



## Support to agriculture in India in 1995-2013 and the rules of the WTO

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13 April 2014

Comments by Jacques Berthelot, Solidarité, May 1<sup>st</sup>, 2014

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Lars Brink has just written an in-depth critical analysis of India's notifications of its agricultural domestic supports to the WTO from 1995-96 to 2003-04 and has proposed shadow notifications for the years 2004-05 to 2012-13 based on available official Indian data<sup>1</sup>.

Despite many valuable comments on these notifications, the main tone of the report is a strong criticism of India's notifications as they divorced from the methodology used in the Part IV of its Schedules of commitments – commonly referred to as the AGST – related to the base period 1986-88.

In fact the report keeps repeating over and over again the same criticisms, particularly that:

- 1) India used total production as the eligible production in the AGST and 1995-96 but only the procured production in the notifications from 1996-97 to 2003-04 (last notified year);
- 2) India's notifications were made in Indian rupees (INR) in AGST, particularly for the fixed reference prices (FERPs), but only in USD for the following notifications from 1995-96 on;
- 3) India notified all its input subsidies in its non-product-specific (NPS) Aggregate measure of Support (AMS) in the AGST but distributed them, in its notifications from 1995-96 on, between the "development box" of the Agreement on Agriculture (AoA) article 6.2 for the largest part directed to "resources-poor farmers", and the rest in the NPS AMS.
- 4) India was not allowed to notify negative AMSs.

For Lars Brink the end result is that India did not comply with the WTO rules but has under-notified its actual AMSs, particularly for wheat and rice, exceeding in many years its allowed product-specific AMSs of 10% of the their agricultural production value. Indeed as India did

<sup>1</sup> IATRC working paper: <http://ageconsearch.umn.edu/bitstream/166343/2/WP%2014-01%20Brink.pdf>

not notify any total AMS in its AGST for 1986-88, it has no bound total AMS and its allowed product-specific (PS) AMSs are limited to the *de minimis* provision of the AoA article 6.4 of 10% of their production value, beside also 10% of its whole agricultural production value for its non-product-specific (NPS) AMS.

Although Lars Brink's arguments are essentially built on the accusations made by the US, EU and some other developed WTO Members in the WTO Committee on agriculture, these arguments are essentially unfounded.

First, contrary to the author's assertions, the so-called "methodology" used by India in its AGST for 1986-88 is not built in stone.

Indeed, according to the WTO, "*For Uruguay Round participants, the supporting tables were prepared based — in practice — on a document negotiated in the Uruguay Round but never formally agreed: Modalities for the Establishment of Specific Binding Commitments under the Reform Programme. Supporting material submitted in the context of accessions is prepared using the guidance contained in WT/ACC/4*"<sup>2</sup>. In other words, without a clear legal basis, these "Modalities" could be challenged in a formal proceeding at the WTO Dispute Settlement Body.

Now it appears that none of the four main criticisms mentioned above is supported by the AoA rules and by the three "Modalities" papers: the "*Notification requirements and formats adopted by the WTO Committee on agriculture at its meeting on 8 June 1995*"<sup>3</sup>, "*Information to be Provided on Domestic Support and Export Subsidies in Agriculture*"<sup>4</sup> and the "*Handbook on Notification Requirements Under the Agreement on Agriculture*"<sup>5</sup>.

## **I – The issue of the eligible production to be notified**

It is not because India notified total production, particularly for rice and wheat, in its AGST for 1986-88 and also for 1995-96 that it corresponded to an intangible methodology so that it was allowed to change it, once it realized better that total production was far from benefitting of the minimum support prices (MSPs). Indeed:

### **1.1 – The lessons of the Appellate Body report in the Korean beef case**

The Appellate Body report in the Korean beef case wrote: "*In establishing its program for future market price support, a government is able to define and to limit "eligible" production. Production actually purchased may often be less than eligible production... While there may be nothing under the Agreement on Agriculture to prevent Korea from changing the quantity of "eligible production", Korea did not do so, so far as the record of this case shows. Korea instead simply purchased a lesser number of cattle by ceasing its purchases... In the present case, Korea, in effect, declared the quantity of "eligible production" when it announced in January, 1997, that it would purchase 500 head per day of Hanwoo cattle above 500 kg within the 27 January to 31 December 1997 period, which would be 170,000 head of cattle for the 1997 calendar year. That figure, under paragraph 8 of Annex 3, accordingly*

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<sup>2</sup> [http://www.wto.org/english/tratop\\_e/agric\\_e/supporting\\_tables\\_e.htm](http://www.wto.org/english/tratop_e/agric_e/supporting_tables_e.htm)

<sup>3</sup> WTO G/AG/2 of 30 June 1995.

<sup>4</sup> [http://www.wto.org/english/tratop\\_e/agric\\_e/supporting\\_tables\\_e.htm](http://www.wto.org/english/tratop_e/agric_e/supporting_tables_e.htm)

<sup>5</sup> [http://www.wto.org/english/tratop\\_e/agric\\_e/ag\\_notif\\_e.pdf](http://www.wto.org/english/tratop_e/agric_e/ag_notif_e.pdf)

constitutes the quantity of "eligible production"<sup>6</sup>. Now, according to an Australian report of 2004, the number of Hanwoo cattle heads slaughtered was of 887,400 in 1997 and 1023,200 in 1998 and the average weight of the slaughtered cattle was 551 kg in 1997 and 559 kg in 1998<sup>7</sup>. Which implies that the eligible production for 1997 has represented only 19.2% of the actual production, so that the argument that eligible production should be total production does not hold.

