of the number of workers employed on the given farm. As argued by Massot (2020), this is a rather problematic situation when considering the EU's fight against inequality. A similar observation can be made when focusing on the EAFRD: two countries, France and Romania, receive nearly a quarter of the fund (14,1% and 9,4% respectively). Another valuable thing to note is that the "new" EU13 member states are allocated a relatively higher share of the EAFRD (32,3%) than of the EAGF (22,5%). This is a consequence of the policy focusing on the modernisation of farms, which is seen as a priority within the EU (Massot, 2020).

e. Trade and the external dimension of the CAP

In order to fully grasp the importance of the CAP for the EU, one needs to dig a little bit into the Union's trade of agricultural products and the rules of the internal market concerning the agricultural sector. First of all, the EU is the world's largest trading block and its consequent bargaining power is one of the Union's most powerful tool with regards to foreign policy (Keukeleire and Delreux, 2014). This is illustrated by the fact that trade is dealt with in part five of the TFEU, the "external action" part. Yet, numerous policy fields, including agriculture, are not considered as external action but still exhibit crucial external dimensions (those policy fields are to be found in part three of the TFEU). This section briefly analyses the importance of agriculture in the EU's trade portfolio as well as some important external aspects of the Union's internal agricultural policy.

The trade of agricultural products represented 8% of the EU's external trade portfolio in 2019 (European Commission, 2020). Even though this figure is quite high given the share of the agricultural sector in the EU's total GDP – 1,5% in 2018 (World Bank, 2020) – it is considerably less than the EU's external trade in services and manufactured goods. Nevertheless, trade in agricultural products has increased substantially over the years, both within the EU and between the EU and third countries. Indeed, the intra-EU trade of agricultural products has been raised by 72% between 2005 and 2016 and by an impressive 129% for extra-EU trade over the same period¹⁰.

Furthermore, the EU has become, since 2010, a net exporter of agri-food products and is, since 2012, the biggest exporter worldwide of such goods, surpassing the US. This impressive performance has been attributed to multiple factors: technological progress, trade policies and recent trade agreements in particular¹¹ (Copenhagen Economics, 2016) and finally the different reforms of the CAP, which gradually brought down the EU prices of agricultural products towards world prices (European Commission, 2017). Additionally, the EU is the largest importer of agricultural products coming from the Least Developed Countries (LDCs), importing more than the US, Russia, China, Japan and Canada combined. This has been

¹⁰ Despite the fact that the gap has been diminished, intra-EU trade in agricultural products remains largely more important as it represented 72,7% of EU trade in that specific sector in 2016 (European Commission, 2017).

¹¹ Although the EU has a certain preference for multilateral trade agreements, the deadlock of the WTO's Doha Development Round since 2008 has forced the Union to rely more extensively on bilateral agreements (Keukeleire and Delreux, 2014).

achieved mainly through the Everything But Arms (EBA) initiative launched in 2001 and which got rid of the tariffs imposed on imports originating from any of the 49 LDCs¹².

Internal agricultural policies obviously encompass an external dimension. For example, one could cite the guaranteed price mechanism used in the first decades of the CAP and which led to significant production surpluses across the Union during the 1980s. These surpluses were then sold at very low prices in developing countries, eventually flooding local food markets. The following discussion does not analyse this example in detail but rather examines two trade barriers that are of particular relevance when considering the external dimension of the CAP: tariffs and Non-Tariff Barriers (NTBs)¹³.

Protectionist measures such as tariffs and NTBs can pursue various objectives, depending on the sector unto which they are applied. The most obvious objective is the protection of domestic producers against foreign competition by making imported products less attractive to consumers relative to domestic goods. In that sense, tariffs make imported goods relatively more expensive compared to local ones by imposing a tax on them and NTBs such as product or health standards require that goods sold on the domestic markets satisfy certain characteristics, which are often hard to comply with for foreign producers. However, there are several other arguments that support protectionist measures that restrict imports other than the protection of domestic producers. For example, states might be encouraged to levy import tariffs or impose restrictive NTBs in order to close down a trade deficit, avoid rewarding sweatshop labour or protect national defence and security interests (Eicher et al., 2009).

In the EU, tariffs on agricultural products are part of the EU's Common External Tariff (CET) and are no longer handled by DG agriculture and rural development. Consequently, changes with regards to the tariffs imposed on agricultural imports are often embedded in broader trade initiatives and thus are not specifically focused on agricultural matters as such (Matthews, 2020). The Union's tariffs apply to those goods imported from countries that do not have a Free Trade Agreement (FTA) signed with the EU or that are not part of the

¹² As summarised in Keukeleire and Delreux (2014), the EBA's usefulness has been widely criticised and the policy has sometimes been accused of being "cheap" given the competitive disadvantage of the LDCs. One could argue that facts and figures go in that sense as the EU's imports from the 49 LDCs were only worth €3 billion in 2016, which is not much when compared to the total of €110 billion of imports in the EU over the same year (European Commission, 2017).

¹³ There exist many more protectionist measures such as quotas, production subsidies and export subsidies (for a thorough analysis of such concepts, see Eicher et al., 2009). These are not discussed here as they do not, or at least no longer, apply to the CAP.

Generalised System of Preferences¹⁴, which includes the EBA program previously touched upon. Trade relations between the EU and countries with which no trade agreements have been signed are governed by the Most Favoured Nation (MFN) rule of the WTO. Given the numerous trade arrangements concluded by the EU and given that many developing countries benefit from the non-reciprocal tariff preference granted under the Generalised System of Preferences, only 20% of agricultural imports into the Union, worth about €20 billion, enter after having paid the full MFN tariff (Matthews, 2020).

The EU's system of tariffs is extremely complicated with regards to agricultural products. Indeed, in contrast to most of the tariffs imposed on non-agricultural products, close to half of agricultural tariffs (47%) are not ad valorem¹⁵. These tariffs can take three different forms: they can be specific tariffs (a fixed tax which is unrelated to the good's worth), compound tariffs (a mix between an ad valorem and a specific tariff) and finally mixed tariffs (the choice of the tariff varies between a specific and an ad valorem one, depending on the expected revenue that these would yield). Rather complex calculation methods are required to estimate the impact of these different tariffs on the EU's imports¹⁶.

The Union's tariffs on agricultural products vary extensively, between 0 and 171,6%, based on the nature of the products. For example, the average tariff on dairy products was up to 32,3% in 2019, while it only reached 6,3% for oils and fats over the same year (WTO, 2019). Despite the wide discrepancy between agricultural tariffs, agriculture remains the most heavily taxed import sector. Indeed, close to all of the EU's tariffs that are fixed above 20% are restricted to the agricultural sector and agricultural tariffs are on average three times higher than those imposed on other sectors (Matthews, 2020).

Estimating the specific effect of tariffs on trade flows is a complicated task but which has nonetheless been rendered possible thanks to recent breakthroughs in the econometric literature. In this sense, Cipollina and Salvatici (2020) calculate that if all of the EU's agricultural tariffs were removed, the value of agricultural imports into the Union would be increased by €18,7 billion, which is equivalent to approximately 13% of the EU's actual level of imports. This number hides in reality an interesting paradox, which deserves some explanation. Effectively, if all of the EU's tariffs were to be simultaneously removed, new

¹⁴ The situation is slightly more complex in reality, especially in the agricultural sector. Indeed, Tariff Rate Quotas (TRQs) are widely employed for agricultural products (Matthews, 2020). TRQs are measures that make a certain quantity of imports free of any duty up to a certain point, but once the quantities imported reach a certain amount, MFN tariffs are charged.

¹⁵ An ad valorem tariff is a percentage tax imposed on the imported good's economic worth.

¹⁶ For a brief analysis and discussion on the matter, see Matthews (2020).

import flows worth about €20,3 billions would be created. On the other hand however, some previously existing import flows, worth about €1,6 billions, would disappear (Cipollina and Salvatici, 2020). The underlying reason to this is the concept of preference erosion, which in this very case implies that some developing countries currently favoured by the Generalised System of Preferences or through any kind of trade agreement with the EU would lose their comparative advantage with regards to those nations who presently have to pay for the full MFN tariff rates. The erosion of preferences caused by bilateral trade agreements encompassing the EU is an issue that has been frequently emphasised by the ACP countries (Matthews, 2020).

Non-tariff barriers are a quite subtler protectionist measure than tariffs and are an explicit example of the external dimension of internal policies. There exists a wide variety of NTBs, especially in the food and agriculture sectors¹⁷. In the EU, the most important NTBs used in the agricultural sector are standards, which can take two forms: Sanitary and Phytosanitary (SPS) measures and Technical Barriers to Trade (TBT)¹⁸. SPS measures are the set of rules and standards used to protect humans, plants and animals from diseases and infections. For example, Council Regulation No 1/2005 dictates in a very detailed manner how living animals are to be protected during transportation. TBTs on the other hand, designate a wide variety of regulations and standards specifically designed to protect human health and animal welfare.

An interesting feature of NTBs such as the two defined above, is that their use has increased significantly over the last few decades (Johnson, 2014; Aisbett and Pearson, 2012). A fundamental explanation behind this observation is the gradual reduction of import tariff barriers, which was agreed upon at the multilateral level, such as during the Uruguay Round conducted by the WTO's ancestor, the GATT. However, Aisbett and Pearson (2012), despite observing a strong positive causal relationship between the removal of tariffs and the appearance of SPS measures, argue that there are other crucial catalysts to the expanding use of these standards such as demographic, governance and environmental variables. In a similar way, Kareem et al. (2018) prove that EU safety standards do, to some extent at least, pursue a protectionist objective by focusing on the trade of tomatoes and citrus fruits. The authors do so by showing that the level of protection given to some goods depend on the EU's reliance on imports, so that less standards are associated with goods that are sufficiently produced in the Union or that do not extensively rely on imports.

¹⁷ For a profound analysis of the use of NTBs in the global trade for food, see Lupien (2002).

¹⁸ Johnson (2014) provides a comprehensive report on the NTBs and their uses in the agricultural trade.

Therefore, the trade of agricultural products is quite important in the overall trade portfolio of the EU as it represents nearly 10% of its external trade and as the Union has become a net exporter of agricultural products. Nevertheless, agricultural imports in the EU are still heavily taxed and agriculture remains the most taxed import sector. Additionally, the incremental reduction of tariffs entrenched in multilateral agreements have given rise to the development of non-trade barriers such as SPSs measures and TBTs.

II. The CAP: successes, failures and criticisms

a. Assessing the internal objectives of the CAP

In this section, the CAP is evaluated with regards to the objectives laid down in article 39 of the TFEU and which were discussed in chapter I.I.b. These objectives have not been significantly altered throughout the CAP's history although some environmental ones were added over the years, in particular since 2010 (Pe'er et al., 2017). Nevertheless, analysing the success of the CAP's objectives over the entire lifespan of the policy (close to 70 years now) would not be of great interest given the evolution of the EU's society and agricultural sector. Rather, this section digs into these goals from a modern/21st century perspective.

The first objective of the CAP is to increase agricultural productivity through technical progress and through the efficient allocation of factors of production, especially labour. As it can be observed in figure 5, productivity in the agricultural sector is rising, though rather slowly, in the EU (European Commission, 2016). The most important contributor to this rise is technological progress and thus the underlying investments in research and development (R&D). However, the aggregate increase in productivity over the last fifteen years is to be attributed to the improvement of labour productivity, as shown in figure 6. The explanation behind these two observations is that capital formation has accelerated through technological progress, thus allowing for a reduced level of employment in the agricultural sector. In other words, there are less farmers producing more efficiently with more capital. Productivity growth is however not the same in the "old" EU-15 member states and the "new" EU-13 ones as the latter group's productivity increases at a faster rate. The reason, which can be indirectly observed in figure 6, is similar to the explanation behind aggregate productivity growth in the EU. Indeed, capital is forming at a faster rate and employment in the sector is shrinking more rapidly in Central and Eastern Europe.

Figure 5: TFP¹⁹ and partial productivity growth in the EU-28 (Source: DG AGRI, 2016)

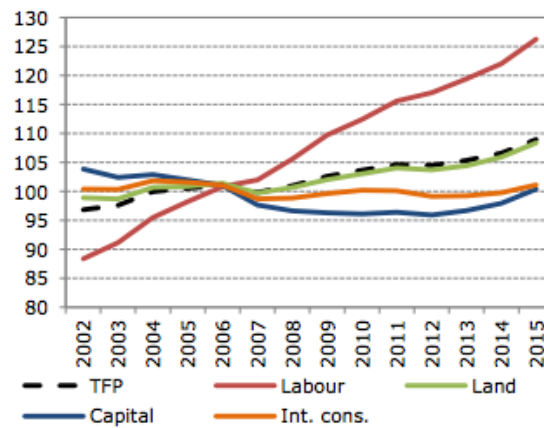
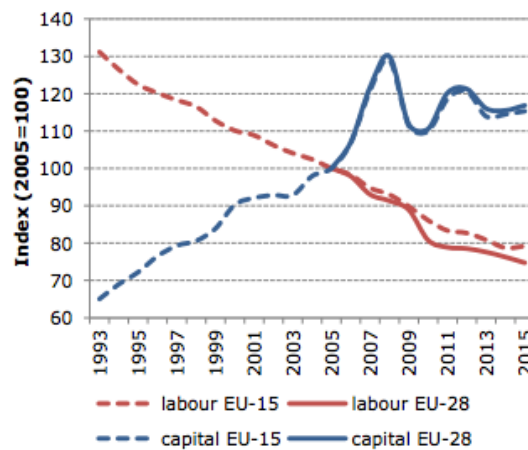


Figure 6: Evolution of labour force and capital formation in the EU (Source: DG AGRI, 2016)



Productivity is thus rising in the EU, thanks to technological progress and a more efficient labour force. The first objective of the CAP seems therefore to be, at first sight, quite a success. However, it appears in the literature that the role of the CAP's instruments do not actually contribute to this growth in productivity, rather the opposite. For example, Rizov et al. (2013) test the effects of the CAP on agricultural productivity. Their hypothesis is that state intervention can potentially lead to productivity gains by inducing investment but can simultaneously have an adverse effect by inefficiently allocating factors of production among EU farms. Rizov et al. (2013) conclude that the CAP had a negative impact on productivity prior to the introduction of the 1992 MacSharry reform, which decoupled direct payments from volumes of production. Nowadays, the CAP's effect on productivity is more ambiguous: it is positive in certain member states and negative in others. Similarly, Mary (2012) evaluates the impact of the first and second pillars of the CAP on French crop farms. The results are not

¹⁹ TFP stands for Total Factor Productivity and measures the overall productivity level of a given sector based on the productivity levels of the different factors of production used in the sector.

in the policy's favour as it appears that direct payments have a negative consequence on the level of productivity. Hence, despite the first objective of the CAP being a success, this cannot be attributed to the policy's instruments.

Secondly, the CAP aims at ensuring fair standards of living for the agricultural community²⁰. However, the reality of the field seems to be complicated for some EU farmers and as the president of the Copa²¹, Joachim Rukwied, explains: *"farmers' incomes are already 40% of the average earnings and are continuing to decline, causing an exodus from the rural areas, especially the young"* (Copa Cogeca, 2018). Furthermore, 27,2% of the EU's rural population is at risk of poverty and social exclusion, while only 24,3% of the urban population faces a similar situation (Martinez Juan, 2016). Moreover, the rural exodus is continuing and even accelerating in some parts of the Union, due to the lack of job opportunities and the higher wages available in urban areas (Valdivia, 2018).

However, despite the complicated situation faced by European farmers, the CAP seems to have a positive impact on the incomes of those employed in the sector and has allegedly kept numerous farmers from switching to another economic activity (Pe'er et al. 2017). This is confirmed in Boháčková and Hrabánková (2011) who demonstrate that earnings from farming are insufficient to secure stable living standards, thus confirming the need for public financial help to those involved in the agricultural sector. However, the distribution of the CAP's funds is problematic and frequently considered as unfair in the literature (Pe'er et al., 2017). In that sense, Severinin and Tantari (2014) find that direct payments are very heterogeneously concentrated across the EU and that they are mainly attributed based on the distribution of land across farms, independently of the number of people working on them. Therefore, even though the agricultural community earns significantly less than those employed in other economic sectors, the CAP enables farmers to pursue their activity thanks to the financial help it provides. However, the distribution of the CAP's direct payments is questionable and seems to be quite incoherent with the notion of equality promoted by the EU.

The third objective of the CAP aims at stabilising agricultural markets in the EU. This objective is quite special as agricultural markets are unstable by nature and securing full

²⁰ Note that the term "fair" is here open to debate. Does it imply a sufficient/comfortable standard of living or one that is in line with the value added by those employed in the agricultural sector?

²¹ The COPA (Committee of Professional Agricultural Organisations) is one of the European representative organisations for those employed in agriculture. The COPA is composed of 60 EU organisations and an additional 36 partner organisations from non-EU countries such as Iceland, Norway and Switzerland.

stability is simply impossible unless one is able to control the weather and all the different risks associated with agricultural production. The change in the CAP's paradigm that started with the MacSharry reform led to the gradual alignment of EU prices to those of the global market. As a consequence of the end of the guaranteed price mechanism, prices in the Union began to respond to the fluctuations in global production and demand, which therefore brought more stability at the global level. However, this exposed EU farmers more extensively to the specificities of the agricultural market since the prices of their products became more volatile²² (Pe'er et al., 2017). In this sense, Thompson et al. (2000) find that the MacSharry reform lowered the level of protection that European farmers previously enjoyed following the tightening of the gap between the EU and world prices. Hence, the CAP and its reforms stabilised the agricultural market but only at the global level, which came at the cost of additional price volatility and thus making EU farmers more at risk financially. The CAP thus failed to achieve this third objective but the blame should be placed on the objective itself rather than the CAP's instruments given the special nature of the agricultural sector.

Fourthly, the CAP aims at ensuring sufficient supplies within the Union. As previously discussed, the EU is now a net exporter of agricultural products, which tends to prove that this objective has been fully satisfied. The CAP is certainly a key to this success considering that it prevented some farmers from switching to another sector, thanks to its financial instruments. In a sense however, this objective could be viewed as out-dated and quite irrelevant to assess the success of the "modern" CAP²³. Notwithstanding, as Pe'er et al. (2017) note, some of the Central and Eastern member states were at risk of facing food shortages when they came out of socialism and joined the Union. Therefore, this fourth objective of the CAP is not yet completely obsolete but does not deserve to be given a substantial weight when assessing the successes of the CAP in the more recent years.

The last objective of the CAP to be found in Art. 39 TFEU proclaims that supplies should reach consumers at reasonable prices. Similarly to the previous objective, one could easily argue that, given that the EU is a net exporter of agricultural products, prices are sufficiently low to ensure that European citizens can afford acceptable amounts of food. However, the term "reasonable" is worth a very brief discussion. Indeed and as Pe'er et al. (2017) point out, there have been some complaints across the EU with regards to the prices of certain meats being too low and therefore not internalising the environmental and animal welfare costs

²² Fluctuations of prices is crucial in the agricultural sector given that production consists of long-term investments as products take time to grow and mature, making farmers very inflexible to changes in market prices.

²³ Remember that this objective was a response to the European agricultural situation after WWII and the starvation crises that had plagued the continent over the course of the war (cfr. chapter I.I.a).

associated with the production of (cheap) meat. Hence, despite the success of this objective, some concerns might be raised with respect to the appropriate interpretation of the word reasonable.

There are five formal CAP objectives in the EU Treaties but the policy's new paradigm, multifunctionality, as put the protection of the environment at the core of the CAP. The environmental goals of the CAP have paved the way to a multitude of policies and instruments in order to address the very different issues associated with global warming, climate change, soil depletion and so on.²⁴ However, the results obtained were either mixed or disappointing (Pe'er et al., 2017). The main causes of this apparent failure are the insufficient budget allocated to environmental issues, the significant diversity of the EU's rural territory and lastly the clash with other CAP objectives such as those aiming at improving productivity and achieving low and reasonable prices.

Overall, the six “modern” objectives of the CAP have been crowned by relatively timid successes. Indeed, productivity in the EU might be rising but not as a consequence of the CAP. Furthermore, the CAP's payments have proved necessary to ensure sufficient incomes for the agricultural community but did not prevent it to face a difficult financial situation and to have a share of the rural population migrating to urban areas. Unsurprisingly, the CAP has failed to stabilise the EU agricultural market. With regards to the fourth and fifth objectives of Art. 39 TFEU, the EU market clearly offers plentiful supplies at (maybe too) low prices. Finally, the environmental instruments have, up to now, proved to be inadequate and meagre in order for them to have a meaningful impact on environmental issues.

b. Criticisms of the CAP

In this section, the “mainstream” criticisms that are often addressed at the CAP are briefly highlighted. These criticisms can be summarised into three broad themes: the cost of the CAP, its impact on the environment and lastly its effects on the world market and developing countries. The first two criticisms thus address the internal dimension of the policy, while the latter is directed towards its external dimension.

