



Procuring Food Stocks Under World Trade Organization Farm Subsidy Rules:

Finding a permanent solution

IISD REPORT



Joe Glauber
Tanvi Sinha



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Procuring Food Stocks Under World Trade Organization Farm Subsidy Rules: Finding a permanent solution

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Written by Joe Glauber and Tanvi Sinha.

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Head Office

111 Lombard Avenue,
Suite 325
Winnipeg, Manitoba
Canada R3B 0T4

Tel: +1 (204) 958-7700

Website: www.iisd.org

Twitter: [@IISD_news](https://twitter.com/IISD_news)



Executive Summary

Many countries use food stockpiling schemes—commonly referred to as public stockholding programs—to ensure food security for their population. While these programs are essential for food security, they also risk harming producers in other countries because they can distort market prices and trade. The World Trade Organization’s (WTO’s) Agreement on Agriculture requires government procurement for public stockholding programs to be at current market prices, while government procurement at fixed prices is counted toward a country’s overall limits on trade-distorting support. Given the limits on trade-distorting support under the WTO rules, some developing countries are concerned that their procurement of food at fixed prices under these programs may not fall within the allowed limits, depriving them of the necessary policy space to meet domestic food security requirements. To respond to this concern, WTO members adopted an interim solution following the Bali Ministerial Conference in 2013 that exempted these programs from legal challenge under certain conditions until a permanent solution was agreed. In light of the upcoming 12th Ministerial Conference of the WTO, these negotiations have been reinvigorated whereby members have either reiterated or proposed new suggestions in the pursuit of achieving a permanent solution.

This report summarizes the current negotiating proposals that include but are not limited to: exempting food bought at administered prices under public stockholding programs from the calculation of trade-distorting support; revisiting the external reference price in the calculation of market price support; taking into consideration excessive rates of inflation; redefining eligible production; including new programs; and expanding product coverage.

Other proposals include exempting public stockholding programs implemented by least developed countries (LDCs) and allowing an exemption if the procured stocks do not exceed a certain percentage of the average value of production. In doing so, some members have suggested strengthening of anti-circumvention and safeguard provisions along with appropriate transparency requirements.

The report then analyzes the evolving market and policy context, including for key commodities such as rice and wheat. Finally, it examines the advantages and disadvantages of various possible ways in which the public stockholding issue could be addressed and identifies possible ways forward.

It focuses on five broad options:

1. Updating the base periods used to calculate the aggregate measurement of support (AMS).
2. Revisiting the definition of eligible production.
3. Exempting support when administered prices are set below international prices.
4. Exempting LDCs and other small economies.
5. Establishing a permanent solution based to some degree on the Bali Decision.



It concludes that the interim 2013 Bali Decision (WTO, 2013) to exempt public stockholding programs from legal challenge under certain conditions could be a constructive way forward, with some technical fixes. Technical fixes could include revisiting calculation of eligible production or updating the methodology for establishing a fixed external reference price, which would have broader implications for calculating support under more general price support programs. In addition, coverage could be broadened to include a wider group of eligible foodstuffs than traditional staple crops and limited extension to new programs. In doing so, necessary anti-circumvention and safeguard provisions must be maintained, in addition to transparency provisions with such programs as part of the concerned members' domestic support reporting requirements. However, transparency provisions should be facilitated by appropriate technical assistance and capacity building for developing and least developed countries.



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Abbreviations and Acronyms

AMS	aggregate measurement of support
c.i.f. price	shipping price inclusive of customs, insurance, and freight costs
f.o.b. price	“free on board” shipping price
LDC	least developed country
OECD	Organisation for Economic Co-operation and Development
PSE	producer support estimate
VoP	value of production
WTO	World Trade Organization



1.0 Introduction

This report identifies options that negotiators and policy-makers could pursue in order to reach a permanent solution at the World Trade Organization (WTO) to the problems some developing countries say they face when buying food at government-set (or government-administered) prices under their public stockholding programs for food security purposes.

The report looks at the nature of the problem, as well as the proposals that different countries and negotiating coalitions have put forward to try to resolve it. The analysis also examines the evolving market and policy context, including for key commodities such as rice and wheat. Finally, it examines the advantages and disadvantages of various possible ways in which the public stockholding issue could be addressed and identifies possible ways forward.



2.0 What Are the Negotiations About?

2.1 Understanding the Issue

The criteria for public stockholding for food security purposes are laid out in Paragraph 3 of Annex 2 of the WTO Agreement on Agriculture (WTO, 1994). It specifies that government procurement should occur at the current market price, and sales from food security stocks should not be less than the current domestic market price.¹ Support provided under stockholding programs is required to count toward overall limits on trade-distorting support when the government purchases at a fixed price (called an administered price) from farmers, although WTO members can buy unlimited volumes of food at market prices as part of these programs.² Some developing countries are concerned that their procurement of food at administered prices under these programs may not fall within their agreed limits of trade-distorting domestic support.

Under current WTO rules, a WTO member's maximum permitted support level must not exceed the total aggregate measurement of support (AMS) commitment set out in that member's schedule—its legally binding obligations at the WTO, covering domestic support and other areas. Any support that is not exempted from reduction³ is to be accounted for in the AMS. For WTO members without an AMS commitment, support levels (unless exempted) must remain within *de minimis* ceilings, set for most developing countries at 10% of the value of production for both product-specific and non-product-specific support (and set at half that level for developed countries).⁴

Under the provisions of Annex 3 of the Agreement on Agriculture, market price support is calculated as the gap between a fixed external reference price and the administered price, multiplied by the quantity of eligible production.

$$\text{Market Price Support} = (\text{Administered Price} - \text{Fixed External Reference Price}) \times \text{Eligible Production}$$

¹ Footnotes 5 & 6 of Annex 2 to the Agreement on Agriculture nonetheless specify that, “for the purposes of paragraphs 3 and 4 of this Annex, the provision of foodstuffs at subsidized prices with the objective of meeting food requirements of urban and rural poor in developing countries on a regular basis at reasonable prices shall be considered to be in conformity with the provisions of this paragraph.”

² See Footnote 5 of Annex 2 to the Agreement on Agriculture, and Footnotes 5 & 6.

³ Article 6.2, Article 6.5 and Annex 2 of the Agreement on Agriculture exempt certain types of support from these limits. Article 6.2 exempts certain input and investment subsidies in developing countries; Article 6.5 exempts certain production-limiting payments (the “Blue Box”); and Annex 2 (the “Green Box”) exempts a number of support programs that are considered to have no more than minimal effects on trade and production.

⁴ China agreed to a limit of 8.5% for both product-specific and non-product-specific *de minimis* support when it joined the WTO.



For most countries, the fixed external reference price is based on a 3-year average price between the years 1986–1988.⁵ The resulting support is counted toward members' total AMS commitment if the total support for that commodity exceeds *de minimis* levels.

After almost a decade of relatively flat price levels since the implementation of the Agreement on Agriculture, food price spikes between 2005 and 2011 affected the policy space for many developing members to provide market price support due to increased price gaps in the calculation of AMS (Glauber, 2016). In this context, India and other members of the G33 developing country coalition⁶ have therefore called for WTO members to agree to a “permanent solution,” following the 2013 Bali Decision (WTO, 2013) to exempt these programs from legal challenge under certain conditions, a related General Council decision in November 2014 (WTO, 2014), and a decision at the 2015 Nairobi WTO ministerial conference (WTO, 2015).

While the G33 has argued in favour of exempting all support under these programs from WTO ceilings, other members, such as the Cairns Group of agricultural exporting countries and the United States, have expressed concern that this would potentially open the door to some large developing country members providing unlimited support, thereby distorting global markets for food and agriculture, and undermining food security and farmers' livelihoods in other countries.

