

### Agriculture and food security in MC13: Going forward or backward?

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Agriculture has been a key issue under the World Trade Organisation's umbrella since its inception. This is not surprising given its critical role in providing both food security and livelihoods, often to very small farmers, in developing countries and least developed countries (LDCs). Agriculture is also a source of export earnings for many countries, both developing and developed. But the COVID-19 pandemic that started in 2020 and the food crisis of 2022 triggered by the Russia-Ukraine conflict have both reaffirmed the vulnerabilities within the current agricultural production and trading system. While many developing countries are still grappling with stabilising domestic production, ensuring minimum incomes and adequate supply of quality and nutritious food to their populations, the global agricultural market itself remains highly concentrated, volatile, and clearly unable to handle sudden shocks.

The WTO's Agreement on Agriculture (AoA) has surely contributed to this chaos. Of its three pillars, the one on domestic support has been the most contentious. The promise of disciplining massive Western farm subsidies was one of the main reasons developing countries agreed to bring agriculture under the WTO ambit. But the AoA has allowed the continuation of such subsidies in several ways. It allows a minimum (*de minimis*) support to all countries, but 32 countries enjoy an extra Aggregate Measurement of Support (AMS) entitlement which confers immense advantages to them. Of the total entitlement, more than 88% goes to developed countries.<sup>1</sup> In addition, the shifting of subsidies by developed countries from a so-called Amber Box of trade-distorting subsidies to the Green Box of non-trade-distorting subsidies<sup>2</sup> has also resulted in direct payments that have allegedly led to further advantages for their agribusiness.

<sup>1</sup> [https://www.twn.my/title2/briefing\\_papers/twn/AMS%20entitlements%20TWNBP%20Apr%202023%20Sengupta.pdf](https://www.twn.my/title2/briefing_papers/twn/AMS%20entitlements%20TWNBP%20Apr%202023%20Sengupta.pdf)

<sup>2</sup> [https://www.twn.my/title2/briefing\\_papers/twn/Green%20Box%20TWNBP%20Jul%202021%20Ranja.pdf](https://www.twn.my/title2/briefing_papers/twn/Green%20Box%20TWNBP%20Jul%202021%20Ranja.pdf)

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On the other hand, developing countries have come up against barriers to their policy space to adequately support agricultural production and farmers' livelihoods, and have been facing challenges both from major farm exporters and some developed countries. Part of the reason is the outdated rules in the AoA; for example, using 1986-88 prices as the reference price for calculation of price support subsidies given to farmers for government procurement of food products for public food programmes. Special and differential treatment (S&D) for developing countries has also been under continuous attack. For example, the blockage on discussions on Special Products or the Special Safeguard Mechanism for safeguarding against imports, and the demand that even development subsidies or *de minimis* entitlements of developing countries should be brought under discipline, point in this direction. The demand for more policy space in general has been ignored. Simultaneously, the push by large farm exporters, organised under the Cairns Group,<sup>3</sup> to eliminate all support as well as to open markets has continued.

The inherent rules under the AoA and their application have been unfair and unbalanced, contributing to a very inequitable agriculture trading system. The divide between developed countries and big farm exporters on the one side, and other developing countries and LDCs whose primary challenge is domestic food production and consumption on the other side, has been pronounced. Amid this backdrop, the 13th Ministerial Conference of the WTO (MC13), like recent previous editions, is likely to see this conflict being played out.

This brief summarises some of the key agriculture issues on the table at MC13 and provides a quick analysis from a developing-country perspective.

#### **A. Key issues of interest to developing countries in MC13: The continuation of a long struggle for equitable treatment**

There are long-mandated issues that have been promised to developing countries. Negotiations have continued under the WTO Committee on Agriculture in Special Session (CoASS) but have been blocked over the last few Ministerials.

**1. Permanent solution on public stockholding (PSH):** Subsidies given to producers through administered price support on purchases for public food programmes are seen to be trade-distorting by AoA rules (Footnote 5, Annex 2 of the AoA). These are to be limited within the 10% *de minimis* limit for developing countries. This subsidy is calculated at a fixed and outdated 1986-88 price which overestimates the subsidy. Such programmes are essential tools to support production and consumption, and extensively used by developing countries including Egypt, India, Indonesia, Jordan, Kenya, Morocco, Pakistan, Tunisia, Turkey, Zambia and Zimbabwe.<sup>4</sup>

The Bali Ministerial Decision of 2013 (WTO document WT/MIN(13)/38–WT/L/913) and the General Council Decision (WT/L/939) provided an interim “peace clause”<sup>5</sup> that was riddled with difficult conditionalities. But at least there was an agreement to reach a permanent solution by 2017 which was later reaffirmed by the Nairobi Ministerial Decision (WT/MIN(15)/44–WT/L/979). However, given consistent opposition by developed countries, particularly the US, several deadlines have come and gone. In spite of several proposals by the G33 and the African Group including a 2022 joint proposal from 80 countries (G33, African Group and ACP Group; JOB/AG/229), the permanent solution has still not been agreed. Further, attempts have been made to link it to the overall disciplines on domestic support. While it is still on the table according to the 16 February draft text for MC13 on agriculture (WT/MIN(24)/W/13), it seems unlikely to see a resolution in MC13. As the next best option, developing countries must secure a confirmed deadline of MC14 for its delivery.

