International Policy Analysis network (IPAN) is Asia's first youth-led public policy think tank, devoted to getting young students and scholars involved in public policy research. IPAN was founded by Kshitij Bansal in the year 2012 under the mentorship of Dr. S.R.S. Bedi. The mission of IPAN is to involve the youth in core policy analysis and make an impact upon national and global decision making. IPAN comes out with opinions, research briefs, working papers and books. IPAN will soon publish the first edition of its flagship yearly journal 'The Policy Analyst'. It also undertakes university level outreach activities for reaching out to youth and creating an informed opinion.
Brindpreet Kaur is an Assistant Professor of Economics and the Coordinator of School of Agricultural Law and Economics (SALE) at Rajiv Gandhi National University of Law, Punjab, India. She is a committed and passionate academician in the field of economics who has authored numerous text books for university level students. She is a widely published researcher with numerous paper presentations and has held numerous positions of responsibility.

Kshitij Bansal is a specialist in International Trade & Investment Law, currently working as an Associate with Amarchand Mangaldas, Mumbai. He graduated from the IELPO LLM, University of Barcelona in the year 2014 after finishing the undergraduate law course at Rajiv Gandhi National University of Law, Punjab, India. He is the Founder President of International Policy Analysis Network (IPAN), Asia’s first youth-led public policy think tank. A widely published author, his opinions/articles have been published in leading journals, magazines and newspapers. Awarded with the Chancellor Medal for Overall Best Performance, he was also the Robert Bosch Stiftung Scholar for the year 2012. Bansal represented India as the Head of State at G20 Youth Summit 2012, Washington D.C. and was also the UNESCO Youth Peace Ambassador 2012.

The Rajiv Gandhi National University of Law and IPAN proudly remember Aparajita Paul who was one of the brightest students of the University and a Research Assistant of the SALE- IPAN Research project during the publication of the First Edition of the Working Paper Series.

Aparajita was an exceptional student who dealt with the toughest challenges with a smile and hard work. She was always ready for a challenge and achieved very high goals and laurels during her extremely short life which made her a role model for many. Aparajita left us for heavenly abode on September 13, 2013 leaving us all in shock and with a huge void in our hearts which would be impossible to fill. We express our deepest condolences on her death and we are united with her Parents, Friends and well wishers in their grief. The loss of Aparajita would be irreplaceable for the University, IPAN and for everyone who have known her.
WTO AND FARM SUBSIDIES:
THE ROAD TOWARDS A PERMANENT SOLUTION

An IPAN Report

Series Editor:

Brindpreet Kaur
Assistant Professor of Economics and
Coordinator, School of Agriculture Law and Economics (SALE)
Rajiv Gandhi National University of Law, Punjab, India

Series Assistant Editor:

Kshitij Bansal
President, International Policy Analysis Network (IPAN)

Project Coordinator: Angshuman Hazarika
Student of Law, RGNUL

Research Assistants:

Mrudul Dadhich
Student of Law, RGNUL

Riya Prem Raaj
Student of Law, RGNUL

Shanya Ruhela
Student of Law, RGNUL

Ankush Thakur
Student of Law, RGNUL
RESEARCH TEAM

This Discussion Paper Report 2014 on ‘WTO and Farm Subsidies: The Road Towards a Permanent Solution’ was prepared by a team led by Angshuman Hazarika under the guidance of Brindpreet Kaur and Kshitij Bansal. Angshuman Hazarika was the Project Coordinator representing Rajiv Gandhi National University of Law. The research team comprised of Mrudul Dadhich, Riya Prem Raaj, Shanya Ruhela and Ankush Thakur as Research Assistants. The Concept Note was primarily prepared by Research Assistants led by the Project Coordinator after a comprehensive research spread over a period of two months. Contributions which have been published were peer reviewed and selected after they were received in response to a competitive call for papers. The series was initiated by Kshitij Bansal as the President of IPAN and carried out under the general supervision of Brindpreet Kaur. It is an annual flagship research initiative which was started in the year 2012. This is the second edition of this series.

RGNUL university staff and the Vice Chancellor’s office provided additional support.
ACKNOWLEDGEMENTS

The preparation of this report drew from various other related research projects. Introductory studies on the WTO were done by Ankush Thakur. Riya Prem Raaj and Shanya Ruhela led the comparative studies of various major economies and analysed it under the direction of Kshitij Bansal. Angshuman Hazarika, apart from coordinating the research team, researched upon the agricultural policies and farm subsidies.

Many individuals inside and outside Rajiv Gandhi National University of Law and International Policy Analysis Network provided valuable contributions and comments (specific acknowledgements have been made in the bibliography mentioned at the end of individual papers). Particular thanks are due to the following individuals who lent their continuous support: Paramjit S Jaswal, G I S Sandhu, Shilpa Jain, Hansraj, Inderpreet Singh, Sukhwinder Virk, M L Bansal and Shashi Bansal.

The financial assistance provided by Rajiv Gandhi National University of Law, approved by Paramjit S Jaswal, Vice Chancellor is gratefully acknowledged.
PREFACE

This report concludes the second edition of RGNUL – IPAN Discussion Paper Series (previously the RGNUL – IPAN Working Paper Series) which is an annual flagship policy research project between the International Policy Analysis Network (IPAN) and Rajiv Gandhi National University of Law, Punjab. IPAN, Asia’s first youth-led public policy think tank initiated this annual research series in association with School of Agriculture Law and Economics (SALE), Rajiv Gandhi National University of Law (RGNUL), India in the year 2012. Regretfully, the series hit a funding roadblock in the year 2013 and could not publish its second edition in time. With the generous support given by the Vice Chancellor of RGNUL, it was possible to resume the project from the year 2014. The research theme for 2014 edition of this series was “WTO and Farm Subsidies: The Road Towards a Permanent Solution” for which students, academicians and Ph.D. scholars were invited to submit papers addressing some specific social, political, economic or cultural aspect of this policy.

In this report, we have attempted to put together varied perspectives associated with this policy. While the concept note introduces the whole issue to the readers; the following papers address specific issues in order to help the reader to form an informed opinion about this issue’s positive as well as negative implications. The call for papers issued for this project had received a huge response and some quality submissions which were reviewed by the peer review committee. The papers were shortlisted from the perspective of having diversity of opinion, innovation in recommendations and practical applicability of research.
We sincerely believe that this report will contribute immensely to the ongoing policy discourse in India and abroad. This comprehensive compilation of quality papers will assist students, academicians and policy makers in their research endeavours.

Brindpreet Kaur and Kshitij Bansal
CONTENTS

CONCEPT NOTE ........................................................................................................... 7

WTO 9TH MINISTERIAL: INDIA’S MYTH TO COMPROMISE ................................................................. 26

   Anita A. Patil ........................................................................................................... 26

THE WTO AND FARM SUBSIDIES: PROPOSALS FOR A PERMANENT SOLUTION ...................................................... 45

   -Archana Subramanian ......................................................................................... 45

REDEFINING PRICE SUPPORT MECHANISM: A REFORMATIVE STEP IN FARM SUBSIDY ................................. 63

   Avinash Singh .................................................................................................... 63

AGRICULTURE SUBSIDIES IN A LIBERALIZED WORLD: AN ANALYSIS OF U.S. FARM BILL ............................. 81

   -Jasmine Kaur & Shantanu .................................................................................. 81

WTO AGRICULTURAL SUBSIDY RULES AND FOOD SECURITY: ....................................................................... 104

   AN INDIAN PERSPECTIVE ............................................................................... 104

   -Vijita Mohanan .............................................................................................. 104
CONCEPT NOTE

INTRODUCTION: DOHA ROUND OF NEGOTIATIONS

1. WHAT IS DOHA AGENDA?

Doha Development Agenda, known as Doha Round in common parlance, is the latest and ninth in series of trade negotiations among the WTO member countries. The Round was officially launched at the WTO’s Fourth Ministerial Conference in Doha, Qatar,¹ in November, 2001. Doha Round talks are overseen by Trade Negotiations Committee (TNC).² The genesis of Doha Round lies in the notion that the world needs a multilateral trade system that shall to some extent restrain abuse of power by economically powerful players globally.

Inception of Doha Declaration came with prime objective of reforming international trading system by lowering trade barriers and revising trade rules. Doha Declaration provides mandate for:

1. Negotiation on range of subjects
2. Implementation of existing agreements

There are about range of 21 subjects listed in the Doha Declaration and one of the prime areas of negotiation is Agriculture. Although there will be issue-

specific negotiating groups, negotiations in all areas will eventually be drawn together and result in a “single undertaking” which means that, in effect, “Nothing is agreed until everything is agreed”, to borrow a popular phrase among trade officials.³

The Single Undertaking, in other words, serves the same purpose as Article 1 of the GATT in ensuring that all WTO agreements are applied on a MFN basis. For example, in the case of agriculture, the agreement is far from the demand for an abolition of subsidies with which the Americans began.

Imperatively the agreement had to pass minimum established threshold for each country before it was acceptable, but the Single Undertaking made it difficult for any state to evaluate the whole agreement on the basis of one element.in 157 countries are party to Doha Declaration.

2. DOHA ROUNDS FROM 2001 TILL 2013 AND THE DEADLOCK!

The Doha Round is perceived as an ambitious effort to make globalisation more inclusive and help the world’s poor, particularly by slashing barriers and subsidies in farms.⁴Among all the General Agreement on Trade and Tariff (GATT)/World Trade Organisation (WTO) trade rounds, the Doha Round stole the limelight. Since its launch in November 2001 at Doha, the

---


capital of Qatar, it soared to great heights as well as witnessed unprecedented ebbs, and following the failure of G-60 countries to reach a consensus on key issues of agriculture and industrial goods market access, it seemed to slide towards a permanent deadlock.⁵

After 2001, there were talks in Cancun in 2003 to lead Doha Declaration forward and to forge concrete framework to continue negotiations, but they collapsed just after four days of talks.⁶ There were lot of differences between developed and developing countries as few countries showed no flexibility and hence the deadlock. The talks remained suspended for the remaining whole year. Again after about a year, efforts were made to lead negotiations further in Geneva in 2004 but were not of much avail. The efforts for revival and sustenance of the entire negotiations after Geneva talks resulted into a new Framework Agreement⁷, also called July Package, which was signed in July 2004 and which provided a new basis and broad guidelines for future negotiations under the Doha round.

The only accomplishment made by the multilateral trading system was the launch of a new trade round (first one under the auspices of the WTO) with a very ambitious trade liberalisation agenda intended to meet the

---


developmental needs of the poor countries. However, the euphoria created at the launch of a new round was short-lived. Soon WTO members started faltering on one deadline after another, which culminated in collapse of the Cancun Ministerial Conference in 2003. After the Cancun fiasco, the Doha Round went into a limbo and it took almost a year to infuse a fresh life in this celebrated trade negotiation.

Before the sixth WTO ministerial Conference took place in Hong Kong in 2006, a session of negotiation was also held at Paris in May 2005 so as to ensure that talks at Hong Kong will lead to agreement in negotiating sectors. Trade ministers of various countries around the globe set deadline to eliminate subsidies of agricultural exports by 2013 which boosted the spirits of members. It was the moment when Pascal Lamy, DG, WTO saw a ray of hope and stated, “I now believe it is possible, which I did not a month ago.”

In the end, once again after more than five years of extensive negotiations the differences over farm subsidies proved to be insurmountable and the stern stand of the powerful economies had all but sealed the fate of this Round of trade negotiations.

In 2008, negotiations started at WTO headquarters at Geneva on Doha Round but were stalled after nine days of negotiations. The Issue of Agriculture especially Farm subsidies had become lynchpin of the Doha Agenda for both developing and developed countries. Although USA made positive effort to

8 Ibid.
reduce its farm subsidies, but developing countries like India and Brazil vehemently opposed. Countries like Brazil wanted deeper cuts on part of developed countries especially USA and EU.

Brazil and India were pivotal to the negotiations because the United States and the European Union wanted big developing economies to open up markets in goods industry as well as farm products in return for their Agriculture Reforms.

Finally, 2008 talks were stalled and no solution could be anticipated amongst lot of disagreement and heat. Nine days negotiations ended with disagreement between India and the United States over the so-called special safeguard mechanism (SSM). SSM is a measure designed to protect poor farmers by allowing countries to impose a special tariff on certain agricultural goods in the event of an import surge or price fall. 18 of the 20 items on the agenda had been agreed upon. The nineteenth item, dealing with the arcane issue of the special safeguard mechanism, a right of developing countries to raise tariff to protect their farmers from an unexpected surge in imports,

proved to be the deal-breaker. Ranged against the U.S. were India and China.\textsuperscript{13}

This position of the Doha rounds was equated by opinion makers with that of Uruguay round which took twice the scheduled time. Unfortunately, there were several reasons for pessimism. In 1990 the only obstacle to a deal was the deadlock between Brussels and Washington. However, in the current issue, several other big economies, including Brazil, India and China, also needed to be on board. India, in particular, showed remarkably little interest in doing a Doha deal.

The WTO Doha Round of negotiations had been at an impasse since December 2008. Several academics and opinion makers argued that the Doha Round is “dead” and that there was need for new approaches that would lead to credible results.\textsuperscript{14} However, the endeavours to find a multilateral solution to discipline the highly distorted international agriculture trade market bumped into the roadblock in the form of serious differences between WTO members on farm trade liberalisation.

3. **Policies of the Major Economies in Doha Deliberations**

*European Union*


The EU has a Common Commercial Policy\textsuperscript{15} which provides the European Union as an organisation competence to deal with issues of international trade. Although historically the European Union has tried to promote a multilateral frame for trade negotiations\textsuperscript{16} that was intended to complement and possible supplant bilateral negotiations, the stalemate in the Doha round of negotiations and the stagnation of talks has forced the EU to look into alternative measures. As with many other trading partners of the EU, it has turned to bilateral agreements and regional and bilateral negotiations which are not in consonance with its long term trade policies.\textsuperscript{17}

The European Union follows a Common Agricultural Policy\textsuperscript{18} which is funded from the European Union budget in order to ensure that the EU farmers can continue to produce food products at competitive rates for EU needs. This CAP is an issue of major contention with many developing countries considering it as the front end of a very pervasive subsidy policy.

In a recent development, and as a major step towards consensus on reforms to the more than 50 billion euro-a-year farm policy, EU negotiators provisionally agreed (awaiting final approval of the European Parliament


and member states) that up to 30 percent of current direct subsidy payments to large farms will henceforth be conditional on farmers' taking steps to improve their environmental performance, including leaving 5 percent of their arable land fallow as a haven for wildlife.\textsuperscript{19}

Amid widespread concerns about the bloc’s food security and criticisms about agri-business-led watering down of environmental standards to the point of making them meaningless, the present proposal does affect direct subsidies allocation under the Common Agricultural Policy (CAP), which will continue to consume three-quarters of EU’s total farm budget from 2014-2020.\textsuperscript{20} The EU’s negotiating position with respect to traditional trade policy in the Doha Round is aggressive, with a heavy emphasis on increasing market access in non-agricultural products, particularly targeting tariff peaks and strong advocacy of the trade facilitation agenda, rather than a preoccupation with protecting European industrial sectors.

In the first and more feasible scenario for a Doha deal – an agreement that involves more modest improvements to the parameters currently under consideration – the EU could play a constructive role in both political and substantive terms. Politically, Europe could serve as an honest broker to try to reduce the fundamental mismatch of opinion that has become such an obstacle to concluding the round. Above all, this would mean using its longstanding economic and diplomatic connections to try to help shift U.S. perceptions that there is nothing of interest to it on offer at the WTO.


\textsuperscript{20}Ibid.
United States of America

United States of America is one of the most significant agro-producing nations across. The top agricultural products of the United States are corn, cattle meat, cow’s milk, chicken, soybeans, pig meat, wheat, cotton, eggs and turkey meat. According to the information from the World Trade Organization (WTO, 2000) the U.S. is the biggest importer and exporter in the world given that it alone has 12% of the world trade.

The United States in the twentieth century followed the encouragement of farmers to till big lands. It literally followed the policy of “get big or get going”. Now only 0.1% of the United States population works full-time on a farm.

The nation has always endeavoured to maintain different sets of agricultural policies with goals that range from the traditional ones of stabilizing agricultural production and providing support to farm income to those that has more recently increased in importance, such as assuring adequate nutrition, securing food safety, encouraging environmental protection and facilitating rural development.

USA continues to impose high tariff and non-tariff barriers on agricultural products with continuous oppositions from developing and Least developed Countries. But a solution looks nowhere in sight.

The Bali Conference: Main Negotiations And Decisions

The Bali conference was another attempt to remove the impasse that was reached during the Doha rounds. This conference held from the 3-7th December, 2013 laid the various issues on the table namely Indian crop stockpiling plan that is exempt from WTO subsidy rules and a challenge to the U.S. economic embargo on Cuba. Turkey also has concerns about new rules on transit, while there is Central American resistance to demands to stop using customs brokers to handle trade. The “Bali Package” was a series of decisions aimed at streamlining trade, allowing developing countries more options for providing food security, boosting least-developed countries’ trade and helping development more generally. It consisted of 10 packages which cover trade facilitation, agriculture, cotton and development in respect to LCD issues. The conference resulted in adoption of a number of routine decisions and accepted Yemen as a new member of the WTO.

The package provides flexibility to developing countries on vital food security programme. It allows developing nations to avoid disputes for food security.

The decisions at Bali were taken in three parts:-

---

PART I:

REGULAR WORK UNDER THE GENERAL COUNCIL

1) TRIPS NON-VIOLATION AND SITUATION COMPLAINTS

To continue its examination of the scope and modalities for complaints of the types provided. Before the next summit in 2015, Members will not initiate such complaints under the TRIPS Agreement.26

2) WORK PROGRAMME ON ELECTRONIC COMMERCE

It shall take forward the issues emerging in the discussions and the evolving application of e-commerce to enhance economic/development opportunities, with special consideration of the situation in developing countries, particularly in least-developed country Members and least connected countries. It shall continue to examine opportunities and challenges for access to electronic commerce by micro, small and medium sized enterprises, including small producers and suppliers.27

3) WORK PROGRAMME ON SMALL ECONOMIES

The General Council was to direct relevant subsidiary bodies to frame responses to the trade-related issues identified by the CTD with a view to making recommendations for action. The WTO Secretariat is to provide relevant information and factual analysis for discussion among Members in the CTD’s Dedicated Session and in particular look into the

---

26 Ministerial Conference, Ninth Session, Bali, 3-6 December 2013-Wt/Min(13)/31 — Wt/L/906
27 Ministerial Conference, Ninth Session, Bali, 3-6 December 2013-Wt/Min(13)/32 — Wt/L/907
challenges and opportunities experienced by small economies when linking into global value chains in trade in goods and services.\textsuperscript{28}

4) **AID FOR TRADE**

The summit recognized the continuing need of Aid for Trade for developing countries, and in particular of LDCs.\textsuperscript{29}

5) **TRADE AND TRANSFER OF TECHNOLOGY**

Under this examination of the relationship between trade and transfer of technology is to take place. It has also considered possible recommendations on steps that might be made within the mandate of the WTO to increase flows of technology to developing countries. The existing work has helped to enhance Members’ understanding of the complex issues that encompass the nexus between trade and transfer of technology.

Although progress has been made, more work remains to be done. In view of this, we direct that the Working Group should continue its work in order to fully achieve the mandate of the Doha Ministerial Declaration.\textsuperscript{30}

**PART II:**

**DOHA DEVELOPMENT AGENDA**

\textsuperscript{28}Ministerial Conference, Ninth Session, Bali, 3-6 December 2013—Wt/Min(13)/33 — Wt/L/908

\textsuperscript{29}Ministerial Conference, Ninth Session, Bali, 3-6 December 2013—Wt/Min(13)/34 — Wt/L/909

\textsuperscript{30}Ministerial Conference, Ninth Session, Bali, 3-6 December 2013—Wt/Min(13)/35 — Wt/L/910
a) **Trade Facilitation**

To establish a Preparatory Committee on Trade Facilitation under the General Council, open to all Members, to perform such functions as may be necessary to ensure the expeditious entry into force of the Agreement and it shall also conduct the legal review of the Agreement.  

b) **Agriculture**

- **General Services** – programmes to make rural development, food security and poverty alleviation, particularly in developing countries. General Services programmes related to land reform and rural livelihood security, such as: land rehabilitation; soil conservation and resource management; drought management and flood control; rural employment programmes; issuance of property titles; and farmer settlement programmes

- **Public Stockholding for Food Security Purposes** - to negotiate on an agreement for a permanent solution, for the issue of public stockholding for food security purposes for adoption by the 11th Ministerial Conference. Members agree to establish a work programme to be undertaken in the Committee on Agriculture to pursue this issue with the aim of making recommendations for a permanent solution. This work programme shall take into account Members’ existing and future submissions.