## **1.2 – Munisamy Gopinath confirms:**

*“With regard to product-specific AMS, the 1997 methodology for market price support appears to be a direct product of the price difference (administered minus external reference price) and procured quantities taken as the eligible production... This is consistent with the WTO rules which are ambiguous about what constitutes the eligible volume... Other developing countries, including Brazil, China and the Philippines, also report procured quantities as eligible production”<sup>8</sup>.*

## **1.3 – FAO's previous comments on this issue follow the same line**

*"There is insufficient clarity in the agreement whether the quantity eligible to receive the administered price is total production, or only the marketed surplus which is actually sold in the market, or the quantity which is actually procured by the government through the price support mechanisms. Some member countries such as Pakistan have used quantity procured, whereas other countries have used total production. The logic of using total production in these computations is that the government-designated agency is bound to buy whatever is brought to the market at the pre-announced support price. However, there is a limit on this because the quantity brought to the market will not be more than the marketable surplus given that self-consumption accounts for a very large share of the output of basic foodstuffs in a country like India”<sup>9</sup>.*

## **1.4 – Indian data on the impact of MSPs on average farm prices of rice and wheat**

Although the Indian procurement of rice and wheat at the MSPs is open-ended, it cannot exceed significantly the quantity needed for redistribution to the beneficiaries of the domestic food aid programmes, even if the quantity of stocks may exceed it during some months.

In 2012-13, when total procurement of rice represented 33.4% of total production, the percentage of procurement over production was of 68.3% on average in the four States of Punjab, Haryana, Andhra Pradesh and Chhattisgarh – which accounted for 32.3% of total production and 66% of total procurement – but of 50.6% on average in the other 10 States which accounted for 64.3% of total production and 32.5% of total procurement<sup>10</sup>. For wheat the ratio of procurement to production was of 74.3% on average in the three States of Punjab,

<sup>6</sup> Korea – Measures affecting imports of fresh, chilled and frozen beef, Report of the Appellate Body, WT/DS169/AB/R, 11 December 2000, [http://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds161\\_e.htm](http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds161_e.htm)

<sup>7</sup> Jeong, M-K., Sheales, T., Gleeson, T. and McDonald, D., *Korean and Australian Beef: Markets and Prospects for Trade*, ABARE eReport 04.22.2004, [http://adl.brs.gov.au/data/warehouse/pe\\_abarebrs99001130/PC12872.pdf](http://adl.brs.gov.au/data/warehouse/pe_abarebrs99001130/PC12872.pdf)

<sup>8</sup> Munisamy Gopinath, *India*, pp. 277-309 in David Orden, David Blandford and Tim Josling, *WTO disciplines on agricultural support*, Cambridge University Press, 2011.

<sup>9</sup> <http://www.fao.org/DOCREP/005/Y4632E/y4632e0j.htm>

<sup>10</sup> *From administered prices to total prices: application to the Indian, US and EU prices of rice and wheat*, Solidarité, January 24, 2014, [http://www.solidarite.asso.fr/Papers-2014?debut\\_documents\\_joints=10#pagination\\_documents\\_joints](http://www.solidarite.asso.fr/Papers-2014?debut_documents_joints=10#pagination_documents_joints)

Madhya Pradesh and Haryana – which accounted for 43.7% of total production and 78.6% of total procurement – but was only of 16% on average in the other 8 States which accounted for 55% of total production and 21.3% of total procurement.

The available data seem to show that the intensity of procurement at the MSPs leads to higher farm prices at harvest time as the private traders are obliged to raise their prices to get enough cereals but this is not the case in the States where and when public procurement is lower or has ceased even though these States may account for the majority of production. So that it is difficult to conclude that the procured quantity at the MSPs spills over to the average prices received by rice and wheat producers for their marketed production. Therefore it is justified to notify only the procured production and not the whole production.

### **1.5 – The US change in notifying its dairy AMS since 2008**

However this is not the situation prevailing in the US which, before criticizing India to not abide by the AoA rules on AMS, should begin to clean its own backyard.

Indeed, the 2008 Farm Bill has changed the way to support and notify the dairy market price support (MPS). Instead of continuing to notify its dairy MPS for the whole milk production as in its AGST and in all its domestic support notifications up to 2007, the US has changed its dairy MPS in notifying only three main dairy products: butter, nonfat dry milk and Cheddar cheese. Thus the US notification for dairy fell from \$5.011 bn in 2007 to \$2.925 bn in 2008, \$2.827 bn in 2009, \$2.845 bn in 2010 and \$2.835 bn in 2011 (last notified year).

