

**AGRICULTURAL DISPUTES IN WTO:  
STUDY OF INDO-US RELATIONS**

*Dissertation submitted to Jawaharlal Nehru University  
in partial fulfillment of the requirements  
for the award of the degree of*

**MASTER OF PHILOSOPHY**

**SIDDHARTH CHANDRA BHUPESH**



**CENTRE FOR CANADIAN, US & LATIN AMERICAN STUDIES  
SCHOOL OF INTERNATIONAL STUDIES  
JAWHARLAL NEHRU UNIVERSITY  
NEW DELHI – 110067**

**2017**



Date: 26<sup>th</sup> July, 2017

### DECLARATION

I declare that the dissertation entitled “**Agricultural Disputes in WTO: Study of Indo-US Relations**” submitted by me for the award of the degree of **Master of Philosophy** of Jawaharlal Nehru University is my own work. The dissertation has not been submitted for any other degree of this University or any other university.

*Siddharth Chandra Bhupesh*  
26/7/17

**SIDDHARTH CHANDRA BHUPESH**

### CERTIFICATE

We recommend that this dissertation be placed before the examiners for evaluation.

*K.P. Vijayalakshmi*  
**PROF. K.P. VIJAYALAKSHMI**  
Chairperson, CCUS&LAS

*Chintamani Mahapatra*  
**PROF. CHINTAMANI MAHAPATRA**  
Supervisor

## **ACKNOWLEDGEMENTS**

I express foremost thanks to my family for supporting me throughout the duration of my study in the School of International Studies, Jawaharlal Nehru University, New Delhi.

I place on record my sincere thanks to Prof. Chintamani Mahapatra, Centre for Canadian, United States, & Latin American Studies (CCUS&LAS) in the School of International Studies for being the faculty supervisor for this dissertation. His feedback on the draft of this dissertation was invaluable as was his constant support during the past two years.

I also place on record my gratitude to the rest of the faculty members and staff of CCUS&LAS for their guidance and support in the previous two years of my Master of Philosophy programme that helped my efforts to become better in my research work.

I take this opportunity to also express gratitude to all my fellow students and friends in Jawaharlal Nehru University who directly or indirectly have lent a helping hand for all my work.

Siddharth Chandra Bhupesh

# CONTENTS

<b>Sr. no.</b>	<b>Name of the Chapter</b>	<b>Page No.</b>
1.	Introduction	1-10
2.	U.S.-India Agricultural Cooperation	11-28
3.	U.S.-India Differences on Agriculture in Doha Round	29-45
4.	The Evolution of Dispute Settlement in WTO	46-64
5.	U.S.-India Agricultural Disputes in WTO	65-82
6.	Conclusion	83-89
7.	References	90-100

## LIST OF TABLES

Table 2.1	US Economic Assistance to India, 1951-61	13
Table 2.2	US Economic Assistance to India, 1962-71	14
Table 2.3	US Economic Assistance to India, 1972-80	16
Table 5.1	Total Agricultural Imports by India	73
Table 5.2	Agricultural Imports from the U.S. by India	75
Table 5.3	Poultry Imports from the U.S. by India	81

## LIST OF FIGURES

Figure 1.1	US Food Aid to India, 1951-81	2
Figure 2.1	Graphical Representation of US Economic Aid to India, 1951-61	14
Figure 2.2	Graphical Representation of US Economic Aid to India, 1962-71	15
Figure 2.3	Graphical Representation of US Economic Aid to India, 1972-80	17
Figure 5.1	Total Agricultural Imports by India	74
Figure 5.2	Agricultural Imports from the U.S. by India	75
Figure 5.3	Poultry Imports from the U.S. by India	82
Figure 6.1	Agricultural Imports by India	87

## **ABBREVIATIONS**

AB	Appellate Body
AI	Avian Influenza
AoA	Agreement on Agriculture
ATC	Agreement on Textiles and Clothing
BOP	Balance of Payment
CDP	Community Development Program
DDA	Doha Development Agenda
DSB	Dispute Settlement Body
DSU	Dispute Settlement Understanding
EU	European Union
GATT	General Agreement on Tariff and Trade
HYV	High Yielding Variety
IADDP	Integrated Agricultural Development District Programme
IARI	Indian Agricultural Research Institute
ICAR	Indian Council of Agricultural Research
ICASD	Interagency Committee on Agricultural Surplus Disposal
IDSP	International Dispute Settlement Procedures
IMF	International Monetary Fund
NAACP	National Association for the Advancement of Colored People
NAMA	Non-Agricultural Market Access
OIE	World Organization of Animal Health
QR	Quantitative Restrictions
SPS	Sanitary and Phytosanitary

U.S.	United States
UR	Uruguay Round
USAID	United States Agency for International Development
YMCA	Young Men's Christian Association



# CHAPTER 1

## INTRODUCTION

The bilateral relations between the US and India lacked warmth in the initial years after India's independence. But that was not the case when it came to their trade relations. Although lacking in volume, the US accounted for about one-third of India's imports. India on the other hand, exported one fifth of its exportable commodities to the US. India's closeness with the Soviet Union since 1965, their strategic understanding since 1971 till the end of the Cold War and India's economic policies put a check on its trade relations with the US.

The end of the Cold War and the opening of Indian economy provided a new impetus to trade. The bilateral merchandise trade between the two countries increased from a mere \$ 5.9 billion in 1990 to \$ 67.7 billion in 2016. The US also contributed 6% of total FDI flow into India between 2000-14 (USTR 2017). The two countries have set an ambitious target to increase their trade in merchandise and services to \$ 500 billion by 2024, a fivefold increase compared to 2016 level.

The reasons for an upswing in trade between the two countries are many. The US sees in India a large market which can be catered by its companies. India is also a stable democracy and one of the fastest emerging economies of the world, thus, an attractive investment destination. India, on the other hand, has a comparative advantage in services due to its English speaking middle class and low cost IT professionals. It has emerged as a major source for outsourcing of US services and as a repository of the talent pool for recruitment by US based companies.

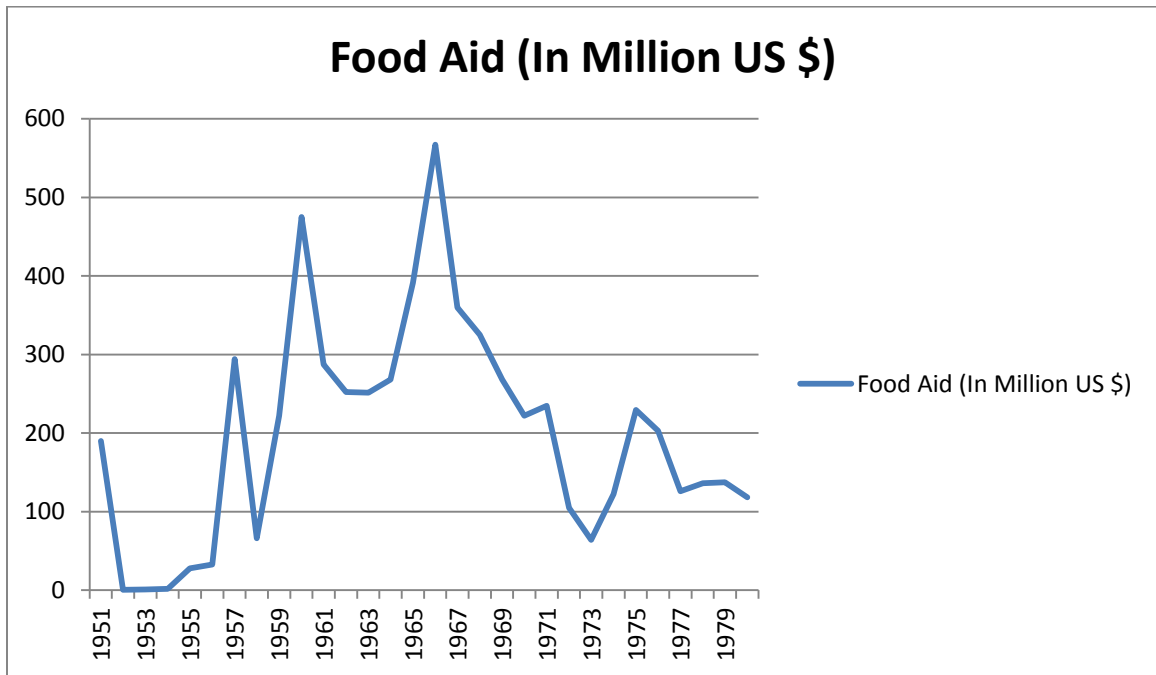
### **Agricultural Cooperation Between the US and India:**

When it comes to agriculture, it is more prudent to talk in terms of cooperation rather than trade. While agricultural trade stood at \$ 3.4 billion in 2016, it was minuscule in the early decades of India's independence. Indian agriculture was largely subsistence based and was barely able to produce any marketable surplus. Agricultural production was not

even enough to meet the demands of domestic market let alone leave any surplus for trade. A newly independent India also did not have sufficient foreign exchange reserves which made it harder to import agricultural commodities from other countries.

Successive droughts and floods in major food producing areas of India in 1950 created conditions of famine in the country. This led the Indian government to approach the US for food aid. Indian request for aid was received with sympathy by the US administration. The general public opinion was also in favor of giving aid to India. However, the US Congress had some reservations and had to be convinced of the merits of giving aid to India. Finally, the opposition came around, and a wheat loan of \$ 190 million in 1951 was sanctioned to assist India in buying wheat from the US (McMahon 1987).

Even though other irritants between the two countries emerged in the following years, India continued to receive aid from the US. In fact, India became the first country to receive aid under PL-480.



**Figure 1.1: US Food Aid to India, 1951-81**

**Source: US Overseas Loans and Grants (Green book)**

As seen from figure 1, food aid to India increased significantly after 1956 once India signed an agreement with the US under PL-480. It reached its peak in 1966 when \$ 566.1 million was given to India as aid. After that, it started declining as India began its march towards Green Revolution which brought self-sufficiency in agriculture in the following decade.

The US made a significant contribution in helping India increase its agricultural productivity. The USAID helped India in establishing agricultural universities based on land grant universities of the US. American Universities sent hundreds of their agricultural scientists and researchers to India to help in establishing research facilities and to demonstrate the application of latest technology. Indian scientists also visited the US to learn from pioneers in the field.

Two US based foundations played a major part in Green Revolution. The high yielding(HYV) varieties of seeds were developed by Norman Borlaug who was working with the Rockefeller Foundation. The Foundation helped in transferring the technology that made it possible for India to use these HYV seeds. The Indian government sought the Foundation's help in designing a graduate program for its premier agricultural institute (Perkins 1990).

The Ford Foundation, on the other hand, confined itself to funding the newly established agricultural universities and research aimed at adapting the HYV seeds to Indian condition. The Foundation helped in developing a community development program for India which aimed at increasing food production, improving the life quality in rural India, and to prepare India for a capitalist development path.

### **India-US Differences in the New Trade Regime**

By 1980s, India had become self-sufficient in the production of food grains. At the same time, a new Agreement on Agriculture(AoA) was being discussed under GATT. The AoA which was finalized during the Uruguay Round(UR) aimed at writing down the rules for trade in agricultural products.

India had little role to play in the Uruguay Round of negotiations as developed countries did most of the agenda setting. A small group of countries comprising of the US, the EU, Japan and Canada and known as "the Quad" used to negotiate among themselves in informal meetings (called the Green Room meetings). A decision reached within this group was extended to other members often as a *fate accompli* (Hopewell 2015). Naturally, it created agreements which were in the interests of "the Quad." The AoA was no exception.

The agricultural sector was to be further liberalized under the WTO regime. It became one of the most important and most discussed issues in the Doha Round with no resolution in sight. India having learned from its experience from the AoA negotiations, decided to form an alliance this time. Assisted by Brazil, it created the G20 with the aim of protecting developing countries' interests (Narlikar 2006).

The G20 not only blocked negotiations over unreasonable demands made by the US and the EU but also put its own proposals on the table. Soon it was realized by the developed countries that progress could not be made unless developing countries interests were taken into account. As a result, India and Brazil were inducted in "the new Quad" replacing Canada and Japan.

The G20 put market access and agricultural subsidies given by rich countries on the negotiating agenda. The group was able to secure cuts in subsidies given by the EU and the US with both members agreeing to cut their domestic support by 80 and 70 percent respectively. They were also not allowed to have a peace clause for protecting them from future challenges in WTO, in case they failed to adhere to their promises (Narlikar and Tussie 2004).

The alliance between India and Brazil was surprising as both countries have divergent interests. Brazil is one of the leading exporters of agricultural products and hence has an interest in expanding market access for its exports. India, on the other hand, has subsistence agriculture which is vulnerable to trade liberalization.

This divergence of interests prompted India to form a second alliance in the form of G33. The G33 wanted to defend their markets and hence put new issues like SSM and "special

product” for negotiations. These issues generated significant opposition from the developed countries. However, in a small victory, the G33 was able to put these issues on the Doha Round's negotiating agenda and also secured commitments that they would be a part of the final agreement upon completion of the Doha Round.

The G33 led by India and the US clashed over the issue of public stockholding of food in the Bali Ministerial. The G33 saw public stock holding as an important instrument for food security and placed proposals regarding it throughout the Doha Round. But, leading up to the Bali, the US was adamant not to support the G33 proposal.

India was ready to hold out signing the new Trade Facilitation Agreement if its concerns regarding public stock holding were not met. In the end, negotiations between the US and India led to an interim solution which allowed for a peace clause regarding public stock holding (Clapp 2015). Members could not file legal challenges against existing food stockholding programs till the peace clause was in operation.

The issue of public stockholding again emerged in 2014 over the interpretation of the durability of the peace clause. India interpreted it as being permanent while the US viewed it as operational for a four year period. India again refused to sign the Trade Facilitation Agreement. The impasse was broken when it was agreed to keep the Peace Clause in operation till a permanent solution is found.

In the subsequent Ministerial in Nairobi, the issue of export subsidies saw some progress. It was agreed that the developed countries will eliminate their export subsidies by 2020 and developing countries by 2022.

### **Dispute Settlement Understanding in WTO**

There has been a rise in International Dispute Settlement Procedures(IDSPs) as states undertook legal obligations under various international agreements. IDSPs are designed to ensure that states comply with their international commitments.

One example of such an IDSP is the Dispute Settlement Understanding(DSU) under WTO. The objective of WTO has been to encourage free trade between nations by creating a rule based structure that minimizes impediments to trade. While free trade is considered beneficial to nations, there might be certain sectors in an economy which are vulnerable to increased foreign competition. These sectors can be significantly important for political parties or they can be fundamental to the workings of an economy which leads the government to put up barriers to trade in those particular sectors. This kind of protectionist measures often become a source of disputes in WTO and its predecessor GATT.

The GATT did not have a formal dispute settlement mechanism and suffered from many drawbacks. A complainant could not ask for establishing a Panel as a matter of right. Even when it was decided that a Panel is to be formed, additional delays happened as the parties involved in the dispute had a right to be consulted over the composition of the Panel. A Panel report had no force of itself. The losing party was able to hold up the adoption of the Panel report on the pretext of analyzing the text of the report (Reinhardt 2001).

The threat of unilateral actions under Trade Act's Section 301 by the US became one of the reasons for improvements in the process of settling disputes under GATT . The UR negotiations moved the dispute settlement process of GATT towards a more legalistic path. The end of UR negotiations led to a more formalized dispute settlement system.

WTO's Dispute Settlement Understanding has fixed timelines for each stage. Members have 60 days to arrive at a mutually acceptable solution through consultations after which the complainant can request for the formation of a Panel. Once a Panel gives its report, it is to be adopted within 60 days unless either of the parties decides to appeal. The Appellate Body does not look into new pieces of evidence rather they examine the legal interpretation developed by the Panel.

## **US' and India's Experience with DSU**

The US has been the most active user of DSU since the creation of WTO in 1995. It has two pronged objectives for filing cases in DSU. The first objective is to protect rights of the US manufacturers in cases where economic interests are high. Second, to ensure that the importance of complying with WTO rules is understood by its trading partners. Wherever possible, the US has tried to solve the disputes at the consultation stage rather than resorting to panel proceedings.

On a net basis, the US has benefited more from the DSU than other countries. It has successfully challenged protectionist measures of other members on many occasions. Even in cases in which the US has acted as a respondent, it has benefited the country by restricting protectionist tendencies, thereby increasing overall prosperity. The use of DSU has also led to disuse of Section 301 for imposing unilateral sanctions to remove unreasonable trade restrictions. This has been a constant source of friction between the US and its trading partners in the past (Watkins et al. 2006).

India is among the leading members in WTO dispute settlement. It has received 23 complaints against its trade measures and has been a complainant on 21 occasions. Further, acting as a third party, it has actively participated in 114 disputes. The US or the EU were a party in 31 of the 44 disputes in which India has been involved. This underlines the importance of both these members for India's foreign trade (Das and Nedumpara 2016).

Other than removing the trade barriers that impede its exports, India's other motives for filing trade disputes include challenging measures which might become a substantial hindrance for India's trade in future, for example *Turkey-Textile* case. India has also used the DSU as an instrument for information discovery of other countries' domestic policies and practices as done in *Argentina-Pharmaceuticals*.

## **Agricultural Disputes Between the US and India**

The first agricultural dispute between the two countries was concerned with India's quantitative restrictions on 2700 tariff lines, 710 of which were related to agriculture. India gave a balance of payment justifications for these import restrictions. The US in support of its appeal provided an IMF report which stated that India had no imminent danger regarding its balance of payments.

Under some GATT provisions countries were allowed to impose quantitative restrictions if they were in danger of a balance of payment crisis. The Panel, in this case, had to decide whether India faced threats to its balance of payment. Other issues too cropped up as the Panel proceedings got underway. There were arguments regarding which of the two countries, the respondent or the complainant had the burden of proof in this case. The role of IMF too became a bone of contention as it was not clear as to what extent it should be consulted by the Panel.

In the second dispute, the US complained against India's imposition of import restrictions against certain countries reporting cases of Avian Influenza(AI). India had banned import of poultry from countries reporting cases of AI under Sanitary and Phytosanitary(SPS) measures of the AoA. The dispute involved interpretation of international standards which are central to the SPS agreement. These international standards have been set by World Organization of Animal Health(OIE).

The main argument revolved around the interpretation of OIE Code's Chapter 10.4 and whether it allowed for import prohibitions. SPS Agreement's Article 6 also became an issue of contention as it discusses the procedures WTO members should apply for zoning and compartmentalizing areas with different health status of animals. India's argument was that it is the responsibility of the complainant country to verify and give evidence that it has areas which are not affected by Bird Flu. The US, on the other hand, argued that the country imposing import restrictions should check the differential status of animal health in the affected country and impose restrictions only on the affected areas.

Dispute resolution is associated with an increase in trade as it removes trade barriers between members of WTO. Bown and Reynolds(2015) in their research found that



respondent countries exported 12 percent more by volume once the disputed measure was removed by them. Bechtel and Staller(2015) also found a substantial increase in sectoral exports from the complainant to the respondent after the dispute is resolved. They also found that third parties gain as much as the main litigator form the resolution of a dispute. However, Choudoin et al. (2016) argue that there is no significant increase in imports as a result of dispute resolution.

The aim of the present study is to test two hypotheses. First, that WTO's dispute resolution mechanism has increased economic cooperation between India and the US. Second, the agricultural issues in US-India relations have been heavily influenced by their respective domestic situation.

During the course of the research, an attempt has been made to answer the following research questions: What prompted the US to supply food aid to India in the initial decades of India's independence? What are the major differences between the US and India on agricultural issues? Which agricultural issues are still stuck up in WTO due to US-India differences? Have disputes under WTO made any impact on the wider economic relations between the two countries? Has dispute resolution under the aegis of WTO increased trade between the two countries?

An analytical study of negotiating positions of India and the US in WTO Ministerial and their arguments during the Panel proceedings for the resolution of disputes is undertaken to determine the national interests of both the countries which have influenced their actions in WTO. To test the hypothesis that resolution of disputes improves trade between the members, pre and post dispute resolution data from United Nations International Trade Statistics Database and India's Agricultural & Processed Food Products Export Development Authority is analyzed.

The research has mainly focused on content analysis. It has followed a descriptive and analytical method consisting of both primary and secondary sources. The existing literature such as books, articles, periodicals, media reports are the major secondary sources. The primary sources include negotiation proposals submitted to WTO, findings

of WTO Panels, WTO reports, final drafts of agreements, USTR reports, USAID Greenbook, Congressional Hearing Records and other government documents.

## CHAPTER 2

### US-INDIA AGRICULTURAL COOPERATION

On August 15, 1947, India gained independence, and the Truman administration sought the newly independent nation for fostering closer ties. Its large size and population, abundant natural resources and dynamic leadership convinced American policymakers that India was to play a significant role on the world stage. This kind of thinking was reinforced as the Cold War deepened in Europe and Chinese communists gained power in China. In July 1949, CIA concluded, "India was a major Asiatic power and was alone in a position to compete with Chinese communism for hegemony in Southeast Asia." American policymakers hoped that in due course of time, India will not only emerge as an ideological rival to China but will also check further communist expansion in Asia (Merrill 1990).

However, these expectations were short lived. Prime Minister Nehru's policy of nonalignment, his sharp differences with the West over China, the Korean War, and western colonialism created a chill in the relations between the two countries.

The US saw the world through Cold War prism and divided it between countries supporting communism or supporting US interests. But, from New Delhi, the world looked grey. PM Nehru advocated that the newly independent countries of the third world should remain nonaligned. As early as September 1946, Nehru explained, "We propose as far as to keep away from the power politics of groups, aligned against one another, which have led in the past two world wars and which may again lead to disaster on a wider scale." India's advocacy of nonalignment was based on practical considerations: it was located close to Soviet borders; it needed aid from both blocs and its position of economic, military and political weakness. However, nonalignment also grew from India's experience of being a colony. "For too long we have been petitioners in Western courts and chancelleries," Nehru said in March 1947. "That story must now belong to the past. We propose to stand on our own legs. We do not intend to be the plaything of others" (Kux 1992).

