

## AGRICULTURE NEGOTIATIONS AT WTO MC12: ANALYSING DOMESTIC SUPPORT

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### BACKGROUND

The Draft Ministerial Decision on Domestic Support (“the Text”), included in the Draft Chair Text on Agriculture<sup>i</sup>, for the forthcoming 12<sup>th</sup> Ministerial Conference of the WTO contains “principles for the negotiation of new disciplines on Domestic Support” including the following: (i) total trade-distorting domestic support (TDDS); (ii) Green Box; and (iii) transparency and notification. This policy brief seeks to analyse the Text and highlights the likely implications for WTO Members.

#### I. TOTAL TRADE-DISTORTING DOMESTIC SUPPORT

According to the Chair, “substantive outcome at MC12 whereby Members would agree on concrete modalities for the reduction of TDDS entitlements appears to be out of reach”. The aim of the Text is to encourage Members to “meet one another midway”, with the common objective of disciplining total trade-distorting domestic support (TDDS). The Text contains the following two broad options on TDDS: (i) committing to cap and reduce the sum of current global agricultural trade-and-production-distorting domestic support entitlements by at least half by 2030 on a proportionate basis; and (ii) substantial reduction of trade- and production-distorting domestic support entitlements.

##### A. *What could constitute current global trade and production distorting domestic support entitlements*

Global trade-and-production-distorting domestic support entitlements, as a terminology/concept, does not find a mention in the Agreement on Agriculture (AoA). Further, this concept does not appear to be the same as the Overall Trade-Distorting Domestic Support (sum of *de minimis*, AMS entitlements and Blue Box support), which was used in the Doha Round<sup>ii</sup> for negotiating reductions in domestic support<sup>iii</sup>. It is relevant to note that in its submission JOB/AG/199 dated 21 May 2021, Costa Rica has defined TDDS to include all support under Amber (Art 6.3 & 6.4), Blue (Art 6.5) and Development boxes (Art 6.2) of the AoA<sup>iv</sup>. However, it remains unclear what value of support under Articles 6.2 and 6.5 would be included in TDDS, as these two categories do not have any ceiling. Similarly, Canada<sup>v</sup> includes the FBTAMS and *de minimis* entitlement which sought to calculate the global level of domestic support entitlements in Articles 6.3 (Final Bound AMS entitlements) and 6.4 (*de minimis* entitlements) of the AoA. Using this approach, the current TDDS entitlement of each WTO Member would be the sum of product-specific *de minimis*<sup>vi</sup>, non-product-specific *de minimis*<sup>vii</sup> for the specified year and Final Bound AMS

entitlements. The current global TDDS would be the sum of the current TDDS entitlement of each WTO Member.

It may be noted that depending on the value of production of each agriculture product, the value of *de minimis* entitlement of a Member would change from one year to another. Thus, the higher the value of agriculture production, the higher will be the value of *de minimis* entitlement in monetary terms for the Member concerned.<sup>viii</sup> On the other hand, the AMS entitlement is defined in fixed monetary terms. For instance, the US and the EU's entitlement is US\$ 19 bn. and Euro 72 bn. respectively. It may be noted that as a percentage of the value of production, the AMS entitlement will decline with an increase in the value of production<sup>ix</sup>.

Based on FAO data on the value of production, it is estimated that the current global TDDS for 2018 is US\$761 bn. In 2018, the China (19.7%), EU (17.3%), India (11.8%), US (7.4%), Japan (5.8%), Brazil (4.0%), Indonesia (2.9%), Russia (1.7%), Turkey (2.6%) and Pakistan (1.6%) had the highest TDDS entitlements. The figures in parentheses indicate the Member's share in the global TDDS entitlement in 2018<sup>x</sup>.

### ***B. How will reduction in current TDDS be undertaken by each Member***

According to the Text, the contributions in these reductions will need to be **proportionate** to the size of a **member's current entitlements**. The Text specifies that the current TDDS entitlement should be halved by 2030. Simply put, Members need to take cuts in a proportionate manner so that the current global TDDS would be capped at US\$ 380 billion by 2030. Each Member would get a monetary ceiling for providing TDDS. According to the Text, LDCs are not required to take any cut in their TDDS entitlements. Their TDDS ceiling would correspond to their TDDS entitlements in the base period. The contribution by non-LDCs in the total reduction in TDDS would be slightly higher than their share in current global TDDS for 2018. Thus, for each non-LDC Member, the value of TDDS in 2030 would be slightly less than half of their TDDS entitlements in 2018. To illustrate, China's TDDS entitlement of US\$150bn. in 2018 would get reduced to US\$71 bn. in 2030, while that of the EU would get reduced from US\$131 bn. to US\$62 bn. (Refer to endnote x)

