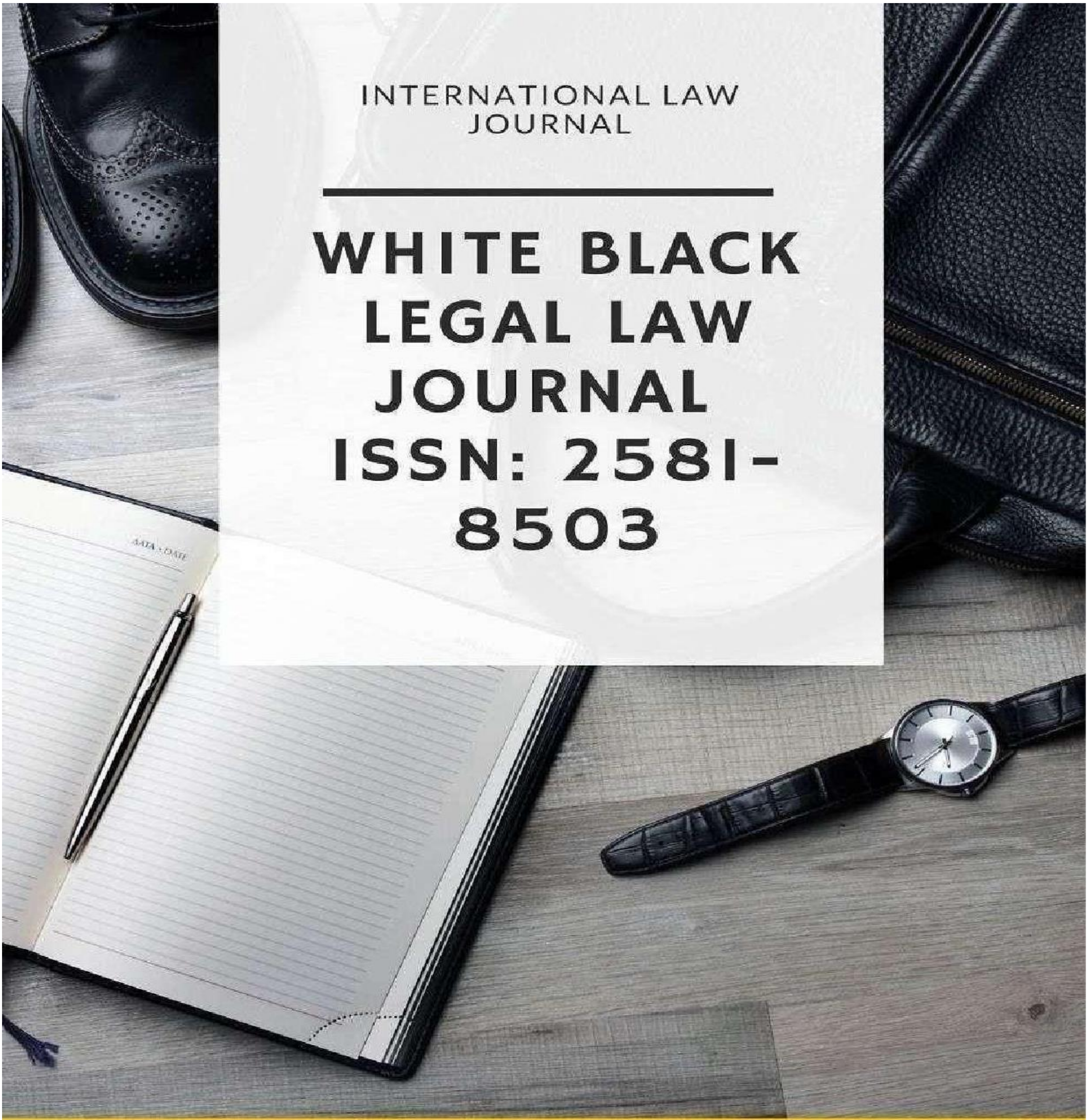


INTERNATIONAL LAW JOURNAL

WHITE BLACK LEGAL LAW JOURNAL

ISSN: 2581-8503

Peer - Reviewed & Refereed Journal

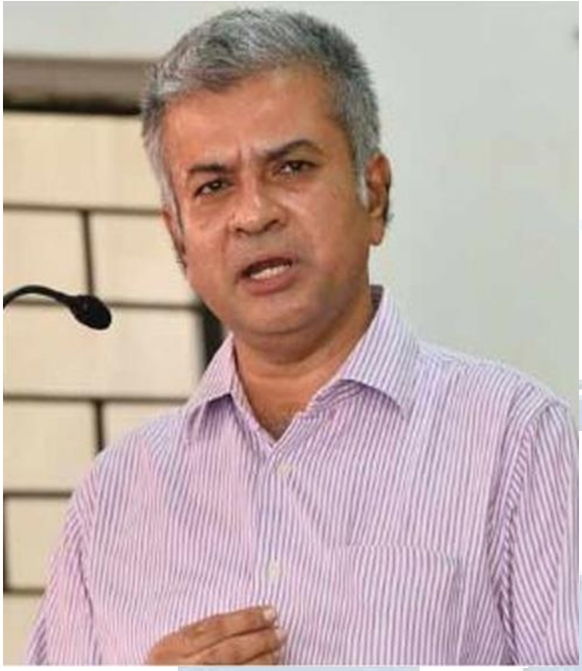
The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

DISCLAIMER

EDITORIAL TEAM

Raju Narayana Swamy (IAS) Indian Administrative Service officer



Dr. Raju Narayana Swamy popularly known as Kerala's Anti Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala . He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University . He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru and a professional diploma in Public Procurement from the World Bank.

Dr. R. K. Upadhyay

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB , LLM degrees from Banaras Hindu University & Phd from university of Kota.He has succesfully completed UGC sponsored M.R.P for the work in the ares of the various prisoners reforms in the state of the Rajasthan.

Senior Editor

Dr. Neha Mishra

Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; Ph.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St.Louis, 2015.

Ms. Sumiti Ahuja

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing Ph.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.

Dr. Navtika Singh Nautiyal

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in ‘Intercountry adoption laws from Uttranchal University, Dehradun’ and LLM from Indian Law Institute, New Delhi.

Dr. Rinu Saraswat

Associate Professor at School of Law, Apex University, Jaipur, M.A, LL.M, Ph.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM
Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.
More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.

Subhrajit Chanda

BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