---

31 Ministerial Conference, Ninth Session, Bali, 3-6 December 2013-Wt/Min(13)/36 - Wt/L/911  
32 Ministerial Conference, Ninth Session, Bali, 3-6 December 2013-Wt/Min(13)/37 — Wt/L/912  
33 Ministerial Conference, Ninth Session, Bali, 3-6 December 2013-Wt/Min(13)/38 — Wt/L/913
UNDERSTANDING ON TARIFF RATE QUOTA ADMINISTRATION PROVISIONS OF AGRICULTURAL PRODUCTS, AS DEFINED IN ARTICLE 2 OF THE AGREEMENT ON AGRICULTURE - agricultural tariff quotas are negotiated and scheduled commitments, publication of the relevant information shall be affected no later than 90 days prior to the opening date of the tariff quota concerned.\textsuperscript{34}

c) COTTON
To stress on the vital importance of cotton to a number of developing country economies and particularly the least-developed amongst them. To reaffirm the Decision adopted by the General Council on 1 August 2004 during the 2005 Hong Kong Ministerial Declaration, and the commitment, expressed at the 2011 Geneva WTO Ministerial Conference, to on-going dialogue and engagement to progress the mandate in paragraph 11 of the 2005 Hong Kong Ministerial Declaration to address cotton "ambitiously, expeditiously and specifically", within the agriculture negotiations.

The General Council also reaffirmed the importance of the development assistance aspects of cotton and in particular highlight the work of the Director-General’s Consultative Framework Mechanism on Cotton in reviewing and tracking of cotton-specific assistance as well as infrastructure support programmes or other assistance related to the cotton sector. It also undertook the task to underline the importance of effective assistance provided to LDCs

\textsuperscript{34}Ministerial Conference, Ninth Session, Bali, 3-6 December 2013-Wt/Min(13)/39 — Wt/L/914
by Members and multilateral agencies. It also invited the LDCs to continue identifying their needs linked to cotton or related sectors, including on a regional basis, through their respective dialogues with development partners and national development strategies.35

d) **DEVELOPMENT AND LDC ISSUES**

- **PREFERENTIAL RULES OF ORIGIN FOR LEAST-DEVELOPED COUNTRIES**— "Developed country Members shall, and developing country Members declaring themselves in a position to do so should: ensure that preferential rules of origin applicable to imports from LDCs are transparent and simple, and contribute to facilitating market access"36

- **DUTY-FREE AND QUOTA-FREE (DFQF) MARKET ACCESS FOR LEAST-DEVELOPED COUNTRIES**— This agreement was made with a view to further integrating least-developed countries (LDCs) into the multilateral trading system and promoting economic growth and sustainable development in LDCs. Since the adoption of the Hong Kong Decision, Members have made significant progress towards the goal of providing DFQF market access on a lasting basis for all products originating from all LDCs, and that nearly all developed Members provide either full or nearly full DFQF market access to LDC

35Ministerial Conference, Ninth Session, Bali, 3-6 December 2013-Wt/Min(13)/41 - Wt/L/916
36Ministerial Conference, Ninth Session, Bali, 3-6 December 2013-Wt/Min(13)/42 – Wt/L/917
products, and that a number of developing-country Members also grant a significant degree of DFQF market access to LDC products.

Members shall notify duty-free and quota-free schemes for LDCs and any other relevant changes pursuant to the Transparency Mechanism for Preferential Trade Arrangements and also The Committee on Trade and Development shall continue to annually review the steps taken to provide duty-free and quota-free market access to the LDCs, and report to the General Council for appropriate action.37

• MONITORING MECHANISM ON SPECIAL AND DIFFERENTIAL TREATMENT- The Mechanism shall review all aspects of implementation of S&D provisions with a view to facilitating integration of developing and least-developed Members into the multilateral trading system. Where the review of implementation of an S&D provision under this Mechanism identifies a problem, the Mechanism may consider whether it results from implementation, or from the provision itself and make recommendations to the WTO body.38

37Ministerial Conference, Ninth Session, Bali, 3-6 December 2013- Wt/Min(13)/44 - Wt/L/919
38Ministerial Conference, Ninth Session, Bali, 3-6 December 2013- Wt/Min(13)/45 — Wt/L/920
PART III:

POST-BALI WORK

• To Reaffirm commitment to the WTO.

• To reaffirm our commitment to the development objectives set out in the Doha Declaration, as well as to all our subsequent decisions and declarations and the Marrakesh Agreement Establishing the WTO.

• Issues in the Bali Package where legally binding outcomes could not be achieved will be prioritized. Work on issues in the package that have not been fully addressed at this Conference will resume in the relevant Committees or Negotiating Groups of the WTO.

• The work program will be developed in a way that is consistent with the guidance we provided at the Eighth Ministerial Conference.39

In addition to this, the Bali negotiations paved the way for the operationalisation of the LDC package. The LDC package has been the least controversial of the three negotiation areas, largely because the contents of the package are best endeavours rather than binding commitments. WTO members reaffirmed their commitment to duty free, quota free (DFQF) market access for LDCs. But the actual developmental benefits remain questionable. Limited export basket of LDCs means anything less than 100% coverage is of little practical use. Tariffs are falling rapidly, so the benefits of DFQF are eroding rapidly. Improvements in rules of origin and non-tariff

39Bali Ministerial Declaration Adopted On 7 December 2013- Wt/Min(13)/Dec
barriers would have been more beneficial to LDCs as these are the barriers that really block market access. A 15-year service waiver (WTO members can provide preferential markets access on trade in services to LDCs without having to do the same to the rest of the membership) was agreed at the 2011 WTO Ministerial Conference in Geneva, and Bali has helped to set the course for its operationalisation. On the whole, however, there has been little improvement in the LDC package since 2011 Ministerial Conference.40

This concept note has been prepared to initiate this Discussion Paper. The concept note is for the readers to know the basic issues and features of this broad topic. RGNUL-IPAN Research Team has done this preliminary research to take forward this debate. We have dealt comprehensively with all the related aspects which might impact or get affected by this issue of farm subsidies.

Disclaimer: Contributions published hereafter are a compilation of the selected papers submitted by various authors. The views expressed here are of the individual contributors and do not reflect those of International Policy Analysis Network (IPAN) or RGNUL.

The publishers and editors will not be responsible for any loss arising out of the information provided in this report. Readers are advised to exercise personal discretion and verification.
The World Trade Organization with 159 members has made more progress on the Doha round of talks in the last few months than in the past five years. Negotiators are seeking to salvage the credibility of the WTO at a meeting in Bali, Thailand, as the lack of agreement over farm subsidies threatens to end 12 years of talks on a global trade pact. Yet negotiators didn’t nail down a package of agreements for ministers to ratify in Bali. India is opposing the current proposals on farm subsidies as a risk to its food security. Trade facilitation and agriculture remain contentious topics, with India looking to subsidize up to 10 percent of certain food staples and the U.S. against such a move. An agreement that amounted to even 5 percent of what Doha initially aimed for would be better than nothing. Negotiators in Geneva produced a compromise deal on Nov. 13th, 2013 to be agreed in Bali, Thailand to give India a four year reprieve from legal challenges over its farm subsidies. India wants a permanent solution to its demands for amendments to WTO rules that would exempt food security programs from being counted under subsidy spending caps.

Keywords: Agriculture, Developing Countries, Food security, India, Subsidies, Trade

---

41 Research Assistant, Chair On Consumer Law And Practice, National Law School of India University, Bangalore
INTRODUCTION

India has a large number of small farmers, many subsistence farmers, and significant subsidies. While a portion of India's agriculture could prove to be globally competitive, India is concerned about the impact of opening its markets or reducing its subsidies on its numerous small farmers. India has similar concerns about opening its markets in the manufacturing sector. Thus, India has little incentive to move forward on agriculture negotiations. What does all this mean for the future? Until some resolution is achieved in the agriculture negotiations, there are likely to be more WTO challenges to the big agriculture subsidies, particularly challenges to U.S. and EU subsidies.

The current round of negotiations under the authority of the World Trade Organization ("WTO") is a key driver in the future of food subsidies. Agricultural subsidies are one of the most difficult issues to address in trade negotiations. Because not all countries are similarly affected by agricultural policy reforms, each country approaches the negotiations with different needs, motives, and concerns. Some countries will be winners while others will be losers, although it is not a zero-sum game.

WTO's so-called Bali package would curb farm subsidies to 10 percent of production, but would allow an exemption period of four years for developing countries. "Food security is very essential for 4 billion people across the world. For India, food resiliency issue cannot be negotiated. People's needs on food and assuring the food resilience must be honoured,
trade agreement must be aligned with efforts to eradicate hunger” was rightly said by Shri Anand Sharma, Trade and Industry Minister, India.\(^\text{42}\)

India dominated the proceedings and was able to get what it wanted: subsidies for its food security programme. Farm subsidy is an issue that has divided the membership of the multilateral trade body ever since it was created. The heavy amounts of subsidies given by the developed countries to their farmers have been distorting international trade to the detriment of the interests of the developed countries.

Under the WTO’s Agreement on Agriculture, member countries are required to reduce and gradually end all agricultural subsidies. What remains unnoticed is that by allowing subsidies to India, the West has won trade facilitation as part of the Doha development round when it had been all along a part of the Singapore issues that included more contentious issues of investment, government procurement and competition policy.

In a way, India’s victory on the food security, with 159 member nations approving protection rather than reduction of subsidies, “exemplifies the majesty of the hypocrisy of the US and the EU, and indeed the foundational basis of the WTO”, according to Brij Patnaik, a senior Indian analyst. The seeds of this inequity were sown in the Uruguay Round and codified in the agreement on agriculture (AoA).\(^\text{43}\)

\(^{42}\text{Available At Http://News.Xinhuanet.Com/English/World/2013-12/05/C _132944825.Htm.Last Accessed On 1-4-2014.}\)

\(^{43}\text{Available At Http://Www.Dawn.Com/News/1075712/Wto-Consent-To- Farm-Subsidies.Last Accessed On 2-4-2014.}\)
The fact remains that the US and the EU got away with very high agriculture subsidies simply because they were already providing much higher subsidies to their farmers when the WTO was created in 1994. This allowed $19 billion (currently) in trade distorting subsidies to the US and none for 61 of the 71 countries. This was because these countries had none of these subsidies at that time. Much of the US subsidies are for crops such as wheat, soybean, cotton and corn, which are exported and are, therefore, distorting trade. But much of India’s subsidies are considered non-trade distorting since they are mostly for domestic consumption.

India had insisted on a permanent exemption from the WTO rules but failed to get it. The final text recommended working out a permanent solution within four years. Besides, there are a series of safeguards in the text including requirements for full transparency and not having an effect that distorts trade or adversely affects the food security of a neighbour such as Pakistan.

**Agriculture**

1. Developing countries permitted to maintain public food stockpiling for food security.
2. Members agree to negotiate agreement on a permanent solution applicable to all developing members on the food stockpiling issue for adoption by the 11th Ministerial Meeting, while an interim solution remains in place.
3. Until a permanent solution is found, members shall refrain from challenging, through the WTO Dispute Settlement Mechanism, support provided for traditional staple food crops for food security purposes.
TRADE FACILITATION

1. No fees or charges will be imposed in respect of transit, except charges for transportation or those commensurate with administrative expenses entailed with transit or with the cost of services rendered.

2. Members shall endeavour to establish or maintain a single window, enabling traders to submit documentation and/or data requirements for importation, exportation or transit of goods through a single entry point to the participating authorities.

3. Each member shall apply common customs procedures and uniform documentation requirements for release and clearance of goods throughout its territory.

4. Donor members agree to facilitate the provision of assistance and support for capacity building to developing and least-developed country members on mutually agreed terms, either bilaterally or through the appropriate international organizations.

India was adamant with its non-negotiable stance on food security at the 9th World Trade Organization (WTO) ministerial conference held in Indonesia. India demands a permanent solution to increase agriculture subsidy for developing countries from 10 percent to 15 percent of production. One of the key components of the Bali Package which will decide the outcome of the 9th Ministerial Conference in Bali is the India proposal, on behalf of G-33, on

---

food stockholding for food security purposes. This proposal aims to widen ‘policy space’ by changing the Agreement of Agriculture (AOA)\(^{45}\) in order to ensure food security of large populations of hungry Indians. This will also allow India’s government to continue procurement of wheat and rice at the minimum support price (MSP) from low-income resource-poor producers of India’s farmer population with operational landholdings. These poor farmers survive in agriculture because of government procurement of their produce under the food security (public distribution) programme. However, poor farmers and hungry people of developing countries like India are now considered the main hurdles in the successful completion of the Bali Ministerial. Big countries like the U.S. and Canada are not ready to accept G-33 demands to change AOA rules. They are not ready to let developing countries like India to cross its minimum subsidy (de-minimis) limit of 10 percent of the total value of food production as per the External Reference Price (ERP) prevailing during 1986-88.

The India proposal states that significant progress has been achieved in the Doha Round negotiations which recognize the serious concerns of food security in developing countries. Food security has become a global concern in the past few years and requires urgent action. It is also asking for some of the elements in the Revised Draft Modalities for Agriculture Text (TN/AG/W/4/Rev.4) of 6 December 2008, relating to food security to be taken up for a decision in the Bali Ministerial in accordance with paragraph 47 of the Doha Ministerial Declaration (DMD). Accordingly, India wants the

\(^{45}\) Agreement On Agriculture (Ao), Which Formed Part Of The Uruguay Round Agreement Signed By Member Countries Including India In April 1994 And Became Operational With The Establishment Of The Wto From 1st January, 1995.
deletion of the last sentence of footnote no. 5 of paragraph 3 of the AOA Annex 2 on Public stockholding for food security purposes: “For the purposes of paragraph 3 of this Annex, governmental stockholding programmes for food security purposes in developing countries whose operation is transparent and conducted in accordance with officially published objective criteria or guidelines shall be considered to be in conformity with the provisions of this paragraph, including programmes under which stocks of foodstuffs for food security purposes are acquired and released at administered prices, provided that the difference between the acquisition price and the external reference price is accounted for in the AMS (Aggregate Measurement of Support)”. The fixed external reference price was decided at the conclusion of the Uruguay Round. It is the average f.o.b. (free on board- price from farm gate till its delivery on the ship) price that has been notified by a country like India for a product for 1986-1988 and is used as a benchmark for calculating countries’ market price support levels even today. Due to the time that has lapsed, this price is often much lower than the current prices.

This is why G-33 has proposed to delete “the difference between the acquisition price and the external reference price is accounted for in the AMS” and replace it with: "However, acquisition of stocks of foodstuffs by developing country Members with the objective of supporting low-income or resource-poor producers shall not be required to be accounted for in the AMS.

The G-33 proposal further demands that the following should be added in the existing footnote 6 of paragraph 4 of Annex 2 of the AOA. For the purposes of paragraphs 3 and 4 of this Annex, “the acquisition of foodstuffs at subsidised prices when procured generally from low-income or resource-poor producers
in developing countries with the objective of fighting hunger and rural poverty, as well as” the provision of foodstuffs at subsidised prices. The goal is to meet food requirements of urban and rural poor in developing countries on a regular basis at reasonable prices, which is in conformity with the provisions of above-noted paragraph.

Developing countries like India are still the victims of the biased rules of AOA framed two decades ago as part of a secret deal (the 1993 Blair House accord) between the European Union and U.S. which crafted a multilateral farm deal suited only to developed countries. The deal also gave them enough policy space to continue their huge trade-distorting subsidies in agriculture even today, in one form or another. India, where a third of the world’s hungry people live, fear being dragged into a trade dispute by massive subsidizers like the U.S. and EU if it expands its food security programme under the latest national food security legislation, which may result in crossing the 10 percent limit of the trade-distorting subsidies. Therefore the India proposal, presented by Indonesia on behalf of G-33 and proposed at an informal meeting of the Special Session of the Committee on Agriculture on 13 November 2012 (WTO document JOB/AG/22), wants the provisions on public stockholding for food security purposes, already included in the Draft modalities of 6 December 2008, were taken up for a formal decision at the WTO’s 9th Ministerial Conference in Bali in December 2013. This proposal demands more flexible rules for farm subsidies in the WTO ‘Green Box’—those that are exempt from any ceiling or reduction commitments on the ground that they cause not more than minimal trade distortion.
India’s National Food Security Programme\textsuperscript{46}

Indian Food Security Act, 2013 guarantees right to food to two-thirds of India’s population which point towards the actual level of poverty in India by giving them five kilograms of rice or wheat or coarse cereals at Rs 3, 2, 1, respectively. It will require procurement of around 62 million tonnes of food grains annually from low-income resource-poor farmers, at the cost of Rs 1, 30,000 crore government support, only one-fifth of U.S. Green Box spending for food stamp. The ArjunSengupta report\textsuperscript{47} estimated that 77 percent of Indians (about 836 million people) live on less than 20 a day based on data between the period 1993-94 and 2004-05. Similarly the NC Sexena committee set up by the Rural Development Ministry estimated that 50 per cent of Indians are below the poverty line if one takes into account the criterion of calorie intake\textsuperscript{48}.

The reality of India’s hunger and poverty situation necessitates a food security programme that is consistent with the development concerns of India’s population. Therefore it is quite crucial for India and other developing countries to get the proposal on stockholding for food security approved at the Bali Ministerial in order to continue giving such subsidies within their domestic constituencies in future. But the U.S. has rejected the G33 proposal.


\textsuperscript{47}Report On The Conditions Of World And Promotion Of Livelihoods In The Unorganised Sector By The National Commission For Enterprises In The Unorganised Sector, August 2007

to change AOA Rules on the pretext that it “could undermine existing subsidy rules.” Instead of a permanent solution, the U.S. is ready to give India and other G33 countries, a “Peace Clause”. A Peace Clause is when countries agree not to bring up cases in the WTO against each other on an issue, but they don’t really change the rules per se. Often the Peace Clause is of a temporary nature for a set number of years and then automatically expires unless it’s actively renewed. This is a smart move by the U.S. to get the consensus on another important component of the Bali Package, i.e. agreement on Trade Facilitation that will require countries to invest in infrastructure to speed up customs clearances and help global trade. But trade facilitation is nothing but import facilitation and requires upgrading infrastructure at border, ports and custom procedures to boost excessive imports from developed countries\(^\text{49}\).

Till the first week of October 2013, India has been sticking to the position that a multilateral agreement on facilitating trade through mandatory measures like time-bound clearance, better infrastructure and less documentation cannot be reached without a concurrent pact on relaxing food subsidy limits to let developing countries meet their food security commitments. If the G-33 group of developing countries’ proposal on food security does not move forward, the trade facilitation agreement (pushed by developed countries) will not happen, said Rajiv Kher, India’s chief negotiator at the WTO in July 2013\(^\text{50}\). However, two months later in October 2013, there has been a change


\(^{50}\)Available At http://Www.Thehindubusinessline.Com/Economy/Hike-In-Food-Subsidy-Limits-Vital-For-Trade-Facilitation-Pact-At-Wto-India/Article 4967106.ece.Last Accessed On 22-4-2014.
in India’s position vis-a-vis both the proposals, the food security and the trade facilitation. WTO Director General Azevêdo visited Delhi and stressed a middle ground for putting a Bali package together with the help of India. This was quite a disturbing turnaround for India and if India sticks to this new position, it has the potential to fail the ambitious food security programme under the 2013 Act. After the Azevedo visit, India seems ready to settle for a short-term solution to the problem surrounding its food security legislation and agree to a ‘peace clause’ which provides a temporary reprieve from penalties in the event that the subsidy level is breached. India may also agree to the demand of developed countries for a pact to facilitate movement of goods across borders. Since the Peace Clause may lapse after the agreed period of time without change in the AOA rules, India’s dream project, the national food security programme, will be jeopardized. The increasing subsidies by the developed countries will see increase in food imports, after agreement on trade facilitation, pushing domestic farmers out of business.

**Eviction of the biassed WTO rules**

The key objective of the India’s proposal is food security and it should be based on procurement of farm produce from low-income or resource-poor producers at government set prices which would offer price support to producers, e.g. MSP in case of India). This price support must not count as trade distorting support subject to limits, a “de-minimis” amount of up to 10 percent of the total value of production. If the farm produce for food security programme is procured at the prevalent market price, it will not be counted

---

as trade distorting domestic support also called as “Amber Box” or Aggregate Measurement of Support\(^{52}\) (AMS).

Among the 100 developing countries in the WTO, only 17 have recourse to the AMS while the other developing countries, including India, have declared zero AMS in the Uruguay Round or at the time of their accession. This means that most developing countries only have recourse to 10 percent product specific de-minimis and 10 percent non-product specific de-minimis, as well as Article 6.2 of the AOA which covers input and investment subsidies for low-income resource poor producers. For developing countries with zero AMS like India, this figure cannot exceed the 10% product specific de-minimis (when the support is product-specific).

The support to be notified to the WTO will be the difference between the administered price and the fixed external reference price, multiplied by the volume. That is, even if the Indian government actually only procures a small volume, they have to calculate the AMS supports as if they had provided price support for the entire production of that product (the ‘eligible’ volume). With this constraint, several developing countries are in danger of reaching or exceeding their permitted limits of 10 percent product specific de-minimis.

