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# Agricultural Negotiation of WTO and its Impact on the Developing Countries (India, Pakistan, Brazil): A Legal Analysis

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AKSHAYA SHRI M<sup>1</sup> AND PRANAV<sup>2</sup>

## ABSTRACT

*The Agriculture negotiations of WTO was a concept that was construed and conceptualised as an way to fulfil certain long term policy changes when it comes to the field of trade in agriculture sector and to pull in specified domestic policies that is determined at leading a very fair competition and to make the sector less distorted. WTO members have agreed on maximum tariffs on nearly all agricultural products, while many industrial tariffs remain still not agreed upon. In spite of passage of decades with scholars and economists argued or discussed and postulated their view against agricultural subsidies and tariffs, political instabilities and its influence continue to have supreme control over agricultural policy setting and the trading policy of the same in both rich and poor countries. In poor countries and developing countries moreover, where agriculture is a very important share of the economy and where food is a major consumption item, the importance of agricultural policy as a public policy issue is obvious. In our paper we would like to analyse the evolution, significance, impact, and analysis of the modalities and rules of the agriculture negotiations and we would provide suggestions on whether the developing countries should rely on these modalities and rules or should focus more on the domestic policies to avert losses on trade and implementation of food and health standards. Also in our paper we would like to analyse the outcome of the proposal made by India to WTO in January 2001. We would analyse if the proposed concern of India succeeded in achieving the expected outcome.*

*Keywords: Agriculture, WTO, farm exports, food security, market access, domestic support, export competition, Indian agriculture.*

## I. INTRODUCTION

WTO is a major organisation that facilitates and eases the trade and regulates the same between the nations. It plays an important role in international relations. It conducts several

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meetings with its member states to address the key issues. One of the important round in the WTO negotiations was the DOHA round. Doha Round is formally not completed but some issues related to Doha Development Agenda were taken up in the Nairobi Ministerial Conference (10th WTO Ministerial Conference) that took place in December 2015. It was the first round of negotiations since the WTO adopted a multilateral trading system in 1995 and the first of the nine rounds to put the development of developing nations at the centre stage. 157 members of the WTO participated in the Doha Round. Some countries are of the view that WTO works must be at bit more ease so that developing countries can aid and develop their agricultural and rural development and ensure the livelihoods of their large agrarian populations whose farming is quite different from the scale and methods in developing countries. They say, for example, that subsidies and protection are needed to provide food security, to promote small scale farming, to make up for a lack of capital, or to prevent the rural poor from relocating into already over-congested cities. India's and Nigeria's proposals are among those that emphasise food security challenges for developing countries. At the same hand, some emerging countries distinguish clearly between their requirements and what they consider a wish to spend heavily on agriculture at the expense of the poorer countries in far richer ones.

Many developing countries feel that their exports incur considerably hiked tariffs and other barriers in developed countries' markets and that their attempts to develop processing industries are hampered by tariff escalation. They want to see substantial cuts in these barriers. On the other hand, some smaller developing countries have expressed concerns about import barriers in developed countries falling too fast. They say they rely over few necessary goods that currently would require preferential treatment (such as duty-free trade) for instilling the value for their demand to richer countries' markets. If normal tariffs fall too fast, their preferential treatment is disrupted they hold a view. Some developing consider this prevailing situation to prolong and sense no change in the lon-run.. Some developed and developing countries have argued that all developing countries should participate in liberalization and integration into world markets, even if the terms are more relaxed. In our paper we would like to analyse the evolution, significance, impact, and analysis of the modalities and rules of the agriculture negotiations and we would provide suggestions on whether the developing countries should rely on these modalities and rules or should focus more on the domestic policies to avert losses on trade and implementation of food and health standards. Also in our paper we would like to analyse the outcome of the proposal made by India to WTO in January 2001. We would analyse if the proposed concern of India succeeded

in achieving the expected outcome.

### **(A) Research Problem**

Some developing countries in their proposal regarding the agricultural negotiations sought that small vulnerable economies need special treatment, including trade preferences and longer times to adjust. In our paper we would like to trace what sort of impact did the agricultural negotiations of WTO have on the domestic policies on agriculture and trade policies of the developing countries and whether the modalities and rules of the said negotiations were dominated and overpowered by the political conditions prevailing in the developing countries.

### **(B) Existing Legal Situation**

The Doha talks followed in the ministerial conferences at Cancun, Geneva, Hong Kong have been unable to reach a consensus (especially the breakdown of the Cancun negotiations.)

The SSM and Special Agricultural Safeguard (SSG) – SSG is mentioned in the Uruguay Round but many developing countries were unable to make its use as it is available for only those goods in which non-tariff barriers have been converted to equivalent tariff barriers.

WTO members continue to conduct negotiations to reform agricultural trade. These talks began in early 2000 under the original mandate of the Agriculture Agreement and became part of the Doha Round at the 2001 Doha Ministerial Conference. At the 2013 Bali Ministerial Conference, ministers adopted important decisions on agriculture. More recently, at the 2015 Nairobi Ministerial Conference, WTO members agreed on a historic decision to eliminate agricultural export subsidies, the most important reform of international trade rules in agriculture since the WTO was established.

The negotiations take place in special sessions of the Agriculture Committee. The current chair is Ambassador Gloria ABRAHAM PERALTA (Costa Rica).

### **(C) Literature Review**

1) **Shishir Priyadarshi, “Decision-Making Processes in India: The Case of the Agriculture Negotiations” (2017)** – This article gave an insight that it would not be wrong to conclude that the Indian position and policy approach to the agriculture negotiations in the WTO were arrived at on the basis of some very intensive cross-sectoral and inter-ministerial consultations, and then adopted at the highest possible level in the government.

2) **Sandra Polaski, “Agricultural Negotiations at the WTO: First, Do No Harm”(2005)** – This article gave literature to the research paper by highlighting These very

different patterns of employment between developed and developing countries explain the broad context for the decision by developing countries to insist that their concerns about agriculture must be satisfied before they will commit to concessions in manufacturing and service sectors in the trade talks.