“AGREEMENT ON AGRICULTURE”

AUTHORED BY- VINAY YADAV
SUSHANT UNIVERSITY

ABSTRACT

This research report delves into the Agreement on Agriculture (AoA), a significant component of international trade law established by the World Trade Organization (WTO). The AoA aims to reduce agricultural support and subsidies provided by countries to domestic producers, making it one of the most contentious agreements within the WTO. It seeks to promote free markets, diminish trade barriers, and integrate global markets. The Agriculture Committee of the WTO serves as a platform for member states to discuss crucial issues and monitor the implementation of the Agreement. Furthermore, the report discusses the classification of domestic support subsidies into different boxes within the WTO, including the Green Box, Amber Box, and Blue Box, each with distinct implications for trade policies. It also examines India's commitments under the AoA, particularly regarding market access, domestic support, and export subsidies, highlighting the country's compliance and exemption status. Additionally, the report delves into the continuous reforms and negotiations surrounding the AoA since its inception, including discussions on the Bali and Nairobi packages and the role of groups like the G-33 in advocating for the interests of developing nations in agricultural trade. Finally, it explores criticisms of the AoA, particularly regarding its perceived bias towards wealthier nations and its potential negative impacts on small farmers in developing countries. The report concludes by discussing mandated negotiations for extending agricultural reform processes outlined in Article 20 of the AoA, highlighting the ongoing efforts to address various issues in international agricultural trade.

