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TRADE LIBERALIZATION AND WTO

IMPACTS ON AGRICULTURE AND FARMERS



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Trade Liberalization and WTO : Impacts on Agriculture and Farmers

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Introduction

2015 is a significant year in the history of the International Free trade regime, as its key multilateral instrument, the World Trade Organization (WTO), completes 20 years. Two decades of the WTO have raised many questions, most significantly, is the WTO relevant to small and marginal farmers in the Global South? This question remains relevant as developing countries continue to fight for protection and gains for their small and marginal farmers. Special and Deferential Treatment (S&DT) for small farmers under the Agreement on Agriculture (AoA), has so far been firmly denied by developed countries led by the United States (USA). Developing countries have been asked by developed countries to discontinue subsidies for their small farmers despite the fact that they themselves provide huge subsidies to their own farmers. The disparity between support provided in the agricultural sector by USA and India is stark. While the USA provides over \$57,901 US dollars per farmer (in 2012), India offers only around \$99 US dollars for every person active in agriculture.

WTO is an instrument of the processes of globalization, marketization and recolonization which has led to exploitation and marginalization of the poor. These processes are being pushed by multinational corporations which in their quest for profits constantly seek to expand operations by transforming national laws to favour foreign corporations over local people.

20 years after the WTO was signed into existence in Marrakesh, it has not fulfilled even one of its original claims that it would lead to less hunger, more employment and more development in the South. Instead we witnessed increased hunger as priority was given to export of food rather than feeding the local population, decreasing farm gate prices for farmers, dumping by northern multinational corporations in the international market and a surge in imports in the south, increased indebtedness and unemployment which caused an exodus from rural areas to urban slums and all these continue to deepen agricultural crisis in developing countries including India even today.

The WTO/ AoA promised developing countries better market access but this has not materialized. Instead the AoA has proved to be a massive dumping mechanism for cheap subsidized agricultural products from developed countries like the United States (USA), the European Union (EU), Australia, New Zealand, Canada in the developing countries market. Prices plummeted as a result of dumping, destroying livelihoods of peasants and agricultural workers and fuelling the suicides of many of them.

Although the WTO had been deadlocked for over a decade due to disagreements in various areas including agricultural subsidies and tariffs, the last two years have seen renewed movement in the WTO. Negotiations had almost stalled due to persistent opposition by developed countries to grant any meaningful preferential treatment or development concessions to developing countries in agriculture. While it was India that was a key opposer of

the AoA, it has now turned around and played the main role in reviving the WTO at the Bali Ministerial in December 2013 by agreeing to a so called Peace Clause. The peace clause is a four-year amnesty from punitive action for violations on agricultural subsidies to support its food security programs. It was India that saved and revived the WTO despite knowing fully well that far from making gains, developing countries have lost ground by allowing market access in agriculture to export oriented developed countries at the cost of farmers' livelihood, food security of the people and sovereignty of these developing nations.

The AoAs original goal was to discipline developed country's farm subsidy programmes, which provide high subsidies for agricultural production putting poorer countries in a disadvantaged position to compete. Instead of decreasing, in last 20 years, the developed countries subsidies in agriculture have increased and to shield their own subsidies they are now attacking even those meagre subsidies that developing countries provide to their agriculture sector domestically. The subsidies that developing countries provide to their farmers have a twofold development aim, on the one hand they provide minimum incomes to small farmers, while on the other they procure food for food security programs for the poor. On the other hand, subsidies in developed countries are usually for distorting trade and giving their agribusiness a competitive advantage. This is why, in last few years, the developed and developing countries fight in the WTO on agriculture has been characterized as a fight between "food" V/s "trade".

Two years after Bali, at the 10th Ministerial Conference (MC-10) that took place in Nairobi in December 2015, India was not offered a permanent solution for the food stockholding issue. But as usual, developed countries succeeded in pushing for the conclusion of the Doha Development Round (DDR), thus deferring forever the final decision on some core development issues in agriculture like food stockholding for food security, special and deferential treatment which is of great importance for developing countries. Another important development at Nairobi was that developed countries succeeded in their mission to introduce 'new issues' at the Nairobi Declaration, thus preparing the ground to launch a New Round with 21st century issues related to investment, competition policy, e-commerce, labour, government procurement, climate related trade (including environmental goods and services) and the global value chain. These issues represent the developed country corporate agenda of further wresting open developing countries markets for corporate gains. The developments at Nairobi will lead to further trade liberalization in developing countries and will have serious impact on agriculture, especially in developing countries like India where more than half of the total population depends on agriculture.

Despite the serious impact of trade liberalization on Indian agriculture, the successive governments in India are enthusiastically promoting further liberalization by signing Free Trade Agreements (FTAs) and Regional Trade Agreements (RTAs). In the last 10 years, India has signed FTAs with Sri Lanka, ASEAN, South Korea and Japan. The current NDA government is following the legacy of their predecessors by negotiating various FTAs with the European

Union, Australia, and New Zealand who are all eagerly waiting to capture the Indian agricultural market. This will exacerbate the agrarian crisis and will seriously impact small and marginal farmers because most of these new generation FTAs will force India to commit drastic cuts in its agricultural tariffs (by almost 90%). Trade liberalization through bilateral deals are possibly even more dangerous than the WTO. They are undemocratic and opaque as texts are kept secret, consultations with stakeholders are limited to big industry bodies while farmers, workers, consumers and common people are ignored, and there are no publicly available impact assessment studies especially from a human rights or development perspective. However, bilateral trade agreements and its impact are not the subject matter of this booklet. The issue of FTA's and agriculture will be taken up in a subsequent publication.

This booklet aims to provide comprehensive analysis on different aspects of trade liberalization under the WTO and its impact on farmers and food in particular. The idea is to give the reader, mainly the farmers movements in India, a broad understanding of the impacts of the free trade regime on human rights issues like hunger, poverty, livelihoods and the environment. The experience of Indian peasants shows that far from being an economic panacea, two decades of the feverish pursuit of globalization, trade liberalization, and the WTO have resulted in misery for India's poor.

The time has come for some serious introspection.

The Booklet has Six Chapters. Chapters 1-5 were written before the WTO Ministerial in Nairobi, while the last chapter was written after the Ministerial as our immediate response to the Nairobi Declaration.

Chapter One explains what is trade liberalization and its different approaches under multilateral, bilateral, regional and unilateral approach to liberalize trade.

Chapter Two deals with the 20 years of trade liberalization and its impacts on agriculture sector, presenting some case studies from India and other developing countries.

Chapter Three explains the WTO in detail, its features, principles, objectives and decision-making process.

Chapter Four explains the Agreement on Agriculture and its different pillars (e.g. Market Access, Domestic Support and Export Subsidies).

Chapter Five deals with the most important issue in the WTO today, the food stockholding for food security purposes.

Chapter Six is a final chapter, which gives our analysis of the Nairobi Ministerial Declaration.

Trade Liberalization : a recipe for import dependence—

Trade Liberalization means freeing trade from all kinds of barriers, that is why there is another popular term for liberalizing trade, called as 'free trade'. It means, removal or reduction of restrictions or barriers that thwart free flow of goods, and services from one country to another. This includes the removal or reduction of both tariff (duties, surcharges and export subsidies) and non-tariff barriers (like licensing rules and regulations, quotas and other requirements like standards). However trade liberalization also leads to reforms at the domestic level where policy changes are implemented to facilitate trade liberalization, e.g. devaluation of the local currency, loosening licensing requirements, opening up investment with slacking government regulations, priority for exports crops instead of food crops, opening up of local market for transnational corporations etc. Trade liberalization and internal market reform involves privatization as a key component for an outward-orientated economic policy. This has been a typical feature of economic reforms in India and in other developing countries since the 1990's.

There are different approaches through which Trade is liberalized. A country might opt for reciprocal trade liberalization under the bilateral, regional, plurilateral or multilateral trade negotiations. The bilateral approach is generally through a trade deal with another country or a group of countries or regional group. For example India has signed Free Trade Agreement (FTA) with country like Sri Lanka, South Korea, Japan or a bloc of countries like ASEAN (Association of Southeast Asian Nations) which is the political and economic organization of ten Southeast Asian countries (Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam). Bilateral Trade agreements are created to exchange goods between countries and to give trading preferences to a particular country or a bloc of countries, facilitating trade by reducing or eliminating tariffs, import quotas, export restraints and other trade barriers. Some bilateral trade agreements are also for facilitating investment between the home country and the foreign country or the foreign bloc (of countries). Depending on the bargaining power of the countries involved, FTAs can go much further in liberalizing trade, services and investment than multilateral agreements like the WTO. In fact FTAs are another way to ensure that governments implement the liberalization, privatization and deregulation measures of the corporate globalization agenda, but FTAs are also leading to loss of policies for developing country to govern their economies effectively.

The other approach for reciprocal trade liberalization is through Regional Trade Agreement like the one India signed with its partners in South Asia known as South Asian Free Trade Agreement (SAFTA) or the ASEAN Free Trade Area or AFTA. Bilateral and regional trade agreements for liberalizing trade have proliferated for the last decade or more. But the plurilateral approach to liberalize trade is a recent trend where trade agreements are being negotiated that comprise: a) more than two countries; b) who are not strictly regional or from the same continent; and c) subject matter that goes much beyond the WTO Agreements in both

coverage and scope. For example, India is currently negotiating the Regional Comprehensive Economic Partnership (RCEP), which has sixteen members which include ten members of ASEAN plus Australia, China, Japan, New Zealand, and South Korea. These plurilateral trade agreements are also referred as New Age Mega FTAs not only because of their size in terms of multiple and geographically diverse member countries but also because of ambitious coverage of issues. Most countries, including India, have chosen all the above approaches to further trade liberalization in different sectors.

However, the WTO, established in 1995, remains the most popular route to liberalize trade since the last 2 decades. The WTO serves not only to liberalize trade, but also as a forum for governments to negotiate trade agreements and to settle trade disputes. Currently the WTO has 162 member countries. It has instituted about 18 agreements which deal with different aspect of trade including goods, agriculture, intellectual property, services, sanitary and phytosanitary measures.

Despite bilateral and multilateral approaches, there is another approach of trade liberalization called autonomous liberalization, or unilateral trade reform, which has continued to dominate the trade agenda of developing countries like India since the last three decades. Unilateral policy measures refer to liberalization measures taken unilaterally, without obligation from any specific trade agreement, they encompass areas like the exchange rate regime, foreign investment, external borrowing, import licensing, import tariffs, and export subsidies. An important measure of trade liberalization in India has been the phased withdrawal of duties, tariffs and quotas on food imports, which used to earlier protect Indian farmers from competition with foreign subsidized goods. India's unilateral reduction of its applied tariff average from 40% in 1995 to around 13%¹ in 2014-15, is the most aggressive trade liberalization by any country, even discounting for the fact that it had the highest tariffs to start with.

Unilateral trade liberalization also happened under pressure from USA trade sanctions not only in developing countries like India but also in Japan, a developed nation. The USA imposed trade sanctions unilaterally, adopting Section 301 under 1974 Trade Act, to retaliate against foreign countries that limits imports from the USA by non-tariff barriers and restrictive business practices. In effect, it encouraged the use of unilateral action rather than the General Agreement on Tariff and Trade (GATT) rules and procedures for settling trade disputes. The USA 1988 Trade Act tightened Section 301 and adopted a new provision, commonly known as Super 301.

Trade liberalization of economies and the complete elimination of trade barriers have become popular economic policies of developing nations today while import and export tariffs, quotas, export subsidies, and technical barriers were commonplace during the previous decades. In a

¹ India's average import tariffs up marginally in 4 years: WTO review
<http://www.thehindubusinessline.com/economy/indias-average-import-tariffs-up-marginally-in-4-years-wto-review/article7275488.ece>

broad swing of the pendulum, developing countries have been shifting from severe and destructive protection to free trade fever. The degree of trade liberalization of any country is reflected, to a large extent, through the level of integration of that country into the world economy. It is said that integration into the world economy has proven a powerful means for countries to promote economic growth, development, and poverty reduction. But the fact is in many developing countries including India, integration with world market proved quite damaging for the peasantry because India integrated its economy to the high cost economy of the world. This led to increase in cost of living because of the devaluation of rupee and steep hike in petroleum prices. Vijay Jawandhia, a farmer leader from Shetkari Sangathana, Maharashtra said that the Indian government introduced successive Pay Commissions as economic cushioning for organized salaried class and city dwellers but the village farmers and farm labourers were forced to live in a low cost rural economy because the market prices of crops didn't increase with the increasing cost of living and cost of production. Rather prices of farm produce were kept low deliberately to fight the food inflation causing great hardship for the peasantry in India and this is one of the key factors for increasing farm suicides among Indian farmers.

Another important issue related to trade liberalization is that the reduction in tariffs substantially reduces poverty alleviation expenditures such as education, health, social welfare and others and force developing country governments to cut budget in these sectors.

Moreover, trade liberalization and WTO rules also create numerous difficulties in maintaining a farmer friendly policy regime in developing countries like India. For example, trade liberalization forced farmers to shift from traditional methods of subsistence farming to export oriented, input intensive methods, such as cash crops, and often in non-food cash crops. While farmers with access to capital were able to make these shifts without much damage, small and marginal farmers find themselves increasingly in debt to agricultural banks and local money-lenders. In many cases small-holding farmers are unable to pay back their debts, lose their land and other productive assets altogether, and migrate to cities for employment, or work as agricultural labour on richer farms.

The change in food production patterns has challenged food self-sufficiency in a number of ways. First, a shift towards cash crops leading to a drop in cultivation of grains, pulses and millet for household food consumption has threatened household food security. The diversion of fertile agricultural land to export oriented commercial farming and even industries are further restricting the ability to grow enough food grains for local consumption. Thus, export of basic food grains increased while provision for domestic consumption – to feed the poor or to serve as reserve in case of famine – fell drastically. As an inevitable result, state governments that should be able to provide enough food grains for domestic consumption are forced to rely on the country food security programme (Public Distribution System) for support. So instead of removing poverty, trade liberalization contributed in increasing pauperization among the rural community in India.

Impact of 20 years of Trade Liberalization on Agriculture Sector

Until the early 1990s, India was a relatively closed economy. Average import-weighted tariffs exceeded 80%, more than 90% of tradable goods were protected by quantitative restrictions on imports, and foreign investment was subject to strict limitations.² After the trade reforms in 1991 the Indian economy became more liberalized and international trade grew. In 1991, the country embarked on a series of major trade reforms with the liberalization measures in the external sector, which covered the following:

- Removal of quantitative restrictions on bulk of imports,
- Reduction on the level of tariffs on a large number of imports, including special provisions for preferential duty regime on imports for export production.
- Removal of product-specific export incentives coupled with a two-stage devaluation of the Indian rupee.
- Use of exchange rate as the general instrument for export promotion & import management.
- Removal of some minor administrative measures such as minimum price restrictions on some exports.

The momentum to open up Indian agriculture to world markets has mostly come from India's economic liberalization, initiated in July 1991. In the beginning, agricultural trade liberalization was never a part of the liberalization agenda. The focus of the structural adjustment program (pushed by the World Bank and IMF) was on industry, which was increasingly exposed to foreign competition. But the real policy changes on the agricultural front came only when India signed the WTO. Steps to liberalize agricultural trade were initiated, followed by a number of bolder reforms during 1994 to 1996. For example, in January 1994, the government abolished the minimum export price of basmati rice; in March 1994, import controls on sugar and cotton were removed; in February 1995, a major decision was taken to put almost all edible oils (except coconut oil) under open general license (OGL).

In India, trade liberalization of agriculture has also been implemented indirectly through national laws related to land and seeds, thus facilitating corporate control over the seed supply and agriculture. The single most adverse effect of trade liberalization has been the combination of low prices and output volatility for cash crops. While output volatility increased especially with new seeds and other inputs, the prices of most non-foodgrain crops weakened, and some prices, such as those of cotton and oilseeds, plummeted for prolonged periods. This reflected not only domestic demand conditions but also the growing role played by international prices consequent upon greater integration with world markets.³

² <http://www.adb.org/sites/default/files/publication/28258/economics-wp177.pdf>

³ http://cpim.org/marxist/200703_marxist-agrarian-srp.pdf

Indian Cases: Edible Oil

The trade liberalization measures coupled with the provisions of WTO Agreement on Agriculture (AoA), especially removal of all quantitative restrictions, opened the floodgates of imports in India. The same was true for other developing countries. Consequently, products that India produced for the home market were undercut by cheaper imported alternatives. For example, since the import of Indonesian coconuts, the prices of coconuts in India fallen by 80% as a direct result. Low import duties in India have led to highly subsidized USA Soya and palm oil from Malaysia entering the market. India's edible oil imports touched 13.33 lakh (1.33 million) tonnes in just one month (August 2015), highest in last two decades, on record shipment of soyabean oil.⁴ According to the Solvent Extractors Association (SEA) "Import of vegetable oils in 2014-15 set a record level of 14.61 million tonnes, up 23.64 per cent from last year".⁵ Indian producers have blamed a tidal wave of cheap imports for driving domestic farmers out of business and leaving the country increasingly dependent on external supply, with around 70% of India's vegetable oil consumption now sourced from foreign sellers.

Impact on the Edible Oil Sector⁶

The oilseeds sector in India has seen the most adverse impacts and undergone major changes due to trade liberalization over the last 20 years. During this period, India's edible oil industry has gone through dramatic change from complete self sufficiency to total import dependency; from a small entrepreneur based economy to a sector that is controlled by a multinational monopoly; and from 'loose sold oil' to 'branded/packaged oil'. This period also witnessed changing consumption patterns, as consumers began to buy new types of edible oils (like palm oil) rather than those consumed traditionally. The edible oil case today presents a typical example where because of free trade policy, areas of the food sector are fast going under monopolistic control of a few large Western corporations like Cargill, ConAgra and Bunge. This case proves that the free trade liberalization regime (as advocated by the WTO and FTAs) generally advances the interests of large multinational corporations.

The edible oil sector has faced several challenges due to trade liberalization with the formation of WTO in 1995. This sector has also seen the impact of free trade agreements (FTAs) which India signed with the Association of Southeast Asian Nations (ASEAN) or even with the South Asian country like Sri Lanka.

