



ADDIS ABABA UNIVERSITY
SCHOOL OF GRADUATE STUDIES
FACULTY OF LAW
BUSINESS LAW STREAM

**The Impact of the WTO Agreement on Agriculture
on Food Security of Acceding Countries: The Case
of Ethiopia**

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**The Impact of the WTO Agreement on Agriculture on
Food Security of Acceding Countries: The Case of
Ethiopia**

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APPROVAL OF BOARD EXAMINERS

**THE IMPACT OF THE WTO AGREEMENT ON AGRICULTURE ON
FOOD SECURITY OF ACCEEDING COUNTRIES: THE CASE OF
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DECLARATION

I declare that **“The Impact of the WTO Agreement on Agriculture on Food Security of Acceding Countries: The Case of Ethiopia”** is my own original work which has not been presented for any degree in any University and the sources used has been duly acknowledged and cited.

.....

Worku Gedefa Urgessa

November, 2011

The thesis has been submitted for examination with my approval as an advisor.

.....

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ABBREVIATIONS AND ACRONYMS

ACP	African, Caribbean and Pacific countries
ADLI	Agricultural Development Lead Industrialization
AMS	Aggregate Measurement of Support
AoA	Agreement on Agriculture
CAP	Common Agricultural Policy of the EC
EC	European Community
EU	European Union
FAC	Food Aid Convention
FAO	Food and Agricultural Organization
FSP	Food Security Programme
FSS	Food Security Strategy
GATT	General Agreement on Tariffs and Trade
GTP	Growth and Transformation Plan
IMF	International Monetary Fund
ITO	International Trade Organization
LDCS	Least Developed Countries
MFTR	Memorandum of Foreign Trade Regime
MT	Metric Tone
NFIDCs	Net Food Importing Developing Countries
NPDM	National Policy on Disaster Prevention and Management
OECD	Organization for Economic Cooperation and Development
PSNP	Productive Safety Net Programme
SCM	Subsidies and Countervailing Measures

SPS	Sanitary and Phytosanitary Measures
TBT	Technical Barriers on Trade
TRIPS	Trade Related Intellectual Property Rights
UN	United Nations
UNDP	United Nations Development Programme
USAID	United States Agency for International Development
WB	World Bank
WFP	World Food Programme
WTO	World Trade Organization

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ABSTRACT

Ethiopia, as are most LDCs, had a spasmodic food security problem with in the general spectrum of other socio economic challenges. The country is among the most severely food insecure countries of the world characterized by high reliance on food imports and international food aid. It is such a high reliance on international food imports that triggered this study of influence of the WTO Agreement on Agriculture on food security situation of the country. To that end, the study used the relevant polices and laws of Ethiopia and the pertinent WTO agreements as a primary source. The copious literatures on the area of the WTO Agreement on Agriculture and its bearing on Food Security have been used as secondary sources. The most important findings of the study include: a) the subsidies commitments to be undertaken under the WTO Agreement on Agriculture provide a sufficient policy space to continue the existing support programmes which are part of the food security strategy of the country. Thus, the Subsidies, domestic or export, provisions of the WTO AoA does not hinder a sound food security policy; b) opening of borders by lowering tariffs, which seems likely, may represent a threat to domestic food production unless higher bound rates are negotiated.

CHAPTER ONE

GENERAL INTRODUCTION

1.1. Background

It has been established very firmly that, among the most important economic policy challenges facing developing countries, specifically the least developed among them, within the spectrum of their general socio-economic difficulties, is ensuring a viable food security to their alarmingly growing population. While trade regulation, by its own, can't solve the tragic food insecurity, freer international trade is proposed to help solve food insecurity by various champions of free trade. There are, generally, three ways in which this is said to happen: a) that free trade promotes allocative efficiency which leads to specialization following the lines of comparative advantage which, in return, confers higher food production across the globe; b) that trade helps to move food from places of surplus production to deficit areas because it is discernable that there is surplus production at the world market; and c) free trade alleviates poverty and increases the income of the hungry so that they could afford the food available on the market. In this regard, Director-General Pascal Lamy, in his opening address to the Berlin Agriculture Ministers' Summit on 22 January 2011, stressed:

“Trade plays or can play a better role in addressing the rise in food prices and tackling food insecurity. Trade is part of the solution, and not part of the problem. ...Trade becomes the transmission belt through which supply adjusts to demand. It allows food to travel from the land of the plenty to the land of the few; makes food to be produced where this can be most efficiently done.”¹

Quite different from the above argument, there is a loud voice of another consortium of thinkers, who believe that freer agricultural trade would have no irrefutable positive bearing to food security situation of developing and least developed countries and may sometimes be the main cause of food insecurity in these regions of the world. While tariff reductions as a result of liberalization may create an exposure to the cheapest available food, at least for the solvent part

¹ The full text of his speech, given on 22 January 2011, is available at : <http://www.friendsofeurope.org/Contentnavigation/Library/Libraryoverview/tabid/1186/articleType/ArticleView/articleId/1511/categoryId/94/Pascal-Lamy-Trade-is-part-of-the-solution-to-rising-food-prices.aspx> . Accessed on 5th August 2011

of the population, the country's long run production base will be damaged because cheap imports can reduce domestic production base by creating disincentives to local food production and encouraging reliance on imported food. Tariff cuts can also adversely affect production-based entitlements to food security by reducing the government revenue available to support domestic subsidies, such as subsidized or free inputs, research and extension services, access to credit, irrigation projects and investments subsidies.² Deeper tariff cuts could also lead to erosion of preferences that are available to poor countries which reduces export revenues thereby increasing the risk of foreign currency for commercial food imports.

These thinkers argue that the reduction in subsidies, domestic or export, will not help either. The 2008 World Food Crisis and the increase in the price of food commodities have shown that most developing country producers are far distanced from what happened in the international markets, so, increases in food prices does not necessarily mean higher prices for food producers. This is because many small farmers lack the financial, technical and land resources required to increasing production, let alone benefiting from higher prices.³

This and related controversies on the virtue of trade liberalization, however, have not affected the growing membership of countries to the WTO. The WTO has 153 members, representing more than 97% of the world's population, and 30 observers, most seeking membership.⁴

Considering the inevitability of being part of this global Endeavor the Ethiopian government applied to membership of the WTO on January 13, 2003. Accession to the WTO touches every economic life in which a government of a county is engaged and requires compatibility in almost all economic policies and laws of the acceding country. For countries like Ethiopia where Agriculture has remained to be the mainstay of the economy⁵, the vitality of the sector to the

² Carmen G. Gonzalez, *Institutionalizing Inequality: the WTO, Agriculture and Developing Countries*, *Columbia Journal of Environmental Law*, Vol. 27:2, p. 472

³ Christian Haberli (2010), *Food security and WTO rules*, p. 301, in *World Trade Forum*, Baris Karapinar and Christian Haberli, *Food Crisis and the WTO*, Cambridge University Press, 2010

⁴ Hart, Jeffrey A (2010). *The politics of international economic relations* (7th ed. ed.). Boston.

⁵ In Ethiopia agriculture accounts on average for about 45 per cent of the Gross Domestic Product (GDP) for the period 2000/01-2004/05, where over 85 per cent of the population makes its livelihood from farming. Agriculture generates 87 percent of the country's export earnings, where coffee alone accounts

country's overall welfare is indicative of the fact that any policy change that comes to this sector as a result of WTO commitments of the country could greatly influence the whole economy.

As far as the agricultural sector of the country is concerned, one can reasonably assume the country to have comparative advantage, the notion underlying international trade, in the sector owing to the suitability for agriculture of 66% of its land out of the total 440,284 square miles, abundant water resources (there are ten major rivers (7,000 km long) and lakes (7,400 square km in area)), with huge irrigation potential (the irrigated agriculture is estimated at 9.8 million hectares.)⁶

In reality, however, much of Ethiopia's rural population lives in a state of chronic food insecurity. Recurrent drought, degradation of natural resources and rapid population growth are among the main causes of declining per capita food production. Average daily energy intake is estimated at 16 to 20 percent below the accepted minimum⁷, while diseases due to deficiencies in vitamin A, iron and iodine are widespread. Several times over the past 30 years, Ethiopia's precarious food security has tipped over into full-blown famine.⁸

The WTO Agreement on Agriculture (AoA) is one among the important multilateral agreements of the system to which acceding countries are assumed to take significant commitments. The Agreement is structured in three 'pillars': market access, export competition and domestic support. The market access disciplines of the agreement require member countries to tariffy all non-tariff barriers to agricultural products and to reduce the bound tariff levels. The rules of export competition oblige members to reduce both the value and volume of support measures which are contingent upon export performance. For not all forms of domestic support measures are trade distorting, the agreement has come up with three classes of domestic supports named

for the major share of merchandise export earnings. The sector also supplies factor inputs to the country's manufacturing sector. (the Ethiopian Memorandum of Foreign Trade Regime, hereinafter, MFTR, 2007, p. 4)

⁶ Ibid, p 2-3

⁷ 2200 kilocalorie per adult per day was used as a minimum calorie requirement to enable an adult to live a healthy and moderately active life, as suggested by WHO. And 16 to 20 per cent below the minimum means: 1848-1760 kilo calorie per adult per day in case of Ethiopia.

⁸ FAO (2006), Food Security in Ethiopia, Available at: <http://www.fao.org/ag/magazine/0602sp2.htm>

after traffic light colors: the green box (the support measures which have no or minimal effect on trade and production), the blue box (production limiting programmes) and the amber box (trade distorting support measures). Because of their trade distorting nature only the amber box supports are subjected to reduction commitments. As an extension of the Special and Differential Treatment, developing countries under take reduction commitments which are 2/3 less than their developed counterparts and Least Developed Countries are exempt from all reduction commitments. All these three pillars of the AoA (the market access, domestic support and export subsidy provisions) have a great deal of bearing on food security of any given country.

Low tariffs as a result of the liberalization process are expected to enhance the food security of a country by making food available at cheaper price while at the same time running a risk that low prices may depress domestic production in a way it increases dependence on food imports.

To the extent that developed countries reduce their domestic and export subsidies the products of developing world will be more competitive both at the national and global markets. On top of enhancing their national food security, it assures competitiveness of their production at all levels. The asymmetry which remains: net food importing developing countries will face higher food price bills which endanger their food security.

As the situation stands today, Ethiopia is at the middle of the possible arguments i.e., as a country assumed to possess comparative advantage in agricultural produces, let alone for its own food but for higher export earnings as well, the country is expected to argue and work for higher agricultural trade liberalization, time and again. Nevertheless, this argument will not remain water, at least in the short run, for the country in a net food importer. Thus, the main theme of this paper will be showing what the WTO Agreement on Agriculture throws to this dilemma; addressing the food security implication of the Agreement and to suggest short and long term measures which the country needs to take in a view to benefit from the accession process which has been proved to be inevitable.

1.2. Research Questions

To address the general goal: the implications of the WTO Agreement on Agriculture on Ethiopian Food Security situation, the research tries to answer the following issues.

Conceptual Questions:

- What is Agricultural Trade liberalization?
- Why is Agriculture, as a sector, treated separately in the WTO?
- What is/are the relationship/s between Agricultural trade liberalization and Food security?

Policy Questions:

- What are the food security implications of Agricultural trade liberalization for Acceding LDCs like Ethiopia?
- What are the Food Security implications of the WTO AoA Commitments made by LDCs who have acceded to the WTO so far? What major lessons do they leave for Ethiopia?
- What lessons can be learned for Ethiopian accession to the WTO from the current set of the accession process?
- What preparatory and precautionary measures should the FDRE government take before and in the process?

1.3. Methodology

I'll be using the following methodologies to undertake the research.

- A) The study shall use extensive critical review of the existing literature on the area of Agricultural trade liberalization and its likely influence on food security. The Relevant WTO and Ethiopian laws and documents will be scrutinized briefly.
- B) To draw worthwhile lessons for the food security implications of the WTO Agreement on Agriculture on the least developed country members who have acceded to the system, the accession experience and agricultural commitments taken by these countries will be reviewed and examined.
- C) In the final analysis of the implications of the AoA on Ethiopian food security situation, the Food Security Strategy of the country (1996, 2002), the country's agricultural protection and support regime will be used as primary sources.

1.4. Significance of the Study

WTO accession means almost everything to an acceding nation owing to the wide area the rules cover. They enter in to, almost, every economic life of men. When it comes to Ethiopia, Agriculture means almost everything: it is the source of employment for over 85% of the population, 87% foreign export earnings and contributes 45% to the GDP. Thus, if the rules of the multilateral trading system are to have some effect on the country's agricultural sector, there would be a vividly visible effect on the overall performance of the country's economy. More, the important role that the country's agriculture plays in an effort to ensure the food security of its population is an evidence to the fact that the policy changes that will come on the Agricultural sector of the country as result of the WTO Agreement on Agriculture will, no doubt, have an impact on food security situation of the country. The analysis of the food security impact of the WTO Agreement on Agriculture is, therefore, vital to create the best tradeoff results from the negotiations.

The Thesis will have the following significance in specific terms:

- a) To help acceding LDCs and the FDRE government make an informed decision on the phase of negotiation on Agreement on Agriculture or any other negotiations affecting Agriculture.
- b) There is a real need to inspire thinking on the part of policy makers, academics and other stake holders of the effect of such an agreement on net food importing LDCs. This is important because, hunger and food security receive less attention than poverty reduction from policy and research perspective.⁹ While the disregard is attributed to the thinking that poverty reduction will automatically take care of food insecurity, this thinking has fallen short of consideration of two facts at least: that while poverty reduction takes time food security needs immediate relief and food insecure community will be ineffective in poverty reduction. Thus, it will be necessary to invigorate the thinking doors of the researchers and policy makers on this particular subject.

⁹The importance of careful Policy making and research undertaking on Hunger and Food Security has been rightly pointed out by Anthony Shorrocks, Director of UNU, WIDER [United Nations University, World Institute for Development Economics Research]

- c) To analyze the unlevelled playing field in the international trade of Agricultural goods between the developing (LDCs more importantly) and the developed world in the process.

CHAPTER TWO

WTO ACCESSION AND AGRICULTURAL TRADE IN THE WTO

2.1 The Raison d'être of World Trade Organization (WTO) Accession

One of the defining features of today's world is the process of economic globalization, a process characterized by high levels of international trade and foreign direct investment.¹⁰ There is broad consensus among economists and policy-makers that economic globalization in general, and international trade and foreign direct investment in particular, offer an unprecedented opportunity to eradicate poverty and hunger worldwide. The World Bank, for instance, estimated that abolishing all trade barriers could increase global income by US\$2.8 trillion and lift 320 million people out of poverty by 2015.¹¹ To ensure that this opportunity is realized, economic globalization has to be managed and regulated at the international level. If not, economic globalization is likely to be a curse, rather than a blessing, to human kind, aggravating economic inequality, social injustice, environmental degradation and cultural dispossession. The law of the World Trade Organization is currently the most ambitious effort to manage and regulate international trade.¹²

Indeed, the conception of an institution in charge of international trade can be dated back to the proposal at the Bretton Woods in 1944, when the three legs of workable international economic order were sought of. Following World War II, the most destructive war in the history of mankind, the victor nations sought to create institutions that would eliminate the causes of war.¹³ The principles were to prevent or resolve war through the United Nations and to eliminate the economic causes of conflict by establishing three international economic institutions: the International Monetary Fund (IMF), the International Bank for Reconstruction and Development (IBRD) and the International Trade Organization (ITO). Because the ITO was stillborn the

¹⁰ Peter Van den Bossche, *The Law and Policy of the World Trade Organization: Text, Cases and Materials*, Maastricht University, Cambridge university press, 2005, p 2.

¹¹ Ibid.