In view of the food crisis in 2007-08, the increasing volatility in food prices, and the uncertain supplies in the international market (due to production variations as a result of climate change and also due to financial speculation),

\(^{52}\) Aggregate Measurement Of Support (Ams) Is A Means Of Quantifying The Aggregate Value Of Domestic Support Or Subsidy Given To Each Category Of Agricultural Products. Each Wto Member Country Has Made Calculations To Determine Its Ams Level Wherever Applicable. Ams Consists Of Two Parts — Product-Specific And Non-Product-Specific.
it is essential for developing countries to increase their food production. To do this, government price support to low income resource poor farmers is important. This has been, and continues to be, how developed countries have succeeded in their development and industrialization process. In order to support low-income resource-poor farmers in developing countries, the G33 proposal therefore attempts to make price supports for such farmers a special and differential treatment exemption (as in Article 6.2). The G-33 proposal will remove asymmetry and inject a little more equity into the rules of the AOA between developed and developing countries. Many developed countries like the U.S. and EU are providing decoupled income supports to their farmers under the Green Box which are not subject to any ceiling levels. They have not even decreased their overall supports by shifting their AMS supports to the Green Box. Developing countries that declared zero AMS are being told they have to maintain their zero AMS forever. They cannot provide any additional support beyond their de-minimis and what Article 6.2 provides, even though it is for the purpose of ensuring food security of their people and survival of their small and marginal farmers. This is why India is trying to get the rules changed; so that purchasing food from farmers can be included in the Green Box.

Some developed countries, mainly the U.S., are the primary opponents of the G-33 proposal, although they have benefited the most from the biased and unjust rules of WTO, which allows a developed country to shift their huge agricultural subsidies to the Green Box to avoid any discipline. The developed countries are not taking any steps to reduce and eventually eliminate their massive subsidies, which mostly go to their large agribusinesses, yet they shamelessly restrict developing countries with huge hungry and malnourished populations from increasing subsidies meant to
provide food security. The U.S. provided agriculture subsidy to the tune of $94 billion in 2011, yet its trade Ambassador to WTO, Michael Punke, at a Meeting of the Trade Negotiations Committee of the WTO in Geneva, in April 2013, said “the G33 proposal on stockholding of food put forward by India is confusing and concerning. Since the beginning of the Doha Round, developing countries have made clear that they view disciplines for the reduction of trade-distorting agriculture subsidies as one of the fundamental goals of the Round. Instead of creating new disciplines to reduce agriculture subsidies, the G33 proposal represents a step back from existing Uruguay Round disciplines – creating a new loophole for potentially unlimited trade-distorting subsidies”53.

But the fact is Green Box is a big loophole in the WTO, as it has no limit. Rich countries like the U.S. use this to their advantage by shifting most of their trade distorting subsidies from ‘Amber Box’ to the Green Box, including subsidies not directly linked to production, or are tied to environmental protection, so it looks on paper like they are reducing the support but the support has really gone up. The U.S. is the most critical of the India proposal, yet its own outlays on food stamps have risen sharply, and the total farm subsidy spending reached a new record of US$130.3 billion in 2010. Of this, US$120.5 billion has been reported as Green Box payments. According to U.S. government figures, domestic food aid—the category including food

stamps—represented almost eight-tenths of total Green Box spending in 2010, at US$94.9 billion\(^5^4\).

Compared to this huge subsidy for food aid in the U.S., India’s subsidy accounted for around $9.4 billion\(^5^5\) in 2010 of combined rice and wheat Indian food aid— the U.S. amount is 10 times larger than India’s. There are 80 million U.S. beneficiaries while India has 475 million, or 6.3 times larger per beneficiary than in the United States\(^5^6\). However, after the full implementation of the National Food Security Act of 2013, which entitles around 67 percent of the population to benefit from this, India’s food subsidies is expected to cross the 10 per cent mark. This will leave India open to penalties under WTO rules, which in this case punishes those countries who were not big subsidizers when this rule came into force and bound them to subsidies at 10 percent de-minimis level.

**CONCLUSION AND SUGGESTIONS**

Thus India and other developing nations wanted the peace clause until a permanent solution was found to the issue of farm subsidy for smooth implementation of their food security programme. Civil society groups claim that India wilted under pressure from the US and agreed to accept conditions that were not part of the G-33 (a coalition of developing countries) proposal. Though India was firm on its stand on subsidies till the last moment.


but the text of the final accord shows India’s compromised position. India must have reverted back to its original position and intensify demand for more policy space to feed their poorest population while paying a fair price to their farmers under the Green Box.

Like the developed countries, India and other developing countries should have similar flexibilities and comfort zone to manoeuvre their subsidies for the benefit of its people and farmers.

**SUGGESTIONS**

I. **For Least Developed Countries (LDCs):**

1. Eliminate the “bias against agriculture” in economic policies
2. Deregulate inputs of agriculture (fertilizer, machinery, pesticides)
3. Allow price stabilization policies, but not so much as to curb profits of farmers/producers
4. Minimize subsidies, and give priority to infrastructure subsidies; gradually eliminate subsidies as the agriculture economy becomes self-sustainable
5. Expand emergency subsidies and crop reserves in case of disasters
6. Encourage more investments in agriculture, and set up innovative crop insurance mechanisms

II. **For Most Developed Countries (MDCs):**

1. Greatly reduce/eliminate any subsidies aimed for increased production and domestic agricultural protectionism, especially for biofuel production
2. Regulate investments in foreign agriculture of LDCs so as to ensure fairness of those partnership and sustainability of affected farm practices
This solution will affect any nation that has a significant amount of arable lands, where proposed changes in governmental policies of crop subsidies and price controls can have an impact on the agricultural economy. The LDCs (developing nation) and MDCs (developed nation) are defined as in the Article 1 of the Nation Protocol.

The steps of implementation are as follows:

1. Firstly, reducing the inefficient subsidies in MDCs is a priority. This should be done through a international organization that has leverage on member nations, such as the UN and WTO. An international agreement/protocol (with the Nation Protocol as a model) should be signed by most MDCs, especially major agricultural exporters, so as to minimize harmful impact of crop subsidies in MDCs on the agricultural growth of LDCs. To reduce shock and to allow the farmers in MDCs to adapt, the removal of the subsidies should be done over a ten year period, as suggested in the Biofuels page.

2. Secondly, establish a international monitoring agency that examines foreign investments of agriculture in LDCs to make sure that the farmers there are not at any disadvantage. This agency can be a department in the United Nations.

3. Thirdly, draft a protocol to be signed by LDCs with significant agriculture industry where they agree to follow the policy guidelines set forth above. In addition, we need to send economic policy advisors to LDCs to guide them in drafting relevant and effective policies on crop
subsides and price controls. These advisors can be from WTO or a volunteer international organization.

Since this proposal largely involves convincing nations to follow provided guidelines for their domestic policies of crop subsidies and price controls, the funding required should consists of advertising campaigns in reluctant developed nations. Campaigning for grass-root support for these new policies is also very necessary to convince those nations. This should be done in junction with the proposal for an International Trade Program\textsuperscript{57}.

The WTO can
1) initiate drafting of a protocol/agreement on what each member nation's crop subsidies policy should be and regulate international investments in LDC's agriculture;
2) set up some kind of advisory board to advise the nations regarding their crop subsidies policies.

The UN can
1) help establish the international agreement on crop subsidies policy;
2) establish a monitoring agency for ensuring fairness in international investments in LDC's agriculture;
3) enforce the agreement through conditional aid.

In addition, the International Food Policy Research Institute (IFPRI) can help research the optimal economic policies of crop subsidies and price control

specific to every country and aid the organization responsible for sending advisors to LDCs.

Due to the urgency of reducing and eliminating harmful crop subsidies in MDCs, the international protocol/agreement pertaining to it should be drafted and signed as soon as possible. Hence, an international summit regarding global poverty should be called. This probably takes about a year or two for preparations, which includes advertising campaigns in MDCs. As a result, the protocol should be drafted, with the goal to remove most of the inefficient subsidies by 2020. The monitoring agency should also be established.

Meanwhile, economic advisors can work with LDCs to shape their domestic agricultural policies on subsidies and price controls. The international protocol signed by LDCs should expedite the process of getting LDCs to agree to follow policy guidelines set forth by the advisors sent to them in order to for the welfare of the LDCs.\(^{58}\)

THE WTO AND FARM SUBSIDIES: PROPOSALS FOR A PERMANENT SOLUTION

Archana Subramanian

ABSTRACT

This paper seeks to analyse the issue of domestic subsidies provided by developing countries and its relationship with the World Trade Organization (WTO) and the Agreement on Agriculture (AoA). In the wake of the Bali Agreement and the interim advantage of the 'Peace Clause' coupled with the urgent need to feed the country's growing poor, there is a need to reassess our domestic policy on the matter. The change in policy can be brought forward at the international level by pushing for certain changes in the AoA, such as inclusion of inflation and streamlining of the 'Green Box'. These will not only help to represent a true picture of the country's agricultural support policy but will also help the scheme affect those who need it the most. Apart from changes to international agreements, there is also a need to better streamline and implement the domestic Public Distribution System (PDS) and the governmental subsidy policy. These will not only fiscally help the government by preventing leakages and reducing expenses, but will provide for a more long term solution to the problem of food security.

Keywords: Domestic Subsidy, WTO, agricultural policy, subsidy, Public Distribution System.

59 Student of The Fifth Year Pursuing B.A. LL.B (Hons.) From National Law School Of India University, Bangalore.
FOOD SECURITY

Trying to define food security is an exercise that involves stratification according to scope and scale and incorporates variables like demographics, land, production and consumption forces, etc. The World Food Summit, 1996 defined food security as a state “when all people at all times have access to sufficient, safe, nutritious food to maintain a healthy and active life”, and includes within its definition, physical and economic access to food that meets both, dietary needs and food preferences.\textsuperscript{60} The UNFAO maintained that food security was built on three pillars, namely, (1) Food Availability on a consistent basis (2) Access to Food for a nutritious diet and (3) Food Use based on knowledge of basic nutrition and care, as well as adequate water and sanitation.\textsuperscript{61}

The discourse surrounding nutritional security has evolved across the last thirty years, where the dimensions of the concept varied from assuring availability and price stability of food\textsuperscript{62}, to a balance between the demand and supply side of the food security equation\textsuperscript{63}, finally culminating in the definition crafted by the UNFAO, which pioneered the way towards a rights based approach to food security. The United Nations Food and Agriculture Organization estimates that nearly 870 million people of the 7.1 billion people in the world, or one in eight, were suffering from chronic undernourishment in 2010-2012, which has caused the concept of Food Security to take centre

\textsuperscript{60}Vinay Kumar Bhargava, “Global Issues For Global Citizens: An Introduction To Key Development Challenges”, 2006, 1\textsuperscript{st}Ed, Pp. 149.

\textsuperscript{61} Declaration Of The World Summit On Food Security, World Summit On Food Security, Wfs/2009/2.

\textsuperscript{62} Bryan Mcdonald, “Food Security”, 2010, 1\textsuperscript{st} Ed, Pp. 190.

\textsuperscript{63} Id.
Food crisis is also catalyzed by armed conflict, often compounded by drought, floods and the AIDS epidemic. The increasing incidences of the same have made the acute food shortage, and the discourse around food security, important in the current global scenario.

Food Security is an acute necessity in India, where 21.92% of the population lives on a purchasing power parity which is less than $1.25 per head. India has the highest global population increase rate, coupled with decline in per capita availability of food grains. Low Income growth and a defunct PDS has caused the erosion of food security in India. These exigencies have caused the debate on Food Security in India, to be one of the most debated on policy concerns, both at the national and global level. With the enactment of the National Food Security Act, 2013 which seeks to enforce this very notion of food security, a debate has evolved for the need to balance food security and a fair and free market and Indian policy should also revolve around the same.

**WTO Negotiations**

The consistency of WTO rules with the policy driven goal of ‘food security’ has been a long source of controversy. A partial solution to the same was sought to be achieved at the Bali round of negotiations last year, with a view to help countries achieve a solution to the long deliberated topic as swerve

---


65 Supra Note 5 At 134.
the image of the WTO as a failing organization. The current round of multilateral trade negotiations were launched at the Doha Conference in 2001, with a mandate to discuss on issues such as agriculture and services, trade related intellectual property rights (TRIPS) etc. The Doha round of negotiations was a unique one; deviating from the mercantilist objectives of the earlier rounds and with development at its core, focusing on aspects of agricultural tariff reduction, export competition etc. Many problems plagued Doha; powerful lobbies such as America’s cotton and sugar industries and Japan’s rice farmers and fishermen, as well as the large number of countries involved in the trade talks (155 countries were involved) each representing their own interests. Parties refused to arrive on a consensus on vital issues such as subsidies, the special safeguard mechanism as well as the stark difference in treatment of subsidies between developing and developed nations.

---

At the time when Roberto Azevêdo took up the task as the Director-General of the WTO, only ‘trade facilitation’ remained in force from the previous round of negotiations. At a time when the WTO was thought of as marginalized in matters of international trade for a failure to produce any concrete results, the Bali round was an important opportunity. The pivotal point at the Bali round of negotiations, was that of farm subsidies, the question of food security and the interpretation of the Agreement of Agriculture (AoA). Coming into force in 1995, the AoA focuses on establish ‘a fair and market oriented agricultural trading system’. The AoA primarily covers four broad areas; market access, aggregate measure of support (AMS)/domestic support, export competition or support and sanitary and psytosanitary measures. Deliberations at Bali have centered around the AoA and its clauses concerning the de minimis percentage of subsidy, calculation of the subsidy, the distortion of the agreement in favour of developed countries as well as notions of food security. India was at the forefront of the negotiations of public stockholding and food security, and after days of deliberation came to an agreement to accept the terms of the Indian contingent ‘in the interim, until a permanent solution is found’. In return, the US imposed strong conditions as to notification and safeguard requirements. Further, India will also not be eligible for protection from the stipulations under the Agreement on Subsidies and Countervailing Duties.

---


73 Preamble, Agreement On Agriculture.

(SCM).\textsuperscript{75} The ‘peace clause’ ensures that India does not get dragged into disputes for another 4 years, when 11\textsuperscript{th} Ministerial discussions are said to follow. The move has been criticized as being onerous for developing countries, who now face the uphill task of providing information on the administered or release prices of subsidies, volumes purchased etc., thereby subjecting the domestic policy to review.\textsuperscript{76} The ‘peace clause is also criticized as being a blow to the principle of ‘food security, which India has sought to enforce via the National Food Security Bill, 2013 and thereby hoping to provide minimum food entitlements to 67% of the poor population and which requires spending over $20 billion.\textsuperscript{77}

\textbf{INDIA AND FOOD SECURITY: SEARCH FOR A PERMANENT SOLUTION}

Though a temporary peace clause has been put in place, it does not solve the larger question of balancing interests related to ‘food security’ and the imposition of a free trading environment where economic activities of nations do not adversely affect one another. This paper seeks to argue that though some changes are necessitated within the AoA and the prevalent WTO rules, certain policy changes in the current system of domestic support will go a long way in ensuring a more viable scheme.


1. **Adjusting for Inflation**: One of the primary points of contention with respect to the AoA and the computation of the AMS under the same has been the use of the base period. An individual AMS for each basic agricultural product receiving market price support (MPS), direct payments not exempt under the AoA as well as non-exempt subsidies, using a methodology set out in Annex 3 of the AoA.\(^78\) The MPS is calculated using the difference between a fixed external reference price and the applied administered price multiplied by the quantity of production which is to receive the applied administered price. The fixed external reference price is based on the years 1986-88, a point which has been oft raised by G-33 countries as being an archaic benchmark.\(^79\) Developing countries argue, and rightly so, that the 1986-88 benchmark does not capture the increase in food prices over the last two decades and hence, ‘grossly overstates the economic subsidy provided’.\(^80\) Various alternatives have been provided to what can constitute the external reference price, including using the previous years’ average price in the three largest suppliers of foodstuffs in the domestic market or using a three-year rolling average of world market prices in MPS calculations by developing countries.\(^81\) Changing the external support prices faces a considerable number of issues. *Firstly*, a change in the external reference price makes it difficult for other countries to evaluate the commitment of their trading partners to domestic support.\(^82\) *Secondly*, as world food prices are currently high, making

\(^78\) Annexure 3, Agreement On Agriculture.


\(^80\)Id.


\(^82\)Id.
use of recent prices will be attractive to those countries who wish to provide more policy support. This can change in the future, and would again lead to renegotiation under the agreement about the domestic support commitments of the country. Though this can be a sought after solution, it is heavily opposed and it is difficult to obtain a decision on the same as part of a permanent solution. Thirdly, such an advantage of an external reference price will also accrue to developed countries, who will then be able to provide a larger domestic commitment to local farmers, thereby still prejudicing developing countries.

A more plausible solution offered for the ascertainment of prices, without the reliance on amendment has been to account for inflation in the calculation of the total AMS. Because developing countries are prone to high levels of inflation, the administered price must also reflect the domestic inflation. Further, this move does not lead to distortions in international markets as the accounting for inflation does not lead to an increase in domestic support in real terms. The increased administered price (after accounting for inflation) will also lead to an increase between the administered price and the external support price, thereby allowing for an increase in the permitted levels of domestic support. Also, studies have indicated that accounting for inflation

---


84 Montemayer, *Supra Note 18* At 25.


will limit the cause for concern for India’s support levels, even if the base year is calculated using the 1986-88 mark.\textsuperscript{87}

Further, Part XI, Article18 (Review of the Implementation of Commitments, Clause 4) of the AoA states that in the review process “Members shall give due consideration to the influence of excessive rates of inflation on the ability of any Member to abide by its domestic support commitments.” The clause is not binding in nature and merely allows the Committee on Agriculture to give ‘due consideration’ to the influence of excessive rates of inflation when ascertaining the limits of a country’s domestic support commitments. However, considering that the clause has been inserted in the Agreement shows that the drafters wanted to account for inflation when considering support commitments and hence, it is a solution that requires further deliberation.\textsuperscript{88}

2. Correcting the treatment in subsidies and review of the Green Box: The Green Box (Annex 2 of the AoA) allows for countries to provide a range of support programmes in agriculture, and these same can be provided without limits.\textsuperscript{89} It has been argued that the programmes elaborated in Annexure 2 are those which favour developed countries.\textsuperscript{90} These include income support to


\textsuperscript{88}Id.


\textsuperscript{90}The Wto’s Bali Ministerial And Food Security For Developing Countries: Need For Equity And Justice In The Rules Of Agricultural Subsidies South Centre, Pp. 4, Available At Http://Www.Southcentre.Int/Wp-
farmers, insurance payments and other retirements benefits. However, where countries purchase grains from their farmers at administered prices which are more than the external support price, then the same is supposed to have price distortion ability and is hence exempt from Annexure 2. Apart from the fact that the external support price is calculated on the basis of 1986-88 prices, the Green Box also suffers from other anomalies. It has been contended that the measures under Annexure 2 are heavily favoured towards developed countries as the subsidy is calculated on the total production and not on the quantity actually procured. Hence, the amount of subsidy attributed to the government is not what the government actually provides a larger, inflated figure. This will inevitably result in developing countries breaching the de minimis percentage of 10%. Hence, there is a need to review the nature of subsidies that are guaranteed under the AoA and also make it sensitive to the needs of developing countries and their economies. The G-33 in their report has highlighted how a range of schemes used by developing countries- such

---

91 Footnote 5 Of Annexure 2 Of The Agreement On Agriculture States, “For The Purposes Of Paragraph 3 Of This Annex, Governmental Stockholding Programmes For Food Security Purposes In Developing Countries Whose Operation Is Transparent And Conducted In Accordance With Officially Published Objective Criteria Or Guidelines Shall Be Considered To Be In Conformity With The Provisions Of This Paragraph, Including Programmes Under Which Stocks Of Foodstuffs For Food Security Purposes Are Acquired And Released At Administered Prices, Provided That The Difference Between The Acquisition Price And The External Reference Price Is Accounted For In The Ams.”