Trade Liberalization in Edible Oil Sector

India has a bitter experience of trade liberalization in edible oil which has resulted in an increasing gap between demand and production of edible oil in India. In 1980's when the demand and production gap widened and in 1988 India faced a shortfall of 2 million tonnes (MT), necessitating an import of

⁴ http://articles.economictimes.indiatimes.com/2014-09-15/news/53943093_1_vegetable-oil-imports-soyabean-oil-palm-oil

⁵ <http://indiatoday.intoday.in/story/india-imports-record-14.61-mt-vegetable-oil-in-2014-15/1/524260.html>

⁶ This is an updated version of Afsar Jafri's presentation at the public meeting by Karnataka Rajya Ryot Sangha (KRRS) at Chamrajnagar district in Karnataka on July 6, 2011; <http://siccfm.blogspot.in/2012/01/trade-liberalization-and-impact-on.html>

1.9 million tonnes of edible oil, worth \$1 billion US dollar. Due to the increasing burden on country's depleting foreign exchange reserves for edible oil imports, the government of India undertook a combination of steps to augment production including setting up of Technology Mission on Oilseeds (TMO) in 1986 to make oilseeds more attractive to growers. This led to increased oilseeds production and thus, self sufficiency in edible oils. The production of oilseeds increased by over 70 per cent in six years and India became almost self-sufficient in edible oil (up to 98 per cent) and imports of edible oil was reduced to 0.1 million tonnes (MT) in 1992-93 from 1.5 MT in 1986-87. However this self sufficiency in edible oil production was short lived. Under pressure from SAP, India started the process of phased liberalization of edible oil imports from 1994-95. The series of measures for trade liberalization in edible oil completely reversed the situation within a decade and from a self sufficient position, India became a net edible oil importing country. These trade measures were:

- Elimination of state monopoly on edible oil imports in 1994 by placing palmolein oil imports under the Open General License (OGL), subject to 65 per cent of basic customs duty (or import duty). Subsequently, imports of other edible oils were also placed under OGL.
- Rapid lowering of import duties, from 65 per cent in 1994 to 20 per cent in 1996 and 15 per cent in 1998 even though the Bound Duty under WTO for all types of crude and refined edible oil is 300 per cent except soyabean oil which is fixed as 45 per cent.
- Removal of Quantitative Restriction (QR) and replacing them with import duties, supposedly under WTO obligations for market access but actually through un democratic and non-transparent bilateral negotiation between Susan Esserman of the Commerce Department, United States of America and N.N. Khanna of the Ministry of Commerce, Govt. of India where it was agreed to eliminate 1429 items from quantitative restrictions between 1st April 2000 to 1st April 2001.

The negative consequences of liberalising the edible oil policy soon became clearly visible. These measures combined with a sharp fall in international edible oil prices in 1999 led to the dumping of cheap edible oil, mainly soyabean and palmolein oil in India. The imports were in far greater quantity than the national requirement leading to a rise in imports from 0.1 million tonnes in 1992-93 to 4.3 million tonnes in 2002-03. Thus the self sufficiency level of edible oil also got reduced in ten years, from 98 per cent in 1994-95 to about 53 per cent in 2002-03. On the other hand the share of bills for the import of edible oil in the total agricultural imports has ranged from 6 per cent to 52 per cent during 1991-92 to 2002-03. India has been exporting oil meals, however, their export also got declined from as high as 4.84 MT in 1993-94 to 1.61 MT in 2002-03. The flood of cheap imported oil has had disastrous effects on India's edible oil farmers due to a drastic slump in oilseeds prices. In 1999, newspapers reported massive distress sales of oilseeds by farmers at prices much below the Minimum Support Price, with the government refraining from market intervention operations. Not getting a remunerative price, farmers responded in the only way they could - by reducing the acreage under oilseeds. Moreover, the edible oil policy of the post-WTO period introduced a large element of instability into domestic production by completely exposing it to international price fluctuations.

Impact on the Coconut Economy

With the inclusion of coconut oil in the OGL list and the reduction of import tariffs on edible oil in the 90's, the prices of coconut had fallen sharply. The average price of coconut oil came down from Rs. 5553 a quintal in 1996-97 to Rs. 2500 a quintal in September 2000. Between 2000 and 2005, the

prices for coconut oil crossed Rs. 6000 but again it dropped from Rs. 6758 per quintal in 2004-05 to Rs. 5078 quintal in 2005-06 and by March 2007, it reduced to Rs. 4800 a quintal. Even the tender coconut prices crashed from Rs. 10 a piece to in mid 90's to Rs. 2-3 a piece in the year 2000 which was a big worry for the coconut farmers whose daily income in cash got drastically reduced. The price of the Coconut has been going down year by year, e.g. in 1988-89 the prices were Rs. 450 per hundred units (Rs. 4.5 for each coconut piece), in 1997-98 it went up a little but to Rs. 650, but in 2007-2008 it came down to Rs. 450 and in 2009-2010 it was as low as Rs. 275 per hundred units.

One of the main reasons for a decline in coconut prices since the 90's was constantly lowered import duties (tariff) on crude and refined palmolein oil; from 1994 till 2005 there were eleven changes in the tariff rate for palmolein oil which naturally affected the price stability of the Coconut and its products. A major jolt came in April 2008 when the import duty on all crude edible oils duty was reduced to zero, and on refined edible oils duty was reduced to 7.5 per cent on the pretext of tackling the rising inflation and to meet growing demand of edible oils. The result was a big jump in edible oil imports from 5.61 million tonnes in 2007-08 to 8.82 million tonnes in 2009-10.

Between 2009 and 2011, two major development took place which further worsened the situation and led to increased palm oil imports from the South East Asia especially Malaysia and Indonesia- (i) India signed a Free Trade Agreement (FTA) with ASEAN on 13 August 2009 in Bangkok during a meeting of the Economic Ministers of ASEAN which came into effect on 1 January 2010; and (ii) India signed a Comprehensive Economic Cooperation Agreement (CECA) with Malaysia on 11 June 2011. The increase in edible oil imports, especially Palm oil in the table below, shows the impact of trade liberalization with the ASEAN countries. It shows palm oil/palmolein contributes to more than 67% share of total imports followed by soybean (17%) and sunflower oil (13%) during 2013-14.

Year (Nov-Oct)	Refined Oil	Crude Oil				Total
	RBD Palmolein	Palm Oil	Sunflower Oil	Soybean Oil	Others	
2008-09	12.40	51.87	5.90	8.90	1.76	81.83
2009-10	12.13	51.69	6.30	16.66	1.40	88.23
2010-11	10.82	53.74	8.04	10.07	0.99	83.71
2011-12	15.77	59.94	11.35	10.79	1.96	99.81
2012-13	22.23	58.89	9.73	10.91	2.07	103.85
2013-14	15.76	62.53	15.09	19.51	3.29	116.18

Source: Rajya Sabha Starred Question, no 207, asked by Shri Anand Sharma, on "Production and Demand of Edible Oils" which was answered on 7th August 2015 by the Minister of Agriculture;
http://nmoop.gov.in/Parliament_Question/PQ_207_07-08-2015_Starred.pdf

Dependence on Pulse Import

The same is true for other sectors as well, for example, pulses. The pulses (dal) story is similar to trade liberalization in edible oil which led to the increasing dependence on imports. India is ranked as the largest producer and consumer of pulses accounting for nearly 25% of global production and 27% world consumption. With 15% international pulses trade, India is also the major importer of pulse.

As per Directorate General of Commercial Intelligence and Statistics (DGCI&S), India's imports of total pulses which were 2.2 million tonnes in 2001-02 declined to 1.3 million tonnes in 2004-05 but it again picked up from 2004-05 onwards and increased to 3.8 million tonnes in 2012-13.⁷ In value terms, the imports of total Pulses have increased from \$0.7 billion US dollars in 2001-02 to \$2.3 billion US dollars in 2012-13. And this was made possible by putting import of pulses under the Open general License (OGL). India has been importing pulses for over 37 years⁸ under OGL and the imports stood at 4 lakh tonnes about 25 years back and is expected to reach 55 lakh tonnes this year. The huge amount of pulses import was made possible by lowering the import duty. The import duty was 5% in June 2001 which increased to 10 per cent in March, 2003 and reduced to zero percent since June, 2006. Even today, pulses are being imported at zero percent duty. Despite this huge import, the prices of pulses are skyrocketing and in last two year, it is increased three times. For example the superior variety of arhar was selling at Rs. 205 per kg in November 2015 in the retail market in Delhi. This further prompted the government to go in for large-scale additional import of pulses, knowing well that there is shortage of pulses in the global market and increased prices across the major producing countries. The increased prices of pulses has deprived the poor from the vary sources of protein and creating nutritional insecurity for a large Indian population.

Cotton, an old story of trade induced crisis

The cotton story in 2014 - 2015 is witnessing a similar pattern of slump in international cotton prices as seen during 2002-2006, forcing the Indian textiles mills to order huge import but also forcing the Indian government to come forward to rescue the farmers and buy their produce at the minimum support price, which is presently around Rs. 4,100 (\$63.15 US dollars) per 100 kg. For quite some time, the international price for cotton has been lower than the domestic price which has led to decline in India's total cotton export by 48% (in value terms) in 2014-15 over 2013-14. But at the same time the cotton import has increased from 12.71 lakh (1.271 million) bales⁹ which increased to 15.22 lakh bales in 2014-15.¹⁰ In early 2015, the global cotton prices came down further, touching a five-year low of 57.05 cents a pound at the end of January 2015.¹¹ In the post WTO era, ever since agriculture was opened up to "free" global trade, world prices of cotton have witnessed a sharp and steady decline.

In early 2000's, the cotton producers in India have faced bitter experiences of trade liberalization initiated as part of the structural adjustment programme (SAP) in order to promote rapid economic development. With the opening of the market and trade integration,

⁷ <http://www.thehindubusinessline.com/economy/agri-business/pulses-import-surges-to-record-41-mt/article7154938.ece>

⁸ <http://www.orissadiary.com/ShowBusinessNews.asp?id=62336>

⁹ One Bale of Cotton in India= 170kg; One Bale of Cotton in USA=500 pound (One Poun=453.59 grams; 1kg=2.2 pound)

¹⁰ http://agricoop.nic.in/imagedefault/trade/CTN_172.pdf

¹¹ <http://www.bloomberg.com/news/articles/2015-02-04/india-farmer-suicides-on-rise-as-cotton-slump-spurs-debts>

Indian cotton producers were pitched into competition with highly subsidized cotton producers from the west especially USA, making them completely vulnerable to the price volatility of the international market. Not only that, Indian cotton farmers were made to compete with foreign entrants into the India's domestic market for whom it was much easier to capture larger market share because of lowering of tariff on cotton imports by India and moreover due to huge cotton subsidy, their produce was comparatively cheaper.

The USA provided 14.8 billion¹² US dollars subsidy between 1998 to 2002 to its approx. 25000 cotton farms and 37 billion¹³ US dollars subsidy to cotton under various programmes during 1995-2010. This has brought cotton prices down artificially, allowing the US to capture world markets which were earlier accessible to poor African countries such as Burkina, Faso, Benin, Mali. This has led to sharp decline in international price for cotton, which came down from US 1 dollar 10 cents per pound in 1994 to US 40 cents per pound in 1997 to 47 cent in 1998-2000 and around 50 cents in 2004-2005. Even the most efficient producers were operating at a loss, unable to cover the costs of production. An International Food Policy Research Institute (IFPRI) report¹⁴ in 2005 focused on Benin indicates that a 40% reduction in farm-level cotton prices leads to a 21% reduction in income for cotton farmers and results in an increase in rural poverty of 6-7 per cent. Concurrently, indebtedness has grown among cotton farmers of Vidarbha in India during these years and there has also been a spurt in the suicides.

Import surge cases from other developing countries

World over there are several cases of import surges¹⁵ which was presented by FAO in their import surges papers. FAO studies unfortunately covers import surges only up to about 2003. Between 1980 and 2003, the FAO found that there were between 7,132 to 12,167 import surges of 23 'food groups' in 102 developing countries. It shows that more countries are moving from being net food exporting countries to becoming food deficit or net food importing countries, deepening the current account deficits as countries import bills increase, apparently without respite. The cost of food imports basket for the least developed countries (LDCs) in 2007 was roughly 90% more than it was in 2000, in contrast to a 22% increase in developed countries over the same period. The world's food import bill stood at \$745 billion US dollars in 2007, up by 21% from 2006, out of which developing countries foot \$233 billion US dollars. The FAO has already warned poor developing countries that the ever increasing cost of

¹² http://cip.cornell.edu/DPubS/Repository/1.0/Disseminate?view=body&id=pdf_1&handle=dns.gfs/1200428204

¹³ http://ac.els-cdn.com/S1877042814031085/1-s2.0-S1877042814031085-main.pdf?_tid=e492d6ec-46d2-11e6-99d1-00000aab0f01&acdnat=1468178407_ba2c3167e83fce2b91fd0cb3c7488405

¹⁴ *Rising import of suicides by Jaideep Hardikar, 3 June 2006; <http://indiatgether.org/cotton-opinions>*

¹⁵ *Import surges are sharp sudden rises in import volumes above a trend level, or at prices way below average. Import surges have far reaching implications on local production and on farmers' livelihood. It has a significant impact on local food security, because sudden increases in import volumes or drops in prices can threaten otherwise viable and efficient domestic economic sectors.*

imported food is likely to result in cuts in food consumption, leading to increased incidence of malnutrition.¹⁶

Some of the food import surges cases in the FAO¹⁷ report include: maize, sugar and dairy in Kenya; rice, tomato paste and poultry in Ghana; poultry, rice and vegetable oils in Cameroon; rice and dairy products in Tanzania; poultry and vegetable oils in Mozambique; rice, poultry and sugar in Côte d'Ivoire; rice surges in Honduras; tobacco and onions in the Philippines; and dairy in Sri Lanka.

A variety of factors triggered food surges which included trade liberalization, elimination of support for domestic food crops, government prioritization of exports, dismantling of marketing boards and pressure from International Financial Institutions (IFIs) as well as exchange rate fluctuations. When Ghana reduced its rice tariff from 100% to 20%, rice imports doubled. In Cameroon, lowering tariff protection to 25% increased poultry imports by six times. The other causes of food import surges include dumping and role of subsidies in exporting countries like the USA and EU, food aid etc. Highly subsidized EU chicken has wiped out Senegal's poultry industry; EU milk export has decimated tens of thousands of small farmers in Jamaica, Kenya, Sri Lanka and the Dominican Republic.¹⁸

The food import surges have devastating human and economic cost. Import surges in various developing countries have led to unemployment in the farming sector, and also often times increases in poverty and food insecurity as subsistence farmers have not been able to sell their produce on the local markets. Some of such cases include:

Ghana - Tomato Paste: Tomato paste imports from the EU increased by a staggering 650% from 3,300 tons in 1998 to 24,740 tons in 2003. Farmers lost 40% of the share of the domestic market and prices were extremely depressed.¹⁹

Cameroon - Poultry: Poultry imports increased nearly 300% between 1999 and 2004. Some 92% of poultry farmers dropped out of the sector. A massive 110,000 rural jobs were lost each year from 1994 to 2003.²⁰

Cote d'Ivoire - Poultry: Poultry imports increased 650% between 2001 and 2003, causing domestic production to fall by 23%. As a result, prices dropped, forcing 1,500 producers to cease production and the loss of 15,000 jobs.²¹

Mozambique - Vegetable oils: Vegetable oil imports (palm, soy and sunflower) saw a five fold

¹⁶ http://geoinovace.data.quonia.cz/materialy/ZX501_Globalni_problemy_svetove_ekonomiky/Setkani_c_2/ActionAid_2008_agro_import.pdf

¹⁷ <http://www.fao.org/docrep/014/i1952e/i1952e00.htm>

¹⁸ http://geoinovace.data.quonia.cz/materialy/ZX501_Globalni_problemy_svetove_ekonomiky/Setkani_c_2/ActionAid_2008_agro_import.pdf

¹⁹ <http://www.fao.org/docrep/014/i1952e/i1952e07.pdf>

²⁰ <ftp://ftp.fao.org/docrep/fao/009/ah627e/ah627e00.pdf>

²¹ <http://www.fao.org/docrep/014/i1952e/i1952e07.pdf>

increase between 2000 and 2004. Domestic production shrank drastically, from 21,000 tonnes in 1981 to 3,500 in 2002. About 108,000 smallholder households growing oilseeds have been affected, not to mention another 1 million families involved in substitute products (soy and copra). Small oil processing operations have closed down, resulting in the termination of thousands of jobs.²²

Jamaica - Dairy: Dairy imports saw 50% of dairy farmers selling their animals and going out of business during the liberalization of the 1990s. Employment in the sector in 2004 had fallen by two-thirds that of 1990 levels.²³

Sri Lanka - Dairy: Dairy imports in Sri Lanka increased from 10,000 tonnes in 1981 to 70,000 tonnes in 2005, consuming 70% of the domestic market. Domestic producers were not been able to develop and expand their market share. During this period, local production expanded by less than 15%.²⁴

Senegal - Poultry: 70% of the poultry industry was wiped out because of lowering of tariff on imported chicken parts from 60% to 20% which resulted in eleven-fold increase in the volume of chicken meat imports between 1999 and 2003, three-quarters of it from the European Union and mostly in the form of frozen chicken parts and were sold as little as half the price of the local equivalent. As a result, chicken prices depressed and local chicken production dropped by a third, leading to around 2000 job losses, closure of seven out of every ten chicken farms in Senegal, and a huge negative impact on small farmers. The collapse of the chicken industry has also cost many of Senegal's maize farmers their livelihoods.²⁵

Haiti - Rice: In 1995, the USA President, Bill Clinton, forced Haiti to drop tariffs on rice imported from America. Haiti dropped its import tariffs on rice from 50% to 3%. Clinton claimed this move would help Haiti jump into the "Industrial Era". Most of the imported rice came from Clinton's home state in Arkansas. After adopting Clinton's policies, Haiti became the fourth-largest importer of rice from the U.S, even though they were the poorest country in the Western Hemisphere. Haitian rice farming got wiped out, seriously damaging Haiti's ability to be self-sufficient in food.

In 2011, when Bill Clinton was UN Special Envoy to Haiti, he publicly apologized for forcing Haiti to drop tariffs on imported, subsidized U.S rice during his time in office.²⁶ He said "It may have been good for some of my farmers in Arkansas, but it has not worked. It was a mistake. It was a mistake that I was a party to. I am not pointing the finger at anybody. I did that. I have to live every day with the consequences of the lost capacity to produce a rice crop in Haiti to feed those people, because of what I did. Nobody else".²⁷

²² <http://ftp.fao.org/docrep/fao/009/ah626e/ah626e00.pdf>

²³ <http://ftp.fao.org/docrep/fao/009/ah629e/ah629e00.pdf>

²⁴ <http://www.fao.org/3/a-ah761e.pdf>

²⁵ <http://www.fao.org/docrep/014/i1952e/i1952e.pdf>

²⁶ <http://www.worldfuturefund.org/Reports/haiti/clintonhaiti.html>

²⁷ http://www.democracynow.org/2010/4/1/clinton_rice

The World Trade Organization (WTO)

The business of the WTO should be of interest to each one of us because the rules and agreements that are being decided therein have an impact on our country, its people, its economy, and everything that has to do with our lives, what we eat, what we dress, what we buy and sell.