The CAP's share in the EU budget is one of the most common criticisms directed towards the CAP. As explained in a previous section, the common policy devours more than a third of the Union's total budget (37,2% in 2018). As pointed out by the website Debating Europe (2020), farmers represent only 3% of the EU's population and solely 6% of the Union's total GDP,

²⁴ For a thorough summary and analysis of the CAP's success with regards to its environmental objectives, see Pe'er et al. (2017).

and this through the inclusion of the agri-food business into the equation. Opponents of the CAP thus often blame the policy for absorbing a significant amount of taxpayers' money, which is then indirectly used to artificially maintain food prices above their market value. Furthermore, it is often argued that the CAP's funds are allocated in an inefficient way and could be used to finance other EU policy fields such regional development or the protection of the environment (Politics.co.uk, 2012). Nevertheless, the 2018 Eurobarometer focusing on the agriculture and the CAP revealed that 92% of the respondents believed that the EU's agricultural and rural areas were important for the future. Interestingly, 73% of the people that participated in the opinion poll thought that the financial aid to EU farmers should be increased or at least maintained at the same level (Eurobarometer, 2018). Hence, despite the criticisms on the amount of funds allocated to the CAP, EU citizens appear to consider this help to be important and in a way legitimate.

Secondly, the CAP is often accused of indirectly harming the environment in multiple ways. For example, the policy is pointed out as being responsible for the destruction of a part of the EU's wildlife by promoting ever-increasing volumes of production at the expense of natural habitats, which are turned into arable lands and feeding pastures (the Guardian, 2018). Several of the criticisms on the CAP's impact on the environment are compiled in a report drafted by a group of NGOs (BirdLife International, the European Environmental Bureau, the European Forum on Nature Conservation and Pastoralism, the International Federation of Organic Agriculture Movements and the World Wide Fund for Nature, 2009). This report accused the policy, among other things, of contributing to the erosion of land, to the pollution and the emission of greenhouse gases and to the unreasonable use of water resources. Even though the 2018 Eurobarometer did not explicitly investigate the effect of the CAP or of agriculture on the environment, it seems that EU citizens consider public intervention as an adequate tool to push in favour of better environmental practices. Effectively, 90% of respondents think that a reduction of payments to farmers is justified if those do not respect environmental and animal welfare standards. Similarly, 8 people out of ten in the EU are in favour of the implementation of subsidies that would encourage eco-friendly methods in agricultural production (Eurobarometer, 2018). Therefore, the CAP has been widely criticised for its impact on the environment and the EU's population seems to broadly support the implementation of public policies aiming at incentivising farmers to develop and adopt sustainable practices.

Finally, the CAP's protectionist aspect is frequently criticised, both within and outside of the EU, for its impact on global markets and the developing world. In this sense, the policy is accused of preventing the EU's market from being accessed by farmers working in the

developing world. Furthermore, the CAP is commonly blamed for being trade-distortive and for resulting in the dumping of agricultural products in developing countries, putting local farmers on their knees. Such allegations are defended by a wide range of NGOs such as Concord, the Trade and Justice Movement or Eurostep²⁵. Additionally, this protectionist facet of the CAP has been heavily condemned by the governments of third countries, especially during multilateral trade negotiations (Halderman and Nelson, 2005; Keukeleire and Delreux, 2014). In recent years however, the external pressure applied onto the CAP by the EU's trade partners has steadily declined (see Chapter III). With regards to the results published by the Eurobarometer (2018), it occurs that European citizens share very different opinions on whether the EU should maintain or revoke its trade barriers on third countries (with the exception of LDCs). For example, 47% of the respondents in Malta, Poland and the UK thought that there should be no trade barriers on agricultural products. In France and Bulgaria however, only 26% of the respondents agreed with such a statement (Eurobarometer, 2018). Hence, criticisms addressed towards the external dimension of the CAP, its trade-distortive facet mainly, still linger but have nonetheless gradually faded away thanks to the successive reforms of the policy (Swinbank, 2016). As such, attacks coming from third countries have declined, turning NGOs into the most virulent critics of the CAP's external dimension²⁶.

Overall, the CAP was and still is criticised for its internal and external dimensions. Criticisms of the internal dimension, mainly stemming from budgetary and environmental concerns, are quite widespread within the Union and have not been meaningfully dismissed by the reforms of the CAP. On the other hand, criticisms of the external dimension have decreased since the start of the CAP's reform process in 1992 and are now predominantly formulated by NGOs and no longer by the EU's trade partners.

III. The CAP issue

As the above chapter has highlighted, the CAP is a very complex EU policy, which bears internal and external consequences. From its creation onwards, the CAP has made a lot of ink flow and this often in its disfavour. Effectively, and despite successive reforms, the policy remains criticised with regards to its cost, its environmental impact and its protectionist and

²⁵ Though such criticisms of the CAP's external dimension were more than valid up to the 1990s, Bureau and Swinnen (2018) consider that the successive reforms of the policy have considerably lowered its impact on world markets and developing countries.

²⁶ Some scholars have recently turned down the criticisms addressed by NGOs and depicted them as being too simplistic and as not considering the more complex aspects of trade in agricultural goods (for more details see Bureau and Swinnen, 2018).

trade-distortive nature. A fundamental question thus appears; why is the EU unable to convincingly address these issues and reform its agricultural policy in a successful way?

As the criticisms directed towards the CAP originate from both the internal and external dimensions of the policy, the answer provided to the above interrogation shall be twofold and discussed separately in the following three chapters. In the next chapter, the factors that impede the Union to reform its CAP from within will be analysed. Then, the third chapter shall explain how the external pressures on the CAP and their strategic use by the European Commission during international trade negotiations have been crucial drivers of the CAP's reform process. Finally, in chapter 4, the extent to which the Commission can still use trade negotiations in order to influence the CAP is investigated by examining the recent developments surrounding the negotiations of a potential EU-MERCOSUR Association Agreement.

To do so, the concepts and insights discussed above will be used in addition to a thorough analysis of the decision and policy-making processes related to the CAP as well as the latter's crucial importance during trade negotiations.

Chapter II: factors impeding internal reforms of the CAP

As the first chapter highlighted, the CAP has been, and still is to this day, attacked both within and outside the EU. The constant criticisms addressed to this central European policy are the witnesses of something crucial: changes of the CAP are (too) slow and seem to occur only when the pressures on the policy become untenable. Numerous academics stress how external pressures on the CAP have been the most influential factor in pushing for reforms of the policy (Cunha and Swinbank, 2011; Swinnen, 2015; Daugbjerg, 2017). Even though these authors do not consider internal pressures as insignificant on the reform process, they regularly emphasise how the institutional dynamics of the CAP act as a certain break to its internal reconstruction. The situation is well summarised by Hill (2012) who maintains that *“part of the continuing problems associated with the CAP are [...] the outcome of the process of decision-making and of the structure of the institutions that are involved in it”* (Hill, 2012, p. 90).

This observation can be reformulated into an interesting research question: “Why does the EU fail to (significantly) reform the CAP from within?”. Providing an answer to this interrogation is essential as it allows for a better understanding of the crucial importance of the external dimension of the CAP on the policy’s reform process.

A natural hypothesis to the above research question would be to blame the Council and its member states’ diverging preferences in the field of agriculture as the main factor preventing meaningful reforms. Furthermore, one could be easily tempted to argue that the powerful farm lobbies and pressure groups continuously exacerbate the need for a strong and supportive agricultural policy and thus restrain the Commission from achieving major successes when proposing reforms. This chapter attempts to provide an answer to this question by focusing on the role of the different EU institutions in the decision-making process of the CAP.

I. The CAP: decision-making method

Before digging deeper into the details of the role and influence held by the actors involved in the CAP’s reform process, it seems appropriate to elaborate a little bit on the decision-making structure used to legislate the agricultural policy. This will then enable to assess more critically the impact that each individual actor has on the CAP.

a. The CAP and the ordinary legislative procedure

Since the implementation of the Treaty of Lisbon (2009), the consultation procedure has been replaced by the ordinary legislative procedure (OLP), but not on all domains of the CAP (Massot, 2020). Indeed, the Council remains the sole legislator with regards to “*measures on fixing prices, levies, aid and quantitative limitations [...]*” (Art. 43(3), TFEU) while for all other aspects of the CAP, the Council and the EP act as co-legislators. In addition, the use of the comitology procedure, which delegates powers from the Council unto the Commission in the form of delegated and implementing acts, was formalised by the Lisbon Treaty (McMahon, 2019).

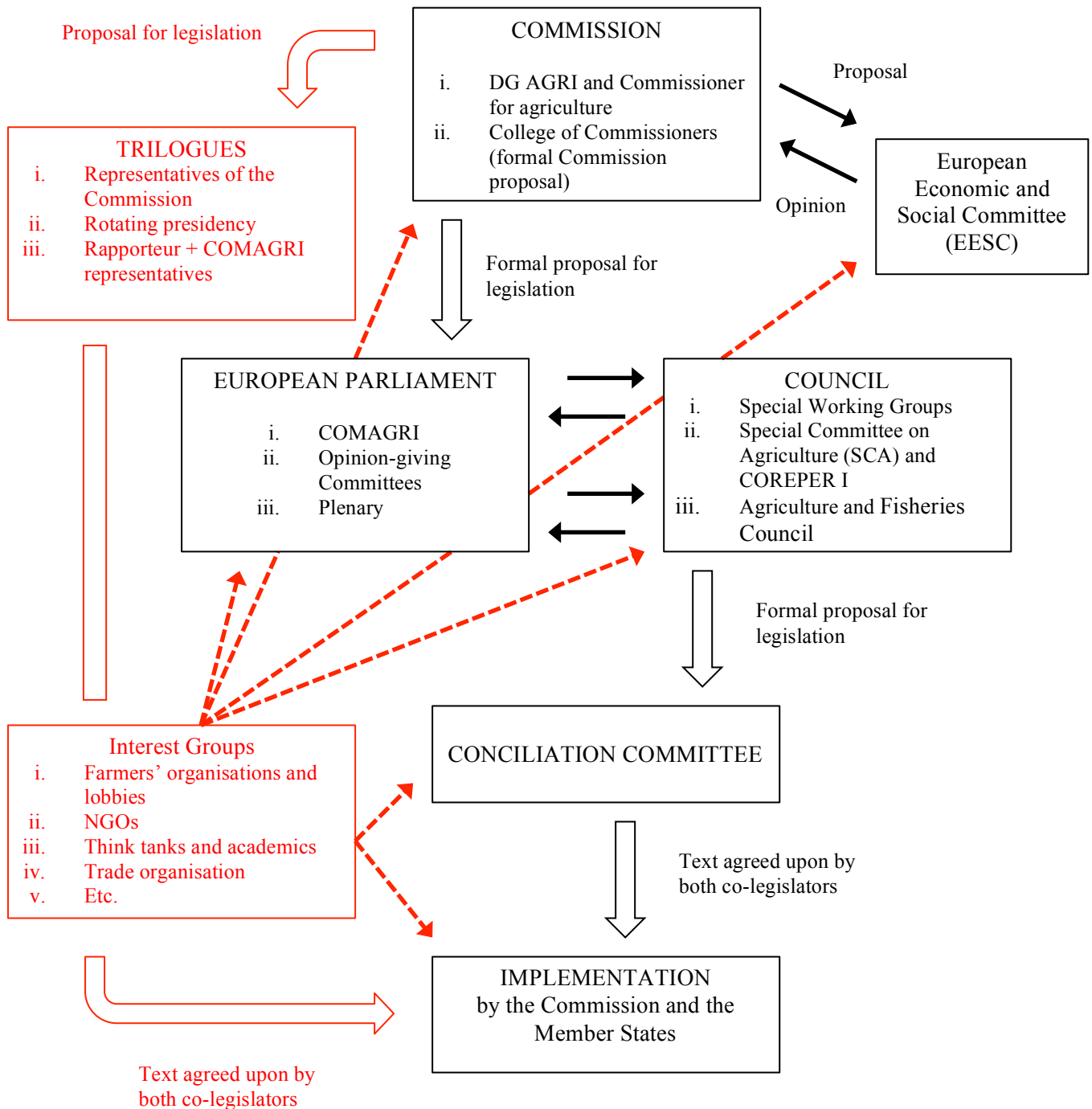
The formal and informal legislative procedures used in the context of the CAP since the Lisbon Treaty can be observed in figure 7, in which the formal institutions and procedures are shown in black and the informal “institutions” and procedures are depicted in red.

Discussing the OLP is not the focus of this paper but a few aspects, specific to the CAP, ought to be mentioned. Firstly, with regards to the Commission, the Directorate-General Agriculture (DG AGRI) is in charge of CAP-related matters and with at its head the Polish Commissioner Janusz Wojciechowski since the 1st of December 2019. Yet, in 1997, competences dealing with veterinary, phytosanitary and plant-breeding responsibilities were transferred from DG-AGRI to the newly created DG-SANCO²⁷. Secondly, in the European Parliament (EP), the Commission’s proposals concerning the CAP are discussed by the committee for agriculture, the COMAGRI, which is currently composed of 47 members. Thirdly, the Agriculture and Fisheries configuration of the Council is not solely prepared by COREPER I but mainly by the Special Committee on Agriculture (SCA), which is in charge of all matters relative to the CAP with the exception of financial affairs and the setting of SPS measures, left to the COREPER. The last formal institution which plays a part in the CAP decision-making is the European Economic and Social Committee (EESC), which provides the Commission with non-binding opinions on the latter’s proposals.

It is no secret that the long and complicated OLP is simplified in practice by the use of the so-called trilogues, which bring together members of the Commission, the EP and the Council. However, despite having trilogues improving the inter-institutional cooperation, the OLP remains a lot more time-consuming than the previously used consultation procedure (Greer and Hind, 2012).

²⁷ This transfer was the result of the conflicting interests that emerged during the BSE (bovine spongiform encephalopathy) crises in the 1990s (Cunha and Swinbank, 2011).

Figure 7: The CAP decision-making process after the Lisbon Treaty: formal and informal procedures
 (Source: personal composition after Cunha and Swinbank, 2011 and Hill, 2012)



In practice, another important and informal actor is present during the OLP: interest groups. This is particularly true in the case of the CAP where lobbying plays a crucial role and where numerous pressure groups are attracted, which is not surprising given the importance of the sector and the size of the CAP's budget (Hill, 2012). Interest groups are made of farmers' organisations, NGOs, academics, trade organisations, etc. and are active at all levels of the institutional process²⁸.

b. The OLP in the CAP: a success?

Before discussing what the use of OLP in the CAP decision-making actually changed, it seems important to clarify why it replaced the consultation procedure in the first place. First of all, and this is the classic argument, moving to the OLP and thus making the EP a co-legislator increases the democratic legitimacy of the policies adopted as members of the European Parliament (MEPs) are directly elected by citizens, as opposed to the members of the Commission or the Council²⁹ (Héritier, 2017). Secondly, as argued by Hill (2012), the fact that member states authorised the OLP to be extended to the CAP in the Lisbon Treaty is a demonstration that agricultural issues have lost importance in comparison to other common policy fields. Finally, the attitude of the EP as seeking power and influence is to be underlined. In this sense, Héritier (2017) highlights how the EP vigorously battled to have its powers enlarged, sometimes even through the adoption of blackmailing tactics.

After the implementation of the Treaty of Lisbon, many scholars attempted to predict what would be the impact of the OLP's extension to the CAP. For example, Swinnen (2015) predicted that the additional powers conferred upon the EP could either lead to a gridlock or to more reforms with regards to agricultural policies and that the outcome would depend on the degree of compatibility of the institutions' preferences.

As the co-legislators effectively adopted a reform of the CAP in 2013, the adoption of co-decision has generally been dubbed as a success (Knops and Garrone, 2015). Nevertheless, many authors do not yet consider that the EP really acted on an equal footing compared to the Council. Effectively, De Castro and Di Mambro (2015) highlight how the EP was forced to make important concessions on the 2013 reform because "*done is better than perfect*". In this sense, Greer and Hind (2012), taking the 2010-2012 negotiations on the milk package as a

²⁸ For a discussion on the main activities performed by farmers' pressure groups, see Cunha and Swinbank (2011).

²⁹ This argument, although very valid at first sight, must however be put into perspective. Indeed, the use of OLP seems like a sensible way to reinforce the accountability mechanisms on the CAP and thus lessen the EU's democratic deficit (Knops and Garrone, 2015). However, the complexity of the reforms, both on the procedural and technical aspects, could actually act as a brake to the transparency of the policies and hence not solve at all the democratic deficit issue (Knops and Swinnen, 2014).

case study, discuss how the EP was unable to act as a complete co-legislator given its limited capacities in comparison to the Commission or the Council.

Overall, the extension of the OLP to the CAP has not led to a deadlock in the legislative process as the successful 2013 reform proves. However, the actual strengthening of the EP's powers in the field of agriculture is yet to be seen. Furthermore, the legitimacy argument behind the OLP's extension seems to be challenged by the excessive complexity of the legislative procedures and outcomes.

II. The Commission

The Commission possesses a crucial legislative role in the decision-making process of the EU: the exclusive right of initiative. In that sense, any legal or policy instrument can only exist if the Commission has made use of this right and thus has put forward a proposal. This particularity has led the Commission to be considered as an effective agenda-setter in the EU. An illustrative example of this agenda-setting power is given by Iagatti and Sorretino (2008) in their analysis of the sugar reform of 2006³⁰. In the pre-proposal phase, the Commission attempts to discover the preferences of the member states with regards to a reform of the sugar market. Then, during the drafting phase, the Commission shapes its proposal in such a way so as to please the 'moderately reformist' member states, which are considered as having 'central' preferences. The ultimate point of this phase is to then build a solid negotiation base with these member states and hence to prevent the formation of blocking minorities located at the two extremes of the spectrum of preferences (i.e. hinder the formation of blocking 'status quo' and 'ultra reformist' groups). This sole right of initiative is further strengthened by the Commission's ability to withdraw its proposal if the (trilogue) negotiations do not go in the direction favoured by the Commission. During the latest discussions for a CAP reform, the Commission's vice-president Frans Timmermans has actually threatened to withdraw the formal proposal given his dissatisfaction with regards to evolution of the negotiations (Euractiv, 2020).

However, the Commission's sole right of initiative must be somewhat nuanced. Indeed, despite being the only institution allowed to present proposals, this does not imply that all proposals find their origins within the Commission (Hill, 2012). In reality, the Commission is the subject of numerous pressures when it comes to its proposals. First of all, the EP and the

³⁰ The reform was thus introduced under the previously used consultation procedure and not the OLP.

Council can put forward legislative demands to which the Commission is bound to reply, even though they must not automatically end in formal proposals (Cunha and Swinbank, 2011). Secondly, the European Council, given its ability to set the guidelines of EU policy granted in the Treaties, can exert substantial pressures on the Commission with regards to its proposals. Finally, various other sources, such as the member states, interest groups or experts and academics, can affect the Commission's drafting of proposals. These actors usually do so through the use of papers which are sent to the Commission and which provide for a specific interpretation of the adequate policies to be implemented with respect to the CAP (Hill, 2012). Hence, even though the Commission is the sole institution allowed to formally present legislative proposals, this does not imply that proposals find their origins within the Commission itself.

When analysing the agenda-setting power of the Commission, it appears that a key factor determining its effectiveness is the interaction of the policy preferences of the different institutions involved in the legislative process (Swinnen, 2015). Unsurprisingly, if the preferences of the three institutions converge, it is easier for the Commission to have its proposals accepted. This has been shown by Kreppel and Oztas (2016) through the use of a dataset comprising 2355 legislative proposals presented between 2000 and 2011. In their paper, the authors demonstrate how the Commission's proposals are 27 times more likely to be accepted when the latter agrees with the Council and 3,7 times more when its preferences are close to those of the EP. However, this study also points out the extent to which the Commission is constrained with regards to its agenda-setting powers. Indeed, for about one third of the proposals presented, the final text adopted matched less than half of what the Commission initially desired³¹. Furthermore, the approved text was close to the Commission's initial proposal mostly when it corresponded with the preferences of the co-legislators and in particular with those of the Council. Consequently, the Commission's agenda-setting power seems to be conditional on having close preferences with the Council and the EP.

Another interpretation of such figures should also be considered. Effectively, as the Commission appears to obtain what it desires in the legislative process only when its preferences match those of the co-legislators, it must therefore tailor its proposals with respect

³¹ Interestingly, the rate of success of the Commission is very unequally spread across the different DGs. Indeed, Rauh (2021) shows that some DGs, including DG AGRI, are a lot more successful than others and have a much higher chance of seeing their proposals being accepted by the co-legislators without being significantly altered. One of the main reasons given by the author to explain this disparity is the experience of individual DGs. In this sense, the longer a DG has had competences over a certain policy field, the better it is able to anticipate the preferences of the Council and the EP.

to the preferences of the Council and the EP (Greer and Hind, 2012; Jensen et al., 2009), thus greatly limiting the agenda-setting power of the Commission³². Additionally, the Commission has been widely depicted as a declining agenda-setter in the recent academic literature. However, even though the strengthening of the EP through the successive Treaty modifications has effectively constrained the Commission's output and policy influence (Rauh, 2018), Senninger and Blom-Hansen (2020) find that the Commission's advantage as the first mover has only been marginally weakened over the years given the numerous strategies that the latter has at its disposal in order to gain influence over the Union's legislative process.

