# WORLD TRADE ORGANISATION'S AGREEMENT ON AGRICULTURE AND ITS IMPACT ON THE INDIAN AGRICULTURE

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*"Agriculture is our wisest pursuit, because it will in the end contribute most to real wealth, good morals, and happiness."*

– Thomas Jefferson.

## INTRODUCTION TO IMPORTANCE OF AGRICULTURE IN INDIAN SCENARIO

Indian Economy is primarily an agrarian economy and is consequently heavily dependent on agriculture for its major consumption. India is not only heavily dependent on agriculture, but also its contribution to the Gross Domestic Product (GDP) and consequently Gross National Product (GNP) is significant.

As per the data, till July 2017, agriculture contributed more than 18% of the GDP which is about 3897.32 Billion INR. More important is the fact that it is the largest employment generator and provides employment to more than 50% of the Indian Population. More than 70% of the rural households are dependent on agriculture for their living. Various industries are also dependent on agriculture for the raw materials required by them.

The plight of the farmers in India is already known to the international markets as it has gained sufficient international media attention. The farmers suffer from various problems like that of unpredictable weather conditions, price volatility at both international and national level, and great level of indebtness.

## INTRODUCTION TO WORLD TRADE ORGANISATION'S AGREEMENT ON AGRICULTURE

The Agreement on Agriculture comprises of 21 Articles and 5 Annexes. The 21 Articles are further divided into 13 Chapters. These divisions show that form of the Agreement on Agriculture which reflects the acuteness of the sector and the adversity in achieving concurrence among the World Trade Organisation members. The specific agricultural commitments made by the World Trade Organisation members can be found in the Article II "Country Schedules" of the General Agreement on Tariffs and Trade, 1994 and not in the Agreement on Agriculture. Both the Agreement on Agriculture and the Country Schedules must be read together to completely understand a World Trade Organisation Member's commitment on agriculture.

The Uruguay Round in 1994 achieved primarily two things in with respect to agriculture viz. introduced specific disciplines on market access, domestic support and export subsidies.

It removed the possibility of taking and making abnormal gains under the World Trade Organisation's General Agreement on Tariffs and Trade (GATT, 1947) with respect to trade in agriculture.

Market Access involves a free trade and promoted liberalisation in world trade by fixing equivalent tariffs for agricultural products. Domestic Support involves providing the subsidies by the governments are targeted to lower price distortion and unfair competition in agricultural world trade. The total domestic support allowed was only below the 'de minimis' level within a maximum period of 5 years for developing countries and 3 years for developed countries. Export subsidies were also targeted with an aim to restrict subsidies given on agricultural products. This was to protect the small and marginal farmers in developing countries.

The long-term objective of the agreement as stated in the Preamble and as agreed by the members "is to establish a fair and market-oriented agricultural trading system and that a reform process should be initiated through the negotiation of commitments on support and protection and through the establishment of strengthened and more operationally effective GATT rules and disciplines."

"In World Trade Organisation non-legal terminology, domestic subsidies to agricultural products are identified by special "boxes" which are given the colours of traffic lights: "Green" meaning permitted because they have no, or minimal, distortive effect on trade; "Amber" meaning possibly legal or illegal because of their trade distortive nature; and "Blue" meaning possibly trade-distorting but permitted as the measures are linked to production limitation programmes."

## AGREEMENT ON AGRICULTURE AND INDIAN AGRICULTURE

India is a developing country and its agriculture is heavily dependent on the weather conditions and especially the cyclic monsoons experienced by the sub-continent. Consequently, agriculture in India faces a lot of uncertainty. India is already overburdened with people living below poverty line, almost 22% of the population lives below the poverty line.

The Agreement on Agriculture takes into account the situations and problems faced by the developing countries and lists down following provisions giving some room to provide them with special and differential treatment.

The Preamble to the Agreement on Agriculture states that the commitments under the reform program should also take non-trade concerns like food security and environment protection into consideration and should provide differential treatment for developing countries.

