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**Abstract**

*This piece analyzes the implications of the National Food Security Act for Indiaâ€™s commitments under the WTO Agreement on Agriculture (AoA) in the context of widespread concern that they might be mutually incompatible. An analysis of support to rice and wheat for the period 1995-2012 suggests that the current scale of operations are at levels implied by the NFSA and that it is possible to leverage existing provisions in the WTO AoA to accommodate these within Indiaâ€™s commitments under the WTO AoA. While India should negotiate to retain the flexibility afforded in the Agreement and argue on specific provisions, it might not be necessary to seek special protection to enable the NFSA. Regardless of the WTO AoA, India should revamp and rationalize existing arrangements to establish a more nimble, transparent and cost effective food management system. This is desirable for its own sake and would support Indiaâ€™s efforts to adhere to the AoA, in letter and in spirit.*

**Keywords: food security, WTO, India, negotiations**

**JEL Code: A1, F1, Q1**

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**IN THE BALANCE**

# The National Food Security Act *vis-à-vis* the WTO Agreement on Agriculture

***Sudha Narayanan*[1]**

***Abstract***

*This piece analyzes the implications of the National Food Security Act for India's commitments under the WTO Agreement on Agriculture (AoA) in the context of widespread concern that they might be mutually incompatible. An analysis of support to rice and wheat for the period 1995-2012 suggests that the current scale of operations are at levels implied by the NFSA and that it is possible to leverage existing provisions in the WTO AoA to accommodate these within India's commitments under the WTO AoA. While India should negotiate to retain the flexibility afforded in the Agreement and argue on specific provisions, it might not be necessary to seek special protection to enable the NFSA. Regardless of the WTO AoA, India should revamp and rationalize existing arrangements to establish a more nimble, transparent and cost effective food management system. This is desirable for its own sake and would support India's efforts to adhere to the AoA, in letter and in spirit.*

## 1. Introduction

Recent commentaries on the National Food Security Act (NFSA) and its implications for India's international commitments express alarmist concern (Sukumar 2013;EPW, 2013, for example).[2] This stems from a perception that in implementing the Food Security Act, India would need to initiate distortionary interventions in domestic foodgrain systems that would breach its international commitments under the World Trade Organization (WTO) Agreement on Agriculture (AoA). A recent visit to India by the Director General of the WTO and the salvo by the US Ambassador to the WTO aimed at India's stand on food security have renewed these fears.[3]

The issue of India's external commitments under the WTO is indeed complex terrain, rendered somewhat opaque by legalese on the one hand and by the complicated nature of the negotiation processes within the WTO on the other. While the Government cannot afford to turn a blind eye to its international commitments, the issues at hand are perhaps far less cause of concern than imagined. This paper discusses the implications of the NFSA for India's international

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[2] Others include Venu (2013), Sharma (2013), etc.

[3] See for instance, http://www.thehindu.com/business/Economy/food-subsidy-issues-need-to-be-addressed-wto/article5210832.ece;http://www.thehindubusinessline.com/economy/india-may-settle-for-compromise-solution-to-food-security-issue-at-wto/article5210230.ece.Accessed October 15, 2013.

For a transcript of the speech by Mr.Punke, US Ambassador to the WTO, see http://www.ustr.gov/about-us/press-office/speeches/transcripts/2013/april/amb-punke-statement-wto-tnc. Accessed October 15, 2013.

commitments, focusing on select aspects of the NFSA in the light of India's relationship with the WTO since the AoA came into force in 1995. The attempt here is to lay out the areas where the instruments supporting the NFSA pose no problem and those where the government would have to carve out a strategic path to ensure that a fine balance between the implementation of the NFSA and its external commitments in the wake of a fresh round of trade negotiations. The focus of this note will be the Public Distribution System, which has been the cynosure of public discussion.

This paper suggests that the support that the NFSA would entail is unlikely to be substantially larger relative to current levels. Although, over the past five years, India's support levels in the context of the AoA has increased significantly relative to the pre-2005 levels, it is still well within the limits committed by India and within the span of permissible provisions under the WTO's AoA. These support levels correspond to a scale of operations that one would expect with the implementation of the NFSA. The paper also suggests that it seems unnecessary for India to seek special protection to enable the implementation of the NFSA and that negotiating on a few technical and substantive details within the existing framework would likely suffice. Moreover, regardless of the WTO AoA, India would have to revamp and rationalize existing systems and establish a more nimble, transparent and cost effective, food management system. This is desirable not only for its own sake, but would also enable India to temper the levels of support in ways that the committed thresholds are not breached.

The first part of the paper discusses very briefly India's obligations under the WTO's AoA of 1995 at the time it came into force. The second section examines in detail the implications of the PDS as envisaged in the NFSA. The third section evaluates the way forward for India.

## 2. India and the AoA

When the AoA came into force in 1995 after lengthy and contentious negotiations that were widely perceived to have sidelined all but a few powerful countries, it was the first worldwide effort to address agricultural trade issues. The goal was to reduce the high levels of protectionism in international agriculture so that the benefits from trade would accrue to exporting farmers, while benefitting poor consumers in importing countries. The three pillars that constituted the AoA comprised market access, domestic support and export subsidies. Market access entailed import liberalization (through conversion of all quantitative barriers to tariffs and progressive reduction in these tariffs). In the context of domestic support, it was envisaged that countries would reduce in certain types of domestic support that would have spillover impacts that could potentially distort trade. For example, this could entail payments by a national government to its farmers or price support that would keep its farmers in production in the absence of which they would not have produced, thus precluding the possibility of international trade. On the export front, a reduction of export subsidies and barriers to exports would be addressed.

