

Encircling the Elephant: Mala Fides Against India at the WTO

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Introduction:

In an article published by the *Council on Foreign Relations* in February 2025, author Inu Manak asserts that India's "opportunism" and "obstructionism" have "undermined progress at the WTO and weakened India's own potential to reap, in the long run, further benefits from the international trading system." In particular, she argues that India's Public Stockholding (PSH) – that is the practice of acquiring stock from farmers at set prices, retaining those stocks to maintain steady prices and supply on the production side, and providing those food grains to low-income households at a subsidized cost – has violated the domestic measures of support that India is entitled to under the WTO's Agreement on Agriculture. She also states that India has objected to the formation of plurilateral trade agreements on the basis that such agreements are "illegal" and has sought to gatekeep its "Special and Differential Treatment" privileges for selfish reasons.

This policy brief endeavors to address these statements and accusations. It does so in a systematic way, beginning by providing essential context for understanding the issue of domestic support and PSH at the WTO. It then proceeds to clarify India's position on plurilateral agreements and highlights the impracticality of certain proposals to reform the practice of Special and Differential Treatment. The brief concludes by calling for decisions to be taken on a more equitable basis at the WTO and underscoring the importance of India standing firm in the face of external pressures.

On Agriculture:

As per the WTO's Agreement on Agriculture (AoA), countries are allowed to provide support to agricultural producers subject to certain conditions. Measures that are not or minimally trade-distorting are generally permissible and come under the "Green Box" category. In contrast, measures deemed to be trade-distorting fall under the "Amber Box" category and are permissible up to specified limits, referred to as *de minimis*: 5% of the total value of production for developed

¹ Manak, I. (2025, February 10). How India disrupts and navigates the WTO. Council on Foreign Relations. Retrieved from https://www.cfr.org/article/how-india-disrupts-and-navigates-wto

economies and 10% for developing economies. Violations of commitments under the AoA can result in countries being subject to dispute-settlement proceedings or retaliatory measures.

When it comes to certain agricultural commodities, such as rice and wheat, India is accused of violating these limits to the "frustration" of its fellow WTO members. In a communication circulated in November 2024, Argentina, Australia, Canada, Ukraine, and the United States, concluded that during Market Years 2021-22 and 2022-23, India's market price support for rice was 87.6% and 87.9%, respectively, and its market price support for wheat was 75.0% and 67.5%, well-above the prescribed limit of 10%.²

However, a critical (and problematic) fact that is often glossed over when such figures are presented (and their accompanying charges levied) is that these calculations are based on 1986-88 prices.³ These prices are used as an "External Reference Price" to determine whether—and to what degree—countries are compliant with their AoA obligations. Had agricultural commodity prices remained constant over the last four decades, using 1986-88 prices as a reference point would be justified. Yet, the data suggests otherwise (see Figure 1 below).

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² World Trade Organization. (2024, November 11). Certain measures of India providing market price support to rice and wheat: Communication from Argentina, Australia, Canada, Ukraine, and the United States (G/AG/W/250). https://web.wtocenter.org.tw/downFiles/12294/404824/00jMNGG0qLgLhS4Nres11111ajDdnW5POakPQ6a11111W Y39rrG9l8qxq6a57iU5wflhpxrbnWtEtfH6KU79nijyVG5eUr9g==

³ Market support prices are calculated using the following formula: (Applied Administered Price – Fixed External Reference Price) * Quantity of Production Eligible

160% 140% 120% 100% 80% 60% 40% 20% 0% 1986 1990 1994 1998 2002 2006 2010 2014 2018 2022

Figure 1: Food and Agriculture Organization Food Price Index (2014-2016 = 100)

Note: The FAO Food Price Index (FFPI) is a measure of the monthly change in international prices of a basket of food commodities. It consists of the average of five commodity group price indices weighted by the average export shares of each of the groups over 2014-2016. Values are inflation-adjusted.

Were we to change the base year to something more recent (for example, 2022-23) to reflect the general increase in the price of agricultural commodities over time, an entirely different picture concerning India's PSH emerges.