The real issue is whether the change in the 2008 Dairy Act and in notifications corresponds to a lower impact of the dairy MPS on the average domestic price of milk so that it would not concern the whole milk production. Jesse and Bob Cropp of the University of Wisconsin explain clearly that *"Prior to passage of the 2008 Act, Congress specified the support price for milk used for manufacturing purposes. Using product price formulas, USDA then translated the support level for milk into associated CCC [Commodity Credit Corporation] purchase prices for the eligible dairy products. The product purchase prices currently in place under the 2008 Act are the same as those associated with a \$9.90 milk support price under previous legislation. So while milk price objectives are no longer directly relevant in setting product purchase prices, plants selling products at the CCC purchase prices would be expected to earn sufficient revenue to pay producers \$9.90 per hundredweight of milk at average butterfat test"*<sup>11</sup>. Furthermore *"With federal order pooling, producers receive a common price for their milk components regardless of how their milk is used"*, knowing that *"prices for fluid milk are not based on supply and demand conditions for fluid milk ; they are based on supply and demand conditions for manufactured dairy products"*, which are precisely mainly butter, non-fat dry milk and Cheddar cheese. Even if Cheddar cheese is clearly not the only cheese produced, *"the Chicago Mercantile Exchange (CME) cheddar cheese prices serve as reference prices for other cheese trades"*.

Therefore, as the change in the way to notify the US dairy MPS was not justified by a lower impact of the 2008 Dairy Act on the US average farm price of milk, this change did not comply with the AoA rules: you cannot change the rule to compute the dairy AMS from the administered price of the whole milk production made for 1986-88 in the US Schedule of commitments<sup>12</sup> to the sum of the administered prices of butter, Cheddar cheese and nonfat dry milk. The US situation is quite different from the Indian case where we have shown that the impact of MSPs on the average farm prices of rice and wheat is mixed so that notifying only the procured

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<sup>11</sup> <http://www.midmddairyvets.com/docs/MilkPricingWisc.pdf>

<sup>12</sup> [http://www.wto.org/english/tratop\\_e/agric\\_e/schedule\\_e/usa.pdf](http://www.wto.org/english/tratop_e/agric_e/schedule_e/usa.pdf)

quantity was legitimate. Furthermore the share of milk production self-consumed by US milk producers is negligible, contrary to the shares of Indian rice and wheat. Lars Brink recognizes that, according to Hoda and Gulati (2007), "*Marketable surplus is essentially what is available for sale after the consumption and other requirements of the farmers are met. The marketable surplus ratio in 2010-11 was 81 percent for rice, 73 percent for wheat*".

Incidentally the WTO Handbook of Notification Requirements of May 2010 takes the MPS for milk as an example as if it was applied to the US case: "*ERP comes from Members' supporting data (AGST tables). The ERP remains fixed for a product, i.e. if market price support (MPS) is continued for milk say in 2009, ERP for milk would continue to be \$200/t and would be compared with the applied administered price for the year 2009 in the MPS calculations for 2009*"<sup>13</sup>.

Not only the US was not allowed to change its methodology to compute its dairy AMS from 2008, but, to cap it all, it has continued to use in its notifications from 2008 to 2011 its allowed final bound total AMS (FBTA) for the Doha Round implementation period incorporating a dairy MPS calculated on the basis of another methodology. Given the levels of support prices and production in the base period 1986-88, the total dairy AMS for the sum of butter, nonfat dry milk and Cheddar cheese was of \$2.314 bn instead of the notified \$5.409 bn for the whole milk in that period. It follows that, if the US does not rectify its notifications of dairy AMS from 2008 to 2011 based on the whole milk as it should, it must at least revised its total applied AMS for 1986-88 which was not of \$23.879 bn but of \$20.784 bn and the FBTA, at the end of the Uruguay Round implementation period in 2000, was not \$19.103 bn (80% of 23.879) but only \$16.627 bn (80% of 20.784). And the allowed FBTA at the end of the implementation period of the Doha Round, once cut by 60%, will bring it from \$7.641 bn to \$6.651 bn in the US notifications from 2008.

However the new Farm Bill of 7 February 2014 has replaced the Dairy Product Price Support Program and the Milk Income Loss Coverage by the Margin Protection Program so that, according to the National Milk Producers Federation, "*Except for infrequent extreme situations, the Margin Protection Program will stay well below the permissible level of subsidies for dairy within the overall allowable level of support available to U.S. agriculture*"<sup>14</sup>. Maybe but the Margin Protection Program (MPP) will increase the product-specific insurance subsidies and the US would have still to notify the under-notified MPS up to 2014, for a total of about \$15 bn from 2008 to 2014. Above all it will reduce its FBTA at the end of the Uruguay Round implementation period from \$19.103 bn (80% of \$23.879 bn) to \$11.821 bn (80% of \$14.776 bn given the elimination of the dairy MPS of \$5.409 bn in 1986-88) and the bound total AMS at the end of the Doha Round implementation period, once cut by 60%, would fall to \$4.728 bn, very close to the \$4.654 of total AMS notified for 2011.

Indeed we should not admit a repetition of what the US and the EU did when they created the blue box in the last minute of the Uruguay Round negotiations, which, for the US, transferred \$7.030 bn of the *deficiency payments* notified in their AGST of 1986-88 into the blue box notified in 1995-96 without reducing by as much the allowed total AMS of \$23.879 bn in the AGST. However the FAIR Act of 1996 eliminated the blue box payments transferred to the green box through the creation of the allegedly decoupled Product flexibility contract payments notified in the green box, but that the WTO Appellate Body ruled on 3 March 2005, in the US cotton case, not to be in the green box. Finally the notified total current AMS

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<sup>13</sup> [http://www.wto.org/english/tratop\\_e/agric\\_e/ag\\_notif\\_e.pdf](http://www.wto.org/english/tratop_e/agric_e/ag_notif_e.pdf); , page 67.

