The WTO Agreement on Agriculture: Relevance for India

A dissertation submitted to Panjab University, Chandigarh for the award of Master of Philosophy in Social Sciences in partial fulfilment of the requirement for the Advanced Professional Programme in Public Administration (APPPA)

By

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CERTIFICATE

I have the pleasure to certify that Ms. Anu P. Mathai has pursued her research work and prepared the present dissertation titled ***The WTO Agreement on Agriculture: Relevance for India*** under my guidance and supervision. The dissertation is a result of her own work and to the best of my knowledge, no part of it has earlier comprised any other monograph, dissertation or book. This is being submitted to Panjab University, Chandigarh for the degree of Masters of Philosophy in Social Sciences in partial fulfilment of the requirement for the Advanced Professional Programme in Public Administration (APPPA) of the Indian Institute of Public Administration (IIPA), New Delhi.

I recommend that the dissertation of Ms. Anu P. Mathai is worthy of consideration for the award of M.Phil degree of Panjab University.

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(Anu P. Mathai)

OF ABBREVIATIONS

AMS	Aggregate Measurement of Support
AoA	Agreement on Agriculture
AVE	ad valorem equivalents
BOP	Balance of Payments
c.i.f.	cost, including insurance and freight
DDA	Doha Development Agenda
DSU	Dispute Settlement Understanding
EC	European Commission
EEC	European Economic Community
ERP	External Reference Price
f.o.b.	free on board
FAO	Food and Agriculture Organization
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
HS	Harmonized Commodity Description and Coding System
LDCs	Least Developed Countries
MSP	Minimum Support Price
NAV	Non-ad valorem
QR	Quantitative Restriction
S&DT	Special and Differential Treatment

SSG	Special Safeguard Provisions
SSM	Special Safeguard Mechanism
TRQ	Tariff Rate Quota
UNCTAD	
UR	Uruguay Round
URAA	Uruguay Round Agreement on Agriculture
WTO	World Trade Organization

CHAPTER 1: INTRODUCTION, OBJECTIVES, METHODOLOGY AND LIMITATIONS

INTRODUCTION

1.1 The World Trade Organization (WTO) is the international multilateral organization dealing with the rules of trade between nations. At its heart are the WTO agreements, negotiated and signed by the bulk of the world's trading nations and ratified in their parliaments[1]. The WTO has many roles: it operates a global system of trade rules, it acts as a forum for negotiating trade agreements, it settles trade disputes between its members and it supports the needs of developing countries. The goal is to ensure that trade flows as smoothly, predictably and freely as possible. The WTO agreements cover goods, services and intellectual property. They spell out the principles of liberalization, and the permitted exceptions. They include individual countries' commitments to lower customs tariffs and other trade barriers, and to open and keep open services markets. They set procedures for settling disputes[2].

1.2 The Uruguay Round of multilateral trade negotiations (1986-1994) which concluded in 1994, resulted in an Agreement establishing the World Trade Organization (WTO), which serves as an umbrella agreement. Annexed to this umbrella agreement are agreements on goods, services and intellectual property, dispute settlement, the trade policy review mechanism and the plurilateral agreements[3]. The Agreement on Agriculture (AoA) came into force in 1995 along with the other agreements. It aims at reforming agricultural trade and making it fairer and more competitive.

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[1] https://www.wto.org/english/thewto_e/whatis_e/what_we_do_e.htm
[2] *Ibid.*
[3] *Ibid.*

1.3 A multilateral agreement specifically for the agriculture sector was a significant first step towards order, fair competition and a less distorted agriculture sector. The original General Agreement on Tariffs and Trade (GATT) applied to agricultural trade but it contained a number of loopholes that were exploited by countries, resulting in highly distorted international agricultural trade. For example, it allowed countries to use some non-tariff measures such as import quotas, and to subsidize agricultural production and exports. Export subsidies, which were not normally allowed for industrial products, could be used for agricultural products. Together with government market interventions, such measures resulted in the 'wine lakes' and 'butter mountains' of Europe beginning in the 1970s and ending only recently.

1.4 The AoA was intended to provide a framework for the long-term reform of agricultural trade and domestic policies over a period of time. It includes provisions that encourage the use of less trade-distorting agricultural domestic support policies.

1.5 The rules and commitments of the AoA apply to:

i. market access - various trade restrictions confronting imports;

ii. domestic support - subsidies and other programmes; and

iii. export subsidies and other government support programmes that subsidize exports.

1.6 The agreement allows governments to support their agriculture sector, but preferably through policies that cause less distortion to trade. The provisions allow some flexibility in the implementation of commitments, albeit with stringent conditions. The specific concerns of developing countries have been addressed including the concerns of net-food importing countries and least-developed countries.

Developing countries did not have to cut their subsidies or lower their tariffs as much as developed countries, and they were given extra time to complete their obligations. Least developed countries (LDCs) did not have any commitments at all. However, although the obligations for developing countries were less onerous, the provisions of the AoA were framed in such a way that developed countries retained the right to continue to provide high subsidies and use various tariff-related measures which led to a distortion of the global agriculture markets.

1.7 The AoA included a commitment to continue reforms through new negotiations, which were launched in 2000. In 2001, agriculture negotiations became a part of the agenda of the Doha Round of trade negotiations. The Doha Round remains unfinished and it is uncertain when or even whether it will be concluded[4]. An agreement to eliminate agricultural export subsidies was pushed through, during the Tenth Ministerial Conference of the WTO held in Nairobi, Kenya in December 2015. But other parts of the agriculture negotiating agenda remain deadlocked, namely, market access and domestic support.

Statement of the Problem

1.8 The rules were framed to suit developed countries, especially the EU and the US. While developed countries can continue to provide high subsidies and use complex tariff-related measures to protect their agriculture, developing countries are constrained by limits on the subsidies they can provide, which is 10% of the value of agricultural production[5] for most developing countries.

[4] *Virtually every item of the Doha Round negotiation is considered as part of a whole and indivisible package and cannot be agreed separately. In other words, "nothing is agreed until everything is agreed". Further, all major decisions in the WTO are normally taken by consensus.*
[5] *Separately per product as well as for all products*

1.9 As per clause 11 of Annex 3 of the AoA, the fixed reference price to be used for the calculation of the subsidy element shall be the average prices prevailing during the triennium 1986-88 i.e. prices of more than thirty years ago. Today's prices are compared with the average prices during the period 1986-88 without inflation adjustment, e.g. today's Minimum Support Prices in India are compared with average import/export prices of 1986-88 to calculate the amount of subsidy.

1.10 Developing countries are beginning to feel the pinch of these rules. For example, public stockholding programmes for food security in many developing countries are under the shadow of such subsidy limits. India led the effort to obtain a waiver ('Peace Clause' in popular jargon) from dispute action for exceeding the 10% limit for such programmes but the basic rules remain unchanged.

1.11 Since the future of the Doha Round is uncertain at this juncture, this seemed an opportune time to review the AoA and its impact, especially on India. This is not the first time that the negotiations have stalled during the long course of the Doha Round. It is sought to utilize the opportunity provided by the current lull to consolidate information and experience (i) in anticipation of a resumption of the negotiations or (ii) to assess the implications if there are no further negotiations on agricultural trade rules in a multilateral forum.

Objectives

1.12 In light of the background outlined above, the objectives of this research are the following:

i. To review the implementation of AoA provisions for reducing agricultural subsidies and customs duties on imports of agricultural products in developed and developing countries;

ii. To study how the provisions of the AoA have influenced India's agricultural trade; and

iii. To analyse the implications of no further reforms/negotiations related to agricultural trade rules, especially on public stockholding for food security purposes.

Research Strategy and Design

1.13 The Research Strategy is primarily qualitative. The Research Design is descriptive using secondary sources of statistics on agricultural trade, tariffs and subsidies and the literature available on the subject.

Research Questions

1.14 The research questions sought to be answered through this study are the following:

1. Has the AoA succeeded in reducing trade-distorting agricultural subsidies?
2. Have the rules on customs duties led to an increase in global agricultural trade?
3. What has been the effect of the AOA on India's agricultural trade over the period 1995-2017?
4. What are the implications if there is no further reform in the agricultural trade rules? Who gains and who loses?

Research Methods

1.15 The research was conducted through a desk-based analysis of secondary data. The available statistics were collected, collated and analysed to review the implementation of the commitments under the AoA by various countries. Since the focus of the research is on India, the relevant statistics relating to Indian agricultural trade and implementation of WTO commitments were specifically analysed.

Data Sources

1.16 The research is based on secondary data sources and material available in the public domain. All WTO Members are required to file various notifications with the WTO relating to their agricultural subsidies, import duties on agricultural products and export subsidies. Some notifications have to be filed annually, while others are *ad hoc* notifications. These notifications which are available in the public domain on the WTO's website have been collated, analysed and interpreted to address the objectives of this research. These submissions and the agricultural policies of Members are discussed in a Committee on Agriculture. In addition, the trade policies of Member countries, including their agricultural trade policies, are periodically reviewed. The reports of these meetings are available in the public domain on the WTO website.

1.17 Some of the relevant secondary data sources available are the following:

1) the WTO's Statistics Database, the WTO's International Trade and Market Access Data interactive tool and the Export Import Data Bank of the Department of Commerce at www.commerce.gov.in.

2) Documents and WTO Member submissions, negotiating documents etc., from the WTO website www.wto.org; and

3) Books, journals and published articles and other secondary data sources, e.g. Department of Commerce, Ministry of Agriculture, Cooperation & Farmers' Welfare, Centre for WTO Studies (under the Indian Institute of Foreign Trade).

1.18 To the extent possible without breaching any confidentiality requirements, this study also draws upon the knowledge and material acquired during the years spent by the author working on this subject at the Department of Commerce, Government of India.

Scope and Limitations

SCOPE

1.19 The WTO is a relatively young organization in the international arena though GATT has been in place since 1947. Even so, there is a rich body of literature analyzing the organization, its rules and functioning and its contribution to the global economic policy architecture. It has not been possible to do justice to the wealth of material available given the limited time available to complete this research; however, in Chapter 2, an attempt has been made to cull out material that is most relevant for the purposes of this study.

1.20 Chapter 3 covers the theoretical framework and describes the rules and provisions contained in the WTO's Agreement on Agriculture. This includes a description of how these provisions were to be implemented by various categories of WTO member countries.

1.21 Chapter 4 focuses on India and forms the core of this research. It describes the provisions applicable to India and the commitments that had to be undertaken by India with the establishment of the WTO and the coming into effect of the AoA. Chapter 4 also looks at the trends in India's agricultural trade over the period of the existence of the WTO i.e. from 1995 till the current period.

1.22 Chapter 5 addresses the subject of the present and emerging scenario as far as the AoA is concerned. In other words, it addresses the question whether the objectives of the AoA have been met and its impact on various types of WTO member countries. It also briefly touches on the ongoing negotiations on agricultural rules in the WTO, the evolution of these negotiations and the implications if these negotiations are terminated without an outcome. Finally, Chapter 6 concludes the study and attempts to offer some recommendations on the subject.

LIMITATIONS

1.23 The WTO rules are applicable to trade in agricultural goods, industrial goods and services as well as a number of related areas. All members of the WTO have to follow these rules. However, the instant research is restricted to the effect of the WTO rules on India and specifically, the Agreement on Agriculture.

1.24 The research was based on secondary data sources. In a longer study it would be useful to obtain the inputs of farmers – who are the real stakeholders. The constraints of confidentiality especially as regards India's position on various issues in the negotiations have also been kept in view.

CHAPTER 2: LITERATURE REVIEW

The AoA has been in force for a little over 20 years. Enough time has elapsed to justify questions such as:

- Have the objectives of the AoA been achieved?
- Has there been a reduction in trade-distorting agricultural subsidies?
- Has trade in global agricultural products been sufficiently liberalized?

2.2 A fundamental question is why further reform of the agricultural trade rules is necessary. To answer this, it is necessary to note that agriculture still remains a critical part of the economies of several countries, particularly developing economies.

2.3 A World Bank report of 2007 (McCalla & Nash, 2007) explains the reasons, i.e.: the importance of agriculture in developing countries and the slow growth of agricultural trade from developing countries to developed countries. "……*agricultural development is critical to developing countries, especially the least developed. Agriculture remains the largest employer, the largest source of GDP, and the largest source of exports and foreign exchange earnings in many developing countries. About 75 percent of poor people worldwide reside in rural areas, and most of them are dependent on agriculture. While agriculture declines relative to the rest of a growing economy as incomes improve, its growth is absolutely critical at early stages of development, and it can often drive export-led growth."*

2.4 The report further discusses why agricultural trade reform is important i.e. it is necessary to better integrate this sector into global markets. Trade liberalization fuels prosperity. Agriculture has the highest levels of trade distortions and therefore the greatest potential for gains from reform and domestic reforms necessary to implement trade reforms benefit developing countries more than developed countries.

2.5 Further, while world trade has been booming over the past two decades, and developing countries' share has been expanding, the share of developing countries in agricultural exports to the industrial world has stagnated. The World Bank report observes that this is consistent with the hypothesis that developed economies' barriers to agricultural trade have effectively stifled this segment of global trade and so, developing countries potentially have a lot to gain from global trade reform.

2.6 According to Martin Khor (Khor), "*The AoA was supposed to discipline the high levels of protection in the developed countries and, by doing so, offer very substantial benefits in terms of market access to many developing countries, as they have a comparative advantage in agricultural products. In reality, however, the developed countries have made little progress in reducing agriculture protection and subsidies. High tariffs on selected items of potential interest to the South have had to be reduced only slightly.*

……. According to the agreement, developed countries needed to reduce their tariffs by only 36 per cent on average to the end of 2000, and thus the rates for some products remain prohibitively high (Das 1998)" (Khor).

2.7 Further, he says, domestic support has increased rather than decreased. "*Although the agreement was supposed to result in decreases in domestic support in agriculture, in fact, the overall value of such support has increased. The agreement obliged developed countries to reduce the Aggregate Measurement of Support. However, only some types of subsidies fall under the AMS, and two categories of subsidies are exempted. While developed countries reduced their AMS, they also increased their exempted subsidies significantly, thereby offsetting the AMS reduction and resulting in an increase in total domestic support.*" (Khor)

2.8 A counter view states that "*The situation has changed dramatically. Since the end of the Uruguay Round negotiations, the EU has fundamentally reformed its agricultural policies and moved to less trade-distorting forms of support. U.S. subsidies increased sharply in the late 1990's and the early 2000's, but have dropped to very low levels in recent years…. In the meantime, there has been a major increase in subsidization among advanced developing countries. Support in some countries for certain major commodities is now comparable to levels seen previously in the EU and the U.S.*" (DTB Associates , LLP, 2011)

2.9 Therefore, depending on the point of view there is a call for a continuation of the process of reform of agricultural trade rules to either, correct the inequities of the Agreement on Agriculture or to restrain the so-called increase in subsidization by the advanced developing countries.