Consider the following scenario:

Let us use the price of Thai Rice 5%, a commodity tracked on the World Bank's "Pink Sheet," as our External Reference Price for rice. In 2022, the average price of Thai Rice 5% was US\$436.8 per metric ton.⁴ That same year, India's average minimum support price for paddy (Common + Grade 'A') was Rs 2050 per quintal, which translates to Rs 20,500 per metric ton.⁵

⁴ World Bank. (2025, June). World Bank commodities price data (Pink Sheet). https://thedocs.worldbank.org/en/doc/18675f1d1639c7a34d463f59263ba0a2-0050012025/related/CMO-Pink-Sheet-June-2025.pdf

⁵ Ministry of Agriculture & Farmers Welfare. (2024, February 6). Minimum support price for various crops [Press release]. Press Information Bureau, Government of India. https://www.pib.gov.in/PressReleaseIframePage.aspx?PRID=2003184

Seeing as one unit of paddy is roughly equal to two-thirds of rice, 6 let us multiply the minimum support price of paddy by 1.5 to get a comparable minimum support price for rice: Rs 2050 x 1.5 = Rs 3075 per quintal, which translates to Rs 30,750 per metric ton.

Assuming an exchange rate of Rs 82 per US dollar, this is equal to US\$375 per metric ton, with India purchasing ~ 54.469 million metric tons of paddy.⁷

Based on these figures, the total market price support conferred by India would be equal to (375 -436.8) * 54.469 million, which is equal to - US\$3.366 billion. The total value of production would be equal to US\$375 * 54.469 million, which equals ~ US\$20.426 billion.

As a percentage of the total value of production, India's total market price support is equal to – 3.366 billion / 20.426 billion x 100, which is equal to -16.48%. In other words, India would not even be remotely close to breaching the de minimis limits of providing domestic support to its agricultural sector under the AoA, with negative values being recorded as 0% under a country's aggregate measures of support. 8 It should go without saying that this example is merely illustrative, though hopefully the point has been well illustrated.

It is also worth noting that Manak's article makes no mention of the fact that while several countries have sought to take India to task for violating its domestic support entitlements, many of these same countries have managed to negotiate much higher allowances for themselves, far above and beyond the de minimis limits that they would otherwise be constrained by. These include developed countries such as Japan, Switzerland, Norway, the EU, Canada, and the US. In a briefing paper published by the Third World Institute, Ranja Sengupta notes:

"It is inconceivable that a group of developed countries can get extra entitlements that allow them to concentrate subsidies and give product-specific support ranging between 5

⁶ Comptroller and Auditor General of India. (2015, December 8). Performance audit on procurement and milling of paddy for the central pool (Report No. 31 of 2015). Comptroller and Auditor General of India. https://cag.gov.in/webroot/uploads/download audit report/2015/Union Performance Procurement Milling of Pad dy Central Pool 31 2015.pdf

⁷ See appendix for data source.

⁸ For a clear explanation of how AMS is calculated under WTO rules, including the treatment of negative market price support (MPS) as zero, see:

Ungphakorn, P. (2024, January 2). Technical note: Agricultural domestic support categories in the WTO. Trade β Blog. https://tradebetablog.wordpress.com/technical-note-agricultural-domestic-support-categories-in-the-wto

and 285 per cent of VoP (value of production) on top of the *de minimis* allowances, while developing countries are being denied any flexibility to exceed their *de minimis* of 10 per cent of VoP even for upholding farm production and livelihoods and supporting food procurement for public distribution."

Efforts to remedy this "inconceivable" situation by India, China, and the African Group have unsurprisingly been stymied by those who benefit from the current status quo. This is despite the fact that these additional entitlements not only undermine "developing countries' fair access to export markets but also their ability to continue and augment domestic agricultural production and productivity amid unfair import competition." If developed countries jealously guard their additional benefits, it should come as no surprise that a developing country such as India, with a population almost three times the size of the EU and faced with acute climate-change-related shocks, should seek to maintain its PSH as it pertains to food security and social welfare.

Blocking A Permanent Solution

As previously mentioned, if a country violates its *de minimis* limits unless otherwise permitted, they may be subject to dispute settlement proceedings or retaliatory measures. One might wonder why India has not been drawn into such proceedings over its PSH. The answer is due to a decision made during the 9th WTO Ministerial Conference, held in Bali in 2013, whereby a "peace clause" on matters concerning PSH was adopted. This clause calls on countries to "refrain" from challenging members in violation of their domestic support limits through the WTO's dispute settlement mechanism. The peace clause was intended to serve as an interim arrangement until a "permanent solution" on the question of PSH could be adopted. The initial deadline for adopting such a solution was 2017; eight years later, no such solution has emerged.