All interventions pertaining to these three pillars were grouped into Amber, Green and Blue boxes. Green box measures would be exempt from reduction commitments; Amber would have prescribed limits reduction commitments while Blue box measures evolved as special category. All domestic support measures considered to distort production and trade (with some exceptions) fall into the Amber box. These include measures to support prices, or subsidies directly related to production quantities. Any support that would normally be in the Amber box, is placed in the Blue box if the support also requires farmers to limit production. Green box measures do not distort trade or cause minimal distortion. They have to be government-funded (not by charging consumers higher prices) and must not involve price support.

India's commitments at that time were minimal on many fronts (Gulati, et al, 1999; Hoda and Gulati, 2008, Hoda and Gulati, 2013, Gopinath, 2008). India excluded itself from reduction commitments on market access citing a balance-of-payments exemption. In the area of domestic support, India had in place a price intervention scheme and input subsidies both of which came under the purview of the AoA. However, India had no reduction commitments, since India's product specific and non-product specific domestic support were both less than 10 percent in the base period. As a developing country, India was also allowed exemption for domestic support and instruments under the Special and Differential Treatment (often called the S&D Box) towards developing countries, providing enough flexibility for its prevalent set of agricultural policies. Further, India had no export subsidies other than those in which developing countries had been exempted from reduction commitments during the implementation period (see paragraph 4 of Article 9 of AoA). It was only in the area of market access India committed to tariff bound rates representing a ceiling on tariffs that could potentially be levied. In simple terms, India has not needed to alter its policies significantly in all but a few areas on account of the AoA. It is against this background of commitments (or lack of it) that the NFSA needs to be assessed.

## 3. The National Food Security Act : Entitlements under the Public Distribution System and implications under the AoA.

The National Food Security Act (NFSA) was promulgated in September 12, 2013. While the Act envisages wideranging measures aimed at addressing aspects of food security, entitlements under the Public Distribution System have attracted the greatest attention in the context of India's WTO commitments. Under the provisions of the Act, priority households are entitled to 5 kgs of foodgrains per person per month, and Antyodaya households to 35 kgs per household per month. The combined coverage of Priority and Antyodaya households (called "eligible households") shall extend "up to 75% of the rural population and up to 50% of the urban population". The PDS issue prices would be Rs 3/2/1 per kg for rice/wheat/millets, subject to revision after three years. To support these entitlements the government would procure and distribute foodgrains, estimated at 63 million tonnes annually, representing around thirty percent of the foodgrain production in the country. It is useful to focus on the different components of the process by which food is delivered from farmers to consumers – food production and procurement, stocking, transport and distribution, sale to beneficiaries through ration shops.

### *3.1. Stocking and Distribution*

In the AoA, all food subsidies and public stocking of food are regarded as Green Box measures and as such exempt from commitments. Specifically, the Agreement determines that *Public stockholding for food security purposes* are exempt.

> *"Expenditures (or revenue foregone) in relation to the accumulation and holding of stocks of products which form an integral part of a food security programme identified*

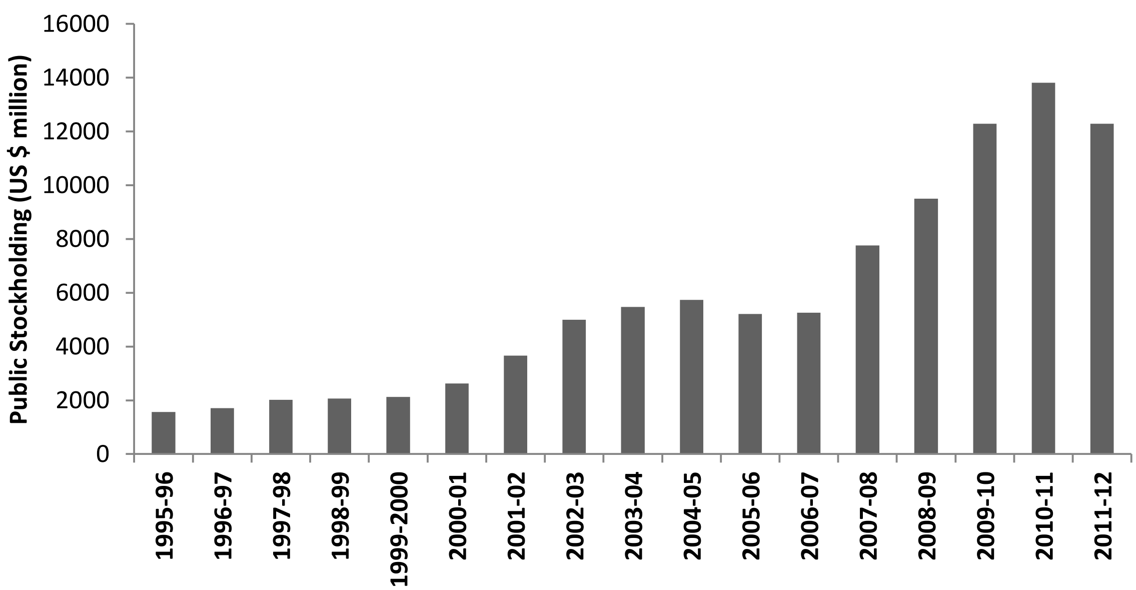
*in national legislation. This may include government aid to private storage of products as part of such a programme."*(Annex 2, Clause 3)

While allowing countries the latitude to address food security, the AoA mandates however that these operations, which include programmes under which stocks of foodstuffs for food security purposes are acquired and released at administered prices, must be transparent and conducted in accordance with officially published objective criteria or guidelines. Similarly, for domestic food aid,

> *"Expenditures (or revenue foregone) in relation to the provision of domestic food aid to sections of the population in need. Eligibility to receive the food aid shall be subject to clearly-defined criteria related to nutritional objectives. Such aid shall be in the form of direct provision of food to those concerned or the provision of means to allow eligible recipients to buy food either at market or at subsidized prices."*(Annex 2, Clause 4)

These two provisions quite explicitly provide room for the sort of food stocking and distribution programmes that India has had in place until now and will do so under the NFSA. India has regularly notified the WTO as required on the expenditures in these areas (Figure 1). As such the main architecture of food delivery systems under the NFSA are consonant with the WTO AoA.