<sup>3</sup> Argentina, Australia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Indonesia, Malaysia, New Zealand, Pakistan, Paraguay, Peru, Philippines, South Africa, Thailand, Uruguay and Vietnam.

<sup>4</sup> Sharma, Sachin (2016), *The WTO and Food Security*, Springer.

<sup>5</sup> The peace clause provides that developing countries and LDCs will not be taken to dispute for market price support given on traditional staples for programmes existing before 2013 even if they breach the relevant AMS limit, provided they file prescribed notifications and meet certain safeguard conditions.

**2. The Special Safeguard Mechanism (SSM):** Developing countries and LDCs have for long been negotiating a mechanism that will allow them to raise import duties in order to protect against an import surge (a sudden increase in agricultural imports). Such surges have adversely affected many developing countries' agriculture sectors and farmers' livelihoods by crashing domestic prices and creating uncertainties and volatilities in production. In spite of the guidance in the 2008 draft modalities text (TN/AG/W/4/Rev.4) and a renewed mandate in Nairobi (WT/MIN(15)/43–WT/L/978), and even after several recent proposals by the African Group (JOB/AG/205 Rev 2, 2023) and the G33 (JOB/AG/49, 2021), there has been no progress. The US has been trying to link the SSM to further market access (import concessions). Again, this issue is unlikely to be agreed at MC13, and agreement on an MC14 deadline is not clear either.

**3. Cotton:** Domestic subsidies given by developed countries such as the US have for long impacted livelihoods of cotton farmers in several developing countries and LDCs, most notably in the four major African cotton-producing countries. The Hong Kong Ministerial Declaration (WT/MIN(05)/DEC), the Bali Cotton Ministerial Decision (WT/MIN(13)/41–WT/L/916), and the subsequent Nairobi Cotton Ministerial Decision (WT/MIN(15)/46–WT/L/981) provide clear mandates on this issue. However, despite several proposals by the Cotton-4 countries, this issue is not yet addressed, nor is it likely to be agreed by MC13. It remains to be seen whether MC13 agrees on a strong mandate to conclude by MC14.

**4. Domestic support disciplines:** Developing countries have continuously demanded fulfilment of the original promise of the AoA by disciplining the inequities in domestic support entitlements and integrating S&D. The most recent proposal from the African Group (JOB/AG/242 Rev 1) includes disciplines on AMS entitlements and trade-distorting direct payments under the Green Box and the Blue Box; and India has also put forward a proposal (JOB/AG/216 Rev 1) concerning AMS entitlements.

But since before MC12, more divergent approaches have surfaced from Costa Rica (JOB/AG/243), supported by the Cairns Group (excluding Indonesia, Peru and South Africa), which target the total absolute level of subsidies. This includes the AMS, Blue Box, *de minimis*, as well as the development box subsidies allowed under S&D. The proposed cuts on all subsidies together, rather than on the most inequitable components, would impose higher cuts on developing countries and LDCs<sup>6</sup> (unless specifically exempted). This proposal also subsumes the PSH issue and suggests it will be addressed as part of the overall disciplines on domestic support.

**5. Tools for NFIDCs and LDCs:** The net food-importing developing countries (NFIDCs) and LDCs had been articulating their specific vulnerabilities and the need for policy space to address these, which found recognition in the 1994 Marrakesh Decision. Following from Paragraph 8 of the Ministerial Declaration on the Emergency Response to Food Insecurity (2022) which recognised the need to address the constraints faced by these countries, discussions have taken place under the Committee on Agriculture (CoA). But in spite of several submissions by Egypt and an African Group proposal (WT/GC/W/918), there has not been much concrete movement, except only on export restrictions (see below).

In addition, implementation and monitoring as well as expanding the scope of the disciplines of the Nairobi Ministerial Decision on Export Competition (WT/MIN(15)/45–WT/L/980), especially the provisions that go to support NFIDCs and LDCs, have some way to go. Further negotiations are in order to ensure the desired results.