¹² Ibid, p.3

¹³ Smith, *The History of the WTO/GATT system*, Available at: <http://aic.ucdavis.edu/oa/Smith.pdf>

provisional agreement for the ITO, the General Agreement on Tariffs and Trade (GATT) became the agreement and the organization for establishing and enforcing, through dispute settlement, the international trade rules.¹⁴ By the late 1980s, a growing number of nations decided that GATT could better serve global trade expansion if it became a formal international organization. In 1988, the US Congress, in the Omnibus Trade and Competitiveness Act, explicitly called for more effective dispute settlement mechanisms. They pressed for negotiations to formalize GATT and to make it a more powerful and comprehensive organization. The result was the World Trade Organization, (WTO), which was established during the Uruguay Round (1986-1993) of GATT negotiations and which subsumed GATT.¹⁵

The WTO, which today consists of 153 nations, seeks— through its core principles, its administrative ministerial conferences, and, most importantly, its rounds of trade negotiations—to set the rules for world trade. The organization is ever mindful to expand such trade whenever and wherever it can.¹⁶

Whilst there exists a broad consensus among economists and policy-makers that international trade offer an unprecedented opportunity to eradicate poverty and hunger, the WTO system is often criticized as unworthy for a number of reasons, of which one is the enforcement mechanism which is said to be led by powerful nations. The bargaining power difference which is not leveled in the system is said to have worked against the interest of poor countries. As a consequence, developing country priority areas such as agriculture and textiles have been the slowest to liberalize. This is a major source of inequality in the gains from the free trade in the system.¹⁷ However, compared to other international institutions, the UN for instance, in which the few nations in the Security Council has veto power which enables them to decide everything without a say from any other member, the WTO has setup a decision making procedure in which all countries, strong and weak, have an equal voting power. In fact, the fact that the Doha Round

¹⁴ Ibid

¹⁵Susan Ariel Aaronson, From GATT to WTO: The Evolution of an Obscure Agency to One Perceived as Obstructing Democracy, available at: <http://eh.net/encyclopedia/article/aaronson.gatt>

¹⁶Ronald A. Reis(2009), The World Trade Organization, Infobase Publishing, p. 51

¹⁷ Christina L. Davis, Do WTO Rules Create a Level Playing Field for Developing Countries? P. 2

has not progressed well is a testament to the power of poor and small countries who oppose the rich nation's subsidies to their farmers. On top of this, despite the fierce debate on the worthiness of the system, almost all global trade players are part of the system and a number of outsiders are applying for membership which is to pass through rigorous screening and negotiation process. In what is to follow, I will focus on what explains the decision of countries to join the WTO.

The decision to join the WTO by countries reflects issues that transcend specific reasons and encompass aspects of not only extracting benefits in terms of socio-economic development (by boosting export-oriented production and attracting investment.) However, it also has in mind addressing the demands and impacts of rapid globalization and trade liberalization.¹⁸ In addition to expecting more predictable access to foreign markets, and the economic rationale of attracting more foreign direct investment, countries use WTO membership as a seal of approval recognized by the international business community, for legal advantages of accessing a rules-based system and using the WTO dispute-settlement process.¹⁹ It is also the case that many nations join the WTO for political reasons. Transition economies, for example, often see WTO membership as a means to signal their commitment to joining the international community of market based economies.²⁰

Whilst many states also believe that WTO membership protects their interests relative to other developed countries by offering benefits of negotiating within the parameters and limitations of the WTO agreements, on a superficial level, LDCs may feel politically pressured to join the multilateral trading system, they believe that joining will enhance their standing in the world. However, acting on perceived political pressure to join the WTO often leads countries to inadequately contemplate the short-term economic costs and benefits of accession. This failure to

¹⁸ Zenebe Bashaw (2008), Impact Assessment of World Trade Organization (WTO) Accession on Food Security in Ethiopia: An Appraisal Using Partial Equilibrium Model, Nagoya University, Japan, May 2008, p. 5-6

¹⁹ The World Bank Group(2005) , WTO Accession: Lessons from Experience, Trade Note June 6, 2005. p. 1

²⁰ Ibid, p 2

adequately measure the consequences exacerbates the fact that LDCs are already seldom prepared domestically to accede to the WTO.²¹

Cognizant of the spatial and temporal differences both in the benefits and costs of joining the WTO, the official line contends that the WTO trading system entails what are termed as the “ten benefits” (WTO, 2007). These range from the promotion of peace to building dispute resolution mechanism, cost-cutting, broadening product choice and quality, income generation and economic growth stimulation, carving out good governance and creating efficiency by shielding governments from lobbying.²²

2.2 International Trade in Agriculture

When regulation to international trade in general is set through the General Agreement on Tariffs and Trade (GATT) in 1948, it was thought that the rules will technically apply to agricultural goods. But the exemptions and exceptions related to agriculture in subsidies and quantitative restriction provisions of the GATT had made their application on agricultural trade very negligible. A significant move was made when member nations made an endeavor to tackle the distorted trade in agriculture during the Uruguay Round negotiations in which, after lengthy debates and delays, a multilateral treaty called the Agreement on Agriculture was produced in 1994. The goals of the Agreement are to establish a trading system that is fair and market oriented by increasing market access and reducing domestic and export subsidies on agricultural products. The Agreement established a Committee on Agriculture to oversee the Agreement’s implementation. Under this heading agricultural trade under the original international trade agreement, GATT and the result of the Uruguay Round negotiations, the Agreement on Agriculture (AoA) will be seen in some detail.

²¹ Daniel Gay, Vanuatu’s Suspended Accession Bid: Second Thoughts?, Managing the Challenges of WTO Participation. Available at”

http://www.wto.org/english/res_e/booksp_e/casestudies_e/case43_e.htm, Accessed on June 20, 2011

²² Zenebe Bashaw(2008), supra note 18, p. 6

2.2.1 GATT and Agriculture

As has been noted above, countries eager to re-establish trading relations after the Second World War agreed to the General Agreements on Tariff and Trade (GATT), which entered into force in 1948. The original GATT agreement technically applied to trade in agriculture but it contained many loopholes that were easily exploited by parties to the agreement. The quantitative restriction and subsidies provisions of GATT have systematically pulled agriculture out of the GATT disciplines. This section puts forth the meager treatment agriculture received under GATT, the possible reasons for the meager treatment and the consequences of such treatment.

2.2.1.1 The Treatment Accorded to Agriculture under the GATT

The GATT's definition of agriculture is seldom clear. It would, rather, be better if one say that the agreement gives only indications as to what agriculture is. Mentions are made to the foodstuffs²³, agricultural or fisheries products,²⁴ and primary products.²⁵ Nor these terms are defined either.²⁶ In all GATT rounds before the Uruguay round agricultural trade was virtually ignored, despite the fact that trade in agricultural products represented 13% of total trade in goods, and that extremely high protection levels were proliferated throughout the world. While export subsidies and quantitative restrictions on imports were outlawed in other sectors, manufacturing for comparison, these regulations were waived with regard to agriculture.²⁷

²³ GATT, Art. XI (2) (a)

²⁴ GATT, Art. XI (2) (c)

²⁵ GATT, Art. XVI, section B, Paragraph 3

²⁶ Some indicatory exceptions worthy of being sited are: *Ad Article XVI of the GATT*, which tries to define a primary product as: any product to be any product of farm, forest or fishery, or any mineral, in its natural form or which has undergone such processing as is customarily required to prepare it for marketing in substantial volume in international trade.

And, *Ad Article XI, paragraph 2(c)*, which makes the term in any form in the provision to cover the same products when in an early stage of processing and still perishable, which compete directly with the fresh product and if freely imported would tend to make the restriction on the fresh product ineffective.

²⁷ Joanna O'Riordan, *Agriculture and GATT: How the Compromise was reached*, also available at: <http://www.maths.tcd.ie/local/JUNK/econrev/ser/html/eugatt.htm>

In the general quantitative restriction provision of GATT, agriculture is given an exceptional position. First, any contracting party can adopt measures to prohibit or restrict the exportation of foodstuffs or other essential products to prevent or relieve critical shortages of foodstuffs or other products critical to the exporting contracting party²⁸ Second, the import of any agricultural or fisheries product can be restricted, not prohibited²⁹ if they are necessary to enforce government measures operating to restrict the quantities of the like domestic product permitted to be marketed or produced, to remove a temporary surplus of the like domestic product, or to restrict the quantities permitted to be produced of any animal product the production of which is directly dependent, wholly or mainly, on the imported commodity, if the domestic production of that commodity is relatively negligible³⁰

The original subsidies provision of GATT, Article XVI (1), doesn't prohibit the use of subsidies at all.³¹ It's in the latter developed paragraphs that recognition to the effect that subsidies may have harmful effects for other contracting parties, both importing and exporting, may cause undue disturbance to their normal commercial interests, and may hinder the achievement of the objectives of the Agreement.³² Under such recognition, the avoidance of subsidies on the export of primary products is made contingent on the applicability of the subsidy in a manner which

²⁸ GATT, Art. XI(2)(a)

²⁹ In the analysis of *US – Canadian Tuna* case the panel noted that, unlike Article XI: 2(a) & (b), the provisions of Article XI: 2(c) could not justify the application of an import prohibition. Found at: GATT Panel Report, *United States – Prohibition of Imports of Tuna and Tuna Products from Canada*, L/5198, adopted 22 February 1982, BISD 29S/91, p. 14

³⁰ GATT, Art. XI(2)(c)

³¹ Article XVI (1) only requires the subsidizing contracting party to make notification of extent and nature of the subsidization. The provision reads: If any contracting party grants or maintains any subsidy, including any form of income or price support, which operates directly or indirectly to increase exports of any product from, or to reduce imports of any product into, its territory, it shall notify the CONTRACTING PARTIES in writing of the extent and nature of the subsidization, of the estimated effect of the subsidization on the quantity of the affected product or products imported into or exported from its territory and of the circumstances making the subsidization necessary. In any case in which it is determined that serious prejudice to the interests of any other contracting party is caused or threatened by any such subsidization, the contracting party granting the subsidy shall, upon request, discuss with the other contracting party or parties concerned, or with the CONTRACTING PARTIES, the possibility of limiting the subsidization.

³² GATT, Art. XVI(2)

results in that contracting party having more than an equitable share of world export trade in that product.³³ Paragraph 4 of Article XVI is much important as far as the treatment of Agriculture in the GATT is concerned. The provision reads:

Further, as from 1 January 1958 or the earliest practicable date thereafter, contracting parties shall cease to grant either directly or indirectly any form of subsidy on the export of any product other than a primary product which subsidy results in the sale of such product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market. Until 31 December 1957 no contracting party shall extend the scope of any such subsidization beyond that existing on 1 January 1955 by the introduction of new, or the extension of existing, subsidies³⁴

When it comes to primary products, the subsidies provision doesn't favor them to govern them under the stricter ban as it applies to products other than primary products. The above two exceptions, in relation to subsidies and quantitative restrictions, together were enough to keep agriculture effectively out of the GATT. They basically licensed countries to: subsidize their farmers to the extent they wished; provide border protection as desired; and export the surplus thus generated with export subsidies.

2.2.1.2 The Reasons Explaining the Meager Treatment of Agriculture under the GATT

Although the notion of free trade as a means to development ends of countries across the globe is primarily advocated by countries in the EU and the US, absence of initiative for the same in agricultural trade is also attributed to the various domestic political and economic conditions in these countries. Important among the domestic situations of these countries that effectively pulled agriculture out of the GATT's general disciplines are the following.

Accommodating the wishes of the United States was a prime concern of the time because a world trading organization without the world's greatest trading power would have been

³³ GATT, Art. XVI(3)

³⁴ GATT, Art. XVI(4)

ineffective.³⁵ A free trade country switched to protectionism in agriculture because of the political and social environment prevailing at the time. Kete Onyejekwe reviews these situations of the time:

From the early 1900s until the years following the First World War, American farmers rejected government intervention in agriculture. They subscribed to the rural-agrarian creed. This thought pattern became moribund in the 1920s as agricultural prices declined and political agitation to treat agriculture specially followed. The farmers sought high tariffs for agricultural imports. Accordingly, much of the debate and political staging in agriculture concerned how to get either the equivalent of industry's tariff protection or international 'two pricing,' a method of expanding markets abroad by pricing farm products higher in the inelastic domestic market and lower in the elastic export market. By the mid-1930s, the farm sector had become politically charged. Unrest in the countryside, the large proportion of Americans engaged in agricultural labor, and the abundance of senators and representatives fighting for farm issues, caused the American government to look into agricultural problems promptly. As a result of farmers' pressures, the Agricultural Adjustment Act of 1933 was enacted. Artificial price relationships were achieved. In 1936, the United States Supreme Court held portions of the Act unconstitutional. Nevertheless, it had built the structure of further farm legislation. Soon, the first omnibus law for agriculture in U.S. history, the Agricultural Adjustment Act of 1938, was enacted. It was also a compendium of subsidies, price supports, acreage reduction mechanisms, and crop insurance. The United States Supreme Court declared this Act constitutional. Consequently, "[t]he foundation for agricultural regulation, at the farm level, was now ... firmly established."³⁶

The European Community (EC) did not exist then and its Common Agricultural Policy (CAP) did not come into full force until the early 1960s. A majority of other countries that have become major traders now were either recovering from war or were newly independent.³⁷ But still, in these richer countries, agriculture was in decline as industry expanded rapidly. The resulting difficulties in maintaining farm incomes and populations emerged as a politically sensitive issue.³⁸

³⁵ Kele Onyejekwe, *The GATT, Agriculture, and Developing Countries*, An Agricultural Law Research Article, University of Arkansas School of Law, p. 109

³⁶ *Ibid.*, p.109-110

³⁷ R. Sharma, *Agriculture in the GATT: A Historical Account*, also available at: <http://www.fao.org/docrep/003/x7352e/x7352e04.htm>

³⁸ *Ibid.*, p. 1

The other basic explanation why agriculture was seen as a unique sector of the economy was, for national food security reason, which will be thoughtfully considered in the topics and sub topics to follow.

2.2.1.3 The Consequences of the meager Treatment of Agriculture under the GATT

From an agreement whose regulation base resembles to freer merchandize trade while leaving a broad room of protection to the agricultural sector, the most hit players will be developing countries. The bad scenarios directly drive from both the limited market access right developing countries had under the agreement and the huge room left for wealthy nations to subsidize their agricultural produces. The influence of the agreement on developing countries, in this regard, can be seen under the following headings:

Self-sufficiency: While self-sufficiency in agriculture is a legitimate goal of many countries, it is often cheaper to import subsidized products than to build an indigenous base. Yet, no country can assure a constant supply of goods to another. When the subsidies are removed after citizens acquire the taste for an imported product, prices escalate resulting in a reduction of welfare. This reduction in welfare has political and social costs.³⁹

Sovereignty: failure to be self-sufficient usually takes with itself dependence on those who are able and willing to help. However, aid, as its name literally indicates, doesn't always be an outright grant. The international financial institutions to which most developing countries depend have required them to shape their national policies in their own whims, an internal matter which is among expressions of once own sovereignty. Without any base to feed its citizens, the affected country gets heavily indebted and/or involuntarily managed by the IMF or other lenders.

Equitable Market: A developing country which can afford to subsidize exports will run into problems as soon as it gets started. Being previously a net importer, any attempt to export would

³⁹Kele Onyejekwe, Supra note 35, p.115

arguably upset its "equitable share" of the market.⁴⁰ This is, of course, if the special factors designated to divert from the equitable share rule did not materialize.⁴¹

2.2.2 Agriculture under the WTO Agreement on Agriculture

Within the Uruguay round, the round in which the WTO was established, the first effective rules governing international trade in agriculture and food were introduced. Thus, following the Uruguay Round negotiations, all agricultural products were brought under multilateral trade rules by the WTO's Agreement on Agriculture. The Agreement is made up of three 'pillars': market access, export competition and domestic support. The issue of 'Agriculture and GATT' is discussed above because, apart from a simple historical account, the meager treatment that agricultural trade had under the GATT explains the structure of the current WTO Agreement on Agriculture. The lacunas under the quantitative restriction and subsidies provisions of GATT dictated the Agreement on Agriculture to be structured with these three pillars just mentioned. As has been indicated on the introductory part of the thesis, all WTO members, except least developed countries (LDCs), were required to make commitments in all these pillars in order to liberalize agricultural trade. Under this heading the genesis of this agreement, why it's separately treated as an independent agreement, and the substance of the agreement under its three pillars will be in order.

2.2.2.1 Genesis of the Agreement

The roots of the Agreement on Agriculture are to be found in the text of GATT itself. The special status of agriculture, whether real or imagined, got its legal expression in the body of GATT rules which left some important loopholes in respect of agricultural trade from the very beginning. The loopholes had been there since the early negotiations for the ITO charter and the

⁴⁰ Ibid.

⁴¹ The concept of special factors is defined under addendum to another provision: Ad Art. XI(2) which reads, The term "special factors" includes changes in relative productive efficiency as between domestic and foreign producers, or as between different foreign producers, but not changes artificially brought about by means not permitted under the Agreement.