Further, Article 15(1) of Agreement on Agriculture reaffirms this point of Preamble by specifically incorporating 'Special and Differential Treatment' and states "in keeping with the recognition that differential and more favourable treatment for developing country Members is an integral part of the negotiation, special and differential treatment in respect of commitments shall be provided as set out in the relevant provisions of this Agreement and embodied in the Schedules of concessions and commitments."

Moreover, Section 20(c) deals with the continuation of the reform process and states that members shall take into account "non-trade concerns, special and differential treatment to developing country Members, and the objective to establish a fair and market-oriented agricultural trading system, and the other objectives and concerns mentioned in the Preamble to this Agreement."

The objective of the government to procure crops at a Minimum Support Price (MSP) which is slightly higher than the cost of production was to alleviate the uncertainty faced by farmers by buying their crop at a guaranteed price is consistent with the Preamble, Article 15(1) and Article 20(c) of the Agreement on Agriculture which creates provisions for special and differential treatment and gives attention to non-trade concerns.

Public Stockholding, a trade distorting effect which would ordinarily be included in ‘Amber Box’ would be included in ‘Green Box’ [the Green Box explicitly excludes price support by virtue of the Bali Package.] It creates an exception for developing countries for provision of public stockholding to provide them with sufficient policy space for addressing food security.

National Food Security Act, 2013 also known as Right to Food Act which was introduced by the United Progressive Alliance Government aims at providing food grains to two third of India’s population at subsidised rates and since then the government has launched various other schemes for food security like Antyodaya Anna Yojana. For fulfilling this, the government has to maintain a minimum stock level (public stockholding).

Annexure 2 of the World Trade Organisation’s Agreement on Agriculture deals with the basis for exemption from the reduction commitments for Domestic Support provided by a member state. Paragraphs 3 and 4 of the Annexure 2 of the Agreement on Agriculture deal with public stockholding for food security purposes and domestic food aid respectively.

The Paragraph 3 of Annexure 2 creates an exemption for public stockholding for food security purposes and deals with expenditures (or revenue foregone) in relation to the accumulation and holding of stocks of products which form an integral part of a food security programme identified in national legislation. This may include government aid to private storage of products as part of such a programme.

As rice, wheat and various other types of lentils form a significant part of the staple foods of India, these products form an integral part of the food security program for both rural and urban population and hence these steps taken by the Indian Government are justified as non-trade considerations are also to be given a priority.

Further, Footnote 5 to Para 3 Annexure 2 of the Agreement on Agriculture states 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."

This footnote also gives flexibility to the government of a developing country to acquire the food stocks at administered prices and still it would not be considered in violation for the purpose of Paragraph 3 of Annexure 2.

Public stockholding for food security purposes under Para 3 of Annexure 2 states that "Expenditures (or revenue foregone) in relation to the accumulation and holding of stocks of products which form an integral part of a food security programme identified in national legislation."

## DOMESTIC SUPPORT REDUCTION COMMITMENTS UNDER THE AGREEMENT

Article 6(1) of the Agreement deals with reduction of domestic support commitments in favour of agricultural producers with the exceptions set out in Article 6 itself or Annexure 2 of the Agreement.

All the members to the Agreement were required to submit the annual bound commitment levels in their schedules in Part 1. They were not to exceed the limit as provided by them. The members who could not provide with the Aggregate Measurement Support at that time were to be bound by 5% of the production as de minimis levels for developed countries and 10% for the developing countries.

Further, Article 6.3 of the Agreement states, "a Member shall be considered to be in compliance with its domestic support reduction commitments in any year in which its domestic support in favour of agricultural producers expressed in terms of Current Total AMS does not exceed the corresponding annual or final bound commitment level specified in Part IV of the Member's Schedule."

