



## **INFORMATION BULLETIN**

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### **INDIA'S STAND AT THE WTO : TRADE FACILITATION AGREEMENT VS. PUBLIC STOCKHOLDING FOR FOOD SECURITY PURPOSES**

#### **Introduction**

**T**he World Trade Organization (WTO) that came into being in 1995 as the successor to the General Agreement on Tariffs and Trade (GATT) (see Box-1) has, at present, 160 member-countries in its fold; India is one of the founder members and an active participant of this multilateral organisation. To expand 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, the WTO administers global trade agreements, acts as a forum for trade negotiations, settles trade disputes between countries, reviews national trade policies, assists developing countries in trade policy issues through technical assistance and capacity-building programmes, and cooperates with other international organizations to reduce obstacles to international trade so as to ensure a level playing field for all, thus contributing to economic growth and development in all countries.

#### **Box-1**

##### ***General Agreement on Tariffs and Trade (GATT)***

The General Agreement on Tariffs and Trade (GATT) provided the rules for much of the world trade from 1948 to 1994. The main objective of the GATT was to reduce barriers to international trade. The GATT was replaced by the WTO in 1995.

The highest authority in the WTO is the Ministerial Conference (see Box-2), which comprises political representatives (Ministers in-charge of

Trade) from each member country. The Ministerial Conference examines current programmes and sets the agenda for the future work of the WTO. Starting from the First Ministerial Conference held in Singapore in 1996, nine Ministerial Conferences have so far been held; the last was the one held in Bali, Indonesia from 03 to 07 December 2013. It is the Fourth Ministerial Conference held in Doha, Qatar in 2001 that launched the most talked about 'round of trade negotiations' in the WTO. Also called Doha Development Round (see Box-3), this round has development at its core with an agenda covering a wide range of issues concerning the developing countries.

#### **Box-2**

##### ***WTO Ministerial Conference***

The highest body of the WTO is the Ministerial Conference, which usually meets every two years. Starting from the First Ministerial Conference held in Singapore in 1996, nine Ministerial Conferences have so far been held; the last in the row was the one held in Bali, Indonesia from 03 to 07 December 2013.

#### **Box-3**

##### ***Doha Development Round***

The Fourth Ministerial Conference held in Doha, Qatar in 2001 set out an agenda for negotiations, on a wide range of issues concerning developing countries. Since development is at the core of the Agenda, it is called the Doha Development Agenda.

The Doha Round of trade negotiations is still underway. In the backdrop of the global economic downturn of 2008 and the inability of the WTO members to reach consensus on the full Doha Development Agenda, it was decided at the Eighth Ministerial Conference held in Geneva in 2011 to focus on areas where convergence was possible. Accordingly, at the Ninth WTO Ministerial Conference held in Bali in December 2013, agreement was reached on a small number of issues. The set of issues, broadly known as the Bali Package, comprised ten decisions/declarations on various issues amongst which two Ministerial Decisions are of particular significance for India—(i) Ministerial Decision on Agreement on Trade Facilitation; and (ii) Ministerial Decision on Public Stockholding for Food Security Purposes.

While the issue of 'Trade Facilitation' was brought into the agenda mainly by the developed countries, it was because of considerable efforts by developing countries including India that the issue of 'Public Stockholding for Food Security Purposes' was brought into the agenda of the Ninth Ministerial Conference.

### **What is Trade Facilitation Agreement (TFA)?**

Over the years, with the lowering of tariffs and the removal of quantitative restrictions (see Box-4) under the WTO regime, the focus in international trade has shifted to the simplification of trade procedures in general and customs related procedures in particular. Negotiations for a new multilateral Agreement on Trade Facilitation began in Geneva as part of the Doha Round of trade negotiations which was launched in 2001. The Trade Facilitation Agreement, which was the outcome of the Ministerial Decisions at the Ninth Ministerial Conference (Bali, December 2013), is basically aimed at greater transparency and simplification of customs related procedures, use of electronic payments, risk management techniques and faster clearances at ports so that trading activities can become easier and smooth for the trading countries.