India's domestic support notification in March 2020 (WTO, 2020) also brought the issue back to the attention of trade officials, as India notified domestic support levels for rice that exceeded the *de minimis* ceiling. This invoked the Bali Decision on public stockholding. While India's WTO notifications indicate it falls among the top four major providers of domestic support (Glauber et al., 2020), the different methodology used in the Organisation for Economic Co-operation and Development's (OECD's) Producer Support Estimate (PSE) calculations indicates that aggregate support to producers is negative, along with support for key commodities such as rice (OECD, 2018a).

2.2 The Bali Decision

At the Bali Ministerial Conference in 2013, WTO members agreed to an interim mechanism until a permanent solution reached consensus at the eleventh ministerial conference.⁷ The decision essentially adopted a “peace clause” whereby the concerned member's compliance with its obligations under Articles 6.3 (AMS limits) and 7.2(b) (*de minimis* limits) of the Agreement on Agriculture would be shielded from the WTO Dispute Settlement

⁵ Some newer WTO members use a more recent base period to calculate the fixed external reference price. For a particular commodity, the fixed external reference prices are accounted as the average “free on board” (f.o.b.) unit value in a net exporting country, and the average “customs, insurance and freight” inclusive (c.i.f.) unit value in a net importing country in the base period.

⁶ The G33 developing country coalition includes both large and small countries with concerns about food security and rural livelihoods. Coordinated by Indonesia, it includes major economies such as China, India, and the Philippines, as well as smaller economies from Asia, Africa, Latin America, and the Caribbean.

⁷ Because WTO ministerial conferences are normally held every 2 years, members expected a permanent solution to be reached at the 2017 ministerial conference, which was convened in Buenos Aires in December 2017. However, no agreement on this topic was ultimately reached by the deadline.



Mechanism. The support concerned traditional staple food crops in pursuance of public stockholding programs for food security purposes as long as they complied with relevant provisions of Annex 2 of the Agreement on Agriculture. The decision highlighted that the permanent solution would be applicable to all developing countries, subject to certain conditions that include:

- Notification to the Committee on Agriculture that a member is providing support in excess of its AMS or *de minimis* limits for a particular commodity.
- Full compliance with domestic support notifications requirements under the Agreement on Agriculture and in accordance with notification requirements and formats (WTO, 1995).
- Provision of additional information for each program through the template contained in the annex to the decision.
- Provision of statistical information (per commodity) as described in the Statistical Appendix to the Annex of the Decision.

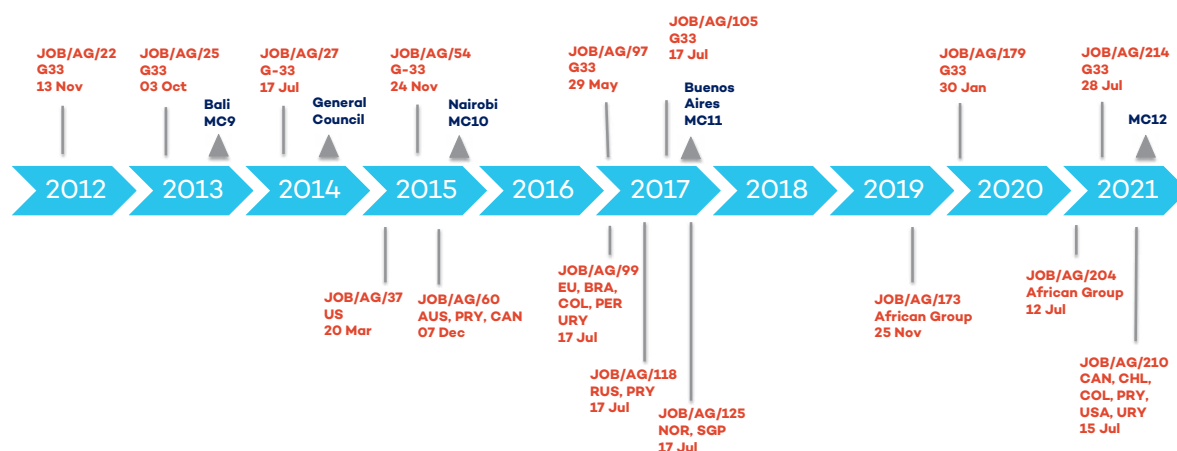
Under provisions dealing with anti-circumvention and safeguards, the Bali Decision required governments to ensure that such programs are not trade distorting or do not affect the food security of other WTO members. Additionally, a member benefiting from the decision is required to hold consultations (upon request) with other governments on the operation of the concerned programs.

2.3 Negotiating Proposals

Several negotiating proposals were tabled before and after the Bali Ministerial Conference on the issue of public stockholdings, spearheaded by countries in the G33 Group. Many other members also submitted proposals in this regard (see Figure 1). After the Bali Ministerial, members actively submitted proposals either in support of the decision, made recommendations to modify some of its provisions, or explored alternatives.



Figure 1. Timeline of negotiating proposals on public stockholding at the World Trade Organization



Source: Authors' diagram.

2.3.1 G33 Proposals

The G33 have been most active in submitting proposals (see Table 1). In a 2012 proposal, the G33 sought to exclude food bought at administered prices under public stockholding programs from the calculation of the AMS. Programs supporting low-income or resource-poor producers would therefore fall under the Green Box.⁸ In a subsequent proposal, the G33 laid out three options for consideration: 1) revisiting the external reference price 2) taking into consideration excessive rates of inflation or 3) resorting to a peace clause.⁹ The group argued that—unlike Paragraphs 8 and 9 of Annex 3, where the external reference price is the average of 1986–1988 prices—Footnote 5 of Annex 2 to the Agreement on Agriculture does not define any such criteria for the external reference price. Hence, a proposal was made for a three-year average based on the preceding 5-year period or last year's average producer/farm-gate price in the largest suppliers of a foodstuff in the country. The second alternative sought to define¹⁰ an excessive rate of inflation and set out how to reduce the administered price for acquisition and release of stocks undertaken to meet food security requirements. The reduction would be based on the difference between the indices for the actual inflation rate and the comparative normal inflation rate. Lastly, the third alternative, supporting a peace clause, laid out that public stockholding programs undertaken by developing members with the objective of meeting food security requirements would be exempt from being challenged

⁸ These policies and services relate to policies and services related to farmer settlement, land reform programs, rural development, and rural livelihood security in developing country Members, such as provision of infrastructural services, land rehabilitation, soil conservation and resource management, drought management and flood control, rural employment programmes, nutritional food security, issuance of property titles and settlement programs, to promote rural development and poverty alleviation.

⁹ Without prejudice to Pakistan's final position.

¹⁰ A country would be considered to have faced excessive rate of inflation in a particular year if the index based on the actual rate of inflation (with base year 1986–1988) exceeds the comparator index for the normal rate of inflation (with base year 1986–1988) for the particular year.



through the WTO's Dispute Settlement Mechanism. Eventually, the Bali Decision adopted an interim "peace clause" solution, albeit with substantial modifications to the original proposal put forward by the group.