<sup>14</sup> <http://www.futurefordairy.com/faqs/margin-protection-program.html#pageTop>

collapsed at \$6.214 bn in 1995-96 against allowed \$23.879 bn in 1986-88. All the same the CAP reform of 1992 has transferred and notified in the blue box for 1995-96 €21.146 bn of the previous market price supports (MPSs) notified in the AGST of 1986-88, without here also reducing by as much the total bound AMS of €78.672 bn. Which led UNCTAD to conclude: "*The base AMS is therefore higher than "it should have been"*"<sup>15</sup>, in other words it should have been reduced by as much these box shifting afterwards.

Of course we cannot say that the EU and Canada are not complying with the AoA rules in notifying only their market price supports (MSPs) to butter and skimmed-milk powder since they were already notified in their AGST, even if, as in the US case, these supports spill over the average farm price of their whole milk production.

### **1.6 – The biased economic justification of the AoA rules on the AMS linked to administered prices**

Lars Brink writes that "*some of the provisions of the Agreement are based on economic analysis of trade issues at the time when the Agreement was negotiated. Although economic analysis might influence also today's interpretations, it would likely not, however, be the only basis for interpreting the Agreement*".

Nevertheless one cannot dismiss the necessity to question the biased economic justification of the AoA rules on the AMS linked to administered prices. Indeed an economic analysis helps to underscore the absurdity of the AMS considered as a pure domestic support when it can only be effective when coupled with an efficient import protection – but also with export subsidies, production quotas, set aside, external and domestic food aid, and direct payments –, in which case the AMS can even disappear without affecting the level of domestic farm prices.

Harry de Gorter, Merlinda D. Ingco and Laura Ignacio underscored this absurdity of the AMS linked to administered prices in 2005 because "*Such reasoning leads to difficulties in comparing the AMS across commodities and countries because it is conflated with import barriers and export subsidy measures, and consequently, the actual market price may not be equal to the support price. The URAA requires each country to identify market price supports in the form of administered prices, which must be included in the calculation of the AMS. On the other hand, if there are import barriers in place that keep domestic prices high but there is no administered price, no market price support is estimated for the AMS. For example, Canada has not been able to identify an administered price for chicken, turkey, or eggs, so there is no market price support for Canada's AMS for these products. Japan simply eliminated an administered price for one commodity, even though the commodity's level of protection did not change. This is arbitrary action on whether an official price is reported or not. The U.S. reported an administered price support for dairy products but these were mostly inoperative because market prices were well above administered price support in the implementation period (1995–2001), owing to export subsidies on dairy products and import barriers. As a result, in the 2002 total AMS the U.S. has US\$4.3 billion in "unused" dairy support*"<sup>16</sup>.

<sup>15</sup> [http://unctad.org/en/Docs/ditcom20036\\_en.pdf](http://unctad.org/en/Docs/ditcom20036_en.pdf)

<sup>16</sup> Harry de Gorter, Merlinda D. Ingco and Laura Ignacio, *Domestic support: economics and policy instruments*, in Merlinda Ingco and John D. Nash editors, *Agriculture and the WTO*, World Bank and Oxford University Press, [http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2004/08/19/000160016\\_20040819110032/Rendered/PDF/297950018213154851x.pdf](http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2004/08/19/000160016_20040819110032/Rendered/PDF/297950018213154851x.pdf)

This bias in the AoA rules has also been underscored by David Orden, David Blandford and Tim Josling in the introductory chapter of their book *"WTO disciplines on agricultural support"* (a book to which Lars Brink contributed): *"The distinction forged in the Agreement between the three pillars of market access, export competition and domestic support may be necessary in classifying types of policy instruments for legal purposes but do not reflect their interdependence and interrelated effects on markets... From an economic perspective the WTO's MPS (market price support) measure suffers from four deficiencies... the arbitrary fixity of external reference prices at 1986-88 base period levels; use of the administered price instead of the prevailing domestic price to calculate the level of support per unit of output... The notified MPS, despite its name, has not been a good indicator of economic market price support... The calculation of the MPS component of AMS (and EMS) from world prices of more than twenty years ago illustrates the weakness of these measures as a meaningful reflection of the actual level of support given by administered prices... Ambiguity in measurement of the MPS is going to be difficult to resolve"*.

The case of Japan is exemplary as shown by Yoshihisa Godo and Daisuke Takahashi in the same book: *"Since Japan's rice is protected by prohibitively high tariffs, the administered price did not reduce economic protection for rice. Japan's complete elimination of MPS from its notifications to the WTO is an extreme example of the imperfect correspondence between this measurement in the notifications and an economic measurement of price support"*<sup>17</sup>. Indeed the support price for rice was eliminated in 1997, and Japan's AMS notified to the WTO dropped by \$20 billion but, as there was no change in import protection, the actual support remained the same. David Orden, David Blandford and Tim Josling confirm in the final chapter of their book: *"For Japan there is little correspondence between its low notified MPS, and hence the OTDS, and its continued border protection of rice. This results in a major disconnect between the illusion of policy reform through reduction in notified MPS and the reality that domestic rice prices in Japan have remained substantially above world levels because of high tariffs and Japan's diversion of land from rice production"*.