2.10 A long impasse in the agriculture negotiations at the WTO has been witnessed in recent years and for many observers the Doha Round[6] is all but dead. For example, Elliott (Elliott, 2018) observes "*although it lingers on life support, the Doha Round effectively died at a ministerial meeting in July 2008….. To make things more complicated, China, along with India and other emerging markets, have begun to provide substantial support to their agricultural sectors*." She is of the view that it may be more fruitful to pursue an incremental approach on an issue-by-issue basis. She recommends that WTO members should pursue progress where and when they can.

2.11 Agriculture continues to be a politically sensitive subject, in developed and developing countries alike. At the same time, changes in the global agriculture scenario are leading to changing expectations from "emerging countries" such as

[6] The round of multilateral trade negotiations in the WTO that began in 2001.

India and China to take on greater commitments contributing to opening up of agriculture markets and reducing subsidies to farmers (Diaz-Bonilla, 2017). However, these countries still face severe rural development and food security challenges. The available literature raises - but does not analyse – the issue of how to address these challenges.

2.12 Many of the writers on the subject tend to ignore the fact that the agriculture negotiations are meant to continue the reform initiated during the Uruguay Round of trade negotiations at the WTO (1986-94). Abandoning the Doha Round will also mean abandoning this objective. A partial implementation of the objectives could worsen the already existing imbalances in the rights and obligations of various WTO member countries.

2.13 Other scholars have pointed out that the reform programme is far from being completed. Häberli (Häberli, 2016) points out the 'development promises' of GATT and WTO remain unfulfilled. His argument is that the completion of the Doha Round may not address the specific concerns of net food importing developing countries and poor farmers. He too appears to be of the view that emerging economies must accept greater responsibility but he does not address the continuing challenges faced by the agriculture sector in developing countries, including such emerging economies. He says "*The rules negotiated more than 20 years ago are being criticised for their lack of development-friendliness. The same goes for today's tariff and subsidy limits. The continuation of the 'reform programme' promised in Article 20 of the Agreement on Agriculture (AoA) collapsed in 2008 with the Doha Development Agenda (DDA), leaving the 'haves' with spending ceilings way above those of the developing country 'have nots'. For this and for several other reasons the reform programme remains far from complete. From a general development point of view, the frustration in respect* *of broken promises is especially understandable. The contention here is that even if 'Doha' is resuscitated and brings the WTO back on a path of trade liberalisation, the "losers" will not be able to enjoy even the low-hanging fruits unless their situation is recognised and duly taken into consideration in the final package.*"

2.14 Häberli quotes Melaku Desta who is sharply critical of the outcomes of the Uruguay Round. According to Desta, the 'development promise' made at the inception of the GATT in 1947, and consistently repeated especially for agriculture, has remained unfulfilled. The 'long-term objective' of the AoA which is "to establish a fair and market-oriented agricultural trading system" has eluded especially the poorest developing countries, he states. According to him the gap between the rich trading nations and poor countries with major structural impediments could be further exacerbated by market dynamics. The latter not only have little food to export but now lack even some of the defense mechanisms available pre-WTO against surplus disposal. Their import bill increases with rising world market prices, but their (mostly subsistence) farmers lack the resources necessary to kick-start production and to gain from rising prices through exports.

2.15 Hoda and Gulati (Hoda & Gulati, 2013) discuss the way forward for India and advocate policies promoting efficiency (i.e. which are least trade and production distorting, while ensuring food security and sustainable agricultural production). They argue that India should change from input to investment subsidies and conditional cash transfers. However, while they discuss the changes to be made to Indian agriculture policy, they should also have studied deficiencies/imbalances in the WTO rules.

2.16 The 2007 World Bank Report (McCalla & Nash, 2007) states *"One lesson from implementation of the URAA is that the political economy of agricultural* *protection in high-income countries is such that when reduction is required in one mechanism of trade-distorting support, another mechanism often pops up to replace it. Given the array of support instruments available, it follows that to guarantee increased trade opportunities for developing countries, the agreement must include strict disciplines on all fronts."*

2.17 The current rules of agricultural trade went a long way in addressing the problems that triggered work on framing such rules to begin with. However, they also suffer from imbalances in the obligations imposed on various categories of countries. A key example is that of the rules relating to public stockholding for food security purposes. A large number of developing countries already face or will soon be confronted by problems in implementing their food security policies due to the limitations of the current provisions in the AOA (Sharma, 2016). The ongoing efforts in the WTO by a major group of developing countries to frame alternative rules so as to ensure that food security programmes are not hampered by WTO rules, is an important initiative that must be successfully concluded.

2.18 However, the direction that the negotiations on the subject has taken is not encouraging. According to a paper by the South Centre (South Centre, 2017), if recent negotiating proposals are agreed, the historical imbalances will become even starker. Over the years, beginning with the Uruguay Round of multilateral trade negotiations,[7] developing countries have emerged as a powerful force. As the World Bank observes (McCalla & Nash, 2007), one of the more striking differences between the ongoing Doha Round negotiations and previous multilateral rounds "is the much greater leverage of developing countries, due at least in part to their large and growing share

[7] Uruguay Round: 1986-94

of world trade”. But this is also perhaps the reason that some of the developed countries are no longer invested in the negotiations.

2.19 Eugenio Diaz-Bonilla (Diaz-Bonilla, 2017) provides an explanation for why agriculture has been a sticking point in the negotiations from the very beginning. He writes that when the GATT first took effect in 1948, agriculture was treated separately from industry. Governments were allowed to use a variety of measures such as tariffs and quantitative restrictions on imports to subsidize domestic production and shield it from external competition. He writes “*The sector, particularly food production, was considered politically too sensitive and governments intervened heavily in its operation. Moreover, Europe and other regions were emerging from the total devastation of WWII, and reliable supplies of food were needed to avoid social unrest. During the long period of postwar growth and buoyant demand, and then particularly after the price shocks of the second part of the 1970s, as concerns grew about the potential return of famines, measures to expand supply seemed justified (even if trade distorting). But when the global world cycle turned negative in the first half of the 1980s, contracting demand met that expanding supply—and commodity prices collapsed. Trade conflicts ensued, mainly between the United States and the European Union (which together at the time accounted for about 60 percent of global agricultural exports), with other producers and exporters as affected by-standers.*

In the early 1990s, the U.S. and Europe finally settled on a framework of rules for agriculture trade that led to the drafting of the Agreement on Agriculture (AoA). This in turn became part of the agreements in the creation of the World Trade Organization in 1994. Developing countries were of two minds on the AoA: Although it granted them special status and protections for agriculture, including consolidating import tariffs at high levels, applying input subsidies, and higher de minimis, it still *allowed developed nations significant flexibly to protect and subsidize their own agriculture sectors. Meanwhile, WTO agreements included new topics such as intellectual property rights and trade-related investment measures with debatable links to trade—but clear limits on developing countries' policy space. .*

Developing countries (with a smaller share in production and trade) were not important players in those early WTO negotiations; there were concerns about the high rates of poverty and hunger across many developing countries, where food systems were often fragmentary, and in many cases showed strong intervention of the public sector; and finally, climate change and sustainability were then marginal concerns in trade talks.

2.20 Turning to the current situation, Diaz-Bonilla states, *"The world has gone through another of the periodical long economic cycles of acceleration and retraction….. In the upswing, markets for commodities have been buoyant, and softened significantly after the 2009 global financial crisis (as occurred in previous cycles). Also, during the recent period of high economic growth and rapid development, many developing countries gained larger percentages of global agricultural production and trade; higher GDP per capita also meant that many of these countries could now devote more resources to supporting agriculture……. estimates of support (from consumers and taxpayers) to agriculture suggest that China's now exceeds that of the EU and that India's expenditures are above the equivalent measures for the U.S.*

2.21 Diaz-Bonilla cites FAO to say that Brazil and Argentina are ranked first and second as net exporters (i.e. exports minus imports) by value in the 2010s and further that China, India, and other developing countries have become strong presences in world food and agricultural markets. He says that *"China now represents close to a* *quarter of all world agricultural production (by value in dollars of equivalent purchasing power), and is the fourth largest exporter (with a value of total exports close to Brazil) and the third largest importer of agricultural goods (while still a net importer), according to the latest WTO data. India has actually become a net food exporter in the 2010s, ranking among the top 10 net food exporters worldwide (and with gross exports close to Australia).*

2.22 From this, Diaz-Bonilla concludes that *"it is time to rethink how agriculture and food systems are treated under the WTO framework. Developing countries are now important players in the current negotiations, there are important differences among them, and the food system issues they must confront are also very different from a generation ago."*

2.23 The former United Nations Special Rapporteur on the Right to Food says that "*there is also a growing recognition that existing measures under the green box are not well tailored to the specific national circumstances of developing countries. Existing green box criteria are largely derived from the policies developed countries had in place during the negotiation of the Uruguay Round when the primary focus was to cap developed countries' support to producers. Designing criteria well-suited to developing countries was not a major priority for negotiators during the Uruguay Round. At that point in time, many developing countries were undergoing structural adjustment and public investment in agriculture experienced a major decline; this was hardly indicative of a future scenario in which developing countries would be major users of green box measures*" (Schutter, 2011).

2.24 Further he says, "*The AoA does not recognize food security as an overarching objective of international cooperation. Whereas the preamble of the AoA recognizes that food security concerns are legitimate, the actual provisions of the agreement* *treat food security as a deviation from the primary objective of agricultural trade liberalization. The way food security is addressed therefore is more likely to discourage policy innovation than nurture it. From a right to food perspective this is undesirable. Food security programs should be assessed on their capacity to contribute to the realization of the right to food. Whether new policies distort markets should be a secondary consideration and accorded much less weight in political decision-making. This suggests a need for revising how the WTO defines trade-distorting support vis-à-vis food security programs, including the existing approach that requires developing countries to negotiate piecemeal changes to green box criteria"*

2.25 Now turning to the question of whether the AoA has achieved its objectives and whether it has, in fact, led to a decrease in trade-distorting agricultural subsidies, it is useful to look at what has been written on the subject. Kimberly Ann Elliott (Elliott, 2018) writes "*The Uruguay Round of trade negotiations, launched in Punta del Este in 1986, was the first to even try to address the array of trade-distorting agricultural policies in a serious way. Those negotiations succeeded in creating an elaborate framework of rules, but they largely failed to rein in subsidies or trade protection in industrialised countries. The Doha Round was supposed to change that, but it collapsed around the time that food prices peaked in mid-2008 and there has been only limited progress on narrow issues since then.*"

2.26 Today, tariffication in agriculture has virtually been achieved (Häberli, 2016). Yet, after the very modest tariff reductions, many agricultural tariffs remain very high. The so-called 'tariff overhang' (i.e. the fact that the applied rates are often much lower, through regional or preferential trade agreements, or by way of unilateral measures) means that a re-increase to the bound levels is always possible, without

WTO sanctions. This lack of ambitious market access commitments will neither reduce consumer prices nor improve food security by facilitating trade flows.

2.27 Secondly, the biggest problems are in the domestic subsidy disparities. All trade-distorting farm support is now limited. But the mandatory global reduction of only 20% in the previously high spending levels of rich subsidisers leaves them with a lot of leeway to support their farmers against foreign competition (Häberli, 2016). Here too, the re instrumentation of support, and the decline in world market prices after 1995, brought about a huge 'subsidy overhang': most developed countries have shifted much of their farm support from market and price interventions to publicly-funded government programmes and measures with "no, or at most minimal, trade-distorting effects or effects on production".

2.28 Hoda and Gulati (Hoda & Gulati, IFPRI, 2008) write that their analysis of the experience with implementation of the Agreement on Agriculture "*raises doubts about the soundness of the framework created in the Uruguay Round to reverse many decades of protectionism in agriculture and to establish new rules to liberalize agricultural trade and production policies. From the beginning it was widely felt that only meager liberalization was actually achieved, and most heavily protected products seem to have experienced no liberalization at all. The principal industrialized countries retained policies of support and protection with a high degree of economic distortion."* They write that in the EC, conversion of non-tariff measures resulted in prohibitively high tariff equivalents while in the United States, the Uruguay Round failed to bring about any significant reduction in market access barriers and domestic subsidies for traditionally supported products.

2.29 Morrison and Sarris (Morrison & Sarris, 2007) say that while the URAA[8] was a major accomplishment in terms of bringing some discipline to the rules concerning agricultural trade, it has been generally acknowledged that not much real trade liberalization took place in the agriculture sector as a consequence (Morrison & Sarris, 2007). Reaching the URAA involved intense negotiations between the major developed trading countries and regions in agricultural products, namely the United States (US) and the European Union (EU), both of which have had long established and highly protectionist agricultural trade policies, and both of which had resisted agricultural trade liberalization before the UR. However, this meant that, apart from easier terms for implementation of the URAA, the interests of developing countries, and especially the LDCs were relegated to a secondary status.

2.30 Hoda and Gulati are critical of the focus of developing countries on special and differential treatment (S&DT) in the rules. They write in the Agreement on Agriculture the principal industrialized countries retained beneficial treatment for themselves in many ways, while giving a lower level of flexibility to the developing countries by way of such treatment. "*The developing countries' preoccupation with S&D treatment in the Uruguay Round did not serve them well because it deflected attention from the central task of getting the industrialized countries to reduce their extremely high levels of support and protection substantially and meaningfully. Although it enabled the developing countries to fend off pressures for liberalization, S&D treatment proved to be a more potent negotiating tool for the industrialized countries by helping them influence the developing countries to demand fewer real reforms.*" While this is a valid negotiating point, less acceptable is their recommendation that developing countries must make a fundamental shift in their

[8] Uruguay Round Agreement on Agriculture

approach in the ongoing Doha Round negotiations by focusing less on S&D treatment and more on equal treatment. This may sound logical and rational in theory but the conditions of the agriculture sector in many developing countries, their resource constraints and the unequal negotiating dynamics make this a flawed approach.

2.31 Should the WTO then take agriculture off the negotiating table and move on to the so-called 21st century issues? According to Elliott, "*agriculture is still important for developing countries, especially in Africa, for both food security and livelihoods. The challenge is that food security is particularly politically sensitive and policymakers want flexibility (policy space) to address it. In practice, the policies adopted in developing countries, just like those adopted many years ago in today's industrialised countries, are often expensive, ineffective, and impose spillover costs on neighbours. The WTO could help by guiding policies in less distorting directions and reducing the negative spillovers for others – if member countries find the political will to let it*." This, however, is not as straightforward as it sounds. While it seems a laudable goal for the WTO to "guide policies in less distorting directions", in practice the suggestions being made to developing countries by developed countries are often self-serving and based on their own commercial considerations. Further, developing countries do not have the deep pockets to provide the kind of support to agriculture that the developed countries are now able to do after years of using measures similar to what developing countries are now using, e.g. various price support measures and food stocks.