**Figure 1: Green Box: Public Stockholding**




Source: Notifications of India until 2002-03 (G/AG/IND/N/7) and after that from the Annual Report of the Food Corporation of India (various years) covering the same categories as in the notifications.

Certain caveats however deserve attention. The first pertains to procurement according to established targets and the second alludes, somewhat subtly, to the question of coverage. While neither aspect poses serious problems currently, these could easily end up in the blindspot of policymakers.

Regarding the former, Annex 2, Clause 3 of the AoA states that

> *"The volume and accumulation of such stocks shall correspond to predetermined targets related solely to food security. The process of stock accumulation and disposal shall be financially transparent."(Annex 2, Clause 3)*

In India procurement of food grains serves three purposes – building up strategic reserves, price support operations and maintaining supplies for the PDS. As such these are permissible interventions under the AoA.

The AoA also states

> *…the provision of foodstuffs at subsidized prices with the objective of meeting food requirements of urban and rural poor in developing countries on a regular basis at reasonable prices shall be considered to be in conformity with the provisions of this paragraph." (Annex 2, footnote 5 & 6)*

While this clause has left the notion of "food requirements" and "urban and rural poor" unspecified, the implications it has for an expanded reach of the PDS under the NFSA are unclear. This issue is enmeshed in the highly contentious issue of the poverty line and of identifying the poor. Until now, universal entitlements with regard to food have not been a subject of contention in the WTO. Nor is this likely to pose a significant problem given that the better off tend to select out of the PDS. Nevertheless, the Government would need to have a clear sense of the actual beneficiaries who do access the PDS. Clause 4 of Annex 2 stipulates that eligibility to receive food aid shall be subject to clearly defined criteria related to nutritional objectives. The NFSA merely fixes the overall limits in terms of the percentage of population and leaves it to the State governments to define the criteria. The implications of whether State governments would have to define the criteria related to nutritional objectives needs to be addressed.

For India, the greater concern lies in the procurement operations. Even while permitting Green Box measures, the AoA contains clauses associated with each Green Box measure that imposes restrictions on the procurement and open market sales of the stocks.

For instance, in the context of public stockholding for food security, the clause states

> *"Food purchases by the government shall be made at current market prices "*(Annex 2, Clause 3)

and elsewhere,

> *Food purchases by the government shall be made at current market prices and the financing and administration of the aid shall be transparent.*(Annex 2, Clause 4)

The procurement operations and the disposal of stocks in the open market, domestic and international via exports will invite scrutiny, especially in the context of a renewed commitment to ensuring that Green Box subsidies have "no, or at most minimal, trade-distorting effects or effects on production".[4] If procurement is done at current market prices or less, then there is no subsidy involved. If, on the other hand the procurement is done at MSP, then a subsidy is involved and the

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[4] WT/MIN(05)/DEC, para 5.

requirement is that the difference between the acquisition price and the external reference price should be accounted for in domestic support and therefore part of Amber Box measures.

### *3.2. Procurement operations*

In general, the AoA requires that procurement of foodgrains for maintaining stocks should be at market prices (implying that they should not be higher than market prices) and that it should not be protectionist in the sense that it should not exceed the world price (a predetermined external reference price or ERP, committed as part of the AoA). [5]

The commitments under the WTO AoA are in the form of an Aggregate Measure of Support (AMS), which is the difference between government support price and a fixed external reference price (ERP) multiplied by the total quantity of agricultural product eligible for that support, represented as a percentage of total value of the production of the commodity (assessed at the administered price). The allowable limit for developing countries (called the *de minimis* support) is 10% of the total value of agricultural production.

There are however a few technical issues involved in its computation that are outlined in Annex 3 of the AoA. First, the external reference price is fixed at the 1986-89 base period. For India, the ERP is fixed at Rs.3520 (US$ 262.5) per metric tonne for rice and Rs. 3540 (US$ 264) per metric tonne for wheat. India's base year notification (G/AG/AGST/IND) was denominated in Indian Rupees (INR), although in later years, India used an ERP denominated in US$ to compute the AMS. Article I (h)(ii) of the AoA specifies that in calculating the Current AMS the constituent data and methodology used in the original notification or Supporting Tables have to be used (Hoda and Gulati, 2013). This use of a US$ ERP is therefore not in conformity with the requirements of the AoA. It is expected that the Government of India will provide revised notifications. If the ERP is established in INR then the figures for domestic support would account for neither domestic inflation nor for changes in the US$-INR exchange rate. An ERP denominated in US$ would factor in exchange rate movements so that even if the ERP is fixed, the conversion of the domestic MSP into US$ would be at current exchange rates. This paper computes support for rice and wheat using both methods for expository purposes.