But, this did not stop India from seeking American help. It asked for American economic aid because it felt that the absence of aid would make it difficult to achieve its socio-economic objectives. Nonetheless, Indian officials remained vigilant lest India became dependent on the US. They feared that the US might use economic aid as leverage to make India adopt policies, both domestic and foreign, that suited the US interests.

Therefore, they consistently worked towards minimizing the disadvantages that arose from aid relationship. This resulted in tensions in Indo- American relations.

### **Analysis of US Aid to India**

India was not receiving bilateral assistance from the US from 1947 to early 1950s. During this period, America was preoccupied with the escalating Cold War and was giving billion of dollars as economic aid under Marshal Plan to Western European nations.

With the Communist victory in Chinese Civil War followed by the outbreak of Korean War, a shift in US policy occurred in 1950. India was viewed as strategically significant, and a \$4.5 million Indo-American Technical Agreement was signed in December 1950. It was followed by American wheat aid for famine relief in India in 1951. From 1952 till 1957, the US on average spent \$65.5 million on annual development aid. The latter half of Eisenhower administration saw aid to India grow from \$93.7 million in 1956 to \$679.1 million in 1960. During the Kennedy years, it further peaked at \$735.8 million in 1962 and reached an all-time high of \$909.6 million in 1966 during the Johnson administration. Between 1956 and 1963, under the Agricultural Trade and Assistance Act of 1954(PL 480), India received over \$2 billion in surplus agricultural commodities from America (Merrill 1990).

The present section will analyze the food and military aid given to India as a fraction of total aid. It will look at the trends and will ascribe possible reasons for them. The period covered will be from 1951 to 1980 and will be divided into 1951-61, 1962-71, 1972-80.

## 1951-1961

Year/ Type of Aid	Food Aid (in million US dollars)	Military Aid (in million US dollars)	Other Economic Aid (in million US dollars)
1951	189.7	0	5.1
1952	0.6	0	52.8
1953	0.8	0	44.3
1954	1.7	0	87.2
1955	27.9	0	84.3
1956	32.8	0	60.9
1957	294	0	68.7
1958	66.1	0	110.1
1959	221.9	0	137.6
1960	474.8	.021	204.3
1961	287.4	.099	201.6

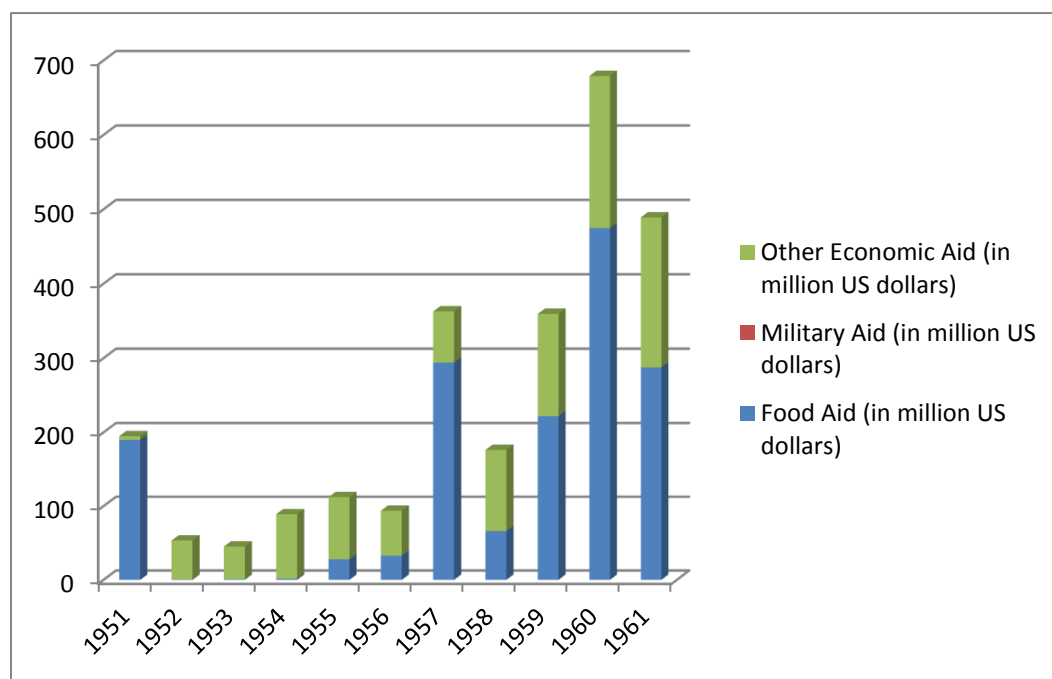
**Table 2.1: US Economic Assistance to India, 1951-61**

**Source: US Overseas Loans and Grants (Green book)**

The US started economically assisting India with a \$189.7 million wheat loan given in 1951. After that, till 1956, it received very less money compared to the 1951 loan. Till 1956, India was given money under Title II of Public Law 480. This meant that whatever aid it received was received as a grant. India and the US signed an agreement under Public Law 480 in 1956. Food aid started to increase in subsequent years and reached at \$474.8 million in 1960. During this period, most of the food aid received was under Title 1 of PL 480 and hence was in the form of loans.

It is also observed that India received negligible military aid from the US during the first decade after its independence. This was because the US had a partner in Pakistan who was willing to toe its line on various strategic issues. During 1953-61, Pakistan received \$ 508.1 million as military aid as compared to \$ .1 million received by India. Whatever little military aid India received from the US was given for international military

education and training. However, other forms of economic aid to India continued to rise after the mid-1950s.



**Figure 2.1: Graphical Representation of US Economic Aid to India, 1951-61**

**Source: US Overseas Loans and Grants (Green book)**

### 1962-1971

Year/ Type of Aid	Food Aid (in million US dollars)	Military Aid (in million US dollars)	Other Economic Aid (in million US dollars)
1962	252.2	6.4	477.2
1963	251.2	59.4	403.2
1964	268	41.2	345.2
1965	391.1	29.5	268.1
1966	567.1	7.7	334.8
1967	359.8	0	217.8
1968	325	.062	307

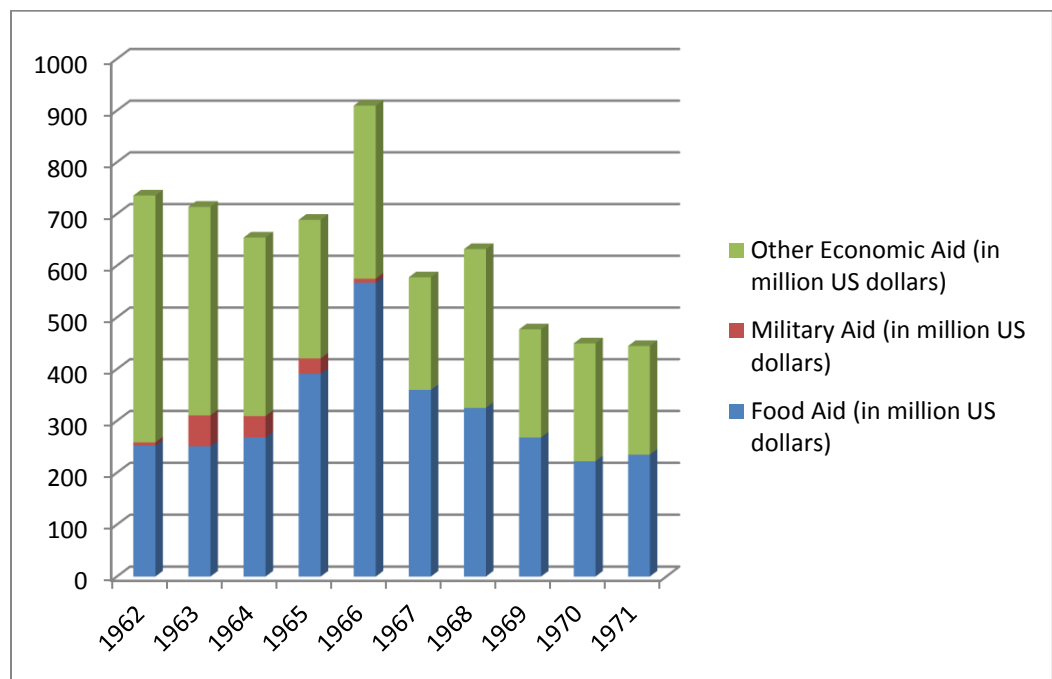
1969	268	.071	208.8
1970	222.2	.078	227.5
1971	234.7	.15	209.8

**Table 2.2: US Economic Assistance to India, 1962-71**

**Source: US Overseas Loans and Grants**

The Indo-China war of 1962, forced India to ask the US for military assistance. The US obliged by increasing military aid to India in the first half of the 60s. While a substantial increase from the previous decade, it was nowhere close to what Pakistan received. Even this increased amount started to taper off from 1966.

The food aid remained more or less constant in the 60s while reaching a peak of \$567.1 million in 1966. Like the previous decade, most of the aid was given as loans under Title 1 of PL 480. A sharp increase in other forms of economic aid was also observed.



**Figure 2.2: Graphical Representation of US Economic Aid to India, 1962-71**

**Source: US Overseas Loans and Grants**

## 1971-1980

Year/ Type of Aid	Food Aid (in million US dollars)	Military Aid (in million US dollars)	Other Economic Aid (in million US dollars)
1972	104.6	.027	8.9
1973	64.2	0	17.5
1974	122.2	.22	66.5
1975	229.2	.096	21.7
1976	203.1	.250	.3
1977	126	.2	0
1978	136.2	.309	60.3
1979	137.5	.454	91.1
1980	118.2	.263	102.5

**Table 2.3: US Economic Assistance to India, 1972-80**

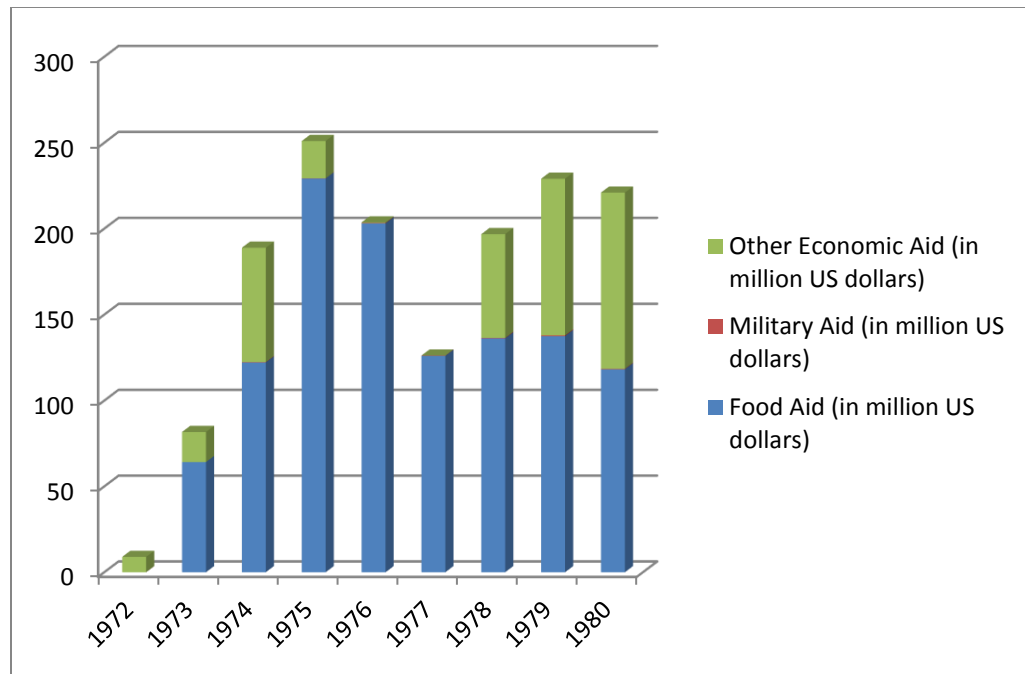
**Source: US Overseas Loans and Grants**

In 1971, India and Pakistan fought a war due to India's support for Bangladesh's liberation war. Pakistan was considered a reliable ally by the US, and it supported Pakistan's position during the war. The US even sent its aircraft carrier USS Enterprise in the waters of Bay of Bengal. As a result, the relations between India and the US went downhill.

The impact of deteriorating foreign relations was also observed on economic aid. Military assistance which has started declining since 1967 continued to remain unsubstantial in the 70s. It was again reduced to providing international military education and training.

Even food aid started declining in the 70s and was nowhere near to the high levels it achieved in the 60s. One of the reasons for this was that India had increased its food grain production thanks to Green Revolution. Assistance in the form of other economic aid also observed a sharp decline.





**Figure 2.3: Graphical Representation of US Economic Aid to India, 1972-80**

**Source: US Overseas Loans and Grants**

### **Evolution of US Food Aid Diplomacy**

Agriculture in the US benefited in prewar era due to protectionism in US foreign economic policy. It reached new economies of scale during the early twentieth century. This golden age of agriculture development was a result of fertilization, mechanization, and hybridization, which resulted in massive yields, especially of corn and wheat. This period was marked by high world grain prices and hence brought windfall gains to American agricultural producers. American farm sectors also benefited by stiff protective tariffs that were set during the 1910s and 1920s. From Great Depression until the end of World War II, American agriculture producers and traders were protected with the help of price controls and government farm subsidies (Diven 2001).

During the Great Depression, the Roosevelt Administration also experimented with parity price support and surplus commodity disposal to stimulate domestic farm recovery. The strategic release of commodities surpluses was institutionalized through the establishment of the Reciprocal Trade Agreements Act, the EXIM Bank and the Surplus Property Act

1944. Thus, a variety of legislative instruments were in place by the start of World War II. It later enabled the State Department and the Department of Agriculture to use the extra stock of agricultural products to support American farmers and to barter it with foreign allies in return of strategic materials (Tarnoff 2005).

The anticipated trends towards postwar decolonization along with agricultural disruptions caused by warfare during the World War II made the Roosevelt administration recognize the serious food gaps that were on the horizon. He recognized "freedom from hunger" as one of the world's four freedoms and with the support of US allies, convened a food conference in 1943. This conference culminated in the establishment of the first Food Congress. It operated till the creation of FAO in October 1945.

Large quantities of agricultural commodities reached war-torn allied countries as relief shipments between 1941 and 1949. Agencies such as the Lend- Lease, the Foreign Economic Administration, the Relief Control Board, the United Nations Relief and Reconstruction Aid Administration and the Advisory Committee on Voluntary Foreign Aid were the vehicles through which aid was shipped. These programs became the arms of the Marshall Plan, through which ten million dollars worth of agricultural aid and equipment were distributed in Europe in the first three years.

The postwar US policymakers were dedicated to the containment of communist expansion. However, agricultural diplomacy wasn't seen by them as an instrument to wage economic warfare. Instead, from the 1950s through 1970s, agricultural diplomacy mainly focused on peaceful initiatives such as increasing food supplies, modernization of farms and a worldwide production parity. It was distinct from other areas of negotiations and policymaking during Cold War which were focusing on high technology transfer, deployment of missiles and maritime regulations. Thus, during the Cold War, agricultural diplomacy put world development on a higher pedestal than geopolitical containment. The Marshall Plan aid, CoCom trade negotiations and PL 480 were the instruments through which world development was sought (Barrett 2002).

## **American Food Aid to India**

The wheat loan of 1951 was the starting point of American food aid to India. The story of how this loan was finalized brings forth the differences between American policymakers, legislators, and their Indian counterparts. However, this was a one-off loan. After signing an agreement under PL 480, American food aid to India became institutionalized and also increased substantially. American aid for establishing agricultural universities and improving mechanization and productivity of Indian farms was instrumental in the success of Indian Green Revolution.

## **The Wheat loan of 1951 to India**

During Nehru's visit to the US in 1947, the possibility of securing one million tons of US wheat for India was discussed. In between 1948-49, Indian diplomats explored with their American counterparts, the prospects of financial assistance to India. However, no substantial agreement could be put in place. America was preoccupied with European financial crisis and other concerns. For America, Indian needs were at a low priority. India insisted on not attaching any political strings on US aid, which further complicated negotiations.

In 1950, India was faced with severe food shortage which prompted the Indian government to again turn to Washington. It urgently requested 500,000 tons of milo from the United States at concessional prices. The request was viewed favorably in Washington. George C. McGhee, the then Assistant Secretary of State for Near Eastern, South Asia, and African Affairs, recommended Secretary of State Dean Acheson that the Indian request is considered, "both on humanitarian and broad political grounds." He outlined the advantages of giving aid to India. According to McGhee, aid to India will provide stability to its government, and it will dispose of commodities which were in surplus supply in the US. He further stressed that the grain to be given to India were used for feeding poultry in the US (McMahon 1987).

On December 16, 1950, Vijaylakshmi Pandit, India's Ambassador to the US, formally presented her government's request to the State Department for an aid of two million tons of food grain. She cited extraordinary strings of natural disasters, consecutive flood, and drought in the major grain producing region of India which had led to a shortage in the food supply. India urgently required food and only the US had adequate reserves to meet India's needs. Acheson sympathized with India's predicament but made no commitments. Instead, he pointed out that considering the magnitude of India's needs, it would require Congressional approval if the US were to accede to them.

There was support for India's request both in the White House and among the general public. The author and political activist Dorothy Norman formed an American Emergency Food Committee for India. It was joined by eminent individuals such as former First Lady Eleanor Roosevelt and novelist Pearl Buck. Members of NAACP, YMCA and National Council of Churches also joined the committee. Many leading newspapers such as the New York Times, the Atlanta Constitution, the Christian Science Monitor vigorously supported India's food request.

On February 12, 1951, President Truman formally recommended to the Congress, that India be provided two million tons of grains by the US to meet the brewing food crisis in India which could potentially take catastrophic dimensions. It was in the Congress that the bill faced many hurdles. Many Congressmen were dissatisfied with Nehru's foreign policy of nonalignment and his general antipathy towards the West. If aid was to be given, it should be granted to a country that supports American interests. Other Congressmen wanted a quid pro quo in return for American support.

To counter the concerns of some members of Congress, the administration presented the wheat deal in the context of larger national security interests of the US. It was argued that failing to help India will lead to a strengthening of elements in India who were inimical to the US and the Western world. Helping India, on the other hand, will solidify US friends in India and could force Nehru to shed much of his anti-West bitterness. It was not expected that an overnight change could happen in US-India relations. But the wheat loan was expected to lay the basis of rapprochement in the relations between the two countries (Loomba 1972).

When the rationale mentioned above did not suffice, a more clear Cold War justification was given. It was argued that the threat of famine in India could create conditions that will suit the activities of Communist Party of India. Hence, a prompt American response by shipping food to India would be the most effective means for countering that communist appeal. While conceding that Nehru's policies and statements had irritated officials in Washington on more than one occasion, they should not blind the US to the importance of not losing India to communism. If food aid is not provided, India could come under the control of a far less sympathetic government to US ideals and objectives than the present dispensation (Saha 1991).

As the US Congress was deliberating the bill, two new problems surfaced. The first was related to the level of supervision by US agencies over the grain distribution process. The standard language of any US aid program calls for an ECA mission to supervise the aid distribution process. Nehru wasn't amused at the prospects of a foreign agency supervising India's grain distribution. He saw it as a humiliation which amounted to converting India into some semi-colonial state. He was even prepared not to accept the aid if the provision was not removed.

The second issue related to the selling of monazite sand to the US. Monazite sand when processed yields rare earth compounds and also thorium, which is a source of atomic energy. India had put an embargo on the export of monazite sands. It wanted to refine monazite in its industries, so that, it can keep thorium for its own purposes while selling the rare earth compounds to the US. Several US members of Congress wanted the US to use the food aid to break Indian embargo on the sale of monazite sands (Reddy 1997).

Facing a bleak economic situation, Nehru softened his stance on the first issue. But, in an address to the Indian parliament, while welcoming US aid, he categorically stated that it is a policy of his government not to sell minerals which can be used for building atomic weapons to foreign governments. Thus, he refused to remove Indian embargo on the sale of monazite sand.

After that, things moved fast in the Congress, and the bill was passed by the House and the Senate. It proposed \$190 million aid to India in the form of loan for purchasing food

from the US. On June 15, the wheat loan legislation was formally signed by President Truman. Two months later, the first shipment of US aid reached India.

### **Aid Under PL 480**

Enacted in 1954, Public Law 480, was initially a food surplus disposal program and was instrumental in US Cold War agricultural diplomacy. In the next three decades, it evolved from a surplus dumping program to a sophisticated, global development program which tried to foster greater agricultural parity between developed and developing countries. It helped in counterbalancing containment policy's overtly militaristic thrust (Bovard 1988).

PL-480 was aimed at easing the political and economic problems as government kept accumulating market surplus. While deliberations were done on what purpose PL 480 will serve, the Interagency Committee on Agricultural Surplus Disposal (ICASD) focused exclusively on foreign export sales, bartering with defense supplies, and dollar purchases. This conservative commercial agenda of ICASD was countered by Minnesota's Senator Hubert Humphrey, whose proposal focused on donations, grants, loans, foreign relief shipments along with sales at subsidized prices. In the end, the Congress passed it as a surplus disposal program of the rising US stock of food grains (McGlade 2009).