Another good example is the EU suppression on 1<sup>st</sup> July 2002 of the intervention price of bovine meat, which has allowed the EU to cut its total AMS by 24.5%, or €9.7 billion, from one day to the other, without any negative impact on the market price – which has increased by 7.4% in 2002, by 0.9% in 2003, by 5.2% in 2004 and by 8% in 2005 – nor on the farmers' income because the elimination of the intervention price has been more than compensated by the maintenance of high tariffs together with an increase in the blue box direct payments decided by the CAP reform of 1999, rising from €2.9 billion in 1999 to €6.0 billion in 2002.

William R. Cline stated in the USDA 2007 Agriculture Outlook Forum: *"The bound AMS contained about \$6 billion of pure fiction, a remarkable concept called 'Market Price Support' (MPS)... There is no actual taxpayer money paid out for the MPS, it is pure accounting... Getting rid of the phony subsidy will make it easier to get rid of phony subsidy cuts"*<sup>18</sup>.

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<sup>17</sup> Yoshihisa Godo and Daisuke Takahashi, *Japan*, in David Orden, David Blandford and Tim Josling, *WTO disciplines on agricultural support*, Cambridge University Press, 2011, pp. 153-188

<sup>18</sup> <http://ageconsearch.umn.edu/bitstream/8028/1/fo07cl01.pdf>

## **II – The issues of the currency used for notifications and of excessive inflation**

### **2.1 – The issue of the currency used in the notifications**

Lars Brink acknowledges that "*The notification requirements (WTO 1995) are not explicit about what currency to use for reporting support... For a country without a Bound Total AMS [which is the case for India]... it might be possible... to notify support in the currency of its choice as long as the values of production on which any de minimis claims are based are reported in the same currency as the AMSs*". Indeed nothing in the AoA prevents to change the currency used for notification, provided it is "*expressed in total monetary value terms*" (AoA Annex 3 paragraph 6). That is why one wonders why the author is criticizing so much the fact for India to have notified the fixed reference prices (FERPs) of rice and wheat in INR in AGST, before notifying its rice and wheat AMSs in USD from 1995-96 on.

By the way other countries did the same, such as Pakistan which notified in USD as soon also as 1995 although its AGST was in Pakistani rupees. Russia has had the ability to notify both in roubles (RUB) and USD.

Nevertheless Lars Brink adds: "*However, when the calculation of market price support is involved, as in India's case, the situation is different. That calculation relies on the FERP, which was fixed as the product's average export or import unit value in 1986 to 1988. It is thus denominated in a particular currency, in India's case the INR/tonne shown in AGST*".

Maybe but, before converting its imports in INR, the Indian imports bills were in USD as it has been and is still the case for all traded wheat and rice, as for most commodities. Even the French and other EU wheat is traded in USD and not in euros.

Lars Brink adds that "*There is thus no choice - the FERP must be based on the years 1986 to 1988... it shall be the average unit value in the 1986 to 1988 period*". Yet China, which joined the WTO in 2011, succeeded in imposing the base years 1996-98 instead of 1986-88, which has helped it to minimize its AMS.

More generally the case should be made that, given that the 1986-88 were years when the world prices of wheat were highly depressed as the result of the EU and US massive dumping combined with a large depreciation of the US dollar, these years should be totally revised and updated to post 2007 years to be meaningful economically.

Another reason to update the base years 1986-88 to more recent, post 2007 years, is that these 1986-88 base years pose a problem almost only to developing countries, not to developed countries, for two interlinked structural reasons: their rates of inflation, hence of currency depreciation against the USD, have been and are still much higher than those of the developed countries<sup>19</sup>. In the special session of the WTO committee on agriculture of 15-17 November 2000 the delegate of South Korea testified that "*the current AMS reduction system is unfavourable to DCs with unstable economy and high inflation. Once again, we stress the need for an equitable approach and hope to agree on a more reasonable solution at a later stage*"<sup>20</sup>.

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<sup>19</sup> <http://www.indexmundi.com/facts/indicators/FP.CPI.TOTL.ZG/rankings>

<sup>20</sup> G/AG/NG/W/74, 28 November 2000.



Indeed there is a good case for DCs to shift from notifying their agricultural trade in domestic currency to doing it in USD: to protect their competitiveness against the vagaries of the USD volatility commended by pure US political interests. Everybody knows the US Treasury Secretary John Connally's famous cry to an EU delegation in late 1971: "*The dollar is our currency, but it's your problem*".

The large depreciation of the USD in the 1986-88 period helped a lot to boost US exports of wheat and rice. According to Mathew Shane of USDA, "*The sharp decline in the dollar after 1985 reversed this process, and world prices for agricultural commodities fell. U.S. exports began to expand rapidly. Simultaneously, lower U.S. loan rates under the Food Security Act of 1985 went into effect and magnified the effects of the exchange rate. Lower prices caused great hardship in countries like Australia, Canada, Argentina, and the European Community*"<sup>21</sup>. More precisely, "*The real U.S. agricultural exchange rate declined 23 percent between the end of 1985 and 1988. A sustained change of that magnitude would lead to a greater than 23-percent increase in U.S. agricultural exports, according to the CGE model... The exchange rate depreciation between the end of 1985 and 1988 accounted for 25 to 35 percent of the increase observed in U.S. farm exports. The long run effects of a sustained increase would be even greater*". In particular the dollar exchange rate linked to wheat trade has depreciated by 30% from 1986 to 1988, and we can assume that the figure were about the same for rice.