Second, the reduction commitments with respect to the AMS imply different things for different members. For those WTO members who have undertaken reduction commitments because their domestic support exceeded the *de minimis* for the base period, the limits prescribed for support are with respect to the Total AMS summed over all the commodities for which support is provided, expressed as percentage of the total value of production of these commodities. These countries thus have some flexibility in subsidizing individual products as long as the overall committed level is not breached. In other words, the *de facto* limits of product specific support for these countries is on the *Total* Aggregate Measure of Support (AMS), so that within this total some products can in theory exceed the *de minimis* as long as the total AMS does not breach the overall

[5] This would be different for exporting and importing countries, i.e., free on board for a net exporter and freight including cost, insurance and freight for an importing country.

commitment levels.[6] This is however not the case for countries that have not undertaken reduction commitments, including developing country members like India. For these countries, there are two separate elements in the obligation. First, that the product specific support in respect of a particular product does not exceed 10 per cent of the value of production of that particular product; and second that non-product-specific support does not exceed 10 per cent of the value of the total agricultural production. In light of this interpretation India has to show that the subsidy on rice divided by the value of production of rice does not exceed 10 per cent and thus too for wheat. This is now settled WTO law, confirmed by the Appellate Body of the WTO in Korea-Measures Affecting Imports of Fresh, Chilled and Frozen Beef.[7] As Hoda and Gulati (2008) emphasize there is thus significant inequity in the AoA (see page 27) but this nevertheless establishes the contextual constraints for the NFSA.

According to the AoA, even though public stockholding and domestic food aid are Green Box measures, even for these interventions

> *"The difference between the acquisition price and the external reference price has to be accounted for in the AMS."* (Annex 2, Clause 3, footnote 5)

The relevant question now is whether with the implementation of the NFSO, the AMS will breach the 10% *de minimis,* especially considering that in the recent past, the procurement volumes are already at levels that would be required under the NSFA.

In order to understand the implications of the NFSA for India's domestic support commitments under the AoA, we compute support for rice and wheat using both the method that is mandated by the AoA as well as that which the Government of India has followed for the notifications until 2003-04.[8] Table 1 presents the AMS for rice and wheat using these two methods – the first where the ERP is denominated and fixed in US$ (not conforming to the AoA), and the second where the ERP is denominated and fixed in INR (as per the base period notification). The total AMS is not presented here since the focus is only on two major commodities, rice and wheat. In general, India notifies the WTO on domestic support for only the commodities for which there is active intervention, rice, wheat, cotton, jute and coarse cereals, among others. Until 2007-08, the support for both rice and wheat was systematically negative (Figure 2). Since 2008-09 however, rice support has turned positive while wheat support has mostly been negative. Rice support has increased steeply over the years. That said, until now, even in the years where the procurement prices have been high and volumes procured have exceeded the annual requirements under the NFSA, product-specific support neither to wheat nor to rice has exceeded 10% of the value of wheat and rice production respectively (Table 1). Given that the current levels of procurement are consistent with full implementation of the NFSA, the support levels are unlikely to be much higher than the figures.

However, as stated previously, the method followed by the Government of India for the notifications until 2003-04 does not conform to the requirements of the AoA which specifies that

[6] Part IV, Article 6.
[7] WT/DS161/AB/R; WT/DS169/AB/R.
[8] India has not filed notifications on domestic support for the years after 2003-04.

the methodology should be consistent with that used for the base year notification. [9] Table 1 also presents the method that is consistent with the requirements of the AoA. With this fixed ERP denominated in INR, it is evident that the product specific support for rice breached the 10% limit way back in 1999-2000 and has been increasing since then. For wheat too, the 10% limit was breached on several occasions in the past decade, long before procurement volumes reached the levels comparable to those that would be under the NFSA. The concerns relating to India's commitments under the AoA therefore predate the NFSA, if one considers the methodology of the base period notification that the Government of India ought to have followed.

[9] This is based on the WTO method but as reported in the Supporting Tables Relating to Commitments on Agricultural Products contained in Schedule XII (G/AG/AGST/IND). This differs from India's reporting formats for subsequent years.