After the wheat loan of 1951, India continued to receive aid from the US. In fact, during this period, the aid received by India was comparable to what Pakistan received. There was a slight irritant in 1953 when India exported thorium nitrate to China. Under the Battle Act of the US Congress, any country trading strategic goods to China was prohibited from receiving US aid. When this was pointed out to India, it refused to change its opinion. There was pressure from some quarters of the Congress to cut off aid to India. However, the US did not cut off aid. India was the Chairman of the Neutral Nations Reparation Commission in Korea; such an action would be seen as a punishment to India. It would have provided a significant boost for communist propaganda.

Other irritants soon emerged. In April 1954, India and China signed the Panchsheel Agreement. The following year, Indian National Congress adopted the resolution for establishing a socialistic pattern of society. India was also getting closer to the Soviet Union following the visits of Krushchev and Bulganin. In February 1955, the Soviet Union agreed to establish a steel plant in Bhilai.

These developments forced US Congress to review its aid towards India. But instead of curtailing aid, India became the first benefactor of PL 480, since the US was worried that any aid cut by itself would be matched by the Soviet Union. An agreement was signed with the US under PL 480 in 1956. One of the provisions of PL 480 allowed payment in blocked currencies in return of food aid. This meant that India could pay the US in blocked rupees, thereby saving scarce foreign resources.

India faced a lack of Foreign exchange in the initial years of its second five-year plan. The success of the second plan depended on US aid. In spite of India becoming closer to the Soviet Union, the US was ready to help India. A National Security Council report published in 1957 noted this dilemma for US policy. India's nonalignment policy was bringing her into opposition with US programs and policies on some occasions. Nevertheless, the report pointed out that over the long run a weak and vulnerable India would be a risk to US security. A strong India, on the other hand, would be an example for other Asian countries as an alternative to communism (Dorsey 1956).

In pursuance of helping India, a new development loan fund was established by the US in 1957. A loan of \$150 million was extended under the fund. In June and September 1958, both the countries signed an agreement for sale of \$300 million worth of agricultural commodities under PL 480. The agreement had an additional benefit for India since it had a provision that said that most of the Indian rupees accruing under the agreement were to be given as loan to India and were to be used for financing economic development projects in the country. During this period America also started participating in international aid for India consortium under the aegis of World Bank (Maxwell and Singer 1979).

From 1957 to 1960, on an average, US provided \$500 million per year in aid to India. In 1960, when India met a trade deficit, it received aid amounting to \$2539.6 million from the US. But, the US economic assistance could not help in increasing food grain production in India. Prices began to rise as a result. To control the rising prices, India and the US signed an agreement on May 4, 1960, which was named as "Food for Peace Programme." This agreement allowed the sale of food grains to India for the next four years (Mann 1967).

Even before he became President, John F. Kennedy had already earned a reputation for being an apostle of aid to India. Before assuming office, he appointed a special task force on aid to India which was headed by MIT economist Max Milliken. The working group recommended \$500 million of aid over and above the food aid given under PL 480. Kennedy annually allocated aid to India and made it the number one aid recipient. India's Third Five Year Plan had a larger provision for foreign aid as a source through which the plan would be financed. The US pledged \$180 million to the Aid India Consortium for exclusive use in financing the Third Five Year Plan (Reddy 1997).

This enhanced economic cooperation, however, soon fizzled out due to differences over issues such as Berlin Crisis, nuclear arms race and US role in Vietnam. The immediate cause for setback was Indian position in Belgrade conference in 1961. The US was miffed at India's inability or rather unwillingness to condemn resumption of nuclear tests by Moscow. This when India had been a strong advocate of nuclear disarmament. A review of US aid to India was demanded by the Congress.

Despite these hiccups, economic aid to India remained important for US foreign policy. For the year 1962 and 1963, the major focus of aid was to assist in the construction of large-scale hydro and thermal power projects. The war with China in 1962 made India request military aid from the US. General Maxwell Taylor, Chairman of the Joint Chiefs of Staff, was sent to South Asia to review the situation. Accepting his recommendation, President Johnson signed a \$500 million program for aid to India. It was to be distributed over five years and divided between low-interest credits and grant aid. After the four year PL 480 program which was approved in 1960 expired, President Johnson renewed a one-year food accord to supply 4.5 million tons of wheat (Gang and Khan 1990).



## **US Contribution in Indian Green Revolution:**

Aid from the US could not have been a permanent solution to the problems facing Indian agriculture. In the long run, it had to increase productivity which it did through a technological revolution which came to be known as the Green Revolution.

The increased productivity that India witnessed during the Green Revolution was a result of importing wheat seeds from Mexico. They were developed by Norman Borlaug who was an agricultural scientist with the Rockefeller Foundation. But more importantly, the US help was particularly vital in establishing agricultural universities, training Indian scientists and technology demonstration. All this laid the ground work above which the increased yields of wheat and rice during Green Revolution phase were achieved.

In 1948, the Indian Government established a University Education Commission to look into the existing educational system. The Commission observed that the current agricultural education was of "bookish" nature and was inadequate to address the enormous agricultural problems facing the country. It recommended establishing "rural universities" on the pattern of the land grant universities of the US.

The Indian government appointed committees consisting of American and Indian agricultural scientists and educators in 1955, 1959, 1962 and 1963. It recommended that the Indian Council of Agricultural Research(ICAR) be revamped. Following the recommendations, all central institutes of research along with commodity committees were placed under ICAR. The joint Indo-US committees also recommended that college level training and indigenous research efforts should be strengthened and agricultural universities should be established in all states (Parayil 1992).

Pant Nagar, situated in then Uttar Pradesh(now in Uttrakhand) was chosen for establishing the first agricultural university which was modeled on the University of Illinois. Many other land grant universities from the US(Tennessee, Kansas, Missouri, Ohio and Pennsylvania) signed partnership agreements with the Indian government for establishing several agricultural universities throughout the country. The USAID funded setting up of these universities in India and also represented US-based land grant universities.

These American universities sent many of their agricultural researchers to India which helped in the establishment of agricultural schools. Thousands of US trained Indian scientists came back to India for conducting research and to impart their knowledge to young students. This cooperation between the agricultural universities of India and the US was terminated by 1972, due to foreign policy differences that arose between them as a result of India-Pakistan war of 1971. But by then, a significant technology capability had already been transferred (Mann 1997).

Three U.S. institutions were instrumental in developing India's new agricultural research capacity. The USAID supported by providing investments for starting of land grant type universities. A national agricultural research system was designed with the help of Rockefeller Foundation. The Ford Foundation helped in work related to farm extension.

These three actors engaged in aiding India in its agricultural modernization had some differences over what path to follow and which areas to focus. The Rockefeller Foundation believed that raising agricultural production was the more urgent requirement and hence wanted to treat it separately from rural development. US ambassador to India Chester Bowles and the Ford Foundation did not consider it appropriate to separate the two. For them, agricultural production was part of a broader problem in Indian society. Where all of them agreed was that technological development needed more capital investment for achieving improvements in agriculture (Cullather 2004).

The Rockefeller Foundation insisted that there was an immediate need to build capacity and to undertake international collaborations which could result in technological transfer. The Ford Foundation looked at imports as a way to satisfy pressing technological needs and as a substitute for building research institutions in India. Bowles, on the other hand, wanted technical assistance to complement CDP. Bowles was of the view that the intuitional reforms combined with the use of advanced technology were the ideal way in which India's agricultural sector could be modernized. He insisted that India should not rely entirely on imports to meet its demand for advanced technology and improved tools, rather it should plan to use local expertise (Saha 2013).

The Rockefeller Foundation was already active in Mexico and assisted in generating HYV seeds in that country. What attracted the foundation to India was its large poor population. The foundation shared US government's ideological distaste towards communism. It was argued that communism may become attractive to hungry masses and has the power to create political instability in democratic nations. The foundation's trustees suggested that it can help India in (a) improving varieties of rice and wheat, (b) reforming agricultural education so that Indian agriculture universities become more like land grant universities of the US, (c) using extension education for village improvement projects (Cleaver 1972).

Subsequently, Rockefeller Foundation played a significant role in developing an agricultural research system in India. It acted as a catalyst for the development and growth in national research capabilities. The foundation had been running maize programs in Colombia and Mexico and had a vast repository of knowledge about maize. It was invited by the Indian government to develop hybrid maize. Besides, the government of India sought the Foundation's help in preparing a graduate program for New Delhi's IARI. The foundation also sent some of its best and most famous scientists such as Ralph Cummings, Albert Moseman and U. J. Grant to India (Perkins 1990).

The other major private sector organization active in India was the Ford Foundation. But, unlike Rockefeller Foundation, its role was mainly confined to funding the newly created agricultural universities and adaptive research on High Yielding Variety(HYV) seeds. State governments with support from agricultural universities conducted most of the extension work. It was given financial support by the Ford Foundation in its initial stages. The Integrated Agricultural Development District Programme (IADDP), which was intended to help farmers in select districts was also supported by the foundation.

The Ford Foundation assisted in developing a program for community development in India. The Community Development Program(CDP) was aimed at increasing production of food, improving rural India's life quality, and to prepare India for a capitalist development path. The CDP divided the country into a number of development areas. Farmers in these regions were supplied seeds, fertilizers, tools and irrigation facilities by promoters. Every five or so villages had village level workers, who would distribute and

teach cultivators the use of these items. In this way, technical knowledge about agriculture was to be penetrated among the masses (Patel 2013).

Thus, the agricultural cooperation between India and the US first started in the form of food aid which helped in meeting the critical shortfall in India's food production. Later on, the US along with its civil society helped in ushering a technological revolution in Indian agriculture which increased productivity of Indian crops. Popularly known as the Green Revolution, it paved the way for self sufficiency of Indian agriculture.

## CHAPTER 3

### US-INDIA DIFFERENCES ON AGRICULTURE IN DOHA ROUND

From the beginning, agriculture was one of the central issues in the Uruguay Round. Countries viewed restricted trade opportunities in agricultural markets as an aberration from the more liberalized trade regime in manufactured goods. The rules of agricultural trade were not precise enough to be of use in either preventing disputes or resolving them once they had arisen (Schnepf 2005).

It was also believed that domestic farm support systems have become too costly and were responsible for the uncertainty that existed in agricultural trade. It was argued that it was possible to find an international solution to these problems by modifying the trade rules and by agreeing to lower protection. Since the round focused on changing domestic agricultural policies, it made the negotiations prolonged (Watkins 1991).

The origins of Uruguay round can be traced back to 1982. There was a rise in protectionist sentiments world over. It was especially true for the US because of the fear of Japanese competition. The Tokyo round that had finished in 1979 resulted in weak agreements on curbing non-tariff import barriers. Negotiations on Codes which tackled issues like export subsidies, anti-dumping measures and differential standards did produced results. However, the Codes did not prove to be a great success, and there was a proliferation of nontrade barriers.

Agriculture markets were booming in the period following the Tokyo round, and major countries were experiencing large agricultural exports earnings in 1981. But, by 1986, there was a dramatic change in the situation. World agricultural prices started going down reaching their lowest point. Agricultural exports from the US saw a sharp fall escalating its support cost. Export subsidy programs were introduced by nations, and this resulted in trade disputes becoming more common and bitter. This was detrimental to the interests of small and medium-sized countries which exported agricultural goods.

In this situation, the Uruguay round was seen an opportunity to find a solution to the disarray in global agriculture markets. By the time negotiations started, a consensus had

emerged regarding the necessity to reform agricultural policies if trade liberalization in agriculture was to be achieved.

Hathaway and Ingco(1995) divide the negotiations into three phases. In 1986, ideas were exchanged with regards to the approach to be taken for improving agricultural trade and proceeding negotiations. The US, in July 1987, unveiled its proposal which asked member countries to eliminate all trade-distorting farm programs for ten years. Countries were allowed to continue with decoupled payments, i.e., payments which were not linked with output. Food aid and domestic programs related to nutrition and poverty were also allowed. The CAIRNS Group, a group of 14 small and medium size exporters, proposed an immediate freeze on price supports which was to be followed by a phased reductions until new rules were introduced for regulating agricultural trade. The EU countered these proposals with a proposal of its own which aimed at negotiations for reductions in support levels. But these negotiations were to be undertaken only after there was an immediate action to support world prices.

This phase produced discussions rather than a substantial agreement and culminated with a collapse of the negotiations in Montreal in 1988. In April 1989, some headway was made as countries agreed on a interim package of measures, which laid down a freeze in support prices and put up a timetable for continuing negotiations on unresolved issues. Significantly, a political consensus and commitment emerged among members for reducing trade distorting subsidies progressively, for improving access for imports and for curtailing export subsidies.

In the second phase focus was on the elaboration of ideas by each participant with an intention to prepare a common document. The US proposal argued for converting nontariff barriers into tariff barriers and banning export subsidies. Further, domestic policies were to be divided between minimally trade distorting and objectionable. While the former were acceptable, the latter were to be reduced. The US proposal found support from the CAIRNS Group. However, the EU while agreeing to a form of tariffication, strongly resisted any control over export subsidies.

The final phase of negotiations worked on developing details of an agreement which could be applied to all participating countries. In December 1991, details of these negotiations were incorporated into the "Draft Final Act," which was submitted by Arthur Dunkel, the Director General of GATT. The tripartite structure of "market access," "domestic support" and "export competition" was kept by the Dunkel Draft while it also put forward a timetable for liberalizing protection and domestic support. The US and the EU somewhat modified the Dunkel Draft under their Blair House Accord in November 1992. The Dunkel Draft was further refined during last minute negotiations in Geneva in December 1993. Eventually, the main provisions of the Dunkel Draft have been incorporated in the Agreement on Agriculture (AoA) (Sahai 1993).

### **The Agreement on Agriculture**

A set of new operational rules for trade in agriculture were established by the Agreement. Tariff rates on agricultural goods were effectively bound, and constraints were imposed on agricultural policies which were most trade distorting. Previously, governments had a broader scope for designing and pursuing their agricultural policies in accordance with their domestic interests. Therefore, the Agreement on Agriculture(AoA) was a stark departure from how agriculture was treated under GATT (WTO 2016).

In addition to establishing general rules in agricultural trade, the AoA mandates all the members to undertake specific commitments as per their Schedules. The agreement's real strength lies in these specific commitments which are binding to the members. The agreement also removes special exemptions and waivers which were present for agriculture in the hitherto trade rules. A new type of commitments were made which were not there in the GATT, in agriculture or other sectors. Only tariff bindings were contained in the past GATT schedules. But in AoA, bindings with regards to export subsidies and total support were also contained (Tangermann 1996).

The AoA focused on three major areas viz. import access, domestic support, and export competition. Two approaches were applied in each of these areas. First, new rules were defined. Second, reduction in support and protection levels were made. Also, to give

countries assurances against being challenged under GATT rules, a Peace clause was negotiated. An agreement on Sanitary and Phytosanitary (SPS) Measures was also concluded.

### **a) Market Access**

Under Market Access, all prevailing non-tariff barriers (and their unbounded tariffs) were to be converted into bounded duties. New non-tariff measures were also not to be introduced. For developing countries, the new bounded tariffs along with the tariffs which already had been bounded were to be reduced by 36% between 1995-2000 (implementation period). Reduction in tariffs was to be on an unweighted average basis with each tariff line to be reduced by minimum 15%. Developing countries were to cut their new bounded tariffs by an average 24% subject to a minimum cut of 10% on each tariff line. They were given a period of 10 years for this purpose. Least developed countries had to bind their agricultural tariffs but were not required to reduce any of them.

To safeguard against import surges and low world prices, special safeguards were put in place. If imports of tariffed products exceeded above a certain percentage compared to preceding three-year average (trigger level), members were free to impose additional duties (which could go up to one-third of the normally applicable duty) (WTO 2016).

### **b) Export Competition**

Export subsidies were given by countries to make their product cheaper in international markets. The agreement attempted to ban any new export subsidies. Subsidies in existence were allowed but only after they were reduced as agreed by the members. The base period of 1986-90 was the starting point for cutting export subsidy. Starting from 1995, the subsidy was to be cut annually in equal steps for over six years by developed countries and over ten years by developing countries. Quantities of products subsidized by developed countries was to be reduced by 21% and their budgetary outlay on subsidies by 36%. The cuts for developing countries were 14% and 24% for quantities, and budgetary outlays respectively. A member was not allowed to give export subsidies unless it had pledged to cut subsidy on that particular product.



### **c) Domestic Support**

Countries often provide domestic support to their farmers when trade is distorted by raising or lowering prices artificially or by stimulating production. Domestic support is divided into three boxes:

**Green Box:** The support under Green Box is allowed without any limit. Government service programs and direct payments are covered under it. They should not distort production or trade or at most do it minimally. Publicly funded government programs should be the source of such support. No transfer from consumer or support to prices for producers is allowed. Developing countries are given special treatment by allowing governmental stockholding programs for food security.

**Blue Box:** It reduces the impact of overproduction by limiting production. It includes subsidies which are unrelated to one product but which do not increase according to the level of production. Aid that is used for production-limiting programs are included in it and are calculated using production data from past years. At present, there is no upper limit for spending on blue box subsidies.

**Amber Box:** The Article 6 of the AoA defines it as all domestic support which is not included in blue and green boxes. It includes export subsidies, cheap loans, measures to support prices, etc. These are viewed as production and trade distorting measures and hence are to avoided and reduced (WTO 2016).

### **d) Peace Clause**

To incentivize countries for accepting new commitments on export subsidies and domestic support, the new policies were protected from being challenged under GATT. A due restraint provision known as the Peace Clause was put in place during the period of implementing the new rules. The clause made policies covered under the green box non actionable when it came to countervailing duties and other challenges under GATT. Domestic support under blue box could be subjected to countervailing duties but was exempted from further challenges under GATT as long as that support did not exceed what was paid in 1992.

### **e) Sanitary and Phytosanitary Measures**

The aim of the SPS Measures was to make it easier to differentiate between disguised protection and real safety and health concerns. Countries were allowed to set their health and safety standards, but they were to be based on "sound scientific evidence."

One of the greatest achievement of the UR had been that it brought agricultural policies under multilateral disciplines with an agreement to start negotiations again by the end of 1999. Article 20 of AoA had recognized that "the long-term objective of substantial progressive reductions in support and protection resulting in fundamental reform is an ongoing process" and mandated that "negotiations for continuing the process will be started one year before the end of the implementation period." (Josling 1998).

### **Prelude to Doha Round**

Since the 1950s, agricultural protection substantially grew in the industrially advanced economies, and it subsequently spread to some countries which were new to industrialization (Tyers and Anderson 1992). By the 1980s, this protectionism helped some countries to generate surpluses which were exported to foreign markets by giving export subsidies to the farmers. Agricultural protectionism continued to grow in these countries even in the face of substantial fiscal pressure and opposition from nonfarm sectors towards increasing cost of policies that were being used to support agriculture. This threatened the markets of traditional agricultural exporting countries, and they insisted that focus of the UR should be on reversing this trend towards agricultural protectionism (Strut et al. 1999).

However, the efforts of the UR towards trade liberalization in agriculture were only partially successful; domestic support measures were curtailed but not removed, export subsidies were reduced but not eliminated. The process of tariffication which was to convert nontariff barriers into tariff barriers became "dirty" as tariffs were bounded more than the prevailing levels. Developing countries' agricultural exports remained severely

hampered as developed countries continued to provide massive export subsidy and domestic support to their farmers (Anderson and Martin 2005).

The beginning of the Doha round can be traced to the Singapore Ministerial which was held in 1996. In this conference, the ministers agreed to work on investment, procurement, trade facilitation and competition policy which together came to be known as the "Singapore issues." They also agreed to consolidate the leftover issues of the Uruguay Round. The Uruguay Round had mandated to resume negotiations on services and agriculture after 2000. Negotiations began but went nowhere.

At the 1999 Seattle Ministerial, the ministers couldn't agree on the draft to discuss trade in agriculture. The CAIRNES group and the US wanted to eliminate export subsidies, while the EU wanted to retain them. Korea and Japan wished that their rice protection be continued. Developing countries with interest in exports wanted the EU to eliminate its exports subsidies, as well as, elimination of import restriction in all countries. Others, which mainly included the importers of food, feared that their import costs might rise if subsidies on exports provided by the EU and other countries were removed (Srinivasan 2002 ).

An important cause for Seattle Ministerial's failure was the perception by developing countries that the Uruguay Round agreement was unbalanced. They realized that commitments undertaken by them were difficult to implement and carried additional costs. In return, they received very few benefits from commitments which developed countries had undertaken. They were not prepared to commit the same mistake again.

### **Decision Making in WTO**

There has been an imbalance in the negotiating power exercised by developing and developed countries in multilateral organizations. Developed countries are responsible for a large chunk of world trade. It allows them to offer incentives and disincentives during the negotiations in order to divide their opponents. Their small numbers make it relatively easier to internalize the benefits accruing from negotiations and thus avoid the free rider

problem. They are mostly at similar levels of per capita incomes which allow them to have greater coherence and similarity in policy regimes on different issues. This makes compromise among them easier and increases their bargaining power.

On the contrary, developing countries have limited negotiating power, since their share in world market is low. They are too numerous, with varied level of incomes, subject to diverse policy regimes and lack truly large players. This makes it difficult to develop a common position. Most developing countries have narrowly defined objectives and hence can be lured to forego them for the larger objective in return of concessions (Panagariya 2002).

WTO is a good example of this unbalanced spread of bargaining power. Under WTO and its predecessor GATT, trade liberalization occurred progressively through a successive round of negotiations. Each member has an equal vote and decisions are made through consensus. On the face of it, the decision making in WTO/GATT which is based on consensus appears democratic when compared to the World Bank and the IMF, which has accorded veto powers to the US and has weighted voting systems. It appears to give an opportunity for the developing countries to influence outcomes through coalition building.