The AMS is nothing but the Aggregate Measurement Support as defined by Article 1 of the Agreement means "Aggregate Measurement of Support" and "AMS" mean the annual level of support, expressed in monetary terms, provided for an agricultural product in favour of the producers of the basic agricultural product or non-product-specific support provided in favour of agricultural producers in general, other than support provided under programmes that qualify as exempt from reduction under Annex 2 to this Agreement."

Article 3.2 of the Agreement states that, 'Subject to the provisions of Article 6, a Member shall not provide support in favour of domestic producers in excess of the commitment levels specified in Section I of Part IV of its Schedule.'

Article 7.2 (b) of the Agreement on Agriculture states that, 'Where no Total AMS commitment exists in Part IV of a Member's Schedule, the Member shall not provide support to agricultural producers in excess of the relevant de minimis level set out in paragraph 4 of Article 6.'

Further, Article 6.4 of the Agreement on Agriculture states that, '(a) A Member shall not be required to include in the calculation of its Current Total AMS and shall not be required to reduce:

(i) product-specific domestic support which would otherwise be required to be included in a Member's calculation of its Current AMS where such support does not exceed 5 per cent of that Member's total value of production of a basic agricultural product during the relevant year; and

(ii) non-product-specific domestic support which would otherwise be required to be included in a Member's calculation of its Current AMS where such support does not exceed 5 per cent of the value of that member's total agricultural production.

(b) For developing country Members, the de minimis percentage under this paragraph shall be 10 per cent.'

## 'PEACE CLAUSE' INTRODUCED UNDER THE BALI PACKAGE

It is submitted that the peace clause was inserted in the Bali Decision to provide for an interim relief until a permanent solution can be devised by the developing countries to tackle the problem of food security in their countries. As declared in the Bali decision, "In the interim, until a permanent solution is found, and provided that the conditions set out below are met, Members shall refrain from challenging through the World Trade Organisation Dispute Settlement Mechanism, compliance of a developing Member with its obligations under Articles 6.3 and 7.2 (b) of the Agreement on Agriculture (Agreement on Agriculture) in relation to support provided for traditional staple food crops in pursuance of public stockholding programmes for food security purposes existing as of the date of this Decision, that are consistent with the criteria of paragraph 3, footnote 5, and footnote 5&6 of Annex 2 to the Agreement on Agriculture when the developing Member complies with the terms of this Decision."

As set out in the Bali Decision, members should exercise 'due restraint' from bringing proceedings against any developing member state with regards to provisions for domestic support under Article 6.3 and 7.2(b) through the WORLD TRADE ORGANISATION Dispute Settlement Mechanism till 11th ministerial conference to be held in December 2017.

A similar provision was also set out in Article 13 Paragraph (a) and (b) of the Agreement on Agriculture which emphasised on due restraint with regards to provision of domestic support in relation to Annexure 2 of the Agreement on Agriculture and Article 6 of the Agreement on Agriculture respectively.

The General Council Decision on 27th November 2014 makes the provision for 'due restraint' even more stringent.

It is further submitted that when the problem was still not resolved, the General Council Decision of 27th November further clarified the scope of Bali Decision. It further narrowed down the scope of proceedings under the domestic support and stated that in Para 2 of the Bali Decision, the Member 'shall not' bring any proceedings under the Article 6.3 and 7.2(b) making the provision more stringent.

It also extended the duration of peace clause beyond 11th Ministerial conference to be held in December 2017 until a permanent solution was found by a member state to tackle with the problem of food security.

"On 18th of July 2017 China and India submitted a proposal recently to the World Trade Organisation calling for the elimination - by developed countries - of the most trade-distorting form of farm subsidies, known in World Trade Organisation parlance as Aggregate Measurement of Support (AMS) or 'Amber Box' support as a prerequisite for consideration of other reforms in domestic support negotiations."

India has provided bound commitment levels for two crops namely, wheat and rice. It is likely to exceed the de minimis level in case of rice and has some policy space when it comes to wheat.

The proposal aims at taking up this in the next 11th Ministerial Conference. The developed countries retain a huge amount for farm subsidies and leave no room for developing countries for providing adequate farm subsidies.