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<sup>6</sup> Sharma, Sachin Kumar (2020), "A Quantitative Analysis of Proposals on Domestic Support in WTO Agriculture Negotiations: Need for Reaffirming the Development Agenda", Centre for WTO Studies Working Paper No. CWS/WP/200/63, September.

## **B. Issues of offensive interest to the Cairns Group and developed countries**

Apart from a different approach on domestic support, the Cairns Group (excluding a few Members) and some developed countries have been promoting a market liberalisation approach by focusing mainly on:

**1. Disciplines on export restrictions:** Article XI of the General Agreement on Tariffs and Trade (GATT) bans the use of export restrictions. However, in the context of agriculture, GATT Article XI.2.a balances this general obligation by allowing export restrictions in the case of a domestic food crisis. There has been an increasing push to impose further transparency and notification requirements in the name of streamlining its application. A recent proposal by the UK (JOB/AG/250), for example, called for additional rules to tighten notification requirements. While export restriction is not an ideal policy tool since it affects more vulnerable countries such as NFIDCs and LDCs, it remains an emergency response tool. It is not clear whether the current push behind limiting or banning export restrictions stems simply from a belief in unrestricted trade; or is a way to ensure unhindered operation in commodity speculation; or is a move to ensure supply of agricultural products and raw material for farm exporting countries. Further, as evident from the COVID-19 experience, unrestricted exports in a situation of food crisis may go to the highest bidder and not to those countries that need such supplies the most. This issue may see a major push to get a strong mandate for launching negotiations after MC13. A proposal for prioritising exports to NFIDCs and LDCs on a best-endeavour basis without making any commitments on future negotiations, may be on the table as well.

**2. Market access:** The liberalisation of markets through import duty cuts, for example through the Swiss formulae, was always a major interest for agricultural exporters and many developed countries. The discussions had got stymied around 2008 but are now being reinvigorated. But interestingly in the most recent phase, while the Cairns Group is actively pushing for it, the interest among developed countries seems to be somewhat mixed. According to rather mixed reports, the European Union, possibly worried about farmers' protests that have swept across Europe, and other farm-defensive countries such as Switzerland and Japan seem more hesitant to push for market liberalisation. The US has been linking market access with domestic support (in the case of cotton for example) but again seems hesitant to push hard on market access. MC13, however, may see some kind of a mandate for further negotiations in this area, which may be more relaxed in terms of deadlines.

**3. Transparency and notification standards:** This issue has received increased attention since the US declared it to be a key area of interest before 2017. Developing countries and LDCs generally lag behind on notifications due to major capacity constraints. In that respect, mandatory and strict transparency and notification obligations remain a great divider and place significant disadvantages on them in their ability to use even policy tools that are allowed under the WTO rules.

## **C. The political dynamics of food security and reform**

It is clear that issues of major interest to developing countries being discussed at the CoASS have been totally blocked on the road to MC13. These include the permanent solution on PSH, SSM and cotton, while opposing positions continue on domestic support. Given the conflicting positions, and the new complexities, there may not even be an outcome on agriculture.

But as in MC12, issues of interest to farm exporters may be pushed in through parallel tracks. The **food security** issue has become one such vehicle. Since 2020, trade liberalisation has been advanced as the mantra for solving food security problems across the globe by the group of major agricultural exporters and several developed countries, both within and outside the Cairns Group. The Food Insecurity Declaration of MC12 advocated for a regime of no protection and no distortion of trade, ostensibly promoting fully unrestricted exports and cuts in import duties as the only solutions.

The food security challenge is far greater in developing countries, NFIDCs and LDCs, given their backward agricultural sectors, weaker infrastructure, resource constraints and large populations. However, they are being told what the solutions are by countries that overproduce and dump food in global markets. While trade liberalisation is the only path advocated by major exporting countries (see Brazil's food security proposal JOB/AG/254), greater policy space to augment production and productivity, to support food security and livelihoods, and to have access to the necessary technology is the solution advanced by developing countries and LDCs. Given global agricultural markets are concentrated and volatile, augmenting production and productivity and diversifying the production base will help stabilise global trade, not work against it. Unfair AOA rules have contributed to such concentration and created inequitable impacts on agricultural production and trade. Therefore, for developing countries, the solution to food insecurity lies in the outcomes of the mandated issues under negotiation in the CoASS which, according to them, can allow greater policy space to use the necessary tools for agricultural development and to address some of the imbalances in agricultural trade.

