INDIA COMPROMISES ITS WTO STRATEGY

A critical look at the 2020 agricultural market reforms

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INTRODUCTION

On September 27, 2020, the Government of India notified two historically significant legislations that could fundamentally change the policies governing the country's agriculture. The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020 and The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020 are aimed at paving the way for operation of large traders through contract farming. More fundamentally, however, these legislations would introduce deregulation of primary agricultural markets, which seems obvious especially because the minimum support prices that the government currently announces for 22 crops as a price stabilisation measure does not find any mention in the legislations.

One of the main outcomes of these newly minted policies is to increase the linkage of Indian agriculture to global markets by increasing exports. This is a fundamental shift in the orientation of agricultural policies, which, since the food crisis in the mid-1960s, has been to achieve the twin objectives of promoting food security, both at the level of the farming households and of the country as a whole, as well as protecting rural livelihoods, which has been sustained directly and indirectly by agriculture.

The anchoring of agriculture on the above-mentioned twin objectives became a significant underpinning of India's overall economic strategy following the adoption of the policies of economic liberalisation from the early 1990s. India's position was that given the imperatives of meeting domestic food security and rural livelihoods, it could not undertake liberalisation of the agricultural sector by dropping tariffs comparable to that of the industrial sector. In fact, this was the consistent position that India has taken in the tariff negotiations in the multilateral trade negotiations for well over three decades, first under the aegis of the General Agreement on Tariffs and Trade (GATT) from 1987, and after the formation of the World Trade Organization (WTO) in 1995. India argued that unlike several other members of the WTO, its agricultural policies were anchored on these "non-trade" concerns and therefore India was maintaining relatively higher levels of import tariffs and subsidies to protect the interests of the farming communities. Subsequently, when India became actively engaged in negotiating free trade agreements (FTAs) with both developing and developed country partners, most of the major agricultural commodities, in particular, food grains, were not included in the tariff negotiations. In other words, India had indicated that these agricultural commodities would be excluded from the negotiations for lowering tariffs.

This paper discusses the implications of this change in the strategy of the Government of India to make Indian agriculture export-oriented in the backdrop of its stance in international trade negotiations that goes back to the late-1980s. The detailed discussion would be limited to the deliberations in the GATT/WTO for these are available in public domain. Similar details of FTA negotiations are not available in public domain as these negotiations are held in a shroud of secrecy.

The paper has four sections. The first section briefly discusses the two farm legislations and the expectations of the government from their implementation in terms of export-orientation. The second section focuses on the domestic imperatives of food security and rural livelihood in the context of India's negotiating position in the WTO. The intent of developing countries in the negotiations was to secure their ability to adequately protect their agriculture as well as to provide the subsidies necessary to support farming communities. In 2001, these countries were able to obtain a mandate for the review of the Agreement on Agriculture (AoA) in order to strengthen the provisions relating to special and differential treatment for developing countries as a part of the Doha Development Agenda. Accordingly, WTO members agreed that "special and differential treatment for developing countries shall be an integral part of all elements of the negotiations ... so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development." (World Trade Organization 2001: Paragraph 13) In these negotiations, India played a major part in two developing country coalitions, namely, the G-20 and the G- 33, which were formed to implement the mandate on special and differential treatment, and to therefore protect the interests of their farming communities.

The third section of the paper deals with the issue of "public stockholding for food security purposes", which was extensively discussed in the WTO in the con-

text of the AoA. This issue is at the heart of India’s public distribution system (PDS), and it gained prominence after India decided to expand the PDS through the enactment of the National Food Security Act of 2013. After several rounds of discussions, WTO members decided in 2014 that countries like India using public stockholding for operating PDS must follow several conditions on how the food stocks are managed. This means that India’s PDS is now being monitored by WTO members, and exports from these stocks, if any, have to be reported. Could this be the reason that the government is stepping away from promising minimum support prices to farmers in the new farm legislations?

The final section of the paper outlines some recent discussions in the WTO’s Committee on Agriculture, responsible for monitoring the implementation of AoA, in which several members of the organization have asked questions on how agricultural policies in India are being implemented, especially their impact on exports of agricultural commodities from the country. Besides these questions that are being asked of India regarding its exports, five WTO members joined Australia [1] in a dispute against India’s policies to incentivise sugar producers. These countries have argued that these incentives tantamount to export subsidies, which are in violation of India’s commitment to the WTO. Shifting the focus on India’s agriculture away from its present orientation may not be an easy task for the government.

