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**Public Stockholdings Issue
in the WTO- the Way Forward for India**

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Abstract

This policy paper takes stock of the current status of negotiations on the issue of public stockholdings for food security on which the WTO Members are committed to agree on a permanent solution by the 11th Session of the Ministerial Conference of the WTO scheduled for December 2017 at Buenos Aires. It examines the origins of the problem and critically reviews the proposals that have been put forward to resolve it. It takes the view that the proposals made by the G33 to secure extra flexibility for providing market price support have little chance of being accepted at a time when the general sentiment worldwide is to obtain reduction in trade-distorting market price support. It recommends that India submit proposals based on economic logic and reasoning. First, non-subsidising Members must be allowed to neutralise inflation fully in fixing the support price from year to year. Second, an administered price that is equal to or below the average international prices must be recognised as non-distorting and deemed to be consistent with the requirements of the WTO Agreement. It also argues that it is not necessary for India to push hard on the issue in the light of the guarantee given to developing country Members against disputes being raised against them in the WTO. India should submit these proposals and wait for their compelling logic to be recognised in due course.

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Public Stockholdings Issue in the WTO- the Way Forward for India

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1. Introduction

For more than three years, the public stockholdings issue has been at the top of the agenda in the WTO negotiations for the G 33 group of developing countries. In the wake of the world food crisis, these countries were overcome by the feeling that their public stockholdings programmes were vulnerable to WTO disputes. The rules relating to domestic support to producers had been so tightly framed in the WTO Agreement that a number of developing countries feared that they would be in breach of their commitments. Any obstacle on the food security front appeared to be a grave threat to many developing countries, as the food crisis of 2007-08 was fresh in their mind. The result was a deadlock in trade negotiations at MC 9 at Bali in 2013, when many developing countries refused to join the emerging consensus on the Trade Facilitation Agreement (TFA) until there was agreement on a solution on the public stockholding front.

The crisis was resolved when the ministers agreed at Bali “to negotiate on an agreement for a permanent solution for the issue of public stockholding for food security purposes for adoption by the 11th Ministerial Conference”. In addition to the promise of working out a permanent solution, developing country Members were guaranteed immunity from disputes being raised against them regarding non-compliance of their public stockholding programmes for food security purposes with the relevant provisions of the Agreement on Agriculture. The immunity was subject to certain criteria spelt out in the Agreement on Agriculture being met, and certain notification requirements, including the domestic support notification requirement, being fulfilled and additional statistical information furnished. There is also a requirement that the concerned developing country Member “must have notified the Committee on Agriculture that it is exceeding or is at risk of exceeding either or both of its Aggregate Measurement of Support (AMS) limits (the Member's Bound Total AMS or the de minimis level)”.

After the approval of the trade facilitation agreement at Bali, the next step was the approval by the Members of a Protocol of Amendment to complete the formality of making the TFA an integral part of the WTO Agreement. At Bali, the ministers had mandated the General Council to meet no later than July 31, 2014, to adopt the protocol. However, the Director General reported another deadlock when India and a handful of other countries withheld consent. The main reason for this was the assessment by these Members that there was insufficient political will on the part of major players to find a permanent solution to the problems in the rules of the Agreement on Agriculture, which created difficulties for public stockholding of food and could become a threat to food security in developing countries. They feared that once the TFA entered into force, they would lose the bargaining lever that

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had enabled them to draw attention to the problem. They, therefore, pleaded that the permanent solution must be agreed upon simultaneously with the adoption of the protocol.

India faced unprecedented opprobrium from the community of nations for providing the leadership to developing countries to withhold consent – first, because it reversed the commitment that it had made a few months earlier, and second, because it had impeded the fruition of the only multilateral trade agreement that had been successfully negotiated since the birth of the WTO. There was widespread disappointment that the momentum towards a comprehensive accord on the Doha Development Agenda had been slowed down and the multilateral approach towards liberalisation once again stymied.