In 2015, the G33 proposed inserting a new Annex (Annex 6) to the Agreement on Agriculture underpinning eligibility criteria for developing countries and LDCs to implement current and future public stockholding programs.¹¹ These included programs involving government procurement at administered prices to support low-income or resource-poor producers and the distribution of food at subsidized prices to maintain food security, food availability, and food price stability. The G33 proposed that these programs would remain outside of AMS calculations. The proposal also set forth notification requirements on an annual basis to the Committee on Agriculture. Later, the Group called on the WTO members to deliver an effective permanent solution by the 12th ministerial conference, which is now scheduled for December 2021. In its most recent submission, some G33 members¹² outlined a proposal that upholds the peace clause in relation to support provided for foodstuffs under PSH programs for food security purposes by developing countries and LDCs. It also provides for notification and transparency requirements if the AMS/de minimis limits are exceeded; anti-circumvention and safeguard provisions for members to refrain exports from the procured stocks unless requested by an importing member; and exemption for exports for international food aid or non-commercial humanitarian purposes. Information requirements of the concerned program including for enumeration, functioning, statistical, and other information are also included in the annex of the submission.

¹¹ Pakistan and Peru did not co-sponsor the submission.

¹² Antigua and Barbuda; Barbados; Belize; Benin; Plurinational state of Bolivia; Botswana; China; Congo; Côte d'Ivoire; Cuba; Dominica; Grenada; Guyana; Haiti; Honduras; Indonesia; Jamaica; Kenya; Madagascar; Mauritius; Mongolia; Mozambique; Nicaragua; Nigeria; Saint Kitts and Nevis; Saint Lucia; Saint Vincent and the Grenadines; Senegal; Sri Lanka; Suriname; Tanzania; Trinidad and Tobago; Turkey; Uganda; Bolivarian Republic of Venezuela; Zambia and Zimbabwe.

**Table 1.** G33 proposals

Proposal	Date	Key elements
JOB/AG/22	13 Nov 2012	<ul style="list-style-type: none"> • Programs supporting low-income or resource-poor producers included in the Green Box, therefore excluded from AMS calculations
JOB/AG/25	03 Oct 2013	<ul style="list-style-type: none"> • Three options: revisiting the external reference price; taking into consideration excessive rates of inflation; or resorting to a peace clause
JOB/AG/27	17 Jul 2014	<ul style="list-style-type: none"> • Programs supporting low-income or resource-poor producers included in the Green Box, therefore excluded from AMS calculations • Permanent solution by the 11th WTO Ministerial conference in 2017 (MC11)
JOB/AG/54	24 Nov 2015	<ul style="list-style-type: none"> • Amendment to include a new Annex 6 that sets forth the criteria of public stockholding programs • Notification requirement on an annual basis
JOB/AG/97	29 May 2017	<ul style="list-style-type: none"> • Non-paper on public stockholding: overview of previous proposals • Appeals for constructive engagement
JOB/AG/105	19 Jul 2017	<ul style="list-style-type: none"> • Repeats 2015 proposal
JOB/AG/179	30 Jan 2020	<ul style="list-style-type: none"> • Calls for delivering an effective permanent solution on Public Stockholding for Food Security Purposes by the 12th WTO Ministerial Conference (MC12)
JOB/AG/214	28 Jul 2021	<ul style="list-style-type: none"> • Peace clause in relation to support provided to foodstuffs under PSH programs for food security purposes by developing countries and LDCs • Notification and transparency requirements if the AMS/ <i>de minimis</i> limits are exceeded • Refrain from exporting the procured stocks unless requested by an importing member • Exemption for exports for international food aid or non-commercial humanitarian purposes from the restrictions under anti-circumvention and safeguards provisions • Program information to include details on enumeration; functioning; statistical and other information



2.3.2 Other Members' Proposals

Other members proposed adopting the Bali outcome as a permanent solution or suggested modifications to the Decision (see Table 2). Many members recommended modification of the program coverage to include new programs and exemption of public stockholding programs implemented by LDCs. Some members supported exempting stockholding programs from AMS calculations if the procured stocks do not exceed a certain percentage of the average value of production of that product in the latest 3 years. Another proposal suggested that a permanent solution ought not entail any ceilings on the quantity and value of foodstuff procured to meet food security requirements. A recent proposal by a group of WTO Members (JOB/AG/204) suggests that for the purpose of Annex 6, “the external reference price referred to in Footnote 5 of Annex 2 of the Agreement on Agriculture means the average 1986-88 price (f.o.b for a net exporter or c.i.f for a net importer) for that product, or a three-year average price (f.o.b for a net exporter or c.i.f for a net importer) based on the preceding five year period excluding the highest and the lowest entry for that product, whichever is higher of these two averages.”

Stemming from concerns that exports of procured stocks are trade distorting and may affect food security in other WTO members, some governments proposed reinforcing appropriate safeguard and anti-circumvention provisions. To this end, some members raised concerns about direct exports from stocks. Two submissions also proposed exempting exports involving purchases by the World Food Programme for non-commercial humanitarian purposes.

Regarding notification and transparency requirements, suggestions included a requirement to notify the value of production and value of acquired stocks of the product prior to the implementation of the program; to specify clear food security objectives and the scale of the program; and to report operational information about the program. One member also proposed conducting a review and evaluation of stockholding programs with a focus on efficacy in improving food security and minimizing impacts on other trading partners. In a recent submission some members highlighted the need to notify expenditures under Annex 2, paragraph 3; including information on the product(s) covered by the program, and an indication of whether the support accounted for the difference between the acquisition price and the external reference price. These members also called for a PSH dedicated questionnaire to be periodically reviewed that would facilitate enhanced transparency. However, some members also expressed concerns about the risk of transparency and notification requirements proving too onerous for developing countries, particularly for LDCs and net food-importing developing countries.

**Table 2.** Other Members' proposals

Proposal	Date	Proponents	Action proposed
JOB/AG/37	20 Mar 2015	United States	<ul style="list-style-type: none"> • Review and evaluation
JOB/AG/60	07 Dec 2015	Australia, Paraguay, Canada	<ul style="list-style-type: none"> • Adopt Bali outcome as a permanent solution
JOB/AG/99	17 Jul 2017	EU, Brazil, Colombia, Peru, Uruguay	<ul style="list-style-type: none"> • Modify program coverage (new/ existing programs) • Exemption of programs provided by LDCs • Link to % value of production (VoP) (X%, 10%) • Link to export share of goods concerned • Modify reporting / notification requirements • Modify anti-circumvention / safeguard requirements
JOB/AG/118	30 Oct 2017	Russian Federation, Paraguay	<ul style="list-style-type: none"> • Modify beneficiary countries (LDCs) • Link to % VoP (X%) • Link to applied tariffs in set period (2013–2017) • Link to export share of goods concerned; World Food Programme purchase exemption • Modify reporting/notification requirements • Modify anti-circumvention / safeguard requirements
JOB/AG/125	20 Nov 2017	Norway, Singapore	<ul style="list-style-type: none"> • Modify program coverage (new/ existing programs) • Modify beneficiary countries (LDCs) • Link to % VoP (X%, 15%)
JOB/AG/173	25 Nov 2019	African Group	<ul style="list-style-type: none"> • Modify program coverage (new/ existing programs) • No ceilings on the quantity and value procured • No onerous notification and transparency requirements



Proposal	Date	Proponents	Action proposed
JOB/AG/204	12 Jul 2021	African Group	<ul style="list-style-type: none"> • Expand product and program coverage • Methodology to determine external reference price • Notification requirement on an annual basis • Exemption for exports for humanitarian aid purposes from the restrictions under anti-circumvention and safeguards provisions
JOB/AG/210	15 Jul 2021	Canada, Chile, Colombia, Paraguay, United States, Uruguay	<ul style="list-style-type: none"> • Comprehensive information in domestic support notifications • PSH questionnaire to be re-administered