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⁹ Sengupta, R. (2023, April). Extra AMS entitlements under the WTO Agreement on Agriculture continue to confer additional policy space for developed countries (TWN Briefing Paper). Third World Network. https://www.twn.my/title2/briefing_papers/twn/AMS%20entitlements%20TWNBP%20Apr%202023%20Sengupta. pdf

¹⁰ World Trade Organization. (2013, December 11). Public stockholding for food security purposes: Ministerial Decision of 7 December 2013 (WT/MIN(13)/38, WT/L/913). https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN13/38.pdf

India has repeatedly called on member states to negotiate a permanent solution to the question of PSH; however, such efforts have been rebuffed by the very same members who seek to gatekeep their advantages while denying India much-needed policy space to support its populace. In November 2023, shortly before the 13th Ministerial Conference was scheduled to take place, members of the Committee on Agriculture gathered to discuss the outstanding issue of a permanent solution to PSH, among others. Rather than honoring the expectations of the meeting, which were to focus on a clear set of issues, some members of the Cairns Group—an interest group of 20 agricultural exporting countries—"hijacked" the meeting and insisted that any permanent solution on PSH could not be negotiated on its own merits and had to be addressed as part of a broader negotiation on *all* domestic support concerns.¹¹ One does not need to be an expert on negotiating strategies to recognize that such a position is merely a delay tactic, designed to allow certain countries to continue enjoying their unique privileges while scapegoating India for stalled progress.

On Plurilateral Agreements:

When it comes to plurilateral agreements, India has been accused of opposing all of them on the "erroneous" grounds that they are illegal. This is an oversimplification of India's position. India's contention, rather, lies with efforts to try and initiate formal discussions on an issue for which there is not only no express mandate to do so, but a *negative* mandate against holding them, as is the case with the Investment Facilitation for Development Agreement (IFDA) that Manak references. Furthermore, India is correct in stating that adopting a plurilateral agreement within the WTO's architecture (i.e., adding it to Annex 4 of the Marrakesh Agreement) does require the consensus of all members. It is also worth mentioning that India recognizes the entitlement of members to discuss non-mandated subjects outside of the formal structure of the WTO, 12 though it entails the risk of displacing consensus-based decision making as the norm and encouraging an "à la carte" approach to the WTO.

https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/GC/262.pdf

¹¹ Kanth, D. R. (2023, November 24). WTO: Cairns Group faces backlash for "hijacking" agri-talks before MC13. Third World Network. https://www.twn.my/title2/wto.info/2023/ti231114.htm

 $^{^{12}}$ India. (2023, December 21). Statement by India on agenda item 18: General Council meeting - 13–15 December 2023 (WT/GC/262). World Trade Organization.

While India's opposition to how certain plurilateral "deals" have been raised in the WTO stands on firm legal footing, there might be a case, on an economic basis, for India to consider supporting or participating in plurilateral arrangements, either formally or informally. However, it is important to stress that this not undermine the legitimacy of India's concerns regarding plurilateral agreements, nor does it warrant the mischaracterization of the country's position on such matters.

On Special and Differential Treatment: The Inanity of "Gross" Values

Manak's article charges India with impeding efforts to bring about reforms related to the Special and Differential Treatment (SDT) provisions that apply to developing economies at the WTO. She cites a US proposal in 2019 that called for "limiting access to SDT if members are part of OECD or have begun the accession process to become so, are part of the Group of Twenty, are classified as high-income countries by the World Bank, or account for 0.5 percent or more of global merchandise trade (imports and exports)." As Manak notes, "at the time of the proposal, more than thirty WTO members that consider themselves to be developing countries, including India, would fall under at least one of those criteria."