Finally, one should not fail to consider the importance of the Commissioner for agriculture and DG AGRI in the shaping of CAP proposals. Indeed, it must be kept in mind that Commissioners are nominated by their national governments and are thus quite sensible to the agricultural issues of their home countries (Cunha and Swinbank, 2011). The personality of the commissioner for agriculture, be it more reformist or pro-status quo, is obviously important in the drafting of proposals but it seems that farm commissioners have traditionally been closer to the farmers' views and interests (and thus more in favour of limited reforms of the CAP) than the rest of the college of commissioners (Cunha and Swinbank, 2011). Moreover, it seems reasonable to argue that DG AGRI, despite being one of the largest and strongest DGs given its size, wide range of expertise and share of the EU budget, would be pushing in favour of an expansion of the CAP's budget or at least to maintain it at the highest possible level so as to solidify its prestige and power (Hill, 2012). In addition to that, reforms ultimately lead to changes and bureaucracy is typically adverse to change as it is more costly in terms of time and effort (adaptation cost) than to simply maintain the previous policies and instruments (Hill, 2012). Hence, the characteristics of the Commissioner for agriculture and of DG AGRI suggest that the Commission's proposals concerning the CAP might suffer from a slight bias in favour of the status quo.

Nevertheless, research conducted by Cunha and Swinbank (2009) focusing on the determinants of three important reforms of the CAP (The MacSharry, Agenda 2000 and Mid-term review reforms) actually gives substantial credit to the Commission and the farm commissioner in pushing for and achieving the given reforms. Cunha and Swinbank's (2009)

³² In an interesting research paper, Haveland et al. (2018) investigate the link between the Commission's use of Eurobarometers and its agenda-setting power in certain policy fields. They conclude that the Commission is more likely to seek the public's opinion "*in areas where its agenda-setting authority is neither obvious nor achievable and where it is in clear competition with the member states for gaining attention and credibility*". In this study, it appears that agriculture and fisheries is the third most recurrent subject of Eurobarometers.

analysis is based on the opinions gathered from a series of key actors involved in the discussions surrounding the reforms. The results indicated that the Commission and the commissioners for agriculture (Ray MacSharry and Franz Fischler) were crucial factors both on the construction of the proposals and the shaping of the final texts³³.

Therefore, the agenda-setting power of the Commission seems to be rather constrained when it comes to reforming the CAP and as Kreppel and Oztas (2016) phrase it, it could be qualified more as an “*expression of luck rather than power*”. This conclusion could partly explain the limited reforms having internal origins, conditional on the assumption that the co-legislators are relatively more supportive of the status quo. Yet, it appears from the literature that the Commission and the Commissioner for agriculture are of key relevance in the CAP reform process, bearing great influence on the shaping of both the proposals and the final texts. Thus, it is manifest that the Commission possesses additional instruments in its toolbox than merely the sole right of initiative in order to influence the CAP...

III. The European Parliament

During the negotiations of the 2013 CAP reform, the EP experienced for the first time its new role as co-legislator with regards to agricultural matters. Notwithstanding, the EP has always supported reforms of the CAP and regularly used its non-binding instruments in order to influence the evolution of the common policy (Massot, 2020). Yet, as Cunha and Swinbank (2009) show, the EP’s ability to exert pressure on the proposals and the final outcome of the reforms was at best limited prior to the implementation of the Treaty of Lisbon.

The Lisbon Treaty thus extended the scope of the OLP to the CAP, hence theoretically extending the EP’s powers. However, the ability of the EP to make a meaningful use of its new powers was not seen as a guarantee by many scholars. Indeed, the EP has been frequently described as ‘capacity-constrained’ in the field of agriculture (Fertó and Kovacs, 2015). This obstruction would be the result of the limited time available to MEPs and the lack of expertise of the EP in agricultural matters as well as its considerably smaller staff when compared to those of the Commission and the Council. As a result, the EP would face significant difficulties in dealing with the abundant and overly technical legislation related to

³³ For all three reforms, the overwhelming majority of respondents (more than 90%) considered the Commission and the farm commissioner as important actors in the proposal phase and even more so (more than 95%) when considering their influence on the outcome of the negotiations (Cunha and Swinbank, 2009).

the CAP. This has led authors such as Fertó and Kovacs (2015) to consider the EP as “*not yet an equal co-legislator with the Council*” and as heavily reliant on the Commission for information and expertise (Hill, 2012; Greer and Hind, 2012).

Furthermore, the specific structure of the OLP has led to the EP having a relatively weaker position than the Council in the decision-making process. Effectively, in the formal procedure, the Council is the last institution to be able to propose amendments before eventually ending in the conciliation committee (see figure 7). In this sense, the amendments put forward by the Council at the end of the second reading can be interpreted as a ‘take-it-or-leave-it offer’ (Fertó and Kovacs, 2015). In game theory, such a situation can be analysed using a so-called ‘ultimatum game’. In this context, the one who receives the offer (here the EP) should always accept any proposal from the sender (the Council) as long as it makes it better off than by rejecting it³⁴. Assuming that the Council is a rational player and thus foresees this outcome, its final amendments should always be completely biased towards its own preferences as it knows that the EP will reject the proposal only if it makes the latter worse off than the ‘no deal’ option³⁵. Therefore, the OLP’s structure is heavily biased in favour of the Council. This is highlighted by De Castro and Di Mambro (2015) who state that “*done is better than perfect*” implying that if the EP really wants a deal to be found and a new piece of legislation to be adopted, it has to make significant concessions on its initial positions.

However, the formal OLP structure is not used in practice but is replaced by the system of trilogues in which the three institutions (Commission, Council and EP) jointly seat. Figuring out whether the use of trilogues strengthens the EP’s position vis-à-vis the Council depends on how the discussions actually take place in these quite secret and non-transparent negotiations. Nevertheless, Fertó and Kovacs (2015), provide an in-depth study of the amendments proposed by the EP before and after the extension of the OLP to the CAP. The results provided by the authors are unequivocal: the number of amendments proposed by the EP has exploded and their adoption rate has doubled since the entry into force of the Lisbon Treaty. Fertó and Kovacs (2015) hence conclude that the extension of OLP to the CAP has greatly strengthened the EP and has made the EP and the Council equal institutions, at least during the trilogue negotiations.

³⁴ In this case, this would imply having the negotiations to be continued in the conciliation committee and thus risking having no deal at all in the end and thus no reform.

³⁵ Having two readings does not alter the EP’s unfavourable position as the Council can simply reject the EP’s amendments in the first and second readings and thus enjoy being the final sender in the ultimatum game.

Still, another issue stands out with regards to the EP's ability to substantially push for reforms of the CAP: the composition of the COMAGRI. Indeed, the COMAGRI has been traditionally composed of MEPs having strong farming backgrounds and close links with the agricultural world and this has not changed since Lisbon³⁶ (Swinnen, 2015; Greer and Hind, 2012; Knops and Garrone, 2015). The COMAGRI is thus likely to be more inclined to the status quo with respect to the CAP than the rest of the plenary. This is problematic because even though the COMAGRI is only made up of 47 out of 705 MEPSs, the COMAGRI's positions and amendments are almost automatically adopted by the plenary. As demonstrated by Fertó and Kovacs (2015), more than 95% of the COMAGRI's proposed amendments were endorsed by the EP. Hence, the COMAGRI literally sets the EP's preferences when it comes to the CAP and is traditionally closer to the farmers' interests. With this in mind, the increase in the number of amendments submitted by the EP and the raised adoption rate of those discussed by Fertó and Kovacs (2015) have to be nuanced. Effectively, the specific content of these amendments are not known and hence could either be relatively insignificant or close to the Council's position.

Overall, the literature on the CAP seems to indicate that EP's power as not yet levelled that of the Council and that its agricultural committee might have a tendency to be sensible to the interests of the farming community. Therefore, these conclusions fit rather nicely with the hypothesis presented above. Indeed, given the relative weakness of the EP, it appears incapable of substantially opposing the pro-status quo stance of the Council and thus to be a driver of internal reforms.

IV. The Council

Historically, the agriculture and fisheries Council has been widely considered as the most 'powerful' Council configuration of all, mainly because of the size of the budget allocated to agricultural matters (Cunha and Swinbank, 2011). Additionally, the agriculture Council has enjoyed a relative independence from the decisions of the other configurations in the sense that it widely disregarded the consequences that its resolutions could have on non-agricultural issues (Hill, 2012). However, this relative power and independence have gradually been eroded over the years and this for two main reasons (Cunha and Swinbank, 2011). Firstly, because of the incremental fall of the EU's budget share allocated to the CAP (cfr. Chapter I)

³⁶ Knops and Swinnen (2014) provide three reasons why this is the case and why it is likely to remain so in the future.

and secondly, because of the broadening of the EU's agenda to other fields such as economic and social convergence, R&D, enlargement and so on.

The formal rules of the Council set forth that qualified majority voting (QMV) is to be used. Yet, (farm) ministers rarely end up voting and have a preference for decisions to be taken unanimously. Cunha and Swinbank (2011) provide two rationales behind this habit. First of all, there appears to be a certain path dependency with regards to the voting method. The informal rule of unanimity is a heritage of the 1966 'Luxembourg compromise' and the 'veto culture' that developed thereafter (Cunha and Swinbank, 2011). In addition to that, reaching unanimity in the Council serves political objectives. Indeed, unanimity can be used by farm ministers to domestically justify their support for certain decisions. This informal unanimity rule can therefore partly explain the rather pro-status quo stance of the Council as every member state has an informal right of veto at its disposal.

Besides this informal unanimity rule, farm ministers tend to be in favour of somewhat limited reforms of the CAP (Cunha and Swinbank, 2011). The first explanation highlighted by scholars is that ministers face a certain pressure to maintain the level of financial help given to farmers. In that sense, it appears that funds received by the EU are perceived by member states as a certain right to which they are entitled (Hill, 2012). A second reason regularly put forward to explain the ministers' attitude is their myopic vision. Indeed, ministers are politicians and one of their primary objective is to be re-elected and thus to avoid unpopular decisions, in particular when elections at home are approaching (Hill, 2012). Thus, ministers have a certain incentive to delay the potentially unpopular (and thus often reformist) agreements. Obviously, in a Council made up of 27 ministers from 27 different member states, finding a timing that matches everyone's agenda is more than improbable. Lastly, alliances of member states in the Council tend to be overly unstable³⁷. To be sure, a minister's decision to either support or reject a legislative proposal depends on countless variables³⁸. Consequently, pragmatism is the rule in the Council and no solid 'reformist' coalition can be sustainably formed.

³⁷ This point is well illustrated by the CAP reform negotiations that occurred in 2015. At that time, the Commission presented two proposals (among others) which pursued environmental objectives (Agence Europe, 2015). One of them suggested making the greening of aid given to farmers a priority, a proposal that was supported by both Austria and Bulgaria. Another similar proposal, which intended to set a certain threshold to the use of pesticides was backed by Bulgaria but firmly opposed by Austria.

³⁸ In Jensen et al. (2009), the authors attempt to derive the national preferences of member states based on the development of their respective agricultural sectors. The results only provide for a limited correlation between the member states' agricultural development and their willingness to reform the CAP.

A simplistic reason often given to explain all the deficiencies of the EU is the diverging interests and preferences of its member states. However, this is insufficient to explain the lack of internally motivated reforms. Certainly, if the national preferences defended by the farm ministers converged, decisions would be adopted a lot faster (yet, it would not imply that these would be more reformist in nature!). However, the real problem in the Council seems to be its inherent veto culture, which impedes decisions to be taken rapidly and which also implies that a ‘reformist’ view will never be chosen even if it is dominant in the Council. Additionally, the completely different agricultural situations in the member states tend to prevent the formation of stable and long-lasting ‘reformist’ alliances.

Therefore, it appears that a significantly pro-reform compromise is quite unlikely to arise in the Council, especially on major issues such as the allocation of financial aid to farmers. This pro-status quo attitude of the Council therefore undermines the possibilities of CAP reform and is truly problematic given the relative independence and autonomy enjoyed by the Council in the EU’s decision-making process³⁹ (Kreppel and Oztas, 2016).

V. A role for the European Council?

The European Council is not directly involved in the legislative decision-making process of the EU. Nevertheless, thanks to the political status of its members (heads of state and government), it can actually have a certain role to play when it comes to reforming the CAP. For example, the European Council can be of crucial importance when discussions have reached a dead-end in the Council. Such an involvement took place on numerous occasions, especially in cases where farm ministers could not reach an agreement on the CAP’s budget⁴⁰ (Cunha and Swinbank, 2011).

However, the European Council tends to stay away from any involvement in CAP issues given the sensitivity of the policy (Daugbjerg and Swinbank, 2007). In this sense, the heads of state and government try to avoid as much as possible any implication and mainly step in when major package deals are put at stake by gridlocks in the agriculture Council. Several academics (Cunha and Swinbank, 2009; Hill, 2012) stress the European Council’s proactive

³⁹ In their study, Kreppel and Oztas (2016), find that the success of the Council during legislative negotiations is largely unaffected by the proximity of its preferences with the ones of the Commission or the EP. Conversely, the EP is two times more likely to have its positions adopted if its preferences match those of the Council. This figure climbs up to five for the Commission.

⁴⁰ The most famous example being the Fontainebleau Summit (1984) which placed budgetary constraints on the CAP following Thatcher’s furious attack on the common policy.

role in pressurising the agricultural Council when the latter's internal disputes prevented the EU to conclude international trade agreements. This has been the case during the Agenda 2000 reform discussions for example. Yet, Daugbjerg and Swinbank (2009) argue, as opposed to what is usually stated, that the European Council is actually a less favourable scene than the agriculture Council in order to push for substantial CAP reform as the former is likely to subordinate agricultural issues to the need of reaching an agreement covering multiple other EU fields.

Therefore, despite being left out of the formal decision-making surrounding the CAP, the European Council can, to a certain extent, accelerate the discussions in the agriculture Council but tends to do so only when implementing a CAP reform is a *sine qua non* condition to reach broader package deals.

VI. Farmers' pressure groups

Just like for any other EU policy field, the CAP is influenced by a number of contributors, which are external to the formal legislative procedures. These include various interest groups, NGOs, academics, etc. These external contributors attempt to influence policy-makers and orient them towards their specific preferences. With regards to the CAP, given its sizable budget and importance, numerous external contributors have always been attracted to it, farmers' unions in particular. Indeed, farmers' unions have orbited around key CAP actors since the creation of the common policy in the 1960s⁴¹. The uninterrupted presence of farmers' pressure groups around EU institutions has partly shaped the evolution of the CAP, up to the point where today's CAP can be considered as an instrument to maintain the farmers' incomes which enables them to survive (Hill, 2012).

The actual CAP situation may, in some ways, be attributed to the very effective lobbying operated by farming unions and by the COPA and COGECA in particular (Hill, 2012). These interest groups are very influential and this for two main reasons. First of all, they are large (in the sense of membership) and they are wealthy⁴². These two characteristics are widely

⁴¹ Three main aspects of the agricultural community can explain the tendency that farmers have to group themselves in large unions. First, the potential benefits from joining unions exceed the costs of doing so because policy reforms can actually involve substantial losses to the farming community. Second, farmers are relatively limited in numbers when compared to other groups such as consumers for example. Last, despite important differences, farmers form a somewhat homogenous group (Hill, 2012).

⁴² For example, both COPA and COGECA have a yearly lobbying budget situated between 1 and 1,25 million euros as well as 18 full-time lobbyists (LobbyFacts.eu, 2020).

considered as being crucial factors in determining the success of a pressure group (Sorrentino et al., 2017; Velázquez and Buffaria, 2017; Egdell and Thomson, 1999). Secondly, thanks to their historical presence near EU institutions, farmers’ organisations have developed an unparalleled expertise in the art of lobbying⁴³. Table 2, which shows the composition of the civil dialogue group dedicated to the CAP, illustrates well the relative strength of farmers’ unions in comparison to other interest groups. As it can be observed, those organisations that are granted the biggest amount of seats (six each) are COPA, COGECA, CELCAA (the association for agricultural traders) and FooddrinkEurope (representing the interests of European food and drinks manufacturers). Conversely, Beelife, Birdlife, Greenpeace and the WWF (NGOs defending animal welfare and the environment) jointly have six seats.

Table 2: Composition of the CAP civil dialogue group (Source: European Commission, 2020)

Organisation	Number of seats	Organisation	Number of seats	Organisation	Number of seats
Beelife	1	ECPA	1	EURAF	2
Birdlife	2	ECVC	2	Eurocommerce	1
CEETTAR	1	EEB	3	Euromontana	2
CEJA	4	EFA	1	FooddrinkEurope	6
CELCAA	6	EFFAT	4	Greenpeace	1
CEMA	1	EFNCP	1	IFOAM	3
CEPM	1	EISA	1	Pan Europe	1
COGECA	6	ELO	4	SACAR	2
Concord	4	EMB	1	UEAPME	1
COPA	6	EPHA	1	WWF	2

However, the influence of farmers’ pressure groups has been gradually decreasing over the years. This process started in the early 1990s when the Commission’s primary objectives, then presided by Jacques Delors, started to evolve and slowly move away from the CAP (Cunha and Swinbank, 2011). From that point onwards, the influence of farmers’ organisations started to erode in favour of other pressure groups. This was caused by the internal weakening of farmers’ unions due to the successive rounds of enlargement, which increased their heterogeneity and disabled them from effectively speaking with a single voice (Cunha and Swinbank, 2011). Secondly, the widening of the CAP’s objectives to include

⁴³ It must be noted that the formation of agricultural Eurogroups like the COPA was encouraged by the Commission in the early days of European integration. Indeed, the Commission saw such European unions as a way to politically legitimise itself and to strengthen the European facet of agricultural policy (Cunha and Swinbank, 2011).

environmental and social issues implied that the Commission and other EU institutions increasingly sought for advice not only from farmers' organisations but also from NGOs and academics (Hill, 2012). This change can be observed in Cunha and Swinbank (2009), who really show the expanding influence of consumer and environmental organisations as well as the media over the outcome of CAP reform discussions.

Therefore, farmers' organisations and their rent-seeking activities have been important actors during the construction and evolution of the CAP in its first decades, even though their role must not be exaggerated (Hill, 2012). While they are still active and influential to this day, their significance with regards to the CAP reform process has fallen over the past 30 years to the advantage of other interest groups, which reflect more acutely the evolving views of the Commission with respect to the CAP.

VII. What is internally blocking reforms of the CAP?

At the start of Chapter II, a hypothesis that attempted to explain the lack of internally driven reforms of the CAP was presented. The latter speculated that the member states' diverging preferences in the Council and the pressures exerted by the farmers' unions were the main factors responsible for the CAP's slow reform process. However, it has been argued in the rest of this chapter that even though farmers' union and the member states' disputes do impede reforms, other determinants were of greater importance to understand the problem at hand. In this sense, the complicated evolution of the CAP was more to be blamed on the characteristics of the decision-making method (i.e. the Council's dominance in the OLP and its informal unanimity rule, the capacity-gap of the EP, the meagre agenda-setting power of the Commission, ...) and on the actors involved (i.e. the COMAGRI in the EP, the farm ministers in the Council, DG AGRI, etc.).

Nevertheless, CAP reforms have occurred and multiplied since the 1992 MacSharry reform. These successive reforms can partly be explained by several internal pressures exerted on the common policy (Burrell, 2009). First of all, the numerous projects of European integration (the single market, the monetary union or the regional and cohesion policy for example) launched under the Delors Commission have put an end to agriculture's hegemonic position in the EU's agenda and, crucially, have increasingly placed constraints on the CAP's budget. Secondly, the enlargement of the Union has diversified the agricultural landscape of the EU and, despite bringing along more heterogeneity in the Council and in farmers' organisations,

it urged the need for reforms⁴⁴ (Swinnen, 2015). Thirdly, the view of EU's society with regards to the CAP has changed over the last decades. Indeed, despite the wide popular support for the financial aid given to farmers (Haverland et al., 2018), the CAP has been the subject of sharp criticisms in the media for various reasons: the mountains of food surpluses in the years preceding the MacSharry reform, the inequitable financial support given to farmers as a result of ethically questionable redistribution mechanisms or the environmental damages caused by the over-intensive farming methods incentivised by the CAP's structure.

Yet, one of the most important factors that can explain the multiple reforms of the CAP and that has been deliberately not covered in this chapter, are the pressures exercised on the policy by actors outside the Union. As explained in chapter III, these external pressures can be seen as the Commission's tool on which it relied upon to meaningfully impact the evolution of the CAP. Hence, external pressures by international organisations and third countries as well as their use by the Commission are analysed in the following chapter.

⁴⁴ Interestingly, Brexit could also be a crucial factor impacting the future of the CAP given that the UK has always been a net contributor to the common policy (Cavallo and Cannata, 2019).