Despite this, the US and other developed countries have dominated the GATT/WTO through its entire history. A small group of states used to negotiate in informal meetings(called 'Green Room' meetings). Known as 'the Quad', the group had the US, EU, Canada, Japan as its members. Once this group arrived at an agreement, it was extended out to the other members of the organization, effectively as a fait accompli. Naturally, the Quad tried to create a trading order which could further its interests. Thus, the developing countries largely remained excluded and ignored from decision making. It was rare for them to table any negotiating proposal, and whenever they tried to advance initiatives, they were blocked (Hopewell 2015).

### **The Doha Round:**

The Doha Round was launched in 2001 and a major motivation to launch the Doha round was to address the unresolved issues in agriculture. Little is achieved by developed countries on agriculture in bilateral or regional negotiations. While a huge number of people are dependent on agriculture in developing countries(Wolfe 2015).

The Doha Declaration commits members aim at improving market access; reduction and then phasing out all types of export subsidies and a major reduction in domestic support measures which were viewed as trade distorting. The Declaration also endorsed special and differential treatment that developing countries sought (Panagariya 2002).

At the beginning of the Doha Round, EU and the US were in a comfortable position. They played a critical role in formulating the negotiating mandate, as well as during negotiations which continued to revolve around the old Quad. Leading to Cancun, a joint proposal on agriculture was developed by the US and EU. Developing countries reacted strongly to this proposal as they viewed it as an attempt to lower their barriers of trade while the US and EU were allowed to keep their subsidies. It was reminiscent of the Blair House Accord during the Uruguay Round which had diminished developing countries' hope of having any benefits in the round.

This US-EU proposal prompted Brazil to approach India with a plan to oppose the initiative by forming an alliance. They joined forces together and assembled a coalition of developing countries which came to be known as G20 (Narlikar 2006). It represented over two-thirds of world's farmers and half of its population. The G20 arrived at Cancun with a technical counter-proposal of its own which specifically targeted agricultural subsidies provided by the US and EU. As a consequence, the Cancun Ministerial ended in a collapse. A central factor for the breakdown in negotiations was the blockade of the US-EU proposal by the G20.

The leadership of G20 by Brazil and India, not only upended WTO's traditional power structure but also significantly altered the agenda and dynamics of the Doha Round. Between a round's launch and conclusion, agenda setting takes place which is critical in determining the outcome of the round. Agriculture has been one of the least liberalized

sectors globally and hence a central issue since the round's beginning. At the beginning of the negotiations, the central issue was the demands made by the CAIRNS Group and the US. Being agricultural exporters, they demanded that trade distorting policies be eliminated by EU and Japan. However, as the round progressed, negotiations got focused around EU and US subsidies, and it became a struggle between the developing and developed countries (Clapp, 2006).

The negotiating texts since Cancun contained many proposals put forwarded by G20. The coalitions successfully put market access and agricultural subsidies given by rich countries, besides putting special safeguards for developing countries on the negotiating agenda. They were able to secure a graded formula for decreasing 'domestic support'(subsidies), ensuring that countries providing the largest support undertake biggest reductions. The EU had to cut its support for trade distorting measures by 80 percent, while the US had to do the same by 70 per cent. No peace clause was extended to the developed nations to protect them from WTO challenges. Tariffs reduction was to be based on a 'tiered' formula instead of a 'blended' formula as sought by developed nations (Narlikar and Tussie 2004).

The G20 alliance formed by India and Brazil was a game changer as it differed from previous coalitions in a number of ways. First, it is not easy to build and maintain coalitions in WTO around multiple and sometimes incompatible interests that developing countries have. India and Brazil overcame these differences and united developing countries by constructing the G20 agenda which targeted rich countries' agricultural subsidies.

Second, they made the argument that global prices are depressed by agricultural subsidies which undermines the competitiveness and affects the incomes of farmers from the Global South. It presented a convincing narrative that was in resonance with the goal of trade liberalization that WTO propounded. Thus, it increased the legitimacy of claims of G20 (Hopewell 2013).

Third, in the past developing countries were protective of their interests during WTO rounds. The subject of subsidies gave them a chance to offensively negotiate with

developed countries. In a role reversal, the G20 returned the arguments of liberalization of economy and free trade which are propounded by the developed countries and highlighted their hypocrisy.

The alliance formed by Brazil and India is surprising considering their opposing negotiations positions. Brazil is a leading exporter of agriculture products and it is advantageous for it to expand agricultural markets for its exports. India, on the other hand has an agricultural sector which is weak consisting mainly of subsistence farmers who are vulnerable to liberalization of trade.

This divergence of interests casted concerns regarding the stability of partnership with Brazil and forced India to look beyond G20. Hence, a new coalition named G33 was formed at Cancun with India being its leading force. It is a larger coalition than the G20 consisting of developing countries and significantly impacted Doha negotiations. Its concerns regarding agriculture are defensive and aimed at minimizing the level of market opening that is required from developing countries. The G33 has advocated that 'special product' exemptions be created so that developing countries are able to shield important products from cuts in tariff. It also proposed the creation of 'Special Safeguards Mechanism'(SSM) which allows developing countries to increase tariffs as a response to an surge in imports. Both instruments are stated to protect rural livelihoods, rural development and food security (Hurrell and Narlikar 2006).

These new initiatives were innovative and of considerable consequences. The Special Product exemptions, when combined with weaker formulas for tariff reductions, could significantly reduce developing countries commitment towards extending liberalization. On the other hand, the Special Safeguard Mechanism endorsed by India could enable developing countries' pre-Doha commitments to be breached and thus potentially rolling back last round's gains regarding liberalization.

These defensively oriented measures created a proactive agenda which created new negotiation issues. It produced opposition from the developed countries. Special Products and SSM were not only put on the negotiating agenda, but India and the G33 secured

commitments that they will be part of any final agreement when Doha round is completed (Margulis, 2013).

### **The Hong Kong Ministerial:**

A process of political and institutional readjustment got underway after the meeting in Cancun. A 'July Package' was negotiated in July 2004 which among other things, saw a framework agreement on agriculture. Agreements on some issues of importance were secured by developing countries. It included agreements on SSM and special products, tariff reductions to be done through a tiered formula, longer time frames and lower cut of their tariff. But, by revising the Blue Box, they made a major concession, since it could be used to legitimize more subsidies (Wilkinson 2006).

Just before the start of the Hong Kong Ministerial, the EU put a proposal to guide negotiations. According to the EU text, domestic support was to be cut in four tiers, according to the subsidization level of a country. The cuts could range from 30% to 60%. Tariff cuts in four bands ranging from 20% to 50% were offered on market access. Developing countries were asked to cut their tariff by two third of developed countries cut. The EU also committed to eliminating export subsidies without specifying any date (Pruzin 2005).

The EU proposal could not garner support from the US. The US forwarded its proposal which argued for eliminating export subsidies by the end of 2010. Similarly, domestic support which had the potential to distort trade was to be ended by 2023. Domestic support was to be cut in three tiers, between 37% to 83%. A new Peace Clause was also requested by the US.

Developing countries became disappointed with the EU and the US proposals. The US proposal on the domestic support was viewed as merely box shifting by the G20. It also did not favorably view the suggestion of a new Peace Clause. The G20 proposed that developed countries cut their tariffs between 45% to 75%, spread over four bands. Developing countries were to cut their tariffs between 25% and 45% (Wilkinson 2006).



To break the stalemate, the EU proposed a revised draft which did not excite other members. It did not propose much on the issue of market access. The proposal was in favor of a united and cash only food aid when it came to export competition. There was slightly more cut to domestic support. But the catch was that these new proposals were tied to developing countries' concessions on NAMA and goods and services. Developing countries became more resentful of the fact that the cut they were asked to undergo on NAMA were much deeper than what EU was ready to undergo on agriculture.

In the end, the ministerial achieved little. It was able to finalize a timeline for ending export subsidies which was fixed as 2013, after some concessions by the EU on the issue. But it still left a lot of details on other agricultural procedures to be decided.

### **The Geneva Ministerial:**

In the July 2008 Mini-Ministerial in Geneva, attempts were made to find a breakthrough on SSM. Pascal Lamy, the DG of WTO, proposed that developing countries could be allowed a 140% trigger, thereby allowing them to exceed their bound rates if there was a 40% increase in imports of a particular product. The bound rates could be exceeded by 15% in case of a surge in imports. India was adamant in favor a 115% trigger and rejected the text proposed by Lamy.

In another compromise text, a 115-120% trigger was proposed for addressing India's concerns with an rise in bound rate by 33%. Another trigger ranging from 130%-140% was also proposed with a 50% increase in tariff. A 120% was acceptable to India, but the US refused to budge from the 140% trigger. The US stated that "any safeguard must distinguish between the legitimate need to address exceptional situations involving sudden and extreme import surges and a mechanism that can be abused."

The diverse interests of developing countries have also caused friction between India and Brazil on certain occasions(Burges, 2013). During the 2008 Ministerial, differences arose between the G20 and G33 as negotiations were nearing conclusion. India and Brazil were criticized over the position taken by them in Green Room discussions. Similarly, during the 2013 Bali Ministerial, tensions flared within the G33 as negotiations seemed to be

breaking down due to the disagreement between India and the US because of the issue of public stockholding of food. India and Brazil worked together to mend these divisions and were successful in maintaining the coalition intact.

### **The Bali Package**

At the Bali Ministerial, an attempt was made to bring life back into WTO negotiations. This was to be done by focusing on noncontroversial issues and ultimately securing an agreement on them. However, one of the items on the table, which related to public stockholding for food security purposes put brakes on the plan.

Developing countries have used public stockholding to secure food reserves, for distributing subsidized food to the poor and to guarantee a minimum price support for farmers. Against the backdrop of India's enactment of National Food Security Bill in 2013, the main focus in Bali was on India (Wilkinson et al. 2014).

The G33 and other groups of developing countries had regularly presented proposals on public stockholding for the purpose of food security throughout the entire Doha Round. But, their proposals faced repeated resistance from developed countries. As the Bali Ministerial approached, the US was adamant not to support G33's proposal (Schnepf 2014).

The US contended that India's public stockholding program was in contravention of AoA rules because it allowed the government to set a guaranteed purchase price. In the AoA, a practice like this is subject to disciplines, and if the price set by government exceeds the fixed reference price, it is considered as a subsidy.

The issue was complicated since the WTO agreements use 1986-88 as the base year to set the reference price. During the negotiations, the G33 took the position that the reference price were outdated since they do not take into account the dramatic price rise of the last decade, especially price rise during 2007-08. In the run-up to Bali, both sides refused to back down from their positions. India went on to the extent of threatening to withdraw its

support for Trade Facilitation Agreement unless there was a consensus on the rules of public stockholding.

Tensions ran high at Bali, but eventually, the impasse was overcome as a new 'peace clause' was agreed by the Ministers. It stipulated that until a permanent solution was found, existing public stockholding programs could not be subjected to legal challenges. The relief was temporary as later in 2014 it was observed that India and the US had interpreted the peace clause differently. India saw the peace clause as permanent, while the US saw it only as a temporary measure (Clapp 2015).

India once again refused to adopt trade facilitation measures until there was clarity on the issue of food security. There was once again intense and heated discussions at the WTO, but an agreement was reached in late 2014 which clarified that until a permanent solution is found, the peace clause would remain in place. End of 2015 was set as the deadline to find a permanent solution for the public stockholding programs.

### **The Nairobi Ministerial**

Three elements of agricultural trade were at the focus in Nairobi Ministerial. It was hoped that some agreement could be secured on export subsidies, the Special Safeguard Mechanism(SSM) and public stockholding.

There was a relatively broad support on the issue of export subsidies. But some members, led by the EU felt that an agreement on export subsidies needed to tackle other programs like food aid and export credit guarantees which have similar effects as direct export subsidies. This broader collection issues came to be known as 'export competition.' The US uses these kind of indirect supports and hence opposed the move. It was supported by some developing countries like India, who did not understand why there was a sudden interest in export competition (Scott et al. 2016).

However, export competition saw the most significant progress, although it was restricted mainly to export subsidies. Developed countries were to eliminate export subsidies by

2020. The developing countries were to do the same by 2023. Food aid in terms of agricultural produce was allowed though aid in cash was preferred.

India and the G33 pushed strongly in favor of an agreement on the SSM. A new proposal on SSM was put by the G33, but it made little impact. Vangelis Vitalis, chair of the Agricultural Committee noted that many members had expressed strong opposition regarding reaching an outcome on SSM in Nairobi without a broader agreement on agricultural market access. He went on to conclude that the negotiations on SSM have reached an impasse (WTO 2015).

The third agriculture-related issue that was discussed was related to public stockholding. In Nairobi, the G33 pushed for a permanent solution on public stockholding. But other countries saw it impossible unless there was a complete package for Doha Round. The decisions taken at Bali were reaffirmed which stated that the peace clause will be valid till a permanent solution is found.

Overall, on the issue of agriculture an important step was taken in Nairobi as export subsidies were to be banned. It was lauded by Director General of WTO as being 'truly historic.' Beyond this, the Nairobi Ministerial had little value for developing countries. The SSM and public stockholding, two issues important to them remain on a work program (the DDA), and their conclusion doesn't seem in sight.

### **Reasons for US-India Differences Over Agriculture**

The main reason for differences between the two countries over agriculture in the Doha Round is the importance of agriculture in their respective economies. In the US, only 1.62% of the total people employed are engaged in agriculture. The similar figure for India is 51.2%. Agriculture contributes 1% to the US economy, while its contribution to Indian GDP is 18%.

It is clear that agriculture is more important to India than the US. Most of the Indian farmers are small and marginal, and they need state support to generate a marketable surplus. They are also vulnerable towards import surge of agricultural products which

have a tendency to depress prices. This could lead to unsustainable returns for the Indian farmers.

India has strived towards self-sufficiency as an aim for its agricultural policy since 1947. It has mostly attained self-sufficiency for grains, but to a lesser extent for oils and pulses. Programs of administered prices in the form of minimum support prices are maintained by India for cereals, oilseeds, pulses, cotton, and sugar. To protect its domestic agriculture, it makes extensively use of tariffs and quotas. It counter-cyclically uses its output price policies, i.e., when world prices are high, India lowers its tariffs and puts restrictions on exports which puts downward pressure on prices in domestic market. Inputs such as irrigation, fertilizers, and electricity also receive substantial subsidies from the Indian state (Datz et al, 2012).

Therefore, India has mainly taken a protective stance on the issues related to agriculture. It does not want to give unlimited agricultural market access to other nations. It wants to have a SSM for protecting its farmers in case of an import surge. Food security for its poor is important for India, and that's why it reacted strongly to the proposition of curtailment in public stockholding of food.

The US, on the other hand, has a small population engaged in agriculture. Most of the agriculture in the US is mechanized which is done over large fields and with substantial capital investment. Naturally, the US can generate a large amount of marketable surplus which is more than sufficient for its domestic consumption. It needs foreign markets to export its agricultural surplus. Hence it focuses on opening up agricultural markets.

It also gives large subsidies to its farmers. But, it is given not because its farmers are poor. In the event of a bumper crop, the price of crop tends to fall as there is more supply than demand. In the event, a farmer may be inclined to produce less. To avoid this, the US gives large subsidies to its farmers so that they can continue to produce more without worrying about the prices. This type of subsidy is allowed under the "Green Box", and the US continues to use it to incentivize production.

## **CHAPTER 4**

### **THE EVOLUTION OF DISPUTE SETTLEMENT IN WTO**

One of the critical features of modern statehood is the rule of law. Until recently, nation states were only bound by domestic laws. There was a lack of international judiciary which could ensure a state's compliance with their legal obligations arising from international agreements. However, there has been a rise of international dispute settlement procedures (IDSPs) with an intention to adjudicate on state's response towards commitments made in multilateral agreements (Romano 1998).

One way to see this rise of judicial IDSPs is to see it as an indication towards an emerging rule of law for international commitments. Traditional idealists had argued that as states become more interdependent, an international rule of law would automatically emerge as a result of judicialization of IDSPs (Zimmern 1989). Like constructivists, they argue that by using legal languages in the context of IDSPs, the representatives of states underscore their commitment to principles of legality, like equal treatment for similar breaches of international law. Constructivists may further argue that institutionalization of these legal principles in judicial IDSPs makes it harder for state representatives to defend their actions in case they ignore these procedures.

Realists, by contrast, do not find IDSPs an effective mechanism for ensuring an international order based on law. They are skeptical regarding international law's successfulness. They argue that it does not matter if the IDSPs use diplomatic or judicial means, states that are powerful can always behave on their whims while states with less power have to endure suffering (Carr 1946). Most traditional realists argue that the language of international law used by state representatives is only a device meant for rhetoric in order to rationalize their behavior. The only motivation behind their behavior is a wish to protect their national interests and alleviate their nation's power position.

Consequently, state's power capabilities and their national interests become the main determiners when it comes to settling international disputes. Disputes might be resolved through IDSPs only in cases where interests of states converge and if they are equally powerful, which can allow them to enforce the law against each other. However, if

interests of states diverge, or if a more powerful state is subjected to rule enforcement by a less powerful state, dispute resolution efforts through legal IDSPs are likely to fall.

Like realists and idealists, institutionalists try to answer if judicialization of procedures of dispute settlement process affects the settlement of a dispute in practice and consequently aid in the evolution of an international rule of law. Contrary to realists, they find a realistic likelihood for this to happen, and, disagreeing with idealists, they do not expect that it will happen on its own. Most institutionalists would subscribe to the conjecture that judicialization of dispute settlement procedures are encouraged by judicialization of its procedures and hence the emergence of an international rule of law.

Institutionalists distinguish four casual mechanisms that strengthen the effectiveness of judicialized IDSPs (Koh 1997). First, judicialized IDSPs might be effective since states feel normatively compelled to follow their pronouncements. This normative compliance pull is internalized by the states to such an extent that following them in itself becomes an aim. Hence, it is taken as granted that states will follow the procedures.

Second, a state's reputation can be undermined, through shaming, if it disregards orders of IDSPs. A bad reputation may inhibit the institution from having any future cooperation with the deviant state.

Third, states have an interest in upholding the credibility of the procedures established by the IDSPs. They understand that if procedures are disregarded than it can undermine the credibility of the IDSP and can lead to its breakdown.

Fourth, the influence that IDSPs have can come from their ability to impose sanctions in cases where states are found violating their commitments made to international organizations. For effective implementation, affected states' sanctions could be coordinated by IDSPs (Zangal 2008).

### **Dispute Settlement Under GATT**

GATT was established with an aim to promote free trade among nations. It sought to achieve its objective by creating rules that minimized impediments to trade. While free trade is generally considered to be beneficial to nations, there may be particular sectors in

the economy of a nation that could be adversely affected if they are subjected to increased foreign competition. These sectors may have sufficient political power, or they can be important for the fundamentals of a nation's economy which forces the national government to protect them from foreign competition (Davey and Jackson 1986).

These protectionist measures were the source of disputes under GATT and later under WTO. Disputes usually involved one GATT member challenging measures taken by another member who had provided special protection to certain industries, thus interfering with international trade. Many provisions were provided by GATT to resolve trade disputes between contracting parties. Most provisions, initially and sometimes exclusively provided for consultations between the relevant parties. If negotiations failed to settle their differences, members could have resorted to Article XXIII of GATT, which was its basic dispute settlement mechanism.

A party could invoke Article XXIII if it could claim that its benefits emanating from GATT are nullified due to policies of another member. In a case like this, contracting parties were required to act as a group and investigate the matter, followed by appropriate recommendations and rulings. If the circumstances were serious enough, contracting parties had the power to authorize retaliatory action by the complainant against the respondent to compensate complainant's damages (Busch 2000).

However, Article XXIII provided only outlines regarding the processing of disputes under GATT, without establishing any formal procedures for handling disputes. By early 1970s, many aspects of the panel process were criticized by the members. There was a general disagreement among them over the principal role that GATT dispute settlement panel perform. Some members wanted the panels to render judicial decisions, while others pushed for its role to be confined to negotiating settlements through conciliation.

The Tokyo round, saw extensive discussions on dispute settlement system and at the conclusion of that round, an Understanding on Dispute Settlement was adopted. The Understanding was mainly a summary of the dispute settlement procedures that were traditionally used under GATT and indicated that the same procedures would continue to be used (Zangal 1998).



The process of dispute settlement system as it was finalized after Tokyo round can be summarized as follows: If consultations could not resolve disputes between contracting parties, the complainant party could request a panel's appointment for adjudicating on the dispute. A complainant could not demand the establishment of a panel as a matter of right. The respondent had a right to answer in response to the complaint made and could have argued that panel appointment was premature or inappropriate (Hudec 1980).

Even when a decision was made in favor of the appointment of a panel, additional delays happened because it was understood that contending parties would be consulted regarding the panel's composition. Panel members were also rejected if any of the contending parties objected to their selection. The panel members were generally national officials having knowledge of GATT and matters of international trade, particularly those who were their country's representative at GATT. However, panel members were required to act as individuals in reaching their decisions and not as their respective country's representatives.

After being appointed, the panel's task was to analyze the dispute and give recommendations which could help the contracting parties to deliver its judgment. Oral and/or written submissions from contending parties were received by the panel. Other interested parties could also submit their arguments to the panel. The panel then used to issue a proposed report on which comments from contending parties were sought.

After considering the comments, the panel submitted its report to the GATT Council. The major disputed issues which were raised by the contending parties were resolved by the Panel. If the panel found it necessary to nullify or impair an offending measure, it recommended, in order of preference: removal of the offending measure; or, compensation to the injured party if removal is not possible; or, as the last measure, authorization to retaliate against the offending party.

A panel report had no force in and of itself. On contracting parties' behalf, it was to be first discussed by the Council. A losing party was able to hold up adoption of a Panel's report endlessly in the Council on the pretext of analyzing the report and exploring the possibility of finding negotiated solutions with the prevailing party (Reinhardt 2001).