I. SOME ASPECTS OF THE FARM LEGISLATIONS

The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020 has gained currency as the "Contract Farming Act." The stated objective of this Act is to "provide for a national framework on farming agreements that protects and empowers farmers to engage with agri-business firms, processors, wholesalers, exporters or large retailers for farm services and sale of future farming produce at a mutually agreed remunerative price framework in a fair and transparent manner and for matters connected therewith or incidental thereto"(emphasis added). There are two operative parts in the objectives of this Act: one, empowerment and protection of farmers to deal with large traders and agri-business firms whose entry into the agricultural market has been facilitated, and two, enabling the farmers to get a remunerative price for their produce. Clearly, the legislation does not provide for any means of effectively protecting or empowering farmers. The government may at most issue "necessary guidelines along with model farming agreements", thereby facilitating farmers to enter into written farming agreements. Even as the legislation seems to be on the threshold of getting implemented, the model farming agreements are yet to be notified.

The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020, complements the first through the following stated objective, "to provide for the creation of an ecosystem where the farmers and traders enjoy the freedom of choice relating to sale and purchase of farmers' produce which facilitates remunerative prices through competitive alternative trading channels; to promote efficient, transparent and barrier-free inter-State and intra-State trade and commerce of farmers' produce outside the physical premises of markets or deemed markets notified under various State agricultural produce market legislations; to provide a facilitative framework for electronic trading and for matters connected therewith or incidental thereto. Through the implementation of this Act, farmers and traders would both "enjoy the freedom of choice" relating to sale and purchase of agricultural commodities and to earn remunerative prices, including through barrier-free movement of these commodities. However, with more than 86 per cent of farm holdings being small and marginal, or less than 2 hectares, the vastly unequal capabilities between farmers operating on these holdings and large businesses implies that the former do not have any realistic chance to negotiate with the latter to get remunerative prices for their products.

The Frequently Asked Questions (FAQs) issued by the government states that though contract farming has been in existence since decades, the farming agreement between farmers and large traders is to be made popular because of its ability to attract more investments in the agriculture sector and promote inclusiveness; introduce a system of e-registration and dispute resolution; and both the market and inputs will be available to the farmer at farm gate level (Ministry of Agriculture and Farmers' Welfare 2020). In total contrast to the manner in which the term "inclusiveness" is used in development literature implying improving the condition of the marginalised sections of people, the government seems to have used the term to facilitate the entry of large businesses and traders, which this Act seeks to legitimise.

Contrary to the protection and empowerment that the official title of the Contact Farming Act suggests, the Act has several provisions that militate against the interests of small farmers since it seeks to give legal sanction to large businesses and traders to impose a slew of conditionalities in agreement with farmers selling their produce. It allows conditions to be imposed for compliance with quality, grade, and standards of the products, which may be "formulated by any agency of the Central Government or the State Governments, or *any agency authorised by such Government* for this purpose" (emphasis added). Put simply, besides the standards introduced by the government(s) through transparent processes, this legislation introduces the possibilities of private standards by large traders that are likely to exploit farmers by denying them fair prices for their produce.

In addition to the conditions relating to quality, grade, and standards for pesticide residue, the Contract Farming Act allows inclusion of contentious conditions such as good farming practices and labour and social development standards in the farming agreements. It may be mentioned here that industrialised countries, especially the United States, have been introducing social standards, including labour standards as a part of bilateral FTAs with developing countries, which are instruments for undermining legitimate rights of workers (Singh and Zammit 2004). The Act further provides that "quality, grade and standards shall be monitored and certified during the process of cultivation or rearing [of animals], or at the time of delivery, by third party qualified assayers to ensure impartiality and fairness". This provision helps in clarifying the real intention of the Act, namely, to promote contract farming.