Incidentally in 1987-88 1.850 million tonnes on the 2 million tonnes of US wheat exported to India received an export subsidy (of the "export enhancement program", EEP) of \$38.9 million (\$21 per tonne)<sup>22</sup>. Bruce Gardner adds: "*The average subsidy reached \$38 per ton in 1987. A price wedge this large on substantial quantities would be expected to make a noticeable difference in world trade flows and prices*". For C. C. Coughlin and K. C. Carraro, "*Not only has the level of exports expanded, but the U.S. share of the world's wheat market increased from 28.8 percent in 1985 to an estimated 41.6 percent in 1988*"<sup>23</sup>. For Kenneth W. Bailey, "*The EEP helped provide the U.S. an advantage... and therefore accounted for about 30 percent of the U.S. export expansion*"<sup>24</sup>.

It has been estimated that the EEP programme alone explained 35% to 40% of the increase in the EU wheat export refunds. The very low world wheat prices of the 1986-88 are clearly the result of the US and EU combined massive dumping through several channels: explicit export subsidies, share of their domestic subsidies having benefited to wheat and flour exports, export credit guarantees not to speak of the high level of their foreign food aid. During that period the average cumulative US+EU dumping rate of wheat and flour was 78.4% (without taking into account foreign food aid), of which 71.2% for the US and 118.5% for the EU. And, given that the average total US+EU quantity of wheat and flour exports accounted for 48% of global exports – a figure largely underestimated as it does not take into account the wheat and flour incorporated in other exported processed products, from biscuits to pasta to whisky –, we can understand their huge responsibility in depressing the world prices of wheat and wheat flour, denominated in USD, in that base period<sup>25</sup>.

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<sup>21</sup> <http://www.ntis.gov/search/product.aspx?ABBR=ERSAIB585>

<sup>22</sup> <http://www.card.iastate.edu/publications/dbs/pdffiles/89wp46.pdf>

<sup>23</sup> [http://research.stlouisfed.org/publications/review/88/11/Dubious\\_Nov\\_Dec1988.pdf](http://research.stlouisfed.org/publications/review/88/11/Dubious_Nov_Dec1988.pdf)

<sup>24</sup> <http://ageconsearch.umn.edu/bitstream/30095/1/21020117.pdf>

<sup>25</sup> Solidarité, *Analysis of the G-33's proposal to change the AoA provision on Public stockholding for food security*, January 25, 2014, [http://www.solidarite.asso.fr/Papers-2014?debut\\_documents\\_joints=10#pagination\\_documents\\_joints](http://www.solidarite.asso.fr/Papers-2014?debut_documents_joints=10#pagination_documents_joints)

Therefore, without this large dollar depreciation in that period, the US subsidies to rice and wheat would have been much larger, likely 30% larger, which justifies even more to update the Indian CIF prices of 1986-88 based on the US comprehensive export prices of rice and wheat incorporating its domestic and export subsidies.

The US has always been price maker for wheat but it also influenced largely the world price of rice as shown by Daryll Ray: *"A model was developed to track the relationship between the US and the Thai prices... Model results showed a strong correlation between the US price and the price of the leading competitor on that export market. Eighty four percent of the variation in the Thai rice price could be explained by the Texas price and the US rice stocks-to-use ratio, and a ten percent increase in the US rice price will result in a 4.7 percent increase in the Thai price. This correlation is compelling evidence that even where the US is not a dominant exporter, its commodity exchanges influence world prices"*<sup>26</sup>. The more so in that period 1986-88 when the US market share of global rice exports was of 18.9%, being second after Thailand (37.2%) and before Pakistan (9.5%) and China (7.3%)<sup>27</sup>.

Therefore the FERPs of India in 1986-88 should be rectified after eliminating the US dumping rates on the world prices of rice and wheat – which reached 137.1% on rice and 88.9% on wheat, taking also into account the domestic subsidies to the exported rice and wheat –, i.e. by multiplying the Indian CIF prices of 1986-88 by 2.371 for rice and by 1.889 for wheat, which raises them to respectively Rs 8,346/t instead of Rs 3,520/t for rice and Rs 6,687/t instead of Rs 3,540/t for wheat<sup>28</sup>. Once converted into USD by the exchange rates of the period, the rectified border prices in 1986-88 become \$634.7/t for rice and \$508.5/t for wheat, figures which are 89.5% and 104.7% higher than the MSPs of rice and wheat respectively in 2012-13.

## **2.2 – The issue of the interlink between exchange rate depreciation and inflation**

Given the close interlinks between the evolution of exchange rates and inflation rates, notifying the rice and wheat AMSs in USD instead of in INR was a means to minimize the increase in these AMSs. After having reminded the reader that the AoA article 18.4 states that *"In the review process Members shall give due consideration to the influence of excessive rates of inflation on the ability of any Member to abide by its domestic support commitments"*, Lars Brink adds: *"Article 18.4 is sometimes interpreted as giving a country the right to unilaterally adjust some element of its support calculation in order to offset the effect of any inflation on its ability to stay within its commitments. For countries with only expenditure and payment support and no Bound Total AMS, the question of inflation adjustment is moot, since the values of production and the de minimis limits increase pari passu with inflation and accommodate inflation-related increases in nominal expenditures and payments"*.