Chapter III: international trade negotiations, external pressures and the CAP

This chapter investigates and analyses the external pressures that have influenced the CAP and its reform process. In addition to that, the use made of these pressures by the European Commission, mainly through international trade negotiations, in order to drive these reforms is considered.

Three important aspects of the external pressures applied onto the EU's agricultural policy are discussed. First of all, this chapter analyses the impact of international trade negotiations on the CAP and its evolution. Then, the influence of the Union's development policy vis-à-vis third countries and its desire for coherence are considered. Finally, the consequences on external pressures of the numerous reforms of the CAP are analysed.

I. The CAP and international trade negotiations

International trade negotiations are widely considered as having played a crucial role in the reform process of the CAP (Cunha and Swinbank, 2011; Bureau and Swinnen, 2018, Daugbjerg, 2017). There is indeed a wide consensus in the scientific literature dealing with the evolution of the EU's agricultural policy that one of the main drivers of the CAP's reforms from 1992 until 2008 were the multilateral trade negotiations that took place under the auspices of the GATT and later of the WTO. In order to fully understand the importance of these trade negotiations for the CAP, it seems appropriate to split the analysis into two separate periods. The first period, spanning from the late 1980s until 2008, corresponds to a period of progress in multilateral trade liberalisation. The second period however, which still continues to this day, has seen a deadlock of multilateralism and of international trade negotiations and liberalisation.

a) The GATT, the WTO and multilateralism

In April 1994, the so-called Uruguay Round of negotiations of the GATT⁴⁵ was finally concluded. The completion of the Uruguay Round was historical on several points. Of interest here, was the fact that GATT members had agreed to no longer exclude agricultural products from multilateral trade agreements. Effectively, the Marrakesh Agreement also included a

⁴⁵ The GATT or Generalised Agreement on Tariffs and Trade, signed in 1947 by 23 countries, aimed at substantially reducing barriers to trade and thus promote trade liberalisation. It was replaced in 1995 by the World Trade Organisation (WTO).

package which aimed at liberalising the agricultural sector: the Uruguay Round Agreement on Agriculture (URAA)⁴⁶.

Prior to the URAA, agriculture had been deliberately left out of most multilateral trade negotiations and agreements. Indeed, the sector had been exempted from many of the important rules agreed upon during the original GATT such as those dealing with quantitative import restrictions and export subsidies. The underlying reason for this exclusion was that the US were opposed to the liberalisation of the agricultural sector in 1947 (Cunha and Swinbank, 2011). The US started to alter their position in the 1960s when the CAP was implemented in the newly formed European Economic Community (EEC), as the policy harmed the US's export interests. Over the years, the growing rivalry between the two powers degenerated into an export subsidy war fuelled by the desire to increase their respective export markets (Swinbank, 2018).

Negotiations around the URAA were lengthy and complicated. All major parties, including the EU, were unwilling to abandon their agricultural support policies (Cunha and Swinbank, 2011). Effectively, prior to the URAA, the CAP was characterised by three key measures: high border protections (mainly through the implementation of tariffs and quotas), a system of guaranteed prices for farmers if domestic prices were to fall below a certain threshold and by large export subsidies (which were known as “export refunds”). In the EU, such measures and instruments were significantly altered by the implementation of the 1992 MacSharry reform (see Chapter I for more details on the changes brought by this reform).

i. The MacSharry reform

The MacSharry reform of 1992 is the first reform of the CAP that significantly altered the protectionist nature of the policy. Moreover, it is usually regarded as the policy change that kick-started a series of further reforms which took place until 2008 and which shared a common objective: making the European agricultural sector more market-oriented and GATT/WTO-compliant (Daugbjerg, 2017; Swinbank, 2018).

a. External drivers

The reasons that have incentivised the Union to reorganise its agricultural policy in the early 1990s have been the central question of numerous academic research in the years following

⁴⁶ One of the main agreements of the URAA was the concept of “tariffication”. Tariffication was a resolution that converted national border protection measures either into tariffs or tariff-rate quotas (TRQs). At the time, only limited tariff reductions had been agreed upon and the consequences of this can still be observed today in the EU, which continues to maintain very high tariffs on some of its CAP products (Swinbank, 2018).

the reform. Most of the authors that have studied the MacSharry reform and its rationale argue that the Uruguay Round of negotiations has been one of the most important drivers behind the CAP's policy change, if not the most important one (Cunha and Swinbank, 2011; Hill, 2012; Swinbank, 2016; Young and Peterson, 2013).

The Uruguay Round of the GATT was decisive as the latter concentrated the demands of most of the EU's trade partners in the field of agriculture. Effectively, many of the countries sitting around the negotiation table considered a lowering of the trade-distortive measures of the CAP as absolutely essential (Cunha and Swinbank, 2011). After several deadlocks during the negotiations, it became evident for the Commission as well as for EU member states that the completion of the Uruguay Round was linked and eventually depended on the EU reforming its agricultural policy (Daugbjerg, 2017). Furthermore, the Uruguay Round was a Single Undertaking, which meant that nothing was agreed until everything was agreed. Consequently, the entire negotiation process would be jeopardised if an agreement on the agricultural package were not struck (Swinbank, 2016).

Nevertheless, many experts of the CAP consider that the Uruguay Round negotiations were not the only factor that led to the MacSharry reform but that it was rather a combination of factors, in which multilateral trade negotiations were crucial. Daugbjerg (2017) for example, argues that the pressures coming from the GATT were a necessary but yet insufficient condition to foster such a reform. Hill (2012), Young and Peterson (2013) and Bureau and Swinnen (2018) all argue that the MacSharry reform was the consequence of a blend of factors which included budgetary pressures, environmental concerns and the production surpluses that were the result of the specific payment structure of the CAP (see Chapter I).

Additionally, the role of individual third countries was also critical in the development of the MacSharry reform. Indeed, the US even threatened to impose trade sanctions on the EU in the early 1990s if the Union refused to make the CAP more market-oriented. This eventually led to the Blair House Agreement between the EU and the US, which paved the way to the finalisation of the Uruguay Round (Swinbank, 2016). Besides the US, the so-called Cairns Group⁴⁷ also put the EU under a lot of pressure⁴⁷ to force the latter to reform a number of the Union's protectionist agricultural measures (Daugbjerg, 2017).

⁴⁷ The Cairns group, formed in 1986 in Australia, has as its primary objective the liberalisation of trade in agricultural products. It is composed of 20 countries including important agricultural powers such as Australia, Brazil and Argentina.

b. Role of the Commission

The Commission and its Commissioner for agriculture Ray MacSharry are widely praised as having played a very pro-active role in the introduction of the 1992 reform. Indeed, the Commission and MacSharry seized the occasion provided by the deadlocks in the Uruguay Round of negotiations to come up with and present proposals for ground-breaking reforms of the CAP. In particular, the Commission submitted a “Reflections paper” in February 1991 that advocated for a rapid and drastic reduction of the CAP’s most trade-distortive elements (Cunha and Swinbank, 2011; Swinbank, 2016). The underlying idea was that the GATT negotiations had broken down precisely because of the CAP and that reforming the policy was the only way to reach a multilateral agreement (Daugbjerg, 2017).

Furthermore, the Commission repeatedly used the fact that the Uruguay Round negotiations were a Single Undertaking as an extensive pressure device against the Council of agriculture ministers (Daugbjerg, 2017). Similarly, the farm and trade Commissioners were able to skilfully transfer the external pressure of the US and the Cairns group unto the member states in order to avoid the complete and definitive collapse of the negotiations. Overall, the extent of the influence that the Commission has had on the construction of the MacSharry reform has been so important that it has led several authors such as Cunha and Swinbank (2011) to label the reform as originating from a supranational rather than intergovernmental approach.

ii. Subsequent reforms

The 1992 MacSharry reform had significantly altered the CAP and had enabled the conclusion of the URAA and thus of the Uruguay Round as a whole. However, the policy remained highly trade-disruptive thus leaving a lot of room for external criticisms and further reforms (Cunha and Swinbank, 2011).

a. External drivers

Just like for the MacSharry reform, the reforms that followed⁴⁸ were heavily driven and influenced by the WTO and multilateralism and this for two main reasons. First of all, the post-MacSharry CAP was still problematic in the WTO given that it was still highly protectionist and trade-distortive. This led to the implementation of numerous CAP reforms that can all be seen as somewhat the continuation of the previous one and which were driven by the need to make the policy more market-oriented and more WTO-compliant (Swinbank, 2016). Secondly, the post-MacSharry reforms were driven by the successor of the Uruguay

⁴⁸ These reforms include the 1999 Agenda 2000, the 2003 Fischler reforms (or Mid-Term Review) and the 2008 Health Check.

Round, the Doha Round of negotiations⁴⁹. As in the early 1990s, the EU believed that it would be forced to reform its agricultural policy, and its domestic support to farmers in particular, if the Doha Round was to be a success (Swinbank, 2015). Furthermore, many European actors thought that the EU would end up being in a better bargaining position during the round if it was able to adjust the CAP before the start of the final multilateral negotiations, which were initially foreseen to be in 2008.

b. *Role of the Commission*

Just as for the original MacSharry reform, the Commission and the successive agriculture Commissioners of the 1992-2008 era⁵⁰ are commonly considered as having been important drivers behind the successive CAP reforms. In this sense, Daugbjerg (2017) argues that the Commission was eager to respond to the pressures coming from the WTO and its members, which still originated in the fact that the CAP remained highly protectionist and trade-distortive. Yet, the Commission did not push for too rapid and wholesome reforms of the agricultural policy and preferred to see this as an incremental process which would enable the preservation of farmers' incomes (Daugbjerg, 2017).

Moreover, the Commission considered reforming the CAP as an important lever for the multilateral trade negotiations to come under the WTO's Doha Round (Daugbjerg, 2017). Indeed, Franz Fischler believed that CAP reforms should precede the opening of the Doha Round of negotiations in order to guarantee a better bargaining position for the EU. This precise argument was repeatedly used by the Commission and by Fischler in the elaboration of the 1999 Agenda 2000 and the 2003 Fischler reforms (Cunha and Swinbank, 2011).

Overall, the Commission is acknowledged in the academic literature as being the main institutional driver behind the reforms that followed the MacSharry revolution and this up to the 2008 Health Check. However, the Commission's influence and ability to transfer the pressure stemming from the international level has been considered as slowly fading away with the years, mainly as a result of the decreasing external and EU-level pressures for CAP reform (Cunha and Swinbank, 2011).

⁴⁹ Also known as the Doha Development Round, the Doha Round was launched in November 2001 and aimed at deepening the agreements signed in Marrakesh.

⁵⁰ René Steichen from Luxembourg took over Ray MacSharry in 1992 and was succeeded by Franz Fischler in 1995, who held the position until 2004. Mariann Fischer Boel then served as Commissioner for agriculture between 2004 and 2010.

b) The deadlock of the Doha Round and bilateralism

Since 2008 and a dispute between the US and India concerning the protection of farmers (The Guardian, 2015), the Doha Round of negotiations of the WTO has reached a stalemate and has consequently prevented any meaningful progresses in multilateral trade agreements. In an article dealing with mega-FTAs and the WTO, Urata (2016) presents four important factors that have led to the deadlock of the Doha Round. Firstly, the number of WTO members has significantly increased since the completion of the Uruguay round in 1994⁵¹. As a result, reaching a consensus has become increasingly difficult. Secondly, the WTO is no longer dominated by developed nations and countries like India, Brazil or China have seen their bargaining positions strengthened by the impressive growth rates that they achieved over the last three decades. This element has rendered an understanding between the “Quad” (i.e. the US, the EU, Japan and Canada) insufficient for an agreement to be reached at the WTO level. Thirdly, the previous rounds of negotiations of the GATT have dealt with the easiest aspects of trade liberalisation, implying that the most controversial issues are now on the WTO’s table. Finally, multilateral trade negotiations have been extended to wider areas such as the environment, which are contemplated very differently across the enlarged WTO membership.

Consequently, given the deadlock of the Doha Round and multilateralism, most WTO nations have switched their attention to bilateral and so-called “mega-”FTAs⁵² (Matthews, 2019). The EU is no exception to this trend and has concluded multiple bilateral agreements (with the CARIFORUM countries, several Western Balkans and South American countries, ...) and launched various negotiations (with Australia, New Zealand and the Philippines for example) since 2008 (European Commission, 2021).

i. *The WTO deadlocked: less pressure for reforms of the CAP?*

The deadlock of the Doha Round of negotiations has, without a doubt, lessened the external pressure on the CAP (Daugbjerg, 2017; Swinbank, 2015; Matthews, 2019). Effectively, not only has the stalemate diminished the tensions surrounding the external aspect of the CAP (Daugbjerg, 2017), but it has also made the WTO’s dispute settlement mechanism less effective to challenge the measures adopted under the CAP (Swinbank, 2015; Daugbjerg, 2017).

⁵¹ When the Marrakesh agreements were signed, 123 countries were members of the WTO. Nowadays, the international organisation includes 164 nations (WTO, 2021).

⁵² The multiplication of regional trade agreements bears important consequences for European farmers and the Union’s agricultural market in general. Indeed, as Swinbank (2016) shows, the conclusion of numerous FTAs, especially with those countries having very low costs of production for agricultural products (the MERCOSUR or Australia for example), will depress EU market prices and thus put further pressure on the incomes of those European farmers whose products are still heavily protected by high import tariffs.

The WTO's deadlock and the resulting weakened external pressure on the CAP have had two visible consequences on the EU's agricultural policy. First of all, the EU has turned its focus towards bilateral trade agreements, which still imply that the CAP will be challenged by the EU's trade partners (especially those negotiating Deep and Comprehensive FTAs) but will not be able to do so to the extent reached during the Uruguay Round of negotiations (Young and Peterson, 2013; Swinbank, 2016). Yet, if taken together, the implementation of multiple FTAs with countries having a competitive agricultural sector such as the US, the MERCOSUR countries or Australia, could force the EU to alter its CAP's structure so as to prevent many European farmers from being driven out of business (Matthews, 2019).

Secondly, the deadlock of the WTO has broken the trend established since 1992 with regards to the CAP's reform process. Indeed, since the MacSharry reform, the policy changes had followed more or less the same path of liberalisation and opening of the European agricultural market. However, the latest CAP reform, implemented in 2013, was of a different nature and was focused more extensively on internal aspects of the CAP (Greer, 2017). Several authors attributed this change of direction to the unlikelihood for an agreement to be reached in the Doha Round in the near future and thus the weakening of the multilateral trade element in the EU-level negotiations of the CAP (Swinbank, 2016; Matthews, 2019).

Overall, the WTO can no longer be considered as an important driver for change when it comes to the CAP and, despite the potential of bilateral FTA negotiations to pressurise the given policy, the fragmentation of the EU's trade partners' demands will most probably be insufficient to permit the completion of reforms having comparable significance than those implemented over the 1992-2008 period (Swinbank, 2016).

ii. The WTO deadlocked: what role for the Commission?

With the Doha Round negotiations in an impasse, the European Commission can no longer rely on multilateral trade negotiations to put pressure on the member states to reform the CAP as it successfully did in the past. Hence, the WTO's deadlock as resulted in the loss of an important lever for the Commission and this has diminished the latter's influence on the CAP. The Commission's weakened position can be observed by comparing its proposal for the 2013 CAP reform with the ultimate outcome of the trilogue negotiations. Indeed, the Commission's proposal, which primarily targeted environmental and climate change objectives, had been dubbed as reformist by some observers (Greer, 2017). Yet, the Commission seems to have been dominated by the Council and the European Parliament

during the negotiation process given the resulting 2013 reform, which mainly adopted a productivist stance, focusing on food security⁵³.

Furthermore, looking at the Commission's proposal for the 2013 CAP reform allows for another crucial observation: this proposal was mainly grounded in domestic objectives (Daugbjerg, 2017). The proposal for a reform of the CAP presented by the Commission in 2018 follows this path and completely disregards trade-related issues while it repeatedly stresses the importance of "greening" the CAP and making it more sustainable. Thus, the Commission's last two proposals were no longer motivated and backed by arguments of an external nature, demonstrating how the institution has (for the moment at least) given up on its former tool that relied on the transfer of pressure inflicted by the WTO and trade partners⁵⁴.

Notwithstanding, since the deadlock of the WTO and the acceleration of bilateral trade negotiations, the Commission has new instruments available in order to meaningfully drive the CAP's reform process: FTAs and DCFTAs in particular (Swinbank, 2016). As explained above, the multiplication of bilateral trade agreements and their consequences for European farmers could be accurately used by the Commission as a pressure tool to force member states to reform the CAP.

Overall, with the deadlock of the WTO and the increasing importance of bilateral trade negotiations, the European Commission seems to have lost the main lever it relied upon to drive the reforms of the CAP during the 1992-2008 period. However, the latter could now try to take advantage of the proliferation of bilateral trade negotiations in order to, once more, have a meaningful influence on the evolution of the EU's agricultural policy.

⁵³ Nevertheless, the Commission and its then agriculture Commissioner Dacian Cioloş presented the reform as of a radical nature with regards to the environment and climate change. In one of their articles, Zwaan and Alons (2016) argue that this apparent contradiction is caused by the Commission's desire to respond to the legitimacy challenge faced by the CAP.

⁵⁴ However, one has to keep in mind that the Commission has always downplayed the role of international trade negotiations on the CAP's reform process and has never publicly recognised the influence of the WTO or its trade partners on the EU's agricultural policy (Cunha and Swinbank, 2011; Daugbjerg, 2017).

II. The CAP, the EU's development policies and coherence

With the entry into force of the Maastricht Treaty in 1993, the EU committed itself to increase the coherence of its policies with regards to development⁵⁵. This extension of the Union's devotion to the coherence of its development policies could entail some consequences on the latter's trade policy. Effectively, the EU's development policies and coherence could be instrumentalised by some member states and developing countries and used as arguments to oppose the conclusion of FTAs between the Union and large trading countries as these would result in preference erosion (see Chapter 1). Consequently, this would constrain the Commission's ability to make use of bilateral negotiations to push for reforms of the CAP.

The development policies of the EU and its desire for coherence has led the Union to grant an increasing number of preferential access regimes with developing countries, mostly through the GSP and the EBA initiative (see Chapter I). Initially designed to help developing countries, such advantageous and targeted regimes could eventually be used by the beneficiary countries to try to influence the Union and its trade policy. Indeed, developing countries could attempt to put pressure on the EU and the Commission if the former feared that new trade initiatives by the Union could lead to preference erosion in trade patterns (Swinbank, 2018). In such a scenario, developing countries would try to impede the opening and conclusion of bilateral FTAs between the EU and more developed nations and thus, incidentally, restrict the Commission's tool to influence the CAP's reform process.

However, the recent evolutions with regards to bilateral trade negotiations in the EU briefly outlined above seem to turn down this given scenario. Indeed, the proliferation of bilateral trade agreements by the EU since the deadlock of the Doha Round do not seem to have been slowed down by pressures coming from the developing world. Rather the opposite, the EU appears to be more and more inclined to negotiate with developed and emerging nations that have markets of great interest for EU exporters, thus leading to the gradual erosion of the preferential access regimes granted to developing and least developed countries (Young and Peterson, 2015).

⁵⁵ This clause was inherently related to the CAP as the latter had been accused for decades of harming developing countries and their agricultural sectors in particular (Matthews, 2019). Furthermore, this desire for policy coherence extended the traditional scope of interest that focused on the EU member states' former colonies (mainly the ACP countries) to the LDCs (Young and Peterson, 2013).

Therefore, the desire for policy coherence and the development policies of the EU seem to be of rather timid importance in the post-2008 trade policy of the Union. Preference erosion appears to be somewhat disregarded by the Commission and the member states when designing the Union's most recent trade policy. Consequently, the potential external pressures by developing countries (and their possible instrumentalisation by some member states) on the EU and the Commission are quite unlikely to prevent the latter to use its remaining lever to influence the CAP: bilateral trade negotiations.

III. External pressures and the reformed CAP

As previously highlighted, pressures coming from the external environment (mainly from the GATT/WTO, the US and the Cairns group) and its use by the Commission have greatly influenced the CAP's reform process. The policy changes undertaken between 1992 and 2008 as a response to these external pressures all aimed at making the European agricultural market more open and the CAP less trade-distortive. Therefore, over the years, the CAP became less and less problematic and harmful for the EU's trade partners, which in turn, have gradually scaled down their attacks towards the European agricultural policy. Nevertheless, the CAP remains to this day a protectionist policy, based on high tariff barriers and the support of European farmers' incomes.

a) The reformed CAP

Historically, the CAP has been challenged by the EU's trade partners and by the GATT/WTO because the policy, based on domestic market support, was highly trade-distortive. However, most experts on the subject consider today that the series of reforms implemented have extensively reduced the trade-distortive measures of the CAP (Swinbank, 2018; Daugbjerg, 2017; Bureau and Swinnen, 2018). The key element to this change has been the decoupling of payments by the Union (for more detail, see Chapter I). Effectively, by decoupling the farmers' incomes from the volumes they produce, the CAP no longer generates the incentive for farmers to produce and export as much as possible (Bureau and Swinnen, 2018). The gradual decoupling of payments has therefore put an end to agricultural dumping in third countries by the EU and has (partially) opened its domestic market to foreign producers.