India had its way, largely. While an agreement on a “permanent solution” to the public stockholdings issue was not reached simultaneously with the adoption of the TFA Protocol, at its meeting of November 27, 2014, the General Council of the WTO developing countries took the decision that the guarantee against disputes being raised on measures taken for public stockholding “shall continue to be in place until a permanent solution is agreed and adopted”. At the same meeting, the General Council agreed to make efforts to achieve the permanent solution even earlier than the MC11:

“Members shall engage constructively to negotiate and 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. In order to achieve such permanent solution, the negotiations on this subject shall be held in the Committee on Agriculture in Special Session (“CoA SS”), in dedicated sessions and in an accelerated time-frame, distinct from the agriculture negotiations under the Doha Development Agenda ((DDA))”.

The permanent solution was not found by the end of December 2015 and, at MC 10 at Nairobi, ministers reaffirmed the original target of MC 11 to achieve the objective. Negotiations have continued on the subject and several proposals have been put forward after MC9. But with less than two months left for MC11, there is no meeting of minds among Members as yet on the “permanent solution”.

In this paper, we review all aspects of the issue to formulate proposals for a permanent solution on which there can be a reasonable chance of convergence. Section 2 examines the origin of the problem, Section 3 critically reviews the proposals that have been made and Section 4 concludes with suggestions for a permanent solution that India could put forward.

2. Origin of the Problem

2.1 Aggregate measurement of support (AMS)

One of the main objectives of the WTO Agreement on Agriculture (AoA) was to commit Members to reduce domestic support of agriculture. Members were required first to compute the Aggregate Measurement of Support (AMS), which was the sum of the annual level of product-specific support provided for each agricultural product and non-product specific support provided to agricultural products in general. In case the product-specific AMS of a

developing country Member was less than 10 per cent of the total value of production of the product or where the non-product specific AMS was less than 10 per cent of the total agricultural production, the support was considered de minimis and the Member concerned was not required to undertake any reduction commitments. Where no reduction commitment has been made by a developing country Member, it is provided that the Member must not in future provide support in excess of the de minimis level of 10 per cent. For developed country Members, the de minimis level is 5 per cent.

2.2 Green box and public stockholding for food security

Certain domestic support measures, which were considered to have no or minimal trade-distorting effects or effects on production, were exempted from the calculation of AMS. These measures have been listed in Annex 2 of the AoA, commonly known as the Green Box. One of the exempted measures is expenditure on public stockholding for food security purposes. A condition for exemption is that food purchases must be made at current market prices and sales at no less than the current domestic market price. Where food stocks are acquired and released at administered prices, the difference between the acquisition and the external reference price must be accounted for in the AMS.

2.3 Market price support and fixed external reference price

Market price support is one of the product-specific measures, which constituted an element in the computation of the AMS. The AoA provides for the market price support to be calculated using the gap between a fixed external reference price and the applied administered price. The fixed external reference price was determined and notified by the Members themselves, based generally on the average FOB unit value in a net exporting country and CIF unit value for an importing country during the reference period of 1986 to 1988. An important point in the AoA is that the external reference price has been fixed in nominal terms, based on the years 1986 to 1988. The objective of the negotiators was to allow the external reference price and the product-specific AMS to be eroded by inflation. The subsidising countries had no doubt already committed to reduce their AMS by 20 per cent but some of them had such a large balance of AMS in their Schedules that it was considered appropriate to achieve an additional reduction through the effect of inflation.

2.4 Review process

The AoA provided for the implementation of commitments to be reviewed by the Committee on Agriculture. In Article 18.4 of the AoA, it is envisaged that in the review process, Members shall give “due consideration to the influence of excessive rates of inflation on the ability of any Member to abide by its domestic support commitments”.