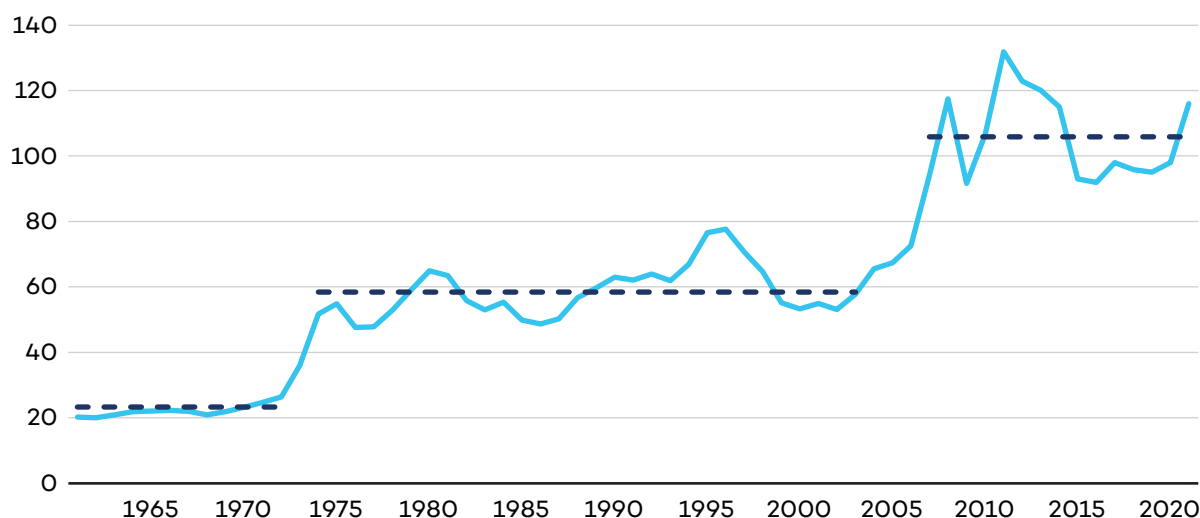
3.0 Overview of the Market and Policy Context

3.1 The Market Context

3.1.1 Market Developments Since 1995

The period over which much of the Uruguay Round negotiations took place was characterized by relatively flat prices, as shown in Figure 2. Agricultural prices rose in the mid-1970s following the large purchases of grain by the former Soviet Union and, later in the decade, by China. A strong dollar, large global crops, and export subsidies by major grain exporters such as the EU and the United States pushed global prices downward in the 1980s. Apart from a brief uptick in the mid-1990s following a shortfall in the global wheat crop, agricultural prices remained flat in nominal terms until the mid-2000s.

Figure 2. Food and Agriculture Organization of the United Nations (FAO) Food Price Index (2014–2016 = 100)



Source: FAO, 2021.

After 20 years of relatively stable prices, commodity prices spiked in the late 2000s. Grain prices hit nominal records in early 2008 and again in 2010 and 2013. The causes of the sharp increases have been well documented: major production shortfalls in the southern hemisphere (Australian wheat, South American soybeans and maize) in 2006 and 2007, growth in the use of maize and soybeans as biofuel feedstocks, growth in meat consumption in emerging countries such as China, high energy prices and a weak U.S. dollar (Abbott et al., 2007; Alexandratos & Bruinsma 2012). Just as wheat stocks had begun to rebound in 2009, drought in Russia, Ukraine, and Kazakhstan sent grain and oilseed prices higher. Then in 2012, droughts in North America and southern Europe sent prices to new nominal record highs.

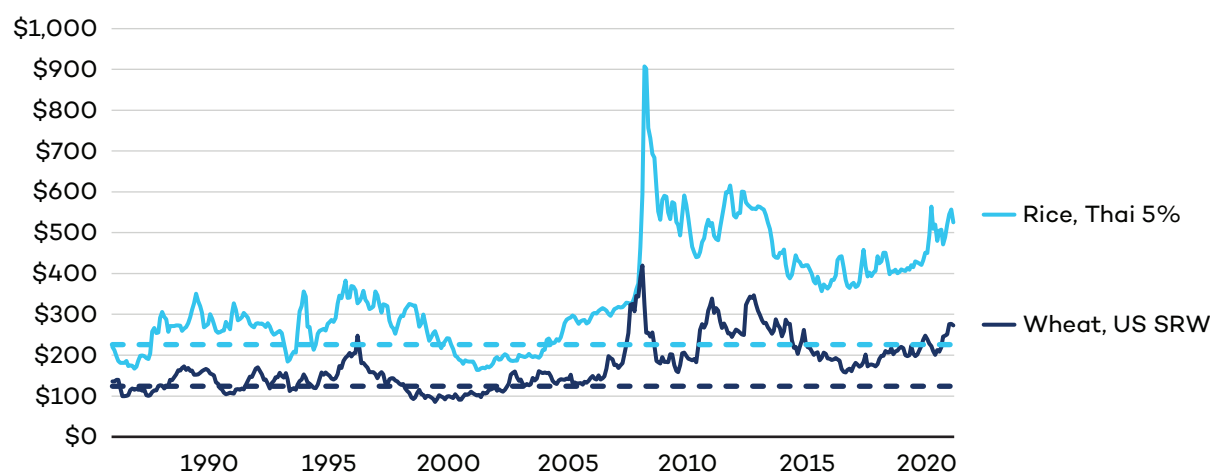


Prices fell back from record highs but have remained 50% above the levels witnessed prior to 2005 as shown in Figure 1.

3.1.2 Price Levels for Wheat and Rice

What have the changes in price levels meant for calculating support under Paragraph 8 of Annex 3 of the WTO Agreement on Agriculture? Figure 3 shows monthly prices for rice and wheat over the period January 1986 to March 2021. The dashed lines represent the average price over the 1986–1988 period. Prices exhibit the same broad pattern seen in Figure 2, that is, prices fluctuating above and below the 1986–1988 average between 1986 to 2004 and then rising to levels between 50% to 100% higher than the 1986–1988 average afterwards.

Figure 3. Monthly wheat and rice prices (USD/tonne)



Source: World Bank Group, 2021.

3.1.3 Projected Prices

Experts anticipate prices over the next decade to rise slightly in nominal terms but fall in real terms (that is, after adjusting for inflation) (Food and Agricultural Policy Research Institute, 2021; OECD/FAO, 2021; US Department of Agriculture, 2021). Over the coming decade, the relative importance of food, feed, and biofuel use is not expected to change significantly, as no major structural shifts in demand for agricultural commodities are anticipated. The main growth factor remains expanding global population growth and rising per capita income in developing countries.

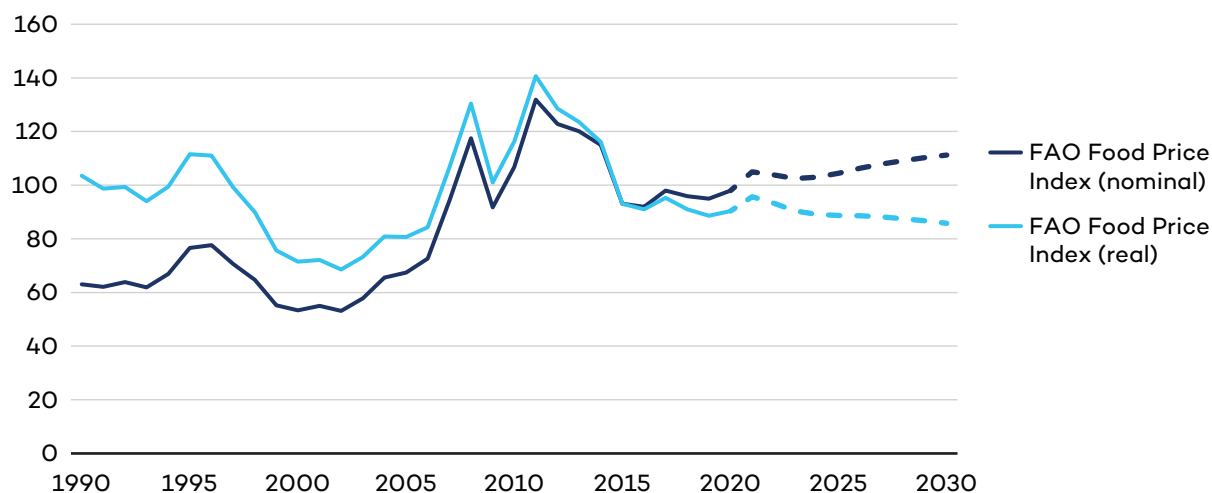
The *OECD-FAO Agricultural Outlook 2021–2030* report projects that over the next 10 years (2021–2030), most of the commodities it covers are expected to see small declines in inflation-adjusted prices. Increases in agricultural productivity and other supply-increasing factors are projected to outstrip increases in demand caused by population and income growth (OECD/FAO 2021). This expected decline in real prices is consistent with a long-term downward trend in agricultural commodity prices.