The Tokyo Round agreements on dispute settlement closely followed the procedures described above. The main difference was that complainant parties had unqualified rights to have a panel appointed, stricter and more precise timelines for completion of certain stages and adaptation of panel report was decided by an agreement's committee of signatories.

Between 1948-58, during the first decade of its formation, the GATT dispute settlement system was thought to be working well. Every year, a fair number of cases(three to five) were considered, and a majority of cases were satisfactorily resolved. However, from 1959 through 1978, the dispute settlement system was used less often, and the experience with the system was found to unsatisfactory by certain nations.

Davey (1987) gives a number of explanations for the decline in the use of GATT dispute settlement system. First, most European countries which had previously used the disputed settlement system actively were reluctant to do so after the formation of the European Community(EC). After the formation of the EC, its institutions became the main forum for settling disputes among EC members.

Second, since certain provisions, like on agriculture, textiles and voluntary export restraints were not enforced strictly, a feeling developed that no GATT provision should be strictly enforced. The Contracting Parties favored negotiations as a means to settle disputes.

Third, the domination of GATT by the US was challenged by the arrival of EU and Japan as economic superpowers. These economic superpowers did not view formal dispute settlement to be their interests. Instead, they favored negotiations.

### **Dispute Settlement in Uruguay Round**

Issue linkage politics based reciprocal bargaining and the use of unilateral threats to withdraw market access by the US played a significant role in the evolution of the WTO's dispute settlement rules. Throughout the Uruguay Round, GATT members were at the receiving end of unilateral trade sanctions by the US. Sanctions were threatened and

imposed because members were violating their GATT commitments and were engaging in delaying and blocking tactics. The United States Trade Representative (USTR) also determined unfairness in other nations' trade policy which became a ground for imposing sanctions.

Such unilateral actions were undertaken by the US under Section 301 of the 1974 Trade Act. Under Section 301, the President has the power to impose sanctions against countries that are found to restrain trade in an "unreasonable" or "unjustifiable" manner by the USTR. This mechanism was used by the USTR on matters which were not covered by the GATT rules, but which had become important for US trade, such as trade in services and intellectual property rights (Bello and Holmer 1989).

A compromise was worked out by those GATT members who were exposed to US unilateralism. In future, the US agreed to pursue cases through the WTO's Dispute Settlement Understanding (DSU). The DSU prohibits members from unilaterally enforcing WTO rules. GATT members, on the other hand, agreed to correct the deficiencies in the GATT system which allowed a party to block the process. Moreover, the members agreed to expand the trade rules to include service trade and intellectual property protection, issues important to US economic interests.

The Uruguay Round negotiations moved the GATT Dispute Resolution System towards a more legalistic path. The changes made in the round proceeded in two steps. As a first step, "Improvements of 1989" were adopted. The second step entailed the 1994 "Understanding on Rules and Procedures Governing the Settlement of Disputes" which was a comprehensive elaboration of procedures and rules that governed the dispute resolution under GATT.

### **Improvements of 1989**

In pursuance of a more formal, legalistic, adjudicatory regime, five important steps were undertaken by the Improvements of 1989 (Petersmann 1989).

First, a strict and relatively short period was set within which the targeted contracting party had to respond to complainant's request for consultations. It also allowed a complainant to request panel's establishment if consultations failed to produce results within a fixed period.

Second, various aspects of the process that established the panels were addressed. The procedures that established terms of reference were more formalized. The preference given to government experts in panels was also eliminated.

Third, the right of third parties to make an intervention in proceedings of interest was formally recognized. They were allowed to make both oral and written submissions.

Fourth, to solve the problem of protracted panel deliberations, a method was established which determined the time limit for a panel to complete its proceedings. The Improvements stated that from the time of its establishment to the time of submission of its report, a panel was not to take more than nine months under any circumstances.

Fifth, the Improvements addressed the problems that arose during the implementation of a panel's recommendation by increasing the power for monitoring implementation.

However, even after the Improvements of 1989, major hurdles remained for the legalists. A responding party still could block a report's adoption, leaving a panel's decision persuasive rather than binding. Even in the scenario when the decision was adopted, there were limited mechanisms to monitor its compliance. It was left to the Understanding of 1994 to move the system towards the legalist camp.

### **Understanding of 1994**

First, a Dispute Settlement Body(DSB) was created having the power to administer the procedures and rules of the Understanding. The DSB assumed the role of the former General Council of the GATT particularly when it came to providing good offices and mediatory services. As stated in the Article 2 of the Understanding, the DSB has the authority to "establish panels, adopt panel and Appellate Body reports, maintain surveillance of implementation of rulings and recommendations, and authorize

suspension of concessions and other obligations under the covered agreements" (Castel 1989).

Second, on the request of an aggrieved party, the DSB was compelled to create a panel. In theory, a request for panel formation can be denied by the DSB if all the members agree by consensus. But, since a complainant country would not be a part of such a consensus, practically, the DSB must establish a panel as and when requested.

Third, the understanding created a rule that forced the defeated country to automatically adopt a panel's report. According to the Article 16.4, after the report is circulated among the members, it has to be adopted in a DSM meeting within 60 days, unless a contending party decides to appeal and formally notifies such decision to the DSM or the DSM decides not to adopt the report by consensus.

Fourth, in a more definitive step towards legalism, the Understanding enforces the DSB to establish an Appellate Body for hearing an appeal from panel cases. Except for third parties, any party to the dispute could appeal. Within 60 days of party's notification to appeal, the appellate body has to issue its report. The Appellate Body has the power to uphold, modify or reverse the conclusions reached by the panel. An Appellate Body's report has to be adopted 30 days after its circulation (Young 1995).

### **Dispute Settlement in WTO:**

The DSU is the main framework that lays down rules of dispute resolution under WTO. The process of dispute resolution has several phases. Upon emergence of a dispute between member states of WTO, a call for consultation may be made by either party. After calling for consultation, members have thirty days for entering into consultation. A refusal to enter into consultations by a member allows the complainant to request for creating a panel. If consultations are undertaken, and they fail to yield a settlement in 60 days after the request is made; the complainant can request that a panel may be established (Bello 1996).

Panels typically have three members from countries who are not a party to the dispute. If, after 20 days of its establishment there is no agreement on panel's composition, the final authority rests with the director general who decides the issues once a request is made by either party.

The DSB considers panel reports for adoption once they are issued. The reports are automatically adopted within 60 days after its issuance unless there is a consensus in the DSB on not adopting the report, or the DSB is notified by one of the parties about its intention to appeal. An Appellate Body consisting of three members is formed upon receiving a request for appeal. Appeals have a limited scope as they examine the issues of law involved and their legal interpretation as elaborated by the panel. The entire process is to be completed in 9 months if there is no appeal and within 12 months in case of an appeal.

It may be the case that the offending party does not execute a panel's ruling or recommendation within a stipulated period. Under such circumstances, it must negotiate with the complainant and decide on compensation. If within 20 days, compensation cannot be decided, the aggrieved party can request the DSB for suspending the concessions of the other party. The request is granted by the DSB within 30 days after the stipulated time for implementation expires unless there is a consensus on the contrary. The issue goes to arbitration if there is an objection by the party subjected to retaliation (Jackson 1997).

### **Assessment of Dispute Settlement Mechanism:**

Davey (2005) finds a compliance rate of 83% during the first ten years of working on WTO dispute settlement. For a dispute settlement system that consists of states, it is a very good compliance rate. What is more impressive is the success rate of cases that do not go to the panel or Appellate Body stage and are resolved during the consultations.

However, when it comes to timelines and quality of compliance actions, the picture does not seem to be rosy. "Quality of compliance action" here means the process of

implementing a WTO decision and withdrawing an offending measure. The quality of compliance action is good if the offending measure was removed. On the other hand, if there is modification or replacement of the offending measure, then the compliance action may not be considered satisfactory.

Davey(2009) finds that in about 60% of the cases, there was timely compliance. Subsidies, trade remedies, agriculture and SPS cases were the problem areas in which compliance was low. The US, the EU, Australia, Canada, and Japan were the countries that failed to comply within a given timeline. They often failed to comply in cases which pitted them against each other. They had a 50% on-time implementation rate. Developing countries, on the other hand, achieved over 80% on time implementation rate. The US has become the main source when it comes to untimely implementation of WTO decisions.

The overall positive record of compliance with WTO rulings is mainly due to WTO members' desire to ensure an effective working of the system. Members who are active users of the system use it repeatedly, both as respondents and complainants. Therefore, an effectively working system is in their overall interest. However, compliance becomes an issue as good faith cannot always be relied upon. In cases like these, retaliation can be a helpful device to promote compliance (Wilson 2007).

It is important to note that retaliation is a prospective remedy. Since it is not immediately available to the complainant, it incentivizes the respondent to delay the time of reckoning for a longer time. This is one of the probable reasons for the extensive delays in the system. Retaliation is more effective when used by a developed countries compared to its use by developing countries.

The degree of compliance is affected by various structural and domestic political factors. Structurally, countries that exercise greater market power are better placed to use the WTO remedy of retaliation, which allows a complainant to withdraw equivalent concessions. When a small country faces retaliation from the US or EU, it is more effective because US and EU markets are important to the small country. In contrast,

when retaliation is threatened by a small country against the US or EU, it is less effective since the small country's market is relatively unimportant for them.

Compliance is also shaped by internal political factors. There are always some interest groups in a country that profit from non-compliance. They lobby their government to find ways to either water down compliance or to create new barriers that deny market access. It is generally more challenging for respondents to comply in politically sensitive cases involving social policy.

Domestic factors facilitate compliance through pressure by counter protectionist groups. Members are represented by their domestic executive officials in the WTO who have reciprocity interests. If a government do not comply as respondent, then it cannot expect its trading partners to comply when the government act as a complainant. Executive officials understand the broader implication of noncompliance as they are on both sides of the dispute. They are also pressurized by domestic export interests that want compliance from their government so that other members of WTO comply as well, advancing their export interests (Vazquez and Jackson 2001).

When a case is removed from the DSB record of an ongoing dispute, the WTO Secretariat records it as compliance by the offending party (Stein 2013). However, the removal of a case from DSB record only indicates settlement which only reflects partial compliance. There is a negotiation between the parties of the disputes to determine how the respondent's policy must adjust in response to a ruling of WTO panel or Appellate Body. A high number of WTO cases are settled through the instrument of a "Mutually Agreed Solution" (MAS), which illustrates the imperfect nature of compliance even when a matter is formally settled. Alscher(2014) estimates that about one-third of complaints that end in a panel ruling are resolved through this mechanism.

The weakness of WTO's remedies is one of the reasons for parties to negotiate deals which result in incomplete compliance. In instances when the respondent fails to comply or offer any compensation, the only choice left with the complainant is to seek authorization for withdrawing trade concessions which could affect an equivalent amount of respondent's trade. However, it does not takes down the market barrier which was



challenged. Moreover, it is a prospective remedy, which means that trade concessions are withdrawn only after the case is concluded. Because of these weak remedies, a complainant's leverage is reduced while negotiating a final settlement. A respondent may also engage in "noncompliance," a strategy in which it formally complies with the ruling but denies market access through other means. Thus, the economic effect of the ruling is negated by the respondent. In cases like these, the complainant has to start the WTO legal process all over again (McGivern 2002).

### **US Experience with DSM**

There is ambivalence towards trade in some quarters in the US. The general misconception about the benefits from trade has not helped either. The importance of exports is quickly grasped by the American public, but there are gains from trade that go way beyond that. Exports allow producers to charge higher prices for their products and allows them the benefits of economies of scale. Imports, on the other hand, depress prices and enlarges the options available to the consumers. Firms also become more competitive and productive as a result of intensified competition due to trade.

Enforceable trade rules create winners and losers because of which they are unpopular. There is often a political pressure from some quarters to disrupt trade despite its positive impact on the overall economy. Imports help consumers as they reduce prices in the domestic market, but are detrimental to producers. Since producers have more political influence, an anti-trade bias emerges.

International trade also pits foreign firms and workers against the domestic ones which pressurize political leaders to champion the cause of local producers. If local producers can show that their competitors in other countries are receiving aid from their respective governments, it becomes difficult to resist their plea for help. Trade rules have a crucial role to play under such circumstances. They put a restraint on protective measures which can reduce welfare of the consumers, and they help to reassure workers and investors that the system is nondiscriminatory (Steve 2001).

The US as a nation takes pride in the fact that it abides by its commitments and treaties. Obligations required by international agreements have been taken seriously by successive US administrations. In the past, they have opted not to sign parts of many agreements, fearing that compliance might put them in opposition to US interests. Similarly, they have refused to sign some treaties fearing potential legal exposure. But, its behavior towards WTO has been different as it has willingly accepted multilateral rules.

During the UR, a more effective dispute settlement system became the main negotiating objective of the US. This resulted in the Dispute Settlement Understanding of WTO, which enables the US to protect its interests and assert its rights in the international trading system more than ever before.

Since the creation of the WTO, the US has been the most active user of its dispute settlement mechanism. Its goal in filing cases has been two-pronged; first, it is aimed at protecting US rights in cases where economic interests of the US are high; second, to ensure that the importance of complying with WTO rules is understood by US trading partners. Wherever possible, the US has tried to resolve the matter with bilateral consultations rather than resorting to panel proceedings.

In the initial five years of WTO's inception, the US filed 53 of the 202 total complaints filed under DSM. The experience gained in these cases has helped in dispelling some early misconceptions and fears and in developing ideas which could further improve and reform the system. It has also confirmed that the DSM is a fundamental part of the world trading system and it helps in enforcing US trade rights (Barshefsky 2000).

In an analysis done by the General Accounting Office(GAO), the US has gained more from the DSM than it has lost. Cases filed in WTO by the US has led to substantial changes in the trade laws of its trading partners while having a minimal effect on US regulations and laws (Westin 2000).

Yet, the dispute settlement panels of WTO has repeatedly judged the US to be violating its WTO commitments. While some of the violations can be ascribed to uncertainties regarding the interpretation of the meaning of the rules, the US has also deliberately disregarded rules on certain occasions (Hudec 1999).

These setbacks have mainly related to trade remedies. In the first ten years of WTO, the US lost five out of the six cases regarding safeguard provisions which were applied to halt exceptional import surge of particular products. Many losses have occurred because of administration of antidumping measures. A lot of violations has also been found in US farm policies by panel decisions in the Brazil's cotton case.

This behavior has been encouraged by the opinion of the Congress. Legislators are more likely to question the authority of WTO to pass judgments over the US rather than to question the appropriateness of US conduct. If there is a breakdown in the Doha Round of trade negotiations, such tensions are likely to raise. It would block the diplomatic route for accessing US markets for its trading partners. In such a scenario, they may seek access by bringing more cases to the DSM of WTO. Resentment against the WTO could increase in the event of a surge of such cases against the US. This could weaken America's commitment to the international trading system (Lawrence 2007).

Contrary to what critics might think, the US being called to task by WTO panels is illustrative of the benefits they serve. Protectionist tendencies of the US are curbed by the dispute settlement system which increases prosperity. But the US should not wait for the arbitration panel to force them into complying with WTO rules, rather it should do so prospectively.

Washington's policymakers often are of the view that trade can be bolstered by using anti-dumping suits and various other trade-restricting measures. They are seen as a punishment for foreign producers who "cheat" in an attempt to gain in US markets. In their opinion, dispute settlement panels of WTO harm political support for trade as they have frequently ruled negatively on trade remedies employed by the US. But this argument is shortsighted.

All nations can play the game of antidumping suits. In the absence of DSM, US trading partners can employ their own "fair trade" measures and hence obstruct US exports. This will heighten the US resentment towards the global trading system. Therefore, enforceable rules helps in thwarting a retaliatory response towards protective barriers

which could have further contributed towards the erosion of support for trade (Lawrence 2007).

Such absence of enforceable multilateral trade rules in the GATT era was a source of considerable frustration for the US. The US was engaged in innumerable bilateral conflicts with Japan over market access and with the EU over its Common Agriculture Policy(CAP). These disputes proved extremely difficult to resolve.

The US response was to implement laws like the Section 301 of the Trade Act 1974 and the Super 301 provisions of the Omnibus Trade and Competitiveness Act of 1988. These provisions threatened unilateral trade sanctions as a way to remove unreasonable barriers to US exports. While the results of these measures were mixed, they helped in convincing other countries to establish WTO which was more effective in settling disputes than its successor GAAT (Watkins et al. 2006).

The biggest advantage WTO has over GATT is that it can enforce its rules through its dispute settlement system. This means that that the US does not need to enforce unilateral retaliatory measures. It has eliminated a significant reason for friction between the US and its trading partners and as a result generated dividend in foreign relations. The US has refrained from taking unilateral actions against WTO members without the authorization of WTO.

A multilateral enforcement system helps in legitimizing the trading system and brings down the political costs that can occur when a dispute is resolved bilaterally. It also helps in keeping the protectionist impulses of the US away. DSU is beneficial in dealing with disputes that involve America's largest trading partners, like the EU, China, Japan, Brazil and India, countries which have not signed FTAs with the US.

However, there are criticisms from some quarters regarding US participation in the WTO. The first is that there has been a loss of sovereignty for the US as a result of participation in multilateral institutions like the WTO (Jackson 2002).

The WTO operates by reciprocity principle. This means that if a member has complained against a lack of market access in the US, it has already made an equivalent amount of

market access for the US and other nations. A violation by the US means that it did not implement its part of the agreement. Thus the claimant's retaliation against the US cannot be seen as an imposition of a fine (Mavroidis 2000).

Instead of limiting US sovereignty, retaliation of this kind favors the US. Having a very large market makes the US more powerful in this system which relies on reciprocity to implement agreements. The large market of the US also provides it a greater ability, first, to bargain during the consultation process; second, to enforce rulings against non-complying countries; and third, to withstand retaliation if other members are allowed to take action against the US (Busch and Reinhardt 2000).

The second is that the WTO has become too much of a quasi-legal body which impacts the legislation at home. They fear that the ambiguous nature of the WTO rules provides the scope for excessive judicial activism. Such actions could undermine domestic decision making and can lead to laws that are enacted by panelists instead of US legislators and executives. This is an invalid criticism since the US does not necessarily have to comply with the Panel's decisions if it is ready to bear the costs of such non-compliance.

### **Indian Experience Under DSU**

During the period of GATT, India was not an active member in the process of dispute settlement. It only became more active since the inception of WTO. There are numerous factors which affect the effective participation of a country in the dispute settlement mechanism. These factors could be non-availability of adequate legal capacity at the international trade front; a dearth of harmonization among trade policy bureaucrats, legal specialists and delegates from industry. Many of them are uninformed about trade laws, process of dispute settlement and lack litigation strategies. India in the GATT era belonged to this set of countries (Shaffer 2006).

But things started to change since the formation of the WTO. Presently, India is among the leading members in WTO dispute settlement. It is a complainant in 21 disputes, and 23 disputes have been filed against it. Further, acting as a third party, it has actively

participated in 114 disputes. 10 of the 21 disputes filed by India were followed by formation of panel or Appellate Body. The remaining disputes were either agreeably settled through consultation or not pursued by India. Similarly, acting as a respondent, 7 out of 23 disputes led to panel formation or Appellate Body reports (Das and Nedumpara 2016).

31 of the 44 India's disputes were either with the EU or the US. This underlines the importance of these two members for India's trade. These three members have used the DSM to ensure that measures which do not comply with rules of WTO do not hinder their market access to other members.

If category of products that have influenced India to challenge a country's measures are taken into account, it has behaved differently as a respondent and a complainant. While India's complaints pertain to a small group of products like steel, pharmaceutical, marine items and textiles, India's measures disputed by other members influenced a wide gamut of items. For instance, India-QR included items covering about 2700 lines of tariff. Similarly, the EU has complained about India's Export and Import policy on two separate occasions.

India is yet to question a measure which has the potential to influence products of multiple sectors. Nine out of ten complaints filed by India that reached to the panel stage affected mostly to three sectors- steel, textile and marine. This may be reflective of India's trade interests in this small basket of products. Similarly, it also reflects that India might not have adequate legal and technical competence to distinguish and prosecute measures that are blocking India's exports.

Most of the disputes in which India has been a complainant were filed because of its wish to remove the negative effects on its trade that arose due to WTO inconsistent measures adopted by members against items which are important for India's exports. These items includes products of India's traditional strength like textiles and also products in which India has acquired competitiveness in foreign markets in recent past. (Vemulst and Mihaylova, 2001).

The textile sector included import restricting measures on unbleached cotton fabrics, cotton linen, wool blouses and shirts, cotton yarn and wool coats. The latter class of items includes shrimp, automobiles, steel and marine items, etc. India's trade in these products would have experienced a significant negative effect if these offending measures were left unchallenged. This was especially accurate for measures related to anti-dumping which could have led to significant trade loss had they not been challenged.

Another motivation behind India's participation in DSU is to challenge measures which had potential to cause trade loss in future. *Turkey-Textile* is a good illustration of this point. Turkey had imposed quotas on some of the textile exported by India. India decided to challenge Turkey despite it being a less significant destination for Indian textiles. As Rajagopal(2016) points out, the thinking behind India's move was that other countries could be encouraged to put similar import restrictions on Indian textiles if Turkey was left unchallenged. It would have led to the growth of quotas on textile and could have jeopardized the chance of removal of all quotas on textile by January 2005 under ATC, which had been an important outcome for India from the UR.

On once instance, information discovery as seen in *Argentina-Pharmaceuticals* case has been the motivation for India in filing disputes. India's comparative advantage in generic medicines prompted its pharmaceutical producers to explore opportunities in Argentinean market. According to Indian exporters, the registration requirements under Argentinean regulations were complex and posed a barrier to export for Indian medicines. This prompted the Indian government to request a consultation with Argentina under DSM. India's consultation request reaped dividends as it received important information about the legal regime of Argentinean pharmaceutical sector (Lalitha 2002).