Let us underscore that paragraph 49 of the first draft of the agricultural modalities paper, circulated to WTO Members on 12 February 2003, which treated together the issues of exchange rate and inflation, provided: *"Inflation 49. Scheduled Total AMS commitments may be expressed in national currency, a foreign currency or a basket of currencies. In case a*

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<sup>26</sup> Daryll Ray, Daniel De La Torre Ugarte, Kelly Tiller, *Rethinking U.S. Agricultural Policy: Changing Course to Secure Farmer Livelihoods Worldwide*, APAC, University of Tennessee, September 2003, <http://www.inmotionmagazine.com/ra03/rethinking.html>

<sup>27</sup> <http://ageconsearch.umn.edu/bitstream/15183/1/26020406.pdf>

<sup>28</sup> Solidarité, *Updating the Indian CIF prices of 1986-88 is fully justified*, November 29, 2013, <http://www.solidarite.asso.fr/Papers-2013>

*foreign currency or a basket of currencies is used and the final bound Total AMS in a Member's Schedule is expressed in national currency (or another foreign currency) and a participant wants to avail itself of this option, the final bound Total AMS shall be converted using the average exchange rate(s) as reported by the IMF for the year at issue"*<sup>29</sup>. In other words this former agricultural modalities draft allowed clearly to denominate in USD former AMSs notified in domestic currency it AGST.

Anwarul Hoda and Ashok Gulati "*do not see any reason for making less than full adjustment for the rates of inflation, particularly keeping in view the high rates of inflation in the country*"<sup>30</sup>, which implies to update the FERPs of 1986-88 with the average inflation rate of 8.03% over these 25 years. On the other hand the G-33 proposed that the excessive inflation rate is that exceeding 4%, i.e. 4.03%. However, rather than using 4% that we do not know where this figure comes from, it is fair to take the inflation rate exceeding the 2.75% average rate of the OECD's Western Members, that is 5.28%. Therefore, given that the Indian average inflation rate during these 25 years exceeded by 2.0% the average annual depreciation of the exchange rate of rice of 6.01% (from 13.1500 to 56.5752 INR/1 USD) and by 2.19% the depreciation of the exchange rate of wheat of 5.84% (from 13.1500 to 54.3519 INR/1 USD for wheat, given that their marketing years do not cover the same months), updating with 4.03% or even 5.28% would still put the FERPs below the MSPs of 2012-13, but not much however.

### **III – The issue of notifying input subsidies in the development box or the NPS AMS**

After having reminded us that the AoA so-called "development box" of article 6.2 provides that "*investment subsidies which are generally available to agriculture in developing country Members and agricultural input subsidies generally available to low-income or resource-poor producers in developing country Members shall be exempt from domestic support reduction commitments that would otherwise be applicable to such measures*" Lars Brink challenges the two ways used by India to notify its input subsidies.

The author comments: "*There is a clear distinction between the investment subsidies, on the one hand, and the input subsidies, on the other, as to the set of recipients to whom the measures must make support generally available in order for the support to be exempt. In the case of investment subsidies it is agriculture, and in the case of input subsidies it is low-income or resource-poor producers. Under this distinction, the input subsidies need to be targeted to low-income or resource-poor producers, not to be generally available to agriculture as a whole*". We could agree to this, however only up to a certain point if we follow the fact that OECD classifies, in its new PSE manual of September 2010, the "investments subsidies" in the broader concept of "Payments based on input use" encompassing "variable input use", "fixed capital formation" and "on-farm services". And in fact we see that, in the PSE data for the US in 2013, the distribution of some subsidies between "input subsidies" and "fixed capital formation" seems economically questionable. Thus "irrigation support" is classified in input subsidies and also, in the US notification to the WTO, the justification is that "*A long term interest rate is applied to the outstanding unpaid balance of capital investment by the Government in irrigation facilities to obtain the subsidy. Irrigators repay the principal but not the interest on the project debt*".

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<sup>29</sup> [http://www.wto.org/english/tratop\\_e/agric\\_e/negoti\\_mod2stdraft\\_e.htm#domesticupport](http://www.wto.org/english/tratop_e/agric_e/negoti_mod2stdraft_e.htm#domesticupport)

<sup>30</sup> <http://ictsd.org/i/publications/175214/?view=document>

Las Brink challenges that "In both AGST and its 1995 notification India accounted for the full amount of the input subsidies (fertilizer, credit, electricity, irrigation, and seeds) as part of the non-product-specific AMS" while "The 1996 to 2003 notifications show... large amounts of input subsidies... being exempted in the development box, while smaller amounts of the same input subsidies are reported as part of the non-product-specific AMS" although "In the 1995 notification India commented that almost 80 percent of these subsidies would qualify for exemption from non-product-specific AMS on grounds... that these subsidies went to low-income and resource-poor farmers, i.e., in conformity with Article 6.2". He pursues that "As reported from the discussion in the Committee on Agriculture, the share of support through "Other input subsidies" that India allocated as support to low-income or resource-poor producers increased from 79.5 percent to 98.97, or 99, percent. No information was given about any particular targeting of these subsidy measures to low-income or resource-poor producers".