92 As Illustrated In The Calculations On The Official Site Of The Wto(Http://Www.Wto.Org/English/Tratop_E/Agric_E/Ag_Intro03_Domestic_E.Htm)

93 South Centre, Supra Note 34 At 6.
as and reform, farmer settlement etc must be included as green box payments. Additionally, Article 6 paragraph 2 exempts developing countries from reduction commitments in yet other categories of domestic support. They include “measures of assistance, whether direct or indirect, to encourage agricultural and rural development” which are integral to the development program of the developing country. Therefore, the developing country can provide additional investment support to the low-income or rural poor provided it is shown that the investment programme is integral to the development of the country. If these support schemes are clearly defined and publicly funded government schemes\footnote{Annexure 2.1 And 2.5 Of The Agreement On Agriculture.}, the same can be considered an extension to the Green Box subsidies.\footnote{Eugenio Diaz-Bonilla, Sherman Robinson Et Al., “Wto, Agriculture And Developing Countries: A Survey Of Issuse , Trade And Macroeconomics Division- International Food Policy Research Institute, May 1, 2004, Pp.46, Available At Http://Www.Ifpri.Org/Sites/Default/Files/Publications/Tmdp81.Pdf} The provision compels governments to design programmes specifically intended for the development of the rural poor or the alleviation of poverty, instead of resorting to more general schemes which do not benefit the poor.\footnote{Id}

\textbf{3. Decentralise the Public Distribution Scheme} : The Indian Public Distribution System (PDS) is the largest in the world of its kind, with a special emphasis on distributing commodities worth Rs. 300 billion to 160 million families annually.\footnote{Sudha Narayan, \textit{Supra Note 22} At 5, Ashok Gulati\&Shenggen Fan, “The Dragon And The Elephant: Agricultural And Rural Reforms In China And India”, 1st Ed, 2007, Pp. 444-445.} Hailed as the most ambitious project of its kind\footnote{Id},
the PDS is criticized as being heavily dysfunctional. One of the reasons for the same, is the heavy governmental control over the project and the resultant effect it has on private players in the market. Further, the PDS also suffers from leakages, low quality of grain, high costs of transportation and distribution as well as excessive inventory. Because the food security program in India is enforced through the PDS, there is a need to reassess how the costs can be kept to a minimum. Firstly, a solution often rendered is decentralization of the PDS Scheme. It has been argued that allowing State Governments or even Panchayats to procure, store and distribute grains will lead to reduction in costs and will allow for better outreach. By decentralizing, the focus will be on food crops which are locally produced, thereby allowing for lesser transportation cost, generating employment for rural households and also reviving traditional agricultural practices. Revival of traditional agricultural systems means a diverse range of oilseeds, pulses and cereals would be available to rural households and since, there practices are hardy and do not require a large amount of subsidies, thereby ensuring that nutritional needs of local communities are met at reasonable

---

prices.\textsuperscript{103} A second rendered solution is more private-public partnerships to ensure a more economical system. Government procurement at support prices leads to problems of ‘de facto nationalization’ of the grain trade\textsuperscript{104}, leading to the exit of private players from the market, as the Government can provide marketing services and marketing infrastructure at a lower cost.\textsuperscript{105} Further, the PDS is marked by excess procurement as well as an inability to sell the excess stocks, thereby leading to an increase in the price in the open market. Because the PDS fails to reach those it is intended for, rural households are forced to buy foodgrains in the open market at high prices, thereby killing the cause that the scheme is intended for.\textsuperscript{106} Also, a privatized and more streamlined approach will also help prevent any spill over in international markets, thereby limiting the WTO’s concerns. Thus, the food distribution scheme in India must also focus on aspects of the impact of the PDS and the Food Security Act on market prices as well as develop a better method to allow for greater access to the same by poor households.


\textsuperscript{106}Kotwal, Supra Note 25At 108.
4. Changes in Implementation and Policy: The success of input subsidies are also determined by the efficiency of the input supply system, reduction in transport and communication systems and increase in on farm productivity. The impact of domestic subsidies can therefore be enhanced by complementary investments in agricultural research, subsidies in seeds and fertilizers, better facilities in road, communications and social development.\textsuperscript{107} Development of R&D as well as the inclusion of the

Another consideration that must be kept in mind when formulating policy for agricultural subsidies, is to limit the increasing procurement costs for these products. Increase in procurement incidentals are mainly due to statutory charges such as market fee, rural development fee, sales tax/VAT, charges for mandilabour etc. One of the options to limit the same would be to implement the recommendation of a High Level Committee and declare the procurement price inclusive of all expenses with a maximum limit imposed on State levies. As costs such as freight, interest and state taxes account for more than 70 per cent of the distribution costs, effective participation of the state government in procurement of food grains can help decrease these incidental expenses.\textsuperscript{108}

Though input and farm subsidies play an important role in agricultural growth, their implementation also deserves consideration. If not implemented effectively, input subsidies have a potential for market


\textsuperscript{108}Sharma, Supra Note 26 At 12.
distortion as well as putting heavy expenditure on the government. Apart from the aforementioned policy solutions, it has also been suggested that input subsidies have a greater impact when applied to the production of staple grains rather than cash crops. Because the demand for staple crops is largely inelastic, any input with respect to the same will not only allow the farmer to produce the crop cheap but the resultant profit can also be passed on to the consumer. The need to provide subsidies to staple crops also ties in with the fact that government based subsidy schemes must benefit the poorest farmers. These farmers do not usually grow cash crops such as wheat and rice, but instead engage in small scale production of staple crops. Further, it has also been suggested that a more equitable distribution of subsidies can occur if the amount of subsidies offered is inversely proportional to the landholding, thereby allowing for the benefit to accrue to those who need it the most.

The current problem in India, with respect to agricultural subsidies, is that though the policies are rather novel, they lack in scope and implementation. For example, it has been observed that 94% of government subsidies are being availed by big and medium farmers, thereby sidelining small farmers.

---

110 Dorward, Supra Note 39 At 3-4.
111 Dorward, Supra Note 39 At 3-4.
113 Id.
for whom the subsidy was implemented.\textsuperscript{114} It has also been observed that farmers with larger holdings are also largely the beneficiaries of the power and water subsidies provided by the Government.\textsuperscript{115} The same has often been argued as one of the effects of untargeted subsidies.\textsuperscript{116} Subsidies in India are mostly provided through inputs like fertilizer, diesel, oil etc. And in agriculture and industries, the inputs are distributed on the basis of consumption, which depicts a higher income (which is larger in cases of bigger farms as they are generally wealthier). This allows wealthier landowners to advantage from the subsidy scheme. Hence, there is a need for targeting of subsidies in distribution.\textsuperscript{117} This, it has been argued, can be achieved by rationing and thereby limiting the volume of seed or limiting the quantity of inputs per farmer. This will not only have a greater benefit on smaller and presumably poorer farmers, but will be administratively and economically more feasible than other forms of targeted subsidy.\textsuperscript{118}

\begin{thebibliography}{99}
\textsuperscript{115}Id.
\textsuperscript{117}Hoda, AnwarulAnd Ashok Gulati, “India’s Agricultural Trade Policy And Sustainable Development”, \textit{Ictsd Programme On Agricultural Trade And Sustainable Development}, Pp.47.
\textsuperscript{118}Sharma, \textit{Supra Note 26}At 17.
\end{thebibliography}
CONCLUSION

Resolving a permanent solution to the problem of food security in India, is a daunting one, requiring governmental and bureaucratic support at various levels. The AoA does not seem to be in sync with the needs of the developing economies, and changes to the same will go a long way in ensuring an equitable ground for all the countries involved in agricultural discussions. With respect to India, however, the problem also seems to be amplified by a weak PDS and a general subsidy programme which does not consider larger questions of proper implementation and review. Aspects such as reduction of costs in transportation, targeted subsidies and engagement in the growth of staple grains will not only be economically sound, but will also allow for engagement at the local level. At the end of the day, policy must be framed keeping in mind those who must benefit from it the most. In the case of the agricultural policy of India, it is the rural poor and the small farmers who must advantage; only then are we said to be on the path of food security.
REDEFINING PRICE SUPPORT MECHANISM: A REFORMATIVE STEP IN FARM SUBSIDY

Avinash Singh

ABSTRACT

Indian negotiation pattern in Bali round have raised several economic implications that bears a generic approach in its analysis wherein the matter regarding farm subsidy is imperatively examined to attain flexibility in both the price support mechanism vis-à-vis maintaining subsidized flow of agricultural products. Exploration for a balancing subsidy quest concerning with maintenance of relative interest of other countries have raised the stipulation of a new-fangled mechanism wherein the state-farmer relations have to be duly recognized. A better concern over the non-staple food grains of which Indian is barred to subsidize should also be the former policy concern so that rather than only providing “food security”, government should unfasten way for “nutritious food security” in its replacing capacity.

Arguing a condition of generality, if the international community assents the importance of health, livelihood and other conditions needed for a humane survival and hence recognized them as their fundamental rights, then conditions are contradictory moment the trade related apprehensions comes into portrait. The widespread purpose of WTO was to maintain free trade but never on the stake of distortion of economy and health of one country. India as the agriculture based country though not having a broader share in GDP, still feeds domestic market at large and therefore more relaxations were intended in Bali Round and thus should be adopted in later course of negotiations.

119 Student Of The Fourth Year Pursuing B.A. LLB (Hons.) MATS Law School, Raipur (Chhattisgarh).
In the paper, there must be two ideas that may upshot as the aftermath deducing a more effective price support mechanism and an intrinsic policy review over allocation of non-staple crops and recommending them to fix it in the “green box” label of subsidy crops so as to maximize its distribution among needy.

**Keywords:** Bali round; Farm subsidy; Non-staple crop policy; Price support mechanism
INTRODUCTION

India as the key agrarian country rests an exceptional treatment in several recent years wherein Indian economy has been chiefly concerned for agrarian crisis on domestic and global level but the apparent aftermath was unachievable of its appreciation in present context of agricultural field. Nonetheless Indian government is focused on making suitable policies for the said sector but fail to demonstrate the efficacy that is vehemently needed to bring down a reform in the agriculture sector. Major quandary rest in the fact evidencing lopsided distribution of land in the country wherein marginalized farmers have much lesser land to cultivate and leaving the massive part of land within the few elite groups. Agriculture sector is diversified by land holding pattern wherein marginal farmers having less than one hectare land retains the majority of around 62% share in total land present wherein the medium farmers having land between four to 10 hectare and large landholding farmers having land more than 10 hectare constitute 6% and 1% respectively. The remaining land is distributed between small and semi-medium farmers having land holding share pattern of 19% and 12% respectively. After implementation of Zamindari ‘prohibition acts in India, around 57.7 lakh hectare of land was redistributed among the farmers but the condition of marginalized group remained unappreciated despite reforms undergoing in several other sectors that were mutually inclusive of the

agrarian segment. This heterogeneity in the agrarian field have developed several policy constrains that outfitted the governmental departing from their character of a “welfare state”.

So as to balance the condition of vulnerable class of farmers, governments across the world afford a reasonable amount of subsidy to their farmers. Subsidies are categorized in three major “boxes” that fix the modalities of subsidy fixation in country specific and are denoted by color i.e. “green box”, “amber box” and “red box” and also a “blue box” subsidy that is fixed with subsidy limitation programs.122 One of the “blue box” supportive measure could be seen as the direct payments as provided limiting programs for domestic production.123 There are various subsidies depending on the method of their distribution and the benefitted class from it like product specific subsidies, price based subsidies, consumer specific subsidies etc. There are some illogical calculations being done in Agreement on Agriculture (AoA)124 that calculated a very old statistics or External reference Price for calculating subsidy in 2013-2014 that alerts the Indian delegates representing India to raise the issues on WTO forum.125

The present paper is focused on the price based subsidies wherein government provide a support mechanism through fixing a minimum price for particular food crops such as wheat and rice and is called as “Minimum Support Price or MSP”. This minimum price fixed by the government is in a way subsidizing the production and selling for the particular crop for which a subsidy is provided and provide security for the same to be sold at that fixed minimum price. Notwithstanding the farmers are free to sell their crop in open price for a price suited to them. Special functionary of Indian government i.e. Food Corporation of India is responsible for procuring these subsidized crops and supplies it for the end user consumption on a further subsidized rate. Indian in Bali convention has attained its advantage on the farm subsidy by abolishing interference of other state over the producer subsidy but in lieu to maintain the balance has also negotiated to invest in trade facilitation in a legally binding agreement resulting in a quid pro quo settlement. In the aftermath the attained position is prejudicial in various terms wherein the first was regarding the sustainability of the agreement for a limited period of time after which it is again open for reconsideration and the second relates to the burden of economy like Indian to restructure and invest a hefty amount in infrastructure development of whose escape will amount to a legal action against India in WTO forum.

**FARM SUBSIDIES: AN INTERNATIONAL PERSPECTIVE**

Farm subsidies are used in various aspects in international world wherein some countries have their own constrains regarding the agriculture produce due to bad topographical condition as we can see one in Norway are more in a more vulnerable position to liberalize their trade with the contemporary
world and in accord with WTO. European Union’s Common Agriculture Policy (CAP) accounts for a 1/3rd of the finances of EU and inference been made that the use of CAP is responsible for increasing agricultural pollution and is not seeming to end soon. The said CAP mechanism works on the Single Farm Payment being done directly to the farmers in the EU and unless in presence of a plan to demolish such payment gateway, the leeway of reduction in farm pollution is lesser in chance. There are views instigating the lesser harm with Single Farm Payment comParatively to farm subsidies as these are intended to reduce the production. There were plans for the reform in the Common Agriculture Policy (CAP) but the proposed plans have a lesser impact on the commitments of EU toward the WTO’s Agreement on Agriculture and hence a lesser impact over the subsidy sketching of EU. Currently a gridlock over the farm subsidies were taken into sight when the European Commission, Council and Parliament of Europe have administered a policy reform in the Common agricultural policy (CAP) on 26 June, 2013 and made relevant changes focusing on “green cultivation” as well. The changes in the EU laws of agriculture were in accordance with the previous inferences that have developed the notion of flourishing environment

responsive CAP and making “stringent cross-compliance” of agriculture subsidies. An US Farm Act of 2008 is the key player in the framing of farm subsidies in US and will have its impact on the developing nations that should be restructured after the period cessation in year 2013.

**WTO and Agriculture Subsidy: A Global Perspective**

WTO have reiterated its position on the various aspects of subsidies as by different round of negotiation that were held in the comtemporary era wherein WTO majorly concerned with the appropriateness about the farm subsidies. Parliamentary Conference on WTO held in November 2004 in Brussels organized by Inter Parlaimntary Union and European Parliament leading to develop the rules of procedures. These rules of procedures gives an idea about the concern of international community about the various aspects of subsidies and its elementary position to approach its need in mutually exclusive manner with each other as countries are diversified on various grounds and a need to reconcile them all is the key challenge as one developing country might have different composition of agricultural trade with other. In the Thirty-first session of the Steering Committee meeting in Brussels gave the impact factor of the WTO negotiations in Bali conference while signifying the three main columns that were outcome of it and were

---


subsequently fulfilling the Doha Development Agenda that were
development, agriculture and trade facilitation. The committee declaration
also reiterated the sustenance of the result of the 9th WTO Ministerial
Conference that took place in December, 2013 wherein a enhancement of
WTO’s significance in international trade was upheld and a due advantage
was given to the multilateral trading system as a whole. Agricultural policies
were taken as the “Pandora box” due to rigidity of US over the farm subsidies
that lead to many failures in trade negotiations and also it was evident from
the time of Doha round conventions that subsidy of rich country have led the
poor country in subjugated condition of survival in agricultural field. There
were certain failures from the ministers in supporting the Special Safeguard
Measures (SPM) in the Doha Round of negotiations that would have
facilitated the developing countries. Even there are restrictions arising out
of the protection of Geographical Indications as an TRIPS mandate since they
are in tangled with several policies of developed nations of which farm
subsidy is one of them and is currently on negotiations on international
forum.

---

134 Declaration, Thirty-First Session Of The Steering Committee,
Parliamentary Conference On The Wto, (11-12 February 2014) Brussels,

135 GeorgiosAndreouAvgousti And Gonzalo VillaltaPuig, “Ignite A New Era
Of Global Economic Growth Through Free Markets And Free Trade”: The
Rejection Of Multilateral Trade Liberalisation By The National Security
Strategy Of The United States Of America (2002-2006), International Trade Law
& Regulation, 2010, 16(4), Pp. 96-110.

136 Robert Wolfe, “The Special Safeguard Fiasco In The Wto: The Perils Of
Inadequate Analysis And Negotiation”, World Trade Review, 2009, 8(4), Pp.
517-544

137 KalRaustiala And Stephen R. Munzer, “The Global Struggle Over
Geographic Indications”, European Journal Of International Law, 2007, 18(2),
WTO Agreement on “Application of Sanitary and Phytosanitary Measures 1994” has also a relation with the farm subsidies as setting up an alternative means of protectionism when the farm subsidies were abolished. EU has given a rise to a controversy regarding the biofuel and its impact on the subsidies. As the Agreement on Agriculture (AoA) is the key devise to manage the subsidy and permitted level identified as Aggregate Measurement of Support (AMS) in AoA that provides the basis of reduction commitments under AoA. Annex 2 to AoA illustrates the exemptions from the reduction commitments and EU can no longer withhold the plea of survival for biofuels neither under Para 10 of Annex 2 nor under Para 12 of Annex 2 and therefore is only left to be supported by regional assistance program as in Para 13 of Annex 2 to AoA.

INDIA’S ASSIGNATION WITH WTO AND RECENT CHALLENGES

There are different types of strategies that are followed in the international trade negotiations that can be conceptualized as in two part wherein first is the ‘go through government strategy’ and second is ‘bypass government strategy’. It is suggested that the ‘go through government’ strategy is the is a better form of implementing strategy in the international context wherein government negotiates strongly on the subject matter of the interest while formation of treaty vis-à-vis government also ratifies the treaties as soon as

Pp. 337-365


140 Supra Note 7, At 426
possible. In the declaration by 31st session of Steering Committee the need of implementation was also regarded as the foremost importance in the Bali round of negotiations in reference with the treaties adopted therein. In the case of India, a partial departure from the above strategy was seen as the latter role of ratification was complete in terms of its adoption in the national legislation and soon an action will be undertaken under the trade facilitation scheme being adhered by India in Bali convention but the former role of negotiation was absent to be seen as certain limited time favorable policies were negotiated with a long term financial burdening scheme of development as trade facilitation will bear a burden over the Indian beefed economy. In the declaration by 31st session of Steering Committee the need of implementation was also regarded as the foremost importance in the Bali round of negotiations in reference with the treaties adopted therein. The outcome document of the Bali conference states that parliamentarians should act in accordance of the will of the different stakeholders in the trade including citizens, organizations etc. In this sequence, the outcome document specifically focuses on the approach of government to distribute the benefit of trade so as to reduce poverty, eliminate inequality and achieve the sustainable development for all but the counter agreement for trade facilitation doesn’t shows the true spirit of the Bali conference as the trade facilitation will cause a more harm to the countries like Indian holding a developing mark on its economy.

141 Supra Note 15
142 Supra Note 15
Indian as a party to this conference was jeopardized or benefitted remain to be a factor of economic assessment of the whole negation that were undergone in the conference. Agreement on Trade was the key document adopted by Indian wherein the rate of subsidy was elasticized for India and in lieu of this exemption commonly known as “Peace Clause”, India have to restructure its infra to support a free and easy trade from other countries that basically involve the facilitation of infra development of ports etc.

Article 6(2) reads as – “In accordance with the Mid-Term Review Agreement that government measures of assistance, whether direct or indirect, to encourage agricultural and rural development are an integral part of the development programs of developing countries, investment subsidies which are generally available to agriculture in developing country Members and agricultural input subsidies generally available to low-income or resource-poor producers in developing country Members shall be exempt from domestic support reduction commitments that would otherwise be applicable to such measures, as shall domestic support to producers in developing country Members to encourage diversification from growing illicit narcotic crops. Domestic support meeting the criteria of this Paragraph shall not be required to be included in a Member's calculation of its Current Total AMS.”

Therefore Article 6(2) of the Agreement on agriculture duly exempts the domestic subsidies given to poor famers by way of input subsidy, investment subsidy etc. wherein development of agriculture is the mainframe development agenda in developing countries from the domestic support commitments. Article 6 is the base of exemption in article 13 of agreement on agriculture generally known as “peace clause” wherein a country is exempt from the countervailing measures specifies in Article 13 if they are in
conformity with Article 6. Article 13(b) exempt the domestic support measures and reads as –“

(b) Domestic support measures that conform fully to the provisions of Article 6 of this Agreement including direct payments that conform to the requirements of Paragraph 5 thereof, as reflected in each Member’s Schedule, as well as domestic support within de minimis levels and in conformity with Paragraph 2 of Article 6, shall be:

(i) exempt from the imposition of countervailing duties unless a determination of injury or threat thereof is made in accordance with Article VI of GATT 1994 and Part V of the Subsidies Agreement, and due restraint shall be shown in initiating any countervailing duty investigations;

(ii) exempt from actions based on Paragraph 1 of Article XVI of GATT 1994 or Articles 5 and 6 of the Subsidies Agreement, provided that such measures do not grant support to a specific commodity in excess of that decided during the 1992 marketing year; and

(iii) exempt from actions based on non-violation nullification or impairment of the benefits of tariff concessions accruing to another Member under Article II of GATT 1994, in the sense of Paragraph 1(b) of Article XXIII of GATT 1994, provided that such measures do not grant support to a specific commodity in excess of that decided during the 1992 marketing year.”