Figure 2: Rice and wheat product specific support 1995-2013

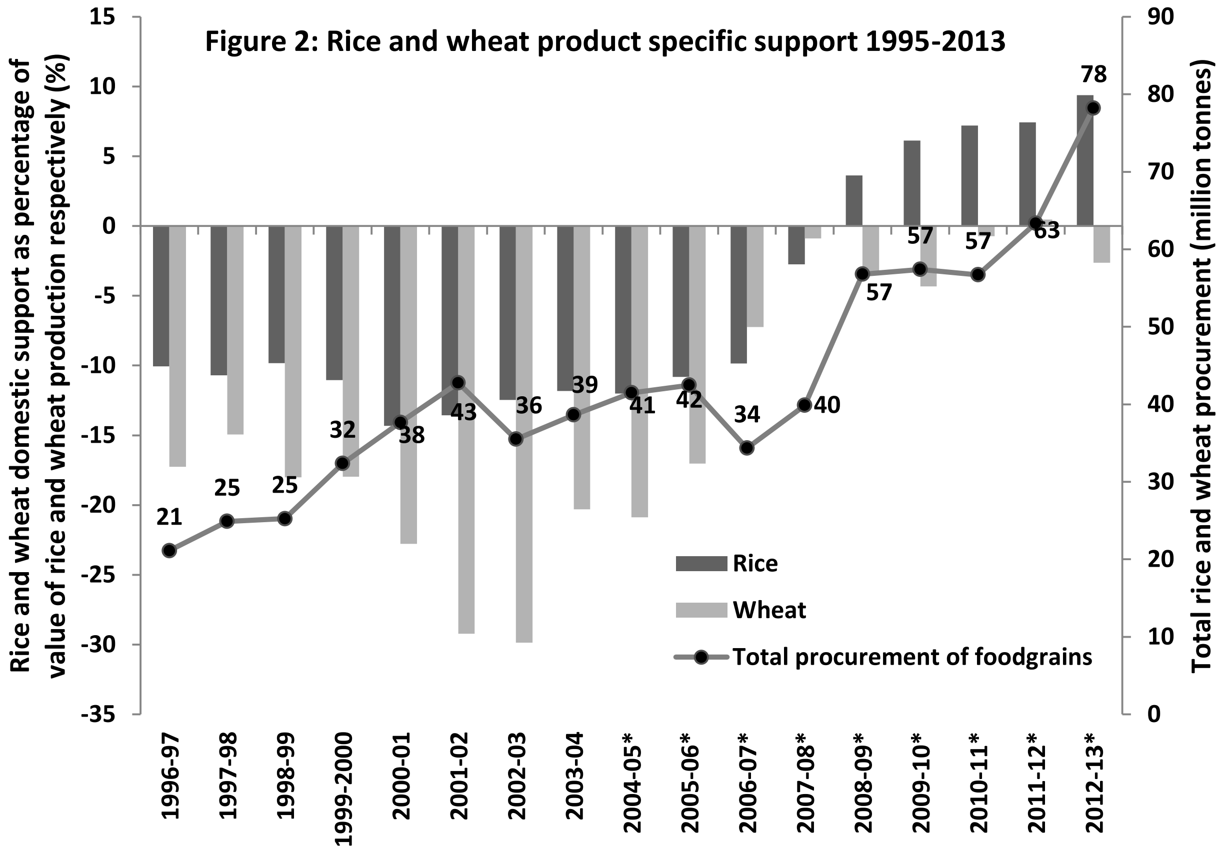
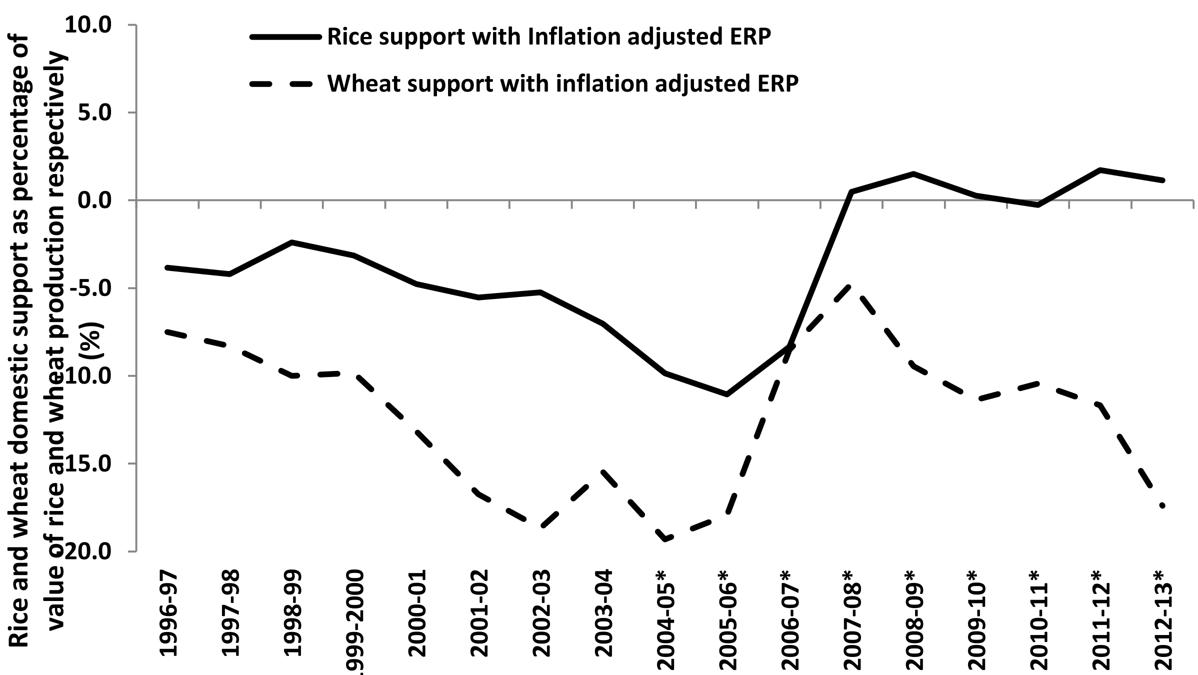



Figure 3: "Due Consideration" : Adjusting ERP for Inflation




Source: See Table 1 for details.

Whatever the method, from the perspective of procurement to support the NFSA, certain provisions in the AoA lend support to India's policy interventions in rice and wheat markets, under specific circumstances. Part XI, Article18 (Review of the Implementation of Commitments, Clause 4) of the AoA suggests that in the review process "Members shall give due consideration to the influence of excessive rates of inflation on the ability of any Member to abide by its domestic support commitments." The US and several other countries are of the view that Members cannot get the benefit of inflation automatically and that the Committee has to determine what 'due consideration' is as laid down in Article 18.4. This issue is now likely to be deliberated upon in the work programme that the Bali Ministerial meeting is likely to approve.