### ***C. Outcome and implications of the proportionate reduction in current global TDDS***

- **Compared to the developed country Members, many developing country Members will need to make substantially deeper reductions in their TDDS in absolute terms:** To illustrate, China would need to make the highest reduction in its TDDS entitlement (US\$79bn.), followed by the EU (US\$69bn.), India (US\$48bn.), US (US\$30bn.), Japan (US\$23bn.), Brazil (US\$16bn.), Indonesia (US\$12bn.) and Turkey (US\$11bn.). (Refer to endnote x)
- **Compared to many developing country Members, most developed country Members will continue to enjoy the right to provide substantially higher TDDS as a percentage of their value of production of agriculture in 2030:** To illustrate, the TDDS entitlements as a percentage of the value of production in 2030 would be much higher for Japan (24.6%), Switzerland (19.1%), Norway (16.5%), the EU (8.8%), the US (4.5%) and Canada (4.1%), as compared to Vietnam (3.1%), China (3.1%), Indonesia (3.2%), Malaysia (3.4%), India (3.8%) and Kenya (4.1%). Further, the entitlements of Pakistan (4.6%), Turkey (4.8%), Philippines (4.9%), Sri Lanka (5%) and Nigeria (8.5%) would be lower than those of Japan, Switzerland, Norway and the EU. These calculations are based on trends in the growth of the value of production for various WTO Members during 1995-2018. (Refer to endnote x)

- **Despite distorting agriculture markets for 25 years on account of their AMS entitlements, the EU and the US will get away with undertaking less reduction in their TDDS entitlements as compared to the entitlements under the AoA than the developed country Members:** Under the existing disciplines of the Agreement on Agriculture, for most developing country Members, the TDDS entitlement in 2030 will be 20% of the value of agriculture production for that year. For the developed country Members, it would be 10% of the value of agriculture production plus the AMS entitlement expressed as a value of production in 2030. Thus, the TDDS entitlements under the AoA as a percentage of value of agriculture production would be 22% for EU and 13.2 % for the US in 2030. The Text would require the EU and the US to undertake reductions in their AOA entitlements by 13.3 and 8.8 percentage points. On the other hand, Indonesia (16.8 percentage points), India (16.2 percentage points), Kenya (15.9 percentage points), Pakistan (15.4 percentage points) and Turkey (15.2 percentage points) would have to take reductions deeper than those by the EU and the US. Thus, some of the developed Members who distorted the agriculture markets for 25 years will make a lower contribution than many developing country Members. (*Refer to endnote x*)
- **If *de minimis* entitlements of a developing country Member is converted into a monetary ceiling, developing country Members stand to lose significant policy space:** As the *de minimis* limits under the AoA are expressed in terms of a percentage of the value of production, as the value of production increases, the policy space available to developing country Members to support their farmers also increases. Under the Text, the *de minimis* will be converted into monetary terms and a ceiling imposed on it. Consequently, expansion in agriculture production in developing country Members will result in a proportionate reduction in the support entitlement as a percentage of the value of agriculture production. This will be particularly detrimental for countries with a large agriculture sector, including China, Egypt, India, Indonesia, Kenya, Philippines, Pakistan, etc.
- **As support measures under Article 6.2 are proposed to be included in the ceiling for TDDS, an important special and differential treatment provision will be completely eliminated:** Under Article 6.2 of the AoA, developing country Members can provide investment subsidies generally available for agriculture or inputs subsidies provided to low-income or resource-poor farmers as a special and differential treatment provision. As the support under Article 6.2 is proposed to be included within the overall TDDS ceiling, this S&DT provision will be effectively eliminated. This will further tilt the rules of the AoA against the interests of developing country Members. While the Text includes an option for providing S&DT to support under Article 6.2, given the aggressive opposition of the developed countries to S&DT provisions, it remains unclear whether consensus can emerge on it.
- **LDCs would lose considerable policy space to support their farmers:** Though the Text exempts LDCs from reduction commitments, based on their entitlement in a reference period, their TDDS entitlement in 2030 would get fixed in monetary terms. This will severely curtail the policy space of LDCs to support their farmers. To illustrate, using 2018 as the “current year”, Bangladesh’s entitlement would be fixed at US\$ 4.7 bn. for future years. In comparison, its projected entitlement in 2030 under the AoA would have been US\$10.3 bn. This would result in a loss of US\$5.6 bn. in entitlement, or 10.9 percentage points of the value of agriculture production in 2030, for Bangladesh.
- **Bali Peace Clause and November 2014 GC Decision on PSH would be rendered irrelevant:** The reduction in TDDS, as proposed in the Text, would substantially modify the