What is the WTO?

The WTO is a multilateral organization for liberalizing trade and to promote free trade. In the WTO's own words, "it is the only international organization dealing with the global rules of trade between nations. Its main function is to ensure that trade flows as smoothly, predictably and freely as possible. At the centre of this multilateral trading system are the WTO's agreements, negotiated and signed by large majority of the world's trading nations, and ratified in their Parliaments".²⁸ These documents act as contracts that provide the legal framework for conducting business among nations and they also guarantee member countries important trade rights. Today the WTO is one of the most powerful neoliberal trade institutions in the world, it can override national governments' decisions in relation to matters of trade agreements.

The WTO came into being in 1995 but it has evolved over the last 50 years as the successor to the General Agreement on Tariffs and Trade (GATT). After the conclusion of the Second World War, in July 1944, the United Nations Monetary and Financial Conference (also known as the Bretton Woods Conference) was held in Bretton Woods, New Hampshire in the United States (USA), to regulate the international monetary and financial order which was attended by 730 delegates from all 44 Allied Nations. This led to the establishment of the International Bank for Reconstruction and Development (IBRD or the World Bank) and the International Monetary Fund (IMF). Later it was decided to create a third institution to handle trade related aspects of the international economic cooperation. In March 1948, at the United Nations Conference on Trade and Employment in Havana (Cuba), a proposal was discussed to create an International Trade Organization (ITO). The ITO was to be the third among the Bretton Woods Institutions and be equipped with strong decision-making and dispute settlement powers to oversee the multilateral trading system. However, in 1950 when the USA Senate decided not to ratify the Havana Charter (also known as ITO Charter), the ITO was effectively dead.

While the terms of the ITO charter were being drafted and debated and countries pondered whether they would join the organization, representatives from a group of 23 nations assembled in Geneva and adopted a provisional agreement, the GATT, with a clear objective to successively liberalize trade and decrease tariffs for import and export of (industrial) goods to achieve a world market based on the principles of free trade. The main aim of this temporary

²⁸ https://www.wto.org/english/thewto_e/whatis_e/inbrief_e/inbr00_e.htm

multilateral agreement was to give boost to international trade and rectify the harm caused by the protectionist measures since the 1930's the great depression. The agreement, which was to take effect on 1st January 1948, was not meant to be a permanent trade body but rather a stopgap agreement to serve until the time that the ITO would be put in place. Despite its provisional nature, the GATT remained the only multilateral instrument governing international trade from 1948 until establishment of the WTO on 1st January 1995.

The GATT agreement was not a legally binding treaty. The United States (and other nations) joined GATT under its Protocol of Provisional Application.²⁹ This meant that the provisions of GATT were binding only insofar as they were not inconsistent with a nation's existing legislation.

Before the formation of WTO, several 'trade rounds' of negotiations took place under the auspices of GATT - the Uruguay Round was the latest and most extensive, which began in September 1986 at the Ministerial meeting of GATT members in Punta del Este (Uruguay). The Uruguay Round of GATT negotiations addressed a range of complex issues but the main focus of the negotiation led by American, European and Japanese representatives were focused on changing the GATT framework to include measures designed to de-regulate international investment by limiting governments' ability to regulate corporate activity.

During the Uruguay round, which lasted for eight years (1986-1994), trade liberalization became the new form of trade under globalization. The GATT facilitated trade liberalization by reducing industrial tariffs, and the removal of non-tariff barriers, such as import quotas and subsidies. The Uruguay Round is quite significant in radically expanding the trade agenda beyond liberalization of industrial goods by including trade in agricultural goods, privatization of services, protection for intellectual property rights, as well as restricting national laws and regulations which earlier were barriers to corporations' pursuit of profit. By December 1991, a comprehensive draft text, the "Final Act" which was also nicknamed as "Dunkel Draft named after Arthur Dunkel, the then Director General of GATT", for the new international trade body, the WTO, was prepared containing legal texts fulfilling every part of the Punta del Este mandate. The 'Final Act' was formally approved and signed by Ministers from most of the 124 participating governments and the European Communities at the final session of the Trade Negotiations Committee (TNC) at the Ministerial Conference held at Marrakesh (Morocco) from 12th to 15th April 1994. The WTO finally came into existence from 1st January 1995, replacing the GATT. This marked the most significant institutional change in the realm of international trade since the GATT was created in 1948.

The "Final Act" signed in Marrakesh was like a cover note but it had several annexures containing about 20 agreements. Foremost among them was the Agreement establishing the WTO, which serves as an umbrella agreement. The other agreements include Multilateral

²⁹ <https://eh.net/encyclopedia/from-gatt-to-wto-the-evolution-of-an-obscure-agency-to-one-perceived-as-obstructing-democracy-2/>

Agreements on Trade in Goods (which contained many other agreements like the Agreement on Agriculture (AoA), Sanitary and Phyto Sanitary Measures (SPS), Technical Barriers to Trade, Anti Dumping, Subsidies and Countervailing Measures, Safeguards and others), General Agreement on Trade in Services (GATS), and Trade Related Aspects of Intellectual Property Rights (TRIPS). Some other important decisions included in the Final Act were on Dispute Settlement Understanding, Trade Policy Review Mechanism, Plurilateral Trade Agreements (and one of the key agreement included here was the Agreement on Government Procurement). The underlying rationale for all these WTO agreements is to remove trade barriers and create conditions that allow the major corporate powers of the world to trade freely. This implies the reduction and removal of tariff barriers to trade in goods and all aspects of 'non-tariff' trade barriers and trade-related instruments. The aim of the WTO is to ensure a flowing of global trade "smoothly, freely and as predictably as possible".

Distinctive features of the WTO

There were several aspects that separates the WTO from GATT, some of which are as follows: first, unlike GATT, that was concerned only with trade in goods, the WTO covers all three aspects of global trade namely, (i) trade in goods, (ii) trade in services covered under General Agreement on Trade in Services (GATS), (iii) trade in products of innovation, that is intellectual properties, covered under the Agreement on Trade Related Intellectual Property Rights (TRIPS). Second distinctive feature of the WTO is its dispute settlement process through its Dispute Settlement Body (DSB), which is a mechanism to enforce disciplines and compliance as well as reduce the scope for trade friction. It is also the mechanism through which members can impose penalties and sanctions against other members if they violate the rules of the trade agreements. Countries may take each other to the DSB to seek a ruling and where countries violate free trade agreements the "victim" countries are given the right to carry out punitive sanctions. But the fact is, since 1995 majority of rulings in trade disputes between member nations have favored powerful industrialized countries. The DSB has ruled against an array of national health and safety, labor, human rights and environmental laws, which have been directly challenged as trade barriers by powerful governments acting on behalf of their corporate clients. As a result, many countries, particularly developing countries, feel enormous pressure to weaken their public interest policies whenever a WTO challenge is threatened in order to avoid punitive sanctions. Moreover, DSB ruling cannot be blocked by the national judiciary, which imparts to the WTO its supranational status. Third, unlike GATT, the WTO is a legal entity and its agreements are legal. The WTO agreements are ratified by the government therefore are legal in nature. Fourth, unlike the GATT, the agreements under the WTO are permanent and binding to the member countries. Fifth, all WTO members have equal rights (one vote each) and there is no weighted voting.

The WTO Secretariat is situated in Geneva and the head of the organization, the Director General is presently a Brazilian, Roberto Azevedo. The main decision making body of the

Organization is the Ministerial Conference, which takes place every two years. Currently, the WTO has 162 members (as of November 30th, 2015). Besides the members, there are another 22 countries (including Afghanistan and Liberia) that have observer status, a step that precedes becoming a full-fledged member. So almost all the countries in the world are members. A diversity of countries are members of the WTO- capitalist, socialist, rich and poor countries, very industrialized and also developing countries. About WTO's budget, it is over 160 million Swiss francs³⁰ with individual contributions calculated on the basis of shares in the total trade conducted by WTO members.

WTO Ministerial Conferences held so far

Conference	Year	Place
I	9-13 December, 1996	Singapore
II	18-20 May 1998	Geneva (Switzerland)
III	30 November -3 December, 1999	Seattle (USA)
IV	9-13 November, 2001	Doha (Qatar)
V	10-14 September, 2003	Cancun (Mexico)
VI	13-18 December, 2005	Hong Kong
VII	30 November -2 December, 2009	Geneva (Switzerland)
VIII	15 – 17 December, 2011	Geneva (Switzerland)
IX	3 - 6 December, 2013	Bali (Indonesia)
X	15 – 18 December 2015	Nairobi (Kenya)

There are several groupings in the WTO which include the **Least Developed Country (LDCs)** which include the world's poorest countries; **Small and Vulnerable Economies (SVEs)** which include those WTO members that account for only a small fraction of world trade and are particularly vulnerable to economic uncertainties and environmental shocks; **African, Caribbean and Pacific Countries (ACP)** which include countries with preferential trading relations with the EU under the former Lomé Treaty now called the Cotonou Agreement; **African Group** which include African members of the WTO; **Cotton Four (C4)**, which include Benin, Burkina Faso, Chad and Mali, the West African coalition seeking cuts in cotton subsidies and tariffs; **G-90** which include African Group + ACP + least developed countries; **G-33**, which is a coalition of developing countries pressing for flexibility for developing countries to undertake limited market opening in agriculture (it has more than 33 members at present); **G-20** is a coalition of developing countries pressing for ambitious reforms of agriculture in developed countries with some flexibility for developing countries (not to be confused with the G-20 group of finance ministers and central bank governors); **Cairns Group**, which is coalition of

³⁰ https://www.wto.org/english/thewto_e/whatis_e/tif_e/org3_e.htm

agricultural exporting nations lobbying for agricultural trade liberalization (and it also aimed at abolishing export subsidies and trade distorting subsidies for agricultural products hence it does not include USA, EU and Japan).

Decision Making at the WTO

The WTO's rules say that each member country has one vote, and that a vote from a rich country is equal to a vote from a poor country. But decisions are not commonly taken through a voting process in the WTO, but rather supposedly by consensus, in other words no deal is struck if all countries are not in agreement and these are later ratified by country's Parliament or Government. However, the manner in which decisions are taken or agreements are reached in WTO is quite manipulative and coercive, and does not ensure equal participation, partnership, transparency and democracy. Even though WTO has 162 members but the key decisions are made among a small select groups of countries called the "Green Room" or among 'Friends of the Chair'. Since its inception, no WTO decision has yet been put to a vote. In reality it is therefore one of the most undemocratic institutions. In almost every Ministerial meeting, the USA, the EU countries, Japan and Canada dominate the negotiations. Together they are called Quadrilaterals or 'the Quad'. After Doha Ministerial, developing countries voices have increased considerably, and role of G33 and G20 became quite prominent especially in agricultural negotiations, thus bringing Brazil and India into the fold of 'the New Quad' along with Australia as a representative of the Cairns Group. Secondly, the Mini Ministerial process of decision-making in the WTO is also quite undemocratic. From 2002 to 2010 several "Mini Ministerial" meetings took place prior to the Ministerial Conferences where key countries (the Quad) participated and drove most of the agenda but there were very few participation of other developing countries. Even the Dispute Settle Body mechanism is not truly democratic process. Though any WTO member country can take another member to the DSB for violation of WTO rules but the fact is there is very few chances that a poor country would ever institute a sanction against a powerful country like USA or EU for being in violation of an agreement. On the other hand rich countries have the economic power to threaten poor countries. So while in principle all member countries are equal in the WTO, in practice rich countries dominate over decision making.

Fundamental Principles of the WTO

Most Favoured Nation (MFN): One of the fundamental principles of this multilateral trading system (or the WTO) is MFN treatment. Under WTO, member countries cannot discriminate between their trading partners. They are all to be treated equally on a most-favoured nation (MFN) basis. For example, special favours in trade (such as a lower customs duty rate for one of their products) to one country have to be extended to all other WTO members. The MFN rule says that every time a country opens up a market for a particular good or service, for example by lowering a trade barrier, it has to do the same for all its trading partners. The principle of MFN is also found in GATS (Article 2) and TRIPS (Article 4).

However there are permitted exceptions to the MFN rule: for e.g. free trade areas/customs unions and preferential systems. Countries can set up a free trade agreement that applies only to goods traded within the group-discriminating against goods from outside, or they can give developing countries special access to their markets, or they can raise barriers against products that are considered to be traded unfairly from specific countries.

National Treatment: Another fundamental principle of the WTO trading system is that there should not be any discrimination between imported and locally produced goods and services, both should be treated equally, at least after the imported goods have entered the market. Therefore charging customs duty on an import is not a violation of national treatment even if the locally produced products are not charged an equivalent tax. But once the products enter a country, the imported product must not be subject directly or indirectly to internal taxes in excess of those applied directly or indirectly to the similar domestic product. The same should apply to foreign and domestic services and foreign and local trademarks, copyrights and patents.

Freer Trade: The third important principle of the WTO is freer trade that means furthering trade liberalization or trading system should become freer over time by lowering trade barriers. The barriers concerned include customs duties (or tariffs), non-tariff barriers (NTBs) as well as measures such as import bans or quotas that restrict quantities selectively.

Predictability and Transparency: This principle refers to the need to assure foreign companies, investors, and governments that trade barriers will not be raised arbitrarily, and that all trade related policies and regulatory frameworks will be transparent to foreigners.

In order to make the trading system stable and transparent, many WTO agreements require governments to disclose their policies and practices publicly within the country or by notifying the WTO.

Promotion of Fair Competition: This refers to making the trading system more competitive by discouraging unfair practices such as subsidizing exports and dumping products in foreign markets. Dumping occurs when products are sold in foreign markets at a lower price than in domestic markets and harm is created to industries in the foreign markets. Even though this is one of the fundamental principle of WTO, but the fact is it is not followed by the developed countries and they dump their subsidized goods in the developing countries.

Encouragement of Development and Economic Reform: In the multilateral trading system it is recognized that not all countries are equal and less developed countries may require special treatment; for example, longer periods for their industries to adjust to the lowering of tariffs. Therefore, developing countries are given transition periods to adjust to the more difficult WTO provisions. Least-developed countries are given even more flexibility and benefit from accelerated implementation of market access concessions for their goods. The Uruguay Round agreement also says that the better-off countries should facilitate implementing market access commitment on goods exported by the least-developed ones, as well as to increase technical

assistance for them. As a result, some developed countries have begun to allow duty-free and quota-free (DFQF) imports for products from least-developed partners. However this has not been implemented fully and still the least developed countries are fighting for their duty-free and quota-free exports of all their products to the developed countries while the developing countries are fighting for their special and differential treatment granted to them under the Doha Development Round (DDR) which concluded in Doha (Qatar) in 2001.

Single Undertaking: This principle indicates that every item of the WTO negotiation is part of a whole and indivisible package and cannot be agreed separately. "Nothing is agreed until everything is agreed" which means all WTO agreements are held together as a single undertaking. No member country can selectively choose which agreement they will join. The WTO, and all of its agreements, is a single package that member states must join on an all or nothing basis.

The Objectives of the WTO

The objectives and purposes of the WTO are spelled out in the Preamble of the Agreement Establishing the WTO which states that members should conduct their trade and economic relations with a view to "raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of development".

In brief, the important objectives of WTO are:

1. To improve the standard of living of people in the member countries,
2. To ensure full employment and broad increase in effective demand,
3. To enlarge production and trade of goods,
4. To increase the trade of services,
5. To ensure optimum utilization of world resources,
6. To protect and preserve the environment,
7. To accept the concept of sustainable development.

The WTO in Practice

During the formation of the WTO, it was hoped that the global trade framework under the WTO would work for the 99 percent of the people of the world. It would provide all its members sufficient policy space to pursue a positive agenda for development and job-creation. It would facilitate, and not hinder, global efforts to ensure true food security, sustainable development, access to affordable healthcare and medicines, and global financial stability. As well as it will privilege global agreements on human rights and environmental sustainability over corporate profit.

But in the 20 years of its existence, WTO has failed to live up to its promises. All its lofty objectives are yet to be fully realized. Rather the opposite is true and the world has become more unequal since the era of economic globalization unleashed by the WTO regime. This is because the WTO is structured and ordered in such a way that it does not promote genuine free trade. Rather, it promotes 'monopolistic competition' in which powerful actors are at a huge and perpetual advantage. Each member of the Quad represents its corporations' interests at the WTO. The WTO negotiations have turned into a fight by developed countries to open markets in developing countries to favour their corporations. These corporations are often directly involved in writing and shaping WTO rules. Therefore the WTO version of "free trade" is for the producers, manufacturers and corporations from Northern, Industrialized and Developed Countries to get more access to markets in Southern, Developing Countries for their agricultural goods, manufactured products and services, and at the same time, they retain continuing access to the raw materials and labour needed to strengthen their own production and distribution capacities. But there is no correspondence in the opposite direction, rich countries don't always let poor countries' products in.

On the other hand, by signing onto the WTO, developing countries essentially agreed to give up independent trade policy as a tool for domestic development, food security and sovereignty and industrialization and accepted WTO as a super government. Those countries whose laws were declared trade barriers by the WTO—or that were merely threatened with WTO action—have eliminated or watered down their policies to meet WTO requirements. They also agreed to ban quantitative restrictions on imports, to reduce tariffs on many agricultural and industrial imports and not raise tariffs on other imports, and to allow foreign companies to compete with domestic firms in the provision of services.

Developing countries also agreed to restrict their own future access to high-end technology and know how - which are essential for building/strengthening their economic capacities and advancing from primary to value added production - through agreements that protect "intellectual property rights" and de-link foreign investment with national development priorities. For example the General Agreement on Trade in Services (GATS) mandates that countries must give foreign service providers (whether in telecommunications, finance, healthcare, water or education) the same rights and privileges as domestic counterparts, so GATS does not only ensure access to foreign service providers but also influences domestic regulation of educational services, water services and many other types of services. In GATS, the "National Treatment" principle would mean that local producers would no longer have preferential access to their own domestic markets, nor any specific policy supports from their governments by which they could strengthen their capacities to compete in the domestic services markets of already industrialized countries. Local policies aimed at rewarding companies who hire local residents, use domestic materials, or adopt environmentally sound practices are essentially illegal under the WTO.

Similarly the Trade Related Intellectual Property Rights (TRIPS) agreement requires developing countries to protect patents and all other forms of intellectual property rights (IPRs), e.g. Patent, Copyright, Trademarks, Plant Variety Protections rights etc. The IPR regime established by the WTO usually only benefits transnational corporations, who own most patents, thus making medicines and other vital products more expensive, as well as promote the privatization and commercialization of life itself through patents on genes, seeds, plants and other life forms because WTO rules permit exclusive protections for life forms. The world is witnessing the impact of IPRs on pharmaceutical products with patents on medicine, medical and surgical procedures. Not only that, the holders of IPRs on pharmaceutical products are preventing independent development of generic, low-cost drugs, leading to monopolies developing rather than fostering genuinely 'free' trade. The result is, the poorest in developing countries are unable to access affordable medicine.