The participation of India and its approach in certain trade disputes indicates that economic diplomacy at the WTO might be to some degree not quite the same as political diplomacy. India has not vacillated at the WTO to defend its interests, regardless of the possibility that India had to file a dispute against nations with whom it shares harmonious political ties. India has not allowed itself to get sucked in the developing country-developed country binary at the dispute settlement forum (Das and Nedumpara 2016).

The other aspect of India's political economy approach is that on some instances, it has decided not to support countries with which it has close political ties. In spite of the fact that India has shared great historical, cultural and political ties with Mauritius, it did not interfere as third party in favor of Mauritius in EC-sugar subsidies

Being a respondent in some of the WTO disputes has prompted India to undergo important policy changes. It also had to initiate reforms in some sectors. India-QR is the most important case in this respect. The balance of payment difficulties had prompted India to keep import restrictions on a variety of products. Quantitative restrictions on 1729 products were dismantled by the country as a result of defeat in the India-QR case.

Another dispute that has forced India to make significant changes in its policy is India-Autos. Reforms were also carried out in procedures, practices, and rules of the antidumping enforcement agency of India as a result of WTO disputes.

In the beginning, India's active participation in the DSM was fuelled by its wish to remain an important party in the interpretations of multiple WTO agreements. As a result, various disputes involving India have enriched WTO jurisprudence. The clarity on who among the respondent or complainant has the burden of proof during dispute settlement was achieved mainly from disputes which involved India. *EC-Bed Linen* dispute involving India challenged the practice of "zeroing" while calculating dumping and led to numerous disputes under Anti-Dumping Agreement (Graafsma and Rajgoopal 2006).

Wu(2012) highlight the contribution made by *US-Steel Plate* which enriched the law on "facts available" when anti-dumping measures are investigated. *US-Carbon Steel* gave new clarifications and ideas in uncharted areas of the Subsidies and Countervailing Measures Agreement such as the definition of public body and the concept of cross-cumulation.

A finer comprehension of WTO agreements was achieved as result of jurisprudence that evolved in these disputes. It also helped in elevating the standing of international trade law in the sphere of public international law.



## CHAPTER 5

### U.S.-INDIA AGRICULTURAL DISPUTES IN WTO

Before liberalization paved the way for market reforms, India's economic development policy was inward looking. The economic policy had protection of agriculture and domestic industry at its heart. Trade accounted for less than ten percent of India's GDP, and Indian contribution to global trade was negligible.

The liberalization of the economy in 1991 opened up several aspects of industrial and economic policy. There were a number of reasons that edged India into taking these reform initiatives. There was a belief in the establishment that their inward looking policies have reached its limitations. The emerging markets of East Asia provided a good opportunity to grow and to benefit from it, India had to shed its anti-trade bias. However, the more immediate reason for liberalization was the Balance of Payment Crisis that emerged due to a spike in oil prices as a result of the Gulf War. It forced India to seek aid from the International Monetary Fund(IMF) which insisted that India adopts its structural adjustment program (Chand 1998).

Trade liberalization was one of the parts of this structural adjustment program. Phasing out of quantitative restrictions on imports was gradually undertaken since 1991. By 1995, quantitative restrictions on over half of the 11, 587 tariff lines were lifted by India. Furthermore, restrictions were also loosened on 1500 lines.

But, the protectionist tendencies still plagued India's approach to imports. Importantly, import substitution policy had a major influence on the establishment which decided on the matters of trade and industrial development. A clear reflection of this was the quantitative restrictions on roughly 2700 industrial and tariff lines.

The WTO Committee on Balance Of Payments(BOP) Restrictions discussed India's quantitative restrictions in 1995 but could not reach a conclusion. The opinions of members were divided on this issue. One group supported India's assertion that caution should be applied while liberalizing remaining import restrictions and the timing and pace of phasing out of these quantitative restrictions should be left to Indian authorities.

While it seemed that India's external position is stable, its BOP remained structurally weak (Thomas 1999).

The other members led by the U.S. were less sympathetic to India's assertion that it needed these quantitative restrictions to manage its BOP. These members observed that if India dismantles these restrictions, imports of intermediate and capital goods will get a boost which in turn can generate an expansion in India's exports capacity. It was also pointed out that India's foreign exchange reserves have experienced substantial increase as a result of large inflows of foreign investment. Finally, they used an IMF report to substantiate their argument which had stated that India's BOP in the medium term were sound. Hence, these members felt that India cannot be allowed to use QR under Article XVIII.

It was these quantitative restrictions on 2700 odd tariff lines that became the basis of an Indo-U.S. dispute in WTO. The case came to be known as India-Quantitative Restrictions (hereafter, India-QR) and had a far reaching effect on WTO jurisprudence and Indian economy.

### **India-Quantitative Restrictions**

The U.S. requested consultations with India on 16 July 1997. India was maintaining quantitative restrictions on a large number of commodities. The U.S. considered such restrictions on at least 2700 tariff lines but not limited to them, as in variance with India's commitments under various articles of WTO. India was accused of being violating Article 4.2 of the AoA, Article XI:1 and XVIII:11 of the GATT 1994 and Article 3 of the Agreement on Import Licensing procedure. The U.S. was joined by Canada, Australia, the European Union, Switzerland and New Zealand in requesting consultations with India on the said quantitative restrictions (WTO 1997).

The U.S. argued that 710 of the 2714 tariff lines that became the subject of the dispute had products that were covered by the AoA. It argued that fruits, vegetables, poultry, coffee, processed foods and numerous other agricultural items were essentially consumer

goods which could be used to directly satisfy demand of humans without undergoing any processing. The ban imposed by India on imports of such agricultural goods could be classified as a type of protectionism. Under AoA, WTO members had decided that non-tariff barriers on agriculture items would be eliminated. They were to be replaced by tariffs which were to be reduced over time.

The Article 4.2 of the AoA had allowed members to maintain nontariff barriers only if they had BOP difficulties. Since the IMF had found that India does not need import restrictions on these items as it does not face any immediate threat to its BOP, the U.S. argued that India was in breach of Article 4.2.

With consultations failing to produce a solution, the U.S. petitioned the DSB to form a panel for examining the dispute. In its response to panel's request, the U.S. clarified that it sought a ruling which disallows India's current quantitative restrictions under balance of payments exception. The U.S. supported its case by providing IMF's findings and determinations on the issue which was further corroborated by evidence provided by the U.S. Furthermore, the U.S. contended that the burden falls on India to prove that it hasn't breached any WTO rules.

India claimed that the panel had no authority to decide on the conformity of import restrictions since it is determined by the General Council of WTO. India argued that acceptance of U.S. views would result in deviation from long held practices of determining import restrictions' legal status from the General Council and committees of WTO to DSB and the IMF.

The General Council had decided against the U.S. complaint on India's quantitative restrictions. India argued that the U.S. complaint was essentially a complaint against a WTO body which has failed to take decisions as sought by the U.S. Since the members could not complain under DSU about other provisions which fall under General Council, they should not be allowed to complain about import restrictions which are decided by the General Council. The objective of the DSU is to settle disputes between WTO members not between WTO members and organs of WTO.

The attempts made by the U.S. to defend its theory of "alternative routes" is an indication that the complaint against India is essentially a complaint against a WTO body which has failed to make decisions which are sought by the U.S. India requested the Panel that it should not make its assessment on whether India's import restrictions are justified. Further, the Panel should notice that during the preceding fifty years, not a single Panel has attempted to decide what the U.S. has now requested to this Panel.

The U.S. countered India's argument that if Panels were to decide on the matter of BOP, there might be variability with the decisions taken by the General Council. The U.S. explained that if India's position was embraced, it would mean that Panels do not have authority to decide over any agreement of WTO since the General Council has the power to interpret all agreements under WTO.

The U.S. argued that India maintained import licensing requirements on products numbering in thousands and this amounted to quantitative restrictions. India's official Export and Import policy listed these items in a "Negative List of Imports." The process of granting imports was arbitrary, non-transparent and discretionary. Licenses were refused routinely by claiming that they would compete with domestic producers. Consumer goods (including food items) were the leading item on the Negative List, and this effectively resulted in an import ban on these goods.

The U.S. noted that even when import licenses were granted for a product which was in the Negative List, it was accorded only to the "Actual user". It effectively ruled out imports from wholesalers and other intermediaries. Some of the import was done through "canalization" in which a state trading agency channeled the imports. These type of rules were an example of quantitative restrictions.

India's quantitative restrictions and licensing regime had damaged U.S. trade interests and continued to do, claimed the U.S. India's 50 years of import restrictions had severely restricted U.S. trade interests in India market, despite being substantial at the time of independence. To substantiate its claim, the U.S. argued that in spite of quantitative restrictions, it exported U.S.\$ 1.3 billion worth of goods to India in 1996. However, when compared to U.S. exports to India, its exports to ASEAN were eight times in value, even

though ASEAN had a population size which was half the size of India's. In "*Japanese Measures on Imports of Leather*" case, it has been noted that the fact that since large quantities of leather were exported by the U.S. to other markets, it is an indication that U.S. export have been adversely hit by the existence of quantitative restrictions (on leather imports) (WTO 1997).

The U.S. even argued that the restrictive import regime of India has damaged its export potential and economic growth. It quoted economist Joshi and Little, who had argued that fifty years of protection with limited internal competition has resulted in lack of innovation and high cost, low-quality production. It has shifted incentive towards rent seeking instead of competition.

In response, India provided following reasons for a discretionary licensing regime. Barely 15 years ago, imports were not allowed in India. Since the size and structure of Indian economy is large and diverse, it was difficult to exactly gauge import demand, import elasticity for such a large number of products and effective rate of protection for them. Thus, India considered such a discretionary regime as unavoidable. But, at the same time, import restrictions were being progressively phased out by India.

India argued that if its import restrictions which covered one-third of its imports were suddenly removed, it could create considerable political opposition and economic uncertainty. This, in turn, could have adverse effects on investment climate and its foreign reserves. The schedule for withdrawal of its import restrictions was not drawn by keeping a particular target of foreign reserves in mind. Rather, its aim was to make sure that liberalization should not generate problems relating to BOP which will be difficult to rectify considering India's current macro-economic policies. If India were to withdraw its import restriction now, it will again have to resort to them since it could lead a balance of payment crisis (Gulati 2002).

India contended that a long term equilibrium in the BOP was possible in theory through macro-economic policies like high rates of interests, currency devaluation, and fiscal policies that lower government spending. But, economic growth would slow down as a result of such policies. This economic contraction would result in underutilization of

industrial capacity which could lead to a rise in unemployment rate. This would be inconsistent with objectives of Article XVIII:11 of GATT which include ensuring that productive resources be economically employed. It would also be inconsistent with Article XVIII:B which argues for facilitating economic development of WTO members which are less developed. If India were to use such policies and currency devaluation, in particular, an equilibrium in the balance of payment at an international trade level will be difficult to achieve. This was because it would be difficult to produce both essential and nonessential goods for the developing country.

India further argued that since its independence in 1947, it had to face serious BOP crises on more than one occasion. There were major infrastructural bottlenecks that India faced which were impeding it in continuing a respectable economic growth. A large portion of the required investment would have to materialize from outside India to finance imports and to cover the savings gap. Also, even a short term outlook of India's balance of payment showed that it was vulnerable to concurrent pressures on its foreign reserves from different sources. India, therefore believed that removal of import restrictions immediately would produce a grave problem on the BOP front (Patnaik 1999).

### **The Panel Decision:**

The Panel ruled in favor of the U.S. and decided that India's quantitative restrictions were unjustifiable under Article XVIII. It accepted the U.S. argument that India had to eliminate its quantitative restrictions immediately as they were no longer required. The Panel concurred with the U.S. on the matter of authority of DSB to inquire into justifications presented by member states for keeping import restrictions on balance of payment grounds.

On the institutional question of the association between the IMF and the WTO, the Panel declined to adjudicate the degree to which panels can consult with the IMF or considers dispositions given by the IMF. However, the Panel accepted that certain assessments of the IMF could be considered.

In its appeal to the Appellate Body(AB), India argued that an impartial evaluation of facts was not done by the Panel rather it had delegated its responsibility to the IMF and had substituted the IMF's opinions for its own. India's argument were cast aside by the Appellate Body. Although, it was accepted by the AB that the Panel had given substantial weight to the views of IMF. However, it concluded that the Panel didn't merely accept IMF's views rather they were critically assessed and were compared with other data such as provided in the report of the Reserve Bank of India. Other conclusions reached by the Panel were also upheld by the Panel (WTO 1999).

### **Implications for Indian Economy:**

A mutual solution was agreed as a result of the India-QR dispute. India agreed on removing quantitative restrictions on the disputed tariff lines before specified deadlines. The very foundations of India's trade policy were hit by the Panel's decision. It led to a significant opening of India's trade policy in the next two years (Mitra and Josling 2009). Today there are no quantitative restrictions on any product. But restrictions are sometimes imposed for essential supplies which are allowed under Article XI of GATT. Last five years have seen the use of Article XI reduce significantly, but it still sometimes creates uncertainty leading to speculation and resulting in price volatility. Indian trading partners often challenge the use of Article XI. However, the government has now decided not to frequently use the article to restrict exports and imports of agriculture products.

The resolution of the dispute had some latent benefits for India. There was an increase in tariff revenues as India changed to a tariff regime from an import licensing regime. The resolution led to reform in India's customs authorities. The discretionary licensing which was a hallmark of Indian import regime was eliminated. Thus, it substantially reduced the opportunities for smuggling and corruption. This is illustrative of an important effect of WTO dispute settlement system. By using the DSM, trading partners can force members to devalue entrenched corrupt and domestic protectionist interests (Bown 2004).

### **Impact on WTO Jurisprudence:**

One important aspect of the India-QR case was the Panel's decision to undertake its own interpretation of a responding member's domestic law to check its conformity with WTO rules. Subsequent to India-QR dispute, a similar issue was once again under consideration in the United States-Section 301 Trade Act. The case was filed by the European Union alleging that the Sections 301-310 of the U.S. Trade Act were WTO inconsistent. The Panel in its judgment found the Sections consistent with WTO, not on the premise of wordings in U.S. laws but on the basis of assurances given by the U.S. authorities. This ruling found application in many disputes involving the U.S. as respondent with India being a third party in some of them (Andersen and Raju 2016).

But when India argued on similar lines in India-Autos by claiming that its pledge concerning functioning of its law should suffice the Panel's concerns in the case, the argument was rejected by the Panel.

From the perspective of developing countries, the Panel's decision was a disappointment. The option to impose restrictions on imports for the purpose of BOP was an important expression of differential and special treatment. This option was an important part of the Marrakesh Agreement that had established the WTO. However, by taking a purely legal approach, the Panel had impacted this standard. It restricts the ability of developing economies to impose BOP import restrictions.

Also, the decision opened a dual track system for allowing minority concern to trump. The U.S. did not get its way in the BOP committee and was able to give a second shot through the dispute settlement process. This further opens up the possibility of more countries using such dual track approach.

### **Impact on Trade:**

The dispute settlement understanding allows WTO members to legally compel a member to remove its trade barriers. This, in theory, result in increase in trade not only between



the respondent member and the complainant member but also between the respondent member and all other members (Chaudoin et al. 2016).

The respondent member complies with the WTO ruling for a number of reasons. The resolution of the dispute provides political cover to the respondent to dismantle trade barriers. Noncompliance of the ruling raises the cost of leaving the barrier intact for the respondent. Countries may also comply in the expectation that they might wish to challenge a member in the future. There is also a fear of normative condemnation in case of noncompliance (Brown 2004).

India fully implemented the WTO Panel decision by 2001 and replaced its quantitative restrictions with tariff barriers. Below, we take a look at the pattern of agricultural imports by India considering 2001 as inflection point.

### **Total Agricultural Imports**

<b>Year</b>	<b>Total Import (in Billion U.S. \$)</b>
<b>1999</b>	3.09
<b>2000</b>	2.11
<b>2001</b>	2.49
<b>2002</b>	2.98
<b>2003</b>	3.75
<b>2004</b>	4.05
<b>2005</b>	4.48
<b>2006</b>	4.75
<b>2007</b>	6.57

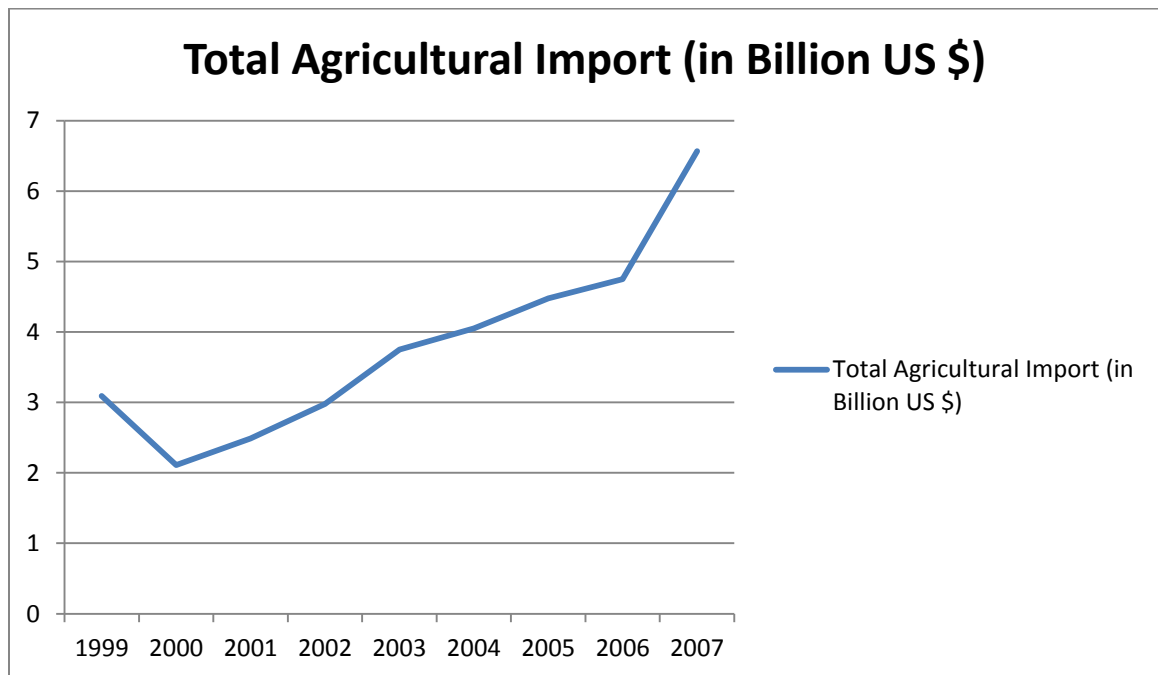
**Table 5.1: Total Agricultural Imports by India**

**Source: United Nations International Trade Statistics Database**

The total agriculture imports saw a downward trend leading to 2001. After that, it started picking up and saw an upward trend reaching a figure of U.S. \$ 6.57 bn in 2007.

There was apprehension in India regarding the impact trade liberalization could have on consumers, producers, and the overall food security. To guard against any import surge, various precautionary measures were taken by the government. A "war room" comprising various secretaries of concerned ministries was established for collating, tackling and analyzing imports of sensitive agricultural products.

Although the tempo of agricultural trade was slow in the initial stages of removal of quantitative restrictions, it subsequently gathered pace. There was an increase in both imports and exports with the latter outperforming the former. Larger imports helped in containing price rise of various food items. Import liberalization also gave an impetus to the domestic food processing sector as it was able to import various ingredients that were hitherto either unavailable for were available for very high prices (Goldar 2005).



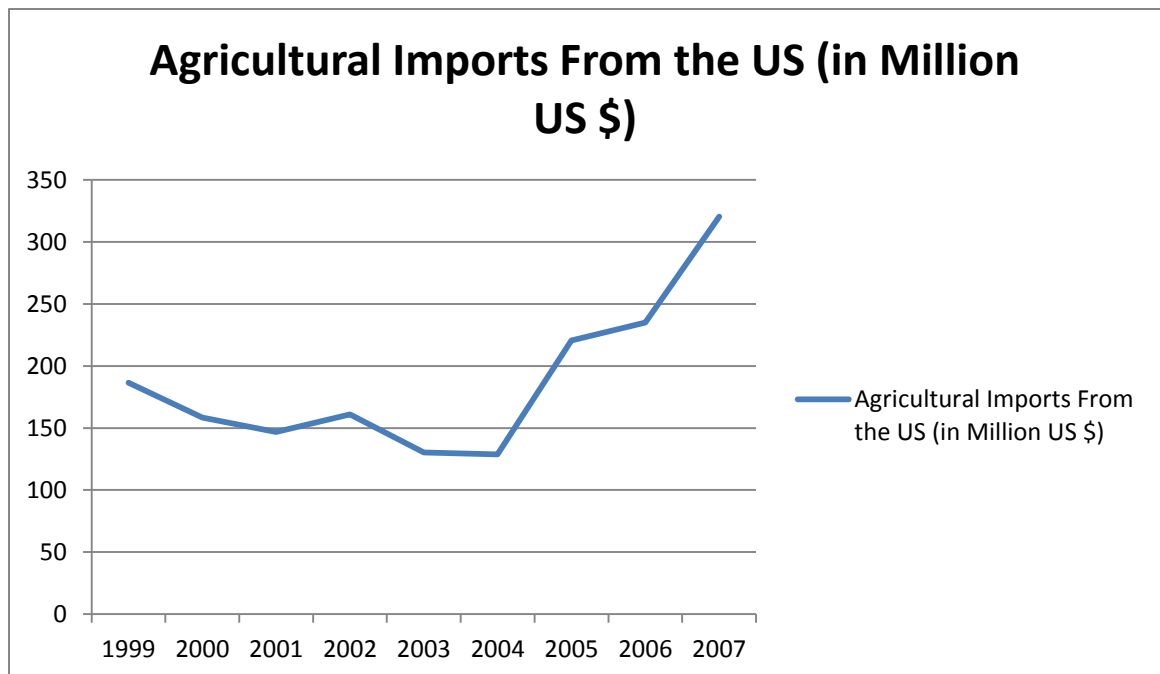
**Figure 5.1: Total Agricultural Imports by India**

**Source: United Nations International Trade Statistics Database**

## Agricultural Import From the U.S.

Year	Total Import (in Million U.S. \$)
1999	186.4
2000	158.3
2001	146.8
2002	161.1
2003	130.4
2004	128.7
2005	220.6
2006	234.9
2007	320.4

**Table 5.2: Agricultural Imports from the U.S. by India**  
Source: United Nations International Trade Statistics Database



**Figure 5.2: Agricultural Imports from the U.S. by India**  
Source: United Nations International Trade Statistics Database

Agricultural imports from the U.S. also saw a declining trend leading to 2001. It picked up in 2002 but again started declining till 2004. After that it saw an increasing trend.