#### **Box-4**

##### **Quantitative Restrictions (QRs)**

Quantitative Restrictions are trade restrictions placed on the quantity of an item or service that can be imported (or exported) into a country during a specific time period. These are imposed to protect the price of domestically produced goods or to decrease or eliminate trade deficit.

As per the Ministerial Decision of December 2013 referred to above, a Preparatory Committee on Trade Facilitation was constituted in the WTO to conduct a legal review of the Trade Facilitation Agreement and draw up a Protocol of Amendment to make the Trade Facilitation Agreement an integral part of the WTO Agreements. As per the Ministerial Decision, the General Council (see Box-5), was to meet to adopt the Protocol drawn up by the Preparatory Committee and to open the Protocol for acceptance by the members until 31 July 2015 so that it can be brought into force. Post-Bali, however, the developed countries focussed all their attention on the implementation of only Trade Facilitation Agreement, neglecting all other decisions. India was concerned at the lack of progress on other issues, especially on the proposal on Public Stockholding for Food Security Purposes. India raised the issue several times in the WTO meetings. On 25 July 2014, India made a statement in the WTO General Council conveying that the adoption of the Trade Facilitation Protocol must be postponed till a permanent solution on Public Stockholding for Food Security Purposes is found.

#### **Box-5**

##### **WTO General Council**

The General Council is the second tier decision making body in the WTO structure, which conducts the functions of the Ministerial Conference in the intervals between the meetings of the Ministerial Conferences of the WTO. It has representatives (usually ambassadors or equivalent) from all member governments.

### **What is Public Stockholding for Food Security Purposes?**

Public Stockholding for Food Security Purposes covers expenditures in relation to the accumulation and holding of stocks of products which form an integral part of the food security programme identified in a WTO member country's national legislation. The agricultural trade rules in the WTO's Agreement on Agriculture (AoA) do not bar Public Stockholding Programmes for Food Security Purposes. However, if food for such programmes is acquired at administered prices and not at market prices, then it is deemed to be support to farmers. As per the WTO rules, in the case of most developing countries, all such support has to be kept within a limit of 10 per cent of the value of production of

the product(s) in question. This cap can constrain procurement of foodgrains and also implementation of food aid programmes in developing countries. The support calculated, as per the WTO rules, compare Fixed External Reference Prices (see Box-6) with the current administered prices (e.g. Minimum Support Prices in India), thus artificially magnifying the support provided by developing countries. The G-33 (now a group of 46 developing countries including India) has submitted a proposal for updating the rules. The current WTO rules overlook the interests of the developing countries as far as addressing the problems of food security by providing price support to the farmers is concerned and need to be updated.

#### Box-6

##### *Fixed External Reference Prices*

The Fixed External Reference Prices (with reference to various agriculture products) are based on years 1986 to 1988 and are, generally, the average freight on board (f.o.b.)/carriage, insurance and freight (c.i.f.) unit value for the basic agricultural product concerned in a net exporting/importing country.

The developing countries have, therefore, been demanding for a change in the rules under the Agreement on Agriculture to allow governments to purchase and stock foods from their farmers without legal challenges. Such measures provide safety nets to millions of small scale farmers through, for instance, assured minimum support price to make nutritious food cheaper and available. Food reserves can play an important role in developing countries faced with volatility in both food availability and food prices. Food assistance programmes provide a vital safety net for food-insecure families in these countries.

### **Understanding the Agreement on Agriculture**

In the run up to the Uruguay Round of Negotiations in 1994 (see Box-7), negotiations on agriculture were dominated by differences between the USA that was for elimination of all agricultural subsidies – the ‘zero option’ –, and the European Commission (EC) that was for protection of its farmers from international competition. After a series of bilateral discussions, the two reached an agreement paving the way for the Agreement on Agriculture (AoA) during the Uruguay Round. The

Agreement on Agriculture guides the WTO member countries on permissible and prohibited subsidies to be given to their farmers. However, the Agreement contains several types of imbalances that are favourable to the developed countries and unfavourable to the developing countries. The main form of unfairness in the Agreement on Agriculture is in the area of domestic support. While the developed countries are allowed to continue to give domestic subsidies to their agriculture sector up to 80 per cent after the six-year period, most of the developing countries (they had little or no subsidies due to their lack of resources at that time) are prohibited from giving domestic subsidies beyond the *de minimis* level, i.e. 10 per cent of the total value of the production in most cases. In addition, many types of domestic subsidies, most of which are used by the developed countries, have been exempted from reduction. The result has been that the total domestic subsidies to the agriculture sector in the developed countries are now much higher compared to that in the developing countries.