architecture of commitments under Articles 6.3 and 6.4 of the AoA. If the reduction gets implemented, then the discipline on *de minimis* under Article 6.4 may no longer be relevant. Consequently, the Bali Peace Clause<sup>xi</sup> and the General Council Decision in November 2014<sup>xii</sup> on the issue of public stockholding for food security purposes (based on exceeding the product-specific *de minimis*), would be rendered irrelevant. This would pose a huge hurdle for developing country Members to address the issue of food security through public stockholding programmes.

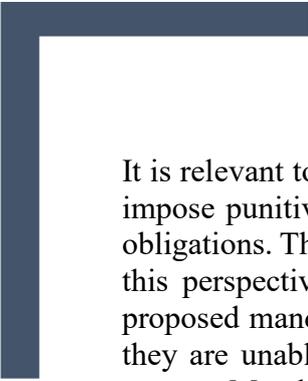
- **The responsibility for agriculture reform is sought to be shifted from those who have distorted the agriculture markets for 25 years on to the shoulders of the developing countries who have borne the brunt of asymmetric and unfair rules under the AoA:** It is generally acknowledged that the AoA has many provisions in favour of developed country Members that make this agreement asymmetric. While many developing country groups made proposals during the Doha Round for addressing some of the asymmetries, the suggestion in the Text to undertake proportionate reductions in TDDS will further exacerbate the asymmetries. Thus, not only have the developed country Members distorted agriculture markets on account of their domestic support entitlements under Articles 6.3 and 6.4 of the AoA, they will not bear most of the burden of agriculture reform. The burden of reforming domestic support is sought to be shifted on to the shoulders of developing country Members, who are more constrained than the developed country Members in providing support to their farmers.
- **Proportionate reduction in global TDDS meets the broader objective of the developed country Members to dilute and eliminate S&DT provisions:** Developed country Members have sought to dilute, or even eliminate, Special and Differential Treatment provisions for developing country Members in various agreements at the WTO. The proportionate reduction in global TDDS, as suggested in the Text, would undermine the following S&DT provisions in the AoA and Ministerial Declaration/ GC Decision: including measures under Article 6.2 within the TDDS ceiling; converting *de minimis* into a monetary ceiling; and rendering the Bali Peace Clause and November 2014 GC Decision irrelevant. Thus, this option for reducing global TDDS would substantially carry forward the larger agenda of the developed country Members of diluting, or eliminating S&DT provisions, to the disadvantage of developing country Members.

## II. WEAK MANDATE FOR GREEN BOX SUPPORT

The Text provides for Members to consider reviewing and clarifying Annex 2 criteria to ensure that relevant domestic support measures have no, or at most minimal trade-distorting effects or effects on production. This does not provide a binding commitment to review and clarify the Green Box criteria under Annex 2 of the AoA. The commitment is merely to consider reviewing and clarifying the criteria. The Text does not rule out the possibility that Members would consider reviewing and clarifying the criteria but might decide not to take the process further. Even this weak mandate is in square brackets. In contrast, the following text on this issue in Hong Kong Ministerial Declaration was more binding: “Green Box criteria will be reviewed and clarified.”

## III. NOTIFICATION AND TRANSPARENCY REQUIREMENTS

In respect of notification and transparency requirements, the Text requires Members to undertake to make the necessary efforts to provide all outstanding domestic support notifications to enhance transparency with respect to existing domestic support commitments. The Text also provides for updating the current transparency requirements, taking into account the capacity constraints of some Members.