One of the reasons for fall in U.S. agricultural imports to India and its subsequent slow rise after India removed its import restrictions was the high bound tariff rates imposed by India on agricultural products. The bound tariff rates averaged 114 percent for agricultural products. These rates were among the highest in the world. They were much higher if compared to Brazil (36 percent), China (16 percent) and the top 10 agricultural markets(34 percent) for the U.S. The actual applied rate of tariffs varied between 10 to 150 percent (UITC 2009).

These gaps between the bound rate and applied tariff rate allowed the Indian government to change its tariff rates in response to conditions in the domestic and international markets. The rates on heavily traded commodities such as rice, sugar, wheat, and vegetable oils are frequently changed by the Indian government to mitigate food inflation. If there is a rise in agricultural prices, the government lowers the tariff to encourage imports which puts downward pressure on the prices. On the contrary, in case of fall in prices, the tariffs are raised to protect farmers. This variability in tariff rates and the complex process that announces these changes creates uncertainty and act as an impediment for agricultural exporters from the U.S. (UITC 2009).

The other reason for low U.S. agricultural exports to India is the self-sufficiency of India in many agricultural products. India is endowed with a varied spectrum of world climate and has second largest land area under cultivation. As a result, it produces a wide array of agricultural products and is globally a major producer of grains, fruits, vegetables, dairy, and livestock. Imports account for only 3 percent of agricultural demand in India.

Market competition from other global suppliers is also a reason for limited imports from the U.S. Indian consumers are sensitive to prices and are wary of paying a premium for consuming higher quality U.S. products.

## **India-Measures Concerning the Importation of Certain Agricultural Products**

India-Agricultural Products has several distinctions to its name. It was the first time a developing countries' use of sanitary and phytosanitary (SPS) measure was challenged. India had imposed import restrictions against certain countries reporting cases of Avian Influenza (Bird Flu) and was challenged by the U.S. The dispute involved a competing interpretation of international guidelines which is at core of SPS agreement. The measure deployed by India was not based on "risk assessment" as it is defined in SPS Agreement, rather India argued that there was scientific basis of applying the measure. According to India, even if the scientific basis or its risk assessment is challenged, the measure was in compliance with the international guidelines of the World Organization of Animal Health (OIE) (Nedumpara et al. 2016).

### **U.S. Arguments in the Case:**

India prohibited imports from the U.S. of various pork and poultry products in 2006 without any prior warning. Months after subjecting U.S. imports to prohibition, India finally explained that it was done on account of LPAI virus prevalent in the U.S. A notification in this regard was issued which explained that India's measures were in accordance with its Livestock Importation Act, 1989.

Avian Influenza (AI) is not a homogeneous disease but rather is an array of diseases caused by different types of viruses. Some of the AI viruses cause HPAI which is highly contagious and can decimate poultry flocks. Another variant is LPAI which is often an asymptomatic disease. Humans are not affected by most strains of AI as they do not easily transmit to humans (Bown and Mavroidis 2016).

The U.S. had detected H5 and H7 subtypes of LPAI in its poultry. India, on the other hand, had not reported a single outbreak of LPNAI. But, over 90 outbreaks of HPAI were reported by India during the period in which there were no HPAI outbreaks in the U.S..

The OIE Code details the measures for controlling of AI. It recognizes differences between LPAI and HPAI and provides for different measures in each case. As per the

OIE Code, most products that India had banned from import such as eggs and poultry meat can be safely imported from LPNAI reporting territories with use of suitable control measures. India's measure did not make such a distinction and imposed complete ban on some products irrespective if the country is reporting HPAI or LPNAI. Hence, the OIE Code did not form the basis of India's measures (WTO 2014).

A fundamental requirement for applying a measure under SPS Agreement is that the measures should be rooted in scientific evidence and principles. A member can comply with these obligations by supplementing its measures with either relevant international standards, recommendations or guidelines or on a risk assessment. India has done neither while applying the measure for past six years.

Moreover, India differentially treated its products from imported products. India did not undertake surveillance to detect LPNAI, a disease which has become the basis of import restrictions in the present case. India also had no comparable restrictions on the intra-country movement of poultry products which it has prohibited for imports.

#### **India's Argument in the Case:**

India contended that it was not the only country to have prohibited import of poultry from countries affected with LPAI. In December 2008, Singapore banned poultry and poultry products imports from Belgium and Taiwan because of occurrence of LPAI(H5). Similar bans have been imposed by the Philippines on Korea and Denmark due to existence of LPAI(H7). In fact, the U.S. had itself banned imports of poultry from various countries in the past (Niranjan 2016).

India cleared that its import restriction measures were aimed at addressing risks correlated with AI and to protect safety of food in the country. India had assumed that its measures were acceptable under the OIE Code and therefore it was inconsequential if there was or wasn't a risk assessment. Apparently, there was some scientific material compiled by India on the riskiness of importing poultry from LPNAI infected countries. But it did not fit the illustration of risk evaluation as envisaged in the SPS Agreement.

The U.S. had argued that the OIE code recommends bans on areas which were affected by AI and not the whole country. India's contention was that country wide bans were envisaged by the OIE Code. Elaborating its stance, India highlighted that the Chapter 10.4 of the OIE Code involves a "condition of entry." India interpreted it in a way that allows an importing country to import from members free of HPNAI and NAI and the freedom to extend such requirements to the whole country, its states or zones. This explanation requires that if freedom from NAI has been made a condition for entry by an importing nation, the necessary corollary, in that case is an import ban if the exported country is NAI affected. Thus, the Chapter 10.4 recommendations allowed a country importing products to appropriately choose its level of protection (WTO 2014).

Since India's measures were an effective import ban on some agricultural products, it was essential to determine if Chapter 10.4 of the OIE Code envisaged import prohibitions. It was observed that "import ban" as such was not prominently mentioned in the chapter but one of its provisions, namely, Article 10.4.1.10 referred to it. The Article stated, "A Member should not impose immediate bans on the trade in poultry commodities in response to a notification, according to Article 1.1.3 of the Terrestrial Code of infection with HPNAI and LPNAI virus in birds other than poultry, including wild birds." (Boza and Munoz 2017).

India's interpretation of Article 10.4.1.10. was that in case a country's poultry was affected by HPNAI or LPNAI virus, India was justified in imposing import restrictions (till the country declares to OIE that it is free from NAI). The Article in question according to India was an attempt to keep the commercially important poultry sector away from ban even in cases when there was a prevalence of LPAI or HPNAI in birds, even in wild birds. It was decided by the Panel to seek an opinion from OIE on the interpretation of said OIE Code. Objections were raised by India regarding the Panel's authority to consult an international organization on issues which were not strictly technical and scientific. India's view was that it was a case of interpretation of the language of the Article. The Panel, however, went ahead with the consultation and concluded that explanations submitted by the OIE were in resonance with the arguments

made by the U.S. Where the OIE Code allowed prohibitions, it has explicitly stated in the text.

### **The Panel Report:**

On 18 October 2014, the Panel circulated its report to the members. The Panel found that AI measures employed by India were not in compliance with Article 3.1 of the SPS Agreement as Chapter 10.4 of the OIE Code do not allow for them. They were also inconsistent with Article 5.1, 5.2 and 2.2 of the SPS Agreement as India has not backed them with proper risk assessment.

India's measure also unjustifiably and arbitrarily discriminated among members having identical conditions and their manner of application is a disguised restriction on international trade. They did not differentiate between disease free areas and areas of low prevalence of disease and so they did not apply SPS characteristics differentially to these areas(WTO 2014).

On 26 January 2015, India appealed to the Appellate Body challenging certain findings of the Panel report. The Appellate Body upheld the Panel report. India pledged to implement Panel's finding till June 2016 (WTO 2015).

### **Impact on WTO Jurisprudence:**

There was little clarity over the understanding of Article 6 of the SPS Agreement in previous SPS related disputes. Article 6 discusses procedures which are to be applied by WTO members for zoning and compartmentalizing areas with different animal health status. Article 6.2 states that the concept of disease free areas and areas with low disease prevalence must be recognized by the importing member. Article 6.3 mandates the exporting country to give proof to the importing country to show which areas under their territory can be classified as disease free or areas of low disease prevalence.



The U.S. claimed that AI measures applied by India prohibit import of poultry from all over the U.S. India contended that the guidelines of Article 6.2 are only triggered when the exporting member itself compels with Article 6.3. India also argued that the exporting member has the burden to recognize areas free of disease or areas of low disease prevalence with documentary evidence.

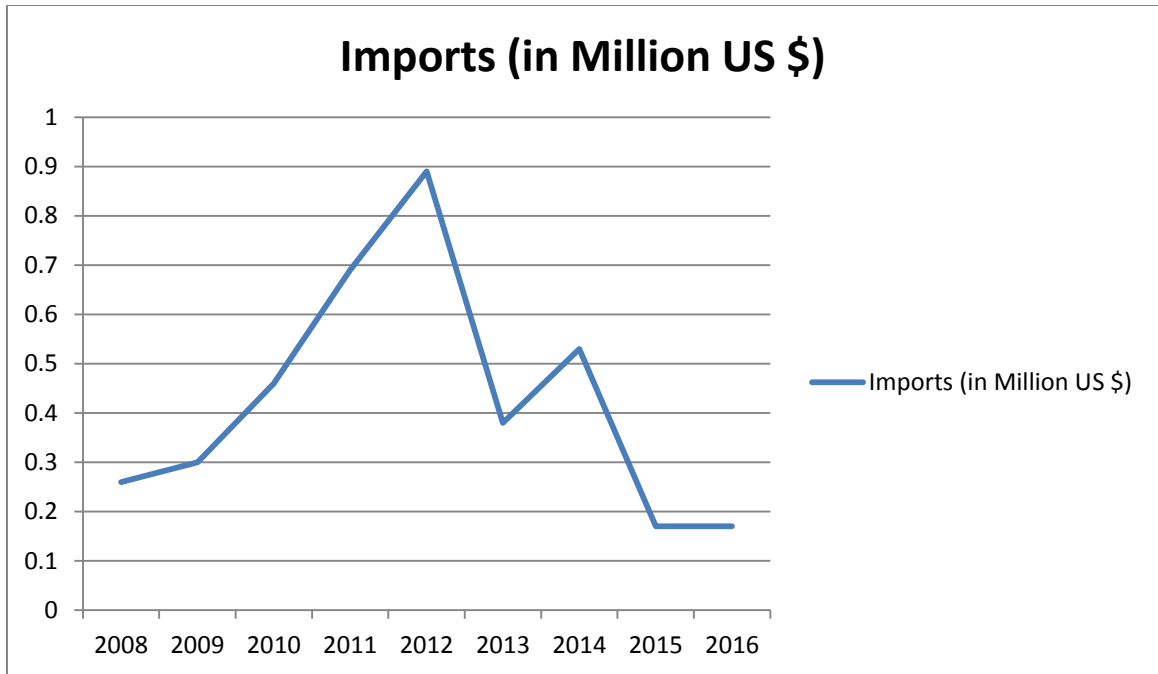
The Panel differed from the views expressed by India. According to the Panel, the importing country must recognize the concepts of areas of low disease prevalence and disease free areas in its SPS measures, before it can request the exporting party to fulfill its obligation under Article 6.3. This became an important point for ruling against India and will be of documentary value in future SPS related disputes (Nedumpara et al. 2016).

**Impact on Trade:**

Since in this particular dispute, import restrictions were specifically applied on the U.S., we will look only at trends in the poultry imports from the U.S..

Year	Imports (in Million U.S. \$)
2008	0.26
2009	0.30
2010	0.46
2011	0.69
2012	0.89
2013	0.38
2014	0.53
2015	0.17
2016	0.17

**Table 5.3: Poultry Imports from the U.S. by India**  
**Source: Agricultural & Processed Food Products Export Development Authority**



**Figure 5.3: Poultry Imports from the U.S. by India**  
**Source: Agricultural & Processed Food Products Export Development Authority**

There seems to be no major impact of the import restrictions on imports of U.S. poultry product. Import restrictions were applied in 2008 and lifted in 2016. Between this period, we saw increasing trend in imports till 2012. After a dip in 2013, imports again increased in 2014. Interestingly, after the Panel's decision invalidating India's SPS measures, imports fell to their lowest level of \$ 0.17 mn in 2015 and remained at the same level in 2016. It remains to be seen, how the trend will behave in the next few years.

The reasons for low U.S. poultry exports can be the prevalence of vegetarianism in India. Also, most of the demand for poultry can be met by local supply. There is also a tendency to prefer fresh meat instead of frozen meat.

## **CHAPTER 6**

### **CONCLUSION**

A newly independent India was seen as an ideal partner by the U.S. Its large size and population, abundance of natural resources and a leadership which believed in democracy attracted U.S. interest.

There were also other external factors that made soliciting closer ties with India a priority. The threat of communism was increasing by the day as China became communist in July 1949 followed by the Korean War and Vietnam War. The US pinned its hope on a democratic India to become an ideological rival to a communist China and check further spread of communism in Asia.

However, a newly independent India did not want to align itself with either of the Cold War groupings. It wanted to follow a policy of non-alignment and in pursuance of such a policy differed with the US on several political issues on certain occasions.

A severe shortage of food prompted India to turn towards the US for food aid. While the US government was sympathetic to the aid request, the US Congress had some reservations. Many in the Congress were dissatisfied with Indian policy of non-alignment. Some of them wanted a quid pro quo in return of American Aid.

In response, the US administration used a national security rationale to justify aid to India. It argued that if the US failed to provide aid to India, it would lead to a strengthening of elements who are against stronger Indo-US ties. Helping India, on the other hand, could solidify the position of people who saw the US as a friend and could in the long run force Nehru to shed his bitterness towards the West.

When the above-mentioned arguments could not convince the Congressmen, a clear Cold War justification was put forward. The administration argued that a famine in India could produce conditions which could become conducive for activities of Communist Party of India. It could boost the appeal of communism and can emerge as a major threat to the nascent democracy.

Food aid was also of benefit to the American farmers. The early twentieth century witnessed massive yields of corn and wheat on account of technological changes in agriculture. It increased the farm productivity of American farmers. This could have led to dampening of domestic farm prices if there was no channel to export this produce abroad, thereby harming American farmers' interests. Food aid was the major instrument in this regard as post war Europe lacked resources to finance its imports. Hence, the US Congress enacted a public law called PL-480 which institutionalized food aid. India was the first and one of the major benefactor of PL-480.

Food Aid could not have met all the agricultural demand of India. In the longer run, India had to become self-sufficient in agriculture. The US supported India in this regard by helping in establishing agriculture universities modeled on US based land grant universities. It facilitated the visit of Indian agricultural scientist to the US which introduced them to modern agriculture. Along with the help of Rockefeller Foundation and the Ford Foundation, the US facilitated the transfer of latest technologies in agriculture in the form of high yielding variety seeds which laid the foundation of India's Green Revolution.

While this was done ostensibly as a goodwill measure to cement stronger India-US partnership, it was also a response to fears that hungry masses can become more susceptible to communism.

### **Agricultural Issues in Doha Round:**

By the time negotiations began to finalize AoA in the UR, India had become self-sufficient in food grains. The high yielding varieties of seeds had also increased productivity in many other third world countries. The more industrialized countries craved greater market access for their agricultural produce in foreign markets to ensure the profitability of their farmers. The resultant agreement was a disappointment for developing countries as they had to make many commitments without receiving any substantial gains in return.

Going into the Doha Round, the developing countries were cautious not to repeat the mistakes done in the Uruguay Round. Led by India and Brazil, they reacted strongly to the proposals made by the US and the EU by forming an alliance named G20.

The US-EU proposal asked the developing countries to lower their trade barriers while retaining the subsidies provided by developed countries to their farmers. The G20 came with its own counter proposal targeting market access and agricultural subsidies provided by rich countries to their farmers. They also wanted a Special Safeguard Mechanism(SSM) to be put in place so that tariffs could be raised temporarily in the case of a surge in imports. The SSM is important for developing countries as an import surge can dampen domestic prices which affect their farmers' income. The G20 had a small win in the Cancun Ministerial where they were able to secure a tiered formula for reducing farm subsidies with developed countries making the biggest cut.

Moving forward, a second alliance of developing countries was formed under India's leadership. Named as the G33, it aimed at limiting the extent of market opening that is asked from developing countries in the Doha Round. They also wanted to create tariff exemptions for 'special products' to shield such products from market competition, in addition to repatriating their demand for SSM. These instruments were aimed to protect rural livelihoods and food security in developing countries. Naturally, such defensively oriented measures generated strong opposition from the US and the EU.

In the Bali Ministerial, the US and India came at loggerheads over the issue of public stockholding of food. Developing countries have kept food reserves for distributing subsidized food to the poor. It also helps in guaranteeing minimum support price to their farmers who are vulnerable in years of bumper yields as it leads to fall in prices. India had enacted its National Food Security Bill which has increased the number of people eligible for subsidized food and hence was in focus in the Bali Ministerial.

The US argued that the public stockholding program of India was in contravention of AoA as it allowed the government to set a guaranteed purchase price. The US feared that a dumping of food grains held in public stock holdings could lead to a crash in world

prices. It would have been detrimental to US farmers as the US is primarily an exporter of agricultural commodities.

The last of the WTO Ministerial was held in Nairobi and some of the outstanding issues related to agriculture were discussed. But, the talks remained inconclusive. On the issue of export subsidies, the EU wanted to include food aid and export credit guarantees which it claimed have similar effects as direct export subsidies under a broader umbrella term known as "export competition." The US opposed EU's proposal as it used these indirect support measures. India, for once supported the US on the issue of export competition as it could have impacted food aid from the US, thereby affecting developing countries' interests. Though India doesn't need food aid now, it has to speak up for other developing countries to maintain the G33 coalition.

India and the G33 pushed strongly for an agreement on the SSM. However, it was opposed by developed countries who wanted to agree on SSM if only there was a broader agreement on agricultural market access. The negotiations on SSM have officially reached an impasse.

The G33 also pushed for a permanent solution to the issue of public stockholding. But, other countries saw it as an impossibility unless there was a complete package for the Doha round. However, it was confirmed that the peace clause would remain in operation till a permanent solution on public stockholding is found.

### **Agricultural Disputes Between India and the US:**

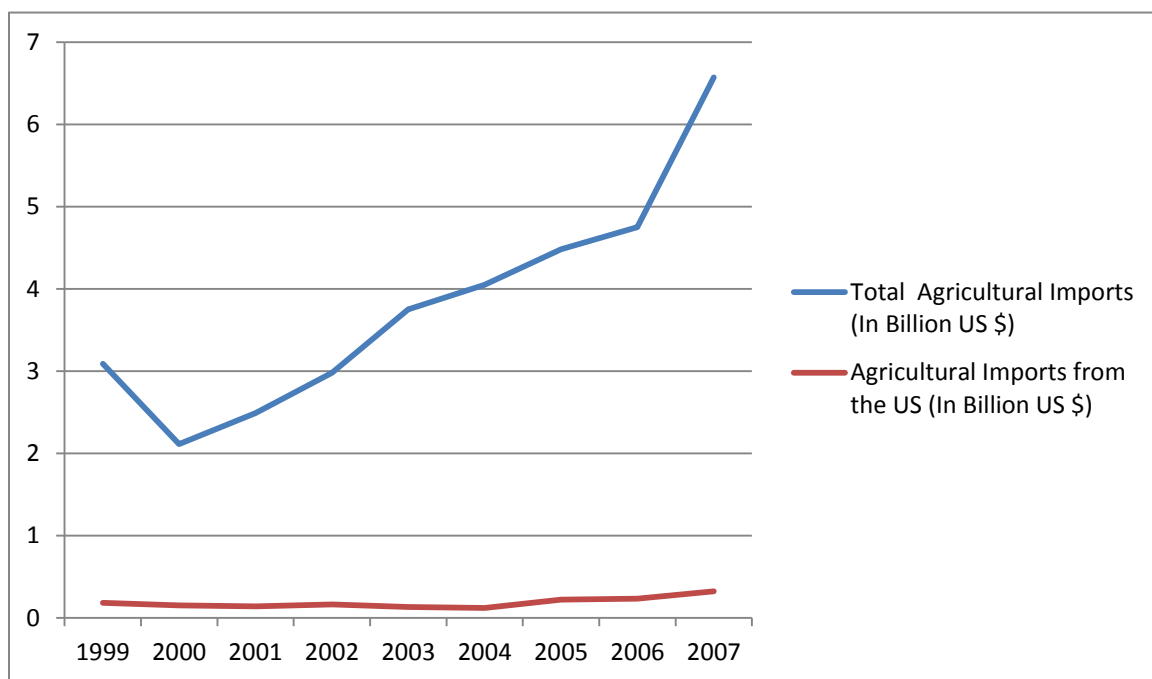
Trade disputes mainly arise because countries deny market access to other countries thereby harming their export interests. India and the US have been engaged in two disputes related to agriculture.