2.5 The problem

Developing country Members and a few developed country Members with market price support programmes are facing a situation in which their current product-specific AMS level has overshot the committed AMS levels because of inflation. The main reason for this is that

the ERP has been fixed at the nominal level prevailing in 1986-1988 and three decades have elapsed since then. Even for Members that had undertaken reduction commitments in respect of AMS, any additional reduction because of the ERP being effectively reduced on account of inflation would be onerous. It is unreasonable to expect developing countries, which did not have to undertake reduction commitments in domestic support because their administered price was less than the fixed ERP, to maintain their support price below the fixed ERP when it is being eroded by the inflation. Even if a downward adjustment in domestic support could be envisaged over the short or medium term, particularly when low rates of inflation of two to three per cent were being experienced, it would not be reasonable to expect Members to reduce their domestic support to the extent inflation erodes the ERP in real terms over 10, 20 or 30 years. Over 30 years, an annual rate of inflation at a relatively low rate of even two per cent will lead to a cumulative inflation of about 81 per cent. When, in the Uruguay Round, even the subsidising Members had undertaken to reduce their domestic support only by 20 per cent over the implementation period, it is unthinkable that Members with de minimis levels of support should be asked to reduce the level of their domestic support by 81 per cent (which would be the erosion of ERP over 30 years with 2 per cent inflation) or 143 per cent (which would be the erosion of ERP over 30 years with 3 per cent inflation).

An illustration with the help of actual data will perhaps help in understanding the problem. For India, the notified ERP for rice in 1986-88 was INR 3,520 per metric tonne. Since its minimum support price of INR 2,280 per metric tonne was less than the ERP of INR 3,520 per metric tonne, there was no subsidy in India's MSP of rice in the base period. In 2016-17, the MSP is INR 22,050 per metric tonne, and the WPI (base 1986-88) is 583.1. Unless full adjustment is permitted for inflation, India will have to bring down the MSP to within 10 per cent of the ERP level of INR 3,520 or INR 3,872. In other words, India would have to reduce its MSP to a little less than 18 per cent of the current level, which would be a totally outrageous outcome.

The question of excessive rates of inflation affecting a Member's ability to abide by the domestic support commitments has been raised under Article 18.4 by a number of Members but the response in the Committee has been unsympathetic. The first major case dealing with inflation affecting domestic support was of Turkey, which experienced inflation rates between 88 and 55 per cent between 1995 and 1999. The Member had submitted its notification of domestic support in a currency other than the Turkish Lira, which was the currency of its Uruguay Round Tables. While Members were right in asking Turkey to provide its Current Total AMS in Turkish Lira, they showed insensitivity in asking for an "[e]xplanation of the reasons why these rates are considered to be excessive for the Committee to give due consideration to this issue as foreseen in Article 18.4 of the Agreement on Agriculture".

In a submission made to the Committee on Agriculture, Tunisia had notified both the annual inflation rates and the rates of depreciation of the local currency over the period 1988 to 2006 and claimed that the inflation was excessive and justified the adjustment made in the ERP. The cumulative inflation during the period was 60 per cent, even though the inflation was in

the range of 5 to 7 per cent up to 2000 and between 2 to 4 per cent from 2000 to 2006. Members of the Committee expressed the view that the annual rates of inflation cited were “probably not excessive” and that “the Agreement on Agriculture did not provide for adjustments based on cumulative inflation over an 18-year period”.

Iceland had claimed that the rates of inflation prevailing in the country from 1986 to 2005 were excessive. Although inflation was in the range of 1.51-6.78 per cent from 1991 to 2005, it was high between 1986 and 1990 as shown below:

1986 21.27

1987 18.76

1988 25.43

1989 21.09

1990 14.84

The long period of inflation, including very high inflation in at least five years, pushed up the cumulative inflation, which was 247.6 per cent for the period 1986-2005. The refrain in the observations made in the Committee on Agriculture was that the Member concerned did not have the right to make adjustments in the ERP in their notifications and that they had the obligation to notify the Current Total AMS without adjustments in the ERP for inflation. Iceland responded by notifying its Current Total AMS in both forms – unadjusted and adjusted for inflation. Instead of taking a view on whether Iceland had abided by its commitment, members of the Committee continued to make observations and ask questions such those reproduced below:

“In the years covered by this notification, Iceland would be in breach of its AMS commitment levels in two years (2002 and 2003) on the basis of unadjusted figures.”