**3) Jennifer Clapp, “WTO Agriculture Negotiations: Implications for the Global South” (2006)** – This article threw light on how the Doha ‘Development’ Round of trade negotiations at the WTO has featured agricultural trade liberalisation as one of its key aims and how the developing countries were frustrated with both the process and the content of the agricultural agreement negotiations early on in the round. This article helps to understand how this prompted these countries, through a number of developing country groupings such as the G-20 and others, to call for changes in the talks to ensure that developing country voices and concerns were heard.

**4) Praveen Kumar Dixit, Tim Josling “THE CURRENT WTO AGRICULTURAL NEGOTIATIONS: OPTIONS FOR PROGRESS; SYNTHESIS” (2011)** – This article provides literature by stating how Developing countries should agree to pursue their non-trade concerns using instruments that are consistent with less border protection. It also states how this approach may require additional financial aid from developed countries, and perhaps even new international institutions. However, the provision of some additional financial support to address non-trade concerns in developing countries is a small price to pay for obtaining meaningful reductions in agricultural trade barriers.

**5) UNCTAD REPORT, “NEGOTIATING LIBERALIZATION OF TRADE IN AGRICULTURE FOR DEVELOPMENT”(2020)** It provides an overview of the pattern of agricultural trade, salient features of the Agreement on Agriculture (AoA) in the World Trade Organization (WTO), implementation of commitments and status of current negotiations in various areas with an emphasis on the development dimension of the agriculture rules and negotiations. Three key pillars of trade in agriculture, namely market access, domestic support and export competition, are discussed with an emphasis on the impact of potential policy changes on development. Moreover, this publication covers negotiating issues of stake specific to developing countries and the least developed countries, such as “special and differential treatment” (SDT) for developing and least developed countries, cotton initiative, public stock-holding, special safeguard mechanism and export restrictions.

#### **(D) Research Questions**

1. Has the agricultural committee of WTO been successful enough in addressing the

needs of the developing countries?

2. Does dispute settlement mechanism under agreement on agriculture differ from other dispute settlement procedure of WTO?
3. What is the impact and outcome of the proposal made by India regarding their concerns on agricultural negotiations to WTO in the year 2001?

#### **(E) Research Objective**

1. To analyse the evolution of Agriculture negotiations of WTO, formation of agriculture committee (its powers, composition, function)
2. To analyse the significance of the negotiations
3. To analyse the negative and the positive impacts of the negotiations from the perspective of the developing countries
4. To analyse if the developing countries agriculture and trade policy are overpowered by the political situations
5. To analyse if it's better for the developing countries to stick on to domestic policies or if it's better for them to rely on the rules and modalities of the agriculture negotiations of WTO
6. To analyse the Concerns pointed out in the proposal made by India and to trace the outcome and impact of the same.
7. To analyse the negotiations with respect to covid- 19 pandemic scenario
8. To propose remedies and suggestions

#### **(F) Research Hypothesis**

WTO's agriculture negotiation has gone a long way in creating significant impact on the agriculture sector of the developing Countries.

#### **(G) Research Methodology**

We are using qualitative research strategy to synthesize facts which are derived mainly from secondary sources, and which are qualitative in nature. This method helps us to analyse variety of factors which are non-tangible and difficult to measure. These can be economic, social, or cultural impact of Agricultural Negotiations on WTO. We have also used qualitative approach to analyse the impact on agriculture subsidies, consequent effect on developing countries and trade barriers. This was done by accessing the database of reports available online through simple google search.

## **II. THE EVOLUTION OF AGRICULTURE NEGOTIATIONS OF WTO, FORMATION OF AGRICULTURE COMMITTEE**

Agriculture negotiations have been very important agenda of the WTO and are being actively pursued by developing countries, and many associations and organisations have signed on to negotiating proposals. So basically they portray a varied range of debate interests, and the lines between them aren't always clear. The very Agreement on Agriculture or the agricultural negotiation came into force on 1 January 1995. The introductory part or rather the index to this negotiation states that the agreed long-term objective of the reform process initiated by the Uruguay Round reform programme is to enable equality and market-based agricultural export and import system. The reform programme consist certain provisions that aim to provide much comprehensive and strong rules and procedures to regulate and protect in the areas of domestic support, export subsidies and market access, and wanted it to be more operationally effective GATT rules and disciplines. The Agreement also takes into consideration the concerns which do not fall under the purview of trade such as food security and the environmental concerns, and addresses the very important notion of special and differential treatment for developing countries along with the provisions with aim to develop several opportunities and terms of access for agricultural products of particular export interest to the members to this agreement.

### **(A) Introduction on agriculture negotiations**

One of the major issue when it comes to trade in agriculture is that it is distorted. Trade is said to be distorted in such cases where prices are very high or lower than normal, and if quantities produced, bought, and sold are also higher or lower than normal — i.e. than the levels that would usually exist in a competitive market. When it comes to trade in agriculture import barriers and domestic subsidies can lead to availability of crops that are more expensive within a country's internal market. The hiked-up prices can pave way to over-production of the crops. In such cases if at all the surplus is to be sold on world markets, where prices are lower, then there is a requirement of export subsidies. Consequently, the subsidizing countries can be producing and exporting considerably more than they normally would. Governments of the countries usually consider three major reasons for aiding and safeguarding their farmers, even if this distorts agricultural trade: Firstly, it becomes essential to make sure that adequate food is produced to meet the requirement of the citizens in their country; Secondly to protect farmers from the consequences of the weather and oscillation in world prices and finally and most importantly to preserve rural society. However, these

policies are evidently expensive, and they have led to problems that ultimately resulted in export subsidy wars. Developing Countries with less money and those that cannot afford subsidies have suffered. The main issue the negotiation aims to address is if these objectives can be achieved without distorting trade.<sup>3</sup>