1947 version of the GATT.⁴² The two main loopholes: provision of border restrictions as desired and the license to subsidize farmers as wished, have for years effectively pulled agriculture out of the GATT disciplines. It was, therefore, not a coincidence that these were precisely the three areas addressed by the Uruguay Round Agreement on Agriculture (AoA).⁴³ The size of the agricultural loophole in GATT continued to grow over time, particularly in the first two decades of its life, thereby further alienating agricultural trade from other sectors. This widening gap between agriculture and other sectors could be seen in the 1955 waiver granted to the United States from its obligations under the key GATT provisions of Articles II and XI;8 the exclusion of agricultural products from the new GATT prohibition of export subsidies in 1955; the creation of the European Common Agricultural Policy in the 1960s, which was later subjected to a series of renegotiations of commitments every time the Community expanded as envisaged under GATT Articles XXIV:6 and XXVIII; the use of a “grandfather clause” by newly-joining countries in their protocols of accession to protect their agricultural sectors; the use of grey-area measures, such as EC variable import levies, whose legality was always questionable but no clear-cut decision was ever taken; and a habitual disregard of such disciplines by other contracting parties more readily in agriculture than in other sectors.⁴⁴

These distortions in agricultural trade led to pressure from many countries in the 1980s to establish multilateral trade rules to create a more fair and market-oriented agricultural trading system. The US and EU began showing interest primarily because their domestic agricultural subsidy programs were becoming as expensive as to be unsustainable. Food-exporting developing countries favored rules as a means to stabilize and increase world prices for food exports, hoping that this would provide additional export earnings to alleviate poverty and to further development goals. Many developing country markets were already open to cheap and dumped agricultural products from the US and EC, due to International Monetary Fund (IMF) and World Bank structural adjustments programs that required them to liberalize their economies

⁴²Melaku Geboye Desta (2006), *Legal Issues in International Agricultural Trade: The Evolution of the WTO Agreement on Agriculture from its Uruguay Origins to its Post-Hong Kong Directions*, FAO legal papers online #55, May 2006, p. 1

⁴³R. Sharma, *Supra* note 36.

⁴⁴Melaku Geboye Desta(2006), *Supra* note 42, p. 2

and open their markets to foreign products.⁴⁵ In the Uruguay Round negotiations – which led to the creation of the WTO – states agreed in 1994 to create *inter alia* multilateral trade rules for the liberalization of agricultural goods. These rules are embodied in the WTO's Agreement on Agriculture (AoA) which came into force, like the other WTO agreements, in 1995.⁴⁶

2.2.2.2 Why Sector Specific Treatment to Agriculture

Agriculture, currently, is the only sector treated by sector specific agreement in the WTO system. The most important reasons put forward are:

Food as the Most Essential Good

Food is an essential good that has a high value both in economical and emotional terms. This particular characteristic of food, its significance for the nourishment of people, makes food production and thus agriculture an inherent part of each society's culture and policies, and led almost everywhere to a high esteem for agriculture, which may go far beyond its actual share in a country's domestic economy. Experiences may of course differ from one country to another and it is therefore essential to take into account the background of experiences and culture for a better understanding of the various agricultural policy objectives of different countries.⁴⁷ Besides satisfying the basic need of nourishment, consumers may also wish to link food production to cultural and/or ethnic considerations and may attribute particular importance to health concerns related to the aspects of food safety and quality.

Agriculture as a Key Element for the Development of Other Sectors

Agriculture has important connections with downward and upward sectors in the chain of production with heavy consequences in terms of employment. In particular, beyond the food related sector, other sectors such as chemicals, machinery, tourism share important spill-over

⁴⁵ The WTO Agreement on Agriculture, anon, p.59, available at: http://dyn.lite.adlesse.com/stat/click.php?url=http%3A%2F%2Fwww.3dthree.org%2Fpdf_3D%2FGuide-075Ch6.pdf , accessed on April 1, 2011

⁴⁶ Ibid

⁴⁷Valeria Miceli(2005), Agricultural Trade Liberalization and the WTO Doha Round, March 2005, p.9

effects with agriculture.⁴⁸ Its key role in the chain of economic production is one of the main reasons that make it worth to have a treatment independent of all sectors.

The Importance of Agriculture in Nations' Development Path

Agriculture plays a crucial role in the pattern of development. The choice of the proper policy instruments in agriculture during the first stages of economic development can influence the success or failure of the development path itself. Agricultural development is the best incomes policy since it contributes to spread the dividends of growth broadly among the population, to hundreds of thousands of small farmers and provide for participation in the process of increasing incomes.⁴⁹ It represents the pre-condition of self-sustained growth and, for this reason; modernizing agriculture in poor countries is the most reliable development strategy. Cases of success or failure in development processes can be attributed to the choices made in terms of agricultural policies. Thus, for the lyric in the tone of other sectors to be sound, countries should be able to independently consider the effects of the commitments they take under international agricultural trade.

Generally speaking, why agriculture is so different as to make it effectively the only sector governed by a sector-specific agreement within the WTO as explained by different people range from what Ragosta calls the “farmers' unique role in maintaining an independent republic” to the U.S. Senate’s tendency “to represent land more than people” to agriculture’s role as the source of our food, to its unique relevance to biodiversity and the environment at large, to the cultural issue of ensuring the survival of a rural way of life.⁵⁰

2.2.2.3. The Scope of Application of the Agreement (Defining Agricultural Products)

As per article two of the AoA, the agreement applies to products listed in Annex 1 to the Agreement, referred to as agricultural products. Annex one makes reference to the Harmonized

⁴⁸ Ibid, p. 10

⁴⁹ Ibid

⁵⁰ Melaku Geboye Desta (2006), Supra note 42, p. 3-4

System⁵¹ of product classification. That means, agricultural products are those within Chapters 1 to 24 of the Harmonized System less fish and fish products, as well as some specific products which come from the soil. Forestry products are not included.

The definition of agricultural products cover not only basic agricultural products such as wheat, milk and live animals, but the products derived from them such as bread, butter, oil and meat, as well as all processed agricultural products such as chocolate, yoghurt and sausages.⁵² The coverage also includes wines, spirits and tobacco products, fibres such as cotton, wool and silk, and raw animal skins destined for leather production.⁵³

2.2.2.4. The Substance of the Agreement

The increased pressure from developing countries in 1980's and increased expensiveness of subsidies to the US and EU, brought the Agreement on Agriculture on the Uruguay round negotiations (1986-1994) with a short term goal of establishing a basis for initiating a process of reform of trade in agriculture and long term objective of establishing a fair and market-oriented agricultural trading system.⁵⁴ As has been indicated above, the need to plug the loopholes of the Agricultural provisions of the GATT has resulted in the three frames of the Agreement on Agriculture, usually called the three pillars of the agreement. The major commitments under the agreement on the three pillars: Market Access, Domestic Support and Export Subsidies, are in order.

⁵¹The Harmonized Commodity Description and Coding Systems generally referred to as "Harmonized System" or simply "HS" is a multipurpose international product nomenclature developed and maintained by the World Customs Organization (WCO). It comprises about 5,000 commodity groups; each identified by a six digit code, arranged in a legal and logical structure and is supported by well-defined rules to achieve uniform classification. The system is used by more than 200 countries and economies as a basis for their Customs tariffs and for the collection of international trade statistics. Over 98 % of the merchandise in international trade is classified in terms of HS.

⁵² UNCTAD(2003), Dispute Settlement: World Trade Organization (3.15) Agriculture, United Nations New York and Geneva, p. 5

⁵³ Ibid

⁵⁴ See, the preamble of the WTO Agreement on Agriculture, paragraphs 1 & 2.

A) Market Access

Prior to the Uruguay Round, border protection for agricultural products was not always in the form of tariffs.⁵⁵ An important commitment made in the Uruguay Round of trade talks, and reflected in the Agreement on Agriculture (the URAA), was the conversion into ordinary customs duties of the plethora of non-tariff barriers that had previously characterized international trade in agricultural goods. This process was known as tariffication.⁵⁶ The process of tariffication, however, is not directly dealt with in the Agreement on Agriculture. In this regard article 4 of the agreement, particularly paragraph 2, simply notes:

2. Members shall not maintain, resort to, or revert to any measures of the kind which have been required to be converted into ordinary customs duties, except as otherwise provided for in Article 5 and Annex 5.

All the details of how tariffication should be made were set out in a provisional document entitled “Modalities for the Establishment of Specific Binding Commitments under the Reform Program” It was agreed among negotiators that the legal status of this document should end with the conclusion of the Round⁵⁷ The modalities document notes that “The policy coverage of tariffication shall include all border measures other than ordinary customs duties,” and that “The calculation of tariff equivalents, whether expressed as ad valorem or specific rates, shall be made using the actual difference between internal and external prices in a transparent manner” for the years 1986 to 1988.⁵⁸

➤ Why tariffs are preferable to other trade restrictions?

(a) Tariffs Generate Revenue for the Government and ensure transparency: The simplest explanation of the preference for tariffs is that tariffs generate government revenue. Indeed, this

⁵⁵ UNCTAD(2003), Supra note 52, p. 6

⁵⁶ Alan Swinbank, Dirty Tariffication Revisited: The EU and Sugar , The Estey Centre Journal of International Law and Trade Policy, Volume 5 Number 1 2004/p.56-69 esteyjournal.com , introduction p 57

⁵⁷ UNCTAD(2003), supra note 52, p.7

⁵⁸ Modalities for the Establishment of Specific Binding Commitments under the Reform Program, MTN.GNG/MA/W/24, 20 December 1993, annexes 3, section a, paragraphs 1 and 2.

explanation is consistent with the anecdotal observation that developing countries (and industrial countries in their early histories) rely on trade taxes as a form of revenue given the difficulties of administering more advanced tax systems.⁵⁹ However, economic development and the creation of systematic domestic tax codes have reduced its importance in developed countries. In some developing countries, however, revenue generation may still be an important tariff function of tariffs.⁶⁰ Tariffs are also transparent mechanism of protection.

(b) *Ensuring legality of imports:* smuggling may occur when, particularly, import quotas continue to exist despite the change in demand of a given commodity. A tariff does not provide a firm limit on the number of products that enter⁶¹ and thus, provide the easier solution.

(c) *Efficiency gains:* When restrictions are absolute above a threshold, as in case of import quotas, efficient firms, however efficient they may be, can't benefit by reaching customers. However, when tariffs are imposed firms can respond to them by increasing efficiency. Moschini puts the above explanations in terms of economic and institutional benefits that will accrue from converting non-tariff barriers in to tariffs:

From an economic point of view, quantitative restrictions, are in many instances, a source of avoidable inefficiencies because, they limit operation of the market more than tariffs and adversely affect the efficiency of competitive price system. Whereas NTBs tend to isolate markets, tariff provide an explicit link between trading countries that allow the transmission of market signals. Thus, using tariffs instead of NTBs should result in more efficient and stable world markets. At the institutional level, we have mentioned GATT's predilection for tariff use because it provides a transparent mechanism easy to access and negotiate.⁶²

⁵⁹ Josh Ederington & Jenny Minier (2006), Why Tariffs: Not Subsidies? A Search for Stylized Facts, Contributions to Economic Analysis & Policy, Volume 5, Issue 1 2006 Article 31, p. 7

⁶⁰ Tariffs, Over View of the Rules, p. 253 available at http://www.google.com.et/#hl=en&biw=1280&bih=559&q=tariffs%2C+chapter+4&aq=f&aqi=&aql=&oq=&gs_r_fai=&fp=7f3b0c1de3a3a4c4 Accessed on June 3, 2011

⁶¹ Mike Moffatt, Why Tariffs are Preferable to quotas, http://economics.about.com/cs/taxpolicy/a/tariffs_quotas.htm. Accessed on August 10, 2011

⁶² Giancarlo moschini (1991), Economic issues in tariffication: overview, center for agricultural an rural development, Iowa state university, GATT research 90- GATT, July 1991, p. 4

The only exceptions to tariffication obligation set under article 4 of the agreement are Special safeguards under article 5 and special treatment of annex 5. The latter refers to the few cases where countries were provisionally allowed to continue to use non tariff barriers under strictly defined conditions and makes clear sense to be an exception to Article 4(2).⁶³ While no proof of serious injury is required to invoke special safe guards under article 5, as to article XIX of the General Agreement, there is only a room for applying custom duties above their bound rate, not to resort to quantitative restrictions. Thus, except under such conditions, members are obliged to tariffy all non tariff barriers with respect to agricultural products and to be bound by those in the schedules of concessions. As far as these concessions are concerned, Countries agreed during the Uruguay Round to reduce tariffs (both the new tariffed rates and other tariffs) by fixed percentages. Developed and transition countries undertook to reduce tariffs by an average of 36%, 15% per tariff line and developing countries by 24%, 10% per tariff line. Such reductions are to be made by developed countries over a period of six years from 1 January 1995 and by developing countries in 10 years. The least developed countries, even though they have bound tariffs at higher ceiling rates, were not required to reduce them.⁶⁴

B) Domestic Support

In WTO non-legal terminology, domestic subsidies to agricultural products are identified by special “boxes” which are given the colors of traffic lights: “Green” meaning permitted because they have no, or minimal, distortive effect on trade; “Amber” meaning possibly illegal because of their trade distortive nature; and “Blue” meaning possibly trade-distorting but permitted as the measures are linked to production limitation programs.⁶⁵

The Agreement on Agriculture doesn’t eliminate, at least had no intention to eliminate, any form of domestic support measure including the most trade distortive, Amber Box measures. It is only

⁶³Melaku Geboye Desta (2002), *The Law of International Trade in Agricultural Products: From GATT 1947 to the WTO Agreement on Agriculture*, Kluwer law international, 2002, p. 69

⁶⁴Modalities for the Establishment of Specific Binding Commitments under the Reform Program, MTN.GNG/MA/W/24, 20 December 1993, Paragraphs 5 & 15.

⁶⁵UNCTAD(2003), *Supra* note 52, p. 21

for no member except 35 countries⁶⁶ had reported to have such trade and production distorting support measures during the base period (1986-1988) that the countries that had not employed such subsidies during the base period remained devoid of the right to do so. Had there been a report of usage of Amber box Subsidies at the base period from all members, there wouldn't a member totally prohibited to use such measure. The 35 member countries, with whom the right to employ Amber box measures remained, are exclusively developed countries or higher income developing countries. More, direct payments provided under production limiting, Amber box, measures, under Article 6, paragraph 5 of the Agreement, are de facto limited to these countries. In comparison, some measures are exclusively allowed to developing countries only, usually termed as 'developmental box.'⁶⁷ Finally, green box" measures under Annex 2 to the AoA; and the de minimis levels of non-green support under paragraph 4 of article 6 of the Agreement, are available for all members.

Therefore, even if a domestic support provided by a member is not part of the exempt green box or under the production limiting measures of the blue box, i.e. in effect, trade and production distorting amber box, the commitment is only reduction.

As far as the amber box reductions are concerned, In the Uruguay Round, WTO Members undertook to discipline trade-distorting domestic support to agriculture by capping it at 1986-88 average levels, and reducing it by 20 per cent over six years up to 2000 for developed country

⁶⁶These countries are: Argentina, Australia, Brazil, Bulgaria, Canada, Chinese Taipei, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, EC, Hungary, Iceland, Israel, Japan, Jordan, Korea, Lithuania, Mexico, Moldova, Morocco, New Zealand, Norway, Papua New Guinea, Poland, Slovak Republic, Slovenia, South Africa, Switzerland- Liechtenstein, Thailand, Tunisia, United States, and Venezuela.

⁶⁷Under Article 6, paragraph 2 of the Agreement, to encourage agricultural and rural development as an integral part of the development programs of developing countries: 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, as shall domestic support to producers in developing country Members to encourage diversification from growing illicit narcotic crops. Thus, these three measures are exempt from reduction commitments.

Members and by 13 per cent over 10 years up to 2004 for developing country Members.⁶⁸ There is no product specific reduction requirement as in case of the market access commitments.

C) Export Subsidies

Analytical papers, studies, newspaper articles, agricultural literature in general systematically refer to export subsidies as "the most trade distorting agricultural policy". The effects of export subsidies are frequently associated with the depression of international prices, the lowering of the non-subsidized farmer income, the displacement of competitive exports, the use of environmentally unsustainable methods of production and, last but not least, the perpetuation of rural poverty in developing countries.⁶⁹

Diverging from the regulation of export subsidies under the Agreement on Subsidies and Countervailing Measures (SCM)⁷⁰, the Agreement on Agriculture makes agriculture the only sector where export subsidies are legal. Falling short of a prohibition, the agreement regulates export subsidies by listing, under article 9(1), those who are subject to reduction commitments of a dual nature – quantitative (by 21%) and budgetary (by 36%) – on a 1986-1990 base period and over a six years implementation period. Developing countries were required to undertake only two thirds of these obligations to be implemented over a period of ten years⁷¹, and by subjecting

⁶⁸Modalities for the Establishment of Specific Binding Commitments under the Reform Program, MTN.GNG/MA/W/24, 20 December 1993, Paragraphs 8 & 15.