CHAPTER 3: THEORETICAL FRAMEWORK AND IMPLEMENTATION OF WTO RULES

Theoretical Framework[9]

The Agreement on Agriculture was an important outcome of the Uruguay Round of multilateral trade negotiations. It introduced disciplines in three pillars - market access, domestic support and export competition. While a few countries, commonly referred to as the Cairns Group[10], were active in the initial stage of the negotiations, the final agreement was based substantially on a bilateral understanding between the EU and the US. Most of the key provisions of the AoA can be traced to the Blair House agreement[11] between the US and the European Commission.

3.1 The overall objective of the agriculture negotiations during the Uruguay Round was to move towards a fair and market-oriented trading system in agriculture. The provisions contained in the AoA marked an important step in this direction. However, it has been recognised in the AoA that fundamental reform is an ongoing process. Accordingly, the AoA provided a built-in agenda for initiating further negotiations by 1999.

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[9] *This section is based on explanatory material available on the WTO website www.wto.org.*

[10] Group of agricultural exporting nations lobbying for agricultural trade liberalization. It was formed in 1986 in Cairns, Australia just before the beginning of the Uruguay Round. The WTO members in this group are: Argentina, Australia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Indonesia, Malaysia, New Zealand, Pakistan, Paraguay, Peru, Philippines, South Africa, Thailand, Uruguay, Viet Nam (www.wto.org).

[11] A Memorandum of Understanding on Oilseeds (often referred to as the 'Blair House Agreement') was negotiated between the European Commission and the US during the GATT Uruguay Round negotiations in 1992. It paved the way for the Uruguay Round Agreement. While allowing European Community support for the production of certain oilseeds to continue, it established a number of restrictions on this support (www.oecd.org).

3.2 The list of products that are subject to the disciplines of the AoA is provided in the AoA[12]. It is important to note that fish and marine products are excluded from this list.

MARKET ACCESS

PROHIBITION OF CERTAIN TYPES OF MEASURES

3.3 An important step forward made in the WTO Agreement with respect to market access for agricultural products was the prohibition of quantitative import restrictions, variable import levies, minimum import prices, discretionary import licensing, nontariff measures maintained through state trading enterprises, voluntary export restraints, and similar border measures other than ordinary customs duties[13]. Included in the list of banned practices were those that had been made possible by country-specific derogation though waivers and protocols of accession. The Agreement on Agriculture required all these measures to be converted to tariffs and then subjected to binding and/or reduction. However, measures maintained under balance-of-payments provisions or under general, non-agriculture-specific provisions of GATT 1994 (such as Articles XX and XXI) or of other multilateral trade agreements on trade in goods (such as the Agreement on Safeguards) were not brought within the purview of the tariffication requirement.

TARIFFICATION AND BINDING TARIFFS ON ALL AGRICULTURAL PRODUCTS

3.4 An important aspect of the new market access rules was the mandatory binding of tariffs on all agricultural products. All non-tariff measures (subject to exceptions for measures maintained under balance-of-payments provisions, safeguards and exceptions under Articles XX and XXI of GATT) had to be converted into tariff equivalents - commonly referred to as 'tariffication'. The modalities

[12] See Annex to this chapter
[13] As provided in Article 4 of the AoA

provided guidelines for the conversion of non-tariff measures into tariffs and of the reduction of tariffs[14].

3.5 The modalities required that the ordinary customs duties, including those resulting from tariffication, be reduced on a simple average basis by 36 per cent, with a minimum rate of reduction of 15 per cent for each tariff line. The reductions were to be carried out in equal installments over a period of six years.

3.6 For tariff lines not subject to border measures other than customs duties, the base rate was the bound rate[15], and where the tariff had not been bound earlier, the rate applied on September 1, 1986 was the bound rate. Developing countries were given the flexibility of offering ceiling bindings on products subject to unbound ordinary customs duties. For other products, the modalities provided that these countries would have to reduce the tariffs by 24 per cent on a simple average basis, subject to a minimum of 10 per cent on each tariff line, to be implemented over 10 years.

3.7 For calculation of the tariff equivalents whether expressed as *ad valorem* or specific rates[16], the actual difference between internal and external prices had to be used, with reference to the years 1986 – 1988. External prices were generally to be the average unit values of cost, including insurance and freight (c.i.f.), for the importing country. Where the average c.i.f. unit values were not available or

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[14] Expressed mathematically, the formula applied for calculating the tariff equivalent of a non-tariff measure is given below:

E= (Pi –Pe)/ Pe * 100

E= Tariff equivalent

Pi= Internal/domestic price (wholesale)

Pe= External price (average cif unit value for 1986-88)

To illustrate, if Pi is $250 and Pe is $200, then **E = (250-200)X 100/200 = 25%.**

[15] Commitment not to increase a rate of duty beyond an agreed level. Once a rate of duty is bound, it may not be raised without compensating the affected parties.

[16] *Ad valorem* tariff: A tariff rate charged as percentage of the price; Specific tariff: A tariff rate charged as fixed amount per quantity such as $100 per ton.

appropriate, one of the options was to select the appropriate average unit values of a nearby country. The modalities also provided the option of estimating the external price from average free on board (f.o.b.) unit value of an appropriate major exporter adjusted by adding an estimate of insurance, freight, and other relevant costs to the importing country. The internal price generally had to be a representative wholesale price in the domestic market or, where adequate data were not available, a representative price in the domestic market or, where adequate data were not available, an estimate of that price. These alternatives left considerable scope for manipulating the tariff equivalent while converting nontariff measures and some countries used these options to overstate their base tariffs.

SPECIAL SAFEGUARDS

3.8 An important feature of the market access provisions in the Agreement on Agriculture is the special safeguard provision. WTO members that have tariffied non-tariff measures have reserved the right to invoke special safeguard duties with respect to tariffied products. Where such a right has been reserved, members are entitled to impose additional duty on a product in any year when ether the volume of imports exceeds or the price of imports falls below designated trigger levels. Unlike in the GATT 1994 provision on emergency safeguard action and the WTO Agreement on Safeguard, there is no requirement to prove serious injury to domestic agriculture, and additional duties can be imposed once the designated trigger levels have been exceeded. Automaticity is the key factor in the special safeguard, and it greatly improves the usefulness of the instrument in protecting domestic producers. Members invoking special safeguards have undertaken not to have recourse to the provisions of GATT 1994 for emergency safeguard action or to the Agreement on Safeguards for the same product.

DOMESTIC SUPPORT

3.9 The AoA rules categorise agricultural domestic support into mainly two categories: (i) support with no, or minimal, distortive effect on trade (commonly referred to as “Green Box” measures) and (ii) trade-distorting support (also referred to as “Amber Box” measures). Accordingly, certain categories of domestic support to agriculture are exempt from reduction commitments. These include domestic support measures which meet the criteria specified in Annex 2 of the AoA (commonly referred to as Green Box support), and development programmes that meet the requirements of Article 6.2 of the AoA . The latter category of measures includes investment subsidies generally available to agriculture, input subsidies generally available to low-income or resource-poor producers and support to encourage diversification from growing illicit narcotic crops.

GREEN BOX SUPPORT

3.10 The Green Box is defined in Annex 2 of the AoA. In order to qualify for the Green Box, a subsidy programme must not have more than a minimal trade-distorting effect or effect on production. In addition, such measures have to be government-funded and must not involve price support. Green Box programmes include general services, such as research, pest and disease control or marketing and promotion services, as well as certain direct payments to producers, such as income support for farmers that is not related to ("decoupled" from) current production levels or prices. They also include structural adjustment assistance, payments under environmental programmes and regional assistance programmes.

3.11 There are no limits on Green Box measures and these can be increased without any financial limitation under the WTO as long as the general criteria and some other measure-specific criteria are met by each measure concerned. Such measures are "exempt" from reduction commitments. Annex 2 of the AoA sets out the fundamental requirement, general and specific criteria required to be satisfied by each support measure categorised under the Green Box. Only those domestic support measures that conform to the fundamental requirement, basic criteria and policy-specific criteria and conditions can be excluded from reduction commitments. These are summarised below:

Fundamental requirement: Green Box support measures shall meet the fundamental requirement that they have no, or at most minimal, trade distorting effects or effects on production.

Basic criteria: The support must be provided through a publicly-funded government programme (including government revenue foregone) not involving transfers from consumers and shall not have the effect of providing price support to producers.

Policy-specific criteria and conditions: Annex 2 spells out the policy-specific criteria and conditions that each type of support measure has to comply with in order to be exempted from reduction commitments. Policy-specific criteria in respect of some schemes are summarised below.

- Government service programmes providing general services not involving direct payments to producers or processors are exempted from reduction commitments. These include general research, research for specific products, pest and disease control, training services, extension and advisory services, inspection services, marketing and promotion services and infrastructural services directed to the provision or construction of capital works only.

- The Green Box also covers expenditures in relation to the accumulation and holding of public stocks for food security purposes, and expenditures in relation to the provision of domestic food aid to sections of the population in need, but any price subsidy component must be accounted for in the Amber Box, i.e. there is a limit on the subsidy that can be provided. The following three conditions must be fulfilled:

(i) First, the volume and accumulation of such stocks are required to correspond to predetermined targets related solely to food security.

(ii) Second, the process of stock accumulation and disposal shall be financially transparent.

(iii) Third, food purchases by the government are required to be made at current market prices and sales from food stocks shall be made at no less than the current domestic market price for the product and quality in question. Further, the expenditure shall not involve direct payments to producers or processors.

- While expenditure on the programmes mentioned above can be categorised under the Green Box only if they do not involve direct payments to farmers or producers, certain types of direct payments can also be included in the Green Box. Decoupled income support can be given directly to farmers and producers provided that the payments are determined by clearly-defined criteria such as income, status as a producer or landowner, factor use or production level in a defined and fixed base period. Further, the amount of such payments in any given year are required to meet two prohibitions. (i) the payment shall not be related to, or based on, the factors of production employed in any year after the base period. (ii) the amount of such payments in any given year shall not be related to, or based on, the type or volume of production (including livestock units) undertaken by the producer in any year after the base period. The basic objective of the two prohibitions is to ensure that decoupled income support does not provide an incentive to enhance production in any year after the base period. However, the argument that using a historical period for determining the eligibility and amount of the subsidy does not distort production and trade is now being questioned. If the farmer knows that the base period will be revised in future, he has an incentive to increase his production in any current year in anticipation of the current year becoming the base period in future.

- Government financial participation in income insurance and income safety-net programmes are included in the Green Box provided that the income loss exceeds 30 per cent of average gross income. Eligibility to be covered by the insurance and safety net scheme is required to relate solely to income and is prohibited from being based on the type or volume of production, or to the prices, domestic or international, or to the factors of production employed.

- The Green Box also covers payment for production loss under crop insurance schemes for relief from natural disasters following a formal recognition by government authorities that a natural or like disaster has occurred. In order to be eligible for payment under crop insurance schemes, the production loss must exceed 30 per cent of the average of production in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry. Payments cannot compensate for more than the total cost of replacing such losses.

OTHER 'EXEMPT' SUPPORT: DEVELOPMENT PROGRAMMES UNDER ARTICLE 6.2

3.12 Measures of assistance (direct and/or indirect) designed to encourage agricultural and rural development and integral to the development programmes of developing countries, are exempt from reduction commitments under Article 6.2 of the Agreement on Agriculture as a special and differential treatment provision for developing countries. These include:

i. investment subsidies which are generally available to agriculture in developing country Members; in other words, eligibility for receiving investment subsidy must not depend on the type of production.

ii. agricultural input subsidies generally available to low-income or resource-poor producers in developing country Members;

  The subsidised inputs could include seeds, irrigation, electricity, fertilisers etc. It may be noted that the AoA does not provide any further guidance on determining low-income or resource poor producers. Further, support under Article 6.2 cannot be targeted to specific crops.

iii. domestic support to producers in developing country Members to encourage diversification from growing illicit narcotic crops.

3.13 Support under Article 6.2 is in the nature of a special and differential treatment provision for developing countries. Governments in developing countries are free to provide any amount of support under Article 6.2, provided that the schemes granting the subsidy meet the requirements contained in that article.

OTHER 'EXEMPT' SUPPORT: BLUE BOX SUPPORT UNDER ARTICLE 6.5

3.14 The third category of support exempt from any ceiling or reduction commitments covers direct payments under production limiting programmes. This is commonly referred to as Blue Box support. Article 6.5 of the AoA provides for the exemption if any one of the following conditions is met:

(i) Such payments are based on fixed area and yields; or

(ii) Such payments are made on 85 percent or less of the base level of production; or

(iii) Livestock payments are made on a fixed number of head.

3.15 It may be noted that this exception is available even if the support is targeted to specific products. This provision was the product of bilateral negotiations between the EEC and the United States and was designed to exempt some of those countries' domestic support programs. It was one of the most important elements of the accord referred to as the Blair House Agreement. It is noteworthy that the rules stipulated only that the payments were to be based on a fixed area and yields and left unspecified the levels at which these might be fixed. This stipulation provided members with an opportunity to fix the base area and yields for direct payments at levels higher than existed, thereby establishing higher levels from which the reductions would have to be made.

AGGREGATE MEASUREMENT OF SUPPORT OR 'AMBER BOX'

3.16 Any domestic support, which is not covered under the categories of Green Box, development subsidies under Article 6.2 or the Blue Box, is categorized as Amber Box support. It includes price support measures and all non-exempt direct payments. The technical term used for Amber Box is Aggregate Measurement of Support (AMS). The rules regarding the calculation of AMS, as contained in Annex 3 of the AoA, are summarised below:

- AMS shall be calculated on a product-specific basis, separately for each basic agricultural product receiving market price support and non-exempt direct payments.

- Support which is not specific to a product has to be totalled into one non-product-specific AMS in total monetary terms. Non-product specific support refers to price support measures and all non-exempt direct payments that are generally available to all basic agricultural products.
- For each basic agricultural product, a specific AMS shall be established, expressed in total monetary value terms.
- The Total AMS for the base period (1986-1988) shall be calculated by adding non-product specific support and product-specific support for all basic agricultural products.
- During the Uruguay Round, in order to establish a basis for reductions in agricultural subsidies, the GATT Contracting Parties calculated the support they had provided to agriculture during the base period of 1986 to 1988. When subsidies exceeded certain levels, Members were required to establish a Base Total Aggregate Measurement of Support (AMS) which was then gradually reduced. A similar approach applies to Members that joined after the Uruguay Round or are in the process of accession. In these cases the base periods are more recent and vary from one Member to another.
- In the case of twenty-eight WTO Members (counting the European Commission as one) which included all developed countries and some developing countries the product-specific support and non-specific support in the base period exceeded the *de minimis* limit and hence had to undertake reduction commitments.