“Which version does Iceland consider its official version: the version with or without adjustment for inflation?”

“In Australia’s view, Iceland’s inflation rates were not excessive and could not be used as a reason for breaching its AMS commitment. Australia encouraged Iceland to abide by the domestic support commitments agreed to in 1994, given that at this time Iceland was fully aware of the effect of pre-1994 inflation on this commitment”.

The informal advice given to Members by the Secretariat has been that for the purposes of the review process and Article 18.4, submission must be made of the domestic support tables on both an unadjusted and inflation-adjusted basis. Members have rightly been asked for inflation data for a sufficiently long period, indicating the source of the data. However, even when the affected Member has complied with advice from the Secretariat and requests from other Members and furnished data on both adjusted and unadjusted basis, as in the case of

Iceland, the committee has failed to take a view on the matter. When Jordan experienced an inflation rate of 67.3 per cent, it was asked to provide additional information on macro-economic factors or shocks that led to excessive inflation, such as a financial crisis, monetary policy or volatile exchange rates. It is observed that for the purposes of according “due consideration to the influence of excessive rates of inflation on the ability of any Member to abide by its domestic support commitments”, it would be relevant to ask for the sources of data so as to satisfy the Committee of the authenticity of data, but little more. The Committee on Agriculture is hardly the body to deliberate on the underlying causes of inflation.

In the Committee on Agriculture, there has been a disposition only to ask questions and not to take a view on whether the Member could or could not make the adjustment for inflation in the ERP, and if they could, to what extent such adjustment could be made. The procedure for decision making by consensus in the WTO bodies makes it difficult for the Committee on Agriculture to take a decision on an issue of this nature. In the review process, all that has been possible is for representatives to express individual views and they have not attempted to come to a conclusion. What is surprising is that only negative views have been expressed on the request for adjustment for inflation and support for requested adjustment has been completely lacking. The representatives of Members do not appear to have taken seriously the mandate in Article 18.4 that they “shall give due consideration to the influence of excessive rates of inflation on the ability of any Member to abide by its domestic support commitments.” This has compounded the problem of developing countries in implementing the commitments on domestic support under the AoA.

In this context, it is necessary to examine critically the requirement in the Bali ministerial decision that for benefiting from the immunity against disputes in the WTO, the concerned Member would have to notify the Committee on Agriculture that it is exceeding or is at risk of exceeding either or both of its AMS limits (the Bound Total AMS or the de minimis level) as a result of its programmes. It is, in principle, inappropriate to expect the Member concerned to make a self-accusatory notification. In any case, until the Committee on Agriculture has taken a view on the matter, one cannot come to a conclusion on whether there has been a breach. Just by exceeding the nominal Bound Total AMS or the nominal de minimis level, the Member cannot be said to have acted inconsistently with its commitment.

3. Proposals for a Permanent Solution

The G33 group of developing countries emerged in the Doha Round after the failure of the Ministerial Conference at Cancun in November 2003. Since then, the group has been directing its energies to addressing the food and livelihood security and rural development problems of developing countries. It has been particularly active in pushing for a permanent solution on the problems faced by developing countries in public stockholding for food security purposes and we begin the analysis in this section with their proposals.

Although the G33 has circulated a number of papers,² there are only five discrete proposals. The first three (nos. 1, 2a and 2 b below) are based on proposals made by the Chair in the Doha Development Agenda (DDA) on the Draft Modalities for Agriculture in Document TN/AG/W/4/Rev.4, dated December 6, 2008, for additions to the list of measures exempted from the reduction commitments contained in Annex 2 to the Agreement on Agriculture. The next two proposals (nos. 3 and 4 below) deal with Article 18.4 of the AoA and ERP respectively. The only other proposal on public stockholding has been submitted by a group of countries – Brazil, European Union, Colombia, Peru and Uruguay – as part of a bigger proposal on domestic support (paragraph 5 below). We take up each in turn.