Now as India is within the 10% of production value limit under Agreement on Agriculture therefore no need was felt to undersign a peace clause that would be later have a restraining effect on the various domestic support
measures that may be “distorting the international trade”. Also there have been thoughts drifting in the Indian market that various subsidy measures that have been adopted by the government are not effective in its positive implication over the deemed beneficiary class i.e. marginalized farmers of country. In the present paper, we are basically focusing on the minimum support price that is one of the chief measure opted as the support mechanism in domestic market. Indian government announce a minimum value for which several food grains are to be procured from the open market and the price announce by government is paid to the farmers. This announcement of the support price is undergone with various conditions effecting the price that include economic assessment of the agriculture sector even including political interceptions in place that sometime extend to gain “vote bank” living and related with farm sector. Annex 2 to Agreement on Agriculture cites several points for which an exemption is possible from the reduction commitments reason for the domestic support measures. The minimum support price is one of them that possibly is exempted from domestic support by express condition of Para 1(2) of Annex 2 to Agreement on Agriculture that reads as-

“1-Domestic support measures for which exemption from the reduction commitments is claimed shall meet the fundamental requirement that they have no, or at most minimal, trade-distorting effects or effects on production. Accordingly, all measures for which exemption is claimed shall conform to the following basic criteria:

---

(a) The support in question shall be provided through a publicly-funded government program (including government revenue foregone) not involving transfers from consumers; and,

(b) The support in question shall not have the effect of providing price support to producers; plus policy-specific criteria and conditions as set out below”

Notwithstanding with the Para 1(2) of Annex to AoA, Para 3 to the said Annex forms the basic force to implement the Minimum support price in India as it allows all the expenditure to maintain continuity in food security programs of country. Para3 reads as- “Public stockholding for food security purposes

Expenditures (or revenue foregone) in relation to the accumulation and holding of stocks of products which form an integral part of a food security program identified in national legislation. This may include government aid to private storage of products as part of such a program.

The volume and accumulation of such stocks shall correspond to predetermined targets related solely to food security. The process of stock accumulation and disposal shall be financially transparent. Food purchases

\[145\] For The Purposes Of Paragraph 3 Of This Annex, Governmental Stockholding Programmes For Food Security Purposes In Developing Countries Whose Operation Is Transparent And Conducted In Accordance With Officially Published Objective Criteria Or Guidelines Shall Be Considered To Be In Conformity With The Provisions Of This Paragraph, Including Programmes Under Which Stocks Of Foodstuffs For Food Security Purposes Are Acquired And Released At Administered Prices, Provided That The Difference Between The Acquisition Price And The External Reference Price Is Accounted For In The Ams.
by the government shall be made at current market prices and sales from food security stocks shall be made at no less than the current domestic market price for the product and quality in question.”

As the minimum support price is provided to procure food grains form the farmers and then to supply it to the government backed ration shops wherein the food is distributed among the needy and the poor peasants. This accrual of food grain is in conformity of the Annex 2 to AoA and hence the price offering by the government for the food procurement is within the exemption criteria of AoA.

Minimum support price creates inflation is a topic left for a subterranean economic debate but the root distress lies in the fact that perceive an idea of being non-benefit to the farmers and hence the later section of this paper will argue on more comprehensive and effective mechanism that could be introduced replacing the minimum support price for several food grains in India. Minimum support price is not the only type of subsidy that exists in the present day to support the farm cultivations and hence making a comprehensive advantageous position for the farmers of country.

**SOLUTION TO PRESENT ALTERCATION REFERENCING FARM SUBSIDIES**

There have being various recommendations floating in the agriculture field that prescribes distinct alternatives touching upon the need for efficacy in the field of agriculture and food security vis-à-vis maintaining the need for a balanced economical situation in accordance with the international trade that are often affected by the agricultural subsidies. Now an impact assessment form the previous section of the paper could easily attain a situation of affecting the domestic supportive measure on the foreign countries and in realm of international trade wherein it could attract actions against the
subsidy granting country. Although India has opted for a “peace clause” in the Bali Conference rounds and therefore is protected by such actions but the future seems to be tougher as after expiration of the said term of protection, Indian needs to revisit the subsidy over food products that may either me producer based subsidy or consumer based subsidy. Nevertheless in the present suggestive regime of thoughts, we will only focus on the producer based subsidy specifically marking a replacing presence of minimum support price with another form of subsidy that would also be exempted by Annex 2 to AoA.

The main reason to depart from the subsidy criteria is not the pressure of WTO and its relative trade implications but the need of real support that should be provided to the farmers as vulnerable class of India. A substitutive mechanism is already in progress as the ADHAAR card that is proposed to link a bank account to all the card holders and this biometric card would be used to transfer subsidy to the needy people. Several pilot projects of the similar type have being followed in various other sectors wherein one of the sectors is the direct transfer scheme in LPG cylinders in India. This direct transfer of minimum support price could be easily mechanized to provide subsidy to only those who are in the marginalized class and therefore the extraneous and unqualified farmers would be excluded that will help to attain the achievement of the support mechanism functioning for farmers in want.

This direct transfer scheme could be reiterated as the direct payment to the producers that is illustrated in Para 5 of Annex 2 to AoA and therefore will also be a recommended for exemption in the international trade. While an inclusive program is run for replacing the minimum support price that is fluctuating state wise and is often attached with political gains in place that
bears an adverse affect on the economy *in toto*. For an example, farmers in State of Uttar Pradesh are getting more Minimum Support Price than any other state for the crop of Sugarcane and hence this unequal treatment should be suffered by the class of farmers growing same crop in other state. The apparent conditions in political stratum shown the favoritism in policy making for the class of the benefitted group and the policy is based upon generality of product sector rather than focusing on the vulnerability of the people concerned in the sector.

From an example, it could be recognized that how this variation in the class specific diversions are insufficient and necessity for a status based approach is need to make the subsidy more worthy for susceptible group among farmers. If a minimum support price of a grain is fixed to say for 500 per quintal and this price will be given to all those who sell their cultivation to the government then a condition of generality in payment is accomplished for farmers in common. Among a group of farmers who are going to sell their grains of about 1000 quintals are the large lands holding farmers and they too are paid a price of 500 per quintal whereas a farmers going to sell 50 quintal or less is also going to sell those grains at the same price. Therefore the vulnerable remain and restore the same status as of previous and the considerable gain is for the farmer selling a large amount of grains. This major fault in the minimum support price system of India gains the momentum to abolish or fundamentally alter the present structure of the mechanism.

Therefore a “flexible support price” policy must be adopted in place of “minimum support policy” and the calculations are based upon the vulnerability of the peasant selling the grain rather than the common price for all. A flexible support pricing in a policy perspective should be regulated
by set rules and norms so that favoritism must be excluded at entire level of “FSP” mechanism. This mechanism should specifically work for the marginal community and thus gravitating the prospect of better economic assessments that will engrave the current grumbled economy and hence providing a better placing on world forum. Nonetheless a reduced expenditure will more facilitate the India to fulfill the international obligations being entered into force by set of treaties and agreements that will contribute strengthen positioning of India in global trade.

CONCLUSION

The present paper summarizes the need for an alternative system of subsidizing the food products and agricultural services by bringing in new reforms in the agricultural field. The basic key to maintain a balance between a producers based subsidy and consumer based subsidy should measure the fact that the producer is also a consumer and the consumer quantum is far more in Indian due to its variance in rural inhabitations in larger areas. Farm subsidies are matter of continuing negations going on in international forum wherein every country demands the utmost benefit from those negotiations rounds. Indian is on a slippery ground not because of its failure to comply with international trade commitments but because of its internal ambiguous structure of its subsidy programs.

The present paper has developed as concept to depart from the conventional methods of the subsidy and to wear the new gown of technology forming the payment of subsidy through biometric cards. Also a new concept of “Flexible Support Price” is evolved replacing the old “minimum support price”. If all the suggestions are followed with a magnitude of further research will make a new standing of India on global trade platform.
AGRICULTURE SUBSIDIES IN A LIBERALIZED WORLD: AN ANALYSIS OF U.S. FARM BILL

-Jasmine Kaur & Shantanu

ABSTRACT

The primary objective of World Trade Organization (WTO) is to assist in liberalizing trade across the world. The preamble of the Agreement Establishing World Trade Organization states that the parties to the agreement agree to bring “substantial reduction of tariffs and other barriers to trade.” The requirement for having minimum state intervention in the market is justified by liberal economists. It is, generally, the view of such economists that a fully competitive market can best serve all its stakeholders.

Adam Smith, the father of modern economics, while propounding the theory of invisible hand, staunchly advocated for minimizing the role of government in the functioning of the economy. As far as the idea of negligible interference by the government in the market is concerned, liberal economists have stood by Smith. Hayek, one of the contemporaries of Keynes who chose to oppose Keynesian ideas at the time when the whole world endorsed them, also supports the case of non-interference by the government. Later, Hayek was recognized as the most relevant and influential economist. The theory of comparative advantage, propounded by David Recardo, which postulates the necessity of international trade for increasing the overall productivity, also advocates for a liberalized trading system. It tells us that to avail maximum benefits out of international trade, state intervention should be negligible. WTO owes its origin to these economic principles.

State intervention, in terms of international trade, would include tariffs, subsidies and such other state imposed restrictions which hinder the working of a free market.
The present paper is concerned with the international trade law on subsidies. The first part of this paper will present an outline of the international legal regime governing subsidies. In particular the focus will be upon agricultural subsidies. It will discuss the Agreement on Subsidies and Countervailing Measures and other such documents having legally binding force which affect the imposition of subsidy by any member nation. The second part will discuss about the challenges to U.S. Farm Bill. While doing that, it will highlight Brazil and other countries’ contention on the agricultural subsidies in US. The paper will finally try to show how the US is in violation of international trade law with respect to subsidies.

**Keyword:** WTO, Farm Subsidies, U.S. Farm Bill, International Trade.

**INTRODUCTION**

The primary objective of World Trade Organization (WTO) is to assist in liberalizing trade across the world. The preamble of the Agreement Establishing World Trade Organization states that the parties to the agreement agree to bring “substantial reduction of tariffs and other barriers to trade.” The requirement for having minimum state intervention in the market is justified by liberal economists. It is, generally, the view of such economists that a fully competitive market can best serve all its stakeholders.

Adam Smith, the father of modern economics,\(^{146}\) while propounding the theory of invisible hand, staunchly advocated for minimizing the role of government in the functioning of the economy.\(^{147}\) As far as the idea of negligible interference by the government in the market is concerned, liberal

---

\(^{146}\) Available At Http://Ejpe.Org/Pdf/3-1-Art-3.Pdf

\(^{147}\) Adam Smith, Glasgow Edition Of The Works And Correspondence Vol. 2a An Inquiry Into The Nature And Causes Of The Wealth Of Nations, Vol. 1 [1776], D:\Shantanu Backup\Co-Curricular\Ebook\Adam Smith
economists have stood by Smith. Hayek, one of the contemporaries of Keynes who chose to oppose Keynesian ideas at the time when the whole world endorsed them, also supports the case of non-interference by the government. Later, Hayek was recognized as the most relevant and influential economist. The theory of comparative advantage, propounded by David Recardo, which postulates the necessity of international trade for increasing the overall productivity, also advocates for a liberalized trading system. It tells us that to avail maximum benefits out of international trade, state intervention should be negligible. WTO owes its origin to these economic principles.

State intervention, in terms of international trade, would include tariffs, subsidies and such other state imposed restrictions which hinder the working of a free market. The present paper is concerned with the international trade law on subsidies. The first part of this paper will present an outline of the international legal regime governing subsidies. In particular the focus will be upon agricultural subsidies. It will discuss the Agreement on Subsidies and Countervailing Measures and other such documents having legally binding force which affect the imposition of subsidy by any member nation. The second part will discuss about the challenges to U.S. Farm Bill. While doing that, it will highlight Brazil and other countries’ contention on the agricultural subsidies in US. The paper will finally try to show how the US is in violation of international trade law with respect to subsidies.

---

149 Ibid.
United States of America is a nation to reckon with when it comes to contributing in the total world’s production. It is one of the most important producers of agricultural commodities in the world, and, in addition to possessing a very large domestic market; it is the world’s largest exporter of agricultural products.\textsuperscript{150} Moreover, the share of US agricultural production exported is more than double that of any other US industry and the trade surplus in agricultural products acts as an important stimulus to the US economy.\textsuperscript{151} Therefore, US hold’s a very respectable position when it comes to agricultural production and, thus, an analysis of its Farm Policy vis-à-vis the international law is important.

SUBSIDIES UNDER WORLD TRADE ORGANIZATION

Subsidies present the most difficult problems for the international trading system. The task to determine what kind of government activities creates an unacceptable advantage, and what to do about them, has occupied an important place on the agenda of the WTO/GATT system, since its inception.\textsuperscript{152} During the GATT era, less focus was given on subsidies. However, contracting parties soon appreciated the need to deal with subsidies, so as to secure the value of their agreed tariff concessions.\textsuperscript{153} There were many different economic arguments for and against the different kinds of subsidies that were to be provided. On the one hand, it has been said that,

\textsuperscript{151}Ibid.
\textsuperscript{152}Supra Note 3.
according to economic analysis, various kinds of market failure can be dealt with subsidies. On the other hand, it is said that subsidies are in a way distorting the trade flow and are giving artificial advantage to the exporters or to the import-competing industries.\textsuperscript{154}

In economics, “subsidy” is the most widely used term but it has been seen that it is rarely defined. According to Black Law’s Dictionary, subsidy means, “something, usually money, donated or given or appropriated by the government through its proper agencies.”\textsuperscript{155} Oxford Dictionary defines subsidy as, “a sum of money granted by the state or a public body to help an industry or business to keep the price of a commodity or service low.”\textsuperscript{156} But many would argue that tax concessions are also a form of subsidization.\textsuperscript{157} There are many drawbacks of defining the word subsidy purely in terms of “benefits”. Economist Hendrik S. Houthakker said that rather than trying to pin pointing a specific definition for the term subsidy, he went on and quoted that “My own starting point was also an attempt to define subsidies. But in the course of doing so, I came to the conclusion that the concept of a subsidy is just too elusive” and this still holds well today.\textsuperscript{158}

\textbf{GATT 1947}

The term subsidy was not defined in GATT/1947 but there were rules relating to subsidy which were contained in Article XVI. Paragraph 1 of Article XVI of

\textsuperscript{155}\textsc{Henry Campbell Black, Black Laws Dictionary, St. Paul, Minn, West Publishing Co., 1968}
\textsuperscript{156} Available At Http://Www.Oxforddictionaries.Com/Definition/English/Subsidy
\textsuperscript{157}\textit{Supra}, Note 8
\textsuperscript{158}\textit{Ibid}
GATT/1947 was taken from the Havana Charter,\textsuperscript{159} which says that, “\textit{any subsidy, including any form of income or price support, which operates directly or indirectly to increase exports of any product from, or to reduce imports of any product into, its territory, it must notify the contracting parties of the nature and extent of the subsidization and of its likely effects on imports and exports…}”\textsuperscript{160} This means that the notification was required only to specify the nature and the extent of subsidization, so as to see that, whether the subsidization was deemed to cause any serious prejudice to the interests of any other party. It was only required to discuss the possibility of limiting the subsidization. Therefore, there was no form of subsidization which was prohibited, but instead the focus was on the demonstration of trade effects.\textsuperscript{161}

Additional provisions were added to Article XVI in 1955 review Session of the GATT and Section B of article XVI, entitled “Additional provisions on export Subsidies” was introduced. This section threw light on the increasing concern regarding the trade distortive effects of certain subsidies specifically relating to export subsidies.\textsuperscript{162} According to this section the contracting parties agreed that They will not grant subsidy of any form, neither directly nor indirectly on any product other than a primary product where such a subsidy would result in the sale of such a product at a price which is lower than the comparable priced charged for the like products from the buyers in the domestic market.\textsuperscript{163} Section B states that, \textit{“the contracting parties recognize}

\begin{itemize}
\item \textsuperscript{159}\textit{Supra, Note 9}
\item \textsuperscript{160}Gatt, 1947, Article Xvi. Available At Http://Www.Wto.Org/English /Docs_E /Legal_E/Gatt47_E.Pdf
\item \textsuperscript{161}\textit{Supra, Note 9}
\item \textsuperscript{162}Ibid
\item \textsuperscript{163}MICHAEL J. TREBILOCK, UNDERSTANDING TRADE LAW, EDWARD ELGAR PUBLISHING INC., 78, 1-204 (2013).
\end{itemize}
that the granting by a contracting party of a subsidy on the export of any product may have harmful effects for other contracting parties, both importing and exporting, may cause undue disturbance to their normal commercial interests, and may hinder the achievement of the objectives of this agreement.”

It is to be noted that, the consultation provisions of Article XVI have proved to be largely in effectual and the provisions contained in Section B of Article XVI were not adopted by many members of the GATT, particularly by the most developing countries. This led to the establishment of a Working Party, who drafted a declaration giving effect to the provisions of Article XVI, paragraph 4 and in its report they stated that, a non-exhaustive list of measures was made by taking into the consideration the export subsidies of the type that would be prohibited pursuant to Article XVI, paragraph 4 and only 17 contracting parties accepted the declaration, which came into force for them on 14 November 1962.

**THE TOKYO ROUND (SUSIDIES CODE)**

During the Tokyo Round of multilateral negotiations, a big step was taken forward in making an agreement known as Subsidies Code, which dealt with the interpretation and application of Articles VI, XVI and XXXIII. This code came into force on 1 January 1980. It was only applicable on those contracting parties that decided to sign it. This code attempted set out some basic principles for two kinds of complaints. First, unilateral imposition of

---

164 *Gatt, 1947, Section B Of Article XVI. Available At Http://Www.Wto.Org/English/Doks_E/Legal_E/Gatt47_E.Pdf*

165 *Supra, Note 18*

166 *Supra, Note 9*

167 *Supra, Note 9*
countervailing duties by member countries, and second, the subsidies falling into the three categories given below:\footnote{168}{Supra, Note 18}:

\begin{enumerate}
    \item If country A subsidizes the exports of products to Country B, allegedly causing material injury to domestic products in country B.
    \item If country A subsidizes exports to country C and as a result squeezes out exports from country B to country C’s market.
    \item If country A subsidizes domestic production of products for its own market, having the effect of squeezing out imports from country B into country A’s market.
\end{enumerate}

Then this would constitute to be the subject of a formal complaint under the Dispute Settlement provisions of the GATT, which if upheld would lead to the retaliatory trade sanctions against the country whose subsidies were held in violation of the principles set out in Subsidies Code. Many of the rules contained in this agreement remained vague in nature.\footnote{169}{Ibid} It also introduced an illustrative list of export subsidies, which was built on the list contained in the 1960 Working Party Report.\footnote{170}{Supra, Note 9} The Tokyo Round Subsidies Code was a plurilateral, not a multilateral, agreement and it was adopted mostly by OECD countries and not by most of the developing countries.\footnote{171}{Supra, Note 18}

\textbf{The Uruguay Round Agreement on Subsidies and Countervailing Measures (ASCM)}

In the Uruguay Round two new and most important WTO agreements were introduced in addition to the GATT/1947 which survives in the WTO and

\footnote{168}{Supra, Note 18}
\footnote{169}{Ibid}
\footnote{170}{Supra, Note 9}
\footnote{171}{Supra, Note 18}
these agreements dealt with the issue of subsidies and they were (i) Agreement on Subsidies and Countervailing Measures and (ii) Agreement on Agriculture.\textsuperscript{172} Agriculture Agreement contains its own disciplines with respect to subsidization of agricultural products. However, Article 13 of ASCM provides that, under certain circumstances, and provided that ‘\textit{due restraint}’ is shown before initiation, agricultural subsidies may be countervailed.\textsuperscript{173}

ASCM was brought in as a major improvement over previous regimes, because for the first time it provided a definition to the word ‘\textit{subsidy}’ and it also laid down detailed standards for conducting countervailing duty investigations and provided a workable multilateral discipline over subsidies.\textsuperscript{174}

Article 1 of ASCM, spells out the conditions under which a subsidy is deemed to exist. First there must be a “\textit{financial contribution by a government or any public body}”. Then Article 1.1(a)(1) lists four different forms of financial transfers, i.e. (i) direct transfers of funds, including potential transfers, such as loan guarantees, (ii) foregone revenues that are otherwise due and (iii) goods and services provided by the government other than general

\textsuperscript{172}Supra Note 3.
\textsuperscript{174}Ibid
infrastructure and (iv) government purchases.\(^\text{175}\) In addition to this, a benefit must be conferred by the subsidy in question.\(^\text{176}\)

A major innovation was made in the agreement by creating “red light, yellow light, green light” system to govern subsidies.\(^\text{177}\) There are two types of “red light” subsidies which are prohibited under ASCM agreement: (1) export subsidies, and (2) local content or import substitution subsidies. Export subsidies are those that are contingent, in law or in fact, whether solely or as one of several conditions, on export performance. Local content subsidies are those that are contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods. These prohibitions are not new to this agreement as it is an already accepted prohibition by the developed countries under GATT Article XVI. Similarly, the ban on local content subsidies can be traced back to Article III, paragraph 4 of GATT, on national treatment, specifically prohibits the measures favouring the use of domestic goods. The main changes that are introduced in this agreement relate to the extension of these prohibitions to all developing country Members and Members in transition, as well as the creation of a three month Dispute Settlement Mechanism for complaints regarding prohibited subsidies.\(^\text{178}\)

The “yellow light” subsidies are actionable subsidies dealt under Article 2, they are not prohibited altogether, but may be challenged under certain conditions. A subsidy is actionable if it is specific and if it causes one of three types of injury to another member: (a) injury to a domestic industry; (b)
impairment of the benefits of a tariff concession; or (c) serious prejudice to the interests of another Member. The “green light” subsidies were introduced as an experiment for a period of five years in 2000. This experiment has not been renewed. These are those kind of subsidies which are non-actionable in nature, even if they are specific.\textsuperscript{179}