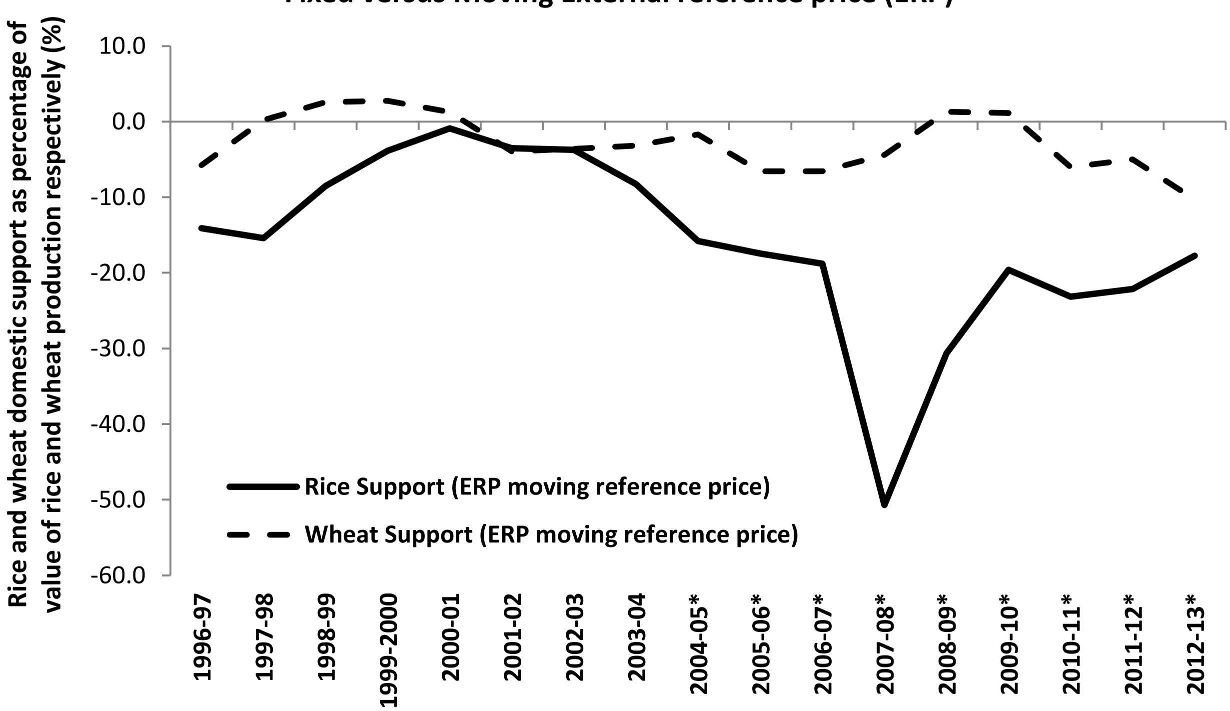
Figure 2 maps the estimate of the product specific support for rice and wheat, where the ERP is adjusted for inflation, using the method that strictly conforms to the base period notification. According to these figures, although the figure for rice has turned positive it is evident that one gives due consideration for inflation, the support levels is little cause for concern. As Table 1 shows, in 2012-13, support to rice and wheat combined, as a percentage of total value of rice and wheat production was -6 % (a positive 1.1% for rice and -17.4% for wheat). These are consistent with estimates by Hoda and Gulati (2013) using the same method that adjusts the external reference price for inflation reveal that in 2010-11, the product specific support to wheat was -10.22% of the total value of wheat production and for rice, it was -2.87% of total value of rice production. If due consideration is indeed provided for inflation, then even with the NFSA India is unlikely to breach its commitments at current levels of procurement.

If such flexibility with respect to inflation is obtained, India would merely have to ensure that the product specific subsidies do not grow so rapidly as to breach this threshold. This could happen in two scenarios. The first scenario is when large rises in MSP (or bonuses) are offered without a commensurate and counterbalancing increase in either overall production or depreciation in the exchange rate. The second is open-ended procurement that goes well beyond the required levels, as this would inflate the eligible production for support and contribute to higher AMS. As it turns out both these aspects of food management have come under criticism, regardless of the WTO commitments. These aspects demand attention anyway. As long as the Government has a coordinated approach to procurement and pricing policy, it is quite feasible to maintain support levels well below the *de minimis* of 10% given due consideration. Indeed, even if commitments are converted to commodity specific *de minimis* levels of 10% with judicious policy, India could conceivably meet its WTO AoA commitments without undermining the NFSA.

There has long been a discussion on revising the base year from the original 1986-88 to a later year to reflect contemporary circumstances better. The reference price was originally fixed at the 1986-88 base period, which were the regarded as years of relatively low prices. But the food price crisis in 2008 and after has seen much higher prices reign in wheat and especially in rice markets. An examination of the support to rice and wheat using the same methodology but a varying reference price (Figure 4, Table 1) suggests that India in fact continues to record negative support for most of the years even for rice, suggesting that in the coming negotiations the choice of base year for an ERP could become a rallying point. The choice of a new base year will however necessitate an amendment in the AoA, which would be more difficult. On the other hand asking for full automatic adjustment for inflation under 'due consideration' is likely easier as it will involve only a decision by the Committee of Agriculture under Article 18.4.

Also, should the issue of a higher *de minimis* levels with product *specific de minimis*, be discussed this is an area that India could argue to retain some bandwidth. Overall while the Government of India would do well to keep a watchful eye on the numbers, stoking fears that India would be breaching commitments *because* of the NFSA, seem unfounded if one acknowledges that the current levels of procurement already match that demanded by the NFSA and considering that by the method followed in the base year notification and the unfortunate choice of currency unit, the thresholds were crossed in the early part of the decade, when procurement was around 30 million tonnes.

**Figure 4: Rice and wheat product specific support Fixed versus Moving External reference price (ERP)**




Source: Computed by author. For moving reference prices, the source is the World Bank Pink Sheet prices. Thai 25% broken for rice and US HRW for wheat in US$, with administered price converted using annual exchange rates. The method followed is the same as for a fixed ERP in US$.