3.1 Government service programmes – general service (G33)

The first proposal was to add to the list of exempted measures under the existing paragraph 2 of Annex 2 of the AoA “policies and services related to farmer settlement, land reform programmes, rural development and rural livelihood security in developing country Members, such as provision of infrastructural services, land rehabilitation, soil conservation and resource management, drought management and flood control, rural employment programmes, nutritional food security, issuance of property titles and settlement programmes, to promote rural development and poverty alleviation”.

It is difficult to envisage that an omnibus item like this will be agreed to by Members in the absence of clear contours by way of policy specific criteria and conditions being spelt out for each measure listed here, as has been done in Annex 2 for General Services and other categories. Moreover, many of the items in Annex 2 already cover the measures listed in this proposal and duplication can serve little purpose. Infrastructural services are squarely addressed in item 2(g) and nutritional food security can be said to be covered under item 4 of Annex 2, Domestic Food Aid. Similarly, it may be possible to cover soil conservation and resource management under item 12 of Annex 2, Payments under Environmental Programmes. On the other hand, there is no need to list under Annex 2 such items as land reform and settlement programmes, which cannot be considered as domestic support programmes. The proposed exemption will have to be narrowed down considerably to have a chance of being accepted by the ministers. We can think of exemption for an item such as drought management or flood control, but we would need to put the same condition as has been put in item 2(g) in Annex 2, which is that expenditure shall be directed to the provision or construction of capital works only. Exemption of rural employment programmes will also have a good chance of being accepted. But for both drought management and flood control and rural employment programmes, the question is whether we really need to seek exemption.

3.2 Public stockholding for food security purposes (G33)

(a) Proposal to modify the existing footnote 5 of Annex 2 of Agreement on Agriculture by adding a sentence at the end as shown in bold letters:

² The proposals circulated for discussion on the issue in the WTO Committee on Agriculture are not in the public domain and the account given here is based on discussions with delegations.

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. **However, acquisition of stocks of foodstuff 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.**

Expenditure on public stockholding for food security purposes has been specifically excluded from the computation of the AMS and exempted from reduction commitments in the Agreement on Agriculture. As mentioned earlier, one of the conditions for this exemption as provided in item 3 of Annex 2 of the Agreement on Agriculture is that food purchases shall be made at current market prices and sales shall be made at no less than the current domestic price. Again as mentioned earlier, footnote 5 of paragraph 3 provides that the purchases and sales could also be made at administered prices, but in that case, the difference between the acquisition price and the external reference price would have to be accounted for in the AMS. The scheme envisaged in the AoA is clear: exempt all expenditure on stockholding from AMS, provided the purchases are made at current domestic market prices and sales at no less than such prices. In order for expenditure on public stockholding to be exempt, it must not be mixed up with price support for the domestic producer. In case a Member operates its public stockholding operations in a manner in which the two operations of supporting the producer and maintaining stocks are intermingled, the difference between the price at which the stock was acquired and the ERP will have to be taken into account in the calculation of the AMS. The G33 proposal is at cross purposes with the design of the AoA as it mixes up expenditure on maintenance of stocks with support to producers. The proposal could also meet with other objections. First, the major beneficiaries of the proposed open-ended support to a sub-set of producers would be China and India, two of the largest food grain producers in the world. Second, it will be very difficult in practice during procurement operations to differentiate between low-income or resource-poor farmers on the one hand and other producers on the other. It is difficult to envisage acceptance of this proposal by the WTO ministers.