⁶⁹WTO(2000), Committee on Agriculture, Export Subsidies- Food Security or Food Dependency?, 27 September 2000, p.1 [G/AG/NG/W/38]

⁷⁰ The SCM agreement flatly prohibits export subsidies under article 3 except those for agricultural products. The provision reads:

3.1 Except as provided in the Agreement on Agriculture, the following subsidies, within the meaning of Article 1, shall be prohibited:

- (a) Subsidies contingent, in law or in fact⁴, whether solely or as one of several other conditions, upon export performance, including those illustrated in Annex I5;
- (b) Subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods.

3.2 A Member shall neither grant nor maintain subsidies referred to in paragraph 1.

⁷¹Modalities for the Establishment of Specific Binding Commitments under the Reform Program, MTN.GNG/MA/W/24, 20 December 1993, Paragraphs 11 & 15.

those which are not listed to a condition that they may not be used in a manner which results in or which threatens to lead to, circumvention of export subsidy commitments.⁷²

Only 25 countries had reported to have been using export subsidies listed under article 9.1 and therefore, only they are allowed to use, having regard to the reduction commitments in their schedule for specified products.⁷³

⁷² Article 10(1) of the AoA

⁷³The countries are: Australia, Brazil, Bulgaria, Canada, Colombia, Cyprus, Czech Republic, European Communities, Hungary, Iceland, Indonesia, Israel, Mexico, New Zealand, Norway, Panama, Poland, Romania, Slovak Republic, South Africa, Switzerland-Liechtenstein, Turkey, United States, Uruguay, and Venezuela. See *Export Subsidies: Background Paper by the Secretariat*, TN/AG/S/8, 9 April 2002, paragraph 4, as cited by MelakuGeboye(2006), *Legal Issues in International Agricultural Trade. The Evolution of the WTO Agreement on Agriculture from its Uruguay Origins to its Post-Hong Kong Directions*, FAO legal papers online #55.

2.3. Conclusion

In sum, the chapter tried to discuss the reasons behind accession to the multilateral trading system and, particularly, agricultural trade in the system. As such, the decision to accede the WTO by countries reflects issues that transcend specific reasons and encompass aspects of not only extracting benefits in terms of socio-economic development (by boosting export-oriented production and attracting investment.) It also has in mind addressing the demands and impacts of rapid globalization and trade liberalization.

The system to which countries accede for a multitude of reasons only meagerly treated the Agricultural sector, on its early stage i.e. during the GATT. Through different exception and exemptions the quantitative restriction and subsidies provisions of GATT have systematically pulled agriculture out of the trade disciplines. After nearly half a Century, the Uruguay Round Agreement on Agriculture, which applies to agricultural products, was adopted having structures which explained the loopholes of the GATT. With commitments under such a structure as (Market Access, Domestic Support and Export Subsidy) agriculture is said to come to the main stream of freer international trade.

Under the Market Access provision of the AoA, members under take to convert the plethora of non-tariff barriers prevailing at the time in to tariffs and to reduce the bound tariff rates by an average of 36% in 6 years and 24% in 10 years for developed and developing countries respectively. In the Domestic Support reduction obligations while the Green Box, the non-exempt de minimis supports and the Blue Box measures are de jure available to all, developmental measures usually termed as the 'development box' measures are left exclusively to developing countries. Only the remained Amber Box measures are subject to reduction commitments of 20% over 6 years and 13.34% over 10 years for developed and developing countries. As far as Export Subsidy disciplines of the agreement are concerned, The AoA is the only agreement in the system in which export subsidies are not outlawed. Falling short of a prohibition, the agreement regulates export subsidies by listing, under article 9(1), those who are subject to reduction commitments of a dual nature – quantitative and budgetary, and by subjection those which are not listed to a condition that they may not be used in a manner which results in or which threatens to lead to, circumvention of export subsidy commitments.

After discussing the various treatments and obligations that the acceding countries take to their agricultural sector in this chapter, the next Chapter deals with: what having such treatments (obligations) to one's own agricultural sector means in terms of Food Security of the Acceding country? That means, the relationship between agricultural trade liberalization, which the obligations under the AoA envisages and the Food Security situation of a country under such undertaking.

CHAPTER THREE

FOOD SECURITY AND AGRICULTURAL TRADE LIBERLIZATION

3.1 Food Security

3.1.1. Food Security: Definition and Measurement

3.1.1.1. Definition

Since its inception in 1970s to the international discussion of food problems, the amorphous concept of Food Security has undergone various definitions ranging from emphasis on stability of food supply to a full-fledged definition making food security a means for all people, at all times to an active and healthy life. In its early days, the 1974 World Food summit defined food security as availability at all times of adequate world food supplies of basic foodstuffs to sustain a steady expansion of food consumption and to offset fluctuations in production and prices.⁷⁴ As the definition addresses the supply side of food security equation alone, it raised the concern of access to food supplies including by the vulnerable groups. It goes without saying that the view is dictated by the reality in which remedying the supply side without the demand side ends up in securing food only to those who are powerful enough to adjust to the available supply. The fear gave result to another definition. "Ensuring that all people at all times have both physical and economic access to the basic food that they need"⁷⁵

The definition which endeavored to balance the supply and demand equations to Food Security was further refined by the developments after mid-1990s. The concepts of sufficient food, food safety and nutritional balance reflecting concerns about food composition and minor nutrient requirements for an active and healthy life came to the inter play. Food preferences, socially or culturally determined, became important considerations and brought up a definition suiting the developments. FAO, then, adopted the following definition in 2001:

⁷⁴United Nations (1975), Report of the World Food Conference, Rome, 5-16 November 1974. New York. As sited in FAO, Trade Reforms and Food Security: Conceptualizing the Linkage, Rome, (2003), p. 27

⁷⁵Food and Agricultural Organization, (1983), World Food Security: a Reappraisal of the Concepts and Approaches. Director General's Report, Rome. As sited in FAO, Trade Reforms and Food Security: Conceptualizing the Linkage, Rome, (2003), p. 27

Food security exists when all people, at all times, have physical, social and economic access to sufficient, safe and nutritious food which meets their dietary needs and food preferences for an active and healthy life.⁷⁶

This definition carries four key points which construct its basic essence. These four dimensions are: *Availability* (the supply side of food security and is determined by the level of food production, stock levels and net trade), *Economic, Social and Physical Access* (because an adequate supply of food at the national or international level does not in itself guarantee household level food security), *Food safety and quality* (because even if food is available at an affordable price, it will not be nutritious unless it is safe and of a required quality), and *Stability* (Even if your food intake is adequate today, you are still considered to be food insecure if you have inadequate access to food on a periodic basis, risking a deterioration of your nutritional status.)⁷⁷

3.1.1.2. Measuring Food Security at the National Level

The analysis of Food Security may be made at the global, national, regional and household levels. The focus here is, however, on Food Security at the National level because it is at this level that the trade policy reforms resulting from WTO Accession would have a strong bearing. Food security at the national level concerns having an adequate total food supply to enable the population of the country on average to maintain a reasonable level of consumption.⁷⁸ In a study done by International Food Policy Research Institute (IFPRI), “Food Security and Trade Negotiations in the World Trade Organization: A Cluster Analysis of Country Groups,” the authors describe key indicators of food security at the national level. Three of the indicators used are more relevant for our purpose here.

⁷⁶ FAO(2003), Trade Reforms and Food Security: Conceptualizing the Linkage, Rome, Commodities and trade division, p. 29

⁷⁷FAO (2008), Food Security Information for Action, a Practical Guide, the EC-FAO Food Security Program, p.1, Also available at: www.foodsec.org/docs/concepts_guide.pdf. Accessed on June 1, 2011

⁷⁸Merlinda D. Ingco, Donald Mitchell, and John D. Nash (2004), Food Security and Agricultural Trade Policy Reform, in Merlinda D. Ingco and John D.Nash, (eds), Agriculture and the WTO, Creating a Trading System for Development, 179-192

i) Food production per capita

Food production per capita is an indicator of the ability of countries to feed themselves. It tries to address both the notion of insurance and national autonomy, used mainly in some developed countries, as well as the more pressing problems of poverty and hunger in developing countries.⁷⁹ Two views of differing outlooks on this subject worth mentioning. For some, ability to feed oneself comes true by producing all or substantial part of food consumption domestically (self-sufficiency). For others, self-feeding is a matter of having adequate purchasing power by households, whether from internal or external sources.

Ingo, Mitchell, and Nash explained the policies behind these thoughts. Countries adopt self-sufficiency for fear of disruptions to trade from hostile actions of other countries or from barriers to exports imposed by the exporting countries themselves in times of international shortages or high prices, as they think that the shadow value (social value) of foreign exchange is higher than its market value, and if they are countries of high population, elasticity of supply of basic foodstuffs is higher than it is in the major food-exporting countries.⁸⁰ The flaws of self-sufficiency normally dictate a belief on the purchasing capacity of households from any source. Some of these deficiencies are: consumers of the country pay a consistently higher price for the products, undermining the food security of the poor by reducing their purchasing power because of the protection means of self-sufficiency, even many members of the farming community may be hurt or at best not be helped by protectionist measures. The poorest farmers in the developing world are subsistence farmers, and these by definition have no marketable surplus, serious trade disruption would require concerted action by a large number of competitive exporters, which is most unlikely or effects of temporary disruptions could also be mitigated through other measures—stockpiling of reserves.⁸¹

ii) The ratio of total exports to Food imports

⁷⁹Eugenio Diaz-Bonilla, et.al.(2000), *Food Security and Trade Negotiations in the World Trade Organization: a cluster analysis of country groups*, Washington, D.C., December 2000, p. 6

⁸⁰*Ingo, Mitchell, and Nash*, *Supra* note 78, p. 185

⁸¹ *Ibid*

This is an indicator of the ability of different countries to finance their food imports out of total export revenues (i.e. a measure of access to world food supply by individual countries). Total exports include merchandise and services, such as tourism. This indicator, which has been utilized in different early studies of food security is more relevant for food security analysis than the net food trade position (i.e. food exports minus food imports), currently utilized to determine the category of NFIDC in the WTO.⁸² The following two reasons explain the reason of relevance: first, on the top of the country's being food importer or exporter, it helps to determine how much it would cost a country to access food from the international market, thereby to know how vulnerable a country is to international fluctuations in price or volume. Second, it signals on the role of trade and trade negotiations on food security. The former measure doesn't tell the broader effect of trade in which countries with high food bills may be at good security status because of their higher surplus from total export earnings. Thus, negotiations following the food bill ratio to total export earnings strive to see higher total exports even if food bill remains high.

iii) Calories per capita and protein per capita

Calories being a unit of energy producing potential in a food; protein an essential to the structure and function of all living organisms, Calories per capita and protein per capita are used to estimate consumption levels and therefore food availability at the national level. Even if this national averages are limited in reflecting household and individual food and nutrition security levels, national calorie-aggregates are important in explaining changes in malnutrition as defined by anthropometrical measures of children.⁸³

As far as individual food security is concerned, the entitlements approach has been used, after the approach is developed by Amartya Sen in 1981, to identify the various ways in which international trade might impinge upon individual food security and, by analogy, to identify the characteristics that would tend to make some countries more food insecure than others.⁸⁴ Thus, food security can be determined by and the country's food security may depend on:

⁸²Eugenio Diaz-Bonilla, et.el.(2000), Supra note 79, p. 6

⁸³Ingco, Mitchell, and Nash (2004), Supra note 78, p. 185

⁸⁴ Christopher Stevens, et. el., The WTO Agreement on Agriculture and Food Security, p. 5

- Production-based entitlements - which reflect the food that can be produced domestically;
- Trade-based entitlements - which reflect its ability to earn sufficient foreign exchange with exports to purchase imported food;
- Transfer-based entitlements- which cover food that can be obtained either directly through food aid or indirectly by (semi-)commercial imports financed through financial aid.⁸⁵

3.2. Food Security and Agricultural Trade Liberalization: Nexus

In trying to define the relationship between Food Security and trade liberalization, one has to always be conscious that trade regulations cannot, by them self, solve food crises, but they enhance or reduce the contribution of trade to food security. Security in food is a combination of various factors of which international agricultural trade in general and trade in food staples in particular are important. Some authors put, Food Security is best ensured through the right combination of production, trade and (where appropriate) aid policies. That is to say, diversification of entitlements (from production-based entitlements, trade-based entitlements and transfer-based entitlements) is an important tool through which states can promote food security. While this is to underscore the importance of other variables, than international agricultural trade, in ensuring food security, it is by no way to underestimate the very important role of international agricultural trade towards this objective.

Trade policy influences both global food availability (in the case of a major importer or exporter), and national food availability (through both imports and production). It will also have implications through the link with incomes and expenditures. Any change in the trade regime will have a direct effect on both rural and urban incomes, and employment, and through these on income distribution. In addition, there will be an effect on government revenues through, for example, a change in the level of revenue from import levies. Both national food availability and government revenues, impact at the household level, affecting household access to food directly and indirectly through household incomes.⁸⁶That's mainly why food security has [also]

⁸⁵ Ibid

⁸⁶FAO(2003), Supra note 76, p.19

traditionally served as a principal reason for the exclusion of agriculture from the application of some of the major rules of the multilateral trading system.⁸⁷

In what follows, the link between Agricultural Trade Liberalization and Food Security will be scrutinized taking the main stream frame work as seen to be loopholes to agricultural trade in GATT and as established as pillars in the Agreement on Agriculture. The scrutiny will, at times, take comparative approach in which developing and the LDCs, usually food insecure, and the developed world, whose domestic policies are often cited to have contributed to the insecurity, are compared.

3.2.1. Market Access

Generally speaking, lower tariffs benefit consumers in all countries. Food security is likely to increase if and when markets are more fluid, because solvent consumers, at least, can more easily obtain the cheapest available food. As for the food producers, the reform process (and possibly also aid for trade measures) will influence their response capacity. When such lower tariffs are bound in WTO schedules they also give market operators and investors a longer-term perspective on which to base their decisions.⁸⁸ In short, consumers of the food importing countries will be more food secure by exposure to cheapest available imports while the country's long run production base may be damaged because cheap imports can reduce production-based entitlements by creating disincentives to domestic food production and encouraging reliance on imported foods. Tariff cuts can also adversely affect production-based entitlements by reducing the government revenue available to support domestic subsidies, such as subsidized or free inputs, research and extension services, access to credit, irrigation projects and investments subsidies. Some argue that, the commodities imported are often not directly competing with local production, so an increase in (cheap) imports does not necessarily pose a threat to local farmers. However, relative to the margin of the price of imported foods, it can be relatively easy to shift from the domestic food to the imported one than to buy food of higher price, at least for those who can't afford local prices. Finally, tariff reductions can affect transfer based entitlements by

⁸⁷ Melaku Geboye Desta (2001), Food Security and International Trade Law: An Appraisal of the World Trade Organization Approach, *Journal of World Trade*, Vol 35, no 3, p. 449

⁸⁸ Christian Haberli (2010), *Supra* note 3, p. 310

reducing the ability of governments to finance food-price subsidies, targeted feeding programs, food stamps, labor-intensive public works programs and income safety nets.⁸⁹

On the other hand, the WTO-AoA is expected to have a positive impact on net food-exporting countries because higher world food prices increase export revenues, even if export volumes were to remain fairly stable, or do not fall more than the proportionate increase in price. Thus, depending on the transmission effect of world prices, producer income and their food security could be boosted.⁹⁰ But more generally, lower tariffs by major developed markets will increase demand for products from developing countries thereby improving trade based entitlements to food security in these countries. Unfortunate to this ambition is, after full implementation of the Uruguay round, the expected market access opportunities have not materialized. While the possible reasons that could have led to the failure of the Agreement on Agriculture to bear the expected market access are multifaceted, the most important problems associated with tariffication obligation under the Agreement are Tariff escalations⁹¹ and dirty tariffication.⁹²

Whilst abolition of tariff escalations and peaks improve food security of exporting developing countries by enhancing their trade based entitlements, it may affect the same entitlements of LDCs who receive preferences from major developed markets, usually termed as preference

⁸⁹Carmen G. Gonzalez, *Institutionalizing Inequality: the WTO, Agriculture and Developing Countries*, Columbia Journal of Environmental Law, Vol. 27:2, p. 472

⁹⁰Samuel K. Gayi, *Does the WTO Agreement on Agriculture Endanger Food Security in Sub-Saharan Africa?*, Research Paper No. 2006/60, UNU-WIDER 2006, p. 5

⁹¹Tariff escalation is a phenomenon where tariffs rise along the processing chain such that tariffs on the processed products (e.g. refined sugar) are higher than on the corresponding primary products (e.g. raw sugar). Such an escalating tariff structure creates greater protection for the processing sector in the importing country. For exporters, on the other hand, this acts as a disincentive for exporting processed products. For this reason, tariff escalation is seen as one of the impediments for developing value-adding, processing industries. This is an issue for the developing countries in particular because of their much greater need for industrialization. Moreover, global trade in the processed products has been growing relatively faster than in primary products, (Sharma, 2006).