### *3.3. Foodgrain export*

In the context of India's commitments to the WTO, the more contentious issue would be India's idiosyncratic export (and import policy). The AoA requires that

> *"sales from food security stocks shall be made at no less than the current domestic market price for the product and quality in question." (Annex 2, Clause 3)"*

Similarly the clauses on export subsidies explicitly forbid dumping in international markets. The recent condemnation of the G33 proposal by the US Ambassador to the WTO, Michael Punke voices fears that the food management strategies of India would distort world trade (worrying that first India's stocking will push up world prices and then later that cheap exports would affect farmers' interests worldwide). While the evidence base of Mr.Punke is flimsy and contestable[10] the underlying point is that India's trade policy (both exports and imports) would have serious impacts global prices and trade and an idiosyncratic "stop-go" policy would raise hackles. The implications of government food management practices, or mismanagement as some would have it, for India's commitments needs careful attention.[11]

Under the WTO AoA, transgressions were protected by what came to be known as a Peace Clause or Due Restraint under Article 13. The peace clause, which expired in 2004, allowed domestic support measures and export subsidies to not be challenged by other WTO Members. Since its expiry in 2004 it has left countries exposed to the possibility that other member countries could push for retaliatory measures should there be evidence that the interventions cause a breach or /and therefore a distortion in world trade.

4. **Non-product specific AMS: Input subsidies**

Non-product specific support i.e., input subsidies on fertilizer and electricity to agriculture have posed a greater problem for India from a fiscal perspective and continue to do so, in contrast to the product specific support. This past decade has seen fertilizer and power subsidies burgeon in the wake of extraordinarily high international urea prices. So far, India has reported that proportion of these subsidies going to low income and resource poor farmers as Green Box measures, by assigning a part of the budgetary subsidies as accruing to smallholders (G/AG/IND/N/7, Gopinath, 2008). India's base year notification states that as 98 per cent farms are low income and resource poor farmers, and notified all input subsidies as covered by exemptions. In later years, that part of input subsidies presumed to go to larger farmers is counted as part of non-product specific support and this figure was well under the *de minimis* non-product specific support of 10% until recently (Gopinath, 2008). Despite the recent increases in fertilizer and credit subsidies through interest rate subventions, it is unlikely that this will be cause for concern. However, should there be major changes proposed in this area in the impending talks that imposes restrictions on input subsidies, this would be an additional area of concern. To the extent that curtailing input subsidies might also impinge on food production, the Government of India would have to work on a coordinated policy on these different fronts.

[10]In the absence of evidence, one could easily argue the opposite. One could claim, for instance, that India's stocking policy would help poor countries because in its absence, India might import grains that would push up global prices. Alternatively, one could claim that when India exports, it keeps food prices low for net food importing countries. The basis of such arguments rests on one's point of view and not much else.

[11]http://www.ustr.gov/about-us/press-office/speeches/transcripts/2013/april/amb-punke-statement-wto-tnc

## 5. The Way Ahead

This paper suggests that the support that the NFSA would entail is unlikely to be substantially larger relative to current levels. Over the past five years, India's support levels in the context of the AoA have increased significantly relative to those during the late 1990s or early 2000s. It is however within the span of permissible provisions under the WTO's AoA, if due consideration is given for inflation. The unfortunate choice of India to denominate the base period notification in INR is perhaps at the heart of this. With an ERP denominated in US$, the support levels at current levels of procurement are within the *de minimis* threshold for developing countries. While the observation made by Gopinath and Laborde (2008) that India has ample flexibility in setting and implementing domestic support policies is perhaps less valid today, there is enough room within the framework of the AoA for an intervention such as the NFSA, given that current support levels pertain to the scale of operations commensurate with the full implementation of the NFSA.

How then can India move forward as the Ninth WTO Ministerial Conference in Bali unfolds? The contours of the negotiations process have shifted quite a bit since the global food price crisis and fears of high rice prices. In general it saw a host of grain exporting countries resort to various sorts of controls to keep food prices down. The Doha Development Agenda had already promised not to give food security a short shrift. But these issues are likely to be heavily contested. The recent G-33 "non-paper" on food security by India and other countries seeking special measures to protect policies supporting food security has attracted much criticism from developed countries and grain exporters. India's representatives overtly stating that for India, food security in non-negotiable.

Rather than seeking special protection from retaliatory action from other member countries via the Peace Clause, to enable the implementation of the NFSA India would do well to negotiate on a few technical and substantive details. These include due consideration for inflation, *de minimis* levels that allow enough buffer (say for example a product specific threshold of 15%) or a revised external reference price, all within the existing framework. Some of these require an amendment of the Agreement and hence harder to achieve. Others such as "due consideration" for inflation only require the Committee on Agriculture to approve and hence more easily obtained. It is worth reiterating that the NFSA would not represent a market intervention that is substantially larger relative to what prevails now.

The Peace Clause is not a good option for India for several reasons. First it presumes that food security measures breach Indian commitments as measured by the AMS, under existing provisions, which is not the case if due consideration is given for inflation. Second, it presumes that these domestic policy measures are trade distortionary. There is no evidence or rationale to suggest that other than the mismanagament of excess food stocks that involve subsidizing exports, there is anything distortionary about the NFSA. Third, it is temporary and India might only be postponing the problem. Fourth, seeking permanent protection via the Peace Clause would weaken India's ability to secure reduced protection to agriculture by the developed countries.