\textbf{The Uruguay Round Agreement on Agriculture}

Trading in agricultural products has been the most prominent issue in the global trade market. Prior to Uruguay Round which introduced a separate Agreement on Agriculture, we can see few instances mentioned in GATT/1947. Article XI of GATT, prohibited the quantitative restrictions, it also contained a number of exceptions which are related to agricultural trade.\textsuperscript{180} Also, Article XVI of GATT contained a loophole for subsidies on primary products, which include all basic agricultural commodities. It should be noted that, GATT had very little to talk about the domestic subsidies, therefore agricultural subsidies became rampant.\textsuperscript{181}

During the Uruguay Round, member countries of the GATT committed themselves to attempt at liberalizing trade in agricultural products.\textsuperscript{182} Efforts were made to negotiate limits on agricultural subsidies, but it was clear that major players such as the European Union, the United States and Japan were unwilling to accept dramatic reductions in their farm programs. A decision

\textsuperscript{179}Supra Note 3.
\textsuperscript{180}Supra, Note 18
\textsuperscript{181}Supra Note 3.
\textsuperscript{182}Supra, Note 18
was made, so as to facilitate a gradual reduction in such subsidies over time, by treating them in the same way as the GATT treats tariffs on goods.\textsuperscript{183}

Agreement on agriculture was made as an attempt to frame explicit multilateral rules for agricultural trade. In this agreement, separate provisions dealt with each of the three policy pillars, which are defined in the agreement and they are market access, domestic support and export subsidies.\textsuperscript{184} Both export subsidies and domestic subsidies became the subject of specific commitments, and nations agreed to limit certain types of domestic and export support programs in accordance with negotiated ceilings. The permissible level of subsidies is scheduled to decline over time, and it is anticipated that future negotiations will produce further reductions.\textsuperscript{185}

All forms of domestic support measures are classified into three categories: “Yellow Box”, “Green Box”, and “Blue Box”. “Yellow Box” supports those measures which have clear market distorting effects, such as price support and other subsidies which encourage overproduction. These types of measures are subject to reduction commitments. “Green Box” subsidies are defined in Annex 2 to the agreement and it includes the measures directed at research, infrastructure, domestic food aid, disaster assistance. These subsidies are deemed to have no effect on trade or production and are exempt from the reduction commitment.\textsuperscript{186} Article 13 of the Agreement also creates some safe harbour provisions for subsidies that conform to the Agreement, exempting them from countervailing duties, like that under

\textsuperscript{183}Supra, Note 3
\textsuperscript{184}Supra, Note 9
\textsuperscript{185}Supra, Note 3
\textsuperscript{186}Supra, Note 18
GATT. This article is also known as the “peace clause” as it states that domestic support measures which are exempt from reduction commitments i.e. “Green Box” measures are non-actionable for the duration of the peace clause. “Blue Box” subsidies are listed in Article 6 of the agreement, and involve direct payments to farmers under “production limiting programs” and certain developing country subsidies designed to encourage agricultural production. These subsidies are not subject to the reduction commitment, they are only to adhere to the requirements set out in Article 6.5(a).\(^\text{188}\)

**THE DOHA ROUND NEGOTIATIONS ON AGRICULTURE**

After the Uruguay Round, then came the Doha Round, then the OECD members estimated that U.S. $311 billion was supported for agriculture in 2000,\(^\text{189}\) signifying the level of liberalization efforts taken in the Uruguay Round Agreement on Agriculture. With a view to further liberalize, paragraph 13 of the Doha Declaration, 2001, commits member countries to further build on the Uruguay Agreement on Agriculture and to negotiate on the “substantial improvements in market access, reduction in all forms of export subsidies and substantial reduction in trade distorting domestic support”. The conversion of quantitative restriction into tariffs mandated by Uruguay Round Agreement on Agriculture led many countries to substitute tariff rate quotas for former quantitative restrictions. As with this, the Uruguay Round of Multilateral Negotiations, these issues pertaining to agricultural trade liberalization have proven to be making or breaking issues in the Round.\(^\text{190}\)

\(^{187}\)Supra, Note 3
\(^{188}\)Supra, Note 18
\(^{190}\)Supra, Note 18
CHALLENGES TO US FARM BILL

Farm Policies, of different characteristics and significance, have been implemented in the United States time and again since it was a British colony.¹⁹¹ This policy has at different times focused on distributing the Nation’s vast land resources, increasing the productivity and standard of living of American farmers, and assisting farmers in marketing their products.¹⁹² It has been instrumental in establishing US as the world’s largest exporter of agricultural products. However, the agriculture has not always been so productive in the country. It has witnessed its share of ups and downs in terms of its agricultural production.

In the early twentieth century, agriculture in US faced challenging circumstances. With the advent of World War I, the prices of agricultural produce jumped sky high, having a similar effect on the demand for American crops.¹⁹³ To meet this demand, technology was introduced in the farming sector to increase productivity. But with the end of the war, the crop price plummeted with a sharp fall in demand. The decade of 1920s was characterized as a struggling period for the agriculturists.¹⁹⁴ Several legislations were passed by the Congress to avert damage to the farming sector, but they never came into force.¹⁹⁵ Situation went worse in 1930s as the

¹⁹³Ibid.
¹⁹⁴Ibid.
¹⁹⁵Available At
Great Depression took the whole nation within its fold. During this period, the crop price fell unprecedentedly to less than a third of what they were in the 1920s.\(^\text{196}\) It was during this chaos that the first Farm Bill was introduced in 1933.

The first Farm Bill was passed by the US brought in as a fire fighting measure. It was introduced with the objective of limiting the supply of agriculture produce, which shall result in raising prices. The method adopted to limit the supply was unique and unheard of, paying farmers to limit production.\(^\text{197}\) Soon the importance of the bill was realized and by 1938, Congress made this program permanent which was to be renewed every five years.\(^\text{198}\) Since then, at regular intervals US has been introducing a Farm Bill. It is of significance to note that the farm bills of 1938 and 1949 still form the basis of the agriculture policy in the country.\(^\text{199}\) However, with the coming into force of Agreements on Subsidies and Countervailing Measures, it is now required of the country to take into consideration the international law before enforcing the Farm Bill.

**US-BRAZIL COTTON CASE (WTO)**

Since the introduction of ASCM, Farm Bill has been in the eye of the storm. In 2002, Brazil requested for consultations with the United States of America "regarding prohibited and actionable subsidies provided to US producers,

\[^{196}\text{Ibid.}\]
\[^{197}\text{Ibid.}\]
\[^{198}\text{Ibid.}\]
\[^{199}\text{Supra Note 46.}\]
users and/or exporters of upland cotton, as well as legislation, regulations, statutory instruments and amendments thereto providing such subsidies (including export credits), grants, and any other assistance to the US producers, users and exporters of upland cotton.”

It was the contention of Brazil that the concerned US laws, especially Farm Security and Rural Investment (FSRI) Act, were in contravention of several of the international trade law provisions, including “Articles 5(c), 6.3(b), (c) and (d), 3.1(a) (including item (j) of the Illustrative List of Export Subsidies in Annex I), 3.1(b), and 3.2 of the SCM Agreement; Articles 3.3, 7.1, 8, 9.1 and 10.1 of the Agreement on Agriculture; and Article III:4 of GATT 1994.”

Later, India along with some other nations also joined the consultations.

The first request of Brazil for the establishment of a panel was deferred by the Dispute Settlement Body (DSB). However, upon the second request panel was set up. After many deliberations, the panel concluded that:

(i) three of the United States export credit guarantee programmes were prohibited export subsidies and were not covered under the Peace clause protection;

(ii) US was also found guilty of granting several cotton related subsidies; and

(iii) These cotton related subsidies were not covered under Peace clause and were prejudicial to the economic interests of Brazil.

\hspace{1cm} ^{200} \text{Available At} \hspace{1cm} \text{Http://Www.Wto.Org/English/Tratop_E/Dispu_E/Cases_E/Ds267_E.Htm, Accessed On 14\textsuperscript{th} March, 2014.}

\hspace{1cm} ^{201} \text{Ibid.}

\hspace{1cm} ^{202} \text{Ibid.}
On appeal by the United States, the Appellate Body, while upholding several of the Panel’s findings, came on the following conclusions:\textsuperscript{203}

(i) that the challenged domestic support measures granted support to upland cotton;

(ii) between 1999 and 2002, the challenged measures granted support to upland cotton in excess of the previously decided 1992 benchmark and, therefore, the exemption under Article 13(b)(ii), from actions under Article XVI:1 of the GATT 1994 and Part III of the SCM Agreement did not apply; and

(iii) Brazil’s economic interests were seriously prejudiced by the implementation of these measures.

The resultant report of appellate body, including panel report with modifications, was adopted by DSB on 21\textsuperscript{st} March, 2005. Subsequently, DSB recommended US to withdraw prohibited subsidies within six months. With regard to the actionable subsidies, it was recommended that the US shall either take steps to “remove the adverse effect of certain subsidies or withdraw these subsidies within six months.”\textsuperscript{204}

In order to abide by the decision of WTO and bring its laws in conformity with the recommendations made by the DSB, US introduced several amendments to its cotton farm support programs and export credit guarantee programs.\textsuperscript{205} However, Brazil contended that these measures were inadequate and requested DSB to grant the authority to impose necessary

\textsuperscript{203}Ibid.

\textsuperscript{204}Ibid.

retaliation against prohibited US subsidies. It was later decided by the WTO arbitration panel that the following kinds of countermeasures may be undertaken by Brazil:

(i) Fixed annual payment of $147.3 million by US to Brazil in response to the actionable subsidies, and
(ii) a variable formula-derived retaliation amount based on annual spending made under the U.S. GSM-102 program in response to the prohibited subsidies.

Brazil, however, argued that the retaliatory measures should not be limited to the goods sector alone as that would have a more deleterious effect on its economy than on that of the US. In this regard, the arbitrators ruled that Brazil may implement cross-retaliation if the overall retaliation amount exceeded a formula-based, variable annual threshold—different from the earlier formula used for calculating the total annual retaliation.

Consequently, in 2009, Brazil announced trade retaliation measure against US to the extent of $829.3 million, including $268.3 million as retaliatory measures. However, fearing that the trade retaliation may be counter-productive to the domestic industry, Brazil entered into a “Framework Agreement” with the US. This resulted in Brazil temporarily suspending its trade retaliation measures pending US compliance with Framework Agreement.

---

207 Supra Note 60.
209 Supra Note 60.
210 Ibid.
Agreement. The agreement includes an annual payment by US to Brazil of an amount of $147.3 million towards the Annual Fund to a newly created “Brazilian Cotton Institute.” By doing so, US intended to delay any trade retaliation by Brazil until the next farm bill.

**US Farm Bill 2014**

With the reservations shown by Brazil on the newly introduced Farm Bill in 2014, the fate of the Framework agreement hangs in thin air. The Agricultural Act, 2014 of the US is being viewed by Brazil as a legislation which will have negative repercussions on the farming sector of other developing countries. As a consequence, Brazil has also announced its plan of taking up the matter before WTO.

It is largely being claimed by the US that the new Farm Bill will actually result in meeting the country’s obligations under the WTO ruling in the Brazil-US Cotton Case. The new law will repeal the existing crop subsidy program, including direct and countercyclical payments to farmers, including subsidies for corn, cotton, wheat, barley, sorghum, oats and soybeans. It will introduce two new programs, price loss coverage and agricultural risk

211Ibid.
212Ibid.
213Ibid.
coverage, and will also expand federally-subsidized crop insurance.\textsuperscript{216} Cotton qualifies only for the insurance but not for the other two programs.

Price Loss Coverage is intended to compensate those farmers whose produce’s market prices fall below the established threshold levels. On the other hand, Agricultural Risk Coverage will compensate those whose actual revenue falls below established revenue guarantee. With regard to crop insurance, there are different modes for providing the same. Insurance may be taken by farmers against per acre yield or a given level of revenue. The new Bill introduces Supplemental Coverage Option which will cover part of the deductible under both kinds of insurances. Also, the government intends to introduce a Stacked Income Protection Plan in 2015, wholly intended for cotton farmers. This will be 65% subsidized by the Credit Commodity Cooperation.\textsuperscript{217}

Brazil’s contention with regard to cotton is that, previously the cotton farmers received payments as compensation when the market prices fell below a certain level. Under the new legal regime, cotton farmers will continue to receive such compensation under a different nomenclature, i.e. insurance. The resultant effect will be the same. It will be worth pointing out that it has been opined that the new bill will incur a greater damage upon the farmers of the developing countries than its predecessor.\textsuperscript{218}

\textsuperscript{216}\textit{Ibid.}
\textsuperscript{217}\textit{Ibid.}
\textsuperscript{218}\textit{Supra Note 69.}
CONCLUSION

It is to be noted that the agreements relating to subsidy of WTO try to bring a balance but the provisions have done so much to increase transparency in the subsidy policy and their impact on international trade flows.\textsuperscript{219} The WTO legal system has done a good job in ensuring that unanticipated subsidy programs do not frustrate the reasonable expectations associated with negotiated trade commitments but the system is far less successful in addressing domestic subsidies. It is by no means clear that general principles try to sort unacceptable from acceptable domestic subsidy programs successfully.\textsuperscript{220}

After the US-Brazil Cotton Case, the new Farm Bill has done some changes in the subsidies. Farm groups noted that the WTO permits governments to pay their farmers limited amounts of subsidies, and say that under the new law, the U.S. is unlikely to exceed those limits. Economists have described the new Farm Bill as a step backward, potentially because it would inflict more harm on developing world farmers than the old bill did.\textsuperscript{221}

Bibliography

STATUTE

\begin{itemize}
\item General Agreement on Tariffs and Trade, 1947
\item Agreement on Subsidies and Countervailing Measures
\item Agreement on Agriculture
\end{itemize}

\textsuperscript{219}Supra, Note 9.
\textsuperscript{220}Supra, Note 3
\textsuperscript{221}Supra Note 60.
**Books**


**Articles**


**WEBSITES**

- Available at http://www.oxforddictionaries.com/definition/english/subsidy
- Available at http://www.ers.usda.gov/topics/farm-economy/farm-commodity-policy/background.aspx#.UzgHjqiSwVw
- Available at http://www.saturdayeveningpost.com/2014/02/07/culture/politics/a-brief-history-of-the-farm-bill.html
- Available at http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds267_e.htm
- Available at http://www.fas.org/sgp/crs/row/R43336.pdf
- Available at http://www.brazilcouncil.org/sites/default/files/Overview%20Jan%202028%202013.pdf
- Available at http://www.voanews.com/content/brazil-says-us-farm-bill-violates-trade-rules-/1856057.html
- Available at http://www.lexology.com/library/detail.aspx?g=b93addec-7a4f-444a-b227-5ed38fca874e
WTO AGRICULTURAL SUBSIDY RULES AND FOOD SECURITY: AN INDIAN PERSPECTIVE

-Vijita Mohanan

ABSTRACT

The agricultural subsidies debate is highly significant to India in the current political and social context of high food costs, food security sensitivities and the objection expressed against India's newly enacted National Food Security Act by the developed countries. This article argues that the current rules under the Agreement on Agriculture are inadequate to address the food security concerns of developing nations, like India, on several aspects. It is argued that the vision of the Agreement on Agriculture and the Doha Development Agenda has been lost in the recent negotiations. Future multilateral negotiations need to address the intrinsic inequitable situation in the developed and developing countries, and restructure the rules of agriculture under WTO.

Keyword: Subsidy Rules, Food Security, Agreement on Agriculture, WTO.

222 LLM (1 Year course), NALSAR University of Law, Hyderabad
INTRODUCTION

In a significant step towards guaranteeing food security to the teeming poor in the country, India’s new Food Security Act, namely, the National Food Security Act, 2013 (hereinafter referred as the ‘NFSA’) was brought into effect in September 2013, by the UPA Government. The Act however came to face criticism worldwide, soon after. The NFSA, which inter alia, aspires to supply subsidized rice, wheat and millet to the country’s poor, is alleged by the developed countries designed to fall afoul of the WTO rules.\textsuperscript{223} The United States launched a sweltering attack on India as “creating a massive new loophole for potentially unlimited trade-distorting subsidies”, and called it as a step backward to the achievements of the WTO.\textsuperscript{224}

With this state of affairs, the Bali Ministerial Meeting of the WTO members turned into a battleground, where a group of G-33 countries, consisting of India, China, etc. proposed amendments to the trade rules under the WTO Agreement on Agriculture to accommodate food security concerns of developing and least-developed countries, which was not accepted by the industrialized countries.\textsuperscript{225}

\textsuperscript{223} Paige Mcclanahan, “India Pushes To Change Wto Subsidy Rules So It Can Stockpile Food”, \textit{THE GUARDIAN}, (Oct. 21, 2013).
The WTO members however settled for a “peace clause” of four years, as a temporary solution, which shields the policies of members, even if they are in violation of WTO Agriculture rules, from being brought to challenge.\textsuperscript{226} Until then, the negotiators at Geneva would engage in discussions on the long-stalled issues of the Doha Development Round in a work program, committed to be completed by December 2014.\textsuperscript{227}

The subject of this article is therefore both timely and salient. Though the success of the NFSA is dubious, on the face of it being called a compilation of all the previously implemented schemes, the larger question that this article intends to delve into is the level of flexibility available to the government of a developing nation, under the existing rules of agricultural trade under the WTO regime. It is to be ascertained whether want of compliance with the international obligations acts as an obstacle for the government to adequately address important concerns like combating hunger, ensuring food security, and attend to the needs of the small farmers. The issue therefore revolves around the adequacy of the modalities of the Agreement on Agriculture to foster development of agricultural sector, for all the members of the WTO.


This article makes an attempt to comprehend the reforms which may be brought in the existing rules, to make it more fair and accommodating towards the developing countries, which have been given an indiscriminate treatment as compared to the developed countries. The second part of the article discusses in brief the major provisions of the WTO Agreement on Agriculture (AoA), relating to export subsidies and domestic support. The third part of the article explores the inadequacies found in the AoA in addressing the concerns of developing countries. In the fourth part of the article, an attempt is made to ascertain the way forward to the current impasse in the negotiation process regarding the amelioration of the AoA, for the better of all. The article accordingly concludes that the developing countries need to expect the least from the developed countries, in terms of comprehending the concerns of the developing countries. It is almost compelling to state that the developed countries cannot relate to developing countries. While the negotiations are conducted in an effort to bring a significant reform in the trade rules for agriculture, developing countries need to adopt novel strategies to formulate their policies, to meet concerns like food security.

REGULATION OF AGRICULTURAL SUBSIDIES UNDER THE WTO

The Agreement on Agriculture (AoA) is the principal document governing trade in agriculture, under the WTO. The Agreement is built on three pillars: (i) increased market access for agricultural products; (ii) commitments......

---

to reduce domestic subsidies on agricultural production; and (iii) commitments to reduce export subsidies on agricultural productions.\footnote{\textsc{Autar Krishan Koul}, “GUIDE TO THE WTO AND GATT: ECONOMICS, LAW AND POLITICS” 378 Kluwer Law International 2006.}

A Table is provided herein below, and explained thereafter, to simplify the scheme of commitment levels, with regard to export and domestic subsidies, under AoA:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Domestic support</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total AMS cuts for sector (base period: 1986-88)</td>
<td>-20%</td>
<td>-13%</td>
</tr>
<tr>
<td>Exports</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Value of subsidies</td>
<td>-36%</td>
<td>-24%</td>
</tr>
<tr>
<td>Subsidized quantities (base period: 1986-90)</td>
<td>-21%</td>
<td>-14%</td>
</tr>
</tbody>
</table>


A. \textit{Export Subsidies}

Taking 1986-90 as the base period, the WTO Agreement on Agriculture requires developed countries to cut the value of export subsidies by 36 percent and to trim down the volume of subsidized exports by 21 percent
(24% and 14% respectively for developing countries) over a period of 6 years from 1995-2000 (10 years for developing countries from 1995-2004).\textsuperscript{231} Least developed countries are exempt from reduction obligations; however, they are constrained from escalating subsidized exports.\textsuperscript{232}

The six export subsidies explicitly enumerated in the Article 9.1, alone are subject to reduction, under the AoA.\textsuperscript{233} However the AoA tightens its hold on export subsidies by prohibiting them in two instances: (i) products that never received export subsidies in the 1986-90 base period, may not receive them in the future; (ii) Export subsidies not listed in Article 9 are not permitted.\textsuperscript{234}

\textbf{B. Disciplines on Domestic Subsidies}

The Agreement on Agriculture limits domestic subsidies to varying degrees depending on their trade distortion capability. Domestic support is measured through, what is called, the Aggregate Measure of Support (AMS). Domestic support is further classified into three boxes, known as Amber Box, Blue Box and Green Box, which are respectively, highly trade-distorting subsidies, minimally trade-distorting subsidies and non-trade distorting subsidies.

\begin{footnotesize}

\textsuperscript{232}Id.