The OECD/FAO Outlook projects strong productivity gains in emerging and low-income countries due to the adoption of new technologies and better agricultural management practices. Productivity gains are projected to increase in developed countries as well through plant and animal breeding and other technological improvements (OECD/FAO 2021). Global population growth rates are projected to decline over the next 10 years, and income growth in large emerging economies is also expected to be lower than over the past decade.

Based on the supply and demand conditions projected in the OECD/FAO Outlook, nominal agricultural commodity prices as summarized by the FAO Food Price Index (FPI) are expected to grow by only 1% per year over 2021–2030 (Figure 4). After adjusting for inflation, the FAO FPI is projected to decline by 0.7% per year over the decade. The OECD/FAO forecast concludes that while agricultural commodity prices are expected to be below the peaks seen in 2006–2008 and 2013–2014, they will remain above the price levels of the early 2000s, in both nominal and inflation-adjusted terms (OECD/FAO 2021).

Figure 4. OECD/FAO projections of FAO Food Price Index



Source: OECD/FAO, 2021.



3.2 The Policy Context

3.2.1 Public Stockholding Programs Among the WTO Membership

As of May 20, 2021, 32 WTO members have notified public stockholding programs for food security purposes under Annex 2 of the Agreement on Agriculture at least since 1995.¹³ Of those, 28 members designate themselves as having developing country status, including two members designated as least developed (See Table 3). As noted by Glauber et al. (2020) domestic support notifications have lagged among some WTO members and, domestic programs are often neglected from notifications altogether. A survey of public stockholding programs (see, for example, Rashid et al., [2007], Egg [2009], the European Commission [2018], OECD (2018b) and FAO, [2021]) suggests that a fraction of those programs have been notified to the WTO. One WTO report shows that for the entire membership, 34% of domestic support notifications remain outstanding, with only 24 members being 100% compliant with all their notification requirements.¹⁴ As pointed out in a recent submission by Canada to the WTO Committee on Agriculture (WTO, 2021), improving transparency can help facilitate the negotiation of new rules on domestic support that address the current situation and practices of WTO members (WTO, 2021).

¹³ 38 members, if one includes countries that have since acceded to the European Union (Croatia, Estonia, Hungary and Slovenia).

¹⁴ G/AG/GEN/46/Rev.42.



Table 3. WTO Members who have notified public stockholding programs under Annex 2 of the Agreement on Agriculture at least once over the reporting periods 1995 to 2020, by development status

Developed	Developing	Least Developed
Croatia*	Albania	Nepal
Estonia*	Armenia	Zambia
European Union	Botswana	
Hungary*	Brazil	
Iceland	China	
Japan	Costa Rica	
Norway	Cyprus	
Slovenia*	India	
Switzerland	Indonesia	
	Israel	
	Kenya	
	Korea, Republic of	
	Kyrgyz Republic	
	Moldova, Republic of	
	Namibia	
	North Macedonia	
	Pakistan	
	Philippines	
	Romania	
	Russian Federation	
	Saudi Arabia, Kingdom of	
	South Africa	
	Sri Lanka	
	Ukraine	
	Vietnam	

*These members have since acceded to the EU.

Source: WTO, n.d.

3.2.2 Performance Measures

One concern that has been expressed over the use of administered prices for public stockholding programs is that they potentially provide a floor for market prices and thus bolster the prices that producers expect to receive when they are making planting decisions. Much like price supports, high administered prices can thus encourage overproduction. Take the example of a producer who is considering planting a crop that has a 50% probability of paying USD 100 per tonne and a 50% probability of paying USD 200 per tonne. The expected price is simply the price outcome weighted by the probability of occurrence, or USD



150 per tonne ($0.5 \times \text{USD } 100 + 0.5 \times \text{USD } 200$). Now consider the introduction of a public stockholding scheme that announces that it will purchase the crop at an administered price of USD 140 per tonne. While the administered price is below the expected price in the absence of such a scheme, it nonetheless provides a floor for prices whenever the price is under USD 140 per tonne. In our example, the new expected price would be USD 170 per tonne ($0.5 \times \text{USD } 140 + 0.5 \times \text{USD } 200 = \text{USD } 170$), which says that, on average, the producer will receive USD 20 per tonne more under the administered price scheme. It is important to note that, as the example demonstrates, an administered price scheme can provide significant support even if the actual administered price is *below* the expected market price.

The “subsidy” component of a public stockholding scheme is thus what the *ex ante* value of the administered price is to the producer at the time of planting. Unfortunately, this is difficult to measure. The producer support estimate (PSE) used by the OECD to measure agricultural support is an *ex post* measure. It measures the value of a price support as the value of the administered price minus the actual market price that year. Using the example above, if the administered price were USD 140 per tonne, the PSE would be USD 40 per tonne if the price were USD 100 per tonne, and would be zero if the price were USD 200. The PSE reflects the actual value of assistance provided in a given year, but does not reflect the *ex ante* value to the producer at the time of planting. That, as we saw above, is USD 20 per tonne.

Table 4 shows OECD estimates of market price support for wheat, rice, and maize for selected emerging economies measured as a percentage of the value of farm receipts. It is important to note that price support policies include a wide range of policies that provide support to market prices and are not strictly limited to public stockholding programs. Nonetheless, the estimates suggest significant market support is provided to wheat, rice, and maize though there is much variation across commodities and countries.

Table 4. Market price support as a percentage of farm receipts, selected emerging economies, 2017–2019 average

Country	Wheat	Rice	Maize
Argentina	9.0	—	-16.4
Brazil*	4.8	0.0	0.0
Colombia	—	45.4	35.0
China*	25.2	15.1	18.5
Costa Rica*	0.0	53.4	—
India*	7.7	-16.0	19.5
Indonesia*	—	36.8	42.5
Country	Wheat	Rice	Maize
Israel*	16.1	—	—
Kazakhstan	3.3	-110.5	-20.4



Country	Wheat	Rice	Maize
Korea, Republic of*	—	54.6	—
Mexico	0.8	0.4	0.0
Philippines*	—	61.2	7.1
Russia*	-4.9	—	5.4
South Africa*	1.6	—	0.0
Turkey	6.8	—	1.7
Ukraine*	0.0	—	0.0
Vietnam*	—	-7.2	41.9

* Indicates WTO members who have notified public stockholding programs under Annex 2 at least once over the period 1995-2019.

Source: OECD, 2021.