### **(B) Analysis of evolution of the agreement through outcome of different Rounds**

While farming has always been covered by the GATT, there were numerous major variations between the regulations applicable to main agricultural products and industrial products prior to the WTO. The GATT of 1947 permitted countries to make use of export subsidies for basic agricultural products whereas industrial items were not subject to export subsidies. The sole requirements were for export subsidies to be used not to cover more than a "fair share" of the international exports of the commodity concerned.<sup>4</sup> The GATT rules also allowed countries to resort to import under certain conditions, notably when these restrictions were necessary to enforce measures to effectively limit domestic production (Article XI:2(c) of GATT). This exception was also conditional on the maintenance of a minimum proportion of imports relative to domestic production.<sup>5</sup> In fact, however, a number of non-tariff borders have been restricted on imports without effective counterpart restrictions on domestic output and without minimal access for imports. In other circumstances, this was done through the use of means not specified in Article XI. It reflected exceptions and country-specific exclusions in other circumstances, such as the clauses of grandfather, waivers and the accession protocols.<sup>6</sup> In still other cases non-tariff import restrictions were maintained without any apparent justification. The result of all this was a proliferation of impediments to agricultural trade, including by means of import bans, quotas setting the maximum level of imports, variable import levies, minimum import prices and non-tariff measures maintained by state trading enterprises. Major agricultural products such as cereals, meat, dairy products, sugar and a range of fruits and vegetables have faced barriers to trade on a scale uncommon in other merchandise sectors.<sup>7</sup>

Basically most of this concerns regarding domestic markets arose post collapse of commodity prices in the 1930s Financial Depression. Also, after Second World War came to an end many states were worried mainly about suddenly raising domestic agricultural production so

<sup>3</sup> United States International Trade Commission, Operation of trade agreements programme(2005), USITC PUBLICATION 3785<<https://www.usitc.gov/publications/332/pub3875.pdf>> (Last accessed 1<sup>st</sup> February 2021)

<sup>4</sup> George Bronz, *An International Trade Organization: The Second Attempt*, Vol. 69, No. 3, *Harvard Law Review*, pp. 440-482,(1956)

<sup>5</sup> General Agreement on Trade Tariffs,art. XI:2(c), Apr. 15, 1994, U.N.T.S 1867

<sup>6</sup> General Agreement on Trade Tariffs,art. XI: Apr. 15, 1994, U.N.T.S 1867

<sup>7</sup> Agreement on Agriculture, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, 1867 U.N.T.S. 410



to accommodate food consumption necessities of increasing density of population. Taking this aspect to consideration and in order to maintain a certain balance between the development of rural and urban incomes, many countries, relied on support of the market price — farm prices were administratively raised.<sup>8</sup> Import access barriers ensured that domestic production could continue to be sold. In response to these measures and as a result of productivity gains, self-sufficiency rates rapidly increased. In a number of cases, expanding domestic production of certain agricultural products not only replaced imports completely but resulted in structural surpluses. Export subsidies were increasingly used to dump surpluses onto the world market, thus depressing world market prices. On the other hand, this factor, plus the effects of overvalued exchange rates, low food price policies in favour of urban consumers and certain other domestic measures, reduced in a number of developing countries the incentive for farmers to increase or even maintain their agricultural production levels. In the lead-up to the Uruguay Round negotiations, it became increasingly evident that the causes of disarray in world agriculture went beyond import access problems which had been the traditional focus of GATT negotiations. To get to the roots of the problems, disciplines with regard to all measures affecting trade in agriculture, including domestic agricultural policies and the subsidization of agricultural exports, were considered to be essential. Clearer rules for sanitary and phytosanitary measures were also considered to be required, both in their own right and to prevent circumvention of stricter rules on import access through unjustified, protectionist use of food safety as well as animal and plant health measures.<sup>9</sup>

In the Uruguay Round, agricultural negotiations were not easy—the broad scope of negotiations and their political sensitivity needed a lot of time to agree on the new rules and a lot of technical work was needed to create good means for formalising commitments in policy areas outside the scope of GATT practice. The Agriculture Agreement and the Agreement on the application of health and phytosanitary measures were discussed in tandem and the Decision also formed part of the conclusion of the Developing countries on measures regarding possible adverse effects of the reform programme. But in such situations where there is any difference of opinion arises between these agreements and the Agreement on Agriculture, the provisions of the Agreement on Agriculture will sustain over the other agreements. The WTO Agreements such as those on Trade in Services and on Trade-Related

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<sup>8</sup> The Editors of Encyclopaedia Britannica, Stock market crash of 1929 American history, Britannica (last accessed 21<sup>st</sup> March 2021) < <https://www.britannica.com/event/stock-market-crash-of-1929> >

<sup>9</sup> Agreement on the Application of Sanitary and Phytosanitary Measures, 1867 U.N.T.S. 493

Aspects of Intellectual Property rights are also applicable to agriculture.<sup>10</sup>

The implementation period for the country-specific commitments is the six-year period commencing in 1995. However, developing countries have the flexibility to implement their reduction and other specific commitments over a period of up to 10 years. Members had the choice of implementing their concessions and commitments on the basis of calendar, marketing (crop) or fiscal years. A WTO Member's implementation year for tariff reductions may thus differ from the one applied to export subsidy reductions. For the purpose of the peace clause, the implementation period is the nine-year period commencing in 1995.

### **(C) Agriculture committee of WTO –Scope and Function**

The Committee on Agriculture oversees the implementation of the Agreement on Agriculture, which allows Members to provide information on how their obligations were implemented. Members may ask inquiries to each other regarding 'notices' that other members share and may voice concerns about agricultural policies of each other. Questions and answers can be found in the database of the Agriculture Information System. The Committee on Agriculture was tasked, in addition to its initial duty, with monitoring the implementation at WTO ministerial conferences of a number of resolutions agreed upon by ministers.<sup>11</sup>

Details regarding the scope of work of this particular Committee on Agriculture are that it mainly scrutinises annually the growth of world agricultural trade to check over export subsidies which is very important aspect for trade growth. The WTO Secretariat comes up with records on WTO members' contribution on whole in annual world trade development. Since back from 2013 the committee usually makes annual reviews of members' agriculture export subsidies and other export measures. To help with this aspect the WTO Secretariat provides information by analyzing members' export subsidies, export finance support, agriculture state trading enterprises and international food aid.<sup>12</sup>

The Committee will monitor the elimination from the Nairobi Ministerial's decision in relation to the export competition of agricultural export subsidies, new export credit regulations and decisions on international food aid and exporting State trading companies.