INTRODUCTION

[1]The Agreement on Agriculture (AoA) is discussed about international trade law in this research report. The Agreement on Agriculture (AoA) of the World Trade Organization intends to lessen the agricultural support and subsidies that countries give to domestic producers. This is one of the WTO's most contentious agreements. It tried to support free markets, reduce trade barriers, and integrate global markets. The WTO's Agriculture Committee provides members with a forum to talk about crucial problems while keeping an eye on how the Agreement is being implemented.

The Uruguay Round trade negotiations concluded on December 15, 1993, after spanning over seven years. Their formal recognition occurred in Marrakech, Morocco, in April 1994. Among the numerous agreements reached during the Uruguay Round was the establishment of the WTO Agreement on Agriculture..

The Agreement on Agriculture came into force on January 1st, 1995. The developed nations had a six-year deadline of the year 2000 to reach their reduction goals, while the developing nations had a ten-year deadline of the year 2004. The lowering in standards did not apply to the least developed countries.With exceptions of fishery and forestry goods, rubber, jute, sisal, abaca, and coir, the items normally associated with agriculture are those that are covered by this agreement.

In the area of agricultural commerce, the General Agreement on commerce and Tariffs (GATT) provides a variety of exceptions. The agricultural sector was nonetheless significantly impacted by non-tariff trade policies including import quotas and subsidies, which led to export subsidies for industrial items that otherwise wouldn't have been supplied. The World Trade Organization created an agriculture treaty to give farmers access to more equal markets. As a WTO member, India is expected to uphold the agriculture accord. The 2020 farm bills and domestic aid provided in the form of of minimum support prices must be evaluated to see if they comply with the agriculture agreement.

PROVISIONS OR FEATURES OF AGREEMENT ON AGRICULTURE

[2]This section carefully examines the three primary pillars of the AoA: market access, domestic support, and export subsidies. You will learn what "tariffication," guarantees to lower tariffs," and

[1] Article By Oishiki Bansal

[2] https://commerce.gov.in (Last Updated Sep 7, 2021)

"tariff quotas" mean.

Market Access

Article 4 of the Agriculture Agreement highlights commitments based on market principles. It discourages governments from implementing future non-tariff barriers and requires their elimination to minimize non-tariff impediments. The agreement primarily emphasizes the tariffication process, which involves converting non-tariff barriers such as quotas, variable taxes, minimum import prices, discretionary licensing, state trading policies, voluntary restraint agreements, etc., into tariffs. Governments are required to execute this process according to the following guidelines:

- While taking tariffication into consideration, developed nations should reduce their overall tariffs by at least 36%. 15% within six years of the start of the contract.
- Developing nations: To reduce tariffs by a minimum of 10% per product, including those resulting from tariffication, and by a total of 24% within ten years of the agreement's implementation.
- No promises were required from the least developed countries.
- When they have persistent quantitative limits due to balance of payments concerns, some developing nations are allowed to give caps rather than tariffication.

Domestic Support

The agriculture agreement's Article 6 addresses domestic support commitment. Here, the World Trade Organization distinguishes between domestic support measures like income tax exemptions and subsidies that directly influence the production of agricultural products and policies and incentives that do not. The following countries reduce domestic support through the WTO's agriculture agreement:

Developed nations must cut domestic aid by 20% within six years of the agreement's implementation.

- Developing nations: within ten years of the agreement's implementation, reduce domestic support by 13%.
- Least developed nations are exempt from this reduction.

This pledge includes the lowering of all forms of support, not simply specific commodities. Some of the policies listed in the agreement's "green box" category—which includes those that benefit rural communities, support farming, domestic food aid, etc.—have been exempted from the reduction commitments because they do not distort trade or have any impact on production. The reduction promises made under this clause do not include investment subsidies, which are often provided to resource-poor and low-income farmers in developing nations.