- The total amount constituted the Total AMS in the base period. This was required to be reduced by 20% (13% for developing countries) during 1995-2000 by developed countries (1995-2004 for developing countries).
- There was no requirement to undertake reduction commitments if the product-specific AMS, expressed as a percentage of the value of the production of the relevant product, and the non-product-specific AMS, expressed as a percentage of the value of the entire agricultural production, came to less than the *de minimis* level of 5 per cent (10 percent for developing countries). This was the situation with most of the developing countries. This means that these countries effectively have an AMS limit of zero and can provide non-product specific and product specific support only up to the *de minimis* levels.
- The *de minimis* limit is not a fixed monetary amount, but a percentage of the value of production. It, therefore, depends on the value of production in the relevant year. If the value of production increases, so does the *de minimis* limit.
- For members that did not undertake reduction commitments because their AMS was less than the *de minimis* level, the requirement is that the support must not be provided in excess of the *de minimis* levels separately for product-specific and non-product-specific support.
- Members with no AMS limit (because their AMS was zero) do not have the flexibility of modulating the support on individual products within the total AMS levels.
- In any year of the implementation period, the *current* total AMS value of non-exempt domestic support measures could not exceed the scheduled limit as

specified for that year in the Member country's schedule of commitments. In other words, the maximum levels of such support are bound in the WTO. Once the implementation period of the Uruguay Round ended, the ceiling limit for the last year of the implementation period continues to be the limit for subsequent years. The Doha Round, once concluded, would bring in new limits.

- Members with AMS limits have full flexibility to vary individual support programmes as long as the current Total AMS does not exceed the Total AMS annual commitment level.
- Market price support is to be calculated using the gap between a fixed external reference price (calculated for the base period of 1986-1988) and the applied administered price multiplied by the quantity of production eligible to receive the applied administered price.

IMPLEMENTATION OF THE AGREEMENT ON AGRICULTURE

3.17 As observed by the South Centre "*The historical problems in agriculture continue today. Developed countries with the financial capacity continue to subsidise their farmers and export these agricultural products. This has also been enabled by the Uruguay Round through large AMS entitlements for mostly developed countries ($19 billion for US and now about $95 billion for EU27), as well as the Green Box (Annex 2 of the Agreement on Agriculture).*" (South Centre, 2017).

3.18 Despite the reduction in AMS, the total domestic support under two components - Green Box and AMS - provided by the developed countries has increased significantly over the years (Figure 3.1). This has resulted mainly from the fact while the AMS has declined there has been a significant increase in Green Box support. In the case of the US, Green Box support increased from $ 46 bn. in 1995 to

$ 127 bn. in 2012 (Figure 3.2). As shown in Figure 3, Green Box Support accounted for 75% of total domestic support in the US in 1995, which increased to 90% in 2012. In respect of the EU, Green Box support increased from 19 bn. Euro in 1995 to 68 bn. Euro in 2011 (Figure 4). As shown in Figure 5, Green Box Support accounted for 20% of total domestic support in the EU in 1995, which increased to 86% in 2011.

Figure 3.1: Domestic Support in Selected Member Countries

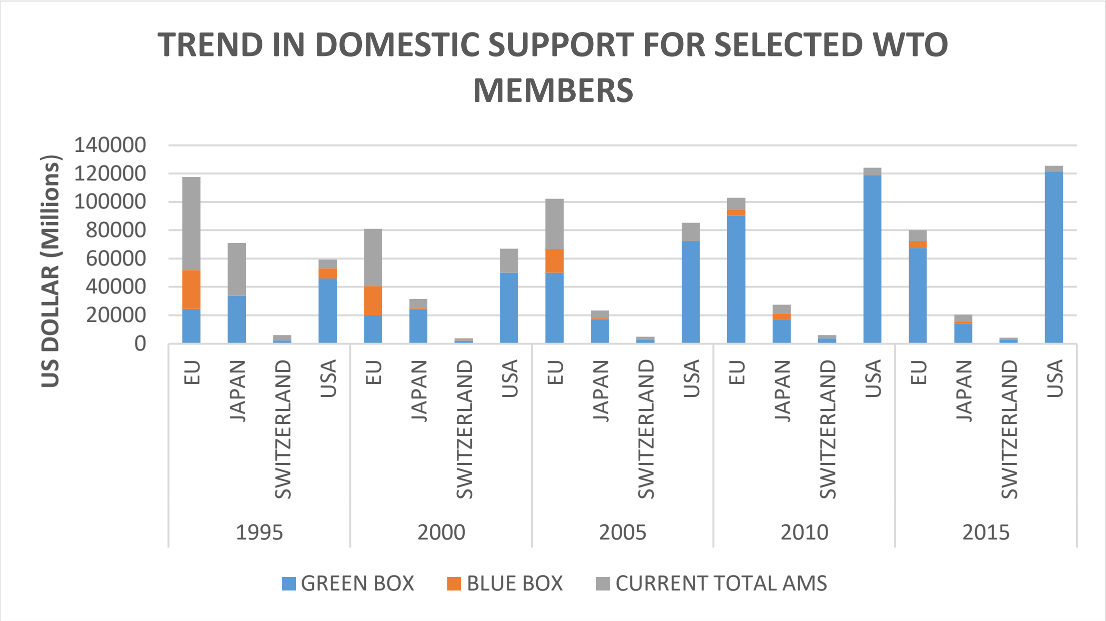


Figure 3.2: US Domestic Support

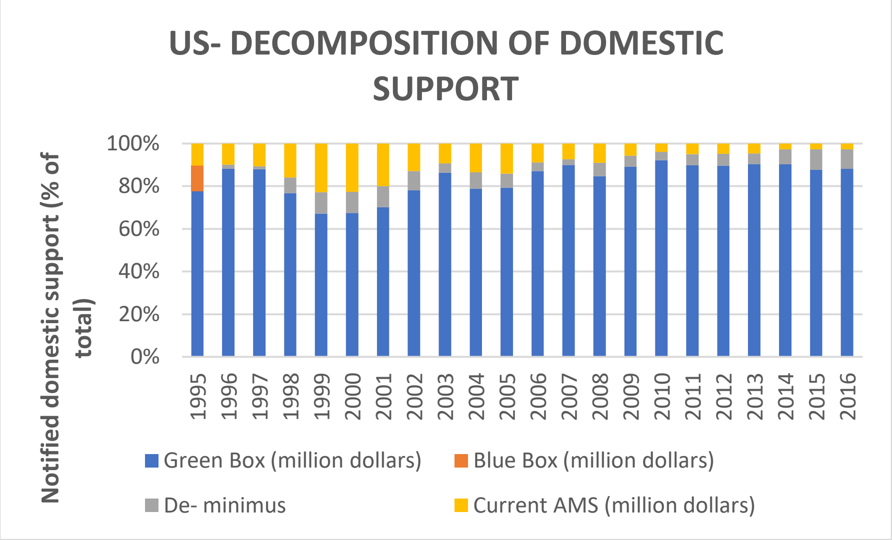


Figure 3.3: EU Domestic Support

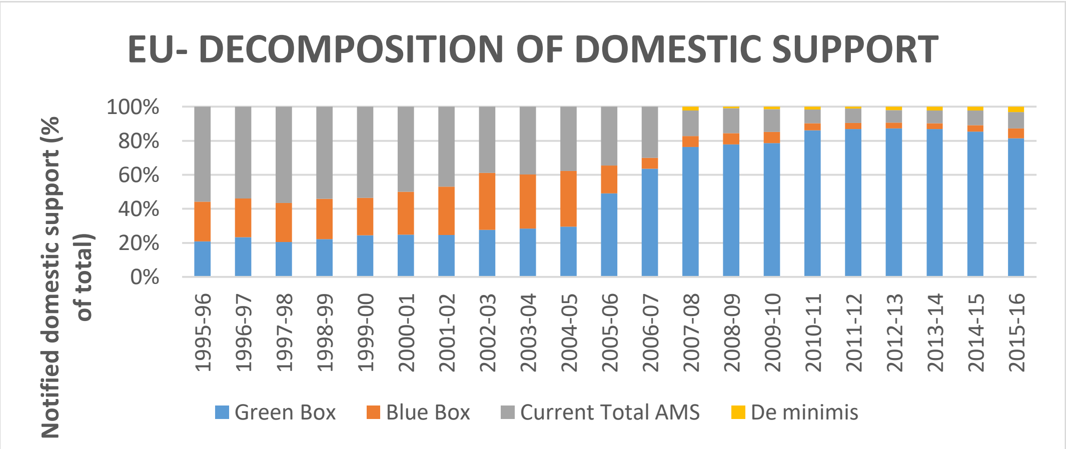


Figure 3.4: AMS and Green Box Support in the US

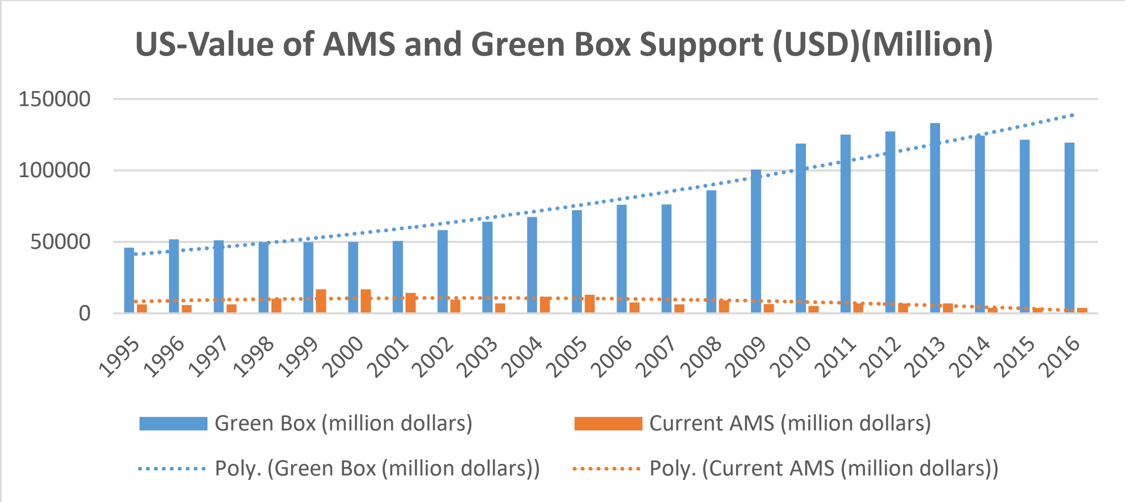
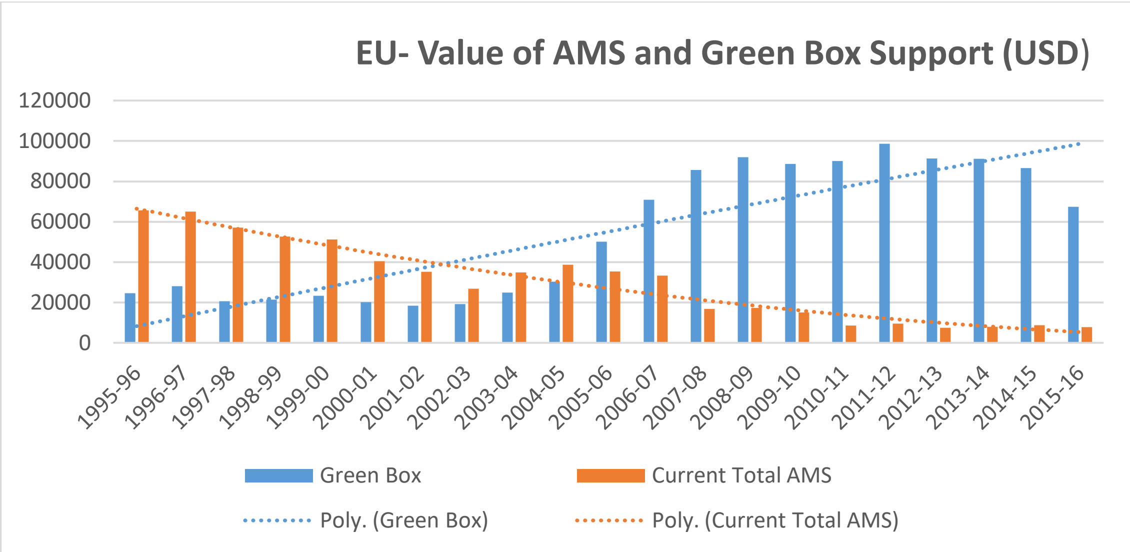


Figure 3.5: AMS and Green Box Support in the EU



EXPORT COMPETITION

3.19 Members maintaining export subsidies were required to undertake reductions both on budgetary outlays and the volume of exports. The AoA provided that during the six-year implementation period the budgetary outlays and the quantities benefiting from export subsidies had to be reduced by 36 per cent and 21 per cent of the 1986 – 90 base period levels, respectively, on the maximum budgetary outlays and quantities of subsidized exports. Developing countries which maintained export subsidies during the base period of 1986-1990 were required to undertake reductions of 24% and 14% respectively for budgetary outlays and quantities of subsidized exports. The base amounts and the annual commitments became part of the schedules of commitments of such countries. As most developing countries did not grant any export subsidies during the base period, they lost the right of granting export subsidies, because there was nothing for them to enter into their schedules, except for transportation and freight export subsidies.

3.20 The AoA commits members to undertake to work toward the development of internationally agreed disciplines to govern the provision of export credits, export credit guarantees, or insurance programs and to abide by these disciplines once an agreement has been reached. Although in the meantime no specific disciplines were agreed regarding export credit, it is clear that export credit practices are covered by the requirement that members must not circumvent their reduction commitments through the use of subsidies not listed in Article 9.1 of the AoA.

3.21 At the 2015 WTO Nairobi Ministerial Conference, WTO members adopted a decision to eliminate agricultural export subsidies and to set disciplines on export measures with equivalent effect. Under this decision, export subsidies were to be eliminated by developed countries immediately, except for a handful of agriculture products, while developing countries have longer periods to do so[17].

DEFICIENCIES AND IMBALANCES IN THE AGREEMENT ON AGRICULTURE

3.22 It is now generally recognized that the AoA contains several asymmetries and imbalances that have been detrimental to the interests of many developing countries. These imbalances feature in all the three pillars – market access, domestic support and export competition. Effectively, these asymmetries allowed the countries that were already distorting markets through high tariffs, non-tariff barriers and high subsidies, to continue to do so by the simple expedient of entrenching such measures in the rules. On the other hand, countries that were more disciplined or simply unable to

[17] www.wto.org

implement such measures due to budgetary constraints, lost forever, the right to protect their farm sectors. The imbalances in the three pillars are elaborated below:

IMBALANCES IN THE MARKET ACCESS PILLAR

Tariffication

3.23 The objective of tariffication was to enhance market access by removing non-tariff barriers. However, by choosing suitable options for tariffication several countries that were maintaining non-tariff barriers converted such measures into high tariff equivalents which impeded market access. As all the developed countries had the flexibility to undertake tariffication, this mechanism worked to the disadvantage of developing countries.