Consequently, the developed countries exceed the de minimis level where as the developing countries are required to stay within the de minimis limit of 10%.

## INFLATION SHOULD BE TAKEN INTO ACCOUNT

The other issue that is faced by developing countries while they are trying to grow their economies is the fact that they face inflation at a higher rate.

Inflation refers to a situation where there is a consistent rise in prices for 2-3 years. According to the Reserve Bank of India the bandwidth which constitutes a healthy price rise is 2% to 6%. India has had an average yearly inflation rate of 7.86% since 1970s and a cumulative of 3,059.63 %.

These rates should be considered as excessive rates of inflation as required by the Agreement on Agriculture which is a concern particularly for developing countries and while calculating the domestic support provided by the concerned government to its producers, should be given 'due consideration'.

Article 18.4 of the Agreement on Agriculture, states that, 'In the review process Members shall give due consideration to the influence of excessive rates of inflation on the ability of any Member to abide by its domestic support commitments."

Article 18.4 of the Agreement on Agriculture doesn't take into account switching of the currency. Any uniform pattern can be followed by the Members in representing the schedule. If the domestic currency was used in the schedule of a Member country, it shall remain stick to that currency for correct reflection of prices. Switching to a more stable foreign currency is against the very spirit of Article 18.4 of the Agreement on Agriculture.

The opponents of the idea to consider excessive rates of inflation argue that, "The recourse to Article 18.4 is not sufficient as this Article does not extend any right to a member to modify its domestic support calculations. The paragraph simply allows the Committee on Agriculture to give 'due consideration' to the influence of 'excessive rates of inflation' on the ability of any member to abide by its domestic support commitments."

There exists no certainty to the legally correct interpretation of the terms 'excessive rates' and 'due consideration' as mentioned in the Article 18.4 of the Agreement on Agriculture. The de minimis level should be kept in mind while providing the domestic support. The administered price and external reference price which are used to calculate the market price support, should also include the excessive inflation rates.

Based upon the Consumer Price Index, the rate of inflation for India reflects an increase of 2.89% from September 2016 to September 2017. This rate of inflation will automatically affect market price support provided by the Indian government to its producers. The new market price support provided might exceed the de minimis level, but this increased value will not be taken into account as it includes the increased rate of inflation.

'Due Consideration' in normal dictionary terms means application of mind in a particular direction. The Member states are not bound to consider the 'excessive rates of inflation', but they may at their discretion give due consideration to 'excessive rates of inflation'.

Taking into account the typical conditions, that India and the other developing countries are facing currently should definitely give 'due consideration' to this fact.

## INFERENCE AND CONCLUSION

It is commendable on the part of the drafters of the Agreement on Agriculture to include the exceptions for the developing and under developed countries under the three main pillars, market access, domestic support and export subsidies of the Agreement on Agriculture. But, a lot has changed since the time the Agreement came into being.

India's population has increased significantly and is still increasing. Indian currency has suffered immensely due to inflation and is not able to maintain its commitments under the Aggregate Measurement Support.

The provisions under the Agreement have not created sufficient room for adjustment for developing countries. The developed countries can limit their domestic support and comply with the commitments (de minimis level) at 5% but giving only 10% as the limit to the developing countries without taking a definite stand on whether the inflation rates would be taken into consideration or not is not fair towards the developing countries. The under-developed countries are totally exempted from any such commitments ultimately the countries who suffer are the developing ones.

The peculiar circumstances faced by the Indian Economy coupled with economic problems make it even more difficult for India or any other developing country to comply with the commitments. The agreement should take into account the additional burden faced by the developing countries which are going through such crisis. Different state governments have been on their toes lately to reduce the number of farmer suicides. Different schemes such as loan waiver have been introduced but this will just reduce their financial burden. The only plausible way for saving the produce is to procure the produce at minimum guaranteed price and subsequently sell at a rationed price.