Furthermore, the CAP was, and still is to a lower extent, accused of endangering global food security, particularly in developing countries (Bureau, 2016; Bureau and Swinnen, 2018). Indeed, by heavily subsidising production and encouraging agricultural exports, the CAP had an important impact on the price level of global food production as well as on the volatility of

those prices. However, as Boysen et al. (2015) argue, the effect of the CAP on global food security is now considerably lower than what it used to be thanks to the successive reforms of the policy⁵⁶.

Overall, by reforming its system of domestic support, the EU has greatly lowered the trade-distortive impact of the CAP as well as its repercussions on global food security. By extension, the successive reforms of the CAP carried out by the Union between 1992 and 2008 have made the policy significantly less subject to external criticisms and pressures by third countries and the WTO. This last point is further strengthened by the fact that the CAP is nowadays impacting world markets to a much lower extent than the agricultural policies pursued by the US and other emerging economies such as China or India (Bureau and Swinnen, 2018). Because of this evolution, the external pressures applied onto the CAP are now a lot less likely to be sufficient in order to force the EU member states to further adapt their agricultural policy, despite skilful transfers of the given pressures by the Commission in the context of international trade negotiations.

b) A reformed but still protectionist CAP

In spite of the reforms implemented by the Union which have greatly reduced its trade-distortive impact, the CAP remains a protectionist policy and this for two main reasons. Firstly, the CAP has maintained the support of domestic farmers' incomes as its primary objective (Swinbank, 2015). By this token, the CAP still prevents the full liberalisation of the European agricultural market and continues to have a negative impact on global markets through risk aversion and wealth effects (Bureau and Swinnen, 2018).

Secondly, and perhaps most importantly, the EU has maintained very high tariffs on a wide range of agricultural products thus effectively protecting the European market from foreign competition⁵⁷ (Swinbank, 2018). Indeed, since the completion of the Uruguay Round in 1994 and the implementation of its tariffication clause, the EU's bound tariffs have remained largely unchanged and the applied MFN rates linger close to these established bounds

⁵⁶ Notwithstanding, the CAP is still frequently blamed, mainly by NGOs, of hampering global food security. Yet, the true effect of fluctuations in food prices is more complex than often presented. Indeed, high prices for agricultural products benefit those countries, even developing, that are net producers and, on the other hand, harm those countries which are net consumers. For more detail on the matter, see Bureau and Swinnen (2018).

⁵⁷ These high tariffs solely apply to those third countries not benefiting from a preferential access to the EU either through trade agreements or through the Generalised System of Preferences or the EBA initiative. Yet, tariffs are not the sole protectionist measure impeding developing countries to access the European market as explained above. By studying the impact that a complete liberalisation of the EU's agricultural market would have on Uganda, Boysen et al. (2015) highlight how the removal of the CAP's protectionist aspect would benefit, though marginally, developing economies.

(Swinbank, 2015). Hence, the tariffs imposed on the importation of CAP products have been kept at very high levels, which sometimes reach prohibitive rates on certain products such as beef and dairy⁵⁸. Aside from being a vulgar protectionist measure, the EU's decision to maintain its high CAP tariffs and to not unilaterally cut them can also be understood as a desire to retain a powerful bargaining asset during international trade negotiations (Swinbank, 2018).

Therefore, the CAP has maintained through the years and despite its successive reforms, an inherently protectionist aspect based on the use of financial support for farmers and high tariff barriers. Consequently, the EU's trade partners still possess some tools to attack the Union on its agricultural policy, though to a much lower extent than in the early 1990s. By this token, the Commission retains an instrument to try and force EU member states to further reform the protectionist aspect of the CAP by transferring the pressure emanating from potential trade partners during the course of bilateral trade negotiations.

IV. Do external pressures still matter for the CAP?

Because of its protectionist and hugely trade-distortive aspects, the CAP has historically been confronted to heavy criticisms from the EU's trade partners and the GATT/WTO. These criticisms were turned into pressures in the context of multilateral trade negotiations and have been skilfully transferred by the Commission unto the EU member states on several occasions. Such external pressures happened to be one of the most important drivers behind the CAP's reform process, which effectively started in 1992 with the MacSharry reform. Yet, other factors such as budgetary pressures, the Eastern enlargement or environmental concerns also pushed the member states to update the EU's agricultural policy.

However, these external pressures are no longer what they used to be in the 1990s or early 2000s. Indeed, two crucial evolutions have significantly altered the clashing relationship between the CAP and the EU's trade partners. First of all, the deadlock of the WTO since 2008 has greatly diminished the amount of pressure applicable unto the CAP at a single point in time. The entangled connection that was established between the need to reform the CAP and a possible conclusion of the GATT's Uruguay Round of negotiation had put the EU under a lot of pressure and forced the latter to make concessions on its agricultural policy.

⁵⁸ For example, the average tariff rates on the importation of beef meat on a MFN basis are 60% (United States Department of Agriculture, 2021). This percentage varies based on the type of cut, whether the meat is frozen or fresh, etc.

International trade negotiations, which now mostly take place at the bilateral level, are thus not anymore an intense pressure hub against the CAP.

Secondly, the successive reforms of the CAP that took place between 1992 and 2008 have fundamentally changed the structure of the policy and have made the latter less subject to external criticism. Effectively, by gradually decoupling its payments to farmers from the volumes of agricultural production, the EU got rid of the most trade-distortive elements of the CAP, which obviously were at the core of the external pressures addressed to the Union concerning its agricultural policy.

Notwithstanding, one could have expected to see this pressure tool somewhat picked up by developing nations in the context of the Treaty of Maastricht and the Union's apparent desire to have more policy coherence with regards to development. Yet, the strategic importance of concluding trade agreements with developed or emerging countries seem to have taken the upper hand on the developing world's concerns about preference erosion in trade patterns.

The Doha Round's stalemate and the successive reforms of the CAP have also extensively resulted in the diminishment of the Commission's most powerful tool to influence the evolution of the policy: the transfer of pressures from international trade negotiations unto the member states. The lack of existing external pressure can be easily observed in the latest Commission's proposals to reform the CAP. Given the environmental and climatic situation, "greening" the CAP is now the primary objective and driver of the policy's reform process. Whether the Commission's proposals are truly revolutionary with regards to the environment or whether the latest 2013 reform was a significant step forward in the greening of the CAP is not of crucial importance here⁵⁹. What matters is that the Commission has adapted, or rather has been forced to adapt, its 15 years-long strategy that relied on transferring external pressures from the EU's trade partners unto the member states thanks to its role of sole negotiator during international trade talks.

However, the CAP is not yet completely sheltered from external criticisms. Indeed, the deadlock of the Doha Round has given birth to a wave of bilateral trade negotiations, which depending on the countries sitting around the table, bring along their fair share of pressures. These bilateral pressures stem from the fact that despite having been fundamentally transformed over the years, the CAP remains a truly protectionist policy, which tries to shield

⁵⁹ Several authors such as Erjavec et al. (2015) and Hart (2015) consider that the latest reform of the CAP, implemented in 2013, was "greenwashed" in an attempt by the Commission and the member states to legitimise the very costly payments granted to farmers under the CAP.

the EU agricultural market from foreign competition through the use of large payments to farmers and very high MFN tariffs on CAP products.

Therefore, the Commission still has the possibility to influence the CAP's reform process through the instrumentalisation of its role of sole negotiator during (bilateral) trade negotiations. Whether this instrument is powerful enough to drive meaningful reforms of the policy is yet to be seen.

A good example to test whether the Commission can still use trade negotiations to influence the CAP would be the EU-MERCOSUR trade deal. Indeed, the specific structure of the four economies of the MERCOSUR (especially Brazil and Argentina), which enjoy an important comparative advantage in terms of agricultural production but lack industrial sectors as strong as those found in Europe, make the conclusion of such an FTA both a threat and an opportunity for the EU. Bringing down the very high EU tariffs on beef⁶⁰ is of crucial importance for the MERCOSUR given the share of exports to the EU that this industry represents⁶¹. The MERCOSUR is thus unlikely to make important concessions on the beef industry and its desire to completely liberalise the European agricultural market appears to be an excellent opportunity for the Commission to put to the test what is left of its power to influence the CAP through trade negotiations.

Hence, in the following chapter, the EU-MERCOSUR trade deal will serve as a case study to investigate the extent to which the Commission can still influence the CAP's reform process through the instrumentalisation of international trade negotiations.

⁶⁰ The EU's MFN tariffs on beef meat varied between 48 and 160% in 2019 (European Commission, 2020).

⁶¹ The animal meat sector represented 6,5% of all MERCOSUR exports to the EU in 2019, the fifth largest export sector behind foodstuffs, mineral products, vegetable products, and wood products (European Commission, 2020).

Chapter IV: An EU-MERCOSUR case study

This chapter shall put to the test the research question implicitly derived in the previous chapter which can be formulated as follows: “*to what extent can the European Commission still use international trade negotiations to influence the CAP’s reform process?*” This shall be done by studying the EU-MERCOSUR trade negotiations⁶².

I. The EU-MERCOSUR trade deal

a) The agriculture-industry dilemma

As explained above, the EU-MERCOSUR trade deal represents both a threat and an opportunity for the Union as a whole. On the one hand, the implementation of an FTA with the MERCOSUR bloc would put European farmers under intensive competitive pressures given the comparative advantage that these economies have with regards to the production of agricultural goods. This is particularly true for the beef sector, which has, up to now, been sheltered from the Brazilian and Argentinian competition, mainly through the establishment and maintenance of high tariff barriers⁶³ (cfr. Chapter III). The entry into force of the EU-MERCOSUR FTA would thus negatively impact European farmers, who already suffer from poverty levels above the EU average (cfr. Chapter I).

On the other hand, the implementation of the EU-MERCOSUR trade deal would also be a great opportunity for the Union. Indeed, 94% of the EU’s exports to the Southern block are industrial products (mostly chemicals, transport equipment and machinery), which are subject to large import tariffs (European Commission, 2020). For example, European cars and car parts are subject to a 35% tariff when they enter the MERCOSUR market. The European industry sector would thus greatly benefit from the entry into force of the EU-MERCOSUR trade deal, which would significantly improve its access to the fifth largest economy outside of the EU and its 260 million consumers (European Commission, 2020).

⁶² On the 28th of June 2019, after more than twenty years of negotiations, the EU and the MERCOSUR reached an agreement in principle on trade matters, which are part of a wider Association Agreement (European Commission, 2019). However, the agreement has not yet been implemented given the refusal by certain EU member states, France, Austria, Ireland and the Netherlands in particular, to ratify it (Euractiv, 2020).

⁶³ In their study on the cumulative effects that FTAs would have on the European agricultural sector, Ferrari et al. (2021) show how the implementation of an EU-MERCOSUR deal would significantly impact the amount of beef imports from the South American trade block. More specifically, the authors find that beef imports from MERCOSUR countries into the Union would increase by 50% between 2021 and 2030, implying that the EU would import €1,49 bn worth of beef products per year (this recent estimation even takes into account the TRQs of 99 000 tonnes agreed upon in the yet to be ratified deal struck in June 2019).

This “agriculture versus industry” dilemma has been and still is at the centre of the debate surrounding the EU-MERCOSUR trade deal. Arguments in favour and against the ratification of the agreement always refer to the gains and losses that these two sectors would incur if the deal were to be implemented (Euractiv, 2020). Moreover, the trade deal has become highly politicised and this specific dilemma is repeatedly put forward in the media⁶⁴.

In order to illustrate the stakes at play for the industrial and agricultural sectors revolving around the implementation of the EU-MERCOSUR trade deal, Tables 3 and 4 provide data about the trade in goods between the two blocks. Table 5 then provides data concerning trade in beef meat and cars, which are the two most tariffed sectors by the EU and the MERCOSUR respectively.

Table 3: Imports into the European Union of MERCOSUR goods in 2019 (source: European Commission, 2020)

	Value (in million €)	Share of total imports
Industrial products	19 154	53,4%
Fishery products	679	1,9%
Agriculture products	16 059	44,7%
Total	35 892	100%

Table 4: Imports into the MERCOSUR of European Union goods in 2019 (source: European Commission, 2020)

	Value (in million €)	Share of total exports
Industrial products	38 959	94,4%
Fishery products	92	0,2%
Agriculture products	2201	5,3%
Total	41 252	100%

⁶⁴ For example, an article published on the 27th of November 2020 in the Newspaper Euractiv was entitled as follows: “*MERCOSUR agreement seduces Spain’s industry, disturbs farmers*” (Euractiv, 2020).

Table 5: Trade of beef meat and cars between the EU and the MERCOSUR in 2019 (source: European Commission, 2020)

	EU imports of MERCOSUR beef	MERCOSUR imports of EU cars
Value (in million €)	1 464	5252
Share of total imports	4,1%	12,7%
Tariffs applied	48-160%	35%

b) National preferences: France, Germany and coalitions of member states

The implementation of the EU-MERCOSUR Association Agreement would thus have negative and positive consequences at the EU level. Taken in its entirety, it would seem legitimate to argue that the Union would mostly benefit from the FTA from an economic point of view given the respective shares of the agricultural and industrial sectors in the EU's GDP⁶⁵.

However, EU member states are not homogeneous on several aspects and certainly not with regards to the structure of their economies. The entry into force of the EU-MERCOSUR trade deal would thus inevitably create winners and losers at the national level.

i. *Agricultural and industrial coalitions*

Several member states have publicly stated that they were opposed to the agreement in principle secured in June 2019. The most virulent attacks have come from France, which is particularly concerned by its agricultural sector and by the lack of sufficiently constraining environmental commitments to be found in the agreement⁶⁶ (Euractiv, 2020). Some other member states such as Spain, Portugal and Sweden are, on the contrary, very much in favour of a conclusion of the EU-MERCOSUR trade deal saga. These countries can also count in their ranks a powerful ally: Germany (Politico, 2020).

There thus seems to exist two “coalitions” or groups of member states which defend opposing views with regards to the EU-MERCOSUR trade deal. On the one hand, there are those member states that are in favour of the ratification and implementation of the deal. This group includes member states like Spain, Italy, Portugal, the Czech Republic and Germany. On the

⁶⁵ The agriculture, forestry and fishery sector only accounted for 1,7% of the EU's total GDP in 2019. The industrial sector on the other hand represented 24,6% of it. The remaining 73,7% was created by the services sector (European Central Bank, 2021).

⁶⁶ Interestingly, French concerns over environmental commitments and their domestic farmers are actually interlinked. Indeed, according to the NGO WWF, cattle breeding is to be held responsible for about 80% of the Amazon's deforestation (Euractiv, 2021).

other hand, several other member states such as France, the Netherlands, Austria and Ireland have publicly rejected the deal negotiated by the Commission and oppose its ratification. Using the idea of the agriculture versus industry dilemma presented above, the first coalition of member states (i.e. those in favour of the deal) can be labelled as the “industrial” member states and those that are part of the opposing coalition as the “agricultural” member states.

If the EU-MERCOSUR deal only covered trade issues, thus falling under the EU’s exclusive competences, ratification would only be subject to a Qualified Majority Voting (QMV) in the Council (Art. 207(4) TFEU). In such a situation, the “agricultural” coalition regrouping France, the Netherlands, Austria and Ireland would not be a sufficiently large minority to block the ratification of the deal by the Council⁶⁷. However, the EU-MERCOSUR trade deal is part of a larger Association Agreement and this implies that the agreement is “mixed”, as it touches upon some competences that are shared between the EU and its member states. Consequently, the voting rule in the Council is not QMV but unanimity. In addition to that, mixed agreements necessitate the signature of national parliaments to be approved at the EU level (Art. 218 TFEU). Therefore, the inclusion of the EU-MERCOSUR trade deal into a wider Association Agreement provides member states with individual veto powers, which implies that even a single country could block the ratification and implementation of the agreement.

Hence, two coalitions of member states (agricultural versus industrial) can be identified. However, the mixed nature of the EU-MERCOSUR agreement enables the analysis to be simplified to only two individual member states, as each of them possesses a right of veto. Thus, despite the active involvement in the discussions surrounding the EU-MERCOSUR agreement by several member states, strictly focusing the analysis on Germany and France seems to be most appropriate and this for three main reasons. First of all, such a restricted focus hugely simplifies the analysis and reduces it to solely two member states, one belonging to the agricultural coalition and the other to the industrial coalition. Secondly, France and Germany are the biggest economies and the most populous countries of the EU, giving them a certain weight in the Council of Ministers in comparison to other smaller member states. Consequently, France and Germany will not easily be “bullied” by the other members of the Council and will be more able to uphold the pressure from their peers if they find themselves isolated than comparatively smaller member states like Belgium or Latvia. Lastly, France is

⁶⁷ Indeed, for approval to be reached using QMV, the “yes” of at least 15 member states representing at least 65% of the EU’s population is required. Hence, “no” votes from France, the Netherlands, Austria and Ireland would be insufficient to prevent the ratification of the trade deal as these four countries jointly represent only 22% of the Union’s population.

one of the largest producers of beef in the Union and the support of the farming community has always been of crucial importance in French politics (Cunha and Swinbank, 2011). Germany by contrast is one of the most industrially advanced EU member state and is by far the largest producer and exporter of cars in the Union (Eurostat, 2021). Consequently, these two countries (and their respective governments) would be largely impacted by the implementation of the EU-MERCOSUR trade deal.

ii. France and Germany

Even though a myriad of factors could be used to try to explain the respective French and German positions⁶⁸, digging into some of the components of these countries' economies seem to be an enlightening starting point. This is for example what van Loon (2020) does in her article to understand the respective positions and the levels of politicisation to be found in the United Kingdom and Germany around the TTIP negotiations⁶⁹.

Hence, in order to understand the reasons behind Germany and France's opposing views on the EU-MERCOSUR trade deal, one might want to investigate some of the specific aspects of their national economies. In particular, given that these sectors are likely to be the most affected by the (partial) abolishment of import tariffs, a comparison of the French and German beef and automobile sectors seem to be an adequate way to try to explain their respective positions. Table 6 provides a few elements to examine in contrast the French and German beef and cars sectors.

⁶⁸ For example, one could cite the lack of environmental commitments found in the agreement, the importance of other large European export sectors to the MERCOSUR such as chemicals, the personal hostility between certain EU and MERCOSUR leaders (between presidents Macron and Bolsonaro for example), etc.

⁶⁹ The Transatlantic Trade Investment Partnership (TTIP) negotiations, launched in 2013 and abandoned in 2019, aimed at reaching an FTA between the US and the EU (European Commission, 2019)

Table 6: Comparison of the economic importance of the beef and car sectors for the French and German economies in 2019 (source: author's composition based on several resources⁷⁰)

Beef sector		
	Germany	France
Sector share of national GDP	0,05%	0,20%
Sector share of national employment	0,11%	0,26%
Number of recognised POs	14	134
Combined membership of national POs	5334	77 036
Car sector		
	Germany	France
Sector share of national GDP	2,74%	0,73%
Sector share of national employment	2,17%	0,88%

As table 6 shows, the beef sector in France is economically more important than in Germany, both in terms of share of GDP and share of total employment. Furthermore, it appears that French farmers that breed beef are a lot more organised than their German counterparts. Effectively, there are ten times more producers' organisations (POs) set up in the French beef sector than in the German one. One should be cautious when interpreting these numbers however. Indeed, a higher number of producers' organisations does not necessarily imply a stronger political weight. Rather, it is the concentration of such organisations that ultimately determines this (see Chapter I). Yet, only a very limited number of German beef producers are members of a producer organisation, while about 50% of their French counterparts are collectively represented (Amat et al, 2021). Taken together, these numbers imply that the beef sector is comparatively more important to the French government than to the German one.

With regards to the cars industry, table 6 points out how the sector is significantly more valuable in Germany compared to France. Indeed, the sector employs a higher share of the workforce and contributes more extensively to the German GDP than to the French one. Although there are relatively more enterprises involved in the German car industry⁷¹, car

⁷⁰ Amat et al. (2019), Eurostat (2021) and Statista (2021).

⁷¹ There were 2757 companies working in the automobile industry in Germany in 2019, while there were only 1611 in France during the same year (Eurostat, 2021).

producers from both member states exhibit similar levels of representation and concentration into producers' organisations. For example, the *Comité des Constructeurs Automobiles Français* represents the three main French car companies (Alpine, PSA and Renault) and their subsidiaries while in Germany, the *Verband der Automobilindustrie* advocates for the interests of more than 600 German car enterprises. Hence, despite similar levels of representation, it seems legitimate to argue that, given its greater contribution to the national economy, the car industry has more political weight in Germany than in France.