Non-ad valorem tariffs

3.24 WTO members have bound their agriculture tariff lines in a variety of formulations. These broadly include *ad valorem* and non- *ad valorem* basis. Non- *ad valorem* bindings are generally expressed in the following four different formulations[18]:

a) Specific duties: specific units of currency are levied per unit of quantity (e.g., weight, surface, piece, head, etc.);

b) Compound duties: a duty comprising an *ad valorem* duty to which a specific duty is either added or subtracted;

c) Mixed duties: a conditional choice between an *ad valorem* duty and a specific duty, subject to an upper and/or a lower limit;

[18] WTO Document TN/AG/S/11 dated 15 November 2004

d) Other formulations (residual category): duties are determined by complex technical factors. For example, the percentage content of the agricultural component (sugar, milk, alcohol content, etc.) determines the amount of the duty.

3.25 The WTO Secretariat has estimated that 7,977 agricultural tariff lines are bound in non-*ad valorem* (NAV) terms by a total of 34 Members. These lines account for approximately 20 per cent of all the final bound agricultural tariff lines listed in those Members' Schedules. According to some WTO Members, NAV tariffs have been "a form of disguised protectionism in agricultural trade". Table 1 shows the incidence of NAV duties and its break-down by the four type of formulations indicated in the preceding paragraph.

Table 3.1: Incidence of NAV bound duties in agriculture tariff lines

Member	Total number of tariff lines	Of which: non-*ad valorem*		Binding formulation			
		Total number	Per cent	S	C	M	O
1	2	3	*4 = 3/2*100*	5	6	7	8
Australia	725	14	1.9	14	-	-	-
Brunei Darussalam	893	29	3.2	29	-	-	-
Bulgaria	2,204	550	25.0	44	175	205	126
Canada	**1,341**	**404**	**30.1**	**187**	**43**	**161**	**13**
Croatia	1,163	229	19.7	7	36	186	-
Egypt	823	14	1.7	10	-	4	-
EC(15)	**2,205**	**1,010**	**45.8**	**589**	**262**	**54**	**105**
Fiji	696	24	3.4	14	-	2	8
FYR of Macedonia	2,179	305	14.0	-	-	305	-
Georgia	781	26	3.3	15	-	-	11
Haiti	763	91	11.9	37	-	54	-
Iceland	1,604	363	22.6	-	363	-	-
India	697	2	0.3	2	-	-	-
Israel	1,045	2	0.2	1	1	-	-
Jamaica	1,197	2	0.2	2	-	-	-

Japan	**1,344**	**247**	**18.4**	**155**	**46**	**44**	**2**
Jordan	875	7	0.8	-	7	-	-
Korea, Republic of	1,500	68	4.5	-	-	68	-
Kyrgyz Republic	921	47	5.1	5	-	42	-
Malaysia	1,320	346	26.2	117	187	42	-
Mexico	1,083	83	7.7	-	-	83	-
Moldova	783	62	7.9	24	11	27	-
Myanmar	822	9	1.1	9	-	-	-
New Zealand	1,004	10	1.0	10	-	-	-
Norway	**1,060**	**722**	**68.1**	**202**	**-**	**520**	**-**
Papua New Guinea	702	44	6.3	44	-	-	-
Singapore	846	55	6.5	37	-	-	18
Solomon Islands	678	24	3.5	24	-	-	-
Sri Lanka	844	23	2.7	1	-	22	-
Switzerland	**2,179**	**1,940**	**89.0**	**1,938**	**-**	**2**	**-**
Taipei, Chinese	1,379	112	8.1	91	-	21	-
Thailand	774	339	43.8	4	-	335	-
United States	**1,777**	**755**	**42.5**	**597**	**111**	**-**	**47**
Zimbabwe	690	19	2.8	19	-	-	-
TOTAL	**38,897**	**7,977**	**20.5**	**4,228**	**1,242**	**2,177**	**330**
New EC member States							
Cyprus	*2,914*	*2,008*	*68.9*	-	*2,008*	-	-
Latvia	*751*	*8*	*1.1*	*8*	-	-	-
Lithuania	*966*	*112*	*11.6*	*5*	-	*107*	-
Malta	*2,943*	*2,473*	*84.0*	*271*	*2,202*	-	-
Poland	*2,226*	*1,191*	*53.5*	-	*758*	*433*	-
Slovenia	*2,303*	*561*	*24.4*	-	*561*	-	-
TOTAL	***12,103***	***6,353***	***52.5***	***284***	***5,529***	***540***	**-**

S- Specific; C – Compound; M- Mixed; O - Others

Source: WTO Document TN/AG/S/11

3.26 From the table, the following may be observed:

(i) 53 per cent of the NAV lines are bound in specific terms, 16 per cent in compound terms, 27 per cent are mixed tariffs, and 4 per cent fall in the "other" residual category.

(ii) Switzerland and Norway have more than two-thirds of their agriculture tariff lines bound on NAV basis.

(iii) Although the overall incidence of NAV lines in the residual category is low, the complex tariffs, particularly in respect of EC and US, make the operation of customs duties unpredictable and non-transparent.

3.27 The high incidence of NAV tariffs in the developed countries results in considerable non-transparency in the application of customs duties, e.g. in Canada (30%); EU (46%); Norway (68%); Switzerland (89%); and USA (42%).

Special Safeguards

3.28 The AoA provides flexibility to WTO members to restrict imports of agricultural products by imposing special safeguard duties in the event of a surge in imports or a fall in the price of imports, above specified thresholds. The special safeguard measures (SSG) are in addition to the general safeguard measures covered by Article XIX of GATT 1994 and the Agreement on Safeguards. General safeguard measures can be taken only if there is serious injury or threat thereof to the domestic industry. However, SSG can be applied without demonstrating any adverse effect on domestic production. The initial conditions for a WTO member to apply SSG include the following:

(i) tarrification has been done in respect of the product;

(ii) a symbol “SSG” has been marked by the Member against the particular product in its Uruguay Round schedule of commitments.

There were no restrictions on the number of agriculture tariff lines which could be designated by WTO Members for the application of SSG.

Table 3.2: Percentage of agriculture tariff lines covered by SSG

Member	***Number of tariff***	***Percentage of agricultural***	***Member***	***Number of tariff items***	***Percentage of agricultural***

	items	*tariff lines covered by SSG*			*tariff lines covered by SSG*
Australia	10	2	***Mexico***	293	29
Barbados	37	17	***Morocco***	374	26
Botswana	161	36	***Namibia***	166	39
Bulgaria	21	7	***New Zealand***	4	0
Canada	**150**	**10**	***Nicaragua***	21	8
Ch. Taipei	84	8	***Norway***	**581**	**49**
Colombia	56	27	***Panama***	6	0
Costa Rica	87	13	***Philippines***	118	13
Czech Republic	236	13	***Poland***	144	66
Ecuador	7	1	***Romania***	175	7
El Salvador	84	10	***Slovak***	114	13
EC (15)	**539**	**31**	***South Africa***	166	39
Guatemala	107	15	***Swaziland***	166	39
Hungary	117	60	***Switzerland***	**961**	**59**
Iceland	462	40	***Thailand***	52	11
Indonesia	13	1	***Tunisia***	32	4
Israel	41	4	***USA***	**189**	**9**
Japan	**121**	**12**	***Uruguay***	2	0
Korea	111	8	***Venezuela***	76	31
Malaysia	72	5			

Source: WTO document TN/AG/S/12

- Overall 39 WTO members, both developed and developing countries, could invoke SSG on a total number of 6,156 tariff lines. Countries such as Poland, Hungary, Switzerland-Liechtenstein and Norway, could potentially have invoked SSG in respect of almost half of their agriculture tariff lines.

- While all categories of agriculture products are covered by SSG, four categories – oilseeds, fats and oils; cereals; fruits and vegetables; and animals and products thereof - comprise almost two- thirds of the tariff lines (at the 4-digit heading) in respect of which SSG could be invoked.

- The percentage coverage of agriculture tariff lines as SSG in some of the WTO Members is as follows: Canada (10%), EC (31%), Japan(12%), Norway (49%), Switzerland (59%), Iceland (40%) and US (9%).
- An analysis of application of SSG by WTO Members during the period 1995-2011 shows that it is mainly the developed countries which have resorted to this measure. EC, Hungary, Japan, Poland and US accounted for nearly 82% of the SSG measures imposed during 1995-2011.

3.29 Prior to the AoA, developed countries used non-tariff measures to protect their farmers. After the implementation of the AoA, the SSG became another instrument for achieving the same objective. On the other hand, developing countries who were not protecting their farmers through non-tariff measures, could not acquire the right to protect their farmers through SSG.

IMBALANCES IN THE DOMESTIC SUPPORT PILLAR

AMS Limits

3.30 As all the developed countries had high subsidies in the base period, they became entitled to AMS limits. Consequently, they acquired the right to provide domestic support beyond their *de minimis* limits. On the other hand, most of the developing countries granted low amounts of domestic support in the base period and hence had zero entitlement to AMS beyond *de minimis*. The result is that those who were distorting the agricultural markets through high subsidies prior to the AoA, acquired the right to continue to do so even after implementation of the AoA. On the other hand, those who were more disciplined or had budgetary constraints, lost the right to provide high subsidies in future.

3.31 It may be noted that although some developing countries have AMS limits, these are extremely low compared to the AMS limits of the developed countries (Table 3). While the AMS for none of the developing country exceeds $ 1 bn., the developed countries have extremely high AMS: EU (67 bn. Euro), USA ($ 19 bn.). Overall, 97 per cent of the final AMS commitment levels in 2000 accrued to developed country members. There is, therefore, a stark imbalance in the AoA with developed countries being entitled to high AMS limits and most of the developing countries having zero AMS beyond their *de minimis*.

3.32 It could be argued that the imbalance and asymmetry in the AoA against the developing countries is mitigated by the fact that the developing countries have a higher *de minimis* -10% - as compared to the developed countries - 5%. However, as shown in Table 3, if the AMS limits of developed countries are expressed as a percentage of their value of production, the corresponding figures are significantly higher than the 10% *de minimis* limit for developing countries. Most of the developing countries can provide domestic support upto 20% of their value of production (10% *de minimis* for product-specific support and another 10% *de minimis* for non-product specific support). On the other hand, Norway (50%), Japan (48%) and EU (38%) have acquired significantly higher entitlements on account of being able to subsidise beyond their *de minimis* and upto their AMS entitlement.

Table 3.3: AMS limits as a Percentage of the Value of Production

Member	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Canada	17	17	16	16	15	13	13	13	13	13	13	12	10	9	10
EU	38	35	-	34	30	28	27	28	25	24	25	23	21	20	22
Japan	46	45	45	43	44	44	45	44	45	46	47	48	47	46	48
Norway	no production data available										50	50	47		

USA	12	11	11	11	11	10	10	10	9	8	8	8	6	6	7

3.33 Undertaking reduction commitments implied that members with AMS limits had the possibility of modulating the extent of reduction on individual products while complying with the requirement to make overall reductions. In other words, the extent of reduction could be varied: on some products members could reduce AMS by a lower percentage, or not reduce it at all, or even effect an increase, as long as, in overall terms, they achieved the agreed reduction of 20 percent. There was no requirement to reduce the product-specific AMS by a specified minimum, as there was in the case of tariff reduction on individual tariff lines. This provides yet another instance of imbalance in the AoA.

Product-specific Support

3.34 Most of the developing countries cannot provide product-specific Amber Box support exceeding 10 percent of the value of production of the agricultural product concerned. On the other hand, all developed countries and some developing countries can provide support well beyond10 percent of the value of production of the agricultural product concerned. Theoretically speaking, the product-specific support on any product can be as high as the AMS limit. This provides significant flexibilities to these countries to provide support to their agriculture, thereby distorting production and trade. The flexibilities include the following: (i) providing significantly high amount of subsidies compared to the value of production of the concerned products; (ii) concentrating the subsidies in a few products; and (iii) changing the products in respect of which the subsidies are concentrated. The impact of these flexibilities include the following: (i) surge in exports of subsidised products from developed countries into the markets of developing countries, thereby threatening farm livelihoods in developing countries; (ii) impeding exports from developing countries into the markets of developed countries; and (iii) impeding exports from developing countries into the markets of third countries in which exports from developed countries also compete with exports from developing countries.

3.35 From an analysis of the domestic support notifications of a few WTO members, it is evident that in many products, the product-specific support is an extremely high proportion of the value of production of the concerned product[19]. In certain instances it even exceeded the value of production of the product concerned. It is evident that not only are the farmers in these countries getting subsidies in excess of the value of production of the product concerned, but also in certain cases the subsidies are twice the value of production. Another distortion arises from the fact that countries with AMS limits have the flexibility to concentrate the subsidies on just a few products, as reproduced below from WTO restricted document JOB/AG/102 dated 18 July 2017.

United States

- *In respect of 30 products, the product-specific support was 10%, or more, of the value of production of the concerned product in at least one year during the period 1995-2014.*
- *Some of the products with subsidies exceeding 50% of the value of production include the following: dry peas (57%); rice (82%); canola (61%); flaxseed (69%); sunflower (65%); sugar (66%); cotton (74%); mohair (141%), and wool (215%).*

[19] WTO Document JOB/AG/102 dated 18 July 2017 (restricted document)

- *Mohair (11 years), wool (12 years), dairy (15 years) and sugar (20 years) are products that have consistently benefitted from very high level of subsidies as a percentage of value of production.*

- *In respect of mohair and wool in some years the product-support exceeded even the value of production.*

- *In seven out of 20 years more than 50% of the total product-specific support was concentrated in just one product – dairy.*

- *In certain years more than 90% of the total product-specific support was concentrated in just two products–dairy and sugar.*

European Union

- *In respect of 43 products, the product-specific support was 10%, or more, of the value of production of the concerned product in at least one year during the period 2000-2013.*

- *Some of the products with subsidies exceeding 50% of the value of production include the following: butter (71%); skimmed milk powder (67%); apples (68%); courgettes (51%); cucumber (86%); lemon (60%); pear for processing (82%); tinned pineapple (108%); tomatoes for processing (61%); rice (66%); olive oil (76%); white sugar (120%); tobacco (155%), and silkworms (167%).*

- *Barley (ten years), common wheat (nine years) and tobacco (9years) are products that have consistently benefited from very high level of subsidies as a percentage of value of production.*

- *In respect of tinned pineapple, white sugar, tobacco, cotton and silkworms in some years the product-support exceeded even the value of production.*

- *In respect of butter the value of production was not provided in EU's Domestic Support notifications for recent years.*
- *There is considerable concentration of product-specific support, in the range 38%-40%, in butter during 2010-2013.*
- *During 2010-2013, 64%-68% of the total product-specific support was accounted for by just two products – butter and common wheat.*

Canada

- *In respect of seven products, the product-specific support was 10% of the value of production, or more, of the concerned product in at least one year during the period 1995-2013.*
- *Milk (14 years), sheep meat (nine years) and corn (five years) are products that have consistently benefited from very high level of subsidies as a percentage of value of production.*
- *In respect of tobacco in 2009 the product-support was more than thrice the value of production.*
- *In eight years during the period 1995-2013, more than 50% of the total product-specific support was concentrated in just one product – milk. In 1997 it was as high as 73%.*

Green Box

3.36 It is important to note that many of the provisions of Annex 2 of the AoA (i.e. Green Box support) were formulated to allow developed countries to continue providing subsidies without any limit. In fact, to achieve the same policy objective, Annex 2 appears to discriminate between different policy instruments. To illustrate, to achieve the objective of food security and fighting hunger, countries are permitted to provide unlimited amount of direct food aid. This provision allows the US to provide unlimited subsidy through its Food Stamp scheme. On the other hand, developing countries are constrained by their *de minimis* limit in providing support for food security through public stockholding programmes.