In the interest of brevity, the idea that India should be deprived of SDT based on any of the above criteria is absurd. There is a penchant amongst advanced economies to critique emerging economies, particularly India, based on "gross" values. Nowhere is this tendency more evident than in conversations about carbon emissions, where India is labeled as a major polluter and contributor to climate change, despite being one of the countries most affected by it. In "gross" terms, yes, India emits a substantial amount of carbon. But on a per capita basis, countries such as Canada, Australia, and the US pollute *seven times* as much as India does (based on 2023 estimates).¹³

Returning to trade, it is simply inconceivable that a country with a GNI per capita of less than \$3000 USD, in nominal terms, should be placed on the same footing as its advanced counterparts. Note that the World Bank's definition of a high-income country is one with a GNI per capita of more than \$13,935 in 2024. India falls short of that benchmark by a significant margin.

¹³ Our World in Data. (2024, November 21). Per capita CO₂ emissions. https://ourworldindata.org/grapher/co-emissions-per-capita

Table 1: GNP Per Capita of Select Developed and Developing Countries/Blocks (2024)

Country/Block	GNI Per Capita		
United States	\$83,860		
European Union	\$40,967		
China	\$13,660		
India	\$2,650		

Note: GNI Per Capita values are calculated using the World Bank's Atlas method. Values are denominated in current US\$. Data has been sourced from the World Bank.

The broader point that there needs to be SDT reforms to differentiate between developing countries at different stages of development is not inherently outrageous. There is also certainly something to be said about the WTO's Principle of Self-Selection, which allows countries to decide for themselves whether they are "developed" or "developing." However, casting a wide net that would put India in the same category as the EU, the US, or even China—whose GNI per capita is more than 5x that of India's—is simply an unreasonable proposition. It would be nothing short of another attempt by the powers that be to "kick away the ladder" for those that are still on the ascent.

The Way Forward:

I) On the Need for "Fresh Thinking" and an Equitable Definition of "Fairness"

Regarding agricultural reform and negotiations, Manak claims that India has resisted "fresh thinking." Such claims, however, fail to stand up to empirical scrutiny. It is not India, which has advocated for agricultural reforms in tune with the changing times, but countries that seek to preserve the status quo and refuse to move beyond the 1980s that require a new perspective. Under the guise of "equity" and "fairness," certain countries have sought to stifle India's development and curtail its ability to respond to emerging crises and care for its people, imposing limitations that they would never accept if they were in the same position. Just as in many other contexts, there is a need for definitions of equity and fairness to be made more equitably at the WTO.

II) On Standing Firm:

As Ranja Sengupta noted in her briefing for the 13th WTO Ministerial Conference, a battle of narratives is afoot. ¹⁴ To emerge triumphant, it is vital that India does not lose its resolve and succumb to the intransigence and intimidation of larger powers or take the bait set by those who seek to cast aspersions in its direction. Where there is a case to be made for a re-evaluation of India's stance on certain issues, it should be made on the basis of merit rather than coercion. Such instances notwithstanding, asserting its own narrative and defending its position based on reason will keep the country on firm footing in the face of external pressures. As India is reported to have said in an agricultural negotiation in October 2023, "Gone are the days when we were the discipline taker and we had no knowledge and wisdom to talk about a subject that concerns us." ¹⁵ There is perhaps no better response to the mala fides against India than to move forward with that same sense of confidence and courage of conviction.

¹⁴ Sengupta, R. (2024, February 23). Agriculture and food security in MC13: Going forward or backward? Third World Network. https://owinfs.org/2024/TWN_agriculture.pdf

 $^{^{15}}$ Ungphakorn, P. (2023, October 21). India ramps up rhetoric on farm support before major WTO meeting. Trade β Blog. https://tradebetablog.wordpress.com/2023/10/21/india-ramps-up-rhetoric-before-wto-meeting/

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Appendix

Government of India

As on : 26-Jun-2025

Department of Food & Public Distribution. Ministry of Consumer Affairs, Food & Public Distribution

Date Range-Wise Procurement, Farmers Benefitted and MSP Payment Made

Procurement Season: KMS I 2022-2023 I Paddy I Kharif, Frome Date: 01-01-2022, To Date: 31-12-2022