Export Subsidies

Article 8 of the Agriculture Agreement outlines commitments regarding export subsidies. Member states are obligated to decrease both the volume of exports eligible for subsidies and the amount of funds allocated to export subsidies as described in this paragraph. Export subsidies for agricultural products are prohibited, except for those specified in the member's list of obligations. Countries must adhere to the following criteria:

- Developing countries must reduce the value of export subsidies by 36% and the volume of export subsidies by 21% within six years of the agreement's implementation.
- Developed countries are mandated to decrease the value of export subsidies by 24% and the volume of export subsidies by 14% within 10 years of the agreement's implementation.
- Least developed countries are exempt from this requirement

[3]**WTO AGRICULTURAL SUBSIDIES BOXES**

In the WTO, domestic support subsidies are divided into different categories. This section talks about different boxes and their implications.

Green Box

- Subsidies that either have little or no impact on trade distortion.
- These subsidies typically don't target certain goods.
- Subsidies for the Green Box are uncapped.
- They may include direct payments to farmers that are unrelated to current levels of production or market prices.

[3] Article By Sunil Kumar D (Last Updated March 30, 2023)

- Examples include support for research, environmental protection initiatives, domestic food assistance such as food stamps, inspection initiatives, and disaster relief.

Amber Box

- Includes trade-damaging subsidies that make national products less expensive than comparable items from other nations on the world market.
- They are accused of stifling trade because they promote excessive production.
- Examples: Subsidies for inputs like fertilizers, seeds, energy, irrigation, etc. are also covered by the Minimum Support Price (MSP) in this box.
- It is restricted to 5% of developed countries' total agricultural production and 10% of productivity in poor nations.

Blue Box

- Subsidies from the Amber Box that tend to restrain production are categorized into the Blue Box.
- These rewards, according to its critics, are only partially uncoupled from production.
- According to those who support them, these subsidies are necessary for agricultural changes.
- Examples include subsidies tied to a cap on the number of acres or animals.
- Only a small number of countries—Norway, Slovenia, Iceland, etc.—use subsidies in this category.
- These subsidies have no upper limit.

INDIAS COMMITMENTS

Market Access

India, by utilizing GATT-compliant methods, persisted in imposing quantitative restrictions due to concerns about its balance of payments. Consequently, India was not obligated to make any commitments regarding market access. Only a minimal selection of processed foods, edible oils, and basic agricultural items were agreed upon to be bound by India. These rates stand at 100%, 150%, and 300% respectively. Subsequently, negotiations under Article XXVIII of the GATT were successfully concluded in December 1999. As a result, the bound rates for numerous agricultural products, such as skimmed milk powder, maize, rice, spelt wheat, millets, etc., previously bound at zero or low rates, were significantly raised.

Domestic Support

De minimis is a term first used by the World Trade Organization to limit trade between developing and industrialized nations to a specific percentage. These nations are required to adhere to reduction obligations if their domestic support exceeds a predetermined percentage. For product services and non-product services, the percentage is fixed at 10% for developing nations and at 5% for industrialized countries. 'Aggregate measure support' (hence referred to as AMS) is the indicator that determines whether or not the countries must adhere to the reduction promise.

The following formula is used to compute AMS for goods and services:(Price elsewhere minus Price here) X number of units produced.

The AMS for non-product services is computed by adding up all of the subsidies offered for fertilizer, water, seeds, credit, and other non-product services.

India provides its farmers with domestic support in the form of a minimum support price. The value of the product AMS is (-) 38.47%, while the value of the non-product AMS is 7.52%, both of which fall below the De minimis threshold stipulated in the agreement, according to the Ministry of Commerce of India. Therefore, the Indian government is not required to adhere to the reduction pledges made under this provision in order to continue providing domestic support.

[4]Export Subsidies

Except as stipulated in Article 9.1(d) and (e) of the Agreement on Agriculture, exporters of agricultural products from India are not eligible for the Special and Differential Treatment provisions of the WTO. However, this flexibility is limited and will remain in effect only until December 31, 2023. This restriction is in accordance with the Nairobi Ministerial Decision on Export Competition from 2015, which mandates the elimination of all export subsidies by that specified deadline.