The government's claim is that the legislation would improve export competitiveness of Indian agriculture. Apparently, in the emerging global demand-supply scenario in the country, India will be required to sell 20 to 25 per cent of the incremental agri-food production in overseas markets in the coming years (Chand 2020: 4).This view is based on an assumption that food grain production in India would far exceed domestic demand, making the country an agricultural export hub. The veracity of this view is highly questionable given the magnitude of hunger and undernourishment that India continues to face in the 21st century. [2]

The overall concern for food security, along with ensuring the interests of the country's farming communities, lay at the centre of Government of India's global engagements for more than three decades. Even as it embarked on the process of globvalisation, the Indian government had argued that agriculture would remain protected in order that food security and rural livelihoods were not threatened. India strongly articulated its views about the importance of the above mentioned non-trade concerns even before the WTO was established. The following section discusses India's interventions in the WTO.

II. DOMESTIC FOOD SECURITY AND PROTECTION OF RURAL LIVELIHOODS: INDIA'S KEY CONCERNS IN THE WTO

Liberalisation of global agricultural markets was one of the most contentious issues in the Uruguay Round of negotiations, and India's position was effectively articulated by the then Commerce Minister, Pranab Mukherjee. In the 1994 Ministerial Meeting convened for endorsing the establishment of the WTO in 1994, he stated that the Government of India was "firmly committed to protecting the interests of our farmers who constitute the country life- line and to the objective of ensuring food security for our people". This set the benchmark for India's negotiating stance in the WTO, which was centred on the implementation of the WTO's Agreement on Agriculture, which was principally aimed at securing adequate levels of tariff protection for all major agricultural products and to ensure that farm subsidies can be provided in an unhindered manner. Thus India's participation in multilateral trade negotiations was marked with an explicit interest to protect its domestic market against trade liberalisation rather than desirous of capturing a share of the global agricultural market.

India's interventions in the WTO highlighted the importance of food security and rural livelihoods for developing countries. In its first statement on the issue, India argued that it would be "too simplistic to assume that agricultural liberalisation sought to be ushered in by the Agreement would by itself, be able to overcome the problems of food security for developing countries with sizeable rural population". India, therefore, opined that it was "extremely important to provide a certain degree of flexibility to developing countries for the adoption of such domestic policies whose intention is to provide continued employment to the large segment of population dependent on this sector and to improve the general levels of production both with the aim of improving the overall availability of food grains and for enhancing the income levels of the rural poor (World Trade Organization 1998, 2)."

Subsequently, in the context of the in-built review of AoA mandated by Article 20 of the Agreement, India raised the issue of "non-trade concerns such as food security, S&D [special and differential] treatment to developing countries and the progress towards establishing a fair and market oriented agricultural trading system" (World Trade Organization 2000: 1). India reminded the WTO membership that in large agrarian countries like its own, the imperative was to adopt an approach in which non-trade concerns such as livelihood of the agrarian peasantry and local production of sufficient food to meet domestic needs are taken on board. Such developing countries therefore   greater flexibility in providing domestic support to the agricultural sector to meet the challenges of rural employment and food security. State support to low income and resource poor farmers is also essential as it constitutes an integral part of the poverty alleviation programmes in these countries.

Alluding to the realities of its own agriculture, many of which persist to this day, India pointed out that the farm holdings are very small, unirrigated and dependent on the vagaries of nature. Further, agricultural practices are labour intensive with relatively low intensity of farm inputs. As most farmers in countries like India are engaged in subsistence farming, their participation in international trade is quite marginal. The food needs and supply gaps in developing countries were developmental problems, India argued, and thus all their policies for agricultural development aim at harnessing the potential for increasing productivity and production in the agricultural sector (World Trade Organization 2001b).

One of the significant arguments that India made in its early interventions in the WTO was that globally, two vastly different types of agriculture were being practised. On the one hand, there was the market oriented, industrial type of agriculture practised by many developed countries, and on the other hand, many developing countries practised subsistence type of agriculture. The latter type of agricultural practises was faced with multitude of constraints including small holdings, susceptibility to natural calamities, limited use of fertilizers, low levels of productivity and predominantly poor and uneducated farmers. The WTO had insisted that India must take into account the differences in the types of agriculture being practised by major developed countries and as practised by countries like India.