⁹²Dirty tariffication is a situation in which the protection level of the prior non-tariff barriers are, rather, increased thereby resulting in abuse of the obligation under article 4 cum the 1993 modalities agreement detailing the obligation. UNCTAD (2003), defines dirty tariffication as:

“Dirty tariffication” is the use, during the tariffication process, of artificially high domestic prices and artificially-low world market prices in order to set a particular tariff at a level higher than it should be.

erosions. Studies⁹³ have shown that some developing countries, specifically the ACP countries, should separately consider the issue of reducing/ avoiding tariff escalations because in cases where they have deeper preferential arrangements like to the EU market, they should struggle for the persistence of the escalation as the avoidance adds competitors to them & may force them out of the market given the current under development of their processing sector. Conversely, in few cases where avoidance of escalations brings more benefit to them, they should work to avoid escalations such to the US markets. Developing countries with underdeveloped processing sector will, in the short run, benefit from the persistence of escalations depending on the level of preferential arrangements given.

Export restriction is the final point deserving discussion under this heading. Most economists would agree that export restrictions of all kinds reduce food security because they discourage local producers and increase world market prices and according to the World Bank such policies tend to have a limited impact on domestic price levels, but significant negative revenue effects for domestic producers. They will, in addition, reduce food security in importing countries by reducing the quantities getting on to the world market.⁹⁴ However, against this economic wisdom, significant number of countries has resorted to export restrictions during the 2008 food crisis in order to maintain domestic food supplies at a reasonable price. The sensitivity of the problem has been felt as far back to the era of GATT; where the quantitative restriction provisions of GATT have made a clear exception to food security.⁹⁵ The agreement on Agriculture in trying to modify provision of GATT Article XI, simply added the requirement of notice to the Committee on Agriculture comprising such information as the nature and the

⁹³For example, Marlena Vlahantoni Tikof, WTO Negotiations on Agriculture, Technical assistance to support ACP country delegations in Geneva on the Post-July Framework Process (Focal Points 2) Contract No – 7 ACP – RPR – 753-Project No.13 p13-23

⁹⁴Christian Haberli (2010), Supra note 3, p. 318

⁹⁵*Article XI of GATT: General Elimination of Quantitative Restrictions*

2. The provisions of paragraph 1 of this Article shall not extend to the following:
 - (a) *Export prohibitions or restrictions temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting contracting party;*
 - (b) Import and export prohibitions or restrictions necessary to the application of standards or regulations for the classification, grading or marketing of commodities in international trade...

duration of such measure and consultation, upon request, with any other Member having a substantial interest as an importer.⁹⁶

The Draft Modalities of 10 July propose only very moderate procedural improvements for the present disciplines in Article XI: 2(a), by way of a modification of Article 12 of the AoA:

- (1) Notification of new restrictions;
- (2) A limit of twelve months to the duration of new export restrictions, or up to eighteen months if affected importing countries were to agree.

However, there is no proposal for regulating the main culprits, i.e. differential export taxes, and there is no substantive discipline on the right of exporters to restrict their exports.⁹⁷ A failure to discipline export restrictions would thus be particularly damaging to food security if 'Doha' makes importers (much) more vulnerable to market disturbances resulting from export restrictions.⁹⁸

3.2.2. Domestic Support

The overall food security effect of implementation of domestic support provisions of the Agreement on Agriculture will be made in the following order. First, the effect of liberalization

⁹⁶Article 12 of the AoA reads: Disciplines on Export Prohibitions and Restrictions

1. Where any Member institutes any new export prohibition or restriction on foodstuffs in accordance with paragraph 2(a) of Article XI of GATT 1994, the Member shall observe the following provisions:

- (a) the Member instituting the export prohibition or restriction shall give due consideration to the effects of such prohibition or restriction on importing Members' food security;
- (b) before any Member institutes an export prohibition or restriction, it shall give notice in writing, as far in advance as practicable, to the Committee on Agriculture comprising such information as the nature and the duration of such measure, and shall consult, upon request, with any other Member having a substantial interest as an importer with respect to any matter related to the measure in question. The Member instituting such export prohibition or restriction shall provide, upon request, such a Member with necessary information.

2. The provisions of this Article shall not apply to any developing country Member, unless the measure is taken by a developing country Member which is a net-food exporter the specific foodstuff concerned.

⁹⁷ Christian Haberli(2010), Supra note 3, p. 318

⁹⁸ Ibid, p. 319

by the OECD on food security will be scrutinized. Then, comes the effect of liberalization by the developing and LDCs, usually food insecure.

The removal of domestic price supports by the OECD, will lower output of agricultural and food products, and raise their price in the world markets. Net food-exporting developing countries will benefit and Net food-importing countries that continue to be importers after the removal of the support will lose as their food bills will no longer be supported by tax payers in the OECD countries.

In some cases, however, the support may be given to induce farmers not to cultivate some proportion of their land. In this case, the withdrawal of support could expand output, lower the price and have exactly the opposite effect: importers will benefit, exporters that remain exporters will lose and exporters who switch to being importers may benefit or lose. The critical question one must ask, therefore, is whether the removal of the support will increase or reduce the output of the supported product.⁹⁹ Depending on whether the removal of support reduces or increases output will the world price of the product which use to be supported raise or fall and it follows that, when reduction or removal of support reduces output and raises world price developing countries who are net exporters will benefit from the higher world price. This is because; the increased world price will stimulate production of such product in these countries that originally had a comparative advantage in production of the said commodity.

Contemporary studies, however, stood challenging this assertion. The 2008 World Food Crisis and the increase in the price of food commodities have shown that most developing country producers are far distanced from what happened in the international markets, so, increases in food prices does not necessarily mean higher prices for food producers. For this to happen, these international prices need to be transmitted across national border and through marketing chains.

About 75 per cent of the world's poor which live in rural areas where agriculture is the main economic activity are not favored by the increase in world food prices. Christian Haberli, a Senior Research Fellow who chaired the Committee on Agriculture (Regular Session) and served

⁹⁹FAO(2003), Supra note 76, p. 39

from 1996-2009 in four dispute settlement panels¹⁰⁰, puts forth the following reasons for this complication:

- (1) Even in rural areas most households are net consumers of food and now have to pay more for their food. A substantial proportion of rural households do not sell or buy large amounts so they are somewhat disconnected from price trends.
- (2) Many small farmers lack the financial, technical and land resources required to increase production, let alone benefit from higher end-of-pipe prices.
- (3) Looking at rural areas only, especially in South Asia, the poorest of the poor tend to be landless agricultural laborers who are also net food buyers. For them, the food crisis often means the continuation of life at subsistence levels instead of an opportunity to increase production and to aim for higher living standards.¹⁰¹

Therefore, whilst most agree that the removal of output increasing support would hurt net food importing poor countries by increasing their food bill, the potential benefit it confers to those who are not net exporters needs additional assignment of creating incentives to invest and produce in these countries such as creating access to affordable fertilizers and improved seeds, and building the necessary infrastructure in place.

Coming to the impact of removal of support, if any, by developing countries, trade theory tells us that developing countries, since they tend to be endowed with land, labor and natural resources (rather than with capital and technology), should have a comparative advantage in agriculture. Support of the sector increases prices of the output of that sector and increases profits of producers, by conferring rents rather than encouraging efficiency. Thus, as far as this sector is concerned they can be competitive and they need not extend support simply because it stands world competition by its own. But still, in reality, developing countries can't exploit their comparative advantage¹⁰² because of different factors like: farming practices, limited access to inputs, credit and new technologies, geographical remoteness (especially if land-locked), high

¹⁰⁰ Christian Häberli, a Biography, Senior Research Fellow, NCCR Trade Regulation, World Trade Institute.

¹⁰¹ Christian Haberli, *Supra* note 3, p. 301

¹⁰² In the same way they fail to respond to increases in world prices, as for example, seen during the 2008 world food crisis.

transaction costs, Poor infrastructure and natural barriers act as a tax, often very high, on exports, and fallacy of composition, whereby the simultaneous attempt by many countries to expand exports of the same commodity results in a decline in the world price. Therefore, reduction of domestic subsidies can adversely affect production- based entitlements and impinge on food security by limiting the tools available to developing countries to encourage food production, such as input subsidies, research and extension services and irrigation projects. The obligation to reduce agricultural subsidies may also adversely affect transfer-based entitlements, such as food-price subsidies, targeted transfer programs and income safety nets.¹⁰³

3.2.3. Export Competition

3.2.3.1. Export Subsidies

As explained in the previous chapter, AoA makes agriculture the only sector where export subsidies are legal, diverging from the regulation of these type of subsidies under the Agreement on Subsidies and Countervailing Measures (SCM). Under normal circumstances, the reduction in export subsidies raises the world price of a product, benefiting developing country exporters, hurting food importers and yielding ambiguous effect on those turning from being importers to exporters. To the extent that developed countries reduce export subsidies, developing country products will become more competitive on both domestic and world markets, thereby boosting the production of both cash and subsistence crops. However, countries that rely on imports for domestic food supply may experience price increases and greater food insecurity.¹⁰⁴ What is important to note here is, the extent of the effect of removal or reduction in export subsidies depends on whether they were subject to countervailing measures. If the export subsidies were being countervailed, the net impact of the two measures is likely to be a transfer of the export subsidy from the exporting country government to the importing country government in the form of duty, without a significant effect on prices and output. The removal of the export subsidy will also result in the removal of the countervailing duty and the world supply will be unchanged.

¹⁰³ Carmen G. Gonzalez, *Supra* note 2, p. 472

¹⁰⁴ *Ibid*, p.473

This is the case with export subsidies in general, although with the removal of targeted export subsidies the affect may be less predictable.¹⁰⁵

3.2.3.2. International Food Aid

In connection with the developed countries idea of disposing surplus in 1950s in such a way as also to improve the food security situation in vulnerable countries, international food aid has traditionally been defined as international transactions that result in the provision of aid in the form of a food commodity in a country deemed in need of receiving such aid.¹⁰⁶

Whilst the establishment of World Food Programme (WFP), under the joint auspices of the United Nations and FAO in 1962, and the signing of Food Aid Convention (FAC) in 1967 are praised for marking the beginning of multilateral food aid and guaranteeing a predictable flow of aid every year, respectively¹⁰⁷, a concern remains that a continuous in kind food aid practices translate into dependency instead of independence.¹⁰⁸ The trade distortion effects of food aid can be seen both at the international and national levels. At the international level, food exporting non donor countries raises the issue that increased aid policies reduce the impetus for demanding commercially priced imports in the recipient countries. But, our concern here is on the distortion that results from food aid in the receipt countries that being more relevant to food security discussion. The distortion effect at the national level is that the increased supply will reduce the demand for local produce and lower returns. This can affect future production decisions and have food security implications.¹⁰⁹ National prices will collapse, local food productions fall, and local markets and incentives to local infrastructure will be disrupted. The incentive to produce food for the following seasons is taken away when farmers know that cheap food imports and food aid in

¹⁰⁵ FAO (2003), *Supra* note 76, p. 39

¹⁰⁶ FAO, *Food Aid in the Context of International and Domestic Markets and the Doha Round*, Trade Policy Technical Notes on Issues Related to WTO Negotiations on Agriculture, no.8, p. 1

¹⁰⁷ *Ibid*

¹⁰⁸ Food Trade and Nutrition Coalition (FTN) (2005), *Dumping Food Aid: Trade or Aid? (Subsidized) Food Aid in kind: What is in it for the WTO*, April 2005, p. 8

¹⁰⁹ David Harris (2007), *Food Aid and Agricultural Trade Reform*, Australian government Rural Industries Research and Development Cooperation, RIRDC Publication No 07/136, August 2007, p.37

kind will flood their markets.¹¹⁰ Specially, when food aid is given in kind which takes a long time to arrive at the place of disaster (between three to six months) because of purchasing, transport and distribution of food has to come from across the world, arrival of food aid happens usually at the moment that the local producers are finally beginning to reap the current season's harvest. This means that food aid is competing with local food, after a period of severe hunger, inflicting price collapses on local food products. Local producers suffer, falling further back into poverty and long-term dependency on food aid.¹¹¹

WFP, presumably based on the purpose for which they are employed, identifies three ways in which food aid may reach national boundaries of recipient countries or simply (types of Food Aid): emergency food aid¹¹², non-emergency project food aid,¹¹³ and non-emergency program food aid.¹¹⁴

While emergency food aid is generally considered to have minimal market distorting impacts as it is usually distributed free of charge, project food aid in some cases can have market distorting effects and may not be in the long term interests of the recipients when food aid is not distributed to a target groups and finally, programme food aid is most distorting form of food aid for the aid is not targeted at a particular group¹¹⁵

¹¹⁰Food trade and nutrition coalition (FTN) (2005), Supra note 107, p.9

¹¹¹ Ibid

¹¹²*Emergency food aid* is targeted assistance to relieve human suffering when natural disasters or conflicts disrupt normal food supplies. It's often an unforeseen, random event that requires a rapid short term response. The aid may be temporary assistance for a few months or it could extend beyond a year in some situations

¹¹³*Project food aid* is generally provided for development projects to address persistent deficiencies in food supplies. Some countries may have food security issues caused by the inadequate development of food production capabilities.

¹¹⁴*Program food aid* is provided to disadvantaged countries to help alleviate balance of payments difficulties or budget constraints. It's generally provided to recipient country governments and is sold to raise revenue.

¹¹⁵David Harris (2007), Supra note 108, p. 5-7

For the regulation of food aid, the Agreement on Agriculture has established two different elements: First, article 10¹¹⁶ of the AoA aims to prevent the circumvention of disciplines put to reduce export subsidies. Second, Article 16 of the AoA incorporates a commitment to “establish appropriate mechanisms to ensure that the implementation of the results of the Uruguay Round on trade in agriculture does not adversely affect the availability of food aid”.¹¹⁷

1. Article 10.4- of AoA allows unlimited amounts of food aid as long as they are not tied directly or indirectly to commercial exports of agricultural products to recipient countries in accordance with the FAO Principles of Surplus Disposal and Consultative Obligations, and are provided to the extent possible in fully grant form or on terms no less concessional than those provided for in the 1986 Food Aid Convention.¹¹⁸ It was argued that article 10.4 AoA stands apart from other parts of the AoA because the disciplines on food aid are not enforceable and are merely provided in the hope that WTO Members will abide by them in good faith; Members who do not comply were not subject to retaliation under the WTO’s Dispute Settlement Understanding owing to the unclear obligations, in the case of 10.4(c) of the AoA even framed in an aspirational language.¹¹⁹

2. Marrakesh Ministerial Decision on measures concerning the Negative effects of the Reform programme on NFIDCs and LDCs-While the progressive implementation of the

¹¹⁶ Article 10.4, which is more relevant to our discussion reads:

Article 10: Prevention of Circumvention of Export Subsidy Commitments

4. Members donors of international food aid shall ensure:

- (a) that the provision of international food aid is not tied directly or indirectly to commercial exports of agricultural products to recipient countries;
- (b) that international food aid transactions, including bilateral food aid which is monetized, shall be carried out in accordance with the FAO "Principles of Surplus Disposal and Consultative Obligations", including, where appropriate, the system of Usual Marketing Requirements (UMRs); and
- (c) that such aid shall be provided to the extent possible in fully grant form or on terms no less concessional than those provided for in Article IV of the Food Aid Convention 1986.

¹¹⁷ Simone Heri and Christian Häberli (2009), Can the World Trade Organization Ensure that Food Aid is Genuine?, NCCR Trade Working Paper No 2009/19, MAY 2009, p. 14

¹¹⁸ Ibid

¹¹⁹ Ibid, p. 17

results of the Uruguay Round as a whole are expected to generate increasing opportunities for trade expansion and economic growth to the benefit of all participants, it is also thought that during the reform programme leading to greater liberalization of trade in agriculture least-developed(LDCs) and net food-importing developing countries(NFIDCs) may experience negative effects in terms of the availability of adequate supplies of basic foodstuffs from external sources on reasonable terms and conditions, including short-term difficulties in financing normal levels of commercial imports of basic foodstuffs.¹²⁰ It is to avert such possible collateral negative effect that, the ministerial decision proposed the following solutions:

- Establishing a level of food aid commitments sufficient to meet the legitimate needs of developing countries during the reform programme together with the Committee on Food Aid of the Food Aid Convention and pushing the aid to be in full grant form.¹²¹
- Provision of technical and financial assistance to least-developed and net food-importing developing countries to improve their agricultural productivity and infrastructure.¹²²
- Agricultural Export Credits¹²³
- Short term eligibility to draw on the resources of international financial institutions under existing facilities, or such facilities as may be established, in the context of adjustment programmes, in order to address such financing difficulties, to adjust short term difficulty of normal level of imports.¹²⁴

The above being a relief contemplated for the collateral effects of the reform programme on LDCs and NFIDCs, this has frowned by an opposite camp. The net food exporters feared that food aid, which includes concessional food sales, if left unregulated, could be used by countries

¹²⁰Marrakesh Decision on Measures Concerning the Possible Negative effect of the Reform Programme on Least Developed and Net Food Importing Developing Countries, Paragraphs 1 & 2

¹²¹ Ibid, paragraph 3(i)&(ii)

¹²² Ibid, paragraph 3(iii)

¹²³ Paragraph 4 of the Marrakesh Decision reads:

...4. *Ministers further agree* to ensure that any agreement relating to agricultural export credits makes appropriate provision for differential treatment in favor of least-developed and net food-importing developing countries...