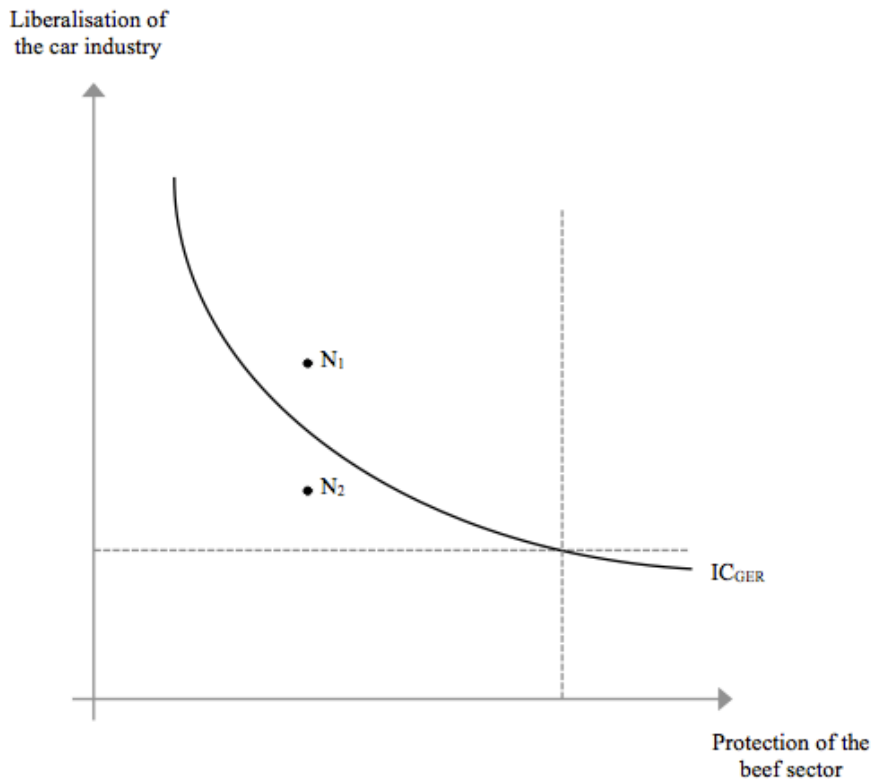
Overall, it appears that the beef and cars sectors in France and Germany are not of similar importance in those two member states. Effectively, the beef sector contributes more to the French economy than it does in Germany. Additionally, beef producers have achieved higher levels of organisation which ultimately strengthen their political weight. The situation is quite the opposite with regards to the car industry. Indeed, the latter displays a greater economic value in Germany compared to France. In turn, these differences are very likely to partly explain the different preferences with regards to the ratification of the EU-MERCOSUR trade deal expressed by the French and German governments.

c) National indifference curves

France and Germany, which are respectively part of the agricultural and industrial coalitions, thus have conflicting views concerning the implementation of the EU-MERCOSUR FTA. This could be the result of the important differences that exist between their respective beef and cars industries, which are likely to be importantly impacted by the EU-MERCOSUR trade deal given the high tariff barriers currently in place on the import of such products. With this in mind, one can now derive indifference curves that would graphically represent those national preferences by comparing each member states' predilection for either protecting the European beef market or liberalising the car market⁷². Germany's indifference curve is derived in figure 8.

⁷² As exposed above (table 5), import tariffs on beef and cars are the highest imposed by the EU and the MERCOSUR respectively. The discontinuation of these tariffs would thus largely increase the trade flows of such products between the two blocks. Consequently, for the EU to obtain an eased access to the MERCOSUR's car market, the Commission will have to make concessions on the Union's actual protection of the beef sector and agree to lower or get rid of all the tariffs applied on the importation of such goods. From the EU's perspective, there is thus a certain "price" to pay for the liberalisation of the car market between the two trading blocks: giving up on (part of) the protection of the European beef sector.

Figure 8: Germany's relative preferences between the liberalisation of the car industry and the protection of the beef sector.



A few elements present in figure 8 ought to be explained. First of all, the X-axis represents the state of protection of the European beef sector from the potential MERCOSUR competition (in other words, the desire to maintain the EU's import tariffs on beef) and the Y-axis depicts the state of liberalisation of the EU and MERCOSUR car markets (or in other words, the desire to improve the access to the MERCOSUR car market for European firms).

Secondly, Germany's indifference curve (IC_{GER}) illustrates the country's relative preference between enhancing its access to the MERCOSUR car market and upholding the Union's tariff barriers that protect the European beef sector from competition⁷³. The German government is thus indifferent between finding itself along any of the points that lie on the IC_{GER} curve. For example, Germany would accept to give up on a certain amount of the protectionism granted to the beef sector in exchange of a counterbalancing liberalisation of the trade in cars between the EU and the MERCOSUR and hence move to the left along the IC_{GER} curve. Moreover, any combination of protection of the beef sector and liberalisation of the car industry that lies to the left of the IC_{GER} curve makes Germany worse off. Conversely, any point at the right of

⁷³ The steepness of the indifference curve indicates the relative preference of Germany with regards to the two axes. The steeper the indifference curve, the less the country is willing to trade off some of the protectionism granted to the beef sector in exchange of an extended liberalisation of the car industry.

the IC_{GER} curve improves Germany's welfare at the national level. This area to the right of the IC_{GER} curve is Germany's *win set*⁷⁴.

Thirdly, the perpendicular dotted lines allow visualising the room for manoeuvre that the Commission has when it negotiates with the MERCOSUR representatives. If the intersection between those dotted lines represents the situation without the implementation of the EU-MERCOSUR FTA, then possible outcomes of the negotiation may only be found in the top-left corner of the graph delimited by the same dotted lines⁷⁵.

Finally, the points N_1 and N_2 depict possible negotiation outcomes between representatives of the MERCOSUR and the Commission. If the Commission is able to negotiate the deal N_1 , then the latter falls within Germany's win set and the country signs the agreement. However, if the Commission comes up with the deal N_2 (same level of protection for the beef sector but a relatively smaller liberalisation of the car industry compared to the outcome N_1), Germany is unwilling to sign the deal as it falls outside of its domestic win set.

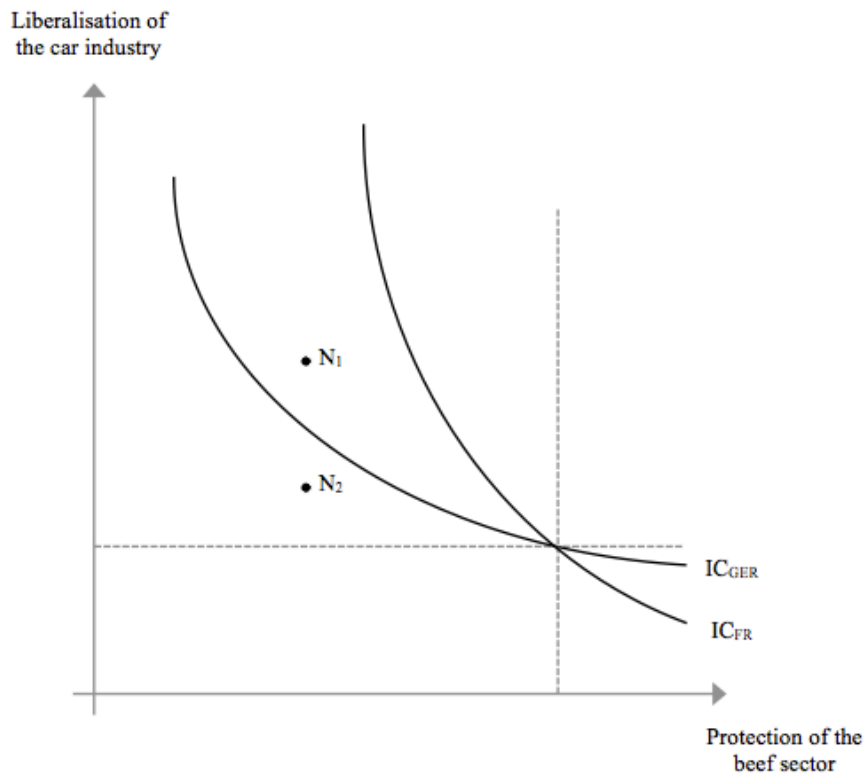
Using indifference curves to represent national preferences allows for interesting comparisons between member states and enables to derive an illuminating representation of the EU's win set⁷⁶. Figure 9 below extends figure 8 by adding France's indifference curve.

⁷⁴ As previously explained, the preferences of member states with regards to the implementation of the EU-MERCOSUR agreement surely depend on additional factors than merely the economic importance of the cars and beef sectors at the national level. Yet, assuming that member states' decision to either approve or reject the EU-MERCOSUR deal relies on the state of their national beef and cars sectors allows for the derivation of a simplified representation of the "cars-for-cows" aspect of the Association Agreement. Effectively, as explained at the start of Chapter IV, the agriculture versus industry dilemma is at the core of the EU-MERCOSUR agreement and the latter has been widely framed as a trade-off between the interests of farmers and industrialists in the public arena. In this sense, EU governments have to (politically) choose between either scarifying farmers and siding with carmakers or give up on potential industrial gains at the national level but "save" farmers.

⁷⁵ For example, an outcome in the top-right corner would be impossible to negotiate for the Commission as it would imply liberalising the access to the MERCOSUR's car market and at the same time allowing for higher protectionism of the European beef sector.

⁷⁶ The EU's win set is the combination of all the member states' domestic win sets. It is therefore this European win set that the Commission should seek to satisfy during international trade negotiations.

Figure 9: France and Germany's relative preferences between the liberalisation of the car industry and the protection of the beef sector.



As one can immediately observe from figure 9, France's indifference curve is steeper than Germany's one. This is due to the fact that the former values the protection of the European beef market in comparison to the liberalisation of the car industry more extensively than Germany does as previously explained. Furthermore, with the addition of France's steeper indifference curve, the EU's win set is reduced and the outcome N_1 is no longer accepted at the EU level. Effectively, N_1 would make France worse off and the country is thus opposed to the ratification and implementation of such an EU-MERCOSUR deal negotiated by the Commission on behalf of the member states.

II. Transfer of pressure and fallback positions

From figures 8 and 9, it seems that the Commission is quite powerless if it fails to negotiate anything better than the outcome N_2 . Furthermore, it appears that its *actual* room for manoeuvre (i.e. the area to the right of the steepest indifference curve and the to the left of the vertical dotted line) is rather limited.

Nevertheless, as it is the sole negotiating agent on behalf of the EU, the Commission has an important information advantage compared to the member states (Delreux, 2008). In such conditions, member states are, up to a certain extent, unaware of the concessions made by the negotiating parties and can thus hardly contest the outcome of the negotiation presented to them by the Commission. Using figures 8 and 9 presented above, the Commission could declare N_2 as being the best possible deal that the Union can obtain given the numerous constraints imposed by the MERCOSUR negotiators over the “cars versus cows” dilemma.

Yet, the member states retain in their possession an important control mechanism to force the Commission not to make too painful concessions in the negotiation process: they may refuse to sign the deal concluded by the Commission. This is a very powerful tool for the member states but which suffers from an important limitation. Effectively, refusing to ratify the agreement reached at the international level (usually after some years of harsh negotiations) bears an important political cost for the member states (Delreux and Kerremans, 2010). By this token, the pressure of the negotiations is transferred by the Commission unto the member states (Delreux et al., 2011).

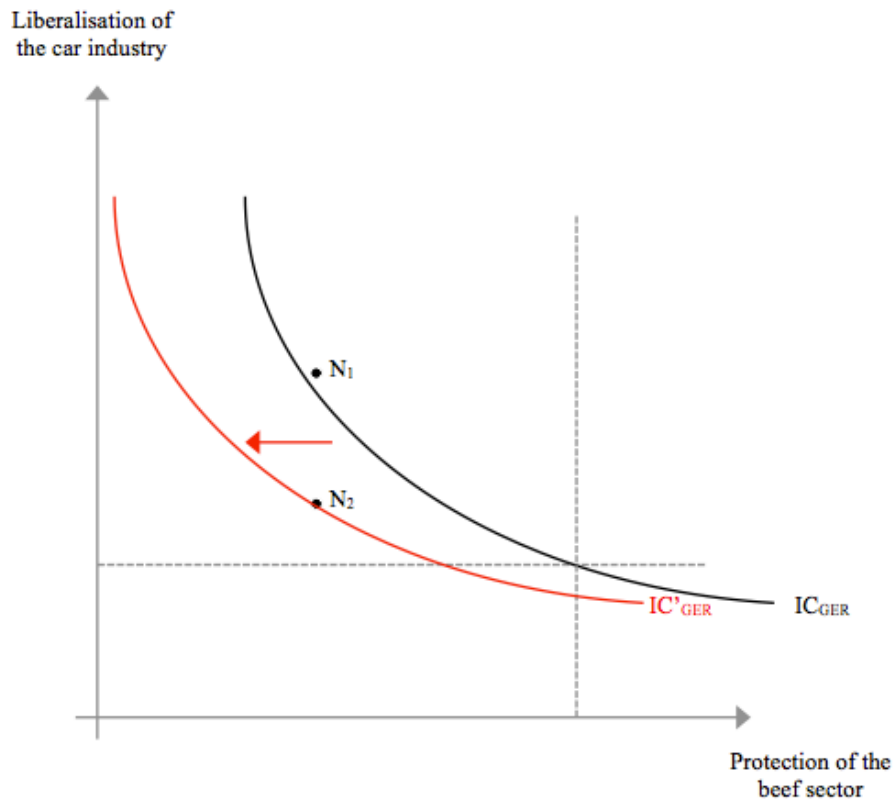
Hence, by transferring the pressure of the negotiations unto the member states⁷⁷, the Commission can force the latter to accept the deal it has concluded. Consequently, this implies that member states agree to ratify a deal that is not part of their domestic win sets and that do not lie on their national indifference curves, which means that the implementation of such a deal effectively makes the member states worse off than previously. In her paper analysing the EU in international negotiations, Meunier (2007) concluded that “*the Commission could reshape the member states’ preferences by putting them on the spot and forcing them to change their position on an issue*” (Meunier, 2007, p.909). However, if one considers that national preferences are the result of domestic economic conditions and of the interaction of domestic actors (producers organisations for example), an alteration of the member states’ preferences seems quite ambitious.

Another explanation to this phenomenon is given by Delreux (2008). The acceptance by member states of a deal that would fall outside of their domestic win sets could be caused by the fact that EU governments do not unveil their true preferences to the Commission during the authorisation phase that precedes the negotiations. In this sense, the member states retain some information private and keep for themselves the extent to which they are willing and able to make concessions. The ultimate “hidden” preferences of the member states are thus

⁷⁷ Whether the Commission can effectively transfer this pressure depends on the compellingness of the external environment, which is determined by a number of factors (more details in Chapter IV.IV)

called their *fallback positions* that the Commission is then able to disclose during the ratification stage by transferring upon the former the pressure of the negotiations. This transfer of pressure by the Commission and the disclosure of the member states' fallback positions can be represented graphically (see figure 10).

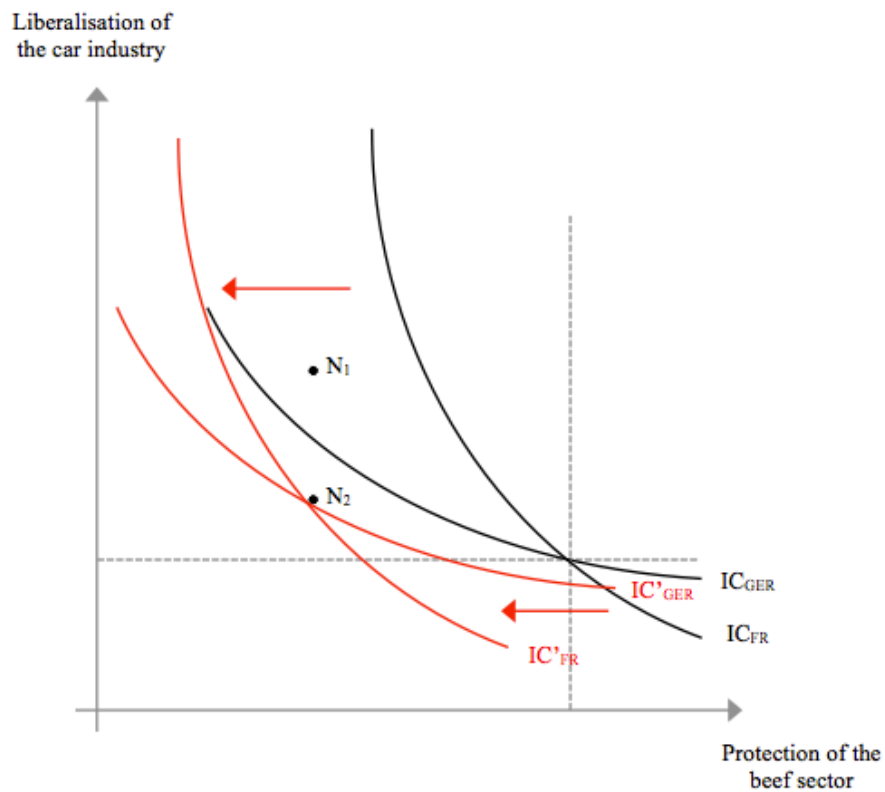
Figure 10: Transfer of pressure by the Commission and the unveiling of Germany's fallback position



In figure 10, the pressure transferred by the Commission unto Germany has, due to the political cost of no agreement, pushed Germany's indifference curve to the left and thus forced the latter to reveal its previously hidden fallback position. Consequently, the negotiation outcome N_2 now falls within Germany's win set, which is thus no longer opposed to the deal negotiated by the Commission.

The analysis can be extended so as to include the French indifference curve.

Figure 11: Transfer of pressure by the Commission and the unveiling of national fallback positions



III. A game-theoretical approach

The strategic use by the Commission of the cost of no agreement in order to facilitate the ratification of trade agreements by member states can also be analysed from a game-theoretical point of view.

To do so, one has to imagine a setup with three different players: the Commission, an “agricultural” member state and an “industrial” member state⁷⁸. All three players do not play the same game simultaneously. Rather, two identical games are played between the Commission and the agricultural member state on the one hand and between the Commission and the industrial member state on the other hand. Each member state has two strategies at its disposal, either to sign or not to sign the deal negotiated by the Commission. The Commission also has two strategies: to pursue negotiations at the international level or to stop

⁷⁸ Similarly as in the previous section, the difference between these two types of member states would be whether they prioritise the protection of the European agricultural sector or the expansion of the industrial sector when it comes to international trade negotiations. Based on the analysis presented above, France would thus be an agricultural member state and Germany would be an industrial member state.

them. In such a setup, four combinations of strategies are possible, each corresponding to different payoffs for the players (the Commission and the two types of member states).

Table 7 presents these possible combinations of strategies and the consequences that these would have for the different players. These consequences are classified as either being negative or positive for the players as indicated by the “+” and “-“ signs in the table. Lets assume that negative consequences are ranked as follows by players when the compellingness of the external environment is low: [prospect of future deal vanished] < [political defeat] < [blame by another player] < [cost of no agreement] = 0, and that positive consequences are ranked as follows: [political victory] = [hope of a future better deal] > [blaming another player] > 0. In turn, when the compellingness of the external environment is high (i.e. when the Commission is able to successfully transfer the pressure of the international negotiation unto the member states) then the blame that the Commission can inflict unto member states is at least as bad as seeing the possibility of a future better deal disappear⁷⁹.

⁷⁹ By extension, whether the compellingness of the external environment is high or not does not directly influence the Commission’s payoffs.

Table 7: Combinations of strategies and consequences for the players

Combination of strategies	Outcome	Commission	Agricultural member states	Industrial member states
1. Stop negotiation + not sign	Deal is not struck and the negotiations are suspended indefinitely.	-	+	-
		-	-	-
		+	-	-
2. Stop negotiation + sign	Deal is not struck even though the member states had agreed to it.	-	+	-
		-	+	+
		-	-	-
3. Pursue negotiations + not sign	Deal is not struck and the negotiations are postponed to a future round.	-	+	-
		+	+	+
		+	-	-
4. Pursue negotiations + sign	The deal is struck.	+	-	+
		+	+	+
		+	-	-

Under such conditions, one can now derive the payoffs associated to each outcome (tables 8 and 9).

Table 8: Payoffs of players when the compellingness of the external environment is weak

Combination of strategies	Commission	Agricultural member states	Industrial member states
1. Stop negotiation + not sign	$-2-1+1 = -2$	$+2-0 = 2$	$-2-0 = -2$
2. Stop negotiation + sign	$-2-1 = -3$	$+2+1-3 = 0$	$-2+1-3 = -4$
3. Pursue negotiation + not sign	$-2+1 = -1$	$+2+2-0 = 4$	$-2+2-0 = 0$
4. Pursue negotiation + sign	2	$-2+0 = -2$	$+2+0 = +2$

Table 9: Payoffs of players when the compellingness of the external environment is high

Combination of strategies	Commission	Agricultural member states	Industrial member states
1. Stop negotiation + not sign	$-2-1+1 = -2$	$+2-3 = -1$	$-2-3 = -5$
2. Stop negotiation + sign	$-2-1 = -3$	$+2+1-3 = 0$	$-2+1-3 = -4$
3. Pursue negotiation + not sign	$-2+1 = -1$	$+2+2-3 = 1$	$-2+2-3 = -3$
4. Pursue negotiation + sign	2	$-2+3 = 1$	$+2+3 = 5$

Thanks to the payoffs derived in tables 8 and 9, it is now possible to rank the three players' preferences with regards each of the four possible outcomes (table 10).