While India should negotiate to retain the flexibility afforded in the Agreement and argue on specific provisions, it seems unnecessary to seek special protection to enable the NFSA which can be damaging in the future. Furthermore, it stands to reason that regardless of the pressures implied by the WTO's AoA, India should revamp and rationalize existing arrangements to establish a more nimble, transparent and cost effective food management system that does not offer lopsided support to rice and wheat at the expense of other foodcrops. This is desirable for its own sake and would support India's efforts to adhere to the AoA, in letter and in spirit.

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**Table 1: Support to rice and wheat under different methodologies**

| Year | 1. Fixed ERP (in US$) | | 2. Fixed ERP (in INR) | | 3. Inflation adjusted ERP (in INR) | | 4. Moving ERP (In US$) | | 5.Total Production | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Government of India notification method for later years | | WTO method as per base year notification | | `Due consideration` | | Changing the base year | | WTO method as per base year notification | |
| | Rice | Wheat | Rice | Wheat | Rice | Wheat | Rice | Wheat | Rice | Wheat |
| **1995-96** | **-55.4** | **-132.4** | **38.2** | **6.8** | **-29.7** | **-95.6** | **-100.6** | **-82.7** | **38.2** | **6.8** |
| **1996-97** | -10.1 | -17.3 | 6.9 | 3.0 | -3.8 | -7.5 | -14.1 | -5.8 | **43.5** | **25.5** |
| **1997-98** | -10.7 | -14.9 | 8.8 | 4.3 | -4.2 | -8.3 | -15.4 | 0.2 | **46.7** | **30.6** |
| **1998-99** | -9.8 | -18.0 | 7.6 | 6.3 | -2.4 | -10.0 | -8.5 | 2.6 | **52.1** | **35.6** |
| **1999-2000** | -11.1 | -18.0 | 11.0 | 7.2 | -3.1 | -9.8 | -3.9 | 2.8 | **54.0** | **39.0** |
| **2000-01** | -14.3 | -22.8 | 14.0 | 9.9 | -4.8 | -13.2 | -0.9 | 1.3 | **55.7** | **42.0** |
| **2001-02** | -13.6 | -29.2 | 13.2 | 12.2 | -5.5 | -16.7 | -3.5 | -3.9 | **55.7** | **42.9** |
| **2002-03** | -12.5 | -29.9 | 13.1 | 12.4 | -5.2 | -18.7 | -3.7 | -3.6 | **57.3** | **42.9** |
| **2003-04** | -11.8 | -20.3 | 15.0 | 9.6 | -7.0 | -15.5 | -8.3 | -3.2 | **58.1** | **43.8** |
| **2004-05*** | -12.0 | -20.9 | 17.5 | 10.9 | -9.8 | -19.3 | -15.8 | -1.7 | **58.8** | **44.7** |
| **2005-06*** | -10.8 | -17.0 | 17.9 | 9.7 | -11.1 | -17.9 | -17.4 | -6.6 | **59.5** | **45.5** |
| **2006-07*** | -9.9 | -7.2 | 17.1 | 6.4 | -8.3 | -8.5 | -18.8 | -6.6 | **63.6** | **52.8** |
| **2007-08*** | -2.7 | -0.9 | 22.0 | 9.2 | 0.5 | -4.7 | -50.7 | -4.4 | **73.9** | **64.6** |
| **2008-09*** | 3.6 | -3.5 | 26.3 | 18.9 | 1.5 | -9.4 | -30.6 | 1.3 | **76.5** | **67.2** |
| **2009-10*** | 6.1 | -4.3 | 27.5 | 21.3 | 0.3 | -11.4 | -19.6 | 1.1 | **76.5** | **67.8** |
| **2010-11*** | 7.2 | -0.7 | 27.9 | 18.1 | -0.3 | -10.4 | -23.2 | -6.0 | **78.3** | **69.7** |
| **2011-12*** | 7.4 | 0.5 | 27.0 | 21.6 | 1.7 | -11.7 | -22.1 | -5.0 | **81.2** | **72.5** |
| **2012-13*** | 9.4 | -2.6 | 32.4 | 30.5 | 1.1 | -17.4 | -17.7 | -10.3 | **82.1** | **73.8** |

**Sources and Notes:**

1.The ERP in (1) is that in G/AG/N/IND/7 India's notifications to the WTO and for (2) and (3) as in Schedule XII (G/AG/AGST/IND).

2. For 1995-96 to 2003-04, data for (1) comes from India's notifications to the WTO, for the years after (denoted by *) the estimates are derived following the same method with data from the same sources.

3. The fixed External Reference price is the 1986-88 average reference price assessed at exchange rate of Rs. 13.409/ US$ under the original agreement.

4. The Applied administered price is the Mininimum Support Price in Rs. per tonne expressed in US$/tonne using the official annual exchange rate - from the Agricultural Statistics at a Glance, 2013 and Economic Survey various years. For MSP, the paddy MSP is converted to rice using a ratio of 1.5 and the marketing and crop years are maintained as in the notifications.

5. Eligible production refers to the procurement volume except for the year 1995-96 which is the year when the URAA came into force; here, it is total production. The source is Agricultural Statistics at a Glance, 2013.The total rice production for 1995-96 is assumed to be the same as eligible production for the sake of consistency. For all other years it is the actual production from Agricultural Statistics at a Glance, 2013.

6. For inflation-adjusted estimates, the method followed has been that of Hoda and Gulati (2013). The inflation rate uses WPI index (all commodities) for financial year applied to the base ERP from the Economic Survey (various years).

7. For moving reference price, the external reference prices are from World Bank Pink Sheets, Thai 25% broken for rice and US HRW for wheat. The estimates are imprecise because the marketing year and financial year might not coincide.