Even though 3/4 of the members of the WTO are developing countries, they are not as assertive, as they should be because most of their economies are dependent on the USA and the EU, and therefore feel obligated to vote in favour of them. What happens, then, is that rich countries gather together and make the rules, without taking into consideration poor countries' demands. A poor country that protests, that doesn't accept the rich countries' rules, is threatened by harsh economic sanctions. Hence there is no respect for Sovereignty of policy space of developing countries in the trade negotiations at the WTO. Since its inception, the WTO has established rules that restrict national sovereignty. These rules weaken or invalidate domestic legislation designed to defend the environment, or people's health, or workers' rights. With the WTO rules, a company can, through its government, sue another country for an environmental law that it might disagree with, alleging that it is an "impediment to trade". WTO is therefore the only institution that has the power to overturn the laws of governments all over the world.

The Agreement on Agriculture (AoA)

The AoA is one of the most complex agreements in the WTO and possibly in trade history. The AoA regulates the liberalization of agricultural products. It requires that all WTO member countries liberalize their agricultural markets fully and remove all “trade distorting” measures such as subsidies and domestic supports in order to ensure a “level playing field” for agricultural producers and exporters. Liberalizing agricultural trade affects huge segments of the world population because agriculture is the means of livelihood for many in the North and South. In developing countries in particular, the structure of agricultural production determines peoples access to food. Large numbers depend on subsistence farming and also on cash crops for their livelihoods. Net food-importing countries, especially lower income resource poor countries are very vulnerable to world food price fluctuations, and their producers are susceptible to an influx of competing imported products from the North.

Agriculture was never considered as a “commodity” under the pre-WTO regime of GATT. It began to be considered so only in 1994, after the signing of the Final Act in Marrakesh, which brought agriculture under the purview of the WTO. It was the USA and the EU who pushed for this deal in order to export their agricultural products and capture markets in developing countries.

The AoA is based on a paradigm that is biased in favour of capital-intensive, corporate agribusiness-driven and export-oriented agriculture. It is clearly detrimental to the subsistence and small farming model largely practiced by millions of farmers around the world. The false promises about the betterment of farmer's incomes under the AoA, such as through greater access to markets and higher prices for farmers, have no meaning today. In fact, higher and fair prices for farmers seem further away then ever. The subsidized dumping from developed countries caused depression in not only international commodity prices but also farmgate prices at the domestic market. The benefits of AoA have mainly been reaped by northern agribusiness for whom market access means more profit. It is no wonder that the original text of the AoA was drafted³¹ by the former executive of the Cargill Corporation (the biggest grain exporter in the World), Mr Dan Amstutz, who served as USA Ambassador to GATT and Chief Negotiator for Agriculture during the Uruguay Round talks in 1987-1989.³²

The AoA was finalized in December 1993 through the Blair House Accord, which was negotiated between the USA and the EU at the Blair House in Washington in November 1992.³³ The two superpowers had come to realize that in their efforts to out-compete one another for export markets, the tremendous subsidies they were giving to their respective agriculture

³¹ <http://www.lobbywatch.org/archive2.asp?arcid=1005>

³² <http://www.usda.gov/wps/portal/usda/usdahome?contentid=2003/04/0131.html>

³³ <http://www.fao.org/docrep/004/w7814e/w7814e04.htm>

sectors were creating a lose-lose situation for both countries. Instead of competing with each other, they decided it was better to set up a trade regime that would benefit both. They initiated the insertion of the AoA into GATT in order to create a global framework for subsidy reductions, remove protectionist measures for easier trade in agricultural products. But many other countries, especially small southern countries, viewed the agreement as biased and accepted it only under pressure. Governments in developing countries agreed to it because they were promised greater market access for their agricultural produce in developed countries. The AoA was falsely hailed as a victory for farmers- who supposedly were to benefit from more trade, greater access to markets and higher prices. In reality, it is the richer WTO member countries who conquered global markets for their agricultural commodities and processed goods, while poorer developing countries were unable to benefit- they faced deteriorating terms of trade because of rising production costs, declining world prices in their main export items (primary commodities) and unfairly implemented provisions of the AoA and other trade agreements.

The main aim of the AoA is to reduce the effect of trade barriers and march toward market oriented international trade in agriculture. It identifies three main barriers (also called pillars of AoA) in the trade of agricultural products - market access restrictions (tariff and non tariff measures), domestic support (subsidies) and export competition (which covers export subsidies and export-related measures with equivalent effect). All these trade barriers are to be reduced in a phased manner over an agreed period.

Market Access

Market access is the extent to which a country allows the importation of foreign products. Restricting market access ensures that domestic producers of agricultural products are “protected” from international competition. This is done in two ways: by imposing Tariffs (import duty) and also through putting up non-tariff barriers. Countries have traditionally used both tariffs and non-tariff measures to regulate imports of agricultural goods. The market access provisions aim to remove, regulate or lower these protectionist barriers to trade. Tariffs are not just barrier to trade, but they also serve the purpose of getting revenue for the government and in the case of developing countries it forms an important source of income. The lowering or removal of tariff seriously affect country's revenue generation which ultimately affect the government expenditure on social sectors like health, education, public service etc.

All WTO members had to remove non-tariff barriers to trade in agriculture – such as quotas, Quantitative restrictions (QRs), variable levies, minimum import prices, discretionary licensing, state trading measures, voluntary restraint agreements etc., which act as a deterrent to free, and fair trade. Such non-tariff barriers (NTBs) are converted to tariffs, because agriculture products can only be protected through tariffs. This process is called as Tariffication of the NTBs by the AoA. The tariffs should work out to be equivalent to the barriers that were in place in the base reference period of 1986-88. However, once NTBs are abolished they cannot be

reintroduced. These tariffs are supposed to be Bound⁴– that is, committed and such commitment cannot be rolled back.

Therefore, under the Market Access commitments,

- Developed and developing countries have to convert all non-tariff barriers into simple tariffs (tariffication).
- All tariffs to be bound, that is, fixed (cannot be increased above a certain limit), for example, India bound its tariffs on primary agricultural products at 100%; processed foods at 150%; and edible oils at 300%.
- Under AoA, tariff cut will be on the Bound rates and NOT on the applied rate. Even though India has kept high most of its Bound rates.
- Developed countries to reduce import tariffs by 36% (across the board) over a six-year period with a minimum 15% tariff reduction for any one product/ tariff line.⁵
- Developing countries to reduce import tariffs by 24% (across the board) over a ten-year period with a minimum 10% tariff reduction for any one product/ tariff line.
- Least Developed countries are not suppose to undertake any commitment to reduce their tariff levels but they have to bind their tariff lines.

The tariff reduction was based on the 1986-88 Tariff base and it was also chosen as reference period for fixing a Tariff equivalent of the Non-tariff measures adopted. It was by design that developed countries chose 1986-88 as a base year. It was during this period that the Uruguay Round commenced and these developed countries already sensing the possible stipulations in the AoA, had increased their Tariffs then so as to position themselves better during the forthcoming negotiations. Therefore a decline of 36% of Tariffs, from a rather high base, by the developed country only had a minimal impact of creating additional market access for developing countries.

The AoA does not prohibit all forms of non-tariff import restrictions. There are certain measures available to governments - provided they are consistent with the WTO agreements – which include:

- Import restrictions to reduce balance-of payments problems (Articles XII and XVIII of the GATT);
- General safeguards (Article XIX of the GATT and the Safeguards Agreement);

³⁴“Bound tariffs or Bound rates” are highest level of duty notified in WTO that the country can impose and cannot exceed at any point in time. By contrast, “applied rates” refer to tariffs that are actually applied at any given point in time. The basic rule is: applied rates may be lower but must not exceed the bound rates. Hence bound rates have special significance as they limit the ability of a country to vary tariffs. In the WTO, tariff negotiations amounted to reducing the bound rates. Past 20 years of experience indicates that applied tariffs of most developing countries are far below the bound rates. For example, in India, as on 23 November 2015, the Bound rate on most of the Pulses is 50%, while the applied rate was 0%, Bound rate of Sugar was 150% while applied rate was 40%, the Bound rate of Cotton was 100% while applied rate was 0%.

³⁵ “Tariff lines” are products defined at a highly detailed level for the purpose of setting import duties. Products can be subdivided, the level of detail reflected in the number of digits in the Harmonized System (HS) code use to identify the product.

- General exceptions (Article XX of the GATT, which deals with a range of concerns such as public morals, conservation of resources, and human, animal and plant life and health);
- Sanitary and phytosanitary (SPS) measures, covered by the SPS Agreement, which deals with food safety and animal and plant health;
- Technical barriers to trade (TBT), such as product standards, technical regulations and labelling covered by the TBT Agreement;
- Other measures covered by general WTO provisions that are not specific to agriculture

Minimum Access Opportunities: As an important element of their Market Access commitments, member countries are required to allow a minimum level of agricultural imports as a share of domestic consumption. The reason for including this provision was that the Tariffication of NTBs could give rise to tariffs that were too high (for example, 800% in case of import of rice in Japan) to allow any opportunity for import. In order to circumvent this problem, the AoA provides for measures that will improve the prospect of market access. Countries have to establish minimum access opportunities for imports of primary commodities if they want to benefit from the so called 'special treatment clause'. Under this clause, if the imports of primary agricultural product (or its prepared products) were less than 3% of the domestic consumption then minimum access opportunities at low tariffs are provided through tariff rate quotas (TRQs). TRQ means that for a certain quota, the tariff rate applied would be low, and then become higher for imports above that quota, thus guaranteeing a minimum quota/amount of import at a low tariff. The quota of allowed imports in the year 1995 would be set at not less than 3% of the average annual consumption in the base year (1986-88). This quota would be raised to 5% by the end of the year 2000 by the developed countries and by the end of the year 2004 by developing countries. Thus this provision guarantees a minimum quantity of imports of primary commodities by countries even if they do not require those imports at all. Technically, this provision was contrary to the principle of free trade because it forced imports of agricultural commodities in a world where countries were generally protecting their domestic agricultural markets. TRQs resulting from minimum access commitment are allocated on a so-called most favoured nation (MFN) basis, that is, it should be equally available to all countries. In May 2015³⁶, 37 WTO members (counting the EU and its 28 member states as one) had tariff quotas specified in their schedules. There are more than 1,000 tariff quotas on individual products across the WTO's membership. These tariff quotas are binding commitments.

Special Safeguard (SSG): In order to protect domestic market from imports, Special Safeguard can be invoked only for commodities, which have been subjected to tariffication (i.e. quotas and other quantitative protection got replaced by tariff). This provision allows countries to apply additional duties, as a temporary measure, on imports that should not exceed one-third of their existing normal custom duties, in the event of import surges or sudden fall in the

³⁶ https://www.wto.org/english/res_e/booksp_e/agric_agreement_series_2.pdf

world price of the affected commodities. There are two types of surges that trigger the SSG: (i) when import volumes surge beyond some defined threshold and (ii) when import prices fall below a previously defined threshold. Only one of these can be invoked at any one time. Price trigger refers to the average cost of imports of the product during the 1986-88 period. If the prices of current imports fall below the average cost of imports during that period, it facilitates members to impose Special safeguards. The AoA provides that the members will publicly notify the trigger price. Quantity Trigger on the other hand is a combination of two components – change in domestic consumption and the net increase in the import quantity. Also, the additional tariff can only be maintained till the end of the year in which it was introduced.

The special safeguards provisions for agriculture differ from normal safeguards under the separate Safeguards Agreement. The significant difference to these two is that the safeguard action under the Agreement on Safeguards can be taken only if the imports cause “serious injury” or “threaten to cause serious injury”, while special safeguard action can be taken without demonstrating any adverse effect on domestic production.

The SSG is only available to 16 developed and 22 developing WTO Members (those that had 'tariffed') and for a selected range of agricultural products. No LDC is part of this list of 38, and from Sub-Saharan Africa, only some of the countries that are in the customs union with South Africa have the SSG – South Africa; Namibia; Swaziland; Botswana. Thus far, it has mainly been the developed countries that have regularly used the SSG. The SSG is scheduled on a line-by-line basis. Some key developed countries have a large number of products/ tariff lines which enjoy the SSG: EU – 539 products (23.9% of their agriculture tariff lines); Norway 581 products (49% of tariff lines); Switzerland-Liechtenstein 961 products (59% of tariff lines).³⁷ Since 2010, the SSG was used by the USA on 29 tariff lines at the HS 6-digit level, the EU on 15 tariff lines, and Japan on 16 tariff lines; and Chinese Taipei on 57 tariff lines at the HS 6-digit and 7-digit levels. These are based on their notifications to the WTO.³⁸ Compared to that, very few developing countries have used the SSG provisions to protect their farmers.

Special Treatment Clause: Special treatment was given to those WTO members who were not willing to follow Tariffication in respect of some products. The Special Treatment clause, like the safeguard clause is not a full exemption to tariffication but a mere postponement to allow protection of specific commodities like staple foods. For developed countries, postponement is allowed until at least at the end of their implementation period which is 2000 and for developing countries until the 10th year or 2004. This alternative has been adopted only by a few members and only for one or two products: Japan, Philippines and South Korea for rice; and Israel for sheep meat and some dairy products. Chinese Taipei, which completed its membership negotiation in 2001, was also allowed special treatment for rice.

³⁷ http://www.southcentre.int/wp-content/uploads/2015/12/AN_MC10_2_Special-Safeguard-in-Agriculture.pdf

³⁸ <http://www.twn.my/title2/wto.info/2015/ti150602.htm>

These countries were required to provide access to their markets for those products through import quotas that gradually expanded, for example, South Korea postponed the Tariffication of rice imports till 2014, as a result, Korea was required to provide access to the rice market in the form of import quotas which was fixed at 51,307 tons in 1995 as the minimum market access (MMA) and this required volume of the MMA increased incrementally to 205,228 tons in 2004, 4% of annual rice consumption in South Korea. And in April 2004, this special treatment for rice import for Korea was further extended to 2014 but with the condition that from 4.4%, it will increase to 7.96% of rice consumption, as a result the volume of rice import increased to 408,700 tons in 2014.

By May 2015, four of the five countries had ceased to apply these restrictions, and are now limited to tariffs only. Japan, Chinese Taipei, Israel and Republic of Korea have converted the restrictions to equivalent tariffs (they have “tariffed”) and started to apply ordinary customs duties on the relevant products. The Philippines has been allowed to postpone the transition to ordinary customs duty for rice until June 2017.

Market Access Post Doha Round

The market access requirements of the AoA produced very little liberalization in the developed countries highly protected markets. These countries have been distorting trade by imposing non-tariff restrictions on imports, using measures to restrict imports through SSG or other measures like designating certain products as “sensitive products” or engaging in “dirty tariffication”, in form of “tariff peaks”, “tariff escalation” or “tariff simplification” on products of interest to the developing countries.

Some of these provisions have been introduced as part of the July 2004 agreed Framework for Establishing Modalities in Agriculture (also known as July Package) which included the provision on Sensitive Products (SEPs), Special Products (SPs) and Special Safeguard Mechanisms (SSM). The agreement reached in July/August 2004 laid the foundations for future reforms of global agricultural trade. It was the result of negotiations started in 2001 with the launch of a new round of talks at the 4th WTO Ministerial in Doha (Qatar) where the developing countries insisted that this should be a “development” round, hence it is also called as Doha Development Round (DDR). Though this round was launched mainly to broaden the multilateral disciplines to new themes such as competition policy, investment, transparency in government procurement and trade facilitation – the so-called Singapore issues, which had initially been tabled at the WTO Singapore Ministerial (1996). But this move of developed countries to further liberalize trade in the pretext of Singapore issues got completely punctured because of the failure to have a concrete agreement on some key demands by the developing countries on agriculture, which included domestic subsidy cuts by developed countries, expansion of market access for developing countries, and control (elimination) of export subsidies for agricultural products and more importantly the cotton issue, raised by the Cotton 4 countries (against high subsidies given to cotton farmers by developed countries which

adversely affected cotton exports from these four West African countries). The cotton issue also led to the failure of 5th WTO Ministerial in Cancun (Mexico) in 2003. One of the aftermaths of the Cancun failure was that the Ministerial failed to take any decision on the Singapore Issues, and finally they were dropped from the WTO agenda altogether.

Sensitive Products: Both developed and developing countries have the right to designate a number of products/tariff lines as sensitive products, on which they would undertake lower tariff cuts. The number corresponds to a given share of the country's tariff lines. The share is given as 4% for developed and 5.33% for developing countries. These products will be subject to a smaller tariff cut in exchange for an expansion of quotas. It means, to provide for some increase in market access even for sensitive products, access for specific additional quantities at relatively low tariffs must be provided in the form of a tariff rate quota (TRQ).

Tariff Peaks: During the Doha negotiations, developing countries raised the issue of exceptionally high tariffs in developed countries on those products that were of interest to the developing countries. The average tariffs in OECD countries in 1995 were 214 per cent for wheat, 197 per cent for barley, 154 per cent for maize. A joint UNCTAD/WTO Study on the post Uruguay Round Tariff Environment for exports from developing countries (1997) reports that QUAD countries (USA, EU, Canada and Japan) maintain an extremely large variation of tariff rates. Their tariff peaks reach 350 per cent and above in extreme cases for some products of interest to developing countries. These "tariff peaks" block exports from developing countries to the developed countries markets. Examples include tariff peaks on textiles, clothing, and fish and fish products. For instance, the USA, EU, Japan and Canada maintain tariff peaks of 350% to 900% on food products such as cereals, sugar, dairy products, meat, fruits, vegetables and fish which are still a cause of concern for the developing countries.

Tariff Escalation: Tariff escalation (as products are processed, there is an increase in tariff with each successive stages of processing) block exports of value-added products from developing countries to the developed countries. The developed countries impose low import duties (tariff) on raw materials compared to semi processed or finished products. This escalation serves to keep the global market open for raw materials but ensures that the countries producing higher-end processed products are insulated from competition. Effectively, this entrenches developing countries in the position whereby they remain exporters of cheap raw products since their processed products, if any, are barred from entering the global market. This is also a major factor preventing developing countries from diversifying and increasing their share of processed agricultural exports. For example, North American countries tariff escalation was observed in animal and animal products, vegetable and vegetable products, sugar and sweeteners and tobacco and tobacco products. As regards the product groups that were most affected because of tariff escalations, meat and meat products and grains and grain products were among the more prominent. Tariff escalation treatment will not apply to 'sensitive products'.