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<sup>10</sup> TRIMS Agreement: Agreement on Trade-Related Investment Measures, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, 1868 U.N.T.S. 186

<sup>11</sup> Shishir Priyadarshi, *Decision-Making Processes in India: The Case of the Agriculture Negotiations* Cambridge University Press < <https://doi.org/10.1017/CBO9781139030526.016> > (2017).

<sup>12</sup> Carlos Primo Braga, "Agricultural Negotiations: Recent Developments in the Doha Round" Trade Note 19 Washington, D.C.: World Bank (2004)

The committee shall examine the disciplines of this Decision every three years.<sup>13</sup>In accordance with a previous decision of the Ministers, the Committee on Agriculture examines the potentially adverse impacts on poorer nations and on net importing food developing countries of the agricultural reform.<sup>14</sup>The WTO routinely maintains a list of developing net-food importing countries, and the WTO Secretariat draws up background reports on ministerial decision implementation. The Nairobi Export Competition Decision has a number of measures relating to international food aid to be assessed within the framework of the Marrakech NFIDC decision monitoring. The Committee oversees the implementation of the Bali Decision on the administration of tariff quotas establishing a system for monitoring low-fill TRQs. The operation of the TRQ administration decision is usually scrutinized by the end of year. The committee is also responsible for monitoring information submitted by members on public stockholding for food security purposes.

### III. OBJECTIVES OF THE NEGOTIATIONS

The main aim of the infamous agricultural negotiations is to bring up trade arena in world where equal opportunity is available that will enable improved and much more efficient market access and farmers' livelihoods around the world. The WTO Agriculture Agreement, which was brought to work since 1995, was a immensely useful contribution for rehabilitating agricultural trade and making it achieve the egalitarian goals.<sup>15</sup>The primary objective of the Agreement is to reform the principles of, and disciplines on, agricultural policy as well as to reduce the distortions in agricultural trade caused by agricultural protectionism and domestic support.<sup>16</sup> The objective of this agreement are implicated in much more serious manner in recent times than before because developed countries certainly have want to safeguard their agricultural field from the the effects of the fluctuating market. These policies can be divided into the following three categories: market access restrictions, domestic support and export subsidies

- Market Access (Article 4);
- Domestic Support Commitments (Article 6); and

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<sup>13</sup> Nairobi Ministerial Conference, 'Export Competition' WT/MIN(15)/45 — WT/L/980(2015) (last accessed 23<sup>rd</sup> March 2021) <[https://www.wto.org/english/thewto\\_e/minist\\_e/mc10\\_e/1980\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/mc10_e/1980_e.htm)>

<sup>14</sup> *ibid*

<sup>15</sup> Agreement on Agriculture, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, 1867 U.N.T.S. 410.

<sup>16</sup> Mark Ritchie, "Control of Trade by Multinationals: Impact of the Uruguay Round of GATT on Sustainable Food Security" Vol. 27 Third world quarterly, pp. 563-577(2006)

➤ Export Subsidy Commitments (Article 9).<sup>17</sup>

These Articles and other related Articles and Annexes outline the policies which fall under the category and lay down policy norms in those areas. The agreement is a legal paper, and as such its definitions are objective. It is vital to emphasise that it is an agreement. They are the legally binding consensus achieved by a long process of negotiations in which several competing meanings contended to be recognised..<sup>18</sup>

**(A) Market access restrictions: Protecting producers from international competition**

The implementation of policies to promote market prices can cost both taxpayers and consumers considerably, for instance in Europe and Japan, when policies for agricultural aid lay a particularly significant burden on consumers.<sup>19</sup> Keeping a favourable price difference between the local price and the world market price of agricultural commodities compels domestic customers to pay higher food prices than in a more liberal marketing environment. Some commensurate actions to restrict market access are required for an exporting or potential importing country to retain domestic producers' support through price support. These are limits on imports that limit access to the domestic market by foreign producers and prevent consumers from accessing agricultural commodities at a lower global market price.<sup>20</sup>

**(B) Domestic support policies: Their effect on production and trade**

Domestic support policies construe lot of measures particularly focused on bringing more income for producers and concentrating on domestic farming's increased revenue. Support in the form of direct payments can be provided when direct transfers to producers of (normally) government funds are made. It can be implemented through market intervention strategies to raise agricultural production prices or reduce the input price. Or the public delivery of services expressly aimed at agricultural producers may result.<sup>21</sup>

**(C) Export subsidies: Disposing of surpluses on the world market**

The provisions of the agreement enable major aid to domestic manufacturers who most often deal in production surplus of agricultural produces. The issue herein arises on disposal of

<sup>17</sup> Kevin Watkins, "Free Trade and Farm Fallacies: From the Uruguay Round to the World Food Summit," Vol.26 The Ecologist, No.6. (1996)

<sup>18</sup> Sandra Polaski, "Agricultural Negotiations at the WTO: First, Do No Harm", policy outlook (2005)(last accessed 2<sup>nd</sup> May 2021)< <https://carnegieendowment.org/files/po18.polaski.final.pdf>>

<sup>19</sup> Jeniffer Clap, *WTO Agriculture Negotiations: Implications for the Global South*, Vol 27 Third World Quarterly, 563-577 DOI:10.1080/01436590600720728 (2006)