Today, it becomes significant to revisit the interventions that India had made in the context of the review of AoA. The preambular paragraph of the AoA itself states that the "long-term objective [of the AoA] is to provide for substantial progressive reductions in agricultural support and protection sustained over an agreed period of time, resulting in correcting and preventing restrictions and distortions in world agricultural markets." [3] In other words, the fundamental tenet of the rules governing the agricultural sector was to progressively reduce agricultural subsidies and import tariffs and to move towards an agricultural regime that was free from all manner of government policy intervention. Viewed through the lens of neo- liberalism, any form of government intervention contributed to market distortions that must be removed. Several developed countries used this long-term objective as the basis for seeking trade liberalisation in agriculture (World Trade Organization 1999; World Trade Organization 2001c).

(A) DOHA ROUND AND MAINSTREAMING OF THE DISCUSSIONS ON FOOD SECURITY AND RURAL LIVELIHOOD

The Doha Round was mandated to deal with the substantial issue of reviewing the AoA that had introduced disciplines in three areas, referred to as 'pillars' in WTO-speak. These include subsidies given by the governments to support production (or, domestic support), government support for promoting exports (or export competition) and market access, essentially the issue of tariffs. One of the key elements of the negotiating mandate was the recognition that the AoA needed to put in place a framework for protecting the food security and rural livelihood concerns of developing countries.

India's stance in the Doha negotiations went through an interesting process, which was clearly guided by its domestic compulsions of protecting its small farmers and protecting the country's imperatives of food security and rural livelihoods. This was effectively articulated in India's first submission on agriculture in the Doha Round that stated "...developing countries can be expected to reciprocate in market access, subject to their economic and social conditions, development needs, food and livelihood security and rural

development requirements, *only if they get adequate concessions and commitments by developed countries in all three pillars*" (World Trade Organization 2002a, paragraph 6; emphasis added).

India made a specific intervention highlighting the centrality of food security and rural development in the agricultural policies of developing countries. Its position was that "[F]ood and livelihood security and rural development underpin agricultural policies in developing countries. The safeguards to address these concerns of developing countries must encompass flexibility to apply measures suited to the specific needs and situations of the agricultural sector of the developing country concerned." (World Trade Organization 2003a, 1)

India even spelt out the elements that the modalities, or the overall approach to the negotiations on agriculture, must include for meeting the objectives of food security and rural development: "A core element of food and livelihood security is physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life. Appropriate protection at the border through price based and quantity based measures should be an integral part of the modalities. Products eligible for such special import measures shall include

(i) food staples which account for a substantial proportion of total domestic production or total domestic consumption,

(ii) products that play a vital role in the diet of low income consumers,

(iii) products that are produced by a substantial number of farm households,

(iv) products that are primarily produced by low- income and resource-poor farmers, and

(v) products that are important for supporting livelihood in the rural areas such as the numbers of active population engaged in production of the product concerned or products where the proportion of landless agricultural labourers employed is high". (World Trade Organization 2003a, 2)

This focus on food security and rural development reveals that not only domestic interests, which include steps to not worsen the already precarious condition of small farmers, but also domestic norms of high levels of agricultural tariffs played an important role in shaping India's approach in negotiations on agriculture. India favoured a slow paced liberalisation of agricultural markets and while doing so it made common cause with 75 countries (World Trade Organization 2002b), covering the entire development spectrum, which came together with the demand that the Uruguay Round approach to tariff cuts in agriculture should be accepted as the basis in the Doha Round. This position challenged the position taken by the Cairns Group, the group of exporters of agricultural commodities. The latter had pitched for an accelerated reduction in agricultural tariffs by both developed and developing countries. Besides prompting steep tariff reductions, this proposal spoke of a limit on the upper bound for tariffs, which implied that countries cannot use higher tariffs on commodities so as to stave off an imminent threat of imports.

The Cancun Ministerial Conference was marked by the formation of the G-20 Grouping. The base document of the grouping emphasised that the negotiations in the Doha Round should establish a fair and market-oriented trading system through fundamental reform in agriculture. The interventions made by this group have had two substantive dimensions. One, the market distortions created by the subsidies' regime in some of the more prominent member

countries of the WTO has to be reduced and eventually removed, and two, special and differential treatment for developing countries should be an integral part of the negotiations, and that non-trade concerns should be taken into account.

The latter element, in view of the G-20, was to be addressed in the revised AoA through two mechanisms. First, products that are critical for realising the objectives of food security, rural livelihoods and rural development, the so-called Special Products (SPs), would not be subjected to any tariff cuts. Secondly, the introduction of a Special Safeguard Mechanism (SSM) aimed at allowing developing countries to counter anticipated or actual import surges. The SPs and the SSM were seen by the developing countries as measures that would help them in addressing the twin problems of food security and livelihood concerns in the face of mounting pressures to lower agricultural tariffs.