Table 10: The players' ranking of outcomes with different degrees of compellingness of the external environment

Players	Compellingness is low	Compellingness is high
Commission	$4 > 3 > 1 > 2$	$4 > 3 > 1 > 2$
Agricultural member states	$3 > 1 > 2 > 4$	$3 \geq 4 > 2 > 1$
Industrial member states	$4 > 3 > 1 > 2$	$4 > 3 > 2 > 1$

Interesting observations can be extracted from table 10. First of all, the Commission's ranking of outcomes is the same whatever the degree of the compellingness of the external environment⁸⁰. The underlying reason is that the Commission is never going to bear the cost of no agreement as only the member states can decide whether they ratify trade agreements or not. Secondly, one can immediately observe that the industrial member states' ranking of the four possible outcomes is largely unaffected by the degree of the compellingness. This should not be too surprising as this specific type of member states is in favour of the ratification of the EU-MERCOSUR trade deal. Making the cost of no agreement politically costly should therefore not affect their order of preferences. Lastly and perhaps most interestingly, the preferential ranking of outcomes by agricultural member states are crucially impacted by the change of intensity of the compellingness of the external environment. Effectively, the fourth outcome (i.e. the combination of [pursue negotiation] and [sign]) becomes this group's second-best option when the compellingness is high and is at least as good as the first outcome (i.e. the combination of [pursue negotiation] and [not sign]). This implies that, under specific conditions, agricultural member states might be inclined to sign the deal negotiated by the Commission.

With the players' ranking of the different outcomes, it is now possible build the payoff matrices of the four different games.

a) The simultaneous game

If players were to play simultaneously, the following payoff matrices would be obtained (where the red lines show a player's best response to the other player's strategies):

⁸⁰ Interestingly, what are the Commission's preferences with regards to the EU-MERCOSUR agreement? In their analyses of other trade deals involving the EU, some scholars have considered the Commission as being more concerned by the fact of reaching a deal than by the actual content of the given deal (Da Conceição, 2010; Alons and Zwaan, 2016). This craving by the Commission to get the deals it negotiates on behalf of the EU implemented could be explained by the institution's desire to maintain and strengthen its credibility and prestige both within and outside of the Union.

i. *Low degree of compellingness*

Figure 12: Payoff matrix of the Commission and industrial member states under a low degree of compellingness

		Industrial member state	
		Not sign	Sign
Commission	Stop negotiations	(<u>2</u> ; <u>2</u>)	(1; 1)
	Pursue negotiations	(<u>3</u> ; <u>3</u>)	(<u>4</u> ; <u>4</u>)

Figure 13: Payoff matrix of the Commission and agricultural member states under a low degree of compellingness

		Agricultural member state	
		Not sign	Sign
Commission	Stop negotiations	(<u>2</u> ; <u>3</u>)	(1; 2)
	Pursue negotiations	(<u>3</u> ; <u>4</u>)	(<u>4</u> ; <u>1</u>)

ii. *High degree of compellingness*

Figure 14: Payoff matrix of the Commission and industrial member states under a high degree of compellingness

		Industrial member state	
		Not sign	Sign
Commission	Stop negotiations	(<u>2</u> ; <u>2</u>)	(1; 1)
	Pursue negotiations	(<u>3</u> ; <u>3</u>)	(<u>4</u> ; <u>4</u>)

Figure 15: Payoff matrix of the Commission and agricultural member states under a high degree of compellingness

		Agricultural member state	
		Not sign	Sign
Commission	Stop negotiations	(2; 1)	(1; <u>2</u>)
	Pursue negotiations	(<u>3</u> ; <u>3</u>)	(<u>4</u> ; <u>3</u>)

Some interesting observations can be made when analysing these matrices and the evolution of the payoffs once the degree of the compellingness is altered (i.e. when the Commission is not able to transfer the pressure of the international negotiations and when it is).

Firstly, it appears that the relative payoffs and thus preferred outcomes of the industrial member states are not altered by the evolution of the degree of compellingness. This should

not come as a surprise as this type of member states actually wants the EU-MERCOSUR deal to be implemented as they would benefit from it in aggregate given their relative preference for their national car sectors in comparison to their national beef sectors. Looking at the payoff matrices, one can observe that the payoffs and thus the preferences of the industrial member states and the Commission are perfectly aligned (in this simplified model at least).

Secondly, when the degree of compellingness is low, the payoff matrices highlight how the preferred outcome of the agricultural member states is the combination of the [pursue negotiations] and [not sign] strategies. This outcome is a Nash equilibrium (as indicated by the two red lines below the payoffs) and thus the ultimate result of the game, implying that the deal is not signed and that the negotiations are postponed. However, things change when the compellingness is high and the Commission is able to transfer the pressure of the negotiations unto the member states. In such a situation, the agricultural member states' payoffs are altered by the potential cost of no agreement that they would endure if they refused to ratify the deal negotiated by the Commission. In the event that the Commission can successfully transfer the negotiations' pressure unto the member states, another Nash equilibrium emerges: [pursue negotiations] and [sign]. This new Nash equilibrium is Pareto-superior to the first one but this does not guarantee that the agricultural member states will opt for their [sign] strategy, as they are indifferent between their two strategies.

Nevertheless, the Commission has another instrument available to try to force the agricultural member states to sign the deal negotiated and thus prevent the Pareto-inferior Nash equilibrium to be reached. Indeed, if one closely analyses the Commission's potential payoffs, it appears that the latter has a dominant strategy, [pursue negotiations], which it will thus always prefer over its other strategy. Yet, when the degree of compellingness is high, agricultural member states receive their lowest available payoffs if the Commission decides to opt for its [stop negotiations] strategy. This particularity provides the Commission with a *deterrent threat power* (concept introduced in the Theory of Moves by Brams, 1994, and adapted to international trade negotiations by Kiryluk-Dryjska, 2016). This deterrent threat power reflects the cost of no agreement that the Commission can transfer unto the member states. This tool implies that if the Commission is able to credibly threaten the member states that it will put an end to the trade negotiations with the MERCOSUR bloc (and thus obtain lower payoffs itself), then this will force the agricultural member states to choose their [sign] strategy so as to avoid receiving relatively lower payoffs. Hence, when the degree of compellingness is high, the Commission possesses a deterrent threat power strategy which pushes the agricultural member states to opt for their [sign] strategy and the game thus results with the Pareto-superior Nash equilibrium (i.e. the ratification of the trade agreement).

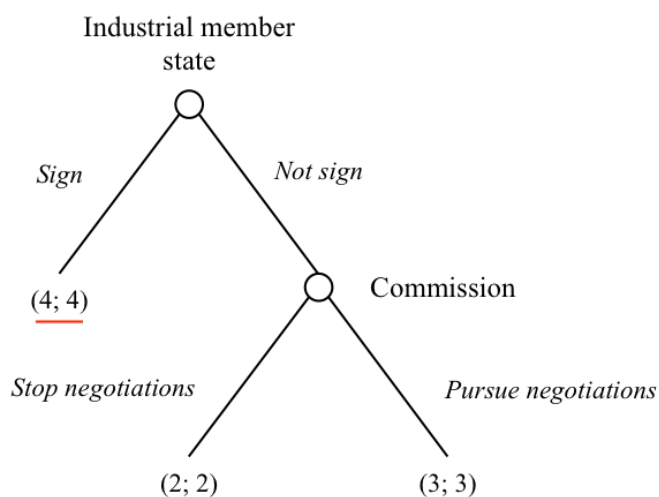
b) The sequential game

The game presented above, although enlightening, has to be adapted to the legal specificities of the EU in international trade negotiations. Indeed, as the Commission is the sole representative of the EU during trade negotiations, member states are never present in the negotiations' room. The Commission thus negotiates alone, in this case with the MERCOSUR representatives, and then presents the outcome of the negotiations to the member states⁸¹. Then, member states can either reject or accept the agreement that the Commission negotiated on behalf of the entire Union.

Therefore, this particular way of doing things must be considered and the game previously analysed must be adapted and turned into a sequential one. Below, the four payoff matrices are converted into sequential trees with the member states being the first players to decide on their strategy and the Commission then responding to this choice⁸². In such a setup, the combination of the [stop negotiations] and [sign] strategies no longer applies as once the member states decide to sign the agreement, the latter is ratified and the game stops.

i. *Low degree of compellingness*

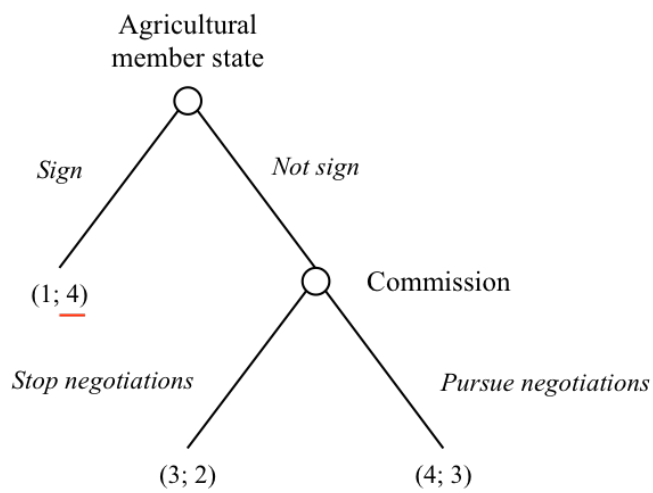
Figure 16: Sequential tree of the game played between the Commission and industrial member states under a low degree of compellingness



⁸¹ However, member states are not completely uninformed of the evolution of the negotiations as they are carried out. Indeed, the Commission frequently updates the member states with regards to the developments and progress of the negotiations through the use of “EU coordination meetings” (Delreux et al., 2011).

⁸² As the Commission is the second player, this implies that its payoffs now appear on the left-hand side of the payoff brackets and no longer on the right-hand side as in the above matrices.

Figure 17: Sequential tree of the game played between the Commission and agricultural member states under a low degree of compellingness



ii. *High degree of compellingness*

Figure 18: Sequential tree of the game played between the Commission and industrial member states under a high degree of compellingness

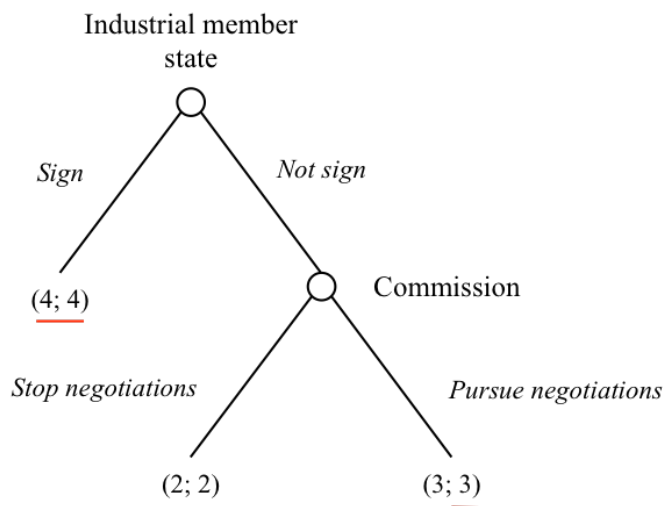
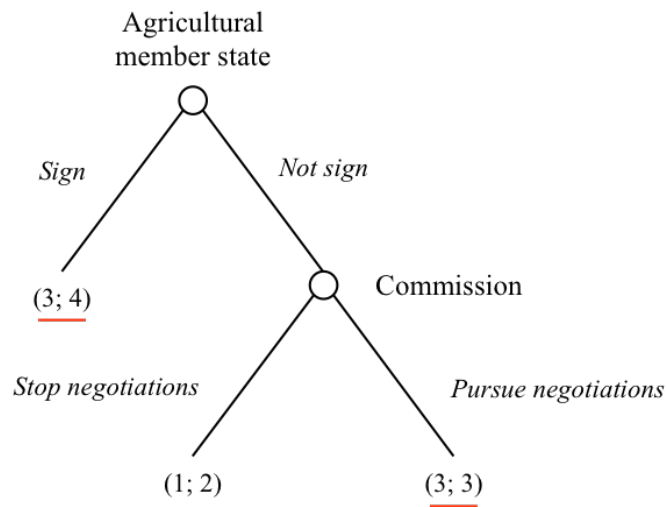


Figure 19: Sequential tree of the game played between the Commission and agricultural member states under a high degree of compellingness



With the transposition of the game into its sequential form, the impact of a high degree of compellingness and the resulting transfer of pressure by the Commission unto the member states is made more obvious. Effectively, the game, which the Commission plays with the agricultural member states, still exhibits two Nash equilibria and the Commission still has a dominant strategy: [pursue negotiations]. Yet, as the outcome of the combination of the [stop negotiation] and [sign] strategies disappears, the Commission’s deterrent threat power becomes more visible. Similarly to the simultaneous game, if the Commission is able to credibly threaten the member states that it will opt for its [stop negotiations] if they decide not to sign the agreement, member states are better off by directly signing the trade deal with the MERCOSUR bloc.

Therefore, insights from game theory enable a better understanding of how the Commission is able to strategically use the compellingness of the external environment in order to force the reluctant member states to ratify the deal it negotiated. These insights also demonstrate how the Commission can incentivise member states to reveal their previously hidden real win sets (i.e. their fallback positions) by transferring upon them the pressure of the negotiations and thus the associated high political cost of no agreement if the member states were to refuse the trade agreement.

IV. The compellingness of the external environment and the EU-MERCOSUR trade deal

The analysis presented above largely relied on the concept of compellingness of the external environment. In the context of international trade negotiations involving the EU, the extent of the cost of no agreement, which is considered as a very powerful tool for the Commission to push member states to ratify what the former negotiates on their behalf, crucially depends on this compellingness (Delreux, 2008).

a) Compellingness of the external environment: classic factors

In the scientific literature, two main factors are considered as influencing the degree to which the external environment is effectively compelling (Delreux, 2008; Delreux et al., 2011; Delreux and Kerremans, 2010). These two factors are the number of countries that take part in given negotiations and the relative bargaining position of the EU during the talks. Put simply, the more there are participants and the weaker the Union's bargaining position is, the more compelling the external environment will be and thus the higher the cost of no agreement will be for member states once a deal has been reached and the ratification stage has arrived.

Lets apply this concept to the previously discussed negotiations of the Uruguay Round (see Chapter III). First of all, these negotiations, organised under the auspices of the GATT, involved a large number of countries (123). Secondly, and linked with the previous observation, the EU's bargaining position was rather weak. Indeed, in addition to the many nations taking part in the negotiations, the Union was in a difficult position mainly because of its then unreformed CAP which attracted much criticism from large trading powers such as the US and the Cairns group. Hence, it seems legitimate to argue that the EU found itself in a rather compelling environment, which the Commission was then able to use to its advantage by transferring the cost of no agreement unto the member states and, consequently, to push for the implementation of the 1992 MacSharry reforms.

Based on these two 'classic' factors used to evaluate the degree of compellingness of the external environment, it seems that the environment surrounding the EU-MERCOSUR negotiations is not as compelling as it was during the Uruguay round. Indeed, the number of participants is quite limited as the MERCOSUR bloc only counts four member states (Brazil, Argentina, Paraguay and Uruguay). Furthermore, the Union's bargaining position is rather advantageous. In this sense, the EU is a larger market than the MERCOSUR bloc both in terms of consumers and economic weight. In addition to that, the EU is MERCOSUR's

primary trade and investment partner while, in comparison, MERCOSUR is only the eleventh trade partner for the EU. Yet, even though one might argue that the EU's high tariffs on beef might weaken the Union's bargaining position, the situation is certainly more complex in reality⁸³.

Overall, the two main variables that are widely considered as influencing the compellingness of the external environment seem to indicate that the latter is not that strong in the context of the EU-MERCOSUR negotiations. Consequently, the Commission might not be able to successfully transfer the pressure of the negotiations onto the member states and thus impose upon them a large cost of no agreement if they were to refuse to ratify the deal negotiated. In turn, member states might not be forced to reveal their fallback positions and thus might effectively reject the trade deal if they consider that it contains too many painful concessions at the national level.

b) Compellingness of the external environment: additional factors?

The classic factors considered in the academic literature to evaluate the degree of compellingness of the external environment do not appear as being in the Commission's favour when one digs into the EU-MERCOSUR negotiations. However, some additional factors might actually nuance this finding. Indeed, some contemporary considerations such as the deadlock of the WTO, the Chinese geopolitical ambitions or the overly visible divisions among EU member states with regards to the possible implementation of the EU-MERCOSUR Association Agreement could actually strengthen the Commission's position in its struggle to have this agreement ratified. Notwithstanding, recent developments surrounding the politicisation of trade policy in the EU could, in turn, weaken the compellingness of the external environment and render the Commission's task more complex.

i. *The deadlocked WTO*

The deadlock of the WTO might, quite paradoxically, reinforce the compellingness of the external environment and thus push for the implementation of the EU-MERCOSUR agreement. In Chapter III, the impact of the GATT/WTO and multilateral trade negotiations was largely analysed and depicted as having favoured the implementation of CAP reforms within the EU thanks to the heavy external pressures applied unto the Union's agricultural

⁸³ Effectively, the MERCOSUR also has high tariffs implemented on sectors that are crucial for the EU (e.g. cars, chemicals, pharmaceuticals,...). Moreover, some EU member states have widely and publicly stated their reluctance to see competitors from the MERCOSUR bloc be granted preferential access to the European beef market. The Commission could thus use this to appear as it has its hands tight by member states and that it cannot make concessions on this point (this is the idea behind the famous Schelling conjecture).

policy. The GATT/WTO's large membership and the EU's relatively feeble bargaining position made the environment compelling, thus giving the Commission a powerful tool to force the member states to ratify the Uruguay round of negotiations and kick-start the CAP's reform process.

Multilateral trade negotiations have, however, reached a stalemate since 2008 and no significant breakthroughs are to be expected in the short run. Consequently, the EU and its member states have no choice but to sign bilateral FTAs if they wish to gain access to foreign markets. In the context of the EU-MERCOSUR negotiations, this deadlock of the WTO could be transposed into a persuasive argument for the Commission during the ratification stage. Indeed, the blockade of multilateralism implies that member states cannot expect to see MERCOSUR's high tariffs on industrial products be reduced multilaterally in the coming years and that the only way to gain access to the large market of the bloc will be to have an FTA signed with the latter.

ii. The Chinese danger

The affirmation of the Chinese position in global geopolitical affairs could also strengthen the compellingness of the external environment. In this sense, if member states were to ultimately refuse to ratify the agreement reached between the Commission and the MERCOSUR after two decades of tedious negotiations, this could incentivise the MERCOSUR countries as well as neighbouring South American countries to deepen their ties with China.

The recently signed Regional Comprehensive Economic Partnership (RCEP) between China and fourteen other Asia-Pacific countries could have important implications for the EU and the state of its negotiations with the MERCOSUR bloc⁸⁴. Effectively, the conclusion of a similar FTA with China could sound quite attractive to the MERCOSUR leaders both because of the weight of the Chinese economy and because of the lack of environmental commitments included in the RCEP⁸⁵. A failure of the EU-MERCOSUR trade deal combined with a possible turn of the South American trading bloc to the East would result in an important loss of influence for the EU and in a possible departure from European trade standards in the region. Such arguments, first advanced by a coalition of nine EU member states in an attempt to change the French position with regards to the EU-MERCOSUR deal, was later picked up

⁸⁴ Ratified in November 2020, the RCEP covers a third of the world's population and GDP. The agreement includes China, South Korea, Japan, Australia and New Zealand as well as the ten ASEAN member states (The Philippines, Cambodia, Malaysia, Laos, Thailand, Singapore, Viet Nam, Brunei, Myanmar and Indonesia).

⁸⁵ One should keep in mind that several EU member states have openly criticised the EU-MERCOSUR deal for its weak environmental standards as well as the disregard for environmental matters displayed by some MERCOSUR leaders.

by the Commission. In this sense, the vice-president of the Commission and trade Commissioner Valdis Dombrovskis declared in late 2020 that “*not signing and ratifying the EU-MERCOSUR Agreement will not only affect the EU’s credibility as a negotiating and geopolitical partner, but will also strengthen other competitors’ position in the region*” (Politico, 2020).

Therefore, geopolitical implications and the growing “Chinese danger” might be an important element to consider when evaluating the compellingness of the external environment surrounding the EU-MERCOSUR negotiations. Such an argument could be a solid element at the disposal of the Commission to try and force the reluctant member states to ratify the deal negotiated with the MERCOSUR.

iii. EU-level divisions

In the academic literature, two consequences related to trade negotiations have been attributed to divisions within the Council. First of all, conflicts between member states are considered as diminishing the agent’s (here the Commission) discretion when analysing the EU’s position in trade negotiations through the use of the principal-agent theory (Delreux, 2008). Furthermore, divergences among member states are likely to weaken the EU’s overall bargaining position during trade negotiations, especially if those divisions are visible (Da Conceição, 2010). This is due to the fact that trade partners can utilise divisions at the EU level to demand more extensive concessions from the Commission during trade talks.