<sup>20</sup> UNCTAD REPORT, "Negotiating Liberalization Of Trade In Agriculture For Development"(UNCTAD/DITC/TNDC/2020/MISC/1)

<sup>21</sup> Artiam Volkov, "Who Benefits from CAP? The Way the Direct Payments System Impacts Socioeconomic Sustainability of Small Farms" MDPI(last accessed on 1<sup>st</sup> April 2021)

such extra produces. Because availability of product as per domestic price is higher than the international market cost and so the sale of such extras internationally can only occur at a considerably low price which on the other hand can only be prevented if exporter is aided by giving subsidy. This export subsidy was indicative of the way governments have chosen to tackle national surpluses. The sale of major EC and US surpluses on the world market was facilitated by these subsidies, which reduced international prices of numerous agricultural commodities and accentuated global price instability.<sup>22</sup>

#### **IV. IMPACT OF THE NEGOTIATIONS ON THE DEVELOPING**

Whilst considering impact of agriculture negotiations on the developing countries, it becomes important to understand the positive agenda of the negotiations which is based on four major stand points Firstly being that developing countries come up with genuine sound proposals based on their actual needs (b) that they take into consideration the political situations and financial background of the countries or in other words the trade partners while enunciating their proposal (c) try, before entering into multilateral negotiations with the major trade powers before trying to make alliances with similar developed countries, and compromise 'different mind' development countries and, (d) not adhere to any consensus on the outcome of negotiations that they are unable to take part effectively<sup>23</sup>

##### **(A) Special and differential treatment**

The term "SDT" refers to the set of clauses of trade agreements negotiated in order to give preferential access to developing nation exporters to markets in developing countries. Special and differential treatment provides underdeveloped countries with lengthier timeframes and lower standards of duties to comply with the law.<sup>24</sup>

Special and differentiated treatment measures are provisions of WTO agreements that grant special rights to developing nations and provide developed countries a better opportunity than other WTO Member States to deal with developing countries. In the Preamble to the Agreement, unique, differential treatment was "an integral part" of the talks which resulted in the Agreement for developing nations. The preamble also highlights the possibly more dangerous position of emerging countries that import least developed and net foodstuffs in terms of their food security.<sup>25</sup>

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<sup>22</sup> Praveen Kumar Dixit, Tim Josling "THE CURRENT WTO AGRICULTURAL NEGOTIATIONS: OPTIONS FOR PROGRESS; SYNTHESIS" DOI:10.2307/1349903, Review of Agricultural Economics (2011)

<sup>23</sup> Agreement on Subsidies and Countervailing Measures 1869 U.N.T.S. 14

<sup>24</sup> *ibid*

<sup>25</sup> Bergit Meade, "Trade development when export lacks diversification"(2009)(last accessed 24<sup>th</sup> March 2021)<

### **(B) Helping developing countries meet their concerns**

To aid the needs of developing country Members to adhere to their commitments effectively, the negotiation proposes certain guidelines such as getting rid of non-tariff barriers, by transforming quotas and other quantitative trade barriers to tariffs.

To enforce most favoured nation principle to enable lower reduction rates to be applied to fixed base period values of trade-distorting domestic supports (covered by Total Aggregate Measurement of Support), tariffs and export subsidies - which was two-thirds for the developing countries of the levels required for the developed countries in each of these three areas. No reductions were required for least developed countries, the developing countries are considerably longer time gap such as 10 years to execute various reduction provisions, which in turn is proposed to be six years for the developed countries.<sup>26</sup>

## **V. ANALYSIS OF THE OUTCOME OF THE NEGOTIATION IN INDIA, BRAZIL AND PAKISTAN**

### **(A) Impact of Negotiation on Brazil**

Brazil covers over half of South America, spanning an area of around 8.5 million km<sup>2</sup>. Most of the area is situated between Capricorn's equator and tropics. This vast and diversified area is reflected in the enormous number of cultures cultivated in the country. South, south-east and centre-west are the most important agricultural regions in the country. Agricultural area of approximately 50 million hectares according to the 2017/2018 Census, and pasture of approximately 178 million hectares. Caffee, sugar, soya, cassava, rice, corn, cotton, edible beans and wheat are the most important agricultural products. Brazil is the sixth or seventh largest producer of milk per year and generates roughly 20 billion litres. Production of meat amounts to about 15 million tonnes and the country is the world's third largest producer. Agriculture represents approximately 10% of GDP, employs approximately 20% of the workforce and accounts for around 20% of export earnings. Soybeans and soybean products, coffee, sugar, orange juice and meat are the most importantThe most major export exports are soya and soya products, coffee, sugar, orange juice and meat. In the recent decade, there have been deep transformations in the Brazilian economy. There has been no considerable hardship for Brazil in fulfilling the UR commitments. Before the end of the rounds, most reforms (domestic policy and regional agreements) were carried out, and the goals set in the

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[https://www.researchgate.net/publication/256002375\\_Trade\\_and\\_Development\\_When\\_Exports\\_Lack\\_Diversification/citation/download](https://www.researchgate.net/publication/256002375_Trade_and_Development_When_Exports_Lack_Diversification/citation/download)>

<sup>26</sup> Agreement on Subsidies and Countervailing Measures, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, 1869 U.N.T.S. 14.

discussions were easier to achieve. export products..<sup>27</sup>

Brazil is currently far below its WTO obligations, and this is primarily a result of fiscal limitations. It is because the high interest rates in commercial credit lines are not consistent with the usual agricultural output return (although at levels far below the obligations), that production credit is the item that appears most substantially in the Brazilian notifications. In consideration of this, at interest rates below market levels, the Treasury has provided restricted amounts of money, part of which is accessible to commercial farmers.<sup>28</sup>

Minimalising trade distortions in agricultural commodities might majorly impact on Brazilian exports and as a result impact the revenue generated from the agriculture which in turn might have direct consequences over the employment situation. The concerns regarding their agriculture sector faced a tensed scenario in the WTO Ministerial Meeting which took place in Seattle. Brazil is one of the significant country known for export of agricultural goods. The country sells a diversified basket of goods to all regions of the world. The composition and the volume.