Blue Box

3.37 WTO members are permitted to provide unlimited amounts of Blue Box subsidies. However, the implementation of the AoA makes it clear that these provisions have been mainly used by the EU and in a few years by the US. Developing countries have not resorted to Blue Box subsidies. Given the shortage of food production in developing countries, it seems unlikely that they will provide subsidies to limit production. Thus, the AoA resulted in a category of domestic support that can be used by the developed countries without any limit. On the other hand, it is unlikely that developing countries will utilize this type of subsidy.

IMBALANCES IN THE EXPORT SUBSIDIES PILLAR

3.38 The imbalance and asymmetries in the provisions on export subsidies in the AoA are similar to those in respect of domestic support. Countries that were providing high export subsidies in the base period of 1986-1990, acquired the right to continue to provide export subsidies in future. On the other hand, most of the developing countries did not provide export subsidies during the base period. As a result, they are unable to provide export subsidies.

***

ANNEX 1

PRODUCT COVERAGE

1. This Agreement shall cover the following products:

(i) HS Chapters 1 to 24 less fish and fish products, plus*

(ii)	HS Code	2905.43	(mannitol)
	HS Code	2905.44	(sorbitol)
	HS Heading	33.01	(essential oils)
	HS Headings	35.01 to 35.05	(albuminoidal substances, modified starches, glues)
	HS Code	3809.10	(finishing agents)
	HS Code	3823.60	(sorbitol n.e.p.)
	HS Headings	41.01 to 41.03	(hides and skins)
	HS Heading	43.01	(raw furskins)
	HS Headings	50.01 to 50.03	(raw silk and silk waste)
	HS Headings	51.01 to 51.03	(wool and animal hair)
	HS Headings	52.01 to 52.03	(raw cotton, waste and cotton carded or combed)
	HS Heading	53.01	(raw flax)
	HS Heading	53.02	(raw hemp)

2. The foregoing shall not limit the product coverage of the Agreement on the Application of Sanitary and Phytosanitary Measures.

*The product descriptions in round brackets are not necessarily exhaustive.

CHAPTER 4: INDIA'S WTO COMMITMENTS AND THEIR EFFECT ON ITS AGRICULTURAL TRADE - 1995-2017

India's commitments and obligations under the WTO rules are explained in the subsequent paragraphs.

MARKET ACCESS (FAO, 2003)

TARIFF BINDINGS

4.1 In India quantitative restrictions were in place on agricultural imports for Balance of Payment (BOP) reasons. Following the Uruguay Round India only had to bind its tariffs and schedule the bound rates. India did not have any obligation to reduce these ceiling bindings during the implementation period of the Uruguay Round. India submitted ceiling bindings ranging from 15 percent upto 300 percent. The distribution of final bound tariffs is indicated in Table 4.1.

Table 4.1: Distribution of final bound tariffs on agricultural products

Range	Distribution of tariff lines	Simple average bound tariff
(%)	(%)	(%)
0 -25	3.8	18.8
> 25 ≤50	6.4	40.0
> 50 ≤75	4.3	59.2
> 75 ≤100	49.3	99.3
> 100 ≤150	32.5	150.0
> 150≤ 300	3.8	300.0
All	690	114.8
	(100.0)	

Source: Developed by FAO from World Trade Organization and Government of India *Customs Tariff of India* (FAO, 2003).

4.2 However, in the earlier rounds of negotiations, tariffs had been bound at zero on a number of products such as rice, dairy products and coarse grains. India initiated negotiations with its trading partners under Article XXVIII of GATT and renegotiated new bound tariffs (FAO, 2003). Bound tariffs were raised from zero to 60 percent on dairy products, from 40 percent to 50 percent on apples, from zero to between 70 and 80 percent on cereals, from 45 percent to 75 on rape, colza or mustard oil; and from 17.5 percent to 50 percent on preparations for infant use.

4.3 In exchange, bound rates of tariffs for some items had to be lowered. These included items such as vegetables (peas), fruits (oranges, lemons, grapefruit, pears and quinces, prunes), malt, chewing gum, fruits juices (orange juice) and industrial fatty alcohols (FAO, 2003). About 82 percent of tariff lines have bound rates which range between 75 percent and 150 percent. Approximately 4 percent of tariff lines have bound tariffs of 300 percent.

4.4 In addition, during the re-negotiations to raise zero bound rates, India had to grant a few concessions, which led to the establishment of tariff rate quotas for five commodities (Table 4.1).

Table 4.2: India's TRQs

Section No.	Product	TRQ (tonnes)	In-quota tariff (%)
1.	Skimmed milk powder - in powder granular form of fat content not exceeding 1.5 percent	10 000	15
2.	Skimmed milk powder - not containing added sugar or other sweetening material	10 000	15
3.	Maize (other)	350 000 - 450 000	15
4.	Rape, colza or mustard oil, other	150 000	45
5.	Sunflower seed or safflower oil and fractions thereof	150 000	50

Source: Government of India (2000)

4.5 In contrast to India’s high bound tariffs, the actual applied rates of tariffs on most agricultural products are quite low (Table 4.2). The distribution of applied tariffs illustrates that, for a little over 89 percent of tariff lines, the applied rates are either below or equal to 50 percent. The applied rates of duties range between 50 and 100 percent on only about 8 percent of the tariff lines. The applied rates are more than 150 percent on only 2.3 percent of items, mainly alcoholic beverages [FAO, 2003 (updated)]. The tariffs by product groups are indicated in Table 4.3.

Table 4.3: India's Bound and Applied Tariffs

		Total	Ag	Non-Ag
Simple average final bound		48.5	113.5	34.6
Simple average MFN applied	2017	13.8	32.8	10.7
Trade weighted average	2016	7.5	34.8	5.5
Imports in billion US$	2016	375.2	26.3	348.9

Table 4.4: Tariffs by Product Groups

	Final Bound Duties		**MFN Applied Duties**	
Product groups	**Average**	**Max**	**Average**	**Max**
Animal products	106.1	150	31.1	100
Dairy products	65.0	150	33.5	60
Fruit, vegetables, plants	100.0	150	29.4	100
Coffee, tea	133.1	150	56.3	100
Cereals & preparations	115.3	150	31.3	150
Oilseeds, fats & oils	169.7	300	34.0	100
Sugars and confectionery	124.7	150	35.9	60
Beverages & tobacco	120.5	150	69.5	150
Cotton	110.0	150	6.0	30
Other agricultural products	104.8	150	22.3	70

Dismantling of quantitative restrictions on imports

4.6 As a consequence of the ruling in a dispute filed by the US against India, an agreement was signed between the two countries under which India agreed to abolish all the remaining QRs that were being maintained because of BOP reasons by April 2001. While these negotiations were taking place with the members of the WTO, India started the process of removing QRs on imports unilaterally. After the agreement between India and the United States, dismantling of the remaining QRs on 2714 items was completed in April 2001.

DOMESTIC SUPPORT

4.7 India did not have any agricultural support of the nature that was required to be reduced during the period prior to 1.1.1995, i.e. the date of establishment of the WTO. Under the AoA, therefore, India did not have any reduction commitments. But this does not mean that India has no obligations. In the case of Members like India, without reduction commitments, any domestic support not covered in the exempted categories under the AOA, must be maintained within "product-specific" and "non-product-specific" *de minimis* levels. Putting it another way, it also means that while Members who had reduction commitments in the Uruguay Round can continue to provide support upto the scheduled limit of the last year of the Uruguay Round implementation period, others have to remain within the *de minimis* limits.

4.8 Thus, there are three categories of 'exempt' support available to India under the AOA:

- Green Box
- Article 6: Development Programmes
- *De Minimis*

GREEN BOX PROGRAMMES

4.9 India has a number of programmes under the Green Box category, which include pest and disease control programmes, training services, extension and advisory services, buffer stock operations etc. The last item is a major component of our Green Box support.

4.10 An important part of India's agricultural support regime is its Minimum Support Price (MSP) operations. Under the *de minimis* provisions in Article 6.4(b) of the AOA (explained above), as a developing country, India is entitled to provide 10% of the total value of production of a basic agricultural product as product specific support and 10% of the value of total agricultural production as non-product specific support.

4.11 Paragraph 3 of Annex 2 of the AoA, which deals with public stockholding for food security purposes, read along with paragraph 8 of Annex 3 of the AoA implies that the price paid for procurement of any agricultural commodity (e.g. rice or wheat) for building up public stocks of that commodity will count towards its product specific *de minimis* entitlement of 10%. The deemed subsidy component of India's Minimum Support Price operations thus has to be accounted for in our *de minimis* entitlement. The deemed subsidy component is calculated according to the following formula:

Product Specific Subsidy for MSP operations = (Procurement Price per unit-External Reference Price per unit) x Volume of production eligible for procurement

4.12 The External Reference Price (ERP) in the above formula is the average export or import price for the period 1986-88 and for wheat and rice for India it is \$264 and \$262.5 per metric tonne respectively. With the ERP being fixed, the quantum of subsidy resulting from the above formula depends on 2 variables, *viz*. the procurement price per unit and the volume of production eligible for procurement. The higher the MSP or greater the procurement, the higher is the subsidy component.

INPUT OR INVESTMENT SUBSIDIES

4.13 As a developing country, under Article 6.2 of the AOA, India is entitled to provide *"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".* The input subsidies provided to our farmers are mainly in the form of subsidized seeds, fertilizers and pesticides, and waivers of electricity dues and water charges. To the extent that the subsidies under each of these heads goes to the low income or resource poor producers, they are exempt from AMS calculations in terms of Article 6.2 of the AOA.

INDIA'S AGRICULTURAL TRADE

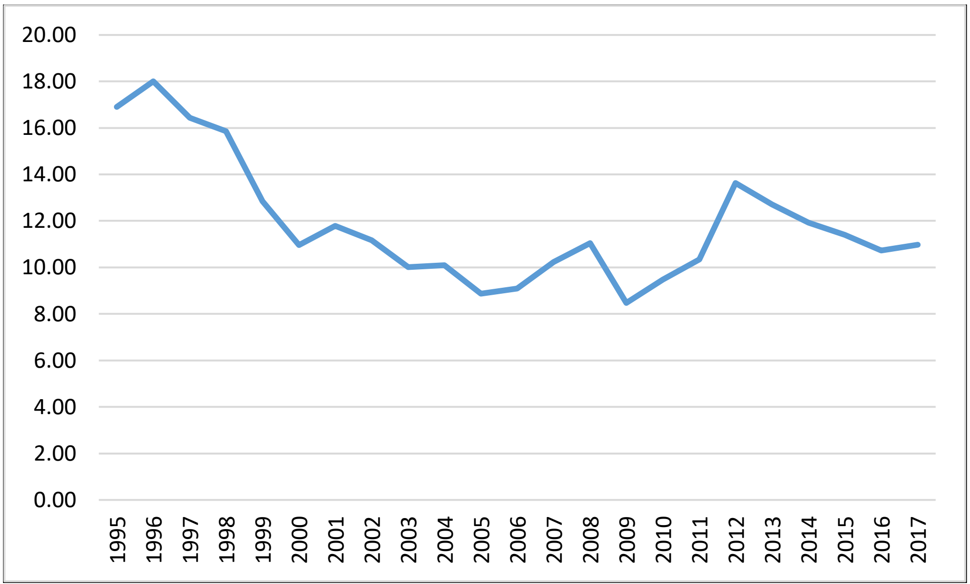
4.14 India's participation in global agricultural trade is on the increase. According to the Ministry of Agriculture and Farmers Welfare (Annual Report, 2017-18), India has emerged as a significant agri exporter in a few crops viz. rice, cotton, sugarcane, cashew nut, castor seed and groundnut. Agricultural exports as a percentage of agricultural GDP has come down from 13.56% in 2012-13 to 9.90% in 2015-16. During the same period, agricultural imports as a percentage of agricultural GDP has increased from 5.71% to 6.45%. Table 4.4 and Figure 4.5 indicate that the share of India's agriculture exports in its total exports has been fluctuating.

Table 4.5: Share of India's Agriculture Exports in its Total Exports (Selected Years)

	1995	2000	2005	2010	2015	2016	2017
India's Agriculture Exports (USD billion)	5.36	4.64	8.90	20.88	30.15	27.92	32.31
India's Total Exports (USD billion)	31.70	42.36	100.35	220.41	264.38	260.33	294.36
Share of India's Agriculture Exports in its Total Exports (%)	16.90	10.97	8.87	9.47	11.40	10.73	10.98

Source: WITS Database

Figure 4.1: Share of India's Agriculture Exports in its Total Exports (%)

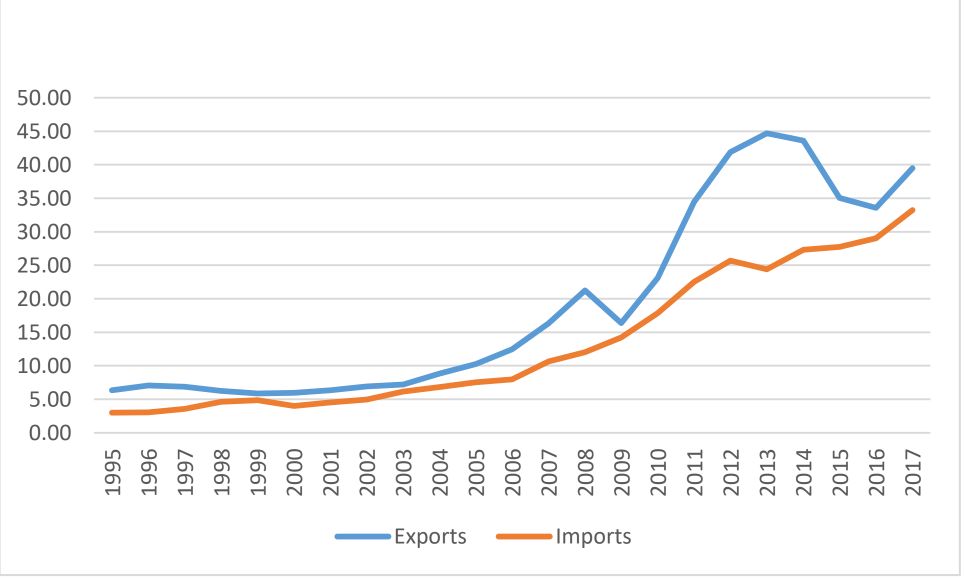


4.15 On the other hand, India's participation in global agricultural trade has been rising steadily as indicated in Table 4.5 and Figure 4.6. In fact, India is among the top 10 agricultural exporters in the world.