As noted in Section 2, under the Agreement on Agriculture, the value of price support is calculated as the difference, if positive, between the administered price and a benchmark fixed external reference price (FERP). The FERP is calculated as an average of prices over a historical base period (for example, 1986–1988). It neither captures the *ex ante* value of the administered price nor the *ex post* value of assistance in the current year. Rather it reflects the *ex post* value of the price support over the historical base period. To the degree that the base period may be no longer be reflective of underlying prices, the value of the support as calculated using the FERP may be grossly under- or over-valued.

Table 5 shows fixed reference prices for wheat, rice, and maize using alternative base periods. Consider an administered price of USD 250 per tonne for rice. Under the WTO accounting rules and using the 1986–1988 base period to determine the FERP, the value of a rice price support scheme with an administered price of USD 250 per tonne would be about USD 24 per tonne (USD 250–USD 226). However, if the base period for the FERP were 1996–1998 or 2006–2008 or 2016–2018, the value of the scheme would be zero under the WTO accounting rules. The *ex ante* value of the administered price could still be positive if there is some possibility of the market price falling below the administered price, but that value is difficult to measure under most circumstances.¹⁵

¹⁵ One measure of the *ex ante* value of a price support can be found by calculating the contingent value of the price support using option pricing methods and information from organized futures and options markets. Even those techniques are hampered by the fact that options on agricultural commodities typically do not trade more than 6 months in the future (Glauber & Miranda, 1989).

**Table 5.** Average prices for rice, wheat, and maize

Time period	Rice, Thai 5%	Wheat, US SRW (USD per tonne)	Maize
1986–1988	226.11	123.74	90.05
1996–1998	315.51	147.53	128.30
2006–2008	427.17	223.03	169.54
2016–2018	405.25	186.13	159.37

Source: World Bank Group, 2021.

3.2.3 Regional Food Reserves to Ensure Food Security During Emergencies

Following the food price spikes of 2007/08 and 2010/11, interest in establishing regional grain reserves was revived as a potential policy to combat future food shortages. Rather than a buffer stock scheme aimed at stabilizing or enhancing producer prices, the reserve would function as an emergency stockpile from which countries could pull grain to meet short-term humanitarian food needs during times of drought or other production shortfalls. The reserve would be designed to have enough grain to help countries manage their domestic needs until imports or food aid could arrive.

A number of regional reserves have been proposed though most are still in a developmental stage. Three regional reserve initiatives are currently operating: the Association of Southeast Asian Nations (ASEAN) Plus Three Emergency Rice Reserve (APTERR) and the South Asian Association for Regional Cooperation (SAARC) Food Bank in Asia (Greenville, 2018; Rahman et al., 2018) and the Regional Humanitarian Grain Reserve developed by the Economic Community of Western African States (ECOWAS) (Galtier, 2019). A regional reserve has also been discussed for the Southern Africa Development Community (SADC), though to date no agreement has been reached on how a reserve might be structured.

Most of these reserves are small. Even APTERR (with a target stock level of 787,000 tons of rice) and SAARC Food Bank (with a target level of 486,000 tons, consisting of 60% rice) account for only about 3% of the annual international rice trade, 1% of world rice stocks, and 0.25% of annual world rice consumption (Galtier et al., 2019). To date, none have been used in the case of an emergency. The ECOWAS reserve is in its initial stages of formation.

Under the regional reserves mentioned here, procurement is at the discretion of the individual country or is accomplished through purchases at market prices (for example, ECOWAS). Since their use is largely for humanitarian emergency needs and the size of the reserve limited, it is unlikely that the reserves have much impact on production or trade, at least at current levels.



4.0 Options for a Permanent Solution

4.1 Introduction

As the discussion in Section 2 shows, WTO members have different views about what would constitute an acceptable “permanent solution” on public stockholding. While G33 members have advanced the proposal that procurement at administered prices should be exempt from counting toward WTO limits on agricultural domestic support, both developed and developing country members, including from the Cairns Group of exporting nations, have expressed concern that such an option could open the door to the provision of unlimited support which could affect producers in other countries, including in ways that undermine their food security. These countries have mostly favoured modelling a permanent solution on the Bali decision or some variant of this. Negotiations appear to have reached a stalemate, with few new submissions or new approaches advanced by WTO members in the years since the Buenos Aires ministerial conference in December 2017.

With members’ statements continuing to indicate that they attach considerable importance to addressing this question, as well as related topics such as the negotiations on agricultural domestic support, this section of the report looks at a wider range of possible options that members could explore with a view to accelerating progress on this topic and on the wider WTO agenda on trade in food and farm goods. In doing so, it seeks to contribute to the discussions among members on this question and increase the likelihood of countries making progress in this area.

This section analyzes, in particular, five broad options:

1. Updating the base periods used to calculate the AMS
2. Revisiting the definition of eligible production
3. Exempting support when administered prices are set below international prices
4. Exempting LDCs and other small economies
5. Establishing a permanent solution based to some degree on the Bali Decision.

4.2 Examination of Five Options for a Permanent Solution

4.2.1 Updating the Base Periods Used to Calculate the AMS

For developing countries facing difficulties in complying with WTO rules on domestic support when buying food for their public stockholding programs, this option would have the advantage of better capturing the degree of distortion arising from minimum support price policies, by effectively taking into consideration the extent to which price inflation since the late 1980s affects the gap between administered prices and the external reference price. Exporting countries concerned about the extent to which these policies can distort markets might consider that this option also has the advantage of better capturing the degree to which support is associated with actual distortions on markets. A third potential advantage



that might be seen as valuable by a wide cross-section of the membership is that such an approach could also provide a new basis for updating rules on agricultural domestic support—something that many members have long emphasized should be a priority.

One of the first questions members would have to address is whether updated base periods should be “fixed” or “floating”: in other words, should they (like the Uruguay Round reference periods) be tied to a fixed date, which remains unchanging, or should they change over time, for example by taking the form of average prices in a recent period?

If a fixed period were chosen, some members might see an advantage in the greater predictability this would provide from a legal standpoint. However, an important drawback would be that, over time, the extent to which the new measure captured actual economic distortions on markets would be eroded, meaning members would end up in a similar situation again in a few years’ time. Members would also have to agree on which period would constitute an acceptable basis for measuring support: those making use of minimum support prices might be expected to favour a period of exceptionally high prices, whereas others might favour a period of exceptionally low prices.

If a floating period were chosen, members would also need to agree on the duration. Montemayor (2014) examines multiple scenarios, including a 3-year price average and a 5-year Olympic average, in which the highest and lowest values are excluded from the calculation. The latter approach has the advantage of excluding from the calculation years in which prices may have been abnormally high or low.

For countries procuring food at administered prices under their public stockholding programs, the floating period would have the advantage of removing some of the apparent anomalies resulting from the different methodologies used to measure support at the WTO and at the OECD.

4.2.2 Revisiting the Definition of Eligible Production

As discussed in Section 2, another key component of the calculation of domestic agricultural support is the question of how to define the quantity of production eligible to receive the applied administered price.¹⁶ Revisiting this concept could provide WTO members with pathways to resolve the problems faced by developing countries that are buying food at administered prices under their public stockholding programs.

Jurisprudence from the South Korea beef case¹⁷ suggests that the volume of production should normally be considered to be the totality of production in the country unless there are reasons to consider that the production eligible to receive the administered price is a lesser volume – for example, because the government has explicitly indicated it only intends to procure a certain maximum volume of food during the year under the program, or because it has indicated it will only procure from a certain province (Montemayor, 2014). In the China-

¹⁶ Paragraph 8 of Annex 3 of the WTO Agreement on Agriculture.

¹⁷ DS 161. See for example paragraph 120 of the WTO Appellate Body report (WTO, 2000).