This is mostly the outcome that the round was mostly achieved through a new international trade discipline, but little de facto liberalisation was achieved following the discussions. of Brazilian trade in agricultural products have not been influenced significantly by the implementation of the Uruguay Round Agreements by Brazil or by other countries.<sup>29</sup>

### **(B) Impact of Negotiation on Pakistan**

Pakistan is a developing agricultural country, and its agriculture sector, like many other developing countries, is vulnerable also at international level to local demand and supply powers and price variations. The importance of the farming sector in Pakistan is seen in the fact that it contributes significantly up to 70 percent to export revenues.<sup>30</sup> Pakistan would confront rising food import price due to a decrease in support for agriculture and export subsidies as a net importer of basic food. The benefits for Pakistan would only be rewarded if (a) agreements were properly implemented in letter and spirit by all nations; (b) health and plant health measures, anti-dumping and labour laws, environmental protection and standards

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<sup>27</sup> Food and Agricultural Organisation report, Agriculture Productivity Growth in Brazil Recent trends and future prospects, World bank document(2017)(last accessed 4<sup>th</sup> March 2021) <https://documents1.worldbank.org/curated/en/268351520343354377/pdf/123948-WP-6-3-2018-8-39-22-AriasetalAgriculturalgrowthinBrazil.pdf>>

<sup>28</sup> Ibid

<sup>29</sup> Government of India Ministry of Agriculture & Farmers Welfare Department of Agriculture, Cooperation & Farmers Welfare, "Pocket Book of AGRICULTURAL STATISTICS" (2017)< [https://agricoop.nic.in/sites/default/files/pocketbook\\_0.pdf](https://agricoop.nic.in/sites/default/files/pocketbook_0.pdf)>

<sup>30</sup>

are not abusive in terms of trade reduction;<sup>31</sup>

When it comes to Pakistan, the policy of WTO in this aspect will enable them to obtain new resources and increase surpluses, and in turn can get rid of the poverty condition in their economy. It can mostly help them utilise their agricultural resources for their more efficient uses elsewhere. The said policies concentrate at greater imports for which there will be need for increased volumes of foreign exchange, that are procured by higher exports in the new competitive system. Last but not the least these trade liberalisation initiatives will prove useful to minimise control by middlemen and other governmental influences on trade. This will take control of such situations where individuals with political authorities from influencing the sector based on their own selfish needs. This will help persuade the economy to be run in as per the economic forces of supply and demand based on the needs and nature of normal human characteristic.

### **(C) Impact of Negotiation on India**

Agriculture throughout the whole of human civilization is the oldest culture. India's farming history may be traced back to 10,000 years. The World Trade Organisation, which was created in 1947, was successor to the 1947 General Tariff and Trade Agreement. A total of 8 rounds were staged by GATT. One of the primary agreements reached during the Uruguay Round, the WTO Agreements on Agriculture, known as the 'international Treaty' was a partnership with a total of 123 countries. The goals of WTO legislation are to promote free and liberal commerce. But this concept has been rampantly abused<sup>32</sup>. The exporting countries began to dump their products in the importing countries, posing a significant danger to India's economy, in particular, agriculture. The arrival of the WTO has led to a major upheaval in the Indian Economy. The WTO Agreement on Agriculture has a major impact on Indian farming, which India has felt on a number of occasions. The Competing Farm Markets (CAM) have not been right. Few major MNCs and commercial agents were dominating agricultural exports. Low cost imports have often hit the Indian marketplace, triggering waves of shock among farmers.<sup>33</sup> In view of the lack of transparency of the discussions the eventual implications of WTO policies were undemocratic. Factors are also available explaining India's low productivity. India is a minimal force in the world market, with the exception of

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<sup>31</sup> Chaudhry, "The monetary and fiscal determinants of national savings in Pakistan: An empirical evidence from ARDL approach to co-integration", *Pakistan Journal of Commerce and Social Sciences (PJCSS)*

<sup>32</sup> Government of India, Ministry of Commerce and Industry "WTO Agreement on Agriculture" <<https://commerce.gov.in/international-trade/india-and-world-trade-organization-wto/trade-in-goods-agriculture/wto-agreement-on-agriculture/>> (last accessed 1<sup>st</sup> April 2021)

<sup>33</sup> Government of India, Country Commercial Guide, Official website for international trade Agricultural Sector <<https://www.trade.gov/country-commercial-guides/india-agricultural-sector>> (last accessed 2<sup>nd</sup> April 2021)



rice Agriculture in India has negative as well as beneficial repercussions for the WTO Agreement on agriculture. Approximately 70% of Indians depend on agriculture, hence the export of agricultural items overall rely on the rules of the WTO directly or indirectly. WTO standards therefore play an important role in raising rural socioeconomic circumstances in India. Indeed, WTO legislation affects the Indian economy directly or indirectly.<sup>34</sup>

## **VI. RULES AND MODALITIES OF THE AGRICULTURE NEGOTIATIONS OF WTO FOR DEVELOPING COUNTRIES**

With only 21 Articles and 5 Annexes, the Agriculture Agreement is somewhat brief. The 21 articles are split into 13 chapters rather surprisingly. The sensitivity and complexity of the industry in reaching a deal amongst WTO Members are likely reflected in this form of Agreement on Agriculture. The special agricultural commitments undertaken by WTO members are set forth in Article II of the 'Country Schedules' of the GATT 1994, not in the Agreement on Agriculture. In order to understand the commitments of a WTO member on agriculture, both the Agriculture Agreement and the Country Schedules should be examined in conjunction.<sup>35</sup> Agricultural items are included by the Agriculture Agreement. In Annex 1 of the Agreement on Agriculture, agricultural items are defined. This definition refers to the product classification Harmonized System. As a matter of practicality, agricultural products are less fish and fish products, and certain specified items that come from the land, within Chapters 1 through 24 of the Harmonized System. Forest products are not covered. Forest products. In addition to basic agricultural products such as wheat, milk and live animals, agricultural product definitions includes items deriving from them such as bread, butter, oil, meat, and any agricultural products processed like chocolate apart from that also constitutes wines, spirits and tobacco products, fibres such as cotton, wool and silk, and raw animal skins destined for leather production.<sup>36</sup> Article 4 of the Agreement on Market Access to Agriculture does not provide direction on how this process of tariffs should be carried out, or how Member's concession schedules had to be formed in this sector. It just stipulates that WTO members should not revert to such borders which have to be transformed into normal tariffs. An interim paper entitled "Modalities for setting specific binding commitments under the Reform Programme" provided all details of how market access should be increased."<sup>37</sup> The