Demand for introduction of SPs and SSM in the AoA was lent by another group of developing countries, the G-33, which has focused solely on the need to include these two mechanisms in the AoA (World Trade Organization 2003d). India played an increasingly important role in the dynamics of the G-33 group, essentially because the demands of this group suited its own domestic imperatives.

The G-33 argued that developing countries must have the right to designate as SPs 'at least 20 per cent of its agricultural tariff lines" guided by an "illustrative, non-exhaustive, non- prescriptive, and non-cumulative list of indicators." (World Trade Organization 2005, paragraph 3.1) The G-33 argued one-half of the SPs would not be subjected to any tariff cuts, while on the remaining products there would be a nominal reduction in tariffs. In the context of SSM, both G-20 and G-33 emphasised that developing countries must have the right to impose additional duty for guarding against actual or potential surges in imports in respect of any agricultural product, based on volume or price triggers. The G-33 held the view that these mechanisms were essential for meeting the food security and rural livelihoods, the cornerstone of the provisions on special and differential treatment for developing countries included in the Doha mandate on agriculture. Although the G-33 spoke of the SPs and SSM as part of the same framework that it was putting forth, the importance of the former instrument seems to have receded in recent years. Yet, from the point of view of their domestic sensitivities, the SSM remains an important instrument.

When implemented, SPs and the SSM would dampen reduction in tariffs proposed in the Doha Round, providing a higher degree of protection to agricultural products for which India was maintaining relatively high levels of tariffs. Thus, India was able to resist pressures from the developed countries to reduce tariffs on major agricultural products, which was critical from the point of view of securing the country's food and livelihood security.

Clearly, any change in the contours of the policy regime from its focus on domestic food security and rural livelihoods to export orientation will attract pressures to liberalise India's agricultural sector as we are already witnessing in the introduction of the new legislations. Thus, while successive governments were able to adequately protect the interests of over 86 per cent of small and marginal farmers from vastly unequal competition from global agri- business, the regime change proposed by the current NDA government could seriously undermine the future of India's farming communities.

III. THE PUBLIC DISTRIBUTION SYSTEM IN PERIL

The enactment of the new legislations and the refusal of the government to ascertain the continuity of the minimum support price to farmers raise serious questions on the future of the public distribution system that was strengthened by the UPA Government in 2013 through the enactment of the National Food Security Act (NFSA). This Act introduced a Targeted Public Distribution System covering up to 75 per cent of the rural population and up to 50 per cent of the urban population. The NFSA is already under close scrutiny of the WTO, as policies for providing food aid to the poor are dictated by the provisions of the AoA (World Trade Organization 2002: Annex 2).

AoA rules on food security provide two options to WTO members for providing food aid. The first is direct provision of food to sections of the population in need, and the second is the provision of the means to allow eligible recipients to buy food either at market or at subsidized prices. The former option includes "direct benefit transfer" or "food stamps" while the latter includes operation of public stockholding to meet food security needs, like India's public distribution system (PDS). In case of both options, the government spending is not limited. However, the latter option, namely, operating a PDS, must meet two additional conditions. One, governments must make the food purchases at current market prices and the financing and administration of the aid must be

transparent. And, two, if a country accumulates and holds “stocks of products which form an integral part of a food security programme”, it must include the difference between the acquisition price and the average international price (termed as the external reference price) of the commodities during 1986- 88 in the total subsidy bill of the country concerned (World Trade Organization 2002: 49). For a developing country, the production-related subsidies [4] that it can provide in any year cannot exceed 10 per cent of the value of agricultural production for that year.

It is obvious that the AoA imposes severely limiting conditions on government stockholding programmes for food security purposes in developing countries, which, over time, can prevent these countries from implementing public distribution. Foodstuffs are being acquired from farmers at administered prices that are consistently moving upwards since they reflect the increasing cost of production, but ironically, these prices are being benchmarked against the fixed external reference prices prevailing during 1986-88 that are more than three decades old.