There is also an overlapping “**market-based reform**” agenda proposed by Brazil (JOB/AG/254) and some Members of the Cairns Group (WT/GC/W/893) that refers to Article 20 of the AoA to bring in further liberalisation. Sustainability and food security are the stated objectives. This agenda comes alongside and overlaps with a reset agenda advancing a “holistic” approach attempting to gain almost a new mandate on agriculture negotiations. The continual harping on Article 20 is problematic as it takes us back to the drawing board. There are questions as to whether such reform or reset agenda will respect and incorporate the principles from the Doha Round that are of great value to developing countries, and whether the gains from the 2008 draft modalities text will be preserved. It may be risky to accept such an open commitment in an unknown basket, especially when outstanding issues have not been resolved. As in the case of the broader WTO reform agenda being pushed by developed countries, this process runs the risk of promoting an unfettered market liberalisation agenda, without providing for introspection on the AoA's success or failure in meeting developing-country objectives.

The issue of **sustainability** is coming in incrementally across these agendas, as a cross-cutting issue or inserted under specific tracks, most notably advanced by some Cairns Group Members (WT/GC/261, excluding Pakistan and South Africa, Indonesia still consulting) and the EU. The Cairns Group submission on “sustainable and resilient agriculture and food systems” again harps on Article 20-based reform and the need to avoid trade restrictions. Agriculture may see a big promotion of sustainability within or outside a reform agenda. While sustainability in agriculture is a desirable outcome for all, what developing countries have to be cognizant about are the standards or barriers to policy space that may be imposed. Interestingly, it is being argued that in order to meet sustainability needs, all subsidies must be eliminated. Therefore, even if not stated outright, some of the prescriptions behind a sustainability agenda may involve major commitments on the part of developing countries and LDCs. The specific frameworks that are being advanced, for example the specific and narrow take on “sustainable food systems” being advanced by the EU, are often designed to protect and expand the commercial advantage of developed and farm exporting countries. This is also corroborated by the unilateral measures imposed by the EU in the name of sustainability.

**Technology** is another issue that developing countries need to watch carefully. There may be an incremental push to include a US-led agenda in MC13 or beyond which among others will promote exports of genetically modified (GM) food and also bring in a digital agenda in agriculture. While countries may be sensitive and cautious about e-commerce disciplines in the Joint Statement Initiative, predatory digital technology may be promoted through such alternative entry points.

## **D. A battle of narratives and strategies**

As seen in past Ministerials, MC13 is going to be a battle of narratives and counter-narratives that run parallel to the actual negotiations. The developed countries and leading farm exporters assume leadership role in this initiative, whether it is with regard to market-based solutions on food security, sustainability, future of agriculture, the need for reform or a new reset narrative. Through constant promotion, with each keyword making it back and forth across the parallel tracks, the truth is assumed to be established. The developing-country solution that food security needs to be met through domestic production, which in turn is supported by increased trade policy space given to developing countries, is likely to be drowned out unless repeated with equal frequency.

Another battle of narratives is around the pinning of responsibility for the collapse of talks. Each time it is opposition from the developed countries that blocks solutions on mandated issues such as the PSH, SSM, cotton and so on. But it is developing countries, particularly India, which always get blamed. This time, differences between the Cairns Group, the US, the EU, Switzerland and Japan are quite evident and will be clearly responsible for any collapse of talks and failure to deliver any concrete outcome.

As in MC12, a battle on mandates and deadlines is also ensuing. In MC12, the deadlines on mandated issues of interest to developing countries such as PSH, SSM and cotton were held to ransom by deadlines on issues which do not have specific mandates for negotiations such as export restrictions and transparency. In the run-up to MC13, a similar tussle seems to be ongoing, until the differences among the big powers have led to utter uncertainty over the final result.

The attempts to link issues such as domestic support with PSH; market access with domestic support; and further market access with the SSM seem to be another strategy followed by the major powers.

Alliance among developing countries remains key but they are fragmented due to divergence of approaches. The G33, the African Group and the ACP Group have shown remarkable solidarity on PSH, SSM, cotton and elements of domestic support. But developing countries with export interests such as Brazil, Costa Rica and Paraguay have obviously followed quite a different approach. Currently, the divergence seems wide. However, it is clear that some developing countries with export interests such as India, South Africa, Indonesia and Pakistan, the last three of which are Cairns Group Members, understand the importance of balancing export interests with domestic food security and livelihood interests. For countries with large poor and hungry populations, domestic food security must take precedence. Restoring this understanding among developing countries and forming a mutually supportive alliance will be to the benefit of development.

## **E. Going forward**

In MC13, developing countries and LDCs must fight for policy space to ensure domestic production and productivity for meeting their food security and livelihood needs; review the AoA for unfairness and inequity; ensure preservation of the Doha mandate and build on the 2008 draft modalities text; and insist that any approach to sustainability must be based on agroecology and nationally designed. Finally, they must not agree to any open-ended new agenda without first resolving mandated issues under the CoASS.

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