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<sup>34</sup> Indian Institute of Legal studies, Impact of WTO Agreement on Indian Agriculture,(2018) last accessed 1<sup>st</sup> April 2021 < <https://www.iilsindia.com/blogs/impact-of-wto-agreement-on-indian-agriculture/> >

<sup>35</sup> General Agreement on Trade Tariffs, art. II, Apr. 15, 1994, U.N.T.S 1867

<sup>36</sup> Agreement on Agriculture, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, 1867 U.N.T.S. 410.

<sup>37</sup> WTO, Negotiations on Agriculture: First Draft of Modalities for the Further Commitments, WTO doc. TN/AG/W/1, 17 February (2003) and WTO, Negotiations on Agriculture: First Draft of Modalities for the

WTO Members may employ subsidies for derogations from the SCM Agreement is a key aspect of the Agreement on Agriculture. The Agreement on Agriculture also has the fundamental purpose of disciplining and reducing subsidies, while also providing governments with latitude for designing successful agricultural policies. Articles 8, 9, 10 and 11 govern export subsidies. Export subsidies Articles 6 and 7 together with Annexes 2, 3 and 4 regulate the domestic subsidies. In WTO 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.<sup>38</sup> When a WTO Member without such scheduled commitments has support measures which are not covered by one or more of the exempt categories, a notification must be made showing that such non-exempt support is within the relevant de minimis levels

In Article 13 of the Agriculture Agreement (“Due Restraint”), the unique provisions lay forth unique norms concerning judicial action in the context of subsidies to agricultural products. The agreement is popularly known as the “peace clause” This clause is active for the term designated in the Agriculture Agreement. The undertakings entered into under the agriculture agreement and the schedules of WTO members are part of a process that is under way. During the Uruguay Round, World Trade Organization members agreed that new agricultural discussions should begin one year prior to the completion of the six-year period of implementation.<sup>39</sup> Article 20 of the Agriculture Agreement sets out to take account of the negotiations: experiences in implementing reduction commitments; impacts of the reduction commitments on agricultural world trade; non-trade concerns, special and differential treatment for developing countries members; and the goal to create a fair and market-oriented agricultural trading system.<sup>40</sup> Article 21 provides for the ‘subject to the requirements’ of the Agriculture Agreement,’ in the 1994 GATT Agreements and other agreements set out in Annex 1A to the WTO Agreement. In other words, the Agreement on Agriculture prevailed in the case of a conflict between the Agreement on Agriculture and another Agreement.<sup>41</sup>

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Further Commitments: Revision WTO doc. TN/AG/W/1/Rev.1, 18 March (2003)

<sup>38</sup> WTO, Services and Agriculture negotiations: meetings set for February and March, WTO Press Release (Press/167) 7 February (2000).

<sup>39</sup> Agreement on Agriculture, Art.13, 1867 U.N.T.S. 410

<sup>40</sup> Agreement on Agriculture, Art.20, 1867 U.N.T.S. 410

<sup>41</sup> Agreement on Agriculture, Art.21, 1867 U.N.T.S. 410

## VII. DISPUTE SETTLEMENT MECHANISM UNDER AGREEMENT ON AGRICULTURE

The general WTO dispute settlement processes apply to issues involving provisions of the Agreement on Agriculture. However, the Agreement also allows for specific tools which Members might utilise without relying on such proceedings to address their concerns. The Committee on Agriculture's review process offers a place for debate and consultation in particular. This method is based mostly on reports and provisions<sup>42</sup> allowing any Member to raise at any time any matter relevant to the implementation of the commitments under the reform programme as set out in the Agreement. There is also a provision for counter-notification. In addition, the Committee's working procedures permit Members to request that the chairman mediate in the context of any concerns that may arise. However, it does not preclude any of the members of the Agricultural Committee from seeking a formal settlement of disputes at any moment through the use of instruments.<sup>43</sup> In conflicts concerning agricultural products, Article XI of the GATT — the universal abolition of quantitative limits — has repeatedly arisen, probably because it gave some basis for the implementation of quantitative import limitations on agricultural items. Also at the heart of the disagreements between agricultural products was the administration of the tariff quotas. This is also understandable, given tariff-based import schemes in agriculture are common. The Import Licensing Agreement is nearly typically stated simultaneously with tariff quota complaints, as quotas are generally managed by licence.<sup>44</sup>

### (A) Landmark Cases on Dispute Settlement in AoA:

**European Communities - Regime for the Importation, Sale and Distribution of Bananas**,<sup>45</sup> Ecuador, Guatemala, Honduras, Mexico and the United States have filed a complaint. The complainants stated that, as well as the terms of the GATT, Articles I, III, X, XI and XIII and the Import Licensing agreement, the Agriculture Agreement, the TRIMs Agreement and GATS, the EC's banana importation, marketing and distribution system is inappropriate. On 8 May 1996, a panel was set up. The Panel came to the conclusion that the EC banana import scheme and the banana import licencing procedures in this scheme were incompatible with GATT. The panel ruled that the Lomé waiver removed incompatibility with GATT Article XIII, but there were no incompatibilities. Following a complaint from the

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<sup>42</sup> Agreement on Agriculture, Art.18.6, 1867 U.N.T.S. 410