In the first dispute, the US objected to quantitative restrictions on 2700 tariff lines (710 of which were related to agriculture) kept by India. These quantitative restrictions were detrimental to US interests as they denied market access to India. As pointed out by the US in its submission to the Panel, it exported US \$ 1.3 billion worth of goods to India in

1996. This figure was one-eighth to its exports to ASEAN, even though ASEAN had a population size half of India. In a previous dispute related to Japanese measures on imports of leather, it had been pointed out that since the US exported leather products in large numbers to other markets (but not Japan), it is indicative of the fact that Japanese import restrictions have adversely affected US trade interests.

India, on the other hand, argued that it required these import restrictions for balance of payment(BOP) reasons. A sudden dismantling of these restrictions would lead to import surge and can have an adverse impact on India's BOP.

The panel ruled against India and India had to gradually phase out its quantitative restrictions by 2001. An analysis done on the impact of the removal of trade restrictions on agricultural trade showed that while it lead to overall increase in agricultural imports by India, Indian imports from the US didn't witness a definitive trend.



**Figure 6.1: Agricultural Imports. by India**

**Source: United Nations International Trade Statistics Database**

Thus, while rest of the world benefited from the removal of quantitative restrictions by India, the US which was the first complainant did not benefit much. In fact, imports from the US declined in 2003 and 2004 before starting to pick up after 2005.

Trade between nations does not only depend on trade barriers. There are other reasons at play too. The low US agricultural exports can be explained by arguing that India had become self-sufficient in food grains by 2001 while it did not have a market for processed food in which the US has a major comparative advantage. Indian consumers are also price sensitive which makes the high quality, high price products from the US less attractive in their eyes.

The other dispute between India and the US related to restrictions imposed by India on US poultry imports because of Avian Influenza(AI) prevalent in some parts of the US. The US has a large poultry sector, and it was important to protect it from import restrictions. India cited food safety concerns as the reason to impose restrictions on US poultry imports under the Sanitary and Phytosanitary(SPS) measures of the AoA.

The WTO panel ruled against India in this case too, and India removed its import restrictions in 2016. But it did not lead to increase in poultry imports from the US. In fact, poultry imports from the US had been quite low in the preceding years too, not even reaching US \$ 1 million.

So, why did the US challenged India's measure when it did not have much to gain. One reason can be to discourage other countries from imposing similar measures. India did the same in *Turkey-Textile* case where it challenged quantitative restrictions put up by Turkey on imports of Indian textiles. While India's exports of textiles to Turkey were low, it was an important sector of its economy. If Turkey's measure were not challenged, it could have encouraged other countries to impose similar quantitative restrictions.

The other benefit of challenging India's measure was that it was clarified by the Panel that nations could not impose countrywide restrictions when AI is prevalent only in some areas of a country. This clarification will be of value in future trade disputes involving SPS measures.



Thus, we see that differences in negotiating positions of India and the US during the Doha Round is a result of their attempt to protect the interests of their farmers. For the US it means that its farmers gain access to agricultural markets of other WTO members. India, on the other hand, wants to protect its farmers from foreign competition as most of them are small and marginal.

We did not find any conclusive evidence of an increase in trade after dispute resolution. While India's agricultural trade with the rest of the world increased after resolution of the India-QR dispute, its agricultural trade with the US decreased for two years before picking up. It seems that there are other factors that also influence trade between nations and a removal of trade barriers is not a guarantee that trade will definitely increase.

## REFERENCES

(\* indicates a primary source)

Andersen, S. D. and D. Raju, (2016), "India's Initial WTO Disputes—An Analysis in Retrospect", In Das, A. and Nedumpara, J. J. (Eds.) *WTO Dispute Settlement at Twenty* (pp. 45-67). Springer: Singapore.

Anderson, K., & Martin, W. (2005), "Agricultural Trade Reform and the Doha Development Agenda", *The World Economy*, 28(9), 1301-1327.

Barrett, C. B. (2002), "Food Security and Food Assistance Programs", *Handbook of agricultural economics*, 2, 2103-2190.

Bello, J. H. (1996), "The WTO Dispute Settlement Understanding: Less is More", *American Journal of International Law*, 90(3), 416-418.

Bello, J. H. and A. F. Holmer (1989), "Special 301: Its Requirements, Implementation, and Significance", *Fordam International Law Journal*, 13, 259.

Bown, C. P. (2004), "On the Economic Success of GATT/WTO Dispute Settlement", *The Review of Economics and Statistics*, 86(3), 811-823.

Bown, C. P. and J. A. Hillman (2016), "Bird Flu, the OIE, and National Regulation: The WTO's India–Agricultural Products Dispute", *World Trade Review*, 15(2), 235-257.

Bown, C. P. and P. C. Mavroidis, (2016), "WTO Case Law of 2014: A Busy Year", *World Trade Review*, 15(2), 183-187.

Boza, S. and J. Munoz, (2017), "Factors Underlying Sanitary and Phytosanitary Regulation for Food and Agricultural Imports Notified by WTO Members", *The Journal of International Trade & Economic Development*, 1-12.

Burges, S. W. (2013), "Brazil as a Bridge Between Old and New Powers?", *International Affairs*, 89(3), 577-594.

Busch, M. L. (2000), "Democracy, Consultation, and the Paneling of Disputes under GATT", *Journal of Conflict Resolution*, 44(4), 425-446.

Busch, M. L. And E. Reinhardt, (2000), "Bargaining in the Shadow of the Law: Early Settlement in GATT/WTO Disputes", *Fordham International Law Journal*, 24, 158.

Castel, J. G. (1989), "The Uruguay Round and the Improvements to the GATT Dispute Settlement Rules and Procedures", *International and Comparative Law Quarterly*, 834-849.

Chand, R. (1998), "Removal of Import Restrictions and India's Agriculture: The Challenge and Strategy", *Economic and Political Weekly*, 850-854.

Charnovitz, S. (2001), "Rethinking WTO Trade Sanctions", *American Journal of International Law*, Vol. 95, No. 4

Chaudoin et al. (2016), "Do WTO Disputes Actually Increase Trade?", *International Studies Quarterly*, 60(2), 294-306.

Clapp, J. (2006), "WTO Agriculture Negotiations: Implications for the Global South", *Third World Quarterly*, 27(4), 563-577.

Clapp, J. (2015), "Food Security and Contested Agricultural Trade Norms", *Journal of International Law and International relations*, 11, 104.

Cleaver, H. M. (1972), "The Contradictions of the Green Revolution", *The American Economic Review*, 62(1/2), 177-186.

\* Congressional Hearings, II, (2000), US 106th Congress, Session 2nd, Senate, Subcommittee on International Trade, Committee on Finance, Hearings, World Trade Organization: U.S. Experience in the Dispute Settlement System: The First Five Years, June 20, 2000 (US Government Printing Office: Washington. DC).

\* Congressional Hearings, II, (2000), US 106th Congress, Session 2nd, Senate Subcommittee on International Trade, Committee on Finance, Hearings, U.S. Interests

and Experience in the WTO Dispute Settlement System, June 20, 2000 (US Government Printing Office: Washington. DC).

Cullather, N. (2004), "Miracles of Modernization: the Green Revolution and the Apotheosis of Technology", *Diplomatic history*, 28(2), 227-254.

Das, A. and J. J. Nedumpara (Eds.) (2016), *WTO Dispute Settlement at Twenty: Insiders' Reflections on India's Participation*, Singapore: Springer.

Davey, W. J. (1987), "Dispute Settlement in GATT", *Fordham International Law Journal*, 11, 51.

Davey, W. J. (2005), "The WTO dispute settlement system: the first ten years", *Journal of International Economic Law*, 8(1), 17-50.

Davey, W. J. (2009), "Compliance problems in WTO dispute settlement" *Cornell International Law Journal*, 42, 119.

Deborah F. (1986), "Exporting American Agriculture: The Rockefeller Foundation in Mexico, 1943–53," *Social Studies of Science*, 16, 462-464

Diven, P. J. (2001), "The Domestic Determinants of US Food Aid Policy" *Food policy*, 26(5), 455-474.

Dorsey S. P. (1956), "Technical Cooperation in the Near East and South Asia," *Bulletin*, May 14, 1956, p. 7

\* *DS-430: Executive Summary of the First Written Submission of the United States of America*, United States Trade Representative, WTO Document WT/DS430/R/Add.1 of 14 October 2014.

\* Federal Government of the U.S. (2009), *India: Effects of Tariffs and Nontariff Measures on U.S. Agricultural Exports*, U.S. International Trade Commission, Washington D.C.

Gang, I. N. and H. A. Khan (1990), "Some determinants of foreign aid to India, 1960–1985", *World Development*, 18(3), 431-442.

Goldar, B. (2005), "Impact on India of Tariff and Quantitative Restrictions under WTO", *Indian Council For Research On International Economic Relations*, 172, 5-27.

Graafsma, F. and S. Rajagopal, (2016), "An Overview of WT/DS141: EC—Anti-dumping Duties on Imports of Cotton-Type Bed Linen from India", In Das, A. and Nedumpara, J. J. (Eds.) *WTO Dispute Settlement at Twenty*, Singapore: Springer.

Gulati, A. (2002), "Indian Agriculture in a Globalizing World", *American Journal of Agricultural Economics*, 84(3), 754-761.

Hathaway, D. E. and M. D. Ingco (1995), "Agricultural Liberalization and the Uruguay Round", *The Uruguay Round and the developing economies*, 1-24.

Hopewell, K. (2015), "Different Paths to Power: The Rise of Brazil, India and China at the World Trade Organization", *Review of International Political Economy*, 22(2), 311-338.

Hudec, R. E. (1980), "GATT Dispute Settlement After the Tokyo Round: An Unfinished Business", *Cornell International Law Journal*, 13, 145.

Hudec, R. E. (1999), "The New WTO Dispute Settlement Procedure: An Overview of the First Three Years", *Minnesota Journal of Global Trade*, 8, 1.

Hurrell, A. and A. Narlikar (2006), "A New Politics of Confrontation? Brazil and India in Multilateral Trade Negotiations", *Global Society*, 20(4), 415-433.

\* *India - Measures Concerning the Importation of Certain Agricultural Products from the United States*, Request for consultations by the United States, WTO Document WT/DS430/1 of 8 March 2012.

\* *India—Measures Concerning the Importation of Certain Agricultural Products*, Panel Report, WTO Document WT/DS430/R of 14 October 2014.

\* *India—Measures Concerning the Importation of Certain Agricultural Products*, Appellate Body Report, WTO Document WT/DS430/AB/R of 4 June 2015.

\* *India-Quantitative Restrictions on Imports of Agricultural, Textile and Industrial Products*, Panel Report, WTO Document WT/DS90/R of 6 April 1999.

\* *India-Quantitative Restrictions on Imports of Agricultural, Textile and Industrial Products*, Request for Consultations by the United State, WTO Document WT/DS90/1 of 22 July 1997.

\* *India—Quantitative Restrictions on Imports of Agricultural, Textile and Industrial Products*, Appellate Body Report, WTO Document WT/DS90/AB/R of 23 August 1999.

Jackson, J. H. (1997), "The WTO Dispute Settlement Understanding—Misunderstandings on the Nature of Legal Obligation", *American Journal of International Law*, 91(1), 60-64.

Jackson, J. H. (2002), "Sovereignty, Subsidiarity, and Separation of Powers: the High Wire Balancing Act of Globalization", *The Political Economy of International Trade Law: Essays in Honor of Robert E. Hudec*. Cambridge University Press, New York, 13-31.

Jackson, J. H. and W. J. Davey, (1986), "Legal Problems of International Economic Relations: Cases Materials and Text on the National and International Regulation of Transnational Economic Relations".

Josling, T. (1998), "The Uruguay Round Agreement on Agriculture: A Forward Looking Assessment", In *OECD Workshop on Emerging Trade Issues in Agriculture* (Vol. 26, pp. 2-3).

Koh, H. H. (1997), "Why Do Nations Obey International Law?".

Kux D (1994), *Estranged Democracies; India and the United States*, New Delhi: Sage Publications.

- Lalitha, N. (2002), "Indian Pharmaceutical Industry in WTO Regime: A SWOT Analysis", *Economic and political weekly*, 3542-3555.
- Lawrence, R. Z. (2007). *The United States and the WTO dispute settlement system*. Council on Foreign Relations.
- Lee, Y. S. (2016), "The Long and Winding Road— Path Towards Facilitation of Development in the WTO: Reflections on the Doha Round and Beyond", *Law and Development Review*, 9(2), 437-465.
- Loomba, J. F. (1972), "US Aid to India 1951–1967: A Study in Decision-Making", *India Quarterly*, 28(4), 304-331.
- Mann, C. (1997), "Reseeding the Green Revolution", *Science*, 277(5329), 1038-1043.
- Mann, J. S. (1967), "The Impact of Public Law 480 Imports on Prices and Domestic Supply of Cereals in India", *Journal of Farm Economics*, 49(1 Part I), 131-146.
- Margulis, M. E. (2013), "The Regime Complex for Food Security: Implications for the Global Hunger Challenge" *Global Governance: A Review of Multilateralism and International Organizations*, 19(1), 53-67.
- Mavroidis, P. C. (2000), "Remedies in the WTO Legal System: Between a Rock and a Hard Place", *European Journal of International Law*, 11(4), 763-813.
- Maxwell, S. J. and H. W. Singer (1979), "Food Aid to Developing Countries: A Survey", *World Development*, 7(3), 225-246.
- McGivern, B. P. (2002), "Seeking Compliance with WTO Rulings: Theory, Practice and Alternatives", *The International Lawyer*, 141-157.
- McGlade, J. (2009), "More a Plowshare than a Sword: The Legacy of US Cold War Agricultural Diplomacy", *Agricultural history*, 79-102.
- McMahon, R. J. (1987), "Food as a Diplomatic Weapon: the India Wheat Loan of 1951", *The Pacific Historical Review*, 349-377.

- Mehta, R. (2000), "Removal of QRs and Impact on India's Import", *Economic and Political Weekly*, 1667-1671.
- Merrill, D. (1990), *Bread and the ballot: the United States and India's economic development, 1947-1963*, UNC Press Books.
- Mitra, S. and T. Josling (2009), "Agricultural Export Restrictions: Welfare Implications and Trade Disciplines", *International Food & Agricultural Trade Policy Council (IPC)*, 5.
- Narlikar, A. (2006), "Peculiar Chauvinism or Strategic Calculation? Explaining the Negotiating Strategy of a Rising India", *International Affairs*, 82(1), 59-76.
- Narlikar, A. and D. Tussie (2004), "The G20 at the Cancun Ministerial: Developing Countries and Their Evolving Coalitions in the WTO", *The World Economy*, 27(7), 947-966.
- Nedumpara, J. J. et al. (2016), "India—Agricultural Products: Defending India's First SPS Dispute", In Das, A. and Nedumpara, J. J. (Eds.) *WTO Dispute Settlement at Twenty* (pp. 213-232). Springer: Singapore.
- Nelson, D. P. et al. (1981), "Assessing the Uses of Food Aid: PL 480 Title II in India", *Ecology of Food and Nutrition*, 10(3), 153-161.
- Niranjan, S. K. (2016), "Impact of WTO's AOA on India's Trade in Agriculture" *Global Journal of Enterprise Information System*, 8(1), 48-53.
- Nordström, H. et al. (1995), "Assessing the Uruguay round", *World Bank Discussion Papers*, 117-214
- Panagariya, A. (2002), "Developing Countries at Doha: A Political Economy Analysis", *The World Economy*, 25(9), 1205-1233.
- Parayil, G. (1992), "The Green Revolution in India: A Case Study of Technological Change", *Technology and Culture*, 33(4), 737-756.



- Patel, R. (2013), "The Long Green Revolution", *The Journal of Peasant Studies*, 40(1), 1-63.
- Patnaik, U. (1999), "The Cost of Free Trade: The WTO Regime and the Indian Economy", *Social Scientist*, 3-26.
- Perkins, J. H. (1990), "The Rockefeller Foundation and the Green Revolution, 1941–1956", *Agriculture and Human Values*, 7(3), 6-18.
- Petersmann, E. U. (1989), "The Mid-Term Review Agreements of the Uruguay Round and the 1989 Improvements to the GATT Dispute Settlement Procedures", *German Year Book of International Law*, 32, 280.
- Puckett, A. L. and W. L. Reynolds (1996), "Rules, Sanctions and Enforcement Under Section 301: At Odds with the WTO?", *American Journal of International Law*, 90(4), 675-689.
- Raghavan, C. (2000), "After Seattle, World Trade System Faces Uncertain Future", *Review of International Political Economy*, 7(3), 495-504.
- Rajagopal, S. (2016), "Recollections and Reflections of a Stakeholder in WTO Disputes. In Das, A. and Nedumpara, J. J. (Eds.) *WTO Dispute Settlement at Twenty*, Singapore: Springer.
- Reddy, Y. O. (1997), "The US aid to India: A Study in Foreign Aid and Diplomacy 1957-64", *The Indian Journal of Political Science*, 58(1/4), 93-110.
- Reinhardt, E. (2001), "Adjudication without Enforcement in GATT Disputes", *Journal of Conflict Resolution*, 45(2), 174-195.
- Romano, C. P. (1998), "The Proliferation of International Judicial Bodies: The Pieces of the Puzzle", *New York Journal of International Law and Politics*, 31, 709.
- Saha, M. (2013), "The State, Scientists, and Staple Crops: Agricultural "Modernization" in Pre–Green Revolution India", *Agricultural History*, 87(2), 201-223.

Saha, S. (1991), "The China factor in the Economic Relations Between India and the United States from 1949 to 1962", *Journal of Asian History*, 25(2), 147-162.

Sahai, S. (1993), "Dunkel Draft is Bad for Agriculture", *Economic and Political Weekly*, 1280-1281.

\* Schnepf, R. (2014), "Agriculture in the WTO Bali Ministerial Agreement", *Congressional Research Service Report*, 13.

Scott, J. et al.(2014), "The WTO in Bali: What MC9 Means for the Doha Development Agenda and Why it Matters", *Third World Quarterly*, 35(6), 1032-1050.

Scott, J. et al.(2016), "The WTO in Nairobi: The Demise of the Doha Development Agenda and the Future of the Multilateral Trading System", *Global Policy*, 7(2), 247-255.

Shaffer, G. (2006), "The Challenges of WTO Law: Strategies for Developing Country Adaptation", *World Trade Review*, 5(2), 177-198.

Srinivasan, T. N. (2002), "Developing Countries and the Multilateral Trading System after Doha", *Yale University Economic Growth Center Discussion Paper No. 842*.

Strutt, A. et al. (1999), *Agriculture and the WTO: Next steps*. Centre for International Economic Studies.

Tangermann, S. (1996), "Implementation of the Uruguay Round Agreement on Agriculture: Issues and Prospects", *Journal of Agricultural Economics*, 47(1-4), 315-337

\* Tarnoff, C. (2005), "Foreign Aid: An Introductory Overview of US Programs and Policy" *Congressional Research Service*.

Thomas, C. (1999), "Balance-of-Payments Crises in the Developing World: Balancing Trade, Finance and Development in the New Economic Order", *American University Law Review*, 15, 1249.

Tyers, R. and Anderson, K. (1992). *Disarray in world food markets*. Cambridge Books.

\* USAID(2016), "U.S. Overseas Loans and Grants: Obligations and Loan Authorizations, 1945– 2015", [Online: web] Accessed 20 Feb. 2017 URL: <https://www.usaid.gov/data/dataset/49c01560-6cd7-4bbc-bfef-7a1991867633>

Vazquez, C. M. and J. H. Jackson (2001), "Some Reflections on Compliance with WTO Dispute Settlement Decisions", *Law and Polity International Business*, 33, 555.

Vermulst, E. and P. Mihaylova, (2001), "EC Commercial Defence Actions Against Textiles from 1995 to 2000: Possible Lessons for Future Negotiations", *Journal of International Economic Law*, 4(3), 527-555.

Watkins, K. (1991), "Agriculture and Food Security in the GATT Uruguay Round", *Review of African Political Economy*, 18(50), 38-50.

Watkins, M. D. et al. (2006), "Case Studies in US Trade Negotiation: Resolving Disputes", Vol. 2. *Peterson Institute Press: All Books*.

Wilkinson, R. (2006), "The WTO in Hong Kong: What it Really Means for the Doha Development Agenda" *New Political Economy*, 11(2), 291-304.

Wilson, B. (2007), "Compliance by WTO Members with Adverse WTO Dispute Settlement Rulings: The Record to Date", *Journal of International Economic Law*, 10(2), 397-403.

Wolfe, R. (2015), "First Diagnose, Then Treat: What Ails the Doha Round?", *World Trade Review*, 14(01), 7-28.

\* WTO (2015). *WTO Annual Report, 2015*. Geneva: World Trade Organization.

\* WTO (2016). *WTO Agreement Series*. Geneva: World Trade Organization.

Wu, M. (2012), "Antidumping in Asia's Emerging Giants", *Harvard International Law Journal*, 53, 1.

Young, M. K. (1995), "Dispute Resolution in the Uruguay Round: Lawyers Triumph over Diplomats", *The international lawyer*, 389-409.

Zangl, B. (2008), "Judicialization Matters! A Comparison of Dispute Settlement Under GATT and the WTO", *International Studies Quarterly*, 52(4), 825-854.

Zimmermann, A. (1989), "Ad Hoc Chambers of the International Court of Justice", *Journal of International Law*, 8, 1.