It is relevant to mention that in the General Council, the US has submitted proposals seeking to impose punitive measures for failure by the WTO Members to comply with their notification obligations. The proposed mandate to update transparency requirements needs to be viewed from this perspective. It would be important for developing country Members to ensure that the proposed mandate does not result in new obligations that could open them to punitive action if they are unable to comply with new obligations. Further, it would be crucial for developing country Members to ensure that updated transparency requirements do not become barriers for them to benefit from existing and future rights under the AoA. In this context, the experience of onerous notification obligations for invoking the Bali Peace Clause for public stockholding for food security purposes is relevant. It is apprehended that some developing countries may not be able to invoke the Peace Clause, as they might find it difficult to comply with the notification requirements.

#### **IV. OVERALL CONCLUSIONS**

Contrary to the claim of the Chair, the Text on Domestic Support cannot encourage Members to “meet one another midway”. The proposed proportionate reduction in TDDS appears skewed in favour of the interests of the developed country Members and the Cairns Group, while ignoring the interests of many developing country Members. Instead of addressing the historical asymmetries and imbalances in the AoA, this will create new asymmetries against the interests of many developing country Members<sup>xiii</sup>. Using the Text as the basis for further negotiations on the draft Ministerial Declaration is likely to compromise the ability of many developing country Members to protect their interests.

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## ENDNOTES

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<sup>i</sup> Committee on Agriculture in Special Session, Draft Chair Text on Agriculture, WTO Doc No. JOB/AG/215 (29 July 2021)

<sup>ii</sup> Ratna, R.S., Das A., Sharma S.K. (2011). Doha Development Agenda for Developed Nations: Carve-Outs in Recent Agriculture Negotiations, Discussion Paper No. 8, Centre for WTO Studies. Available at [http://wtocentre.iift.ac.in/discussion\\_papers/08.pdf](http://wtocentre.iift.ac.in/discussion_papers/08.pdf);

<sup>iii</sup> Sharma, S.K., Dobhal, A., Agrawal, S., Das, A. (2020), “Demystifying Blue Box Support to Agriculture Under the WTO: Implications for Developing Countries”. Working Paper No. CWS/WP/200/62, Centre for WTO Studies, Delhi.

<sup>iv</sup> Towards a Strengthened Negotiation Framework in the Domestic Support pillar: A Methodology for Subsidy Entitlement Reductions, Communication by Costa Rica, WTO Doc No. JOB/AG/199 (21 May 2021).

<sup>v</sup> An estimate of Domestic Support Entitlements in Articles 6.3 and 6.4 of the Agreement on Agriculture for all WTO Members, Unofficial Room Document, Submission from Canada, WTO Doc No. RD/AG/74 (25 November 2019).

<sup>vi</sup> For all developing country Members (excluding China), it is 10% of the value of production of each agriculture product of the concerned Member; for China, it is 8.5% of the value of production of each agriculture product for the Member; and for all developed country Members, it is 5% of the total value of production of each agriculture product for the concerned Member.

<sup>vii</sup> For all developing country Members (excluding China), it is 10% of the total value of agriculture production of the concerned Member; for China it is 8.5% of the total value of agriculture production of the Member; and for all developed country Members, it is 5% of the total value of agriculture production of the concerned Member.

<sup>viii</sup> Sharma, S. K., Lahiri, T., Neogi, S., Akhter, R. (2021). Revisiting domestic support negotiations at the WTO: Ensuring a level playing field. *The Journal of International Trade & Economic Development*. <https://doi.org/10.1080/09638199.2021.1967429>.

<sup>ix</sup> Sharma, S.K. (2020), “A Quantitative Analysis of Proposals on Domestic Support in WTO Agriculture Negotiations: Need for Reaffirming the Development Agenda. Working Paper No. CWS/WP/200/63, Centre for WTO Studies, Delhi.

<sup>x</sup> Sharma, S.K., Das, A., Neogi, S., Lahiri, T., Mathur, P. (2021). Agricultural Domestic Support Negotiations at the 12th Ministerial Conference: Diluting the Development Agenda. Working Paper No. CWS/WP/65, Centre for WTO Studies, Delhi.

<sup>xi</sup> Public Stockholding for Food Security Purposes, Ministerial Decision of 7 December 2013, WTO Doc No. WT/MIN(13)/38, (11 December 2013).

<sup>xii</sup> Public Stockholding for Food Security Purposes, Ministerial Decision of 27 November 2014, WTO Doc No. WT/L/939 (28 November 2014).

<sup>xiii</sup> Das, A. and Sharma, S.K. (2011), “Evolution of WTO Agriculture Modalities: Survival of the Financially Fattest”, CWS Occasional Paper No. 1.

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