Tariff Simplification: This is yet another protection mechanism being used by developed countries to protect their market from developing countries imports. Some developed countries like EU, Norway, Switzerland and Canada impose large number of non-ad valorem (NAV)³⁹ tariffs on their agricultural import which provide an additional layer of non-transparent protection to prevent imports from developing countries.

We can therefore say that AoA focuses merely on further liberalizing markets of poorer countries while it continues protecting rich country markets through protectionist measures like tariff peaks and other trade barriers. These provisions also indicate that reciprocity, which is a core principle of the WTO and which supposedly directs the trade liberalization commitments of members has been rendered meaningless. And the best example for this is the continuous opposition of developed countries for the two key provisions of the Special and Deferential Treatment (S&DT) granted to developing countries at the Doha Declaration, i.e. provision for Special Products (SP) and Special Safeguard Mechanism (SSM).

Special and Deferential Treatment (S&DT): The Doha Development Round was supposed to ensure special favourable treatment in agriculture for developing countries through provisions of Special and Deferential Treatment (S&DT) but it was continuously resisted by developed countries. Developing countries (and Least Developed Countries) have fought long and hard to get special concessions as they cannot open up trade at par with developed countries since they have less money, competitiveness, access to technology etc. Developing countries always stressed that such concessions are fundamental to address concerns related to food and livelihood security and rural development as reflected in the Doha Ministerial Declaration. The G33 (comprising over 40 developing countries) had taken a firm stand that there would not be an overall deal to conclude the Doha Work Programme unless the provisions on SPs and SSM adequately meet the countries' needs to protect and promote food security, farm livelihoods and rural development. But developed countries, particularly the USA and members of the Cairns Group, contested this view stressing that securing availability of food through imports is the best way to guarantee food security especially for the poor. Because any of these safeguard provisions would restrict their objective to get maximum access for their goods into the poor and developing countries market. However developing countries managed to get these concessions on agriculture under the July framework of 2004, which incorporates provisions on Special Products (SP) and Special Safeguards Mechanism (SSM) as fundamental components of the S&DT. This was formally endorsed at the WTO Ministerial in Hong Kong in December 2005 and the revised modalities⁴⁰ text (TN/AG/W/4/Rev.4) of 6th December 2008⁴¹

³⁹ *Non-ad-valorem tariff are tariff that is not expressed as a percentage of the price or value and can be determined by complex technical factors; for example, the duty can be based on the percentage content of the agricultural component (sugar, milk, alcohol content, etc.) or its strength (e.g. the degree of sweetness). For example, EU charges duties on certain dairy products based on the weight of lactic matter in the product, and the USA charges a tariff on raw cane sugar that varies with the sucrose content of sugar.*

⁴⁰ *As per the WTO, Modality means “a way to proceed”. Modalities set broad outlines — such as formulas or approaches for tariff reductions — for final commitments.*

provides the direction through which SDT can be achieved by the developing countries.

Special Products: Special Products' (SPs) can be defined as 'agricultural products of particular importance to farming communities in developing countries for reasons of food security, livelihood security and rural development'. It allows developing countries some flexibility in the tariff cuts that they are required to make on a designated number of products (the special products designation is different from the sensitive product designation). The self-designation of products as SPs is based on twelve specified criteria for food security, livelihood security and rural development and some of the indicators for designation of SPs include whether the product is a staple food in some way, or accounts for a large share of domestic consumption, production, employment, income, or expenditure, or it was notified as receiving certain kinds of domestic support by any WTO member and the product was exported by that member in any year between 1995 and 2001.

The Hong Kong Ministerial Declaration of December 2005 stated that, "Developing Country Members will have the flexibility to designate an appropriate number of products as Special Products, based on criteria of food security, livelihood security and rural development needs. These products will be eligible for more flexible treatment". Since then India, G20 and G33 groups of countries demanded for 20% of agricultural tariff lines to be self designated as Special Products (SP) with zero tariff cut. However due to severe opposition by the developed countries, especially USA, which stated that special products would block its access to developing countries' markets, hence it wanted SPs be restricted to only 5 tariff lines. That may be the reason, the revised draft modalities text of 6th December 2008 ignored the G33 demands and proposed an average tariff cut of 11% for a 12% of total tariff lines to be designated as special products (SPs) with 5% of tariff lines taking zero or no tariff cuts. For example, out of approx. 700 agricultural tariff lines in India, it is allowed to self-designate only 35 tariff lines as SP on which there will be zero tariff cut. This would mean protection from tariff reduction to just one crop from each of the Indian state. Infact for a vast country like India with extremely diverse agro-climatic regions, even 100 SPs may prove inadequate to protect the livelihood and food security concerns of small and marginal farmers and agricultural workers. Though India has not yet made public the list of its designated SPs. However we believe that India's SPs would broadly fall in the categories of dairy and poultry products, vegetables and fruits, spices, cereals, oil seeds and edible oils and certain processed products.

Lets hope that by keeping SPs outside the ambit of tariff reduction, developing countries like India might be able to counter adverse impacts of cheap, subsidized imports, mainly from developed countries. It was also hoped that SPs might help correct the current imbalances in

⁴¹ On 6th December 2008, Ambassador Crawford Falconer, Chairperson of the Agriculture Negotiations, circulated a latest revised draft "modalities" text — a sort of blueprint for the final deal on Agriculture. The draft "modalities" contain formulas for cutting tariffs and trade-distorting subsidies and related provisions. This text was considered as the basis and final document for formalizing the negotiations on agriculture but soon, say by 2012-13 developed countries started challenging its provisions to extract some more concessions from the developing countries.

the trade rules that allow rich countries to maintain their subsidies under different boxes as well as charge high tariff on products exported by developing countries.

Special Safeguard Mechanism (SSM): As part of the Doha Round mandate, this is another special and differential treatment provision exclusively for developing countries that gives them the right to use the SSM. The Hong Kong Ministerial Declaration of 2005 said that developing countries would “have the right to have recourse to Special Safeguard Mechanism (SSM) based on import quantity and price triggers, with precise arrangements to be further defined”. 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. It allows developing countries to take safeguards (what are called contingency restrictions) against excessive agricultural import (import surges of the product entering the country) or price declines (import prices depressing the domestic market price) that cause injuries to domestic farmers. And the safeguard allowed is raising import duties if the import surge causes welfare loss to the domestic poor farmers.

However, for countries to invoke SSM, there needs to be a threshold level for import surges and price fall. The “Import quantity trigger” is a threshold or maximum level of imports and crossing this threshold will allow the use of SSM, which temporarily allows increasing the safeguard duty over and above the normal custom duty. 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. Therefore, the trigger (or threshold) for invoking the SSM would determine 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.

That may be the reason, the negotiations on SSM in the WTO is stuck on the issue of (a) the trigger: i.e. when the mechanism would be applicable; (b) the size of the remedy: i.e. how high overall duties can go above the MFN tariff; and (c) duration of the remedy and whether safeguard duties could be applied in consecutive years.

Majority of the developing countries have therefore consistently demanded for an easy to invoke SSM for curbing the unforeseen surges in the import of agriculture products from heavily subsidized countries in the North. The SSM should be triggered in reaction to exceptional market conditions in terms of both import price and volume. The remedy measures should be temporary in nature and should not require proof of injury, which can be difficult to provide in time to prevent injury to domestic producers. Besides that, developing countries also wanted SSM provision to include: the possibility to have recourse to the SSM for all agricultural tariff lines; remedy measures will take the form of additional duties and should be proportionate to the problem at hand: the deeper the import surge and the lower the import price, the higher the additional duty.

However, developed countries and some exporting developing countries like Brazil (even though it was a member of developing countries Group like G20) have always opposed the idea of SSM. They have watered down its provisions by imposing severe conditions on its use, thus making them almost unusable. For example, USA wanted SSM to be invoked only when the import volumes rise by more than 40% (that is, imports levels had to be 140% over the preceding 3-year average) before the SSM could be invoked, which was rejected by India and other developing countries as it would have rendered the SSM virtually inoperable. The USA also suggested that if price based trigger is met, a market test should be used to ensure that volume is also increasing and vice versa. Similarly it requested this tool to be only available till the end of Doha round. Moreover USA proposal also says that the condition for application of SSM is possible when the importing country proves import surge by three years data. USA intention was to limit the scope of this safeguard to an extent that recourse to such mechanism become useless.⁴² Unfortunately, the December 2008 draft paper on SSM by the Chairman of the Committee on Agriculture, brought in several such conditions, which would make SSM useless for developing countries. Interestingly, a significant number of these conditionalities do not even exist for the SSG which are used by the developed countries to protect their local producers from imports from developing countries.

Even today, the SSM is the most contentious issue in the agriculture negotiations in WTO, and the design and use of the SSM is still an area of conflict between the developed and the developing countries. In the negotiations before the WTO Ministerial in Nairobi in December 2015, developed countries blocked any discussion on the issue of SSM. The EU and other developed countries also wanted to link the issue of SSM to further increase market access. They also wanted the developing countries to give up the issue of SSM and instead avail few more Special Products (SPs).

It is sad to say that some economists in India also tried to side with the developed countries in negating SSM to countries like India and others by arguing that in developing countries like India there is a huge gap between Bound Tariff (the maximum tariff that can be applied for a particular commodity) and Applied Tariff, where applied tariff are much lower (or sometime almost zero) compared to their Bound rates (which are in the range of 25% to 300%), therefore they should increase the Bound rates instead of demanding for SSM as an extra safeguard to protect their local producers. But the fact is there are several agricultural products where there is absolutely no gap between Bound tariff and Applied Tariff (For example, in India, the bound rates and the applied rates are the same in apples and rice (milled) — 50% and 70%, respectively and in the case of dairy and chicken products or even olive oil the gap between the bound rates and actual rate is very minimal). In the absence of an effective SSM, countries like India will not have a protection mechanism to protect their farmers from a sudden or irrational

⁴² As indicated in USA proposal of 24th April 2006.

surge in such imports. However the same economists never raise any objection against the SSG enjoyed by the developed countries like the USA and the EU which they use to prevent imports from developing countries.

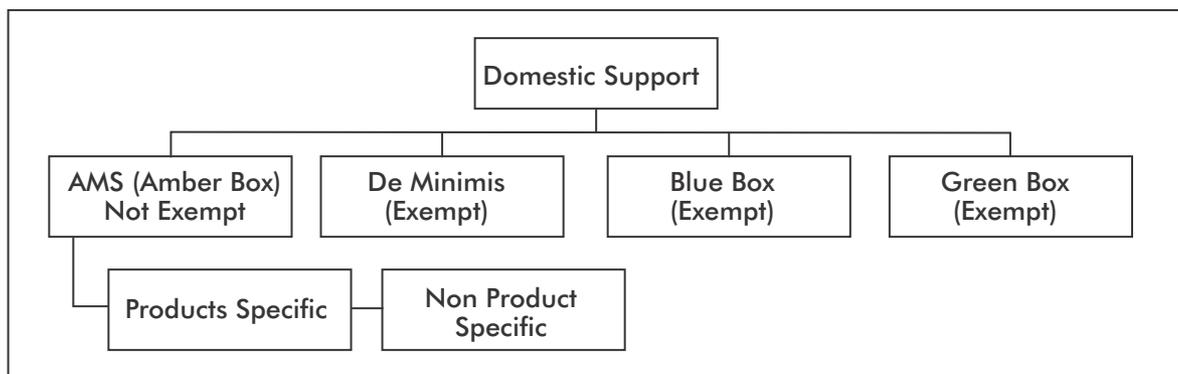
Nevertheless, in the current period of increasing agricultural price volatility, the issue of SSM is quite crucial for the developing countries. Moreover it is an important development mandate of the Doha Development Round and the round will remain incomplete until a simple and useable provision of the SSM is made available to the developing countries.

Domestic Support

Domestic Support (or subsidies) is the annual monetary support given by a government to their agricultural producers either for the production of specific agricultural products, or in more general forms such as in infrastructure and research. It is a support provided through domestic measures only and does not include support provided through border measures, such as tariff and export subsidies. These measures are targeted largely at developed countries where the levels of domestic agricultural support had risen to extremely high levels during the Uruguay Round. Therefore this measure was aimed at identifying acceptable measures of support to farmers and curtailing unacceptable trade distorting support to farmers.

Domestic support is categorized into trade distorting (which are not exempt and have to be reduced) and non-distorting (which are exempt and don't have to be reduced) subsidies as well as those that have ceiling levels and those which do not have ceiling levels. It is further classified into four categories: (a) aggregate measure of support (AMS) which includes product specific and non-product specific support (b) *de minimis*⁴³ support (c) blue box support, and (d) green box support. Among these, AoA requires reduction only in AMS, whereas, support under all other heads is exempted from reduction commitment.

Amber Box: Popularly called as Amber Box subsidies, the Aggregate Measure of Support (AMS) is considered to distort trade or have an impact on production (through price support or



⁴³ It is a Latin word, which means minimal, trifle or small (in other words Minimal amount of domestic support).

input subsidies), therefore it is subject to reduction commitment. These measures are also open to legal challenges by other WTO members.

According to AoA rules, AMS is a monetary expression of the size of annual transfers provided for a specific agricultural product (in the form of market price support) in favour of the producers of that product, or non-product-specific support (such as support for irrigation, electricity, credit, fertilizers, seed etc.) provided in favour of agricultural producers in general. Even though the reduction commitments are applicable generally over all agricultural commodities, the calculation of AMS is made on the basis of the spending on specific commodities during a reference period. The two basic criteria for valuing support are its effect on prices and its cost to the government. This support is calculated on the basis of the difference between domestic administered market price (like India's Minimum Support Price) and the fixed external reference price (ERP)⁴⁴ multiplied by quantity of production eligible to get applied administered price. Both budgetary outlays (i.e. the money spent by governments to support a product) and revenue foregone by governments or their agents, whether at national or sub-national level, are included in the AMS calculation.

The maximum limit for the total AMS is fixed at 5% of a country's total agricultural production (non-product specific support) for developed country and 10% for developing countries. According to Dr. Sachin Kumar of IIFT, "AMS support for individual commodities (product specific support) must exceed 5% (for developed countries) and 10% (for developing countries like India) of the value of production (VoP)⁴⁵ of that commodity before the support is deemed part of the AMS (otherwise it is considered as de minimis support allowable under the AoA). And if the support provided exceeds the de minimis levels, then all of that support (and not just the excess amount above the de minimis level) must be counted in a country's Current Total AMS." It was presumed that de minimis subsidies would have minimal impact on production decision of farmers and would not create significant trade distortions; therefore, de minimis subsidies were exempt from reduction commitments.

Under the AoA, those WTO Members that had declared an AMS in the base period⁴⁶ undertook to discipline their trade-distorting domestic support to agriculture by capping it at 1986-88 average levels, and reducing it by 20% over six years up to 2000 for developed country Members or by 13% over 10 years up to 2004 for developing country Members. It is noteworthy that reduction commitments are applicable only at AMS level and not product-by-product level.

⁴⁴ The fixed external reference price (ERP) is based on the years 1986 to 1988 (or as defined in the accession agreement of a member) using the average free on Board (f.o.b.) unit value for the basic agricultural product concerned in a net exporting country and the average cost insurance freight (c.i.f.) unit value (as the case may be) for the basic agricultural product concerned in a net importing country in the base period.

⁴⁵ VoP for a product = minimum support price (or administered price) x total production of that product

⁴⁶ The base period depends on the year in which a country became a Member of the WTO: for countries that have been Members since the beginning of the WTO (because they were already Members of the GATT), the base period is 1986-88.

In other words, WTO Members have not undertaken to reduce the support granted to each product or product category by 20%. Thus, under AoA, WTO Members can save on subsidies in one agricultural sector by increasing domestic subsidies in another sector so long as the total subsidization does not exceed the overall ceiling on subsidization to which a WTO Member has committed itself in the country schedule.

Least Developed countries were not required to make any reduction.

The maximum levels of domestic support (AMS) are bound⁴⁷ in the WTO, and 30 (out of 131) Members⁴⁸ had declared an AMS support under the Uruguay Round that included 14 developing countries; they had larger subsidies than the de minimis levels and had made commitments to reduce their trade-distorting domestic supports in the Amber Box. Therefore for them, the de minimis levels are thresholds, not limits. Remaining 101 WTO members declared that they provided no support or negative support during the 1986-88 base period. In other words, during base period, their (including India) AMS was zero. Therefore, the reduction commitments related to Bound AMS are not applicable to them.

Since the remaining 101 Members (mainly developing countries) had not declared any AMS for the base period, so they have no AMS rights and are only entitled to provide production and trade distorting support up to their de minimis levels. As long as their product-specific support and non-product-specific support do not exceed their de minimis level they are in compliance with their commitments.⁴⁹ It means, for these countries, which include India as well, their de minimis limits are their de facto upper limits of domestic support under non-exempted Amber box policies. So far as India's de minimis level is concerned, the data (till 2010-11)⁵⁰ shows that it has been much below the stipulated limit of 10%, so there was no commitment to reduce that either.

Table No. 1 represent the Bound AMS and the current AMS of two developed countries, the EU and the USA which after 20% reduction have become constant at €67.2 Billion Euro for the EU and \$19.1 billion dollars for the USA. The vast gap between the Bound Total AMS and the Current Total AMS shows that these countries have substantial cushion to increase their AMS because their current total AMS in the year 2010 was €6.5 Billion Euro and \$4.1 billion US dollar respectively.

⁴⁷ Here Bound indicate an upper limit for trade distorting subsidies allowed. Part IV of a WTO Member's Schedule of Commitments lists its Annual Bound Commitment Levels for each of the years of the implementation period (which ended in 2000 for developed country and 2004 for developing country)

⁴⁸ https://www.wto.org/english/tratop_e/agric_e/negs_bkgrnd07_domestic_e.htm

⁴⁹ FAO Commodity and Trade Policy Research Working paper no. 45; <http://www.fao.org/3/a-i3819e.pdf>

⁵⁰ In September 2014, India filed the notification on Domestic Support to the WTO for seven years (2004-2005 to 2010-2011).