#### Box-7

##### *Uruguay Round Negotiations*

The Uruguay Round of Negotiations (1986-1994) was the eighth and the last round of negotiations under the General Agreement on Tariffs and Trade (GATT) which provided the rules for much of the world trade from 1948 to 1994.

In view of the imbalances in the WTO's Agreement on Agriculture, the developing countries have been, all along, demanding for ‘special and differential treatment’ to allow agricultural growth through Government support policies in their countries. In the context of domestic support policies of the governments, the provision of Aggregate Measurement of Support (AMS) given, a term coined by the WTO, to the agriculture sector assumes a special significance. AMS is a measure calculated for each basic agricultural product receiving support in any form either as price support or as subsidy support or any kind of direct payment from the Government in monetary terms.

At the time of execution of the Agreement on Agriculture, developing countries had no significant support measures that could distort the production of agriculture products and their trade. However, till date, the developed countries have been continuing with their subsidies to their agriculture

heavily through policies such as the US Farm Bill (see Box-8) and the EU Common Agricultural Policy (see Box-9), where the government subsidy expenditure is, on an average, nearly half of their agricultural gross domestic product. On the other hand, though developing countries, such as India, spend far less amount on subsidies to farmers, the support measures such as acquisition of foodgrains at Minimum Support Price (MSP) fall under the category of trade distorting support (as defined in the Agreement on Agriculture of the WTO) as administered prices paid to farmers are compared to the dated prices of the years 1986-88.

**Box-8**  
**US Farm Bill**

US Farm Bill provides safety net to the farmers in the USA. The US Farm Bill is the primary agricultural and food policy tool of the federal Government passed every 5 years or so by the United States Congress to provide certainty to America's farmers by adopting a five-year farm bill.

**Box-9**  
**EU Common Agricultural Policy**

EU Common Agricultural Policy (CAP) is the agricultural policy of the European Union that implements a system of subsidies and other programmes to support the farmers of the region by providing a range of instruments such as price guarantees, direct payments and quotas and also tariffs on some imported produce.

### **Food Security and the WTO Negotiations**

The Food and Agriculture Organisation (FAO) maintains that food security emerges when all people at all times have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life. The FAO and other international agencies have also underscored the fact that, despite progress, a substantial proportion of the world's population has continued to lack adequate food and nutrition. Against this background, food security concerns have played an important role in the WTO negotiations.

The relationship between international rules on trade and the achievement of national and global

objectives in the area of food security has long been a subject of contention at the WTO. While food security is mentioned in the preamble to the WTO Agreement on Agriculture (AoA), as well as in a number of other places in the same Agreement, talks in the early years of the Doha Round and immediately beforehand focused primarily on the issue of how trade-distorting subsidies in certain developed countries might undermine food security in poorer parts of the world, and also on the question of the extent to which developing countries should be granted exceptions from trade liberalisation commitments on food security and related grounds.

It is important for the developing countries to be able to guarantee some minimum returns to their poor farmers so that they are able to produce enough for themselves and for domestic food security. Had the Doha Round been concluded, there would have been a substantial reduction in the agricultural subsidies given by the developed countries. As a result of non-conclusion of the Doha round, the US, EU, Japan and other developed countries continue to provide support to their farmers upto the levels reached at the end of the Uruguay Round implementation period, while the developing countries not having any reduction commitments, have to stay within a cap of 10 per cent support to their farmers. This being a fixed percentage, creates difficulties for the developing countries and also for India as our food requirements increase with the passage of time and consequently, we have to enlarge our procurement and food aid operations.