Domestic Subsidies case,¹⁸ the Panel established that the quantity of eligible production would be the entire volume of production minus any out-of-grade grain.

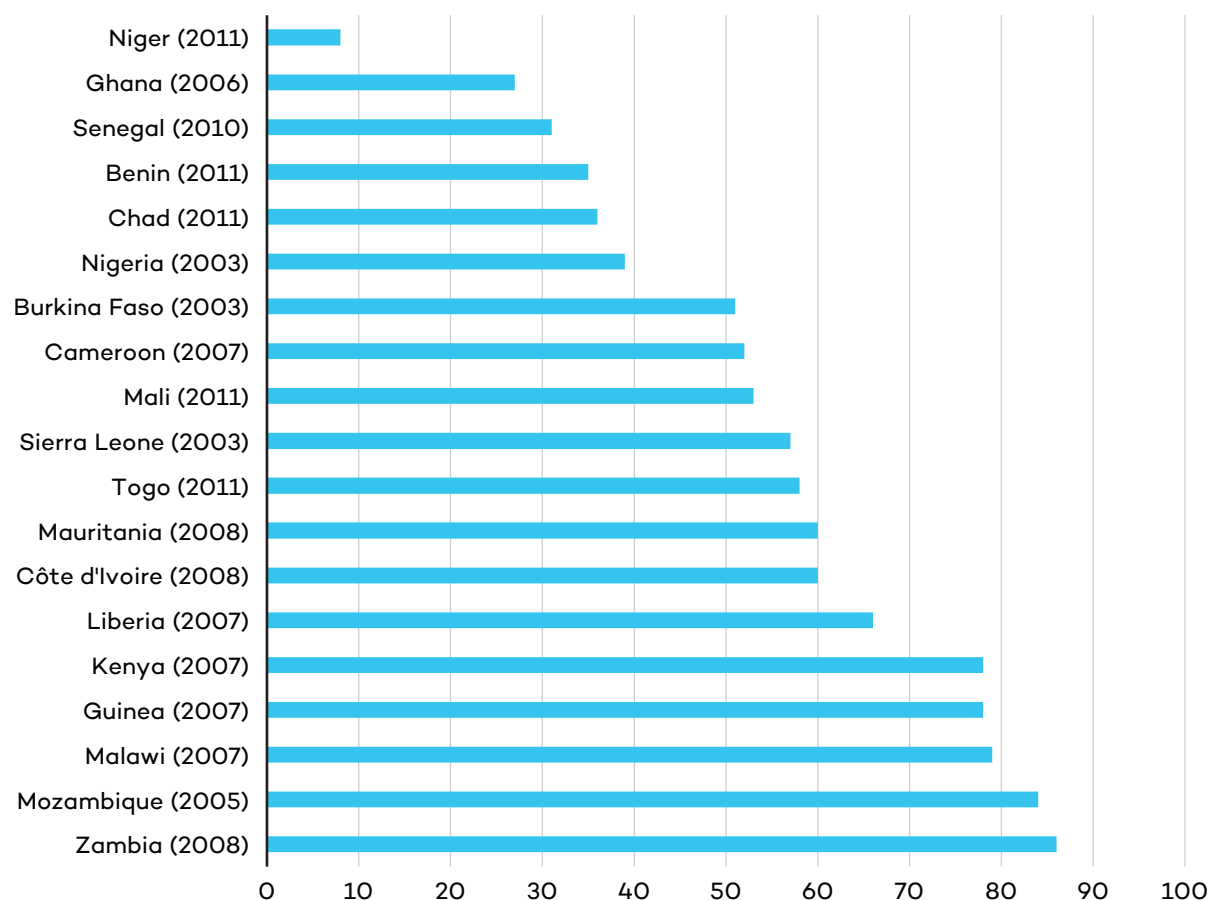
As indicated in Section 3, two of the major countries which buy food at administered prices under their public stockholding programs normally purchase only a relatively small share of total domestic output, namely Indonesia and the Philippines. Pre-announcing the volume of food that the government intends to procure could help resolve any issues that countries in this situation might face in complying with WTO domestic support commitments without requiring any change in WTO disciplines. An exception could be an unexpected disaster or any such event that may cause greater volumes of procurements than countries initially pre-announced. WTO members could also decide to agree that they will exempt procurement that represents less than an agreed threshold of the percentage of the volume of production. However, it is also likely that countries procuring a large share of their domestic farm output would be unwilling to consider such an outcome as representing a “permanent solution” on its own unless combined with other options considered in this section, such as an update to base periods.

Another option that has been put forward in this area is the suggestion that WTO members should exempt from the calculation of eligible production that share of output which is “self-consumed” by subsistence farmers (Galtier, 2017). While current data is not readily available, this share has historically represented a significant sub-set of total farm output – especially in African countries, as Figure 5 shows. Small states in which subsistence producers constitute a large share of the farming population might favour a solution along these lines. However, countries could face significant practical difficulties measuring and assessing the extent to which agricultural production is self-consumed by producers, especially where institutions for collecting and maintaining data are weak.

¹⁸ DS511, See paragraph 7.315 of the Panel report (WTO, 2019).



Figure 5. Percentage of maize production self-consumed by African farmers



Source: Galtier, 2017.

4.2.3 Exempting Support When Administered Prices Are Set Below International Prices

Numerous analysts have suggested exempting support under public stockholding programs from counting toward the AMS or *de minimis* limits when pre-announced administered prices are set below the level of international market prices (Díaz-Bonilla, 2014; Glauber et al., 2020; Matthews, 2014). The Agreement on Agriculture already specifies that procurement at market prices is not required to count toward AMS limits; however, if minimum prices are announced by the government in advance, this would normally need to be taken into consideration when governments notify their support to the WTO. In practice, many governments have tended to set administered prices at levels that are below international market prices (Hoda & Gulati, 2013); however, as Section 3 has shown, these administered prices may not come down to lower levels if there is a fall in international prices, as occurred, for example, in the wake of the 2011 food price spikes. Moreover, as discussed in Section 3, administered prices may provide an effective floor to market prices and thus provide some implicit level of price support, even when administered prices are *below* market prices at the time of announcement.



Under current provisions, The Agreement on Agriculture effectively considers public stockholding programs as minimally distorting of production and trade if governments buy food at market prices under their public stockholding programs. For that reason, exporting countries in particular might perceive this as an advantage of this particular option. However, countries using these programs might nonetheless fear that this approach would not provide them with adequate legal certainty in the event that international market prices fell suddenly.

4.2.4 Exempting LDCs and Other Small Economies

Members could consider exempting groups of WTO members from the requirement to count purchases at administered prices toward the AMS, or agreeing not to challenge the compliance of their public stockholding programs through the dispute settlement process. A 2017 submission from the Russian Federation and Paraguay, for example, proposed that WTO members would refrain from challenging under the dispute settlement mechanism support provided by LDCs, while a draft ministerial decision circulated by Norway and Singapore specified that new programs operated by LDCs would also be covered by the decision. Both proposals were broadly modelled on the provisions of the Bali Decision.

Because procuring food at administered prices requires considerable financial resources if undertaken at scale, most LDCs seemingly lack the capacity to do so, and do not appear to be at risk of breaching existing WTO commitment levels on the provision of trade-distorting support. Among LDCs, seemingly only Nepal and Zambia have reported the existence of public stockholding programs to the WTO under the “green box” provisions of Annex 2 of the Agreement on Agriculture: of these two countries, only Nepal reported AMS figures.¹⁹ Members might take into consideration that production-linked support provided by LDCs would be likely to have only minimal implications for global prices, production, and trade.