[4] https://prepp.in

PROVISIONS FOR AN AGRICULTURAL COMMITTEE

Agriculture committee

The World Trade Organization's agriculture committee was created to monitor how the agreement's provisions are being followed by its members and how the agreement is being implemented. All WTO members are represented on the committee, which meets up to four times per year. The Agriculture Committee is in charge of:

Process of reviewing

The report on the fulfillment of the contract's obligations is shared by the members. The members can inquire among themselves about alerts sent by other members as well as the state's current agricultural policies.

To monitor ministerial decisions

The agricultural committee oversees the execution of the decisions made by the ministers of agriculture at the WTO's ministerial conferences.

Subsidized exports and agricultural trade

The committee's tasks include keeping tabs on the expansion of global trade in agricultural products and analyzing it to determine whether or not subsidies are to blame.

- The secretariat of the World commerce Organization publishes an annual report detailing the contributions of each member to the expansion of global commerce.
- The committee conducts an annual review of the members' export subsidies for agricultural products and other export policies. The Secretariat of the World Trade Organization compiles background data to assist in member reviews:

1. Export credits.
2. Aid for export financing.
3. Agriculture-related businesses that engage in state trading.
4. Food aid on a global scale.

- The agriculture committee will also monitor decisions on the abolition of agricultural export subsidies, new export credit regulations, decisions about foreign food aid, and decisions regarding exporting state trading businesses.

Net food-importing developing countries

The agriculture committee keeps an eye on the detrimental consequences of agricultural reforms on emerging nations that import net amounts of food as well as poor nations. The World Trade Organization updates its list of net food importers on a regular basis, and its Secretariat creates background papers on how ministerial decisions are put into practice.

CONTINUOUS REFORMS ON THE AGREEMENT ON AGRICULTURE

The reforms in agriculture are a dynamic process. The agricultural reforms mandated by the agriculture agreement's original mandate have been up for negotiation since 2000. The agriculture talks are described as follows:

Nairobi package

WTO members voted to ban agriculture export subsidies and to establish new requirements for export policies that have a negative impact at the Nairobi Ministerial Conference in 2015. Richer nations will instantly withdraw all export subsidies; less developed nations will take a little longer, with an exception of a few agricultural products. The decision was made to implement the sustainable development goal of reducing hunger while also assisting farmers in underdeveloped nations who are severely undercut by their counterparts in wealthy nations and whose exports are artificially inflated as a result of subsidies.

As a long-term fix, the members backed the development of public stockholding schemes for food security in developing nations. The ministers also decided to keep talking on a unique safeguarding mechanism that would let developing countries temporarily raise agricultural product tariffs in reaction to higher imports or drops in pricing.

Bali package

The minister concurred that decisions pertaining to agriculture would be discussed at the 2013 ministerial conference in Bali, Indonesia. These were the choices that were made.- If certain requirements were met, members opted not to pursue domestic assistance promises that were violated as an outcome of public stockholding plans for food security in developing nations. They also decided to talk about a long-term solution to open stockholding due to security-related issues.

Governments shouldn't be permitted to impede trade by deciding how to allocate tariff rate quotas among importers. Instead, there has to be more openness in the administration of tariff rate quotas. The green box, which allows unlimited domestic support as long as it doesn't interfere with trade, covers a number of poverty-reduction initiatives, including land use, land reform, water management, and others. These initiatives were given extra cash.

There was a declaration advocating for the elimination of all export subsidies as well as improved oversight and transparency.

The Bali Accord includes a peace clause that shields impoverished nations' food procurement policies from WTO member actions if they deviate from the established subsidy ceiling. India was the first WTO member country to employ this clause in the fiscal year 2018–19. India claimed to have produced $43.67 billion worth of rice and provided farmers $5 billion in subsidies, exceeding the de minimis standard of 10%. The Indian government referred to the peace clause in order to defend their domestic assistance program.