### **Demand of Developing Countries, including India, for Public Stockholding for Food Security**

The developing countries sought exemptions from tariff reductions for the agriculture products which they saw as important for their food security, as well as for their right to protect themselves from destabilising import competition. In June 2000, in their submission to the WTO Committee on Agriculture, eleven developing countries suggested extending 'special and differential treatment' to allow the developing countries greater flexibility to tackle the problem of food security and to protect their rural poor. Their concerns were reflected in the WTO General Council Decision of 01 August 2004 (also called the Framework Agreement) (see Box-10) which stated that the developing country members "must be able to pursue agricultural policies that are supportive of their developmental goals, poverty reduction strategies, food security and livelihood concerns". It went on

to specify 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". The Framework Agreement further states that a "Special Safeguard Mechanism will be established for use by the developing country members".

#### Box-10

##### *Framework Agreement*

The mandate of the Doha Round of WTO negotiations is enshrined in the Doha Ministerial Declaration, *i.e.* the General Council Decision of 01 August 2004 which is called July 2004 Framework Agreement.

In the light of the above mentioned Framework Agreement, the G-33 group of developing countries proposed, in the revised draft modalities for agriculture (see Box-11), that procurement from low income and resource-poor producers for public stockholding programmes for food security purposes should be treated as measures that have no or minimal trade and production related distortion effects. But due to failure to agree on a set of the revised modalities, the Doha Round negotiations of the WTO could not make progress in a desired manner to the disadvantage of the developing countries.

#### Box-11

##### *Revised Draft Modalities for Agriculture*

The 'Revised Draft Modalities for Agriculture' is a negotiating text brought out in December 2008, which is still under negotiation.

Later, at the Special Session of the WTO Committee on Agriculture in 2012, the G-33 group proposed food stockholding to be taken up for a formal decision at the Ninth Ministerial Conference held in Bali in 2013. Consequently, in the Bali Ministerial Decision on Public Stockholding for Food Security Purposes (adopted on 07 December 2013), the members agreed to put in place an interim mechanism (called Peace Clause) and negotiate on an agreement for a permanent solution by the eleventh Ministerial Conference of the WTO (to be held in 2017). In the interim, members will refrain from challenging a developing country in the WTO for breach of commitments under the WTO Agreement on Agriculture (exceeding the support level of 10 per cent provided for traditional staple food crops in pursuance of public stockholding programmes for food security purposes existing as of the date of the said Decision).

## Implications of the Bali Ministerial Conference Decision on Food Security in Developing Countries including India

Post-Bali, the uneven progress on the implementation of the Bali Ministerial Decisions was noted by the developing countries. It was apprehended that once the Trade Facilitation Decision taken at the Bali Ministerial Conference is implemented, the developed countries would not come back to the negotiating table to discuss this issue or any of the other non-binding outcomes of the Bali Ministerial Conference. The result would be that the developed countries would achieve their desired Agreement on Trade Facilitation; and the developing countries would lose the bargaining space for an outcome on public stockholding for food security. Moreover, any chance to conclude the Doha Round will be lost. The developed countries would then try to bring new issues of their interest into the WTO, which may not be in the interest of the developing countries. This is an illustration of the manner in which the interests of the developing countries have been subordinated to the might of the developed countries under the WTO regime.

## India's Food Security Concerns and Stand at the WTO

India, representing the interests of the developing countries, remained at the centre of negotiations at the WTO on public stockholding for food security purposes. India's argument all along has been that the procurement of public stocks from low-income resource-poor farmers at administered prices is essential for the food and livelihood security of its poor. India's commitment to food security is enacted in its National Food Security Act, 2013 (see Box-12), which provides enhanced entitlements to citizens. The public procurement may increase in future to meet the obligations of the Act.

#### Box-12

##### *National Food Security Act, 2013*

The Government of India enacted the National Food Security Act, 2013 with the objective to provide for food and nutritional security in a human life cycle approach, by ensuring access to adequate quantity of quality food at affordable prices to people to live a life with dignity. The Act provides for coverage of upto 75 per cent of the rural population and upto 50 per cent of the urban population for receiving subsidized foodgrains under Targeted Public Distribution System (TPDS), thus covering about two-thirds of the country's population.