When considering the EU-MERCOSUR negotiations, divisions between member states are frequently put to the forefront in the public arena. In turn, this is likely to have increased the MERCOSUR’s bargaining position during its talks with the Commission’s representatives and consequently increase the compellingness of the external environment⁸⁶.

iv. Politicisation of trade policy

Over the course of the negotiations of the TTIP and the CETA⁸⁷ between the EU and the US and Canada respectively, a new phenomenon emerged in Europe: the politicisation of trade policy (Meunier and Roederer-Rynning, 2020). Trade politicisation, which is defined by

⁸⁶ Brexit might have also comforted MERCOSUR negotiators on the fact that they could demand further concessions on the EU’s side as, in the process, the latter lost one of its fiercest defendants of trade liberalisation for agricultural products (for more details on the UK’s position on trade liberalisation with regards to agriculture, see Alons and Zwaan, 2016).

⁸⁷ The Comprehensive Economic and Trade Agreement (CETA) is, as the intended EU-MERCOSUR Association Agreement, a “mixed” agreement which goes further than a classic FTA between two countries. It provisionally entered into force in 2017 and currently awaits ratification from the national parliaments of all EU member states (European Commission, 2020).

Garcia-Duran et al. (2020) as “*an increase in the salience of trade negotiations, institutions, and rules, a rise in the number and type of actors mobilising and participating in debates on trade policy, and the polarization of their opinions*” (Garcia-Duran et al., 2020, p. 291), has in the EU been characterised by widespread criticisms of globalisation and its consequences. As such, the Common Commercial Policy and the recent multiplication of bilateral negotiations and agreements by the EU has given rise to the fear that such international deals might threaten the Union’s standards and regulations as well as the capability by national governments to act in their citizens’ interests (Garcia-Duran et al., 2020).

Hence, the recent politicisation of the EU’s trade policy might, contrarily to the above “additional” factors, weaken the compellingness of the external environment surrounding the EU-MERCOSUR negotiations and thus undermine the Commission’s position. Indeed, the more visible and active mobilisation of non-state actors against the enlargement of the EU’s web of trade agreements and globalisation in general has arguably reduced the cost of no agreement that reluctant member states would incur if they were to refuse the deal negotiated by the Commission at the international level. As an example, the French government’s critique of the EU-MERCOSUR deal with regards to the latter’s environmental commitments can be seen as a direct consequence of this phenomenon of trade politicisation. Indeed, France’s argument is based on the fears expressed by numerous non-state actors regarding the threat that a trade deal with the MERCOSUR might have in terms of food safety regulations and European and global environmental standards. This recycling of anti-globalisation arguments by the French government and the consequent weakening of the compellingness of the external environment can thus be seen as being directly inherited from the politicisation of the EU’s trade policy that started in the 2010s.

c) EU-MERCOSUR negotiations: a compelling external environment?

Even though the “classic” factors influencing the compellingness of the external environment do not seem to be in the Commission’s favour in the context of the EU-MERCOSUR negotiations, additional considerations might actually provide for some important counterbalancing effects. This combination of classic and contemporary factors, though not optimal from the Commission’s perspective (especially when compared to the situation observed during the GATT’s Uruguay round negotiations), might have been sufficient to force the reluctant member states such as France and Ireland to accept in principle the agreement reached with the MERCOSUR in June 2019⁸⁸.

⁸⁸ France and Ireland might have been “forced” to accept the deal in the sense that the Commission was able to successfully transfer upon them the cost of no agreement and thus compel them to unveil their fallback positions.

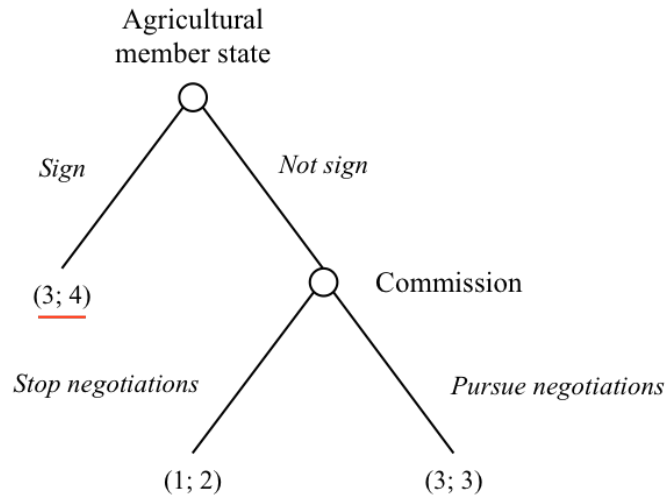
Nevertheless, in the aftermath of the wildfires that ravaged the Amazon forest in the summer of 2019 and which were everywhere in the media from August 2019 onwards, numerous member states (including France) started to openly position themselves against the EU-MERCOSUR trade deal. The French government's main argument for this volte-face was that the commitments on environmental sustainability included in the FTA were insufficient and that enhanced trade with the MERCOSUR block (and Brazil in particular) would accelerate deforestation in the Amazon (Euractiv, 2020). Many observers have dubbed this argument as an excuse behind which France is hiding to maintain the CAP's protectionist policies in the beef sector⁸⁹ (Politico, 2020).

Whether the environment argument is an excuse or not is unimportant to the present analysis. What matters is that, based on environmental concerns and fears for its agricultural sector (two very politicized topics in France), France is discontinuing the ratification of a massive trade agreement that took twenty years of efforts to be reached and that would cover a market of more than 750 million people.

Overall, though the external environment around the EU-MERCOSUR negotiations might have been somewhat compelling, it appears that its foundations were rather shaky. Indeed, the outburst of a single, though major, event was sufficient to nullify the agreement in principle that had been reached between the Commission and the EU member states.

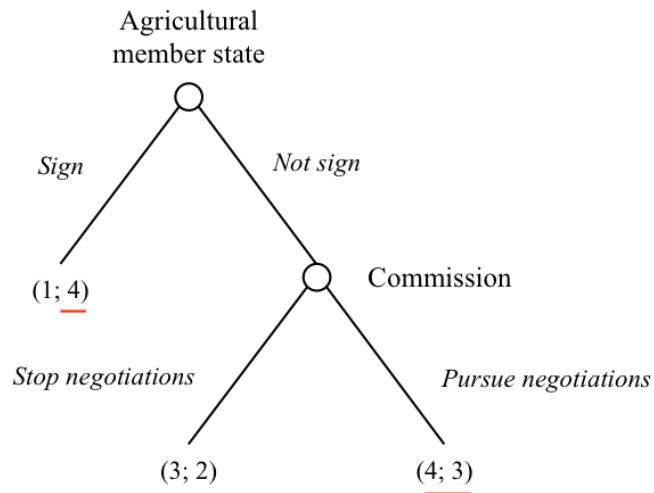
To illustrate this latter point, the sequential trees previously derived (figures 19 and 17) can easily depict the change of circumstances explained.

⁸⁹ In line with the argument presented above, the French government's use of the Amazon wildfires to justify its refusal to ratify the EU-MERCOSUR agreement can be understood as a direct consequence of the rise of the politicisation associated with the EU's trade policy.



Effectively, the above figure could represent the situation faced by the agricultural member states by late June 2019. In this sense, the compellingness of the external environment was sufficiently high to force the coalition of agricultural member states to consider signing the deal negotiated by the Commission, as the associated cost of no agreement was relatively large.

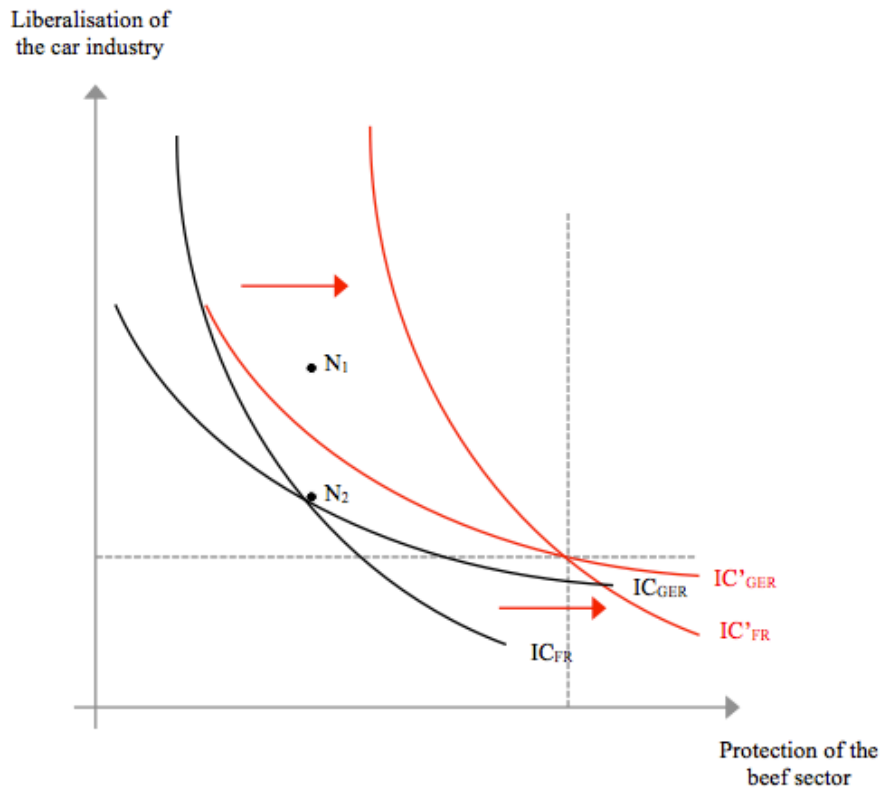
With the outburst of the Amazon wildfires and the popular outcry that followed throughout the EU however, some of the “agricultural” member states such as France now considered that they were politically able to reject the EU-MERCOSUR deal as the latter became increasingly associated with an acceleration of the Amazon’s deforestation by the public, in addition to its already widely spread “cars versus cows” aspect. Analytically, the above sequential tree is no longer applicable and is thus replaced by the one depicting a situation in which the compellingness of the external environment is limited and in which the cost of no agreement is not large enough to force agricultural member states to sign the EU-MERCOSUR agreement:



Agricultural member states thus decide not to sign the deal negotiated by the Commission, even if the latter is able to credibly threaten them that it will put an end to negotiations if they were to reject the agreement.

Similarly, this chain of events can be represented graphically by using the national indifference curves derived in a previous section. If figure 11 was to represent the situation at hand in June 2019, then the Amazon wildfires, recycled by France and other member states in line with the current politicisation of the Union's trade policy, ultimately weakened the compellingness of the external environment surrounding the EU-MERCOSUR negotiations and shifted national indifference curves back to the right.

Figure 20: Impact on national indifference curves caused by the weakening of the compellingness of the external environment following the Amazon wildfires



Hence, as figure 20 shows, the outburst of the Amazon wildfires and the consequent strengthening of the trade politicisation factor influencing the compellingness have brought the latter to a level no longer sufficient to force all member states to agree on the deal N_2 negotiated by the Commission. Graphically, the member states' indifference curves shift back to the right and the countries belonging to the agricultural coalition refuse to ratify the EU-MERCOSUR agreement.

Thus, despite having revealed their previously hidden fallback positions, agricultural member states are now able to refuse the deal as the compellingness was altered. This sudden change in the external environment of the EU-MERCOSUR negotiations is personified by Emmanuel Macron's attacks on president Bolsonaro following the outburst of the fires. In this sense, the French president accused his Brazilian counterpart of having "*lied on Brazil's environmental commitments*", thus giving France the "*legitimate right*" to uphold the EU-MERCOSUR agreement (France 24, 2019).

V. The EU-MERCOSUR trade agreement and the CAP's reform process

The actual state of the EU-MERCOSUR Association Agreement allows for some conclusions on the use that the Commission can make of international trade negotiations in order to drive the CAP's reform process.

The weak, or at least insufficient, compellingness of the external environment surrounding the EU-MERCOSUR negotiations has resulted in a rather feeble political cost of no agreement for the member states. Graphically (see figure 11), national indifference curves were not (sufficiently) shifted to the left and the EU's win set was not (sufficiently) enlarged to enable the implementation of the EU-MERCOSUR agreement. Using a game theoretical jargon, the Commission's deterrent threat power appears to be quite powerless and "agricultural" member states do not really mind if the negotiations were to be abandoned indefinitely.

Nevertheless, the compellingness of the external environment might be weak, or at least considerably weaker than during the Uruguay round negotiations of the GATT as previously explained, but with regards to the CAP, the reforms demanded at that time by the Union's trade partners were phenomenal and required a restructuration of the entire agricultural policy. In comparison, in the context of the EU-MERCOSUR negotiations, the high tariff barriers on a single and economically minor product, beef, are currently impeding the implementation of an important FTA negotiated for close to twenty years with one of the world's largest trading bloc.

What can be concluded of all this? Have the remains of the overly protective CAP become politically untouchable in some member states or has the external pressure on the policy and its use by the Commission been reduced to a point of no return? Both explanations probably hold true to some extent. Yet, it appears that only limited aspects of the CAP, its high tariff barriers in particular, remain an important point of contention between the EU and its trade partners. Hence, this has limited the possible scope of pressures that the Commission may use to foster internal reforms of the CAP. This important evolution has been strengthened by the deadlock of multilateralism and the consequent rise of bilateralism, which have further brought down the pressures applied unto the Union's agricultural policy.

Overall, it seems legitimate to answer the research question specified at the beginning of this Chapter by stating that the Commission can no longer, or at least not to a significant extent, influence the CAP's reform process by strategically using international trade negotiations. The EU's executive body seems to be aware of this evolution as the main themes reviewed in

the 2013 reform and the 2020 reform proposal witness. In essence, the external dimension of the CAP no longer provides the Commission with an instrument to drive the policy's reform process as it once did.

Conclusion

In order to fully investigate and comment on the use that the European Commission can make of international negotiations to drive the reform process of the Common Agricultural Policy, this paper has been divided into four different chapters bearing different intents.

The first chapter elaborated on the origins, the creation, the objectives and the structure of the CAP in an attempt to provide the reader with an overview of what the EU's agricultural policy is and what it is not. Additionally, this first chapter presented a brief analysis of the main objectives of the CAP in a modern/21st century context. Overall, it was found that the CAP was extensively criticised mostly on legitimate grounds, within and outside the Union, both for its internal and external dimensions. Building on the criticisms addressed towards the common policy regarding its cost, its environmental shortcomings and its protectionist and trade-distortive nature, an essential interrogation was presented: "*Why does the EU fail to successfully reform its CAP and bring an end to criticisms?*" Given the internal and external dimensions of the policy, the answer to such a question had to be twofold and address these two dimensions separately. The internal dimension of the problem was thus examined in the second chapter of this paper, while the third and fourth chapters dealt with the external dimension of the CAP.

Hence, in the second chapter, the question of why the EU failed (and arguably fails) to successfully reform its CAP from within was tackled. To do so, the structure of the legislative procedure used in the context of the CAP was analysed as well as the specific roles held by the various actors involved, directly or indirectly, in the evolution of the policy. In this sense, several important actors such as the agriculture configuration of the Council, the COMAGRI in the European Parliament or DG AGRI in the Commission, were depicted as probably not being very reformist when it came to the CAP. Consequently, these actors, closely involved in the CAP's reform process, were not to be expected to be important internal drivers of reforms at the EU level.

Importantly, this second chapter shed some light on the role of the Commission with regards to the CAP's evolution. More specifically, it was shown that the Union's executive body possessed rather constrained legislative powers when it came to the CAP while the academic literature has widely praised the Commission and the successive agriculture Commissioners for their crucial roles behind the multiple CAP reforms that started in 1992 with the MacSharry reform. This apparent contradiction was then explained and analysed at length in the third chapter.

As such, chapter III of this paper investigated how the external dimension of the CAP is crucial to explain the evolution of the policy since the early 1990s. Additionally, it was shown how the Commission's strategic use of international trade negotiations had driven and facilitated the CAP's reform process. Yet, this third chapter also exposed how the changed international context and the gradual restructuring of the EU's agricultural policy had progressively atrophied the external pressures applied onto the CAP and their use by the Commission. In particular, the deadlock of trade multilateralism under the WTO since 2008 and the successive reforms of the CAP (which made the policy significantly less trade-distortive over the years) implied that the EU was no longer urged to alter its agricultural policy, thus limiting the Commission's previous tool to drive reforms.

Nevertheless, despite the deadlock of the Doha Development Round and its less problematic nature at the international level, the CAP was found to still be a very protectionist policy because of its sometimes prohibitive tariff barriers levied on agricultural products. In combination with this last point, the recalibration of the Union's trade policy towards a desire to expand its web of bilateral trade agreements with third countries implies that the external dimension of the CAP and its use by the Commission could still, to this day, be the drivers of the CAP's future reforms.

This hypothesis was then tested in the fourth chapter by taking as a case study the negotiations of the EU-MERCOSUR Association Agreement. The main idea was to assess whether the Commission could successfully force member states to sign a trade agreement that would inevitably put pressure on a segment of European farmers by alleviating the CAP's protectionist tool: import tariffs. In order to do so, two coalitions of member states, respectively spearheaded by France and Germany, were identified: one favourable to the ratification and implementation of the agreement and the other opposed to it. These two member states' preferences with regards to the ratification of the EU-MERCOSUR trade deal were established by analysing the political and economic weight of these countries' respective beef and car sectors. The rationale behind this choice of variables lays in the fact that beef meat and cars are the most tariffed imports into the EU and the MERCOSUR respectively. Furthermore, the two trading blocks enjoy significant comparative advantages with regards to the production of these two goods (the EU for cars and the MERCOSUR for beef meat and other agricultural products).

With the political and economic weight of both the beef and cars sectors established for France and Germany, the indifference curves of these two member states were derived,

enabling the observation of their respective win sets concerning the EU-MERCOSUR trade deal. With these two indifference curves, it was then possible to graphically demonstrate how the Commission could try to force member states to sign a trade deal that does not enter into their original win sets. This could be done by the Commission through the transfer of the pressure of the international negotiations unto the member states. With this pressure transferred, the political cost of no agreement (the cost associated with the breakdown of the negotiations due to a rejection of the deal) can force member states to unveil their previously hidden true preferences (i.e. fallback positions), which they had originally kept secret from the Commission.

However, the transfer of the pressure by the Commission unto the member states only functions effectively if the external environment surrounding the international negotiations is sufficiently compelling. Through the use of game-theoretical tools, it was shown how different degrees of compellingness (either high or low) could completely alter the member states' decision at the ratification stage of the agreement and enable the Commission to have reluctant member states sign the deal it negotiated on the Union's behalf.

Whether the Commission can transfer the cost of no agreement unto the member states thus depends on the compellingness of the external environment and it hence became crucial to estimate the latter in the context of the EU-MERCOSUR negotiations. It appeared that the given compellingness was significantly lower than the one experienced by the Commission during the Uruguay Round negotiations of the GATT in the early 1990s. Nevertheless, as the agreement in principle reached in June 2019 witnesses, the external environment was at the time sufficiently compelling to guarantee that the cost of no agreement faced by the EU's member states was sufficiently large. With France's volte-face, along with several others, on the agreement a couple of months later following the outbreak and the large media coverage of the Amazon wildfires, it appeared that the compellingness was rather fragile and on the edge of insufficiency.

The relatively weak degree of compellingness experienced during the EU-MERCOSUR negotiations has been explained by the use of two "classic" and four "additional" factors that are likely to impact the compellingness of an external environment. With the public outcry that followed the eruption of the Amazon wildfires in August 2019, the politicisation of trade policy, growing in Europe since the negotiations of the TTIP and the CETA, resurfaced and provided the French government with the argument it needed in order to be able to politically refuse the agreement.

The analyses provided throughout this paper allow for some conclusions on the use that the Commission is nowadays able to make of international trade negotiations in order to influence the CAP's reform process. Indeed, an important bilateral trade agreement with one of the world's largest trade block has proven insufficient to force the EU's member states to give up on some of the CAP's remaining protectionist features. Aside from the fact that the compellingness of the negotiations between the EU and the MERCOSUR was relatively weak, an Association Agreement with the South American block would have, in the end, rather timid consequences on the EU's agricultural market as a whole. Yet, the impact that such a deal would have on some specific sectors, beef being the main example, has proven sufficient to convince member states like France that they were politically able to reject such an agreement.

This says a lot about the state of the CAP in the EU and the Commission's power to influence it through its power of sole negotiator. Indeed, the Commission appears to no longer be able to force member states to give up on some of the protectionist aspects of the common policy in exchange of an eased access to foreign markets. The overwhelming dominance of "green" objectives found in the 2013 CAP reform and the 2020 reform proposal are witnesses of this evolution: the Commission can no longer meaningfully rely on international trade negotiations to influence the CAP's reform process.

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