Table No. 1 : Difference between Bound AMS and Current AMS in the EU and the US

Year	European Union (In Billion Euro)		United States (In Billion US Dollars)	
	Bound Total AMS	Current Total AMS	Bound Total AMS	Current Total AMS
1995	78.7	50.181	23.083	6.214
1996	76.4	51.163	22.287	5.898
1997	74.1	50.346	21.492	6.238
1998	71.8	46.947	20.695	10.392
1999	69.5	48.157	19.899	16.862
2000	67.2	43.909	19.899	16.843
2001	67.2	39.391	19.899	14.482
2002	67.2	28.598	19.899	9.637
2003	67.2	30.891	19.899	6.950
2004	67.2	31.214	19.899	11.629
2005	67.2	28.427	19.899	12.943
2006	67.2	26.632	19.899	7.742
2007	67.2	12.354	19.899	6.260
2008	67.2	11.796	19.899	6.255
2009	67.2	10.883	19.899	4.267
2010	67.2	6.502	19.899	4.120
2011	-	-	19.899	4.654

Source: WTO Notifications

Blue Box: Another category of support is called Blue Box, which is a production-limiting programme and provides direct payment to producers and must also either,

- i) be based on fixed areas or yields, or
- ii) if livestock payments, be made on a fixed and unchanging number of heads, or,
- iii) be made on 85 percent or less of the base level of production.

If the government support programme satisfies these three conditions, then this measure is not subject to reduction commitment. If not, then it will be considered to be an Amber Box subsidy, and the next step would be to determine whether spending is above or below the 5% de minimis rate for developed country (and 10% for developing country). The Blue Box is of much less significance for developing countries since production-limiting support is very rare.

Blue box subsidies are calculated according to a fixed production data from an earlier period, e.g. Blue box contains aid to livestock or land not linked to prices but to fixed figures for surface and yield. This helps the developed countries to shift their subsidies from Amber Box to Blue box

if that support requires farmers to limit production, that is why WTO describes the Blue Box as the 'Amber Box with conditions'. The other aim of the Blue Box subsidies was to support transitional programs enabling countries to move away from trade distorting subsidies (Amber Box) and toward non-distorting subsidies (Green Box). Because Blue Box subsidies carry conditions, the Uruguay Round rules did not place quantitative limits on them, which means that countries are permitted to provide unlimited levels of Blue Box subsidies.

Table No. 2 gives details of huge Blue Box spending by USA and EU as well as by India, which is zero throughout the existence of WTO. However USA has stopped reporting Blue Box support in the notification submitted to the WTO since 1996 because USA had a target-price, deficiency-payment program started under the USA Farm Bill 1973 but this programme was terminated under the USA Farm bill 1996. It is also said that most of the Blue box subsidies in the USA has been shifted to non-trade distorting Green Box.

Table No. 2: Blue Box Support in USA, EU and India

Year	India	United States (In Billion US Dollar)		European Union (In Billion Euro)		
		Payment Made on 85 percent or less of base level of production	Total Blue Box	Payment Based on Fixed Area and Yields	Livestock Payments made on a Fixed Number of head	Total Blue Box
1995	Zero	7.030	7.030	15.648	5.197	20.846
1996	Zero	-	-	17.193	4.327	21.521
1997	Zero	-	-	16.191	4.251	20.443
1998	Zero	-	-	15.977	4.526	20.504
1999	Zero	-	-	15.128	4.664	19,792
2000	Zero	-	-	16.825	5.397	22.223
2001	Zero	-	-	18.144	5.581	23.726
2002	Zero	-	-	16.267	8.459	24,727
2003	Zero	-	-	17.073	7.708	24.782
2004	Zero	-	-	17.573	9.663	27.237
2005	Zero	-	-	8.263	5.181	13.445
2006	Zero	-	-	2.885	2.811	5.697
2007	Zero	-	-	2.891	2.274	5.166
2008	Zero	-	-	3.089	2.258	5.348
2009	Zero	-	-	3.063	2.259	5.324
2010	Zero	-	-	-	-	3.142

Source: WTO Notifications

Green Box: This is most controversial and contentious domestic support measure, which is being greatly misused by the developed countries, particularly by the EU and the USA. It is because “Green Box” support measures are considered as non-trade distorting and economically neutral, so the WTO does not impose any financial limitation or reduction commitment to this type of domestic support.

Green Box measures are listed in Annex 2 of the AoA. The fundamental requirement for the exclusion of these measures from the reduction commitments is that they have no, or at most minimal, trade distorting effects or effects on production. Secondly, they must be provided through publicly-funded government programmes (including government revenue foregone) not involving transfers from consumers; and thirdly, it must not have the effect of providing price support to producers. So there are two broad categories of Green Box subsidies; government service programme and Direct Payments to producers. The outlays on the Green Box measures can be increased without any limitation under the WTO and they are also exempt from any legal challenge. The Green Box applies to both developed and developing country Members.

The list of green box measures includes such policies, which provide services or benefits to agriculture, or the rural community, public stock holding for food security purposes, domestic food aid and certain de-coupled payments to producers including direct payments to production limiting programmes, provided certain conditions are met. Some of these measures include the following:

- Provision of 'general services', including research, pest and disease control, training, extension, inspection, marketing and promotion services, and infrastructure services such as water supply and drainage. In 2013, at the Bali Ministerial, a range of support policies related to land reform and rural livelihood security used mainly in the developing countries have been added in the general government services provisions under the Green Box. These included Land rehabilitation; Soil conservation and resource management; Drought management and flood control; Rural employment programmes; Issuance of property titles; Farmer settlement programmes, in order to promote rural development and poverty alleviation.⁵¹
- Public acquisition (at current market prices) and stockholding of products for food security (must be integral part of a nationally legislated food security program and be financially transparent). However if the food is procured at administered prices, subsidy component⁵² must be notified (accounted for in the measurement of the Amber Box subsidy). This issue has been explained in detail in the next chapter.

⁵¹ https://www.wto.org/english/thewto_e/minist_e/mc9_e/desci37_e.htm

⁵² Subsidy component is computed based on the difference between the administered price (or price support provided by government e.g. Minimum Support Price in India) and the external reference price multiplied by total quantity of production of that commodity eligible to receive administered price.

- Provision of domestic food aid (based upon clearly defined eligibility and nutritional criteria, be financially transparent, and involve government food purchases at current market prices).
- Relief from natural disaster (allowed only if producers show a production loss that exceeds 30 per cent of the average of production and will compensate for not more than the total cost of replacing production loss),
- Structural adjustment through producer and resource retirement programmes (for encouraging producers to cease their activities permanently or change over to non-agricultural activities), and investment aids,
- Environmental and regional assistance programmes,
- And, most contentiously, decoupled income support (not linked to current levels of production or prices) and is granted to a producer who has suffered an income loss which exceeds, in a given year, 30 per cent of average gross income and that this Aid does not compensate for more than 70 per cent of the income loss.

These measures have been exempt from reduction commitment on the basis that they have no or minimal trade distorting effects. However, a study⁵³ by the UNCTAD shows that developed countries Green Box subsidy programmes are not keeping with this criterion and have significant trade distorting effects. According to the study, if the trade-distorting elements of the Green Box were removed, the cost of production in key economies would increase by 15% to 30% and their exports would decline by 40% to 60%. Developing countries would see an increase in exports by about 20%. Even LDCs will find their exports going up by 20%. Global imports would also decline. Agricultural employment will rise in almost all developing countries. This rise in employment of skilled and unskilled labour would lead to the alleviation of poverty. The rise in employment in developing countries is estimated to range between 3% to 5%, far higher than the rate of natural increase of the labour force. Wages would also rise by 1% on average in developing countries, with LDCs registering the highest increase. Hence there are significant and positive poverty attenuating effects as a result of reducing Green Box subsidies.

Developing countries including India have always been very suspicious of the claim made by developed countries that the Green Box subsidy is “non-trade distorting”. This is mainly because of the tendency by developed countries to shift their “trade distorting subsidies from the Amber Box to Green Box and that was the reason developing countries always demanded for disciplining the Green Box and imposing strong and legally tight definition of Green box subsidies to ensure that subsidies within this box are not production or trade distorting.

In order to continue giving trade distorting subsidies so they can control markets, developed countries routinely manipulate the categorization of their subsidies from trade-distorting, into

⁵³ http://wtocentre.iift.ac.in/DOC/Studies_GreenBoxSubsidiesATheoreticalAndEmpericalAssessmen.pdf

non-trade distorting, (e.g. shifting from amber box to green box and blue box. Meanwhile, the exemptions that apply to developing countries are often of not much use given the long-running negative fiscal position of many of these countries, which does not allow them to give subsidies to their farmers. In the end, with such gaping loopholes, the AoA clearly serves only to legitimize and strengthen the trade-distorting practices of developed countries. A glimpse of the inflating Green box and deflating Amber Box in developed countries, especially the USA and the EU (as given in table 5 & 6), indicate the box shifting of trade distorting subsidies into non-trade distorting Box, i.e. Green Box.

Table 5&6 clearly shows the shifting of domestic support from amber box to green box in the period 1995-2010 for the EU and 1995-2010 for the USA. In the case of EU, the domestic support in amber box declined from €50.2 Billion Euro in 1995 to €6.5 billion Euro in 2010 but at the same time the Green Box subsidies increased from €18.8 billion Euro in 1995 to €68 billion Euro in 2010. Similarly, we see a huge jump in the Green box subsidy in the USA which increased from \$46 billion US dollars in 1995 to \$125 billion US dollars in 2011.

Compared to this, India's Green Box subsidy is quite insignificant. See the Table No. 3.

Table No. 3: India's Green Box Subsidy under Different Category (in million US Dollar)

Year	General Services	Public Stockholding for Food Security Purposes	Direct Payment	Total Green
1995-1996	398	1570	228	2196
1996-1997	239	1709	554	2502
1997-1998	265	2018	590	2873
1998-1999	84	2068	124	2276
1999-2000	85	2123	284	2493
2000-2001	86	2629	136	2851
2001-2002	100	3668	234	4002
2002-2003	100	4996	141	5237
2003-2004	113	5476	294	5883
2004-2005	352	5730	101	6183
2005-2006	488	5211	207	5907
2006-2007	648	5640	205	6493
2007-2008	821	7768	977	9567
2008-2009	872	9495	6560	16,927
2009-2010	776	12,282	4323	17,381
2010-2011	1124	13,812	4542	19,472

Source: India's Domestic Support Notifications submitted to the WTO

As per India's latest notification, the total subsidy comes to \$51,082 million US dollars which include mainly the Green Box Subsidy and the subsidy provided under Article 6.2 for input (generally available to low-income or resource poor producers).

Table No. 4: India's Subsidy under Article 6.2 (in million US Dollar)

Year	Investment Subsidies	Input Subsidies generally available to low-income or resource poor producers	Total Subsidies under Art. 6.2
1995-1996	105	150	254
1996-1997	1117	3738	4855
1997-1998	1143	4029	5172
1998-1999	2	6757	6759
1999-2000	2	7163	7165
2000-2001	1	8478	8478
2001-2002	2	8252	8254
2002-2003	3	7338	7341
2003-2004	4	9021	9026
2004-2005	408	10,281	10,689
2005-2006	485	11,831	12,316
2006-2007	629	14,907	15,536
2007-2008	1135	21,177	22,312
2008-2009	1466	29,989	31,459
2009-2010	1614	28,241	29,856
2010-2011	2530	29,078	31,610

Source: India's Domestic Support Notifications submitted to the WTO

In this context, it is noteworthy to mention that under Special and Differential Treatment (S&D) provisions for Domestic Support, developing country members are allowed to procure for food security stocks at administered prices provided that the subsidy to producers is included in calculation of Amber Box. Developing countries are permitted to distribute subsidized food to meet the requirements of urban and rural poor. The S&D provisions also permit direct or indirect government support provided to encourage agricultural and rural development, investment subsidies and agricultural input subsidies provided to low-income farmers in developing countries (under Article 6.2). Subsidies under Article 6.2 are exempted from the reduction commitments, and therefore are exempt from calculation of AMS. Since there is no specific definition of low income or resource poor farmers in the WTO, therefore each developing country was free to define it. According to India's notifications on Domestic Support to the WTO, a farmer with less than 10 hectares of landholding would be considered as a low-

income or resource-poor farmer. As per this definition, about 99 percent of agricultural landholding comes under this category. Thus, India has no obligation under AoA to reduce input subsidies to agriculture sector provided under Article 6.2.

Subsidy Reduction: a failed issue

In the 20 years history of WTO, subsidies given by the developed countries to their agriculture sector has always been a stumbling bloc in the AoA negotiations. It has always been a major issue of contention, particularly between the USA on the one side and developing countries on the other. Till today, the WTO members have failed even to agree how to reduce the huge subsidies given by developed countries to their farmers whose over production continues to threaten the livelihoods of small and marginal farmers in the developing countries. These farmers not only face unfair competition in their home markets from highly subsidized imports from developed countries but their prospects for exports to a third country got severely constrained because of price depression in the international market.

Through the different draft modalities under the Doha Round, attempts were made to influence developed countries to cut down their Domestic Support. To enforce overall subsidy reduction, a new concept called OTDS (Overall Trade-Distorting Domestic Support) was introduced during the Doha Round, which is a sum of (i) AMS or Amber Box subsidy, (ii) the de minimis and (iii) the support under the Blue Box. So OTDS means Amber Box + Blue Box + de minimis (except the Green Box) as explained in the Table 5 and 6 for the USA and the EU. From July 2004 onwards, OTDS was one of the central issues of the different drafts Modalities. A key aspect of the discussion on OTDS was a common understanding among WTO Members on the construction of the Base OTDS, on which the reductions as well as the tiers of the tiered formula would be applied.

Table: 5: USA domestic support (based on WTO notifications)

(Figures in USD million)						
Marketing year starting in ...	Total AMS (Amber Box)	Total Blue	Total de minimis	OTDS	Total Green	Total domestic support
1995	6,214	7,030	1,643	14,887	46,041	60,928
1996	5,898	-	1,175	7,072	51,825	58,897
1997	6,238	-	812	7,050	51,252	58,302
1998	10,392	-	4,750	15,142	49,820	64,962
1999	16,862	-	7,435	24,297	49,749	74,046
2000	16,843	-	7,341	24,184	50,057	74,241
2001	14,482	-	7,054	21,536	50,672	72,208
2002	9,637	-	6,690	16,328	58,322	74,650
2003	6,950	-	3,237	10,187	64,062	74,249

2004	11,629	-	6,458	18,087	67,425	85,512
2005	12,943	-	5,980	18,923	72,328	91,251
2006	7,742	-	3,601	11,343	76,035	87,378
2007	6,260	-	2,260	8,520	76,162	84,682
2008	6,255	-	9,971	16,226	86,218	102,444
2009	4,267	-	7,258	11,525	103,214	114,739
2010	4,119	-	5,665	9,784	120,531	130,315
2011	4,654	-	9,714	14,368	125,117	139,485

Source : WTO Notifications

Table 6 : EU domestic support (based on WTO notifications)

(Figures in EUR million)						
Marketing year starting in ...	Total AMS (Amber Box)	Total Blue	Total de minimis	OTDS	Total Green	Total domestic support
1995	50,181	20,846	825	71,852	18,779	90,631
1996	51,163	21,521	761	73,445	22,130	95,576
1997	50,346	20,443	733	71,521	18,167	89,688
1998	46,947	20,504	525	67,975	19,168	87,143
1999	48,157	19,792	554	68,502	21,916	90,419
2000	43,909	22,223	745	66,876	21,848	88,724
2001	39,391	23,726	1,012	64,128	20,661	84,790
2002	28,598	24,727	1,942	55,266	20,404	75,670
2003	30,891	24,782	1,954	57,626	22,074	79,700
2004	31,214	27,237	2,042	60,493	24,391	84,884
2005	28,427	13,445	1,251	43,123	40,280	83,404
2006	26,632	5,697	1,975	34,304	56,530	90,833
2007	12,354	5,166	2,389	19,909	62,610	82,519
2008	11,796	5,348	1,083	18,226	62,825	81,051
2009	10,883	5,324	1,393	17,600	63,798	81,398
2010	6,502	3,142	1,393	11,037	68,052	79,088

Source : WTO Notifications

The December 2008 Draft Modalities (TN/AG/W/4/Rev.4) proposed a tiered formula for cuts in OTDS as well as cuts or caps on the individual categories of domestic support (Amber Box, Blue Box and Green Box support). The draft Modalities proposed a 60% cut in OTDS by the USA and Japan whose OTDS is between \$10 billion US dollars to \$60 billion US dollars and 80% by the EU whose OTDS is above \$60 billion US dollars. Other developed countries that spend less

than \$10 billion US dollars in OTDS would have to cut their support by 55%.

However, the way the Base OTDS for developed countries were estimated, especially for USA (\$48.3 billion dollars)⁵⁴ and EU (€110.3 billion Euro)⁵⁵, even the substantial cut of 60% and 80% would not have much impact on their actual subsidies, as indicated in Table 7.

Table: 7

Tier	Threshold (US\$ billion)	Base OTDS	Cuts	OTDS After Cut	Actual OTDS (in 2010)
1	Above \$60 Billion (for EU)	€110.3 Billion	80%	€22 Billion	€11 Billion
2	Between \$10 - \$60 Billion (for USA and Japan)	\$48.3 Billion	60%	\$14.5 Billion	\$9.8 Billion
3	Below \$10 Billion (for all other Developed Countries)		55%		

Despite a 60% cut, USA Bound OTDS would remain much above (\$14.5 billion US dollars) the actual level of OTDS (\$9.7 billion US dollars in 2010) which would provide an option to the USA to further increase their trade distorting subsidies (by \$4.8 billion US dollars). Similarly, despite a proposed 80% cut, EU Bound OTDS would remain €22 billion Euro, which is much above their actual OTDS of €11 billion Euro in 2010. Thus the developed countries do not have to reduce its actual or applied OTDS which is driving world prices down and also keeping poor and subsistence farmers in developing countries out of employment. They only have to “cut water” (the value between the bound and applied level).⁵⁶ So it is quite clear that countries that are high subsidizers, they secured the right to continue to give high subsidies which is quite important for the survival of agriculture in USA and EU which not only supports production but also equips them to capture market in developing countries.

Negotiations prior to the Ministerial in Nairobi indicates that the issue of reducing trade distorting farm subsidies in developed countries is not even a subject matter of discussion, and far from being an issue under negotiations. Rather the developed countries are attacking meager subsidies given by developing countries to their farm sector. In Post Bali Ministerial negotiation, USA accused India of providing excessive subsidies under Article 6.2 for agricultural inputs and called for discontinuing.⁵⁷ Instead of fulfilling commitments to reduce their domestic subsidies, the USA and EU have pushed developing countries like India, Indonesia, South Africa, and others to take subsidy-reduction commitments even though they

⁵⁴ http://www.southcentre.int/wp-content/uploads/2013/08/AN_AG14_Comments-on-WTO-Agriculture-2011-Report_EN.pdf

⁵⁵ *ibid*

⁵⁶ http://www.southcentre.int/wp-content/uploads/2013/08/AN_AG14_Comments-on-WTO-Agriculture-2011-Report_EN.pdf

⁵⁷ *Azevedo issues sanitized version of 'consultation' meetings; SUNS #8034; 4 June 2015*

are not required to do so under the Doha mandates. Developed countries have also challenged price support subsidies meant to strengthen production by resource-poor farmers, which would go into public food stockholding programs in developing countries, like India's Public Distribution System (PDS).