(b) Proposal to modify the existing language in footnotes 5 and 6 in Annex 2 of the Agreement on Agriculture as follows:

For the purposes of paragraphs 3 and 4 of this Annex, **the acquisition of foodstuff at subsidised prices when procured generally from low-income or resource-poor producers in developing countries with the objective of fighting hunger and rural poverty, as well as** the provision of foodstuff at subsidised prices with the objective of meeting food requirements of urban and rural poor in developing countries on a regular basis at reasonable prices shall be considered to be in conformity with the provisions of this paragraph. **This is understood to mean, inter alia, that where such programmes referred to in this footnote and paragraph 4 above, including those in relation to lowering prices**

to more reasonable levels, involve also the arrangements referred to in footnote 5 to paragraph 3, there is no requirement for the difference between the acquisition price and the external reference price to be accounted for in the AMS.

Just as item 3 in Annex 2 of the Agreement on Agriculture exempted expenditure on the maintenance of food stocks, item 4 exempted expenditure on the supply of food to needy sections of the population at subsidised prices. In neither case was the original idea to subsidise acquisition of food either for stocking or distribution to consumers. The stocking of food acquired at administered prices is not ruled out but in that case, the difference between the administered price and the ERP has to be accounted for in the AMS. A similar condition is not stipulated for the use of food acquired at administered prices for domestic food aid but clearly, there is need to distinguish between the subsidy given to consumers and the subsidy for producers. What the G33 proposal attempts to achieve is to blur the distinction between the subsidy to producers and consumers so that in effect, the subsidy to producers also becomes open ended.

It is difficult to expect that the proposal will be accepted by the Ministers at Buenos Aires. Low-income or resource-poor farmers already benefit as consumers from the supply of food at concessional prices. The idea is to also give them open-ended subsidy as producers and ensure that no limitation is placed on purchases from them at administered prices. It has to be remembered that under article 6.2 of the Agreement on Agriculture, they also benefit from the exemption for input subsidies that are generally available to low-income or resource-poor producers in developing country Members. It is not good policy to pile up several layers of trade-distorting subsidies, no matter how deserving the beneficiaries are. The administration of such multiple programmes will be increasingly difficult and the chances of malfeasance and leakage will increase. It would be far better to envisage a simple mechanism that does not distort production or trade, such as income support or universal basic income. This form of social security will also be far easier to implement in developing countries than the scheme envisaged in the G33 proposal, which would necessitate separation of purchases from low-income or resource-poor farmers from purchases made from others.

3.3 Proposal on article 18.4 of the agreement on agriculture (G33)

We have seen above that the AoA sets the fixed ERP in nominal terms and consequently, inflation is one of the problems encountered by several Members in implementing commitments. Article 18.4 no doubt provides that Members shall give due consideration to the influence of excessive rates of inflation “on the ability of any Member to abide by its domestic support commitments”, but there is no guidance given on the level at which inflation may be regarded as having become excessive. In its proposal, the G33 does not seek to specify the level that could be considered excessive but only recognises that there are the highly variable rates of inflation in various countries.

It proposes that developing country Members must have the flexibility to adjust the administered prices at which foodstuffs are acquired or released by a factor based on the difference between the indices of the actual rate of inflation and the comparator normal rate

of inflation without elucidation of the concept of the comparator rate of inflation. It refers to a rate of inflation of four per cent on an illustrative basis but goes no further. The proposals of developing countries are vague and tentative: what we require for success are proposals that are clear and definitive.

An important point that the G33 paper has missed is that for Members that had negative support in the base period or where the AMS was less than 10 per cent of the annual value of agricultural production, there is no room for manoeuvre for adjusting domestic support even to account for normal rates of inflation. The objective of fixing the ERP in nominal terms was to erode the Base AMS in Members with high levels of domestic support. The provision was inherently of an ad hoc nature as the negotiators were confident that negotiations would be resumed after five years or so. For Members with de minimis levels of domestic support in the base period, it would not be legitimate to expect that they would bring down the levels of support at all and absorb even the normal rates of inflation. In other words, these Members must be allowed to maintain market price support in order to neutralise inflation to the full extent.