\textsuperscript{234}AUTAR KRISHAN KOUL, Supra Note 7 At 386.
\end{footnotesize}
1. Amber Box

Amber Box subsidies are considered to be the most trade-distorting, and are related to intervention on agriculture prices.\textsuperscript{235} Article 6 of the AoA defines Amber Box subsidies as a residual category, which does not fall into the Blue and Green Boxes.\textsuperscript{236} Support under these measures is to be included in the Total Aggregate Measurement of Support (Total AMS) reduction commitments, on product-specific basis or non-product-specific basis.\textsuperscript{237}

The Agreement further subjects such subsidies to \textit{de minimis} limitations. Countries are permitted to make \textit{de minimis} payments at the following agreed upon levels: (i) for developed countries only 5\% of agricultural production, (ii) for developing countries, double the permitted levels for developed countries, that is 10\%, and (iii) no limitation for LDCs.\textsuperscript{238} Additionally, all the members have committed to decelerate or decrease the use of these subsidies, as mentioned in the Table provided above.

2. Blue Box

Blue Box subsidies are also deemed to be trade-distorting, however lesser than Amber Box subsidies. They are related to limiting rather than encouraging production and lowering the possibility of depressing prices.\textsuperscript{239} Under the

\textsuperscript{235}Phoenix X. F. Cai, \textit{Supra} Note 6 At 875.
\textsuperscript{236} Agreement On Agriculture, Art. 6.
\textsuperscript{238}Phoenix X. F. Cai, \textit{Supra} Note 6 At 875.
\textsuperscript{239}Id. At 876; See Carmen G. Gonzalez, \textit{Supra} Note 9 At 455.
Agreement on Agriculture, Blue Box subsidies are not included in the Total AMS reduction commitments. Examples of “blue box” measures are certain direct payments to farmers to limit production and certain government assistance programmes to encourage agricultural and rural development in developing countries.

3. Green Box

Green Box subsidies are those that are not at all, or only minimally, trade-distorting. As such, they have to be completely decoupled from, or not contingent on, the production of any crop. They also may not provide any price support or be linked to price levels. Green Box subsidies are not subject to any caps or limits. Such policies include government services such as research, disease control, infrastructure development and food security.

Inadequacies of The Agreement On Agriculture

A. Poorly constructed Agreement

Even though the Agreement classifies what constitutes as unacceptable trade-distorting support, there seem to be inevitable ambiguities in characterizing the kinds of subsidies employed by the countries and mandates further clarification or adjudication. It therefore comes as no shock that a lot of the agriculture trade rules were being abandoned or ignored by the contracting parties, owing to the poorly constructed Agreement.

240 Raj BHALA, supra Note 15 at 688.
242 Raj BHALA, Supra Note 18 at 688.
243 Id.
Brazil’s successful challenge to U.S.’s farm policies in the US Upland Cotton case\(^{244}\) is extremely noteworthy, in this regard. The Panel, *inter alia*, found U.S. domestic support programs for cotton to be more than minimally trade-distorting, in particular the direct payment program. In the findings, the Panel and the Appellate Body interpreted the ‘green box’ more narrowly than the United States had done in its notifications, under the Uruguay Round.\(^{245}\) Upon implementation of the WTO agreement in 1994, members were required to place their agricultural policies in the list of categories.\(^{246}\) This self-declaration generally went unchallenged at the time, but these classifications are now under additional scrutiny.\(^{247}\) Based in part on an interpretation of what constitutes Green Box programs from findings of the WTO upland cotton dispute.\(^{248}\) Canada and a dozen additional countries have challenged the U.S. compliance with its aggregate measure of support commitments under the Agreement.


\(^{247}\)Id.

\(^{248}\)Id.
B. The Agreement in effect exacerbates livelihood-insecurity of small farmers in developing nations

The implications of the AoA on livelihood-insecurity of small farmers in developing countries, is well illustrated by the wave of farmer suicides in India. The reason of the relentless suicides of farmers in India is undoubtedly a result of the advent of the agricultural trade liberalization. The case studies conducted by the FAO affirm that liberalized agricultural-trade fashioned an overflow of low-priced food imports that depressed world food prices. Simultaneously, the price of agricultural inputs (fertilizers and pesticides) escalated to towering heights in developing countries, due to government cuts in subsidies, in compliance with the AoA commitments. As a result of


this price squeeze, the revenue of farmers from the agricultural yields reduced to a meager 25% of the money spent in purchasing those inputs.251

While it is noted that the WTO is not the only actor, as many of the adverse impacts can be traced back to structural adjustment programmes (SAPs) of the International Monetary Fund (IMF) and other national policies, a direct link to the WTO AoA, cannot be denied. At an appalling rate of one Indian farmer committing suicide every half hour, since 2001,252 it is indispensable to ensure that the rules on AoA do not exacerbate the situation.

It was also submitted by Mr. ArunJaitley, then Indian Commerce Minister, in the Fifth WTO meet at Cancun that the heavy subsidies provided by the developed nations to their farmers, are adversely affecting the poor farmers in India.253

C. The Agreement widens the inequities between developed and developing countries

The dichotomy of the application of domestic subsidy rules under AoA, is interesting to analyze, in the light of actual implementation. The Agreement

251 The Abysmal Situation Of The Indian Farmers Could Be Seen In A Documentary ByP.Sainath, Titled Nero’s Guests: Inequality And India’s Agrarian Crisis, Which Received The Indian Documentary Producers Association’s Gold Medal For ‘Best Documentary’For 2010.


essentially widens the inequities between the developed and developing nations, with regard to the use of subsidies, categorized as “amber box”. The Agreement accomplishes it by, in effect, permitting the developed nations to continue providing subsidies that were provided by them in huge numbers before and during the base year period (1986-88), with an obligation to just progressively reduce the amount of subsidies over the years. To give the developing countries special and differential treatment, more time was given to them for reduction and at a comparatively lower rate than the developed countries. However, most of the developing countries anyways did not provide any subsidies at the time, primarily because they were not in a position to afford spending public revenue on promoting agriculture, and even if they did, the amounts were far lower as compared to the levels at developed countries.

Despite the reduction commitments under the AoA, the developed countries have been able to continue provide domestic support to their agricultural producers and export subsidies, in excess of the permissible limits. Therefore when the Agreement precludes developing countries from adopting future policy measures on domestic support, it imposes severe constraints on policy options geared towards improving the agricultural sector and addressing other concerns like food security, which is unjust and brutal, considering the unfair competitive advantage that agricultural

producers in the developed countries enjoy. Further, the non-introduction of new export subsidies denies the developing countries from using subsidies as an important measure towards food security, while being threatened from surge of cheap imports of food grains.

This is notwithstanding the availability of the various exemptions provided to the developing countries under the AoA, often called the Special & Differential Treatment (S&D Treatment). The problem lies in the classification of the most of the input subsidies as “not covered” by the S&D Treatment, due to a pre-requisite requiring provision of subsidies to only low-income or resource-poor farmers. The difficulty lies in determining the income of farmers in a developing country like India, where around 60% of the population is still engaged in agriculture, which therefore constrains the government from providing assistance to all farmers regardless of their income.

D. Constraints on developing nations in adoption of food security policies

The issues in calculation of the AMS by India are relevant for the current discussion and therefore discussed below.

First, the problem for India, with the calculation of the AMS, is that she had her base year notification denominated in Indian rupees (INR), while later she used an ERP denominated in dollars. If the ERP is again denominated in INR then the figures for domestic support would not take into consideration domestic inflation and the fluctuations in the dollar-rupee

\[\text{\textsuperscript{255}}\text{Anwarul Hoda & Ashok Gulati, “WTO Negotiations on Agriculture and Developing Countries” 44 (Intl. Food Policy Res. Inst. 2008).}\]
exchange rate. This denomination of ERP in dollars is, however, not in conformity with the provisions of the AoA, as it requires that in computing the current AMS the component data and methodology utilized in the original notification or supporting tables should be used.

Second, the reduction commitments with respect to the AMS are different for all the members. The WTO members, who undertook reduction commitments for the base period, mostly developed countries with domestic support exceeding the de minimis, calculate the total AMS summed over all the commodities. Whereas, the developing countries, who did not undertake any reduction commitments, have a two-fold obligation. This interpretation has been confirmed by the Appellate Body of the WTO in Korea – Measures Affecting Imports of Fresh, Chilled and Frozen Beef.

Moreover, the AoA requires the difference between the acquisition price and the ERP to be computed in the AMS, even though stockholding of foodstuffs and domestic food aid are green box measures.

It is therefore discernible that India is facing significant constraints in formulating its policies, even for food security purposes, though the constraints are conceptual in nature. This disparity even mirrors the inequity in the rules of AoA, which seems to make it more complex for the developing countries to conform.

256 Ibid.
257 Sudha Narayanan, Supra Note19 At 47.
258 Id.
259 Ibid.
RECOMMENDATIONS AND THE WAY FORWARD

Admittedly a lot has been written on how to use agricultural talks to promote the human right to food security. Over the past few years, several proposals have been suggested by NGOs all over the world, by countries individually or in groups, and policy analysts and academicians, for changes in WTO rules in a way that it tends support to food security. It is pertinent to summarize and analyze some of them here, in order to comprehend the counter-arguments presented against them, so that a plausible solution could be ascertained.

A. Clarity on classification of the boxes

In determining the total amount of allowable subsidies, the characterization of the subsidy at issue as Amber, Blue or Green Box, is quite important. The US Upland Cotton dispute challenged and won by Brazil by adopting the dispute resolution process, could be used in the negotiation process by the developing countries. The removal of ambiguity in determining the classification of different kinds of subsidies is well illustrated by this case.

B. The G-33 proposal

The G-33 countries, of which India is a part of, circulated a proposal in November 2012 to amend the AoA, in order to strengthen food security.263

262David Orden, Supra Note 15.
The G33 proposed that procurement from poor farmers must be completely exempted from calculation of AMS, to encourage food security.\(^{264}\) Similarly, government procurement for domestic food aid at subsidised prices, so long as the food was "procured generally" from low-income or resource-poor producers in developing countries, should also be exempted.

The group also proposes that several kinds of developing country farm programmes related to farmer settlement, land reform programmes, rural development, and rural livelihood security should be exempt from any ceiling on subsidies by classing them with other green box programmes at the WTO.

Predictably the US objected this proposal, since it provides a blanket exemption to the price support given to the farmers in developing countries. Paradoxically, the problem with the proposal is that it is too direct and simple, to be accepted by the developed countries, especially the US. The US reaction has been slammed by many to be one of hypocrisy, as the US had adopted similar policies before.\(^{265}\) Certainly, even if the US might empathize with the food security and the livelihood security of small farmers in the developing countries, it would not take the risk of putting their farmers at a disadvantageous position and threaten their global standing of being the largest producers of food grains.

\(^{264}\)Id.

It is to be honestly accepted that the current PDS system in India for example does not distribute to the poor the same quantity of food grains which is procured from the farmers for the purpose of food security. Therefore the system does not guarantee food security, despite huge amount of tax-payers’ money spent for the program, in the absence of adequate infrastructure and facilities and prevalence of overwhelming corruption.

This finger-pointing could continue endlessly, and the trade talks would not come to a conclusion. The developing countries could engage in novel kind of strategies in formulation of their policies, as has been done by the developed countries, instead of following the traditional ways. The US has been engaged in what is called “box shifting” since the inception of the WTO and is providing huge amount of subsidies to its farmers classified under the Green box or Blue box, through various subsidy programs. The food security programs that the G-33 countries are pushing to be adopted in the green box by way of amendment, could be similarly re-characterized into the existing definition of green box or blue box, by making such food security programs more about ‘not procuring the food grains directly’ from the farmers.

What India and other developing countries could do is study the US subsidy programs in detail and formulate the subsidy programs according to their model. Certainly they could not object to their own model. And this could

---

trigger the discussion to reform the definition of the boxes and remove the ambiguities surrounding its determination.

C. Consideration of contemporary factors in the calculation of AMS

AoA provides that “Members shall give due consideration to the influence of excessive rates of inflation on the ability of any member to abide by its domestic support commitments”. The US and several other countries are of the view that members cannot get the benefit of inflation automatically and that the committee has to determine what “due consideration” is as laid down in Article 18.4. Hoda and Gulati point out that to say that the Committee will take a decision on a case-by-case basis is the antithesis of the rule-based trading system embodied in the WTO Agreement.

It is submitted that by pure economic logic, the formula for calculation of AMS itself is flawed, if considerations like inflation are not included in it. The purpose of calculating the AMS is defeated if the fluctuation in exchange rates and volatility of food and energy prices are not examined in the calculation of AMS. The formula simply ignores all these important considerations. India has currently denominated its ERP in dollars (which is not allowed by the AoA), as mentioned above, to tackle the effects of inflation and fluctuations of currency rate. It is important that the future negotiations focus on adjusting inflation and other such considerations in the calculation of the AMS.

267 The Agreement On Agriculture, Clause 4, Article 18, Part Xi.
268 Sudha Narayanan, Supra Note ‘19 At 44.
D. Change in the base year

It has been acknowledged universally that the base period of 1986-88, on which the reference period has been fixed, was a period of relatively low prices.\(^{270}\) It is the average f.o.b. (free on board-price from farm gate till its delivery on the ship) price that has been notified by a country like India for a product for 1986-1988 and is used as a benchmark for calculating countries’ market price support levels even today.\(^{271}\) Due to the time that has lapsed, this price is often much lower than the current prices. Therefore it becomes imperative to revise the original base year (1986-88) to a revised later year, which would reflect the current conditions better.

E. ‘All or nothing’ approach needs to be abandoned

The current negotiations in the WTO have been based on an ‘all or nothing’ approach, which is, ‘nothing is agreed unless everything is agreed by everyone’. It would better if the issues are settled separately, according to the consensus on specific modalities, to conclude negotiations at a faster rate.

Instead of lending impetus to the talks, such an approach allows any individual member to hold the whole negotiation process to ransom over matters of little international importance but with great political resonance

---

\(^{270}\) Id.

back home. As a result, many of the WTO’s leading members are now pursuing regional trade agreements with their major trading partners, outside WTO. The Trans-Pacific Partnership, between the United States, Japan, and a handful of other allied economies (excluding China), is one of such examples. The newly elected BJP Government in India also seems to aim at strengthening ties with its SAARC partners. If the WTO needs to be saved from being slipping into oblivion, the negotiating method needs to be changed at the earliest.

CONCLUSION

A paradigm shift in the agricultural regime under the WTO is indispensable to ensure sustainable development of agriculture and to secure availability of food to the poorest of the population. The international trade rules for agricultural products must ultimately aim at availability of food to all, including the poorest, instead of adopting a pure market-based approach, which tends to favor only the big agricultural businesses.

However the richer countries fail to empathize with the problems of developing countries, despite all efforts of projecting the abysmal state of affairs in their countries. This is evident from the fact that recent negotiations have shifted its focus entirely towards trade-facilitation and have thus deviated from the vision of the Doha Agenda. The Doha Development Agenda was primarily initiated soon after the 9/11 attacks to combat terrorism, through encouraging development and elimination of poverty in

---

the developing countries and the least-developed nations. However the vision with which the Doha Round has begun, seems to be lost. It can only be hoped that the developed countries realize this and approach the trade negotiations differently.

Bibliography

I. INTERNATIONAL AGREEMENTS/TEXTS


II. BOOKS/TREATISES

- BHALA, RAJ. INTERNATIONAL TRADE LAW: THEORY AND PRACTICE (Lexis Publishing 2001)

III. COMMISSIONED REPORTS/REPORTS BY INTERNATIONAL ORGANIZATIONS

- Patrick Tsai, Negotiating oppression: A developed-country approach to agricultural trade, INSTITUTE FOR AGRICULTURE AND TRADE POLICY (June 19, 2014; 5:38PM ),
IV. Published Articles and Papers


V. Newspaper Reports

• http://www.hindustantimes.com/comment/columns/the-wto-is-destroying-indian-farming/article1-1137811.aspx

• WTO chief voices concerns over India’s food security law, DECCAN HERALD, Oct. 7, 2013.
  http://www.deccanherald.com/content/361743/wto-chief-voices-concerns-over.html


• Sainath, P. Farmer’s Suicide Rates soar above the rest. THE HINDU, http://www.thehindu.com/opinion/columns/sainath/farmers-suicide-rates-soar-above-the-rest/article4725101.ece


VI. MAGAZINE ARTICLES

VII. WEB SOURCES

• AfsarJafri, *India (G-33) Proposal on Food Security: A wrong move can jeopardize India’s food security forever*, FOCUS ON THE GLOBAL SOUTH, http://focusweb.org/content/india-g-33-proposal-food-security-wrong-move-can-jeopardize-india%E2%80%99s-food-security-forever

VIII. **CASES REFERRED**


THE WTO AND FARM SUBSIDIES: PROPOSALS FOR A PERMANENT SOLUTION

Neha Mishra273

ABSTRACT

“Agriculture is not crop production as popular belief holds—it’s the production of food and fiber from the world’s land and waters. Without agriculture it is not possible to have a city, stock market, banks, university, church or army. Agriculture is the foundation of civilization and any stable economy”. -Allan savory

The principal objective of this paper is to present some specific solutions to the controversial issue of farm subsidies by World Trade Organization.

The paper mainly talks about what are farm subsidies, impact of farm subsidies: an Indian experience, agricultural input subsidies: Indian perspective, controversies, agriculture under the GATT, WTO’s agreement on agriculture, case of U.S-brazil farm subsidies, Doha round and agricultural subsidies and why farming subsidies still distort advantages and cause food insecurity and finally the conclusion. The major concern of this paper is on the Indian farmers that whether these farm subsidies act as bread or a threat for them.

Keywords: Rural poverty, agricultural growth, WTO, investment, subsidies, India.

273 2nd Year, BA. LLB. (Hons.), Symbiosis Law School Noida
INTRODUCTION

An agricultural subsidy is a governmental subsidy paid to farmers of all group and agribusinesses to supplement their income, maintain the supply of agricultural commodities, and influence and reflect the cost and supply of those commodities. Agricultural subsidy is considered to be the most effective mechanism for accelerating the growth of agricultural sector. They have become a tool for the developed countries to maintain their supremacy. Examples of commodities mentioned above are: wheat, feed grains, cotton, milk, and meat products etc. Farm subsidies are extremely controversial because of their intense and complex effect and also because of their political origin. Negotiators in Geneva in the WTO meeting produced a compromise deal on Nov. 13, 2013 to be agreed in Bali to give India a four-year reprieve from legal challenges over its farm subsidies. Still, India wants a permanent solution to its demands for amendments to WTO rules that would exempt food security programs from being counted under subsidy spending caps.

IMPACT OF FARM SUBSIDIES: AN INDIAN EXPERIENCE

In accordance with the Indian purview, farm subsidies have the direct effect of transferring income from the general tax payers to farm owners. The explanation and justification of this transfer and its effects are complex and often controversial.

POVERTY IN DEVELOPING COUNTRIES

The impact of farm subsidies in developed countries upon developing countries is well documented and subjective. Farm subsidies can help drive prices down to benefit consumers, but also mean that unsubsidized farmers of developing countries like India have a more difficult time competing in the world market. The effects on poverty are particularly negative when
subsidiaries are provided for crops that are also grown in developing countries as that of developed countries. Since, the developing-country farmers should compete directly with subsidized developed-country farmers.

The IFPRI (International Food Policy Research Institute) has estimated in its report in 2003 that the impact of subsidies costs developing countries $24 billion in lost incomes going to agricultural and agro-industrial production. Least developed countries have a higher proportion of GDP dependent upon agriculture, at around 36.7%, more vulnerable to the effects of subsidies. The subsidised agriculture in the developed world is one of the greatest obstacles to economic growth in the developing world.

**International Trade and Global Food and Product Prices**

Proponents of World Trade Organization had already signified that export subsidies, by driving down the prices of commodities it can provide easy cheap food for consumers in developing countries for consumption, low prices are harmful to farmers not receiving the subsidy, because it is only wealthy countries mainly developed ones that can afford domestic subsidies. Proponents of WTO mentioned that they promote poverty in developing countries by artificially driving down world crop prices. Agricultural subsidies often are a common stumbling block in trade negotiations.

At the Doha round in 2006 of WTO trade negotiations talks were stalled as the US refused to cut subsidies to a level where other countries non-subsidized exports would have been competitive.
PUBLIC ECONOMICS IMPLICATION

Through agricultural subsidies, the intervention of government with the price mechanism which normally determine commodity price often creating crop over production and market discrimination. For example: American wheat is available in Chennai at a landing price much lower than compared to the domestic grown grain. Food processing units in south India therefore find it economical to import wheat than to transport it from northern parts of the country. Wheat growers in the north India suffer and most of them have gone bankrupt for a continuous period.

ENVIRONMENTAL AND NUTRITIONAL IMPLICATIONS OF FARM SUBSIDIES

The lower prices of energy dense foods such as grains and sugars is considered to be a reason of why low-income people and food insecure people in industrialized countries are more vulnerable to be more overweight and obese. Meat and dairy production receive 63% of subsidies in US.

Bee pollination is an essential ecosystem service necessary for the production of varieties of vegetables and fruits. Subsidies often go towards subsidizing meat production which has other environmental implication. Farmers producing fruits and vegetables received no direct subsidies from the concerned authorities. The environmental effect of meat production is high due to the resource and energy requirements that go into production of feed for livestock throughout their lifespan.