Towards the end of 2012, the G-33 tabled a proposal (World Trade Organization 2012) aimed at removing the aforementioned restrictive provision in the AoA that could seriously impede the ability of countries to implement domestic food aid programmes. In order to overcome this limitation, the G-33 proposed two amendments. The first of these said that developing countries should be allowed to acquire food stocks for supporting low-income or resource- poor producers and the cost of doing so will not be accounted for in their aggregate measure of support (AMS). [5] Secondly, when developing countries acquire foodstuffs from low- income or resource poor producers for programmes to fight hunger and rural poverty and for providing food to urban and rural poor at subsidised prices, the difference between the cost of acquiring the foodstuff and the “external reference price” would not have to be included in the AMS. These textual amendments would therefore allow developing countries to both support poorer farmers and implement targeted food security programmes without being subjected to the subsidies& disciplines of the AoA.

This “external reference price” price that was assumed as the competitive price, namely 1986-88, was appropriate only when the AoA was being drafted in the early 1990s, but has since long lost its relevance. For instance, as against the “external reference price” of $262 that India notified for rice, international price of this commodity was between $400-500 in 2020 and had even breached $1000 during 2008. Further, prices at which food stocks are acquired should be adjusted against inflation, given the high food price inflation in most developing countries like India. Ironically, when this methodology of calculating domestic support was evolving in the Uruguay Round, participating countries had opined that the fixed reference price will “be applied for a negotiated period” and that this “price may be subject to periodic reassessment.” (GATT 1990: paragraph 5)

The “fixed external reference price”, which was taken as the *de facto* internationally competitive price, no longer remains the numeraire. Strangely, no member had raised this problem with the “external reference price” either during the mandated review of the AoA that took place during 1999-2001 or as a part of the agriculture negotiations in the Doha Round. In its recent submission (World Trade Organization 2013a: 3), the G-33 has taken the first step towards altering this anomalous situation. The group proposed that for the purposes of calculating AMS in respect of provisions relating to public stockholding for food security purposes, the “external reference price” should be expressed or derived from either of the following options:

(i) “a three-year average [FOB or CIF price] based on the preceding five- year period, excluding the highest or the lowest entry” or “Olympic average”, or

(ii) previous-year's average producer/farm-gate price in the 1-3 largest suppliers of a foodstuff in the country concerned. [6]

Further, the proposed "Understanding" was one of the three options that the group had put forth in order to find a solution for the problems that developing countries could encounter while carrying out public stockholding for food security purposes. The two other options were in the form of "Decisions". The first of these would have allowed inflation adjustment of AMS, taking note of the influence of excessive rates of inflation faced by developing countries, and the second was the inclusion of a "peace clause", which would have allowed these countries to acquire foodstuffs to meet food requirements of urban and rural poor without having to face disputes in the WTO. As regards the "peace clause", the G-33 argued that this should remain in force "until a final mechanism is established to address the food security concern of the developing countries under Doha development agenda." (World Trade Organization 2013a: 6)

However, in the run-up to the Bali Ministerial Conference in 2013, proposals for substantive amendments to the AoA were effectively dropped in favour of the "peace clause" option. It was quite clear that the developed countries were unwilling to offer any policy flexibility to the developing countries even on the issue of domestic food security. The Bali Ministerial Conference adopted a Decision on "Public Stockholding for Food Security Purposes", which stated that the "peace clause" is an "interim mechanism" and that WTO members had agreed to "negotiate on an agreement for a permanent solution, for the issue of public stockholding for food security purposes" (World Trade Organization 2013b: paragraph 1) within the next four years. This "interim mechanism" proposed two binding conditions on the countries using "Public Stockholding". First, the countries have to notify to the WTO the details regarding the PDS, including the quantity procured and distributed, and the quantities exported from the stockholding. The second condition was to ensure that food stocks procured under such programmes do not distort trade or adversely affect the food security of other members, in other words, countries must refrain from exporting such subsidised stocks of food grains.

The Bali Decision became the *de facto* "solution" to the issue of "Public Stockholding" after WTO members adopted the proposals in the Bali Ministerial Decision almost a year later (World Trade Organization 2014). Therefore, India's PDS being implemented under the NFSA is now operating under the close scrutiny of the WTO, which, as mentioned above, monitors every detail relating to this programme. Earlier this year, India notified the details of this programme during 2018-19 (WTO 2020b and WTO 2020c).