S.No.	State Name	No. of Farmers from whom Procurement done	Quantity Procured (MT.)	MSP		
				Payment Made (in Lacs)	No. of Farmers to whom MSP Payment done	Rate (Rs./-Qtl)
	1	2	3	4	5	6
1	ANDHRA PRADESH	3,59,903	20,10,041.12	74,722.26	66,884	2,040
2	ASSAM	4,752	38,967.94	4,055.08	2,388	2,040
3	BIHAR	1,63,345	12,71,701.90	1,86,397.16	1,15,007	2,040
4	CHHATTISGARH	18,99,591	78,90,547.82	14,98,789.13	17,83,824	2,040
5	GUJARAT	28,047	1,75,984.54	23,514.88	18,362	2,040
6	HARYANA	2,84,529	58,82,146.33	12,07,796.88	2,83,523	2,040
7	HIMACHAL PRADESH	3,127	14,075.73	2,895.72	3,125	2,040
8	JAMMU AND KASHMIR	4,794	33,577.69	6,059.85	4,377	2,040
9	JHARKHAND	4,968	25,146.76	50.47	68	2,040
10	KERALA	68,229	1,84,216.86	26,115.09	45,277	2,040
11	MADHYA PRADESH	4,93,096	34,50,564.20	3,50,375.19	2,56,887	2,040
12	MAHARASHTRA	2,23,669	8,15,961.77	78,099.91	1,01,455	2,040
13	ODISHA	3,60,772	17,45,433.48	3,35,985.79	3,40,680	2,040
14	PUNJAB	7,92,263	1,82,11,085.91	28,54,293.19	6,76,393	2,040
15	TAMIL NADU	1,32,777	8,50,915.84	1,58,951.31	1,28,430	2,040
16	TELANGANA	9,08,102	57,48,300.68	11,21,945.31	8,65,850	2,040
17	TRIPURA	7,362	16,168.63	182.44	481	2,040
18	UTTARAKHAND	55,285	8,71,123.86	1,51,927.81	49,738	2,040
19	UTTAR PRADESH - East	3,60,660	23,24,014.22	3,42,029.79	2,66,968	2,040
20	UTTAR PRADESH - West	2,26,061	18,51,658.08	3,02,832.11	1,84,176	2,040
21	WEST BENGAL	4,82,404	10,56,907.80	2,15,592.61	4,82,374	2,040
	Grand Total	68,63,736	5,44,68,541.16	89,42,611.96	56,76,268	

About the Author



Vyas Nageswaran is a rising senior at Middlebury College in Vermont, majoring in economics with minors in political science and South Asian studies. He has interned at the Centre for Social and Economic Progress (CSEP) in New Delhi and the Permanent Mission of India to the World Trade Organization in Geneva. His research interests include development economics, geoeconomics, and international relations. His work on Indian macroeconomics and foreign policy has been published in Swarajya and The Indian Express.

About CRIT

India's Foreign Trade Policy (FTP) Statement 2015-20 suggested a need to create an institution at the global level that can provide a counter-narrative on key trade and investment issues from the perspective of developing countries like India. To fill this vacuum, a new institute, namely the Centre for Research on International Trade (CRIT), was set up in 2016. The vision and the objective of the CRIT were to significantly deepen existing research capabilities and widen them to encompass new and specialised areas amidst the growing complexity of the process of globalization and its spill-over effects in domestic policymaking. Secondly, enhancing the capacity of government officers and other stakeholders in India and other developing countries to deepen their understanding of trade and investment agreements.

About CWS

The Centre for WTO Studies which is a constituent Centre of CRIT, pre-dates the CRIT since it was created in 1999 to be a permanent repository of WTO negotiations-related knowledge and documentation. Over the years, the Centre has conducted a robust research program with a series of papers in all spheres of interest at the WTO. It has been regularly called upon by the Government of India to undertake research and provide independent analytical inputs to help it develop positions in its various trade negotiations, both at the WTO and other forums such as Free and Preferential Trade Agreements and Comprehensive Economic Cooperation Agreements. Additionally, the Centre has been actively interfacing with industry and Government units as well as other stakeholders through its Outreach and capacity-building programs by organizing seminars, workshops, subject-specific meetings, etc. The Centre thus also acts as a platform for consensus-building between stakeholders and policymakers. Furthermore, the inputs of the Centre have been sought after by various international institutions to conduct training and studies.

CENTRE FOR WTO STUDIES

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