The subsidies contribute to meat consumption by allowing for an artificially low cost of meat products.

AGRICULTURAL INPUT SUBSIDIES: INDIAN PERSPECTIVE
Agricultural input subsidies are the common subsidies employed as policy instruments in the agricultural sector in order to lower the prices that farmers pay for their inputs (such as fertilizer, seed, and equipment) below their market prices.

Input and output subsidies in Indian agriculture have increased over the last two decades. Food subsidies alone increased by more than 10 times (at current prices) between 1990-91 and 2004-05 (GOI 2004, 94), while the wholesale price index for all commodities roughly doubled during this period (food subsidies therefore increased by more than 5 times). The components of this increase include rise in minimum support prices, accumulation of huge stocks of grains, and the increasing economic cost of operations of the Food Corporation of India.

**Figure 1a. Input Subsidies in Indian Agriculture, 1993 Billion Rs**

The growth rate varied constantly across decades. During the 1960s subsidies grew at a rate of 12.62 percent per year; during the 1970s the rate of increase
turned two times more than the earlier, averaging 22 percent a year. The
growth rate in subsidies fall down to 7.31 percent in the 1980s and further
down to 4.74 percent in the 1990s (Figure 1)

**Distribution of Input Subsidies across States, 1997-99 (1993 prices)**

**Figure 2a. Input Subsidies as Percentage of Agricultural**

**Figure 2b. Input Subsidies, Rs per Hectare of Cropped Land**
There exists great variation of input subsidies across states (Figures 2a, 2b, and 2c). As a percentage of agricultural GDP, Madhya Pradesh, Andhra Pradesh and Tamil Nadu received the most subsidies in 1997-99 ranging from and between 15 to 21 percent. Assam and West Bengal received among the lowest often less than even 5 percent. In terms of subsidies/hectare of cropped land, Tamil Nadu, Punjab, Gujarat, and Andhra Pradesh were among the top recipients, receiving anywhere from Rs 2,400 to 3,400 per hectare. Assam and Orissa received the least, less than Rs 550 on a per hectare basis. However, when subsidies are seen and calculated per agricultural person or worker, the picture is quite different, showing the largest variation across states. In 1996-1999, every person in Punjab’s agricultural population benefited from input subsidies by almost Rs 1,500 (1993 prices), while agricultural Assamese benefited by only Rs 43/-, a 35-fold major difference. In general the western states, including Haryana and Gujarat benefited the most actually topping the national average, while the eastern states, including Bihar, and Orissa benefited the least per agricultural person. This strongly implies that input subsidy policy may have increased inequality within agriculture across states.
The eligibility for farm subsidies is determined not by income or poverty standards but by the crop that they grow and own. Since 1991, subsidies for large farms have nearly doubled and tripled but there have been no increases in subsidies for small farms in India. So, agricultural subsidies are largely seen as corporate welfare programme rather than a common man programme.

**CONTROVERSIES**

Subsidies provide an unfair advantage to the farmers in the developed countries to sell their goods at lower price, while the countries in south do not have enough resources to subsidize their farmers in a similar fashion.

The United States proposed to ban several kinds of subsidies, but it wants to exempt the agricultural sector from banning of subsidy.

United Nation (UN) and European Union (EU) have provided huge support to their farmers plus the surplus obtained by this has been disposed of in the international market all over. They are releasing grain by selling at prices far below the production cost which is unfair to developing countries.

**AGRICULTURE UNDER THE GATT**

The major focus of the GATT was to reduce tariffs and other trade barriers. GATT prohibited export subsidies on manufactured goods but it didn’t restricted agricultural export subsidies as long as the country providing the subsidies did not thereby gain more than an equitable share of world export trade in the subsidized product.

So, the GATT contracting parties get rarely any success in challenging agricultural export subsidies under this provision and finally GATT failed.
INDIA AND THE WTO's AGREEMENT ON AGRICULTURE (A-o-A)

The principal objective of the agreement was to encourage fair and market oriented trade in agriculture by omitting trade distortions resulting from differential level of input subsidies, market support and price, export subsidy and other kind of trade distorting support. The principal achievement of the agreement was to create a framework for further systematic liberalization of trade in agricultural products.

Its implementation period was six years for developed countries and nine for developing countries. The A-o-A comprises of three sections referred as the pillars of the agreement:

a) Market access

b) Domestic support and

c) Export subsidies

INDIA’S COMMITMENTS

❖ Market access

➢ No tariff; ceiling bindings of
  • 100% for primary commodities.
  • 150% for processed agricultural products
  • 300% for edible oils

❖ Domestic support

• Price support for 19 products
  • AMS is negative by a large margin

❖ Export subsidies
• India does not have these
• No commitments

Initially, India was not able to afford the balancing strategy as practiced by the developed countries of providing subsidy to the agriculture sector as its rural population is very large.

Rural-urban divide in India is increasing steadily and it has to face the same problem as other developed country has faced or facing. This scenario can be explained with the table given below:

Table 1: Urban-Rural Divide and the Quantum of Subsidy

<table>
<thead>
<tr>
<th></th>
<th>Ratio of per capita urban income to per capita rural income</th>
<th>Subsidy as percentage of agriculture value added</th>
</tr>
</thead>
<tbody>
<tr>
<td>India</td>
<td>6</td>
<td>7</td>
</tr>
<tr>
<td>Canada</td>
<td>7</td>
<td>11</td>
</tr>
<tr>
<td>United States</td>
<td>13</td>
<td>17</td>
</tr>
<tr>
<td>Japan</td>
<td>8</td>
<td>12</td>
</tr>
<tr>
<td>European Monetary Union</td>
<td>8</td>
<td>10</td>
</tr>
<tr>
<td>High income OECD</td>
<td>9</td>
<td>11</td>
</tr>
</tbody>
</table>

Source: (Basic data WDI 2005, Agriculture Statistics 2005, Acharya (2001)): Per capita rural income = agriculture value added (current US$) to rural population; Per capita urban income = (total GDP at current US$ less agriculture value added (current US$) to urban population (basic data WDI 2005); Indian agriculture Subsidy 1986-88 from Acharya (2001); Other data on Subsidy from OECD (2004) cited in GOI (2005).

Therefore, the solution to reduce the rural-urban divide in India lies in employment-generating large-scale industrialization and expansion of agriculture processing and exports, so that each percentage point shift in the share of agriculture value added to other sectors leads to at least two percentages points shift in the labour force from farm sector to non-farm sector. Maintaining
This target itself will inherently lead to a comparable growth in per capita income of the farm sector.

Food price inflation in India has been traditionally much higher than those in developed countries Canada, Japan or US which makes it harder for India to export agricultural processed products. The general inflation in India during 1998-2003 has been about 4.5 per cent and a similar trend continued during the later periods of 2004-2006. Clearly, if imports were going to reduce the food prices further, it would not be increasing the welfare of farmers, unless substantial gains are made through food based manufacturing export-enhancing strategies.

However, with agriculture subsidies and export promotions, developed countries have dominated the world agriculture market historically. More than 71 per cent of world food exports during 2001-04 obtained from the high-income gaining countries while other countries such as India where more than 65 per cent of the population survives on agriculture and farming contributed only 1.5 per cent of food exports.

Figure 1: Food price inflation in selected countries (2000 = 100)
WHY AGRICULTURAL SUBSIDIES ARE CRITICIZED?

**Effects on developed countries:**
- Non-conformity with the actual goals to facilitate the economic viability of small farms and to ensure as well as secure national food security.
- As the prices are falling, farmers are forced to leave the sector which leads to consolidation of land in farms across the country.
- The distribution of support is uneven not demarcated properly and is significantly skewed in favor of larger farmers.

**Effects on developing countries**
- A fall in prices constraints agricultural growth and development opportunities in non-OECD countries.
- Overproduction in developed countries compared to developing countries leads to release in the world market and subsequent reduction in the world market prices.
- The Developing countries in southern and Central America lost about 11 to 15% of total agriculture and agro industrial incomes due to developed countries subsidies less than that of developing countries.

Below given are some of the data obtained by world trade organization and its authorities regarding the agricultural agreement:

However, India has been lagging to its key competitor, China in liberalising the economy. With demonstrated comparative advantage in production of both raw cotton and textiles, it is expected that India will continue to adopt policies favourable for cotton and textiles exports.
Table 5: India’s agriculture trade profile (average 2002/03-04/05)

<table>
<thead>
<tr>
<th>HS code</th>
<th>Item</th>
<th>Share in total agriculture export</th>
<th>Share in total agriculture imports</th>
<th>Export based RCA 2003</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>MEAT AND EDIBLE MEAT OFFAL.</td>
<td>3</td>
<td>0</td>
<td>0.8</td>
</tr>
<tr>
<td>3</td>
<td>FISH AND CRUSTACEANS, MOLLUSCS AND OTHER AQUATIC INVERTEBRATES.</td>
<td>11</td>
<td>0</td>
<td>3.2</td>
</tr>
<tr>
<td>4</td>
<td>DAIRY PRODUCE; BIRDS' EGGS; NATURAL HONEY; EDIBLE PROD. OF ANIMAL ORIGIN, NOT ELSEWHERE SPEC. OR INCLUDED.</td>
<td>1</td>
<td>0</td>
<td>0.3</td>
</tr>
<tr>
<td>7</td>
<td>EDIBLE VEGETABLES AND CERTAIN ROOTS AND TUBERS.</td>
<td>8</td>
<td>0</td>
<td>1.3</td>
</tr>
<tr>
<td>8</td>
<td>EDIBLE FRUIT AND NUTS; PEEL OR CITRUS FRUIT OR MELONS.</td>
<td>5</td>
<td>0</td>
<td>1.7</td>
</tr>
<tr>
<td>9</td>
<td>COFFEE, TEA, MATE AND SPICES.</td>
<td>6</td>
<td>2</td>
<td>6.4</td>
</tr>
<tr>
<td>10</td>
<td>CEREALS.</td>
<td>15</td>
<td>0</td>
<td>4.5</td>
</tr>
<tr>
<td>12</td>
<td>OIL SEEDS AND OLEA. FRUITS; MISC. GRAINS, SEEDS AND FRUIT; INDUSTRIAL OR MEDICINAL PLANTS; STRAW AND FODDER.</td>
<td>3</td>
<td>1</td>
<td>1.8</td>
</tr>
<tr>
<td>13</td>
<td>LAC; GUMS, RESINS AND OTHER VEGETABLE SAPS AND EXTRACTS.</td>
<td>2</td>
<td>1</td>
<td>10.2</td>
</tr>
<tr>
<td>15</td>
<td>ANIMAL OR VEGETABLE FATS AND OILS AND THEIR CLEAVAGE PRODUCTS; PRE. EDIBLE FATS; ANIMAL OR VEGETABLE WAXEX.</td>
<td>2</td>
<td>36</td>
<td>0.8</td>
</tr>
<tr>
<td>17</td>
<td>SUGARS AND SUGAR CONFECTIONERY.</td>
<td>2</td>
<td>2</td>
<td>1.9</td>
</tr>
<tr>
<td>23</td>
<td>RESIDUES AND WASTE FROM THE FOOD INDUSTRIES; PREPARED ANIMAL FODER.</td>
<td>5</td>
<td>1</td>
<td>3.3</td>
</tr>
<tr>
<td>24</td>
<td>TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES.</td>
<td>2</td>
<td>0</td>
<td>1.3</td>
</tr>
<tr>
<td>40</td>
<td>RUBBER AND ARTICLES THEREOF.</td>
<td>6</td>
<td>8</td>
<td>1.0</td>
</tr>
<tr>
<td>41</td>
<td>RAW HIDES AND SKINS (OTHER THAN FURSKINS) AND LEATHER.</td>
<td>5</td>
<td>4</td>
<td>1.3</td>
</tr>
<tr>
<td>44</td>
<td>WOOD AND ARTICLES OF WOOD; WOOD CHARCOAL.</td>
<td>1</td>
<td>10</td>
<td>0.1</td>
</tr>
<tr>
<td>47</td>
<td>PULP OF WOOD OR OF OTHER FIBROUS CELLULOSIC MATERIAL; WASTE AND SCRAP OF PAPER OR PAPERBOARD.</td>
<td>0</td>
<td>6</td>
<td>0.0</td>
</tr>
<tr>
<td>51</td>
<td>WOOL, FINE OR COARSE ANIMAL HAIR, HORSEHAIR YARN AND WOVEN FABRIC.</td>
<td>1</td>
<td>3</td>
<td>-</td>
</tr>
<tr>
<td>52</td>
<td>COTTON.</td>
<td>20</td>
<td>6</td>
<td>7.8</td>
</tr>
</tbody>
</table>

Source (basic data): Monthly Statistics of Foreign Trade, Government of India (various years)
Table 7: Employment in agriculture (% of total employment)

<table>
<thead>
<tr>
<th></th>
<th>1971-80</th>
<th>1981-90</th>
<th>1991-00</th>
<th>2001-03</th>
</tr>
</thead>
<tbody>
<tr>
<td>China</td>
<td>68.7</td>
<td>58.2</td>
<td>49.4</td>
<td></td>
</tr>
<tr>
<td>India</td>
<td>69.1</td>
<td>67.1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>European Monetary Union</td>
<td>13.7</td>
<td>12.6</td>
<td>5.4</td>
<td>4.5</td>
</tr>
<tr>
<td>High income</td>
<td>9.0</td>
<td>7.7</td>
<td>4.6</td>
<td>4.0</td>
</tr>
<tr>
<td>Latin America &amp; Caribbean</td>
<td>19.3</td>
<td>18.4</td>
<td>17.4</td>
<td></td>
</tr>
<tr>
<td>Low income</td>
<td>66.8</td>
<td>62.9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Middle income</td>
<td>61.5</td>
<td>49.6</td>
<td>40.1</td>
<td></td>
</tr>
<tr>
<td>World</td>
<td>43.3</td>
<td>39.9</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table 8: Indicators of agriculture related developments

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>China</td>
<td>1733</td>
<td>2532</td>
<td>3822</td>
<td>4672</td>
<td>4856</td>
</tr>
<tr>
<td>India</td>
<td>977</td>
<td>1220</td>
<td>1622</td>
<td>2153</td>
<td>2337</td>
</tr>
<tr>
<td>European Monetary Union</td>
<td>2436</td>
<td>3293</td>
<td>4171</td>
<td>5127</td>
<td>5307</td>
</tr>
<tr>
<td>High income</td>
<td>2848</td>
<td>3254</td>
<td>3806</td>
<td>4534</td>
<td>4749</td>
</tr>
<tr>
<td>Latin America &amp; Caribbean</td>
<td>1375</td>
<td>1641</td>
<td>2064</td>
<td>2586</td>
<td>3020</td>
</tr>
<tr>
<td>Low income</td>
<td>1046</td>
<td>1256</td>
<td>1575</td>
<td>1867</td>
<td>2025</td>
</tr>
<tr>
<td>Middle income</td>
<td>1415</td>
<td>1898</td>
<td>2459</td>
<td>2924</td>
<td>3193</td>
</tr>
<tr>
<td>Sub-Saharan Africa</td>
<td>826</td>
<td>977</td>
<td>1052</td>
<td>1050</td>
<td>1071</td>
</tr>
<tr>
<td>World</td>
<td>1574</td>
<td>2019</td>
<td>2502</td>
<td>2907</td>
<td>3100</td>
</tr>
</tbody>
</table>

Food production index (1999-2001 = 100)

<table>
<thead>
<tr>
<th></th>
<th>1999</th>
<th>2001</th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
</tr>
</thead>
<tbody>
<tr>
<td>China</td>
<td>22.6</td>
<td>30.7</td>
<td>47.4</td>
<td>80.2</td>
<td>108.5</td>
</tr>
<tr>
<td>India</td>
<td>34.9</td>
<td>44.8</td>
<td>63.4</td>
<td>87.5</td>
<td>101.3</td>
</tr>
<tr>
<td>European Monetary Union</td>
<td>95.9</td>
<td>97.9</td>
<td>94.5</td>
<td>98.4</td>
<td></td>
</tr>
<tr>
<td>High income</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Latin America &amp; Caribbean</td>
<td>72.3</td>
<td>86.7</td>
<td>106.6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Low income</td>
<td>65.9</td>
<td>87.2</td>
<td>103.1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Middle income</td>
<td>67.9</td>
<td>88.3</td>
<td>106.5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sub-Saharan Africa</td>
<td>67.0</td>
<td>88.3</td>
<td>103.2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>World</td>
<td>89.9</td>
<td>103.4</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source (basic data): World Development Indicators 2005, the World Bank
THE WTO’S AGREEMENT ON SUBSIDIES AND INVALIDATE MEASURES

It disciplines the use of subsidies, and regulates the actions that the countries can take to counter the effect of subsidies.

In accordance with this agreement a country can use the WTO’s dispute settlement procedure to seek the withdrawal of the subsidy or the removal of its adverse effects or a country can launch its own investigation and ultimately charge “countervailing duty” on subsidized imports.

The Case of Brazil-U.S. Farm Subsidies

Brazil alleges that almost from 1999, the U.S. has more often exceeded its WTO spending limits for heavily trade-distorting agricultural subsidies. The dispute resolving panel of WTO ruled that the U.S. endure in violation of world trade rules. So, Brazil has reserved the right to impose annual sanctions.

Doha Round and Agricultural Subsidies


The principal objective of this round was to straighten out some of the kinks in agricultural trade. This activity, which account for only 8.5% of world merchandise trade is the one, most heavily distorted by misbegotten policies.

The U.S continued to demand and argue for much bigger cuts in farm import tariffs to open up markets for its farmers. Big brother asked the developing countries to make a more generous offer for reducing trade distorting domestic support. But, ultimately this demand of U.S. was rejected by India,
Japan and European Union. Conclusively, dead lock is created on agricultural tariffs and subsidies.

**WHY Farming subsidies still distort advantages and cause food security**

Despite all the efforts and talks of global power shifts and the rise of emerging economies The World Trade Organization has forced developing countries on to the back foot despite the reason and ethics produced by developing countries.

After The Doha development round of trade talks only two issues have survived to merit serious consideration. One is "trade facilitation" – the harmonizing and standardizing of customs rules and procedures that is an agenda of the global north to ease import practices across the world. The other issue is more central: the focus on agricultural subsidies, which affects the livelihoods and food security of more than half the world’s population.

A few multinational agribusinesses have increased their domination of global trade and food distribution. Supposition in commodity futures market is creating volatile price movements and functions that do not reflect correct changes in demand and supply. In the meantime, developing countries must find some way to ensure their citizens' food and livelihood security. Several countries try to do this by introducing or launching measures to make food affordable for low-income consumers particularly through supporting small farmers.

Government purchases of crops at fixed, or "administered", prices can be an essential policy instrument. Under WTO rules, however, if governments pay farmers at rates that are even slightly above market prices when they are
stockpiling food, those payments count toward the country’s 10% amber box ceiling.

The WTO rules make a travesty of the first millennium development goal, to reduce hunger. If the world community is truly and seriously concerned about hunger, then it should not let unfair trade rules reduce developing countries ability to do something about this issue.

Yet there is little global outcry about the state of the negotiations, and there are fears that the pressure to do a deal. It may lead to developing countries accepting this pathetic compromise with no real gain. People everywhere need to make this a much more vital issue on which no compromise can be tolerated.

SUGGESTIONS

- Substantial reduction in trade distorting domestic support
- Improvement in market access substantially
- Reduction of all forms of export subsidies
- International decisions would be effective only if domestic policy reforms directed at making agriculture pro-poor and pro-environment.

CONCLUSION

The question of whether or not to implement farm subsidies of agriculture has long been inciting vehement arguments from both the developed and developing countries that is why the solution to this issue should be very specific in nature.
I. **FOR LEAST DEVELOPED COUNTRIES (LDCs):**

1. Eliminate the “bias against agriculture” in economic policies
2. Deregulate inputs of agriculture (fertilizer, machinery, pesticides)
3. Allow price stabilization policies, but not so much as to curb profits of farmers/producers
4. Minimize subsidies, and give priority to infrastructure subsidies; gradually eliminate subsidies as the agriculture economy becomes self-sustainable
5. Expand emergency subsidies and crop reserves in case of disasters
6. Encourage more investments in agriculture, and set up innovative crop insurance mechanisms

II. **FOR MOST DEVELOPED COUNTRIES (MDCs):**

1. Greatly reduce/eliminate any subsidies aimed for increased production and domestic agricultural protectionism, especially for biofuel production
2. Regulate investments in foreign agriculture of LDCs so as to ensure fairness of those partnership and sustainability of affected farm practices.
The proposal largely involves convincing nations to follow provided guidelines for their domestic policies of crop subsidies and price controls, the funding required should consists of advertising campaigns in reluctant developed nations.

The developing countries should unite and cooperate among themselves, which may help in advancing the cause of their own scaling down the agricultural subsidies and dilute the negative side-effects.

Bibliography


- EPHRAIM CHIRWA & ANDREW DORWARD , AGRICULTURAL INPUT SUBSIDIES 45-48 (1st edn, 2013)