Export Subsidies

Export subsidies are special incentives provided by governments to encourage increased foreign sales. It facilitates exports of goods on the world market at prices lower than those in their domestic markets. In fact, export subsidies were deemed to be so antithetical to the interests of trade liberalization that they were banned for all products, except agriculture, in the early days of the GATT. Because it is in the interest of the USA and EU (they are the two largest users of export subsidies), the AoA does not mention dumping, but instead euphemistically terms it 'export subsidy' and 'export competition'. Developing countries rarely have the luxury to provide such supports. Export subsidies cause other exporters to face stiffer competition as the prices of their goods are driven down. Therefore countries which can afford to subsidize exports take markets away from, and put at a disadvantage low cost producers from poorer countries who in fact are more efficient producers. World prices are lowered, price instability in the world market increases. Most detrimental is that unequal competition destroys the agricultural sector in developing countries. These programmes essentially help agribusinesses by reducing the costs of selling on the international market and by transferring the risks from the exporting companies to the government and taxpayers.⁵⁸ Western agribusiness corporations like Cargill, ConAgra, Archer Daniels Midland (ADM), Bunge Ltd and Smithfield have taken maximum benefit of export subsidy provisions to dominate the world agricultural trade. As the WTO clearly allows subsidies for handling, storage, transportation, processing, upgrading and export promotion, the transnational corporations like Cargill⁵⁹, which control the 70% of the world grain trade, are the most important beneficiaries of such subsidies. Equipped with domestic support and export subsidies, these global food and agribusiness companies dump their cheap subsidized products in the world market crashing not only the international commodity price but domestic farm price in the developing countries which is causing disastrous effect in countries like India. The low cost of domestic farm price is one of the main reasons for suicides of thousands of small and marginal farmers in India who are ending their lives because they could not get back even their principal.

Interestingly, these corporations not only enjoy export subsidies in the West, but they also bag whatever concession is provided to the developing countries for allowing export subsidies. In 2001, India exported 20,000 tonnes⁶⁰ of wheat to Philippines at Below Poverty Line price (BPL),

⁵⁸ http://iatp.org/files/Perspectives_and_trends_on_agriculture_at_the_.htm

⁵⁹ Cargill, as the world's largest grain trader, control the procurement, processing, transportation, storage, export and trading operations in approximately 50 countries throughout North America, Europe, Latin America and Asia.

⁶⁰ One tonne is 1000 kg and one quintal is 100 kg.

through an order bagged by Cargill. While the economic cost of the wheat to the Food Corporation of India (FCI) was Rs. 8300 per tonnes, its open market price was Rs. 7000 per tonnes, but it was sold at Rs. 4300 per tonnes in the international market to Cargill. However, the “existing attractive rates” were further reduced with subsidies to Cargill, whose financial capital is greater than that of many developing countries. Over and above selling the wheat at the BPL rates, the government agreed to bear the freight charge from Rajpura to Jamnagar port in Gujarat and pay a commission to Cargill. Thus, wheat whose cost to the government included the Minimum Support Price (MSP) (Rs. 580 in the year 2000) as well as the commission, market charges, levies and cess paid by FCI, increasing the real cost by another Rs. 70 a quintal, was sold at less than Rs. 420 a quintal giving the corporation a subsidy of Rs. 130 a quintal.⁶¹

Elimination of export subsidies is particularly important to developing countries local producers and local exporters who cannot afford to compete with the treasuries and corporations of the USA and the EU. Unfortunately, all proposals by developing countries to address this anomaly had gone nowhere. Instead, legislations, such as the USA Farm Bill of 2014, have ensured that there will be no cut in their export subsidies. It is now well documented that USA export subsidies in cotton have destroyed livelihoods of cotton farmers, especially in Chad, Benin, Burkina Faso, and Mali. Indian cotton producers are also victims of the USA support for their cotton farmers, and from 2002 to 2006, many cotton producers in the cotton belt of Vidarbha (Maharashtra) committed suicide due to international price volatility caused by USA subsidy of cotton exports. Indian cotton farmers were made to compete with foreign entrants into India's domestic market, for whom it was easy to capture larger market shares because of lowered tariffs on cotton imports and huge cotton subsidies that made their produce comparatively cheaper.

The USA has also disregarded the WTO's Dispute Settlement Body (DSB) ruling in March 2005 to withdraw subsidies, including export subsidies, given to its cotton growers by September 2005. The DSB confirmed that subsidies of \$12.5 billion US dollars were given to cotton growers between 1999 and 2002, which boosted the USA cotton exports but depressed prices at the expense of Brazilian farmers and cotton producers in Africa. The WTO also ruled against the EU, declaring its export subsidies for sugar as illegal and directing it to withdraw them. However, the WTO regime has failed to act effectively against distortions by developed countries. Brazil, which won the Dispute Panel ruling against USA cotton subsidies in August 2009, could have imposed \$820 million dollars in countermeasures against USA goods and Intellectual Property Rights (IPR) as sanctioned by the Dispute Settlement Body ruling, but it chose to accept an annual subsidy (a kind of a bribe) for its cotton growers from the USA to a tune of \$147.3 million dollars a year. Brazil thus failed to make a correction in USA support to its cotton growers, while cotton subsidies could not be phased out despite DSB ruling against it.

⁶¹ *Export Subsidies: A tool to establish MNC's agricultural trade monopoly*, paper presented Afsar Jafri at Session 5: UNCTAD Pre-Hong Kong ministerial consultations on Agricultural Negotiations, July 19-20, New Delhi.

The export competition pillar of the AoA addresses four basic issues, which include, besides export subsidies, food aid, state trading enterprises and export credits. At the WTO Ministerial in Hong Kong in 2005, it was agreed that developed countries would eliminate all forms of export subsidies by 2013. These include:

- Direct subsidies, including payments in kind, contingent on export performance
- Sale by government or their agencies of non-commercial stocks at prices below domestic market prices
- Payments financed by virtue of governmental action such as a levy, whether or not there is a charge on the public account
- Subsidies to reduce marketing costs of exports (other than promotion and advisory services)
- Internal transport subsidies for exports which are more favourable than for domestic shipments
- Subsidies on agricultural commodities for incorporation in exported products.

While the developing countries had the flexibility to provide certain subsidies, on export marketing costs, internal and international transport, freight charges etc which would continue to be available to them till 2021 i.e. 5 years beyond the year 2016 when they would be required to phase out all other forms of export subsidies. The December 2008 draft modalities also foresee gradual elimination of export subsidy commitments and other entitlements to provide export subsidies in agriculture. In 2013, when WTO Ministerial took place in Bali, no decision was taken on export subsidies but Members reaffirmed their commitment to the Hong Kong Declaration of 2005 and said that they would ensure “progress towards the parallel elimination of all forms of export subsidies ...”.

However, the developing countries always maintained that the developed countries are using their domestic support as the export subsidies. They always blamed the developed countries that their domestic support has a strong distortive effect on trade in agricultural products, which are practically indistinguishable from export subsidies. Though nothing was achieved at Bali Ministerial but post Bali negotiations indicate that Members agreed on a level of ambition to be reached in the final outcome at Nairobi Ministerial in December 2015, i.e. the elimination of all forms of export subsidies and disciplines on all export measures with equivalent effect.

The Issue of Food Stockholding in the WTO

This is a follow up of some of the key issues raised in the previous chapter on Domestic Support, especially those related to Public Stockholding. Public stockholding means when a government maintains food stocks in order to ensure food security. In the case of India, the Public Distribution System (PDS) procures food grains from farmers and maintains food stocks for subsidized distribution under the Food Security Act. The fear of developed countries is that if India maintains such high stocks, then there is the potential danger that it could export and dump significant quantities into the international market and bring down prices to distort trade. However as I argue, India has a right to maintain such stocks to feed its poor.

This issue is being debated in the WTO for last four years, even though it was first raised by the African Group in their submission to the WTO (TN/AG/GEN/15 on 6 April 2006) in order to review the Green Box (Annex 2 of the AoA/WTO). Public procurement and Public Stockholding are invaluable instrumentalities to sustain the food security programmes in India and other developing countries because it not only ensures cheap subsidized food to millions of urban and rural poor and hungry, but it also guarantees a price support mechanism to millions of its small-scale resource poor farmers. But food stockholding system is under threat of getting weakened and dismantled under pressure from the developed countries who are using flawed AoA rules to question domestic support by developing countries to their food security programmes.

The Green Box rules do not bar public stockholding programmes for food security. Both developed and developing countries can maintain Public Stocks but under certain conditions which say that food purchased by the government shall be made at current market prices and sale from public stockholding shall be made at prices not lower than current domestic market price. However, if food for such programmes is acquired at a price fixed by the governments, known as “supported” or “administered” prices (or Minimum Support Price in India) and not at market prices, then there is deemed to be support to farmers. The Green Box rules (under footnote 5, Para 3 of Annex 2) says that the amount of support provided under the public stockholding programmes at administered prices is therefore counted as trade-distorting domestic support, subject to “Aggregate Measurement of Support” (AMS or Amber Box) limits. As per the WTO Domestic Support rules, all such (product specific de minimis) support has to be kept within a limit of 10% of the value of production of the product in question. To reiterate, all developing country members in the WTO who have declared zero AMS (except the 14 countries who have recourse to the AMS) during Uruguay Round, they are only allowed to have 10% product specific de-minimis and 10% non-product specific de-minimis, as well as Article 6.2 of the AoA which cover input and investment subsidies for low-income resource poor producers.

The developing countries have serious objection on the way the market price support is being calculated in the WTO for each product (which makes it quite difficult for them to stay within the specified limit of 10% of the total value of production). As per the Annex 3 (Domestic support –

Calculation of Aggregate Measurement of Support) Paragraph 8 of the AoA⁶², the price support will be calculated using the gap between a fixed external reference price (ERP)⁶³ (a benchmark price fixed in 1986-88) and the administered price in a given year, multiplied by the quantity of production “eligible” to receive the administered price. For example in India, the administered price (or MSP) for wheat in 2014-15 was Rs. 14.50 per kg⁶⁴ and the ERP for wheat⁶⁵ (price in 1986-88) was Rs. 3.54 per kg (notified to the WTO), so the subsidy as per the WTO rules comes to Rs. 10.96 per kg of wheat. Similarly, the MSP for Rice⁶⁶ in 2014-15 was Rs.21 (which is 1.5 times of the MSP for paddy which was Rs. 14 per kg) for Grade 'A', while ERP for rice was Rs. 3.52⁶⁷ in 1986-88, so the subsidy component comes to Rs.17.48 per kg of rice. This gets multiplied to the total marketable production of that crop in that year. With this type of calculation, which is clearly unfair, the government schemes could easily exceed the maximum level of AMS or any de minimis that the developing countries could have. India and several other developing countries are close to breaching this subsidy limit.

This method is completely flawed on two parameters, first, it is pegged to market prices prevailing 30 years ago (in 1986-1988) and second, it computes not only the volume that the government actually procures, but the entire production that is 'eligible' to receive such supports. That is, even if the Indian government actually procures a small volume, they have to calculate the AMS supports as if they had provided price support for the entire production of that product (the 'eligible' volume). Since the “fixed external reference price” is much lower than today's minimum support price levels (MSP), and more strangely, this difference in price gets multiplied by total production of that product and not by the actual volume procured, both these tends to highly inflate the subsidy level in comparison to the reality.

This rule is a big constraint for the procurement and food aid programmes in developing countries. It implies that the developing countries will have to restrict their Public Stockholding programmes otherwise they are in danger of breaching or exceeding their permitted limits of 10% product specific de-minimis limit. The draft Modalities text of 6 December 2008 sought to change this and proposed to revise the rules but as the negotiations could not be completed and this issue remained as unsettled agenda under the Doha Round.

India Challenges the Biased WTO rules

Developing countries like India are the victims of the biased rules of AoA framed two decades ago as part the 1993 Blair House accord which gave US & EU enough policy space to continue

⁶² https://www.wto.org/english/docs_e/legal_e/14-ag_02_e.htm#annIII7

⁶³ Para 9 of the Annex 3 says that fixed external reference price shall be based on the years 1986 to 1988 and shall generally be the average f.o.b. unit value for the basic agricultural product concerned in a net exporting country and the average c.i.f. unit value for the basic agricultural product concerned in a net importing country in the base period.

⁶⁴ <http://pib.nic.in/newsite/PrintRelease.aspx?relid=110936>

⁶⁵ <http://www.jgls.edu.in/citel/pdf/services/menon.pdf>

⁶⁶ <http://pib.nic.in/newsite/PrintRelease.aspx?relid=122585>

⁶⁷ *ibid*

their huge trade-distorting subsidies in agriculture even today, it seriously compromises developing countries ability to enact and implement sovereign policies on food and agriculture. India, where a third of the world's hungry people live, was afraid of being dragged into a trade dispute by big food exporters countries because India decided to expand its food security programme under the National Food Security legislation 2013, which foresees distribution of foodgrains to 2/3rd of its population and would require an budgetary allotment of \$20 billion US dollars, which may result in crossing the 10% limit under product specific de minimis and would leave India open to penalties under WTO rules. WTO's mandated obligations would constrain India from fully implementing its Food Security Act. India, thus, moved a proposal, presented by Indonesia on behalf of G-33 (a coalition of developing countries), at an informal meeting of the Special Session of the Committee on Agriculture on 13 November 2012 (WTO document JOB/AG/22) demanding more flexible rules for farm subsidies in the WTO 'Green Box'—those that are exempt from any ceiling or reduction commitments on the grounds that they cause minimal trade distortion.

The Indian proposal wanted some of the elements of the WTO's Revised Draft Modalities for Agriculture Text (TN/AG/W/4/Rev.4) of 6 December 2008, relating to public stockholding must be taken up for a permanent decision at the Bali Ministerial in accordance with paragraph 47 of the Doha Ministerial Declaration (DMD). India proposed an amendment of the last sentence of footnote no. 5 of paragraph 3 (on Public stockholding for food security purposes) of the AoA Annex 2 (Green Box Support), to the effect that acquisition of stocks of foodstuffs by developing country Members with objective of supporting low-income or resource-poor producers shall not be required to be accounted for in the AMS. The footnote 5 says that "For the purposes of paragraph 3 of this Annex, governmental stockholding programmes for food security purposes in developing countries whose operation is transparent and conducted in accordance with officially published objective criteria or guidelines shall be considered to be in conformity with the provisions of this paragraph, including programmes under which stocks of foodstuffs for food security purposes are acquired and released at administered prices, provided that the difference between the acquisition price and the external reference price is accounted for in the AMS".⁶⁸

Thus, India and the G-33 proposed to delete "the difference between the acquisition price and the external reference price is accounted for in the AMS" and replaced it by "However, acquisition of stocks of foodstuffs by developing country Members with the objective of supporting low-income or resource-poor producers shall not be required to be accounted for in the AMS". This would mean that if developing country governments procure food for their food security programmes at administered prices in order to support "low-income, resource-poor producers," it should not be counted towards their AMS.

⁶⁸ https://www.wto.org/english/docs_e/legal_e/14-ag_02_e.htm#fnt5

The Indian proposal was aimed at widening 'policy space' by changing the Domestic Support rules in order to ensure food security of the poor. This would allow the Indian government to continue procuring wheat and rice at the minimum support price (MSP) from low-income resource-poor producers (comprising approx. 98.97 percent⁶⁹ of India's farmer population with operational land holdings of ten hectares or less). A large majority of Indian farmers survive in agriculture because of a guaranteed market provided through government procurement programs, even though it does not cover their full cost of production. These procurements get distributed to the hungry and poor through a nationwide public distribution system. However big foodgrain exporting countries like the USA, EU, Canada, Australia and others were not ready to fulfil India's demand to change AoA rules as this would allow developing countries to buy foodgrains at the administered price without having to count it as trade-distorting support. They argued that such measures would amount to price support for producers, and, therefore, becomes trade-distorting. If the grains were bought at market prices, the programmes would not be considered trade-distorting, but sometimes the MSP could be higher than market price, especially during glut when prices fall too low. The truth is that developed countries want to be able to dump their own surplus foodgrains in developing country markets, which is why it is not in their commercial interests to allow developing countries to have their own food stocks even if for food security. There are two ways through which a restricted agriculture price regime will benefit the developed countries to expand their markets at the expense of Indian farmers and agriculture:

1. A restricted MSP that will allow giant grain corporations like Glencore, Toepfer, Cargill, and the Australian Wheat Board to exploit the Indian farmers by procuring produce at below Minimum Support Price (MSP);
2. A restricted MSP that will weaken public procurement of food grains for the NFSA, thus offering a golden opportunity to giant grain corporations like Glencore, Toepfer, Cargill, and the Australian Wheat Board to fill the gap.

Therefore the whole opposition of the developed countries to the food stockholding issue is actually intended to force developing countries like India to stop supporting its farmers through procurement at the minimum support price (MSP) so that 1.25 billion (or 125 crore) Indians, including the 800 million (or 80 crore) covered under the India's Food Security Act 2013, become a market for multinational corporations of the developed world.

While the USA is the most critical of India's proposal, their own outlays on food stamps have risen sharply, and the total farm subsidy spending has reached a new record of \$130.3 billion dollars in 2010. Of this, \$120.5 billion dollars has been reported as Green Box payments. According to US government figures, domestic food aid—the category including food

⁶⁹ As per India's official farm subsidy notification to the WTO, document G/AG/N/IND/7 of 9 June 2011

stamps—represented almost eight-tenths of total Green Box spending in 2010, at \$94.9 billion US dollars.⁷⁰

Compared to this huge subsidy for food aid in the USA, India's subsidy under the public stockholding for food security accounted for around \$12.3 billion US dollars in 2009-10 — the USA amounted to 8 times larger than India's in the same year. There are 80 million (or 8 crore) USA beneficiaries while India has 475 million (or 47.5 crore), or 6.3 times larger per beneficiary than in the United States.⁷¹ The scope of India's National Food Security Act (NFSA) 2013 is much larger and it guarantees right to food to two-thirds of India's population (approx. 800 million⁷²) which is more than 10 times per beneficiary in the USA. Double standards in the WTO rules are also exposed when one realises that India's subsidies are \$99 US dollars per farmer (in 2010), while USA subsidies amounts to \$57,901 dollars per farmer (in 2012)⁷³— that's 585 times more than Indian subsidies. Yet the USA is threatening India and demanding the removal of support to its small and marginal farmers.