These notifications have attracted several questions, which the next section will briefly cover.

IV. RECENT DISCUSSIONS ON INDIA'S FARM POLICIES IN COMMITTEE ON AGRICULTURE

Several WTO members have consistently questioned India's subsidies' regime, including their linkages with the country's exports of agricultural commodities. In 2018, the United States had tabled a detailed paper in the WTO's Committee on Agriculture arguing that India had already breached its limit of production-related subsidies, which is 10 per cent of the value of production for wheat and rice (World Trade Organization 2018). Although the bases for the United States' arguments are not well-founded and can easily be challenged (Dhar 2018), India is currently facing a dispute brought by six countries who have questioned the legality of its subsidies granted to sugar.

While initiating the dispute, Australia argued that India was providing production-related subsides, or "domestic support" to sugar producers, when it has not intimated to the WTO that it is doing so. According to the complainant, India should have notified to the WTO about granting domestic support on sugar. Further, India was granting export subsidies when it is not allowed to do so under WTO rules (World Trade Organization 2019).

In recent months, India has been questioned in the Committee on Agriculture on whether it grants export subsidies to non-Basmati rice, and whether the sales of government-held wheat stocks in the open market are not exported (World Trade Organization 2020a; World Trade Organization 2020d; World Trade Organization 2020e).

V. BY WAY OF CONCLUSIONS

The consistent position that successive governments had taken, wherein agricultural policies were focused on promoting food security and rural livelihood has served India well in terms of protecting the vulnerabilities in this sector. In international trade negotiations, both in the WTO and in the bilateral FTAs, India has been able to argue convincingly that given the preponderance of small and marginal farm holdings, constituting over 86 per cent of total farm holdings, agricultural policies pursued by the government were primarily oriented towards protecting food security and rural livelihood. This allowed the government not only to provide effective tariff protection to small producers from facing unfair competition from global agri-business, but it was also able to provide adequate levels of subsidies to make farming a viable occupation.

The focus of the new farm legislations on promoting exports and making India an agricultural export hub can change this scenario completely. Major players in the global agricultural market, like Australia, the United States, the European Union, who are already questioning the WTO-compatibility of India's exports of agricultural products, could mount further pressure on India to open its agricultural markets arguing that they must enjoy a level-playing field. In other words, if India wishes to operate in the global market as an exporter, these countries should also be allowed to operate in India. It is of paramount concern whether the agricultural sector, which supports directly or indirectly, almost 60 per cent of the workforce, can withstand major disruptions caused by import competition and the attendant uncertainties of the global market.

END NOTES

1. The other WTO members are the European Union, Brazil, Thailand, Costa Rica and Guatemala.

2. The Global Hunger Index for 2020 ranked India at 94 out of 107 countries. It is a composite index of four indicators, namely undernourishment (share of the population with insufficient caloric intake), child wasting (share of children under age five who have low weight for their height, reflecting acute undernutrition), child stunting (share of children under age five who have low height for their age, reflecting chronic undernutrition), and child mortality (mortality rate of children under age five, partly reflecting the fatal mix of inadequate nutrition and unhealthy environments).

According to the annual assessment of the Food and Agriculture Organization, during 2017-19, the prevalence of undernourishment in the total population in India was 14 per cent, the lowest in South Asia after Afghanistan (Food and Agriculture Organization 2020: 169). Undernourishment is defined as the condition of an individual whose habitual food consumption is insufficient to provide, on average, the amount of dietary energy required to maintain a normal, active and healthy life (Food and Agriculture Organization 2020: 190).

3. This long-term objective was agreed in the Mid-term review of the Uruguay Round Agreement, which resulted in the formation of the WTO (GATT 1989: 9).

4. The subsidies included in this category are those arising from the operation of government procurement of agricultural products at the pre-announced minimum support prices and input subsidies like those provided for fertilizer, electricity and irrigation among others.

5. This refers to all subsidies that are deemed to distort production and trade. These include input subsidies and price support measures. The AoA puts a cap on the AMS that can be provided.

6. This suggestion to amend the “external reference price” formed a part of a G-33 proposal to conclude an Understanding on "Governmental Stockholding Programmes for Food Security Purposes" as defined in Footnote 5 of Paragraph 3 of Annex 2 ("Green Box") of the AoA in the WTO Bali Ministerial Conference.

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