There would be some justification in expecting subsidising countries that have undertaken reduction commitments to make an additional effort to absorb the effect of inflation. For them, the normal rate of inflation should be taken as two per cent per annum and adjustment allowed in the ERP to the extent that the inflation exceeds two per cent, as this rate of inflation is generally considered to be normal in OECD countries. But a safeguard has to be provided here to moderate the impact. The absorption of inflation even at the rate of two per cent over a long period of say 30 years would cause a reduction of more than 80 per cent, and push down the support price to a level below the level of the fixed ERP. That certainly could not have been the intention of the negotiators in the Uruguay Round.

3.4 Proposal for redefining the external reference price for the purposes of footnote 5 of annex 2 of the AoA (G33)

The main proposal is that the external reference price for the purposes of footnote 5 of Annex 2 should be derived from the Olympic average of the FOB price for a net exporting country or the CIF price of a net importing country. The Olympic average is an average over a five-year period, dropping the highest and lowest values. The implication of the proposal is that where the difference between the acquisition price and external reference price is to be accounted for in the AMS, comparison of the acquisition price should be made with the average international prices instead of with the fixed external price derived from the international prices prevailing in the historical base period.

Conceptually, the proposal is a sound one as comparison with international prices measures the trade distortion implicit in domestic prices at any point in time. In fact, the ratio between the farmgate price and the border price (measured at the farmgate level) determines the nominal rate of protection for producers. However, the G33 proposal is somewhat odd in proposing an amendment of the notion of ERP only in the context of the provisions in the Agreement on Agriculture relating to public stockholding. A rational, and at the same time

far simpler approach, would be to suggest an overriding decision that in all cases in which the administered acquisition price is equal to or below the prevailing international price, the Member should be deemed to be in compliance with its obligations on domestic support. From the perspective of other Members, it would be highly satisfactory to impose an obligation on a Member not to exceed international price in acquiring foodstuffs, whether for stocking (public stockholding) or concessional supplies to the needy sections of the population (domestic food aid). From the point of view of the concerned Member, it should be acceptable to adopt a simple yardstick for the acquisition price rather going into complex calculations involving adjustment of the ERP for non-excessive inflation.

3.5 Proposal on domestic support, public stockholding for food security purposes and cotton (Brazil, European Union, Colombia, Peru and Uruguay)

As part of the comprehensive proposal on domestic support, the five countries have suggested setting limits on trade-distorting support in terms of a percentage of the total value of agricultural production at differential levels for developed and developing countries. Similarly, they propose to agree to an overall limit on trade-distorting domestic support provided on cotton. On public stockholding, their main proposal is to exempt domestic support in pursuance of public stockholding programmes, if the value of procured stocks is not more than 10 per cent of the average value of production of the product or if the support is provided under a programme that existed on the date of the Decision of the Bali Ministerial Conference on public stockholding. For the exemption to apply, the programmes would need to be consistent with the criteria spelt out in the paragraph in Annex 2 on public stockholding, and the Member would have to fulfil notification and other obligations, including not allowing direct exports from the food security stocks.

The five-country proposal is attractive, particularly since it seeks to exempt support under programmes that existed on the date of the Bali Ministerial Decision (December 7, 2013). However, the main drawback of the proposal on public stockholding is that it is linked to a broader proposal on domestic support in agriculture. After the decision on the export competition pillar at Nairobi in 2015, it is not entirely unrealistic to expect an agreement on domestic support. It is the market access pillar that is the most problematic. However, at present, the international environment is not conducive to a major decision being agreed to in the WTO, as the United States seems to have lost faith in the multilateral approach to trade and economic relations for now. If we link public stockholding to the broader subject of domestic support in agriculture, the chances of an agreement in the near future would be dim.