¹²⁴ Ibid, paragraph 5

to circumvent their obligations in respect of export subsidies. Moreover, net exporters also feared that food aid might undercut the normal level of commercial imports by the food aid recipient countries.¹²⁵ It seems the intention was to compromise these concerns from such exporter countries that the decision, in the words of Dr. Melaku Geboye, from a strictly legal point of view, [the decision] neither creates any concrete and enforceable rights and obligations as such for the benefit of these countries.

More, the Decision, and through it, the entire WTO system on this issue, suffers from two important deficiencies—legal and institutional. The legal deficiency pertains to the nature of the obligations created. The Decision does not create any mandatory obligation to make food or other assistance available to countries adversely affected by the implementation of the Uruguay Round commitments on agriculture. Institutionally, the Decision only refers the matter to systems falling totally outside the WTO framework and lacking in any effective enforcement mechanism. The food needs of LDCs and NFIDCs in this respect, which have been termed *legitimate* by the Decision, are left to the absolute caprice of only eight Members of the WTO that are Members of the FAC as well. There are no legal means by which the supposed beneficiaries of the Marrakesh Decision can influence the decisions taken by Members of the FAC.¹²⁶ A number of proposals on implementation were made in the WTO Committee on Agriculture by countries such as Cuba, Egypt and Kenya, but none of them ever received any meaningful support from the rest of the Membership. And to nobody's surprise, when the 2008 food crisis made headlines, there was no recourse, in fact not even a reference, to the Marrakesh Decision. This decision must therefore be considered as a piece of political expediency with no chance of making a contribution to improvements in food security.¹²⁷

3.3. Conclusion

After a chew over of what agricultural trade liberalization generally entails in the second chapter, this chapter tried to reckon with the nexus between trade liberalization in agriculture and the food security of countries required to make the liberalization. To that end, the paper took Food

¹²⁵ Melaku Geboye Desta, (2001), *Supra* note 87, p. 450

¹²⁶ *Ibid*, p. 467

¹²⁷ Christian Haberli (2010), *Supra* note 3, p. 308

Security definition of FAO (2001) in which Food Security exists when all people, at all times, have physical, social and economic access to sufficient, safe and nutritious food which meets their dietary needs and food preferences for an active and healthy life.

For no country is self-sufficient on production of entirety of its needs owing to difference in factor endowments and since a trial to that effect ends up in inefficiency, international trade has become a tool with which needs and efficiency will be attained, at least theoretically. In the same line of thinking, for different reasons, based on comparative advantage or otherwise, countries rely on international trade, although at different levels, to import or export food products. It's this reliance of countries on international trade that establishes the foundation for the link between international trade and food security. The following paragraphs summarize the links in specific terms.

Market Access- from net food importers perspective, while tariff cut benefits consumers in all countries by exposing them to cheapest available food, it may act as a threat to production base of the country concerned by creating disincentive for domestic production and reducing government's support for increased production. Whilst reducing tariffs could boost trade based entitlements to food security in net food exporting developing countries, deeper cuts may endanger the same entitlements by eroding preferential market arrangements available for LDCs, usually the food insecure. For both net food importers and exporters export restriction acts as signal for food insecurity.

Domestic Support- Depending on whether the removal of support reduces or increases output, the world price of a product which use to be supported raises or falls and it follows that, when reduction or removal of support reduces output and raises world price developing countries who are net exporters will benefit from the higher world price and net food importers loose as their food bill skyrockets. While it is established that the removal of output increasing support hurts net food importers, the claim that net food exporting developing countries will benefit from the scenario has been refuted by various studies who have confirmed that most developing country producers are far distanced from what happens in the international markets in such a way that increases in food prices does not necessarily mean higher prices for them. They lack the necessary financial and technological resources to increase production and, benefit from higher prices.

Export Subsidies- Depending on whether export subsidies were subject to countervailing measures, the removal of export subsidies by major food exporters, have a signal on food output and price. If the export subsidies were being countervailed, there will be no significant effect on prices and output. The removal of the export subsidy will also result in the removal of the countervailing duty and the world supply will be unchanged. But, since the Agreement on Agriculture, itself, authorizes a huge sum of export subsidy legally, which are not subject to countervailing measures, the reduction, which is more likely, or removal would, obviously, increase world price of food by decreasing output and will certainly increase food bill for importers.

Whilst the establishment of World Food Programme (WFP), in 1962, and the signing of Food Aid Convention (FAC) in 1967 are praised for marking the beginning of multilateral food aid regime, a concern remained that a continuous in kind food aid practices translate into dependency instead of independence. The solution conferred by the AoA to avoid the displacement effects of food aid under Article 10 and by the Marrakesh Decision are both coined in aspirational languages imposing no legal duty and referred to a matter falling totally outside the WTO framework, lacking any effective enforcement mechanism.

Until now, the paper deliberated on what agricultural trade liberalization under the WTO AoA entails and the link that those commitments have on Food Security of an acceding country in general terms. Having this discussion as a general benchmark, the next chapter specifically analyses the implications of the WTO AoA on food security situations of Ethiopia, as an acceding country.

CHAPTER FOUR

FOOD SECURITY IMPLICATION OF ETHIOPIA'S ACCESSION TO THE WTO AGREEMENT ON AGRICULTURE

4.1. Introduction

The previous chapters have provided a yardstick for the analysis that comes in this chapter. After a brief general background in Chapter One, Chapter Two summarized the Agricultural Trade in the WTO and the major commitments it entails. Chapter Three scrutinized the meaning of those commitments in terms of food security of countries taking the commitments in general terms. This Chapter specifically analyzes the food security meaning of those commitments for Ethiopia.

To that end, it begins with a brief look at the country's accession status. Before the main analysis is made, the food security situation of the country, the contribution of the agricultural sector to the food security of the population and the country's Food Security Strategy (FSS) will be discussed. Following these preliminary facts about Food Security conditions and policies of the country the main analysis will be made in three tiers: the Food Security implications of the international trade reform process regardless of Ethiopia's accession, the implications to Food Security of the commitments to be undertaken under the WTO AoA, and the Food Security implications of the WTO commitments based on the accession experience of selected LDCs. For the arguments involving the analyses are intertwined the latter two will be made in one subtitle. Each of the three tiers will follow the subdivisions as are dictated by the three pillars of the AoA. Finally, the food security issues unfolding the current negotiations of the Doha Development Agenda and the implication of international food aid will be taken care of.

4.2. Ethiopia's Accession to the WTO

Becoming considerate of the inevitability of being part of the global endeavor, the Ethiopian government applied to membership of the WTO on January 13, 2003. At that General Council meeting, the representative of Ethiopia outlined 'some of the reasons which had led his Government to decide to start the WTO accession process and to be part of the multilateral trading system' as follows:

[The Government] was fully convinced that the best way to accelerate economic growth and development was to integrate its economy into the multilateral trading system. To be a Member of the WTO was to be part of the rules-based multilateral trading system, and this would create confidence for investors and serve as an instrument to attract foreign direct investment for diversifying the production base and expanding the supply capacity of the country. It would also help to secure predictable and transparent market access. The effective participation of the least-developed countries in the decision-making process of the multilateral trading system would encourage them that the speed, nature and direction of globalization would be compatible with their developmental needs.¹²⁸

While the above statement is made by the Ethiopian Government when beginning to engage in the accession process, Melaku Geboye outlines that the accession has got additional reasons:

- a) To reconcile the laws in the Negarit Gazeta and those in practice because of the WTO requirements;
- b) The transparency requirements of the WTO, that is, reporting obligations contained in virtually all WTO instruments;
- c) Establishment of an independent system for the objective and impartial judicial review of administrative action which most WTO rules require.¹²⁹

Inspired by the above reasons, both official and the possible reasons put forward by analysts and readers, the accession process is currently on the following status:

The General Council established a Working Party to examine the application of Ethiopia on 10 February 2003. Ethiopia's Memorandum on its Foreign Trade Regime was circulated in January 2007. The Working Party on the Accession of Ethiopia held its first meeting on 16 May 2008 to begin the examination of Ethiopia's foreign trade regime. Recently documents providing additional information on Agriculture, services, SPS/TBT check lists, TRIPS check lists and

¹²⁸Geboye Desta, Melaku (2009), Accession for What? An Examination of Ethiopia's Decision to Join the WTO, *Journal of World Trade* 43, no. 2, p 352

¹²⁹Ibid, p 359-360

legislative action plans were submitted.¹³⁰ After 3-year break, the second Working Party meeting on held recently on 6 May 2011 re-launched the accession talks that started in 2008. Next, the Secretariat will prepare a Factual Summary of Points Raised, outlining the discussions in the Working Party and the date for the next meeting is not fixed.¹³¹

4.3. Ethiopia's Food Security Situation

Ethiopia being one of the least developed countries (LDCs) in the world¹³² is among few countries most severely affected by malnutrition world-wide. Meeting food requirements of the growing population is one of the major development policy concerns and challenges in contemporary Ethiopia. The significance of food production at a household level and the national economy is quite well documented. Since the 1970s there has been a series of crop failures, with exploitation of the land leading to the erosion of traditional coping mechanisms in a population already suffering from chronic poverty. Both these critical factors exacerbated the severe effects of the 1998/99 drought.¹³³ Thus, at least, from 1980 onwards, the country has structurally been in food deficit.¹³⁴

Chronic and transitory food insecurity in rural Ethiopia is so profound that recent shocks such as drought or flooding have forced the government of Ethiopia and food aid agencies such as WFP to target up to fourteen million people for emergency food assistance during some years. The Ethiopian government developed the Food Security Program with the help of an array of donors to reduce the need for emergency food assistance by targeting chronically food insecure households in food insecure woredas for participation in a combination of two programs: the PSNP (Productive Safety net programmes), designed to provide food or cash transfers to prevent

¹³⁰ Available at: http://www.wto.org/english/thewto_e/acc_e/a1_ethiopia_e.htm#top Accessed on May 27, 2011

¹³¹ http://www.wto.org/english/news_e/news11_e/acc_eth_06may11_e.htm Accessed on May 27, 2011

¹³² United Nations Development Programme (UNDP), Human Development Report Ethiopia, New York: UNDP, 2001.

¹³³ Dorit Nitzan Kaluski, Einat Ophir, and Tilahun Amede, Food security and nutrition: The Ethiopian Case for Action, Public Health Nutrition, p. 374

¹³⁴ Samuel Gebreselassie (2006), Food Aid and Small-holder Agriculture in Ethiopia: Options and Scenarios, Future Agricultures, Discussion paper 011, March 2006, p.2

household asset depletion and create productive community assets, and complementary food security interventions, designed to build household assets. Participation in a combination of the two programs would allow households to graduate out of chronic food insecurity within three to five years. The assumption is that there exists a minimum configuration of income or assets required for households to escape structural poverty.¹³⁵ Leaving the responses from the government and the international community, in general, for latter discussion, let's come to jotting the food insecurity indicatory statistics of the country in the recent years.

Many Ethiopians live in conditions of chronic hunger with both a low average daily energy supply (kcal/capita/day or DES) of 1880 and a very high (44%) prevalence of under-nourishment. This compares to an average 2199 kcal/capita/day and a prevalence of 33% under-nourishment for the whole of sub-Saharan Africa (1998-2000 average). Moreover, 81% of this calorie supply comes from cereals, roots and tubers.¹³⁶ According to the USAID and WFP's August 2009 Food Security update, following successive seasons of below-average rains, an estimated 6.2 million people remain food insecure, mainly in the eastern half of the country, and require emergency food assistance. Following the seasonal pattern, cereal prices have risen since June 2009. Although they are lower than in April 2008, they remain much higher than the 2004–2008 average. Hence, high prices will continue to challenge the purchasing capacity of people who rely mainly on market to meet their food needs.¹³⁷

Recently, USAID reported that, following the *meher* harvest, which began in October 2010, food security has generally improved in the *meher* producing parts of the country. However, due to crop damage caused by widespread floods and other weather related shocks the *meher* harvest are likely to be lower than initially anticipated.¹³⁸ According to an early 2010 report, 5.2 million

¹³⁵CHF(2007), Ethiopia: The Path of Self –Resiliency, Volume I: Final Report, On behalf of Canadian Network of NGOs in Ethiopia (CANGO), July 2007, p. 48

¹³⁶Berhanu Adenew (2004), The Food Security Role of Agriculture in Ethiopia, Ethiopian Economic Policy Research Institute, Vol. 1, No. 1, pp. 138-153

¹³⁷USAID & UNDP(2009), Ethiopia's Food Security Update, August 2009

¹³⁸USAID, Ethiopia's Food Security Outlook, January to June 2011

people in Ethiopia face a precarious food security situation. The worsening food security situation is attributed primarily to poor rainfall last year during the February–May and June–October seasons. A series of successive droughts had already weakened Ethiopia’s food situation, with “poor and erratic rainfall over the last two years.” In the 2010 Global Hunger Index, which ranks developing countries and countries in transition based on proportion of undernourished people, proportion of underweight children under five, and child mortality rate, Ethiopia was given a 29.8, on a scale of 0-100, with 0 being the best and 100 the worst possible score.¹³⁹

The extent of food insecurity has become a problem in recent years and annually on average over 5 million people has been affected by drought related factors even during normal years.¹⁴⁰

4.4. The Role of Ethiopian Agriculture to its Economy and Food Security

Agriculture is the main stay of the Ethiopian economy. It accounts on average for about 45 per cent of the Gross Domestic Product (GDP), where over 85 per cent of the population makes its livelihood from farming, generates 87 per cent of the country's export earnings, where coffee alone accounts for the major share of merchandise export earnings. Some of the finest and best coffee in the world is grown in Ethiopia, and the country is now the largest coffee producer in Africa. Similarly, Ethiopia has one of the largest livestock resources in terms of number in the world.¹⁴¹ Given the pivotal role that agriculture plays in the economic development of the country, the Government of Ethiopia has placed special emphasis on agriculture as one of its development agenda. The country's development strategy, known as Agricultural Development Led Industrialization (ADLI) strategy aims at bringing structural transformation of the economy in which rapid growth of the agricultural sector is envisaged to raise the share of industry and social services in terms of output and employment generation.¹⁴²

¹³⁹“Key Facts and Findings”, 2009 Global Hunger Index, International Food Policy Research Institute, available at: <http://www.ifpri.org/publication/2009-global-hunger-index-key-facts-and-findings>

¹⁴⁰ MFTR, p. 11

¹⁴¹ MFTR, p. 4

¹⁴² Ibid.