G-33

To defend the interests of developing countries in agricultural trade discussions, a forum of developing nations was established during the WTO ministerial session in Cancun.

India is one of the 47 developing and least developed nations that make up the G33.

It was established to aid a group of nations that were dealing with comparable issues. At the WTO negotiations, the G33 has suggested special regulations for poor nations, such as allowing them to keep limiting entrance to their respective agricultural markets.

[5]WHAT IS MINIMUM SUPPORT PRICE – DOMESTIC SUPPORT

The Minimum Support Price (hereafter MSP) is a cap set by the Indian government to safeguard farmers' interests in the event that agricultural prices fall too much during years of bumper crop production. In the event of a decline in the market price of commodities due to bumper output within the MSP set by the government each year, the government agencies purchase the products from the farmers.

[5] https://blog.ipleaders (Last Visited Aug 31, 2023)

Who sets MSP

The Commission on Agricultural Costs and Prices (hence, CACP), which makes recommendations to the central government each year, is responsible for setting the MSP.

How is MSP determined

The Swaminathan committee, which was established in 2004, provided a methodology that the CACP uses to determine the MSP. Some of the elements taken into account are:

- The price of producing
- Adjustments to input prices
- Parity of input-output prices
- Market price trends
- Supply and demand, etc.

AGREEMENT ON AGRICULTURE CRITICISM

The Agreement is opposed because, in the opinion of its opponents, it allows wealthier nations to keep subsidizing their farmers while simultaneously eliminating tariff protection for small farmers, a significant source of income in developing countries. While condemning developing nations like India of participating in trade-distorting policies, developed countries are able to heavily subsidize agriculture in their own country. This is achieved by cleverly classifying subsidies into those that distort commerce (amber box) and those that don't (green box).

Rich countries like the United States, Canada, and the EU pay their farmers several times more subsidies than the rest of the world, according to a joint India-China study. Developed countries continue to provide trade-distorting subsidies without suffering any repercussions under the WTO.

Industrialized nations had the choice of accepting a global cap or a 5 percent ceiling on a list of products under the Amber Box. The latter approach has made it possible for the majority of wealthy countries to concentrate subsidies for particular crops more successfully. Even with moderate subsidies, India should be wary about going over the 10% cap on subsidies.

Even though these countries support their farmers and create trade and market entry barriers, the industrialized nations regularly criticise the developing nations for their policies, such as the Minimum Support Price (MSP).

The WTO's push for globalization threatens the three tenets of a just and sustainable agriculture policy: ecological security, livelihood security, and food security. Globalization will harm producers that have little to no capital and investment.

MANDATED NEGOTIATIONS

According to Article 20 of the Agreement on Agriculture (AoA), negotiations to extend the agricultural reform process shall begin one year prior to the conclusion of the implementation period. In January 2000, as the phase of implementation in the industrialized nations was about to come to a conclusion, discussions concerning an agreement on agriculture started.

At the same time as these discussions, special meetings of the WTO Committee on Agriculture (COA) are taking place in Geneva. The impact of commitments to reduce emissions on international agricultural trade, non-trade issues, preference for developing country members, the success of member countries in implementing commitments to reduce emissions thus far, and identifying the additional commitments required to achieve the Agreement's long-term goals are the general guidelines for conducting negotiations.

CONCLUSION

Summing up the findings, this emphasizes the multifaceted nature of the Agreement on Agriculture and its role in shaping international agricultural trade. It underscores the need for continued dialogue and collaboration to ensure that the AoA's objectives are met while addressing the concerns of all member countries.

The three provisions of the AoA are market access, domestic support, export subsidy. Members of the WTO had made obligations in each of these areas that had to be completed during the course of the time frame specified in the Agreement. However, even while the obligations for market access and domestic assistance were written in a fashion that appeared to make some concessions to developing nations, in reality these nations found themselves on the losing end.