4. Conclusions and the Way Forward

Dim prospects for proposals to substantially increase flexibility in domestic support for developing countries

It is apparent from the analysis above that although the G33 has been stressing the need for developing countries to have sufficient headroom to be able to maintain public stocks for food security purposes, their real intention is to get extra flexibility for providing market

price support. There should be little problem in public stockholding as long as the acquisition of stocks is from the open market at current market prices. The problem arises only because the rules provide that where the acquisition and release of stocks is made at administered prices, the difference between the acquisition price and the ERP must be accounted for in the AMS. It is difficult to envisage that at a time when there is a general sentiment to obtain a reduction in trade-distorting market price support, there would be agreement on developing countries being given greater flexibility for market price support, which is the most trade-distorting measure among various types of domestic support measures. It is another matter that the WTO Agreement on Agriculture has given considerable latitude to developed countries to re-instrument their programmes and move towards programmes that were considered at one time to be having no or at the most minimal trade-distorting effects or effects on production. Now, there is a considerable body of opinion that even fully decoupled income support can distort production and trade through income, wealth and insurance effects. In future, if and when there is a full-fledged engagement among Members on domestic support, an attempt can be made to correct the imbalance between developed and developing countries in the design of the AoA by reducing domestic support in the developed countries. In the meantime, efforts by developing countries to redress the balance by increasing the flexibility for them for trade-distorting support are not likely to succeed.

Only proposals to rectify irrationalities are likely to succeed

What may have somewhat greater chances of success is a proposal to rectify irrationalities in the Agreement on Agriculture, particularly those that have a burdensome impact on non-subsidising Members. If the rules are to be applied to them mechanically without the Committee on Agriculture taking a decision to allow them to make adjustments for inflation, for which there is provision in Article 18.4 of the AoA, the result will be that they will be asked to reduce their support level not only to the level of ERP but even below that. The extent of reduction in nominal terms to which they will be subject will depend not only on the rate of inflation but also on the number of years that have elapsed since 1986-88. It would be an extraordinarily irrational outcome if a non-subsidising Member is asked to reduce support in real terms to a level that, because of inflation, is below the level at which it would be if the support level were to be on par with the fixed ERP.

Propose full neutralisation of inflation for non-subsidising developing countries

In light of this, the proposal that should be made is that in an inflationary situation, non-subsidising Members must be allowed to neutralise inflation fully while determining support levels in any year. For others, a rate of inflation that is more than two per cent should be considered excessive. Where the rate of inflation exceeds two per cent, Members that have an AMS should get the benefit of neutralisation of inflation to the extent inflation exceeds two per cent. But here too, a safeguard should be provided. Like non-subsidising Members, they must not be asked to lower their support level to a level below the fixed ERP. In view of past experience, as recounted above, in future it cannot be left to the Committee on Agriculture to take a decision on a case-by-case basis. The ministers must decide that in an inflationary situation, a non-subsidising Member must be allowed full neutralisation for inflation and

subsidising Members should be allowed neutralisation for inflation above two per cent, with the safeguard mentioned earlier .

Propose recognition that administered price equal to or below international price is non-distorting

An alternative that could be proposed for a permanent solution is agreement on an overriding presumption that an administered price below the average international price must be considered to be non-distorting. If the suggestion is accepted, it would give some flexibility to Indian authorities to determine MSP from year to year. At the same time, it would provide a safeguard internally against domestic pressures to increase the MSP to a level above the international price. The volatility in international prices will no doubt be a problem but to overcome the problem, the average international price should be considered as the benchmark. The G33 idea of the Olympic average is a good one: it is a well-known method for averaging and it has been used in the USA in farm commodity programmes in preference to simple averages.

Lower the profile of demand for a permanent solution

There is a line of thinking in some quarters that it is not necessary for India to push hard for resolving the problem in the light of the guarantee developing country Members have been given against disputes being raised against them under the relevant provisions of the Agreement on Agriculture. This line of thinking has justification. What India needs to do is to just submit proposals on the lines suggested above and wait for the compelling logic of these proposals to get recognised. In the meantime, India and other Members affected by inflation must keep fulfilling their domestic subsidy notification commitments, notifying their domestic support both on nominal and adjusted basis, and asking the Committee on Agriculture to conduct the review, while giving “due consideration to the influence of excessive rates of inflation” on the ability of Members to abide by their domestic support commitments.



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