Nonetheless, other larger developing countries procuring food at administered prices under large-scale public stockholding programs may not consider this option, on its own, to represent a permanent solution to the problems they face. An exemption for LDCs and potentially other small, vulnerable economies might therefore need to be combined with other options in order to be considered acceptable by the WTO membership as a whole.

Similarly, members might consider exempting or agreeing not to challenge the support provided by other groups of small economies, on the basis of objective criteria related to their importance in global trade. For example, members could consider treating more favourably support provided by small vulnerable economies, defined²⁰ as those meeting the following three criteria in the 1999–2004 base period: 1) their average share of world merchandise trade represented 0.16% or less; 2) their average share of world trade in non-agricultural products

¹⁹ Nepal’s support was provided for dairy and tea.

²⁰ See paragraph 157 of TN/AG/W/4/Rev.4 (WTO, 2008). WTO Members in this group include Antigua and Barbuda, Barbados, Belize, Bolivia, Cuba, Dominica, Dominican Republic, El Salvador, Ecuador, Fiji, Grenada, Guatemala, Honduras, Jamaica, Mauritania, Nicaragua, Panama, Papua New Guinea, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Seychelles, Sri Lanka, Tonga, Trinidad and Tobago—along with one WTO Observer, the Bahamas.



represented 0.1% or less; and 3) their share of world trade in agricultural products amounted to no more than 0.4%.

Members could also adopt a “situational” approach that would exempt from WTO domestic support ceilings or from legal challenge those programs that conform to certain characteristics (e.g., size, percentage of affected total world production or percentage of total world trade in the commodity), instead of seeking to exempt certain categories of countries.

4.2.5 Establishing a Permanent Solution Based to Some Degree on the Bali Decision

A February 2020 paper from the then-chair of the WTO agriculture negotiations, Ambassador J.R. Deep Ford, suggested that a consensus outcome could most likely be based on some form of the Bali Decision, under which WTO members would agree not to challenge the compliance of a developing country member with its obligations under the Agreement on Agriculture.²¹ He suggested that modifications to increase flexibilities in specific areas (such as product coverage) could be compensated with more rigorous requirements in other areas (such as safeguards to prevent circumvention of the agreement or transparency requirements) (WTO, 2020b).

Specifically, the chair identified three main areas in which members that procure food at administered prices as part of their public stockholding programs could consider greater flexibility in exchange for more stringent requirements, or vice versa. These were: 1) a cap on support provided; 2) inclusion of new programs; and 3) product coverage.

If members were to pursue talks on a cap on support provided, they would need to agree on the level at which such a cap should be set, as well as the mechanism for establishing it. If a fixed cap related to a set historical base period, members would need to agree on the years in question; if a floating cap, members would need to agree on whether to use a 3-year, 5-year or some other duration, and whether to apply an “Olympic” average formula that excludes the highest and lowest years from the calculation, as discussed in Section 4.

As noted above, a number of WTO members have argued in favour of ensuring the permanent solution covers “new programs.” The Bali Decision covered those programs “existing as of the date of this Decision,” and while a number of low-income countries have indicated that they do not currently operate these programs, they may wish to do so at some point in the future. Members who support inclusion of new programs have highlighted that it would serve as an essential component to mediate the impact of export restrictive policies, climate change, disease, drought, farm area decline, and the evolution of consumer preferences—as well as to tackle food insecurity arising as a result of the COVID-19 pandemic (WTO, 2021a). Members seeking greater flexibility in this area would need to balance the “offensive” objective of ensuring that the policy space provided under WTO disciplines allows them to pursue public policy goals with the “defensive” objective of ensuring that the policy space provided to other members does not undermine their own food security and rural livelihood goals. Members seeking to expand coverage to new programs might also find additional notification and

²¹ Specifically, Article 6.3, on compliance with AMS commitments, and Article 7.2b), on *de minimis*.



transparency requirements to be particularly onerous, with many such members seemingly facing difficulties in complying with existing domestic support notification requirements under the Agreement on Agriculture.

The product coverage under the Bali Decision makes reference to “traditional staple food crops.” Those members with public stockholding programs appear mostly to procure either rice, wheat, or maize under these schemes. Members ought to review whether other products are also procured at administered prices under these programs and seek to ensure that the flexibility established by the permanent solution reflects members’ needs, bearing in mind the likelihood that other members can be expected to request the inclusion of more rigorous transparency and notification requirements if the product coverage is defined broadly.

India’s submission of the “statistical appendix” on rice as part of its recent notification (WTO, 2020a) is a positive indication that members procuring food at administered prices under their public stockholding programs are able to collect and communicate the additional information required under the Bali Decision. However, smaller and less well-resourced developing countries might find it more difficult to comply with the notification requirements under the Decision, which, among other things requires that countries also be up to date with their usual notification commitments under the Agreement on Agriculture. Some small economies are nonetheless in full compliance with their notification commitments, with Cambodia and Panama among those in this category (Glauber et al., 2020).

The Bali Decision included a provision specifying that “any developing Member seeking coverage of programs under paragraph 2 shall ensure that stocks procured under such programs do not distort trade or adversely affect the food security of other Members” (WTO, 2013, Section 4). However, it is not clear how members might give effect to this safeguard, apart from by withdrawing the commitment to refrain from challenging these programs under the WTO’s dispute settlement process. If members decide to pursue a “permanent solution” based on the Bali Decision, they might want to explore options that would require members to demonstrate that none of the food procured at administered prices had subsequently been exported to international markets. Some other suggestions include time limits on public stockholding programs and limiting access to these programs by significant exporters for specific products (WTO, 2021a). Both this issue and the questions around notifications and transparency remain central to the ongoing negotiations on this subject at the WTO. While there is broad agreement on the need to enhance transparency, some members have suggested that countries with large public stockholding programs or those that are large exporters of a certain product could be subject to more stringent transparency provisions compared to countries with smaller programs (WTO, 2021b).



5.0 Conclusion

The upcoming 12th Ministerial Conference of the WTO provides members with the opportunity to find a long-lasting solution to how public stockholding programs should be notified to the WTO. Unlike some other thorny issues in the negotiations (for example, market access and domestic support), there is generally broad consensus among members that public stockholding programs are established to provide food security and not as a means to undermine domestic support disciplines. The question has been whether provisions under the Agreement on Agriculture are outdated or inadequate to address food security concerns.

Given the significant differences between some developing countries (for example, the G33) and many exporting countries such as the United States and members of the Cairns Group, the interim 2013 Bali Decision to exempt public stockholding programs from legal challenge under certain conditions appears to be the most promising avenue for resolution. More technical fixes such as revisiting calculation of eligible production or updating the methodology for establishing a FERP would have broader implications for calculating support under more general price support programs. Moreover, changing the way in which the fixed external price is calculated could raise questions on whether domestic support bindings would need to be adjusted to reflect the new methodology.

One potential avenue would be the paper by Ambassador J.R. Deep Ford (WTO, 2020b). Coverage could be broadened to include a wider group of eligible foodstuffs than traditional staple crops, and limited extension to new programs, but only if necessary anti-circumvention and safeguard provisions are respected and reporting requirements under the Bali Decision were maintained. Members could consider whether to agree to refrain from challenging under the dispute settlement mechanism support provided by LDCs.

Lastly, transparency is a critical feature underpinning the Agreement on Agriculture, and public stockholding programs should be no exception. WTO members should be strongly encouraged to report such programs as part of their domestic support reporting requirements. For those WTO members who consider such notifications a burden because of a lack of timely data, technical assistance should be provided to enhance existing technical capacity.



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Head Office

111 Lombard Avenue, Suite 325
Winnipeg, Manitoba
Canada R3B 0T4

Tel: +1 (204) 958-7700

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