The recently promulgated development plan i.e. the Growth and transformation Plan (GTP), has also made maintaining agriculture as a major source of economic growth as one of its key pillar strategies. Accordingly, the plan strongly supports the intensified production of marketable farm products for domestic and export markets, by small farm holders and private agricultural investors. Fundamentals of the strategy include a shift to production of high value crops with a special focus on potential high productivity areas, intensified commercialization, and support for development of large-scale commercial agriculture, where feasible. The commercialization of smallholder farming will continue to be the major source of agricultural growth. Concerted support will be given to increase private investment in large commercial farms too. A range of public investments will be undertaken to scale-up the successes realized so far. Further strategies include development of a more transparent and efficient agricultural marketing system and increased investment in marketing infrastructure.¹⁴³

The other most important reason why countries attach a strong sentiment to the Agricultural sector elsewhere, including in Ethiopia, is the significant role it plays in bolstering the Food Security needs. An immense potential, in this regard exists, for Ethiopian Agriculture to be the leading contributor to the overall food security of the country. Out of the total land area of the country, 440,284 miles (1.1 million square kilometers) with which the country stood 9th in Africa, 66 per cent i.e. 290587 miles, is estimated to be suitable for agriculture. The country has abundant water resources, with huge irrigation potential. There are ten major rivers (7,000 km long) and lakes (7,400 square km in area).¹⁴⁴ The country's annual flow of water is estimated at about 110 billion cubic meters whereas that of ground water is 2.2 billion cubic meters. The irrigated agriculture is estimated at 9.8 million hectares. The country has also potential for livestock development. The livestock population of Ethiopia is currently estimated at about 49 million cattle, 25 million sheep, 24 million goats, 6 million equines, 3 million camels and 56 million poultry. The annual fish production capacity of the country is estimated at about 44,000

¹⁴³ The Ministry of Finance and Economic Development (MoFED), FDRE Growth and Transformation Plan(GTP)- 2010/11 – 2014/15, Volume 1, the main text, p. 22-23

¹⁴⁴ MFTR, p. 2-3.

to 49,000 tones. Ethiopia's hydropower development potential is over 30,000 Mega Watt (MW). This has placed Ethiopia among the world's leading hydro potential countries.¹⁴⁵

Despite the above mentioned statistics for the immense potential to produce food, the amount of food aid the country receives increased from 277,000 MT in 1987 to 979,000 MT in 2000. This accounts for 4.1% and 10.4% of the total grain production of the country respectively. From 1987-2002 the insecurity situation has resulted in Ethiopia the importation of an average of 700,000 metric tons (MT) food aid per annum to meet food needs, among others, demonstrating the scale of the problem in Ethiopia.¹⁴⁶ Food aid shipments increased to 997 thousand metric tons (equivalent to 11.5% of national production) between 2002 and 2003. The share of food aid was less than 4% before the 1984/85 famine.¹⁴⁷

Commercial food imports between 1980 and 2001 fluctuated from year to year, but rose by over 8 fold from 100,000 MT in 1980 to over 800,000 MT in 1986, averaging 400,000 MT per year. The value of food imports, the majority of which were for grains (82% on average), varied significantly in relation to the value of exports. The value of food imports was on average USD \$199.5 million between 1990 and 1995 and USD \$172 million between 1990 and 2000.¹⁴⁸ During these periods, accounting for debt repayment needs, the country's food import capacity was USD \$370 million between 1990 and 1995 and USD \$556 million between 1990 and 2000. The food import capacity index (value of import divided by import capacity) shows that on average 65% and 44% of the import capacity was allocated for food during the 1990-1995 and 1990-2000 respectively. These percentages underscore the country's vulnerability to uncertainties of food import from the international market.¹⁴⁹

¹⁴⁵ MFTR, p. 3

¹⁴⁶ FDRE, Food Security Strategy, 2002.

¹⁴⁷ Samuel Gebreselassie (2006), Supra note 134 , p.2

¹⁴⁸ Berhanu Adenew, The Food Security role of Agriculture in Ethiopia, p. 140

¹⁴⁹ Ibid

4.5. The Food Security Strategy

Since the end of the civil war in 1991, the Ethiopian government has steadily expanded its disaster prevention and preparedness capacity to prevent reoccurrence of the mortality level seen during the famine years of 1984 and 1985. In 1993, the government adopted a National Policy on Disaster Prevention and Management (NPDM). The main objective of the policy is to ensure that the relief assistance addresses the root cause of food shortage and famine and reduce people's long-term vulnerability to disaster. The idea of labor incentive public work was also ensured in the policy, which prohibits free food distribution to the able bodies by creating linkage between relief programs to the development work.¹⁵⁰

In the following year, 1994, the core economic development strategy namely the Agricultural Development Led Industrialization Strategy (ADLI) was issued. As a national economic development policy, ADLI is a strategy in which agriculture and industry are thought to be brought into a single framework of development where agriculture is viewed as an important vehicle for industrialization by providing raw materials, a market base, surplus labor and capital accumulation. The basis of this policy and strategy in the agricultural sector is to enhance productivity of the smallholder farmers by providing access to modern technology through agricultural extension by for providing incentives, supplying inputs to the farmers (seed, fertilizer and chemicals), technical support (demonstration of input uses and agronomic practices) and training.¹⁵¹

The policy anticipates that the extremely small ratio of urbanization of the country threatens to make the inadequacy of domestic demand a critical constraint and thus presupposes that, "...agriculture has to be made internationally competitive and that part of the production has to be oriented towards export."¹⁵² Although the economy of the country has grown on annual average by 11 percent in the year 2003/2004-2009/2010, inadequacy of domestic demand has so

¹⁵⁰Transitional Government of Ethiopia (TGE) (1993), National Policy on Disaster Prevention Management, Addis Ababa.

¹⁵¹Berhanu Adenew (2004), Supra note 148, p. 19

¹⁵² Ministry of Foreign Affairs (2005), Policy Handbook, Federal Democratic Republic of Ethiopia, Vol.1, Addis Ababa, p. 149

far not been a problem at least as regards food products. In fact, the price of food crops is currently escalating in the domestic market despite recent efforts to protect the consumers following the enactment of trade practice and consumer protection proclamation number 685/2010.

Whilst agriculture is believed to be the base for the development of the industrial sector, the belief which gave birth to ADLI, the gigantic role the sector should play in ensuring food security brought up the National Food Security Strategy (FSS) for the first time in 1996. In 1998, as a continuation of the first national Food Security Strategy, a national Food Security Programme describing more specific development activities was drafted. Once the strategy is developed at the federal level, the regional food security programs and projects were subsequently designed on the basis of this strategy. The strategy was updated in March 2002¹⁵³, in the words of the latter strategy, the document updates the original 1996 FSS by sharpening the strategic elements to address food insecurity based on lessons learned to date. Again, two years after the strategy as in 1998, a National Food Security Programme the so called 'The New Coalition for Food Security in Ethiopia' was launched detailing the ways to achieve the major objectives of the strategy in October 2004.

While the two food-security strategies of 1996 and 2002 basically rest on the same three pillars i.e. achieving economic growth and employment primarily through increasing food and agricultural production; additional entitlement-targeted programmes to ensure access to food for food-deficit households; and strengthening the emergency response capability, some authors argue that with regard to the first pillar, the provision of food, the two strategies differ slightly.

Pernille Sørensen, in this regard, finds:

The 1996 National Food Security Strategy placed the main emphasis on developing the agricultural sector as the means to achieve or enhance food security within the country (including the development of small-scale industrial enterprises), but it failed to elaborate the measures and policy framework to develop the industrial sector. Moreover, the 1996 Strategy did not address the extremely high population rate in Ethiopia, which is likely to outweigh

¹⁵³Some analysts do not consider the two strategies as separate strategic documents. Berhanu Adenew, for example, described the strategies as a continuation of one from the other. In his words, in 1996, a food security strategy was initiated, it was finalized in 2002.

*any positive development within the agricultural sector. In the 2002 Strategy, both of these areas are elaborated in more detail, and resettlement has been included as a strategy aimed to provide new opportunities for groups of people. Moreover, the Strategy touches on a number of crucial questions influencing food security, for instance sectoral programmes (in health and education), HIV/AIDS, gender, pastoral issues, chronic versus acute food shortage, markets, etc.*¹⁵⁴

The updated strategy itself envisages a diversion in strategic focus on environmental rehabilitation for a dual purpose. In the words used in it: “A clearer focus on environmental rehabilitation as a measure to reverse the level of degradation and also as a source of income generation for food insecure households through a focus on biological measures marks a deviation from the 1996 strategy.”

In what is to follow the main theme of the updated Food Security Strategy and the resultant National Food Security Programme are in order.

4.5.1. The Main Themes of the Food Security Strategy

The main body of the strategy begins with making distinction between the chronic and transitory food insecurity. Chronic food insecurity is perceived as occurring because of overwhelming poverty indicated by a lack of assets while insecurity is acute when it is of a transitory phenomenon related to manmade and unusual shocks, such as drought. While one may theoretically separate between the two, it has been rightly stated that, they have no such difference in substance because had there been no serious poverty simple shocks of years wouldn't lead to the acute food insecurity.

Then, it puts forth the short and long term causes of food insecurity. Long-term factors, such as the interaction between environment, high population growth, diminishing land-holdings, and a lack of on-farm technological innovation have led to a significant decline in productivity per household. These trends have combined with the repeated effects of drought over the years, to

¹⁵⁴Pernille Sørensen (2003), The Need for Rural Diversification: Food-Security Policies and Non-Farm Development in the Amhara Region, Ethiopia, DIIS/GI.Kongevej Working Paper 03.11, December 2003, p. 11-12

substantially erode the productive assets of communities and households. A loss of community assets (e.g., pasture and forest) has led to increasing environmental degradation and increased the pressure on-farm, leading to declining investment in soil and water conservation practices. More importantly, households are less able to cope with shocks because they cannot accumulate savings (e.g., livestock holdings and food stores) even in good years.

After identifying the dimensions and causes of food insecurity as preliminary subject matters, the strategy moves to describe *its main essence* which is addressing both the demand (access) and Supply (availability) sides of the food security equation through three major pillars on which the strategy rests:

- To increase the availability of food through increased domestic production
- To ensure access to food for food deficit households; and
- To strengthen emergency response capabilities.

Increasing productivity is given priority in areas of dominance of rain fed agriculture, i.e. areas with adequate moisture. It is aimed to transform the present subsistence farming in to small-scale commercial agriculture by improving rural credit, markets, infrastructure and farmers' skill. Development of irrigation, dissemination of technology and resettlement programmes are the key strategic directions indicated to increase food productivity. While disseminating appropriate technologies and products for dry land agriculture is a focus of interventions in the moisture deficit areas in general, irrigation is made an integral part of the pursuit of food security in order to reduce dependency on rain-fed agricultural conditions and thereby increase the opportunities for year round agricultural production in particular.

Increase in agricultural production, economic growth and employment will add to food availability and increase income (and therefore entitlements) over the medium term. However, these factors are not enough by themselves to ensure sufficient food for everyone as growth is not likely to evenly distribute resources to the most vulnerable population. Three directions are put forth to fill the gap:

- a) Supplementary employment and income schemes linked with priorities for rural areas, in that they will contribute to the construction of roads, small-scale irrigation schemes.

water supply and sanitation needed to increase food production, reduce real food prices, and improve health. In urban areas, the program would focus on the rehabilitation of roads, construction of public facilities, building of flood control walls, and implementation of similar activities.

- b) Programmes designed to transfer resources to vulnerable targeted groups. These take the form of provision of inputs such as seeds and fertilizers to resource-poor farmers and loans to destitute women that will assist both groups to develop sustainable livelihoods or provision of cash transfers to orphans, aged and handicapped is also important.
- c) The most interesting of these schemes is the integration of nutrition and health interventions to a food access issue.

The third pillar on which the strategy stands is to strengthen the emergency response capacities of the country including the monitoring, surveillance, and early warning arrangements, the capacity for food and relief distribution, strategic reserves of food grains, and its analysis of the international food trade and aid situation. The purpose of the Emergency Strategic Food Reserve (ESFR) is to cover emergency requirements of food for about four month until food aid deliveries can be made available from abroad.

4.5.2. National Food Security Programme

The Food Security Programme (FSP) was designed to help chronically food insecure households reach a level of food security necessary for an active and health life. Three components are planned: resettlement, productive safety nets, and other food security interventions.

The main objective of the resettlement programme is to enable a number of chronically food insecure households attain food security within three years, through improved access to productive land in selected regions of Tigray, Oromia, Amhara, and Southern Nations, Nationalities, and Peoples Region (SNNPR). It's planned to mitigate negative social and environmental impacts that could result around resettlement sites and to provide re settlers with land, basic infrastructure (health services, water supply, primary schools, roads, etc.) in and around the resettlement sites to assure provision of services meeting at least minimum standards.

The Productive Safety Net Programme (PSNP) provides cash and/or food transfers to chronically food insecure households in ways designed to prevent asset depletion at the household level while creating assets at the community level. The programme will address chronic food insecurity while simultaneously requiring households to engage in sustainable productive activities and promoting market development by increasing household purchasing power. The PSNP consists of two components: (i) labor-intensive public works – for those households who can contribute labor – selected and designed based on local priorities and opportunities, and (ii) direct support for labor-poor households. The public works element is basically meant for community asset building including the rehabilitation of natural resources e.g. land, water and vegetation. The direct support component will help those who cannot participate in public works (i.e. elderly, chronically ill, etc).

The other food security intervention component of the FSP involves the implementation of a range of food security interventions financed by the government and international donors. The overall objective of this component is to enable up to five million chronically food insecure people (essentially PSNP beneficiaries) to attain food security within 3-5 years and improve the food security of 10 million other people within the same period. The three main donor-financed elements of this component are a Food Security Project and emergency drought recovery project, both funded by the World Bank (WB), and government budget support provided by the European Union (EU), earmarked for food security programming.

4.6. Food Security Implication of the International Reform Process regardless of Ethiopia's Accession

Even if the country does not accede to the WTO there are instances in which the reform process taking place internationally would have a bearing on the country's food security situation. This remains water at least in the short run, as far as the country continues to import large volume of food for its basic food needs. It would, thus, be wise to consider the effect that would be expected, despite the country remaining out of the arena of international trading rules. That scrutiny, following the three wings of the WTO AoA, is in order.

4.6.1. Market Access

One among the Food Security indicators at the national level is the ratio of Food import bill to the total exports revenue. This is an indicator of the ability of different countries to finance their food imports out of total export revenues, a measure of access to world food supply by individual countries. As indicated in Chapter Three of this study, this indicator, which has been utilized in different early studies of food security is more relevant for food security analysis than the net food trade position (i.e. food exports minus food imports), currently utilized to determine the category of NFIDC in the WTO.¹⁵⁵ Thus, a country is assumed to be food secure, even if net food importer, if food bill constitutes small share of its total export revenue. Export revenue will be boosted depending on the market access opportunity a country has to the market of other nations. Therefore, any arrangement that aims to create greater market access and thereby greater export revenue is presumed to boost 'trade based entitlements' to food security.

In this regard, regardless of its accession to the WTO, Ethiopia continues to use the preferential trade regimes (which are, obviously, more favorable than WTO MFN conditions) to have a better market access which enhances export revenue and from it trade based entitlements to food security. Ethiopia has had preferential market access to developed country markets under such schemes as the Generalized System of Preferences (GSP)¹⁵⁶, EU's Everything but Arms (EBA)¹⁵⁷ Initiative, and the African Growth and Opportunity Act (AGOA).¹⁵⁸ Apparently, therefore, Ethiopia's accession to the WTO may not bring about substantial change in terms of bolstering access to such markets and consequently in enhancing its trade base entitlements to

¹⁵⁵The indicator is more indicative of food security status because, a country could still be at a good food security status, even if it has higher food imports, compared to its total export revenue. For example, even if bulk food imports are made, China's Food import bill constitutes less than 2% of its total export revenue after 2000.

¹⁵⁶GSP is a scheme, in which permanent exception to the general MFN treatment is made in the WTO multilateral trading system, by which developed countries give a more favorable treatment to products from developing countries on non-reciprocity basis. The product coverage and extent of such treatment varies from one preference giver to another

¹⁵⁷EBA is a form of preferential scheme offered to only LDCs, which enables them to export any of their products, short of fire arms, quota free and duty free to the EU market.

¹⁵⁸ AGOA is an expanded preference from US GSP granted by the United States Trade and Development Act of 2000 to sub-Saharan Africa.

food security. Owing to the unilateral nature of the preferences which are usually sandwiched with non-economic reasons one may see the risk of withdrawal at any time. Thus, the accession can be argued to add predictability to this market access added with the SDTs found here and there in the WTO agreements.

However, on the face of absence of concrete WTO obligations in granting the SDTs to the Developing and LDCs¹⁵⁹, and the highly unlikely status of the withdrawal of the existing preference schemes, relying on the accession to bolster the predictability of the existing market access preferences would not be a standing argument. Withdrawal of the existing preference schemes appears to be highly unlikely because not only would such a move damage the reputation of the withdrawing country, there are also discussions going on as part of the Doha Development Agenda to convert unilateral preference schemes into multilateral and permanent schemes.¹⁶⁰ The real problem of the country in this regard, as has been repeatedly said, is the limited supply capacities rather than market access limitations.¹⁶¹ The other dimension of market access problems of the country are the SPS and TBT barriers to its exports. In the past years, Ethiopia failed to export a kilo of meat to the EU, not because meat is a fire arm to be disqualified from the EBA initiative, but because it failed to meet the requisite sanitary (SPS) requirements of the recipients. Commonly known challenges for expanding Ethiopia's exports include the concentration of few commodities with little value addition, inefficient production and poor infrastructural factors.

Yet, only by becoming a member of the WTO Ethiopia will be able to participate in the discussions about future conditions of market access for its exports. By remaining outside of the WTO Ethiopia would be barred from entering into these negotiations and representing its own

¹⁵⁹ Most WTO obligation incumbent on developed countries towards developing and LDCs were described by many authors to have been put in aspirational and political languages' than being concrete and enforceable legal obligations on the developed countries.