Table 4.6: India's agricultural trade with the world (USD billion)

Year	**1995**	**2000**	**2005**	**2010**	**2015**	**2016**	**2017**
Exports	6.32	5.95	10.27	23.11	35.04	33.55	39.50
Imports	3.00	3.99	7.52	17.86	27.72	29.03	33.25

Figure 4.2: India's agricultural trade with the world (USD billion)



4.16 Table 4.7 below indicates the agricultural domestic support provided by India as notified to the WTO. India is a major use of Article 6.2 type of subsidies, as may also be seen in Table 4.8. Compared with Brazil and Indonesia (Figure 4.3), India provides much more support by way of Article 6.2 support and this has also been increasing over the years. China, which joined the WTO in 2001, does not have recourse to this category of agricultural domestic support.

Table 4.7: India's Notified Agricultural Domestic Support

(in US$ million)

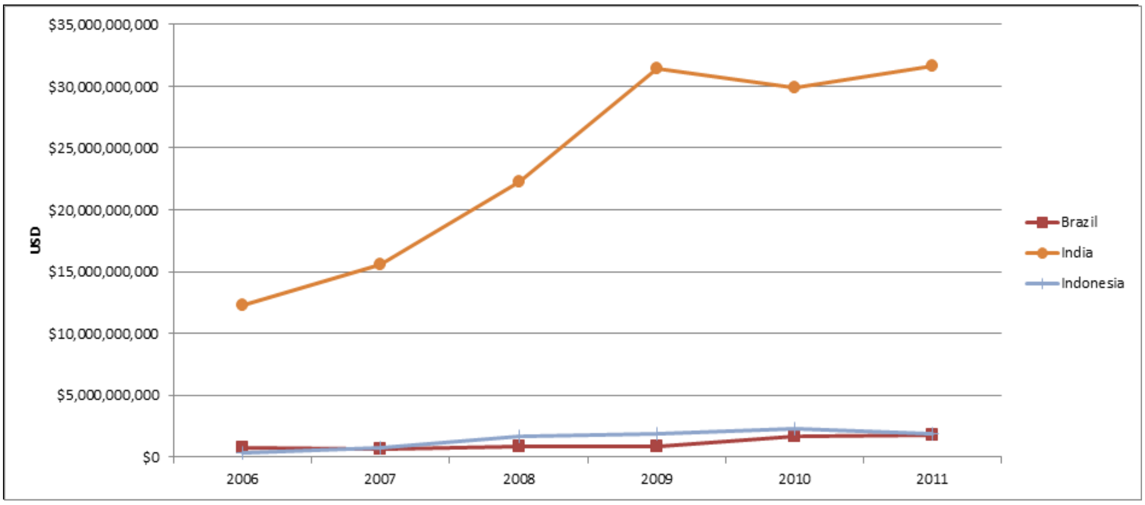
Category/Product	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**
Green Box	5,907.3	6,493.0	9,566.5	16,927.5	17,381.2	19,479.1
General services	488.4	648.1	821.5	872.2	776.3	1,124.4
Research, including general research	267.84	355.12	410.53	444.99	420.74	567.75
Pest and disease control	32.91	32.36	38.22	40.29	38.4	75.11
Training services	15.45	15.94	9.84	8.75	6.78	8.09
Extension and advisory services	43.54	53.26	67	70.9	67.32	115.47
Marketing and promotion services	30.59	30.56	41.55	33.41	29.82	33.23
Infrastructural services	98.04	160.86	254.34	273.84	213.21	324.75
Public stockholding for food security purposes	5,211.43	5,639.67	7768.31	9495.13	12282.25	13812.46
Direct payments	207.5	205.2	976.7	6,541.2	4,309.4	4,527.5
Payments for relief from natural disasters	174.78	154.89	199.86	174.06	329.7	693.26
Investment aids	21.35	16.9	443.33	6001.3	3587.3	3264.19
Environmental programmes	11.35	33.45	333.5	365.87	392.39	570
Art. 6.2	12,316.2	15,536.1	22,311.6	31,458.7	29,857.3	31,610.3
Investment subsidies generally available to agriculture	485.13	628.69	1134.93	1465.94	1614.07	2530.09
Input subsidies generally available to low-income or resource-poor producers	11,824.22	14899.17	21169.11	29979.67	28230.06	29063.97
Product-specific AMS/EMS (ST/DS:4 to DS:8) (Re millions)						
Rice Market Price Support	*-1,919.1*	-1420.97	432.82	1058	1724	2282
Rice *de minimis*	*1,833.0*	2085	2691	2915	2853	3160
Wheat Market Price Support	-1566	-704.06	-174	-662	-813	-162
Wheat *de minimis*	1213	1633	2038	1989	2177	2231
Cotton Market Price Support	-68.99	-49.39	-6.64	243.14	6.95	0

Cotton *de minimis*	427	523	735	663	759	1016

Table 4.8: Notified Article 6.2 Support

						(USD billion)
	2006	**2007**	**2008**	**2009**	**2010**	**2011**
Brazil	0.76	0.64	0.90	0.87	1.65	1.74
India	12.32	15.54	22.31	31.46	29.86	31.61
Indonesia	0.36	0.74	1.67	1.92	2.26	1.87
Source: WTO Document JOB/AG/69 or Document No. G/AG/W/150 dated 4 May 2016						

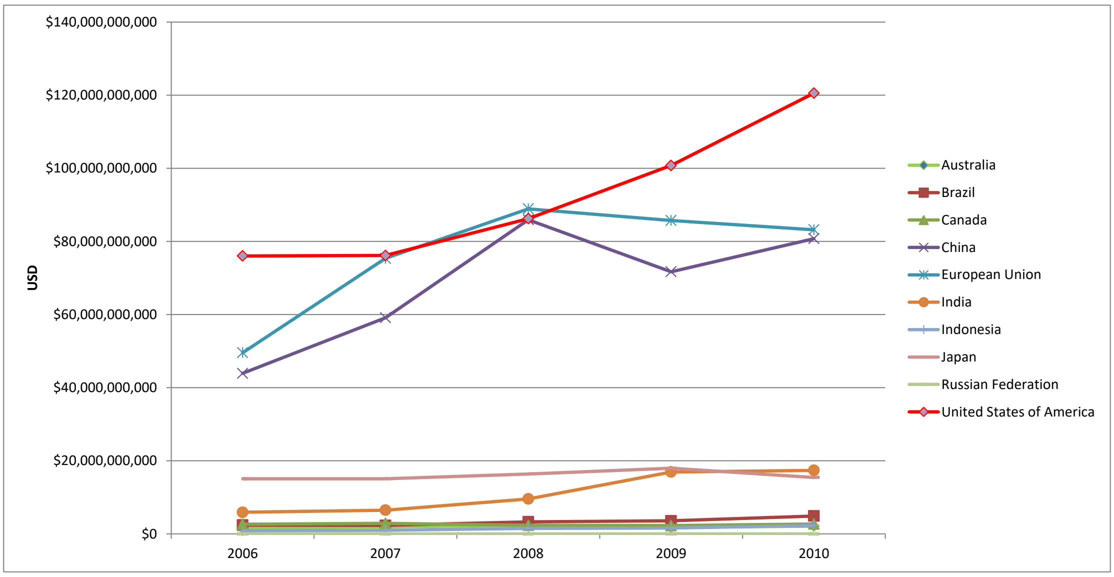
Figure 4.3: Notified Article 6.2 Support 2006-2011



Source: WTO Document JOB/AG/69 or Document No. G/AG/W/150 dated 4 May 2016

4.17 However, the figures for Green Box support reveal a different picture. Figure 4.8 shows the large gap between the Green Box support provided by the EU and the US and India.

Figure 4.4: Notified Green Box Support



Source: WTO Document JOB/AG/69 or Document No. G/AG/W/150 dated 4 May 2016

CHAPTER 5: AOA UNDER THE WTO: EMERGING SCENARIO

The WTO is facing multiple challenges. Given the slow progress under the Doha Round and the lack of consensus on how to move forward, WTO's negotiating arm is almost paralysed.

5.2 In November 2001, following up on the Doha Ministerial Declaration, WTO members launched an ambitious Work Programme covering negotiations on agriculture, Non-Agricultural Market Access (NAMA), services, dispute settlement, antidumping duties, subsidies, etc. During 2004 to 2008 considerable progress was achieved on the broad framework of rules (commonly referred to as 'modalities') for determining further specific commitments by the WTO Members, and their rights, in different areas of negotiations. While convergence existed on most of the issues, however, no consensus could be achieved on certain specific issues in the modalities related to Agriculture and Non-Agriculture market Access.

5.3 During 2008 and 2013, the Doha negotiations remained in a state of dormancy. However, during the Ninth Ministerial Meeting of the WTO held in Bali in December 2013 the negotiation on an Agreement on Trade Facilitation was concluded. This agreement has now been implemented by the WTO members.

5.4 In another important development, at Bali the WTO Members agreed to put in place an interim mechanism, and to negotiate on an agreement for a permanent solution, for the issue of public stockholding for food security purposes for adoption by the Eleventh Ministerial Conference. It was further agreed that in the interim, until a permanent solution is found, and provided that certain conditions are met, Members shall refrain from challenging through the WTO Dispute Settlement Mechanism, compliance of a developing Member with some of its obligations under the Agreement on Agriculture (AoA) in relation to support provided for traditional staple food crops in pursuance of public stockholding programmes for food security purposes existing as of the date of this Decision. This Decision (commonly referred to as the 'Peace Clause'), read in conjunction with a subsequent decision of the General Council in November 2014, permits developing countries to procure foodstuffs for public stockholding programmes, even if the domestic support that is attributable to the procurement exceeds the ceilings specified in the AoA. However, certain conditions have to be complied with, in order to resort to the Peace Clause.

5.6 During the Tenth Ministerial Conference of the WTO held at Nairobi in December 2015, WTO Members failed to reaffirm their commitment to the Doha mandate and to complete the Doha negotiations. While the majority of the Members (including India) were in favour of such reaffirmation, a few Members (mostly the developed countries) opposed the reaffirmation of the Doha mandate. While there is no explicit reaffirmation of the Doha mandate, at the same time the Doha Round was not explicitly concluded.

5.7 During the Eleventh Ministerial Conference of the WTO held at Buenos Aires (MC11) in December 2017, there was no consensus on most of the issues. Consequently, the meeting concluded without even a ministerial declaration. This has further weakened the negotiating function of the WTO.

5.8 At MC11 while some countries wanted to initiate negotiations on "new issues" issues such as electronic commerce, investment facilitation, this was opposed by many developing countries. Instead, there were joint statements by some countries on the contentious new issues. These joint statements are not multilateral outcomes, as these did not enjoy consensus of the WTO membership. But these joint statements may be one step forward in engaging on issues in the plurilateral mode, instead of the multilateral mode.

Status of Agriculture Negotiations

5.9 In the agriculture negotiations, WTO Members discuss the formulas and other methods or "modalities" to be used to cut tariffs on agricultural products and agricultural subsidies. These would be applicable to the agricultural products listed in Annex 1 of the AOA. This covers all basic agricultural products and also the products derived from them as well as all processed agricultural products. Also included are wines, spirits, tobacco products, fibres such as cotton, wool and silk and raw animal skins for leather production. Fish and fish products and forestry products are not included.

5.10 The three main elements or "pillars" of the AOA and the negotiations are: (i) market access, (ii) domestic support and (iii) export competition. The Doha Ministerial Declaration of November 2001 committed Members to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. Special and differential treatment for developing Members is also intended to be an integral part of the modalities.

5.11 The main coalition groups in the agriculture negotiations are the G-20, the G-10, the G-33, the Cairns Group, the African Group, the African-Caribbean-Pacific (ACP) Group and the Cotton-4. Other groupings include the group of small and vulnerable economies (SVEs), least developed countries (LDCs) and the Tropical Products group.

5.12 India is a member of the G-20 and G-33. The G-20, led by Brazil, is a coalition of developing countries pressing for ambitious reforms of agriculture in developed countries with some flexibility for developing countries. The G-33, led by

Indonesia, is spearheading the developing country effort to arrive at satisfactory modalities on Special Products and the Special Safeguard Mechanism.

MARKET ACCESS

5.13 In broad terms, there are two main elements in the market access pillar of the negotiations:

(i) Tariff reductions; and

(ii) Flexibilities or deviations from the prescribed tariff reductions to be used by members (both developed and developing) to address their special needs.

Reduction of Bound Tariffs

5.14 Developed countries would have to reduce their bound tariffs in equal annual instalments over five years as indicated below with a minimum average cut of 54%:

Table 5.1: Doha Round Tariff Cuts by Developed Countries

Tariff Band	Proposed Cut
0-20	50%
20-50	57%
50-75	64%
75+	70%

5.15 Developing countries would have to reduce their final bound tariffs in equal annual instalments over ten years as indicated below undertaking a maximum overall average cut of 36%.

Table 5.1: Doha Round Tariff Cuts by Developing Countries

Tariff Band	Proposed Cut
0-30	33.33%
30-80	38.00%
80-130	42.67%
130+	46.67%

5.16 The bands are different for developed and developing countries reflecting differences in the distribution of their tariffs. The cut to be undertaken by developing countries in each band is two-thirds of the cut that developed countries have to undertake in each of their bands.

Sensitive Products

5.17 According to the mandate, Members (both developed and developing) would be allowed to designate an appropriate number of tariff lines as Sensitive Products, on which they would undertake lower tariff cuts. Even for these products, however, there has to be "substantial improvement" in market access, and so the smaller cuts would have to be offset by tariff quotas allowing greater access for imports. The three issues being negotiated, therefore, are the number of Sensitive Products, the tariff cuts they are to take and the compensatory access through tariff quotas.

Special Products

5.18 According to the Hong Kong Ministerial Declaration of December 2005, developing country members would have the flexibility to designate an appropriate number of tariff lines as Special Products (SPs) guided by indicators based on the criteria of food security, livelihood security and rural development needs. This is a special and differential treatment provision that allows developing countries some flexibility in the tariff cuts that they are required to make on these products. This is critical for countries such as India to meet their food and livelihood security concerns and rural development needs.

5.19 The revised draft modalities of 6 December 2008 proposes an SP entitlement of 12% of agricultural tariff lines. The average tariff cut on SPs is proposed as 11%, including 5% of total tariff lines at zero cuts.

Special Safeguard Mechanism

5.20 The Special Safeguard Mechanism (SSM) has been a part of the Doha mandate since the July 2004 Framework. The Hong Kong Ministerial Declaration of 2005 said that developing countries would "have the right to have recourse to a Special Safeguard Mechanism based on import quantity and price triggers, with precise arrangements to be further defined".

5.21 The SSM is important for developing countries in order to protect their poor and vulnerable farmers from the adverse effects of an import surge or price fall. The safeguard duties under the proposed SSM would be triggered by either an import quantity trigger or a price trigger. The import quantity trigger is a threshold level of imports. Crossing the threshold enables recourse to a remedy, namely, temporary levy of a safeguard duty over and above the normal customs tariff.