The WTO Agreement on Agriculture requires that when a WTO member undertakes public stockholding for food security purposes, the difference between the prices at which the foodgrains are acquired (the minimum support price, in India's case) and the fixed External Reference Prices of 1986-88 must be counted as subsidies. Further, as mentioned earlier, this Agreement allows developing countries to grant agricultural subsidies only up to 10 per cent of the value of their agricultural production which, India feels, unfavourable to its domestic food security programme. Since as per the WTO Agreement on Agriculture, the current acquisition prices have to be set against the set of international prices of 1986-88 without taking into consideration the inflationary impacts since then, India, along with the G-33 countries (a group that currently has 46 countries) has argued that this inherent anomaly for the calculation of subsidies needs to be corrected, which is the essence of a 'permanent solution'. India believes that farmers in developing countries are exposed to price risk and have fewer opportunities to manage this than farmers in the developed countries. The developed countries too had market price support programmes for their agricultural products. However, they have been able to move away from market price support system because of the availability of resources with them. But, it is not possible on the part of the developing countries.

Notably, the Bali Ministerial Decision on Public Stockholding for Food Security Purposes provides legal shield to some developing countries with public stockholding programmes, *albeit* in the form of a temporary respite until a permanent solution is agreed upon by the 11th Ministerial Conference scheduled to be held in 2017. The developing countries, led by India, have been demanding for the right to provide food assistance to millions of low income households procured from low income-resource poor farmers through government price support; whereas the developed countries have been demanding for additional trade rules that can further facilitate the multilateral trade regime. Finding a permanent solution is essential for achieving a fair and freer global agricultural trading system without undermining food security for millions of poor people in the developing countries. In view of the importance of the agricultural issues, especially the food security issue, to its national interest, and also in the interest of the developing countries in general, India took the stand in the WTO that it would not join the consensus on the Trade Facilitation Agreement, until tangible results were visible on the decision of the Bali Package, particularly relating to public stockholding for food security purposes.

## Recent Developments

The matter also came up for discussions in the sidelines of the BRICS (see Box-13) Trade Ministers Meeting held in Brazil on 14 July 2014 and the G-20 (see Box-14) Trade Ministers Meeting held in Sydney on 19 July 2014. India reiterated its commitment to the implementation of each of the Bali Decisions stating that it will not stand in the way of their implementation. It was explained that India seeks an equal level of commitment and progress in working on the issue of public stockholding, which affects the country's livelihood and food security issues. India also offered suggestions on the procedure to be followed in order to ensure time bound delivery of an outcome on Public Stockholding for Food Security Purposes.

### Box-13

#### BRICS

BRICS is the acronym for an association of five major emerging economies: Brazil, Russia, India, China and South Africa. The BRICS members are distinguished by their large and fast-growing economies with significant influence on the regional and global affairs.

### Box-14

#### G-20

The Group of Twenty (G20) is the premier forum for international economic cooperation and decision-making with members from both the developed and the developing world. Its membership comprises 19 countries (including India) plus the European Union.

India tried its best to find a solution and offered suggestions not only to achieve a permanent solution on the issue of food security but also to implement the Trade Facilitation Agreement in the agreed time-frame and deliver favourable outcomes for the less developed countries. After months of impasse, recently, India and the USA (two major economies of the world) were able to resolve their differences. As per the understanding reached, the mechanism under which the WTO members will not challenge developing countries' food security programmes under the WTO's Dispute Settlement Procedures in relation to the provisions of the WTO Agreement on Agriculture, will remain in place in perpetuity until a 'permanent solution' regarding this issue has been agreed and adopted.

In this context, following the understanding reached between India and the USA, the General Council of the WTO has adopted a decision on 27 November 2014 to the effect that the Peace Clause which was agreed in Bali will remain in force until a permanent solution in regard to the issue of public stockholding for food security is found. According to the decision of the General Council, if no solution is reached by 31 December 2015, the Peace Clause will simply remain in place and in effect until negotiations do conclude and a permanent solution is adopted by the WTO members. The General

Council also adopted a Protocol to make the Trade Facilitation Agreement a part of the WTO Agreements and opened the Protocol for acceptance by the WTO member countries. On ratification by two-thirds of the members of the WTO, the Trade Facilitation Agreement would come into force.

India is working with the members of the WTO to ensure that the Bali Ministerial Decisions are implemented and the work on concluding the rest of Doha Development Agenda starts in the WTO in right earnest.

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