Food Stockholding issue at the Bali Ministerial in 2013

At the 9th WTO Ministerial Conference in Bali (Indonesia) during 3-7 December 2013, there were two key issues on the table (i) permanent solution for the Food Stockholding for security purposes and (ii) Trade Facilitation Agreement (TFA) which was aimed for greater transparency and simplification of customs procedures, use of electronic payments and risk management techniques, and faster clearances at ports. India and the developing countries were not ready to have an agreement on trade facilitation unless there is a final solution to the issues of food stockholding, thus Bali witnessed a tough fight between “free trade” Vs. “food security”.

When the G-33 proposal for amending the AoA was resisted by the developed countries, the developing countries group led by India submitted another proposal on 'Public Stockholding for Food Security and agricultural subsidies' in October 2013, which listed 3 options to be discussed at the Bali Ministerial:

Option A: Re-interpretation of 'external reference price';

Option B: Interpretation of terms used in Article 18.4 of the AOA e.g. 'excessive inflation';

Option C: Peace Clause.

India demanded that the biased AoA rules about external reference price (ERP) be updated and adjusted to the current (recent) price level. Due to the time that has lapsed, the reference price is often much lower than the current prices. The developed countries led by the USA refused to update the reference point, arguing that they didn't want to renegotiate any part of the AoA.

⁷⁰ <http://ictsd.org/i/news/bridgesweekly/146491/>

⁷¹ http://www.wto.org/english/news_e/news13_e/pfor_03oct13_e.html

⁷² http://zeenews.india.com/news/nation/rajya-sabha-passes-national-food-security-bill-by-voice-vote_873721.html

⁷³ http://www.southcentre.int/wp-content/uploads/2015/03/Ev_150312_AKwa.pdf

The developed countries also stonewalled the second option which basically wanted to factor in the inflation in ERP since India's inflation has crossed 675%⁷⁴ since 1986-88. Article 18.4 of the AoA provides a legal basis for considering "excessive rates of inflation". However this option led to a debate on what is considered as excessive inflation and what is a normal inflation. The third option "Peace Clause" was meant to make the public stockholding programme exempt from any action by a member country under the WTO's Dispute Settlement Understanding (DSU).

The Conditional Peace Clause

Under the stiff opposition of developed countries in Bali, India had to settle for an interim Peace Clause arrangement until a permanent solution was found (before the 11th Ministerial in 2017) under the Agreement on 'Public Stockholding for Food Security Purposes'. A Peace Clause is when countries agree not to bring up cases in the WTO against each other on an issue, but they don't really change the rules *per se*. Instead of changing the faulty and biased WTO rules, the WTO members agreed under the Peace Clause not to sue India (or any other developing country) in the dispute settlement mechanism even if its *de minimis* subsidies go beyond the 10% permissible limits. By offering this temporary solution, the USA managed to get binding commitments from developing countries on the TFA, that would require countries to invest in infrastructure to speed up customs clearances and help facilitate trade.

The text on the Peace Clause was made weak by limiting the operation to a time bound limit of 4 years (or until the 11th Ministerial meeting) which expires without any guarantee of a permanent solution demanded by the G-33. Besides that several stringent conditions were attached to the usage of Peace Clause. These include:

- Peace Clause to cover only the AoA and not the Agreement on Subsidies and Countervailing Measure (ASCM) (which prohibits WTO members from providing subsidies that cause adverse affects to other members, and makes India vulnerable to be sued under the latter).
- Interim Solution restricted to existing programmes, so it effectively limits the government's policy space to expand the existing programme. This could mean - No increase in the support prices for farmers; No new crops can be added for price support programme etc. It would also mean that those countries where public stockholding for food security programme is not in place; they cannot adopt it now.
- Traditional Staple Food crops only, so pulses, cooking oil, and crops, other than those described as "traditional staples" by the WTO, cannot be included in the food security programme.
- Pro Trade conditionalities imposed by this agreement, which says that member states

⁷⁴www.unescap.org/sites/default/files/Jayant-Dasgupta-14-16-sep-2015.pdf

must ensure 'that stocks procured under such programs do not distort trade', and do not adversely affect food security of other members. These are quite broad, and any large domestic programme can be challenged later as trade distorting.

- Difficult notification and transparency requirements put extra burden on India or any other country availing the Peace Clause to submit their domestic support notification annually. Most developing countries cannot comply with this onerous data submission, and if they do, they would unnecessarily open up their domestic policies, programmes, and mechanisms to international scrutiny.

Unfortunately, these restrictions represent a significant oversight of the WTO on a country's future policy space in an area that is essentially a sovereign national right. The policy space of governments to provide food security to their people has been hijacked for trade to flourish, while the global trade regime (under TFA) has been given greater priority and power compared to a nation's sovereign decision to ensure the food security of its people.

Post Bali Development

Post Bali, nothing much changed on the issue of food security in the WTO. The only change brought out by the New regime in India was about the permanency of the Peace Clause after a bilateral deal with United States in November 2014. This was triggered by Indian decision in July 2014 not to join the consensus⁷⁵ on the implementation of the TFA till India's concerns relating to the implementation of other Bali Ministerial Decisions, in particular, the Decision on Public Stockholding were addressed.

The India-USA agreement, which was formalised by the General Council decision in November 2014, clarifies that this "peace clause" mechanism will "remain in place in perpetuity until a permanent solution

regarding this issue has been agreed and adopted. This was a temporary move to strengthen

India's Double Speak on the Food Security Issue

It is important to highlight here the double talk by India at the WTO and on the home turf so far as the food security issue is concerned. Indian government posturing at the WTO to protect Indian farmers' interests is misleading, since it is taking a contradictory position at the domestic level, for example, by cutting down agricultural subsidies, scaling down the food security programme, dismantling public stockholding programmes and withdrawing price supports for farmers (for example, the Consumer Affairs Ministry, Government of India, issued a letter dated June 12, 2014 on directing State governments to avoid bonus [on paddy and wheat procurement] over and above Minimum Support Price [MSP] on the pretext that it "distorts the market" and "drives private buyers out of the market". Instead of fulfilling their pre-poll promise of giving 50 percent assured return to the farmers over and above the cost of production, the government is planning to dilute the entire procurement structure in the name of restructuring of the Food Corporation of India (FCI).

⁷⁵ The WTO is 'member-driven', with decisions taken by consensus among all members.

the safeguard available for continuing India's MSP policy without any hurdle at the WTO front. It was also critical for food security in India and in countries which have similar policies, for example Bangladesh, Egypt, Ghana, Indonesia, Jordan, Kenya, Morocco, Nepal, Pakistan, Tunisia, Turkey, Zambia and Zimbabwe. The General Council decision also includes a commitment to find a permanent solution on public stockholding by 31 December 2015 on a best endeavour basis. This introduced a sense of urgency in the process and would encourage other developing countries to join the effort in pushing for a permanent solution at the earliest.

A permanent solution on the food stockholding issue could be either of the three: (1) Update ERP by taking three years average; (2) Adjust Inflation to update ERP; and (3) Put the MSP or subsidies on public stockholding programs in the Green Box. The last option is what the G-33 is currently pushing for since the option 1 and 2 will not solve the problems of all developing countries. In 2015, the G33 resubmitted its permanent solution Public Stockholding proposal of November 2012, JOB/AG/22 calling for Public Stockholding programmes to be notified under the Green Box.

Once the TFA was given the go-ahead after the India-USA deal and the General Council Decision of 28 November 2014, the issue of food stockholding was put on the backburner. Instead of resolving this issue and find a permanent solution, the developed countries started raising other issues, e.g. attempt to include New Issues in the multilateral trade negotiations because for some developed countries, development issues (like subsidy reduction, SSM, SP and food security) are no longer relevant in multilateral trade debates. They went back to their 2008 position of denying special and deferential treatment to the developing countries. Even USA accused India of providing excessive input subsidies under Article 6.2. The USA attempt was a usual tactics to force India to discard its stand on the Public Food Stockholding.

Leading up to Nairobi Ministerial (scheduled for December 2015), developed countries have blocked all talks on a permanent solution to the food security proposal.

Public stockholding for Food Security is not only India's issue but many large developing countries, including African countries, face this problem from this historically unbalanced WTO subsidy regime. Food prices are continuing to go up. Any policy to feed poor should not be circumscribed by global rules. It is high time that these problems are corrected appropriately.

India is not the only country but many of developing countries are also on the verge of breaching the 10% limit for de minimis subsidy for food stockholding program or have already breached limit. If the Nairobi Ministerial Meeting fails to attain a permanent solution to the food stockholding issue, all these will be greatly affected and have to compromise their food security program. Therefore, these countries should support India and G-33 in their mission to change the AoA to include food stockholding in the Green Box for every developing country, whether they presently have or not a food stockholding scheme in their country.

Developing Countries return Empty Handed from WTO's Nairobi Ministerial

The tenth Ministerial Conference (MC10) of the WTO concluded on 19th December 2016, a day after its scheduled duration, which was originally from 15th to 18th December 2015. However some of us⁷⁶ who were at the Ministerial in Nairobi are still contemplating how come it is possible to have a successful outcome (as claimed by developed countries) despite having fundamental differences among its key members on some crucial issues. How come the MC10 which was at one point on the verge of collapse sailed through? Why countries like India with 1.2 billion of population was silenced and was forced to accept a Bad deal compromising their policy space, especially on key strategic issues like food security?

After a 24 hours long non-stop marathon meeting on 19th December, the draft Nairobi Ministerial Declaration (NMD), also called as Nairobi Package, was finalised and got endorsed despite clear disappointment expressed by India and other developing and LDCs on the 'explicit disagreement' on the issue of reaffirmation of Doha Development Round (DDR)⁷⁷, one of the key issues in Nairobi. The split of opinion on the DDR is clearly reflected in the NMD text. It's para 30 says, "We recognize that many Members reaffirm the Doha Development Agenda (DDA), and the Declarations and Decisions adopted at Doha and at the Ministerial Conferences held since then, and reaffirm their full commitment to conclude the DDA on that basis. Other Members do not reaffirm the Doha mandates, as they believe new approaches are necessary to achieve meaningful outcomes in multilateral negotiations. Members have different views on how to address the negotiations. We acknowledge the strong legal structure of this Organization".

The NMD contains six Decisions on agriculture, cotton and issues related to LDCs. The agricultural Decisions covers commitment to abolish export subsidies for farm exports, public stockholding for food security purposes, a special safeguard mechanism for developing countries, and measures related to cotton. Decisions were also made regarding preferential treatment for LDCs in the area of services and the criteria for determining whether exports from LDCs may benefit from trade preferences.

Given the vast differences among WTO members on different aspects of agricultural

⁷⁶ Attended by Afsar Jafri from Focus on the Global South.

⁷⁷ One of the key issues at the Nairobi Ministerial was continuation of Doha Development Round. As explained earlier, there was a pronounced demand by developed members, especially USA and EU, to set aside permanently the entire development mandate of the Doha Round and to replace it with an alternative agenda so as to introduce new so-called 21st century issues including investment, transparency in government procurement, competition, Global Value Chain, E-commerce etc. The MC10 became a battleground for the future of the Doha Round, between developed and developing countries, where the former demanded that it must be abandoned forever while developing countries like India, the African group of countries and least developed countries tried to keep to the Doha Mandates.

negotiation during the MC10 negotiations, some of us from the civil society groups and representatives of La Via Campesina from different parts of the world were hopeful that, the Ministerial would remain inconclusive and would repeat the tradition of failures as witnessed in Seattle or Cancun. Given the 20 years history of WTO, we were also concerned that the final outcome would be pro-USA at the cost of third world interests. Our apprehensions were proved correct when the NMD was finally adopted on 19th December. The USA got whatever it wanted at this first ever Ministerial in Africa, giving nothing to LDCs, Africans and other developing countries. After five days of hectic discussion, more than 150 member countries of the WTO from the South had nothing to take away. They returned empty handed from Nairobi while USA and its Corporations got what they wanted from the MC10, for example: No Permanent Solution on Food Stockholding; No decision on Special Safeguard Mechanisms (SSM) for developing countries; Extension of deadline for elimination of Exporting Subsidies; Longer repayment term for export financing support (export credit); and of course No-affirmation of Doha Development Round (DDR) and most importantly, managing an language opening the new issues (Singapore issues) in the NMD. Once again, the Ministerial declaration, offers a full cake to developed countries and not even a pie to developing countries. It once again vindicates our position that the WTO cannot deliver for the poor and only serves the interests of the rich.

When the Nairobi Ministerial started on 15th December, no other issues except Agriculture were on the agenda. GATS, NAMA and TRIPS were kept aside at Nairobi so that it concertedly delivers positive outcomes on agriculture to benefit the developing countries. But as NMD indicates there are absolutely no positive outcome for Africa and countries of the South in the WTO.

However, before NMD, only one agreement was signed, not among all the members but a plurilateral agreement on Information Technology Agreement 2 (ITA-2) among 53 countries-- compared to 82 countries that signed ITA I. They agreed to remove tariffs on 201 information and communications technology (ICT) products by 2024 (tariffs on major products among the 201 items will be removed within three years covering 89 percent of the 201 items by trade value). The covered goods represent about 96 percent of global trade in the enumerated ICT products. India is not party to the ITA-2 since it had suffered a devastating impact of ITA-1 on its domestic electronic hardware sector. The ITA-2 will have a devastating impact on the emerging IT hardware industry in Asia, Africa and Latin America, which is offering all kinds of incentives to investors in order to promote manufacturing of IT and electronics products in their countries.

Some developing countries are also exulting that there is an agreement in the NMD on elimination of Export Subsidies in Agriculture, but the fact of the matter is that under the Hong Kong Ministerial Declaration of 2005, developed countries were supposed to eliminate all their export subsidies by December 2013. And in Nairobi they succeeded to successfully extend this elimination commitment till 2020, a seven-year extension. But this exemption will not apply to

“processed products and dairy products for the Members who have notified export subsidies for such products or categories of products in their latest notification on export subsidies to the Committee on Agriculture”. It is the processed products and dairy products from the USA and EU that are increasingly penetrating into the markets of developing countries and devastating local food industries. Hae-Yeon Chung of the Korean Peasants League (who was in Nairobi during MC10) said “Poor farmers have nowhere to sell their farm produce while their industries continue closing doors and sending workers home since processed foodstuffs are flooding supermarket shelves across the world. Our products cannot compete with the processed food stuffs from Europe and America since they have been lowly priced”. Peasants from Korean Peasants League (KPL) and La Via Campesina (LVC) from different parts of the world marched every day on the streets of Nairobi protesting against the WTO. Their key slogans were “Agriculture is not your trade, it is our life. Our life is not for trade. #ENDWTO. Remove WTO out of Agriculture.”

Losses for Developing countries at the MC10

No decision on a Permanent Solution to the Food Stockholding programme: The General Council Decision of 27th November 2014 reaffirmed that WTO members would make all concerted efforts to agree and adopt a permanent solution on the issue of public stockholding for food security purposes by 31 December 2015. But the NMD Decision on Public Stockholding (WT/MIN(15)/W/46) offers only pious intent to find a solution, thus ignoring the issue of right to food for poor consumers and price support to the subsistence farmers which is the backbone of food security programme in countries like India. At MC10, the issue of a Permanent Solution was the most neglected issue and no serious efforts were made to see permanent solution at any cost despite the fact that not only India, but several African Countries—for example, Tunisia, Zambia, Zimbabwe, Morocco, Egypt and Kenya-- have Public Stockholding in maize.

No final decision on SSM: This was a key demand under S&DT from the G33 to protect their food producers from import surges by raising tariffs. But it seems, this has again been ignored in Nairobi. Though the Decision on SSM (WT/MIN(15)/W/45) in the NMD says the developing country members will “have the right to have recourse” to a special safeguard mechanism “as envisaged under paragraph 7 of the Hong Kong Ministerial Declaration” that means it will be based on import quantity and price triggers.

But para 2 of the Decision on SSM indicates that the decision on SSM is not final. It says “pursue negotiations on an SSM for developing country Members in dedicated sessions of the Committee on Agriculture in Special Session (“CoA SS”)”.

The Developed countries are blocking this basic safeguard to developing countries even though developed countries themselves have access to similar mechanisms such as SSG which allows them to increase tariffs on imported products to protect their domestic food producers in

order to stabilize prices in their own countries. Rather they have access to several other mechanisms, which act as effective safeguards against imports, such as Tariff Peaks, Tariff Rate Quotas (TRQs) and Non Tariff Barriers (NTBs). But the USA, EU, Canada and Australia are not ready to allow access to SSM to developing countries, that have seen several such cases of import surges in the past.

No Relief to Cotton four (C4) countries on Cotton: The NMD Decision on cotton (WT/MIN(15)/W/48) provides some relief to the C4 countries but this is much below the expectation of these countries expressed through their proposal submitted before Nairobi Ministerial on 12 October 2015. The cotton sector is the second largest formal employer in Benin, Burkina Faso, Chad, and Mali and almost one million farm unions provide employment to seven to eight million actively farming adults and livelihoods to some 10 to 13 million people. But these countries face major challenge in marketing their produce because of restricted access and the heavy subsidies by the USA to their cotton growers.

The NMD Decision on cotton does not provide binding commitments but only best endeavour outcomes, e.g. on Market access, the Decision calls for cotton from LDCs to be given duty-free and quota-free access to the markets of developed countries - and to those of developing countries declaring that they are able to do so - from 1 January 2016. The domestic support part of the cotton decision acknowledges members' reforms in their domestic cotton policies and stresses that more efforts remain to be made. On export competition for cotton, the decision mandates that developed countries prohibit cotton export subsidies immediately and developing countries do so at a later date.

The Issue of Domestic Support (Subsidies): It is quite surprising that post Doha, this is the first Ministerial where there was no discussion about cutting down massive trade-distorting farm subsidies offered by developed countries that affect the market internationally.

Despite the completely biased deal in favour of developed countries, none from African countries, the LDCs and other developing countries came out openly against the USA dictating to turn the whole deal in their favour. There was some discomfort among few developing countries members on the draft Ministerial Declaration, because it did not commit reaffirmation of the Doha Development Agenda (DDA). They were also upset that the NMD did mention the possibility of new issues being introduced.

The MC 10 will be remembered for as the graveyard of the Development agenda under the Doha Round. And it will also be remembered as the conference where members agreed to bring on board new issues that they themselves buried in Cancun in 2003. The Nairobi Ministerial Conference outcomes warrant that developing countries should join hands to leave the WTO and bury the WTO forever.

FOCUS ON THE GLOBAL SOUTH

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Focus on the Global South is a policy research organisation based in Asia (Thailand, Philippines and India). Focus provides support to social movements and communities in India and the Global South by providing research and analysis on the political economy of globalisation and on the key institutions underlying this process. Focus' goals are the dismantling of oppressive economic and political structures and institutions, the creation of liberating structures and institutions, demilitarization, and the promotion of peace.



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