5.22 Similarly, the price trigger is a threshold level of price of imports. If the import price falls below this threshold then the SSM can be invoked and a safeguard duty over and above the normal customs tariff can be temporarily levied. The trigger for invoking the SSM determines when the safeguard duty can be imposed. If the import quantity trigger is set too high, the SSM loses all efficacy because it can then only be used in the most exceptional circumstances. The same holds true if the price trigger is set too low.

5.23 Several proposals were considered during the July 2008 Ministerial discussions. However, all attempts to find a solution that took the concerns of both the US and the developing countries on board, failed and the Ministerial talks had to be halted.

Tariff Capping

5.24 Tariff capping has been one of the demands of the G-20 because the mere application of the tiered tariff reductions will not bring down prohibitively high tariffs imposed by some countries, particularly some of those belonging to the G-10[20] group of countries. Tariff capping would bring down their very high tariffs in agriculture, over and above what is required by the tiered formula.

Tariff Simplification

5.25 Tariffs are of various kinds – 'ad valorem', that is, a simple percentage of the value of imports or 'specific', that is, in terms of rupees or dollars or euros or any other currency per unit (such as tonne or litre or kg); others are more complex – for instance the tariff could be a combination of ad valorem and specific duties ('compound'). Many developed countries use non-ad valorem (NAV) tariffs on their agricultural imports. Developing countries, on the other hand, rely predominantly on ad valorem (AV) duties. For instance, only two of India's agricultural tariff lines – shelled and in-shell almonds - have duties expressed in specific form. The G-20 has long insisted on complete tariff simplification as these NAV duties act as an additional layer of non-transparent protection. As these are used mainly by developed

[20] G-10: Chinese Taipei, Republic of Korea, Iceland, Israel, Japan, Liechtenstein, Mauritius, Norway, Switzerland

countries, they act as a barrier to market access for developing country exports. Moreover, in the case of industrial goods, the draft modalities propose 100% tariff simplification.

DOMESTIC SUPPORT

5.26 The reason why it was considered necessary to reduce and discipline domestic support policies that support domestic prices, or subsidize production in some other way, is that they encourage over-production. This squeezes out imports or leads to export subsidies and low-priced dumping on world markets.

5.27 In the Doha Round, all developed countries will have to substantially reduce trade-distorting support and those with higher levels of support have to make deeper cuts from the "bound" or ceiling levels. This includes reductions both in overall current bound levels and separately in Amber Box and *de minimis* support. Blue Box support will also be capped. In addition to the reductions on Amber Box support, this Round also seeks to place limits on subsidies at the level of products, in order to avoid shifting of support from one product to another.

5.28 Developing countries will take lower cuts over longer periods and they will continue to be allowed exemptions under the AOA for investment subsidies generally available to agriculture, agricultural input subsidies for low-income or resource-poor producers and support to encourage diversification of illicit narcotic crops.

5.29 The Doha Round mandate envisaged a review of the criteria for defining support as "Green Box" support and to allow effective coverage of programmes of developing countries that cause no more than minimal trade-distortion.

Cotton

5.30 A Sectoral Initiative on Cotton is part of the WTO negotiations under the Doha Round. The issue is of vital importance for developing countries, especially LDCs. It is particularly important for Burkina Faso, Benin, Mali and Chad, referred to as the Cotton 4 or C-4. The C-4 countries are heavily reliant on cotton which constitutes a major chunk of their exports, GDP and is a significant source of livelihood.

5.31 The C-4 proposals call for the subsidies to be eliminated and for compensation to be paid to them while the subsidies are being paid out, to cover economic losses caused by the subsidies.

5.32 The US gives over US$ 2 billion in subsidies to its cotton farmers. The draft proposals being discussed in the WTO agriculture negotiations imply an 82.2% cut in domestic support for cotton by the US. This issue is yet to be resolved at the WTO.

EXPORT COMPETITION

5.33 The AoA prohibits export subsidies on agricultural products unless the subsidies are specified in a member's lists of commitments. Where they are listed, the agreement requires WTO members to cut both the amount of money they spend on export subsidies and the quantities of exports that receive subsidies.

5.34 According to the Doha mandate, all forms of export subsidies are to be eliminated by an agreed end date. In terms of the AOA, developing countries are free to provide certain subsidies, such as subsidising of export marketing costs, internal and international transport and freight charges etc. At the Nairobi Ministerial Conference of the WTO in December 2015, an agreement was reached to eliminate all forms of export subsidies.

5.35 Developed and developing countries have fundamentally different points of view on the future of the Doha Round. The developed countries, principally the United States, no longer perceive the Doha Round as beneficial for them and do not want it to continue; the US, in fact, considers it as closed. Their focus is now almost exclusively on gaining additional market access into the developing countries, particularly, the so called emerging market economies such as India, China and Brazil, both in agricultural and industrial goods. On the one hand, they do not want to undertake some of the commitments that the mandate of the Doha Round envisages. The focus of their efforts for some years now has been to sideline areas of the negotiations in which they are unwilling or unable to undertake commitments. On the other hand they have been insisting that India and China must accept stronger disciplines on agricultural subsidies, going beyond the negotiating mandate, as a pre-condition for discussion. Agreeing to this demand would affect India's policy space to provide subsidies on agricultural inputs such as power, fertilizers and irrigation and price support to farmers.

CHAPTER 6: CONCLUSIONS AND RECOMMENDATIONS

The review of literature and the analysis of the secondary data available makes it abundantly clear that there is a lot left to be done in reforming agricultural trade. Bringing agriculture within the ambit of negotiations at the WTO in the Uruguay Round and establishing rules for agricultural trade is a major step towards disciplining the sector but the process has to be carried forward, as recognized in the AoA itself.

6.2 There are imbalances in the AoA provisions as explained in Chapter 3. Some of the imbalances would have been corrected if the Doha Round had concluded in accordance with the modalities under discussion. There are other flaws in the AoA which the negotiations may not have corrected e.g. the treatment of food security as a derogation from the goal of trade liberalization. The recent insistence by the developed countries that some of the developing countries, including India, must concede more in the negotiations is another area of concern. It needs to be noted that when developed countries such as the EU and the US, were at the same stage of development, they had similar programmes of agricultural support. The developing countries that these developed countries are targeting, are not yet in a position to manage without the space provided by the special and differential treatment provisions for developing countries in the AoA.

RECCOMENDATIONS

6.3 In light of the findings and conclusions reached as a result of this research, some recommendations are offered:

6.3.1 PROCESS-RELATED

An important issue for consideration in order to take the agriculture negotiations forward is the format of the negotiations. One of the key systemic challenges confronting WTO Members is how to balance concerns on making the negotiations more inclusive, while ensuring efficiency in the negotiating process. While the entire WTO membership may not have a deep interest in all areas of the negotiations, at the same time, the process must be designed in such a way that each Member has adequate opportunities to participate fully in it and influence the outcomes. With 164 members, this is not an easy objective to fulfil. One possible way of achieving this objective is to undertake the negotiations through a system of formal negotiating coalitions. *Informal* coalitions have long been a feature of the WTO process; formalizing this and establishing some rules of procedure could enable more focused discussions and accelerate the process, thereby increasing the possibility of outcomes.

6.3.2 Special and Differential Treatment

Some Members have been questioning the Special and Differential Treatment provisions (S&DT) in present WTO rules as well as in ongoing negotiations. This is becoming a bone of contention in the ongoing negotiations. In the absence of globally applicable criteria for development, the issue is whether a suitable framework is required for assessing the S&DT requirements of a WTO Member country. In this context a recent submission by a group of WTO member countries is relevant[21] (WTO, 2019). The paper makes a strong statement in support of the continuation of S&DT provisions, "*Against this background, recent attempts by some Members to selectively employ certain economic and trade data to deny the persistence of the divide between developing and developed Members, and to demand the former to abide by absolute "reciprocity" in the interest of "fairness" are profoundly disingenuous. The world has indeed changed in many ways since the GATT and the*

[21] WTO Document No. WT/GC/W/765/Rev.1 dated 26 February 2019 submitted by China, India, South Africa, The Bolivarian Republic of Venezuela, Lao People's Democratic Republic, Plurinational State of Bolivia, Kenya and Cuba

establishment of the WTO, but in overall terms the development divide remains firmly entrenched. It is therefore of greater concern that some Members would attempt to ignore this reality in an effort to deprive developing Members of their right to develop." It further states:

"*The multilateral trading system, from the early days of the GATT until the establishment of the WTO, has recognized the differences in levels of economic development and wisely ensured that Special and Differential Treatment (S&DT) would be one of its cornerstone principles. The S&DT principle was understood as a way to ensure that negotiated outcomes would accommodate differences in levels of economic development as well as the capacity constraint of developing Members. It would allow developing Members the space to calibrate trade integration in ways that help them support sustainable growth, employment expansion and poverty reduction…………….. Many developing Members of the WTO have made significant economic progress over the past decades. However, it is also a reality that despite their efforts, they have not come anywhere near catching-up with the developed Members. Further, the gap between the developed and developing Members appears to have actually widened over time, instead of getting reduced. The development divide, which was taken note of in mid-1960s in Part IV of the GATT, continues to remain relevant today - perhaps even more relevant. Attempts at ignoring the need for S&DT provisions, or diluting it, is fraught with the risk of making future negotiations in the WTO even more difficult than today.*"

According to the paper, in the agriculture sector developed Members enjoy significant advantages over developing ones. In many developing Member countries, the agriculture sector is the largest source of employment but remains characterized by small farms, with a large number of farmers dependent on each. In contrast, in the

United States, agriculture is characterized by extremely large farms with few farmers dependent on agriculture for their livelihood. The paper points out that any discussion on agriculture must recognize the reality that in many developing Members agriculture continues to remain mainly non-commercial in nature, providing subsistence and livelihood unlike commercial scale agriculture in developed countries.[22] The paper cites statistics and facts to underscore the continuing necessity of S&DT provisions and further, that Members must continue to be free to self-declare its developing Member status, and make the decision by itself on whether, when, where, how and to what extent to use S&DT. It cautions that any attempt to dilute S&DT "*would be in conflict with the fundamental premise of equity and fairness that underpins an international treaty framework in a context of a Membership as diverse as that of the WTO*."

6.3.3 GREEN BOX SUPPORT

While liberalization of agricultural trade was the goal, it is safe to say that this has not been achieved in any meaningful manner. While the AMS has been reduced, the expenditure on Green Box support has increased substantially over the years, which suggests that "box-shifting" has taken place. There is considerable literature providing evidence that certain types of Green Box support measures distort trade in a number of ways including through the 'expectations effect' i.e. the increased incentive to increase production as the result of expectations of guaranteed income support. A review of the Green Box support provisions is, therefore, called for.

6.3.4 AMS

The negotiations must begin where the AoA left off and as envisaged in the AoA itself. The first step is the elimination of the most trade-distorting domestic support,

[22] *Ibid.*

particularly the most trade-distorting form, namely, AMS. India and China have submitted a proposal to this effect in the WTO[23]. This calls for the elimination - by developed countries - of the most trade-distorting form of farm subsidies, i.e. AMS or 'Amber Box' support. The joint paper pointed out that developed countries, including the US, the EU and Canada, have been consistently providing trade-distorting subsidies to their farmers at levels much higher than the ceiling applicable to developing countries. Developed countries have more than 90% of global AMS entitlements amounting to nearly US$ 160 bn. Most of the developing countries, including India and China, do not have AMS entitlements. Listing the most heavily and frequently subsidised products by the US, the EU and Canada since 1995, the paper calls for elimination of such subsidies. The numbers reveal that subsidies for many items provided by the developed world are over 50% and some even more that 100% of the value of production of the product concerned, while developing countries are forced to contain it within 10% of the value of production. In other words, while developed Members have access to huge amount of AMS beyond their *de minimis*[24], in contrast most developing Members have access only to *de minimis* resulting in a major asymmetry in the rules on agricultural trade. The paper illustrates the adverse effects of concentration of AMS on a few products, which no other proposal in the WTO addresses. Elimination of AMS, India and China believe, should be the starting point of reforms rather than seeking reduction of subsidies by developing countries, some of which like India provide a subsistence amount of about US $ 260 per farmer per annum compared to over 100 times more in some developed countries. This proposal by China and India should be acted upon.

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[23] Restricted WTO document No. JOB/AG/102 dated 18 July 2017 – Submission by China and India

[24] *De minimis*: these are the minimal amounts of domestic support that are allowed even though they distort trade — up to 5% of the value of production for developed countries, 10% for developing.

6.3.5 PUBLIC STOCKHOLDING FOR FOOD SECURITY PURPOSES

Another important and much-needed outcome are reforms in the rules relating to public stockholding for food security purposes in Annex 2 of the AoA. The views of the former United Nations Special Rapporteur on the Right to Food, Olivier de Schutter have been discussed in Chapter 2. As he points out the AoA is not geared towards ensuring food security. Its provisions militate against this goal as they treat food security as antithetical to the goal of trade liberalisation. The efforts of several developing countries to get the AoA amended to make its provisions more amenable to the efforts to build food security, must be taken to their logical conclusion. The G33 coalition of developing countries has submitted several proposals on this issue.

6.3.6 SSM

An instrument to deal with sudden surges in imports of agricultural products or sudden dips in the prices of agricultural imports, along the lines of the SSG has long been a demand of several developing countries. The negotiations on this subject are anchored by th3 G33. Such an instrument would contribute to levelling the playing field especially in view of the highly subsidised agricultural production, leading to exportable surpluses in many developed countries.

6.3.7 TARIFF SIMPLIFICATION

While tariffs have been reduced in accordance with the Uruguay Round modalities, the extensive use of non-*ad valorem* duties and variable duties in many countries e.g. the EU, defeat the goal of trade liberalisation and impede market access, especially for developing countries. The Doha Round of trade negotiations envisaged tariff simplification, among other changes. However, attention has shifted from all pillars, including market access, to the domestic support pillar and, accordingly, tariff simplification is no longer being discussed.

6.3.8 CAPACITY-BUILDING

Developing Members of the WTO often have capacity constraints which hinders their effective participation in negotiations and also their ability to implement their WTO commitments. It has been observed in the negotiations that developed countries work in close coordination and speak in one voice on issues of their interest. They demonstrate inter-governmental coordination of a high order, which is not often witnessed in the case of developing countries.

The other important requirement is inter-departmental coordination within the country. Given the cross-cutting impact of WTO rules and requirements, inter-departmental coordination is a critical requirement to ensure compliance and for the formulation of domestic policies in alignment with these rules and requirements and national interests. This is often lacking in developing country Members, thereby hindering the effectiveness of translating negotiated outcomes into measures for domestic economic growth (WTO, 2019). This highlights the need for capacity-building efforts in developing countries to develop their capacity to negotiate, translate outcomes into domestic policy and keep abreast of issues.

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