However Anwarul Hoda and Ashok Gulati rectified Lars Brink's confusion between the percentage of input subsidies going to resource-poor farmers and their percentage of all holdings: "In its last notification of non-product-specific AMS (G/AG/N/IND/7), India has noted that 98.97 per cent of its farm holdings are of low-income or resource-poor farmers, covered by the exemption of Article 6.2. This too hints at the holding size of 10 hectares as the defining level for determining whether a farmer may be regarded as resource-poor... Farmers with holdings less than 10 ha hold about 89 per cent of the area... However, even the level of 10 ha cannot be accepted uncritically for this purpose. Can a farmer with 10 ha of arid or semi-arid land be regarded as falling outside the category of low-income or resource-poor?". And they pursue: "Without doubt, the area of agricultural holding cannot be the sole measure of the income status of farmers as farm income depends critically on the availability of assured irrigation. However, because of the lack of availability of detailed holding wise data on water, there is little option but to undertake analysis on the imperfect basis of the area of the holding alone. Analysis by the authors shows that whether we take the defining level to determine the low-income or resource-poor status as 10, 4 or 2 ha, in 2010-11, the total non-product-specific subsidy as a percentage of the total value of agricultural output was well below the benchmark of 10 per cent. Even in 2008-09, when there was an unprecedented spike in government support for agriculture, this percentage remained below the benchmark and was 7.75 percent, for the most rigorous interpretation of 'low-income' or 'resource-poor'<sup>31</sup>.

It is rather hypocritical, not to say scandalous, for the US and EU to ask India to justify in details the percentage of its input subsidies notified under the development box of article 6.2 instead of in the non-product-specific (NPS) AMS when they did not notify at all or under-notified hugely most of their input subsidies in their NPS AMS. Thus:

- The EU and US did not notify any energy subsidy although OECD has included in their PSEs (mainly agricultural fuel) \$2.385 bn for the US and €3.400 bn for the EU in 2010-11;
- Both did not notify any subsidy to biofuels.
- The EU did not notify any irrigation subsidy and the US has hugely under-notified them: \$189 million instead of at least \$1 bn.
- The US has largely under-notified its crop insurance subsidies (\$7.461 bn for 2011 instead of \$11.295 bn according to the USDA budget) and the EU also (€415 million for 2010-11 against €823 according to OECD).

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<sup>31</sup> <http://ictsd.org/i/publications/175214/?view=document>

- Both have largely under-notified their subsidies to loan interests: the US did not notify any in NPS AMS since 2008 but notified \$150 million in the green box as they were directed to "*family-sized farm in situations of structural disadvantage*", an allegation questioned by a GAO (General Accounting Office) report. And the EU has notified €123 million for 2010-11 against €539 million according to OECD.

- Above all, neither the EU nor the US notified the largest of their input subsidies, those to cereals, oilseeds and pulses used as feedstuffs although they notified minor ones (to skimmed milk fed to calves and dried fodder in the EU and to grazing fees on federal lands in the US). Yet US subsidies to feed grains reached an annual average of \$4.372 bn in the 1995-00 period and \$4.101 bn at least in 2011 taking only here into account those to corn and soybean meals; and the EU feed subsidies reached an average of €9.697 bn in 1995-00 and €14.740 bn in 2012<sup>32</sup>.

#### **IV – The issue of negative AMSs**

Lars Brink criticizes the fact for India to have notified negative PS AMSs for rice and wheat because "*What is called product-specific AMS... is support provided in favour of the producers of the basic agricultural product... The "in favour of" wording excludes the possibility of an AMS being negative: since AMS is a measurement of support, a negative AMS would not measure support provided in favour of producers*".

Yet the AoA Annex 3 paragraph 4 provides that "*Specific agricultural levies or fees paid by producers shall be deducted from the AMS*", according to which Norway has always notified negative components of its non-product-specific (NPS) AMS from 1995 to 2012 because of levies on producers: taxes on fertilizers from 1995 to 1999 and taxes on pesticides from 2000 to 2012. Norway has even deducted them from its product specific AMS in table DS:4. up to 2004, hence from its notified current total AMS.

The height of contradictions on this issue relates to the fees levied on the EU producers of sugar beets up to 2005-06, given that these fees were used to finance the EU export refunds on sugar so that this apparently negative AMS was eventually "in favour of" the EU sugar producers, but clearly not of their counterparts in the rest of the world. In other words the AoA forbids to offset levies by subsidies when the first are larger than the second within total AMS but allows offsets between domestic support and export subsidies !

The same conclusion can be drawn from the AoA Article 9.2 which allowed Members to transfer over several years the annual quota of allowed export subsidies during the Uruguay Round implementation period (1995-2000) "*provided that... the total cumulative amounts of budgetary outlays for such export subsidies and the quantities benefiting from such export subsidies over the entire implementation period are no greater than the totals that would have resulted from full compliance with the relevant annual commitment levels specified in the Member's Schedule*".

#### **Conclusion**

The conclusion is simple: rather than confining itself in the role of the bad pupil in the WTO classroom awaiting to get told off by the US and EU, India and other developing countries should instead go on the offensive against the US and EU, putting their nose in their poo.

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<sup>32</sup> Solidarité, *The EU dumping cereals, dairy and meats in 2012, total and to ACP countries*, March 5, 2014, <http://www.solidarite.asso.fr/Papers-2014>