<sup>43</sup> General Agreement on Trade Tariffs, art. IX, Apr. 15, 1994, U.N.T.S 1867

<sup>44</sup> Ibid

<sup>45</sup> EUROPEAN COMMUNITIES - REGIME FOR THE IMPORTATION, SALE AND DISTRIBUTION OF BANANAS - RECOURSE TO ARBITRATION BY THE EUROPEAN COMMUNITIES UNDER ARTICLE 22.6 OF THE DSU WT/DS27/ARB 9 April 1999(99-1434)

EC, the appeal body largely upheld the Panel's findings, but reversed its findings on the waiver of inconsistency with GATT Article XIII of the Lomé waiver, and on the violation of Article X of the GATT and the Import Licensing Agreement by certain aspects of the licencing scheme. In September 1997, the DSB adopted the report of the Appellate Body and the modified report of the Panel. The Arbitrator subsequently settled for the period from 25 September 1997 to 1 January 1999 a fair term for implementation.

**India - Quantitative Restrictions on Imports of Agricultural, Textile and Industrial Products**<sup>46</sup>, The United States' complaint. The US has argued that India's continuous quantitative restrictions on the imports, including the tariff lines notified to the WTO, of a large amount of agricultural, textile and industrial products do not conform, in the light of Articles XI:1 and XVIII:11 of the 1994 GATT, Article 4.2 of the Agriculture Agreement and Article 3 of the WTO.. The panel created on 18 November 1997 concluded that the measure concerned contradicted the responsibilities of India under to Articles XI and XVIII:11 of the GATT 1994, and that the measures applicable to products covered by the Agriculture Agreement were not compatible with Article 4(2). The case was brought by India.

**Philippines - Measures Affecting Pork and Poultry**<sup>47</sup> complaint by the United States. The US submitted that the implementation, by the Philippines, of its tariff quotas on pork and poultry, in particular delays in allowing access to quotas and the licencing system used to manage access to quotas appears not to conform to its obligations under Articles III, X and XI of the GATT 1994, Article 4 of the Agricultural Agreement. The US further contended that these measures appear to nullify or impair benefits accruing to it directly or indirectly under cited agreements. On 12 March 1998, the parties commmunicated a mutually agreed solution to their dispute.

**Hungary - Export Subsidies in Respect of Agricultural Products**,<sup>48</sup> In March 1996, the complainant Argentina, Australia, Canada, New Zealand, Thailand and the US argued that by offering exports for agricultural products not specified in its Schedule and providing agricultural export subventions in excess of the commitments, Hungary violated the Agreement on agriculture (Article 3.3 and Part V). In February 1997 a panel but in July 1997, Australia informed the DSB of a mutually agreed solution by the parties to the dispute,

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<sup>46</sup> India — Quantitative Restrictions on Imports of Agricultural, Textile and Industrial Products, 23rd August 1999 (WT/DS90/AB/R, Report No AB-1999-3, Doc No 99-3500), OXIO 24

<sup>47</sup> Philippines - Measures Affecting Pork and Poultry - Notification of Mutually-Agreed Solution WT/DS74/5 WT/DS102/6 | 13 March 1998

<sup>48</sup> Hungary - Export Subsidies in respect of Agricultural Products - Request for the Establishment of a Panel by Australia(1997)WT/DS35/4

requiring that Hungary seek a waiver of certain WTO requirements on behalf of all the complainants. The complaint was not formally withdrawn until the waiver was accepted.

### **VIII. CONCLUSION AND SUGGESTIONS**

Agricultural negotiations of WTO were initiated as an attempt to bring reforms in the field of agriculture and its trade in its member countries. It also aimed at regulating tariffs on import, subsidies to bring in agriculture products market access.

In developing countries specially such as India, agriculture is a very important share of the economy. In such countries agriculture policies and its trading policies play major role in determining their domestic policy.

Despite the comprehensive negotiation, efforts of WTO in agriculture, many developing countries complained that, their exports in agriculture products face high tariff rates and other such barriers (like, small scale farming, lack of capital, migration of poor into congested cities and food security issues) etc. in developed countries market.

This prompted these developing countries such as, G20 and others to call for changes in talks to ensure that, developing countries voices and concerns were heard. Here I also would like to say that 'The Doha' development round on agriculture negotiation at WTO, has feature agriculture trade liberalization as one of its key aims. But developing countries were frustrated with the process and content of the agricultural negotiations.

Therefore, in our research paper we have analysed the evolution, significance, impact and also the modalities and rules of agricultural negotiations of WTO. We have provided the suggestions on whether the developing countries should rely on this or they should focus on, domestic policies to avoid losses on trade and implementation of food security standards. Apart from that we have also analysed the outcome of the agricultural negotiation proposal made by India to WTO on January 2001.

Where we have found that the basic agenda of, Indian proposal was that, WTO arrangement for developing countries should be more flexible. So that they can support and protect their agriculture rural development and also can ensure the livelihood of an agrarian population. As far as India is concerned The WTO Agreement on Agriculture has a major impact on Indian farming, which India has felt on a number of occasions. The Competing Farm Markets (CAM) have not been right. Few major MNCs and commercial agents were dominating agricultural exports. Low cost imports have often hit the Indian marketplace, triggering waves of shock among farmers. In view of the lack of transparency of the discussions the

eventual implications of WTO policies were undemocratic. Factors are also available explaining India's low productivity. India is a minimal force in the world market, with the exception of rice.

Through our research we have found the positive and negative impact of the developing countries in agricultural sector. As its better for developing countries to stick on to the domestic policies than to rely on rules and modalities set under the agricultural negotiations of WTO or the proposal made by India in this regard.

In our concluding observation we would like to say that “WTO’s agriculture negotiation has gone a long way in creating a significant impact on agriculture sector of developing countries. In those countries that it failed to bring about positive impact we recommend that WTO concentrates more and reframe the policies in accordance to the needs of the developing countries.

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