¹⁶⁰ Derk Bienen (2009), Preparedness of the Ethiopian Private Sector to Benefit from the WTO Accession, Trade and Development discussion Paper, Munich, July 2009, p. 4

¹⁶¹ The country's supply capacity suffers from various problems including poor infrastructural development, under developed processing sector, very limited usage of technology in production, and unskilled human power.

interests – while at the same time being affected by the negotiation outcomes.¹⁶² Remaining outside this multilateral trading effort also carries the risk of increasing cost of accession because as the country develops and individual income raises there will be more higher and stringent demand from WTO members to open up Ethiopian market. Part of the solution to the real problem i.e. the supply side constraints, could also be found from the accession as it creates policy confidence and attracts Foreign Direct Investment, which can diversify the production base and ensure both quality and quantity production. The increase in export revenue resulting from these arrangements would not only enhance trade based entitlements to food security, but also helps to accumulate the capital base of the country and tackle the problems currently hindering increased food production.

While an important commitment made in the Uruguay Round of trade talks, and reflected in the Agreement on Agriculture (the URAA), was the conversion into ordinary customs duties of the plethora of non-tariff barriers that had previously characterized international trade in agricultural goods, there are various concerns from developing countries that this obligation under the agreement has not been carried out in good faith by developed countries. This is manifested in the form of dirty tariffication and tariff escalations. Theoretically, whilst these mechanisms of protection are ineffective, rewarding inefficient firms in the developed countries, studies have indicated that LDCs should strive for the persistence of these protection mechanisms. This is because; such push for further liberalization erodes the preferential trade arrangements available to most LDCs. Preferential market access, provided through tariff advantages and/or tariff rate quotas, is important for the LDCs including Ethiopia for two reasons: First, a preferential margin may provide substantial “quota rent” to the LDC exporters (e.g. the case of the EU sugar preferential regime). Second, preferential margins, where substantial, can compensate for a general lack of price competitiveness vis-à-vis low-cost exporters, competing in the same market.¹⁶³

¹⁶²Derk Bienen (2009), *Supra* note 160, p. 5

¹⁶³Marlena Vlahatome-Tikof, WTO Negotiations on Agriculture, Technical assistance to support ACP country delegations in Geneva on the Post-July Framework Process (Focal Points 2) Contract No – 7 ACP – RPR – 753-Project No.13, p. 13

Thus, regardless of the country's accession, a drive towards abolition of tariff escalations would negatively affect Ethiopia, as the country's available preferences would be seriously eroded on the face of the country's underdeveloped processing sector thereby eroding her trade based entitlements to food security.

As far as export restrictions are concerned, most economists would agree that export restrictions of all kinds reduce food security because they discourage local producers and increase world market prices and according to the World Bank such policies tend to have a limited impact on domestic price levels, but significant negative revenue effects for domestic producers. They will, in addition, reduce food security in importing countries by reducing the quantities getting on to the world market. What is more important, here, is the disciplines on export restriction are much loose that accession could not be expected to bear major difference for net importing countries like Ethiopia. Beginning from GATT period, Article XI of GATT, paragraph 2, made a clear exception and licensed export prohibitions or restrictions temporarily applied to prevent or relieve critical shortages of foodstuffs. While the rationale of this exception is clear, it's open to abuses as when critical food shortages are said to exist is not clearly defined. The Agreement on Agriculture simply added the requirement of notice to the Committee on Agriculture under article 12. The recent modalities of the Doha round, the Draft Modalities of July, only makes a moderate change by adding 'A limit of twelve months to the duration of new export restrictions, or up to eighteen months if affected importing countries were to agree' to the notification obligation under the article 12 of Agreement on Agriculture. Thus, the difficulty that export restrictions represent to the Ethiopia's ability to access commercial imports on reasonable terms, can be said to exist regardless of the country's accession as the WTO rules on this regard are not far more than an obligation to mere notification of the application of such measure.

Therefore, the country's chance to boost its trade based entitlements to food security by effectively utilizing her preferential trade schemes, erosion of preferences that may come by a drive from net exporting developing countries that will affect the country's ability to finance its food imports, and the effect of export restriction by food exporters on the food security of the country happen from international negotiations even if the country is not part of the system.

Market access analysis under this heading does not cover the defensive market access effects i.e. the food security effects of opening domestic market to foreign imports, as they are more viable

to a discussion in the analysis of accession because the country would not be bound to open its borders. That will be done in the next sub topic, 4.7.

4.6.2. Domestic and Export Subsidies

Depending on whether the removal of the support will increase or reduce the output of the supported product, world price of a commodity decreases or increases. If the removal of domestic price supports by the OECD countries will lower output of agricultural and food products, and raise their price in the world markets, net food-importing countries like Ethiopia will lose as their food bills will no longer be supported by tax payers in the OECD countries. In some cases, however, the support may be given to induce farmers not to cultivate some proportion of their land. In this case, the withdrawal of support could expand output, lower the price and have exactly the opposite effect: importers of food like Ethiopia will benefit by the increased output and the resultant decrease in world price of foods. Accession of the country can't control this price effect of removal of support by rich countries.

Again, as in market access, the food security effects of being bound by certain level of domestic support commitments relates to accession and will be treated later in the next sub heading.

Depending on whether export subsidies were subject to countervailing measures, the removal of export subsidies by major food exporters, have a signal on food output and price. If the export subsidies were being countervailed, the net impact of the two measures is likely to be a transfer of the export subsidy from the exporting country government to the importing country government in the form of duty, without a significant effect on prices and output. The removal of the export subsidy will also result in the removal of the countervailing duty and the world supply will be unchanged. But, since the Agreement on Agriculture, itself, authorizes a huge sum of export subsidy legally, which are not subject to countervailing measures,¹⁶⁴ the reduction, which is more likely, or removal would increase world price of food by decreasing output and will certainly increase Ethiopia's food bill. This, too, happens regardless of Ethiopia's WTO accession.

¹⁶⁴ First, AoA makes agriculture the only sector where export subsidies are legal. Even so, the commitment is to reduction of a dual nature – quantitative (by only 21%) and budgetary (by only 36%) – on a 1986-1990 base period and over a six years implementation period and two third of this for developing countries.

4.7. Food Security Implication of Commitments to be taken under the text of WTO AoA and the Evidences from Accession Experience of Selected LDCs

After analysis of the food security effect of WTO negotiations even if Ethiopia is not a member to this multilateral trading effort, two tiers of analyses will continue under this topic. Since the arguments are intertwined I will make the two analyses together. The remaining two tiers are: analysis based on the commitments to be undertaken from the text of the WTO Agreement on Agriculture, and the other is based on the experience of acceded LDCs (Cambodia and Nepal). Thus, at the beginning, a brief note of the accession experience of Cambodia, as a first LDC entrant to the WTO, and Nepal with their major agricultural commitments, will made.

4.7.1. Cambodia's and Nepal's Accession Experience

Relevance dictates the discussion of only the experience as far as accession to the Agreement on Agriculture of these countries is concerned. Thus, as far as practicable, I will try to focus on the agricultural commitments made by Cambodia and Nepal up on their accession.

The Government of the Kingdom of Cambodia applied for accession to the World Trade Organization in October 1994. At its meeting on 21 December 1994, the Preparatory Committee for the WTO established a Working Party to examine the application of the Government of Cambodia to accede to the World Trade Organization under Article XII of the Marrakech Agreement establishing the WTO.¹⁶⁵ In May 1999 Cambodia submitted her Memorandum on Foreign Trade Regime (MFTR) to the Accessions Division of the WTO and based on this its four main trading partner countries submitted a series of questions. Cambodia's response to these was submitted them to the WTO Secretariat in November 2000, opening the way for the detailed accession negotiations, which commenced in May 2001 and which were completed a little more than two years later in July 2003.¹⁶⁶

¹⁶⁵ Sok Siphana(2009), Background Note: Cambodia and WTO: the first LDC entrant, LDCs Round Table on WTO Accession Phnom Penh, Cambodia Le Royal Hotel, Phnom Penh, Cambodia, 28-30 September 2009, p. 1

¹⁶⁶ Ibid

Nepal had formally applied for General Agreement on Tariffs and Trade (GATT) membership on May 1989. But Nepal's accession under the GATT was suspended after the GATT was transformed into the WTO in 1995. Subsequently, its observer status to the GATT was transformed into the WTO in December 1995 and Working Party was also established on the same date. Nepal submitted its Memorandum of Foreign Trade Regime (MFTR) in 1998 describing, among other things, its economy, economic policies, domestic and international trade regulations, and intellectual property policies.¹⁶⁷The queries and complaints from Working Party members were compiled by the WTO Secretariat and were forwarded to Nepal in January 1999. The first meeting of the Working Party was held on 22 May 2000 at the WTO Secretariat in Geneva. After this meeting, the WTO forwarded additional questions that were raised during the Working Party meeting and submitted in writing by the member countries. In its accession process, Nepal held five rounds of bilateral negotiations and attended three Working Party meetings. The fifth Ministerial Conference in Cancun approved the terms of accession of Nepal and offered membership.¹⁶⁸

Once completed the WTO contract that Cambodia has entered into has a far reaching effect. It will influence Cambodia's laws and regulations and that will, in turn, shape how the way Cambodian business operates.¹⁶⁹ The following is a trial made to summarize how these far reaching WTO commitments of Cambodia are negotiated. Evidences indicate that the country has been put under pressure of WTO members and has undertaken various onerous WTO plus demands¹⁷⁰ despite recognition of the need for positive efforts designed to ensure that developing

¹⁶⁷ Ratnakar Adhikari and Navin Dahal, LDCs' Accession to the WTO: Learning from the Cases of Nepal, Cambodia and Vanuatu, South Asia Watch on Trade, Economics & Environment (SAWTEE), Kathmandu, Nepal, p. 5

¹⁶⁸ Ibid

¹⁶⁹ IFC, World Bank Group, A Summary of Cambodia's WTO Agreement, Business Issues Bulletin Number 6, p. 2

¹⁷⁰ For instance, H.E. Mr. Cham Prasidh, Minister of Commerce and Chief Negotiator for Cambodia, on July 22nd 2003 on the adoption of Cambodia's accession package said, "This is a package of concessions and commitments goes far beyond what is commensurate with the level of development of an LDC like Cambodia. Nonetheless, we do accept the challenges, because we see the benefits of joining the world trading system". Available at: <http://www.ngoforum.org.kh/Development/Docs/Cambodia%27s%20Accession%20to%20the%20WTO.htm>, accessed on May 14, 2011

countries, and especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development in the system.¹⁷¹

Oxfam International argues that due to the pressure of other members, Cambodia had, for instance, to revise substantially its first offer on market access in agriculture and industrial products in April 2003 which is completely in contradiction with the pledge made by WTO members to exercise due restraint in demanding further market access concessions from acceding LDCs. The following table evidences the same.

Table 1 – Cambodia’s revised tariff offer

	Initial offer			Revised offer		
	Average bound tariff	Tariff peak	Minimum bound tariff	Average bound tariff	Tariff peak	Minimum bound tariff
Agricultural products	44	100	15	30.88	60	5
Industrial products	27.44	100	--	20.71	60	n/a

Source: Oxfam International, 2003

Overall, this means that the bound average tariffs of Cambodia have decreased from its initial offer by 25% to a level of 22.13% which is extraordinary low for an LDC. In terms of peak tariffs, Cambodia, a country where 80% of the population is employed in the agricultural sector, has been asked to provide less protection to its sensitive agricultural sectors than the US, the EU and Canada. The EU highest tariff peak on agriculture is 252%. In the case of the United States and Canada, it is 121% and 120% respectively.¹⁷²

¹⁷¹ Paragraph 2 of the Marrakesh agreement establishing the WTO reads: “...Recognizing further that there is need for positive efforts designed to ensure that developing countries, and especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development,”

¹⁷² Oxfam International (2003), Cambodia’s Accession to the WTO, How the Law of the Jungles is applied to one of the World’s Poorest Countries. Available at,

During the time of negotiation, Nepal's applied tariffs were very low on agricultural products (0–10 per cent). Nepal wanted to create a policy space for protecting the agricultural sector, should the need arise, by binding tariffs on agricultural products at an average of 60 per cent. However, developed Member countries opposed such proposal. Finally, Nepal was able to bind its average tariff on agricultural products at 42 per cent.¹⁷³

At the end, although WTO Members had agreed to “exercise restraint in seeking concessions and commitments on trade in goods and services from acceding LDCs,”¹⁷⁴ both Cambodia and Nepal ended up binding their tariff rates at very low levels compared to other LDCs and in some cases even developed countries. At 26 and 19 per cent, respectively, Nepal and Cambodia, have some of the lowest average bound rates among the LDCs (Bangladesh has the highest at 163.6 per cent). Similarly, Cambodia's maximum duty of 60 per cent is one of the lowest among the LDCs.¹⁷⁵

Table 2: Tariff bindings in Nepal and Cambodia

	Simple average bound rates			Maximum duty			Tariff binding coverage		
	Nepal	Cambodia	LDCs*	Nepal	Cambodia	LDCs*	Nepal	Cambodia	LDCs*
Industrial goods	24	17.7		200	43				

<http://www.ngoforum.org.kh/Development/Docs/Cambodia%27s%20Accession%20to%20the%20WTO.htm>, accessed on May 14, 2011

¹⁷³Ratnakar Adhikari, Navin Dahal and Manisha Pradhananga(2008), Ensuring Development-Supportive Accession of Least-developed Countries to the WTO: Learning from Nepal, SAWTEE, June 2008, p. 30

¹⁷⁴ General Council Decision on LDC accession

¹⁷⁵Ratnakar Adhikari and Navin Dahal, Making WTO member ship work for Least Developed Countries: Lessons from Nepal and Cambodia, Trade Knowledge Network - Southeast Asia, South Asia Watch on Trade, Economics & Environment, September 2008, p. 6

Agricultural goods	42	28.1		100	60				
Overall	26	19	64	200	60	151	99.4	100	55

* *Average of incumbent LDC members.*

Sources: WTO/ITC/UNCTAD (2007), Sok (2005). As is used by Ratnakar Adhikari and Navin Dahal (2008)

As far as negotiations on Subsidies are concerned, Cambodia has agreed to eliminate agricultural export subsidies by binding them at 0%. H.E. Dr. Sok Siphana, Advisor to the Royal Government of Cambodia, argues that Cambodia chose not to exercise its right to use agricultural export subsidies, as under the WTO Agreement on Agriculture LDC members can use this instrument.¹⁷⁶ However, Oxfam notes, Whilst Cambodia has no previous export subsidies for agricultural products, the Cambodian negotiator had resisted this provision, stating that under the Agreement on Agriculture LDCs were not required to undertake any commitments on export subsidies. Nevertheless, after sustained pressure, Cambodia complied with the demand.¹⁷⁷ Wherever the truth of the real interest of Cambodia lies, the undeniable fact is, this provision will effectively seal off Cambodia's right to introduce export subsidies on any agricultural product in the future should this be necessary in order to protect the livelihoods of poor farmers or achieve development priorities.

4.7.2. The Implications for Ethiopia

Above, we've noted that even if Ethiopia is not part of the multilateral trading system under the WTO, because of the existing good deal of market access through her preference schemes, the country can enhance trade based entitlements to food security, and threats to the same entitlements could be coming from erosion of preferences and export restrictions as they remain to be beyond the reach of the country regardless of its accession. This sub title analyzes the food security implications of acceding to the WTO AoA and the WTO plus demands that could be

¹⁷⁶Sok Siphana (2009), *Supra note*, 165, p. 2

¹⁷⁷ Oxfam International (2003), *Supra note* 172.

made depending on the experience of Cambodia and Nepal as the two first entrant LDCs to the WTO.

4.7.2.1. Market access

Under this heading, the food security implication of market access provisions of the Agreement on Agriculture will be analyzed and the experience of acceded LDCs will be elucidated to add evidence to the 'would be' analysis.

Food security is likely to increase if and when markets are more fluid as a result of liberalization, because solvent consumers, at least, can more easily obtain the cheapest available food. By so doing consumers of the food importing country will be more food secure by exposure to cheapest possibility of imports. As for the food producers, the reform process (and possibly also aid for food measures which will be seen latter) will influence their response capacity. When such lower tariffs are bound in WTO schedules they also give market operators and investors a longer-term perspective on which to base their decisions.

While cheap imports as a result of liberalization enhance the food security situation of at least solvent consumers, there is also a danger that low prices will suppress domestic price and production thereby leading to dependence on food import and a decrease in self-sufficiency. The problem will be more serious for developing countries and LDCs where two thirds of the population lives in rural areas, agriculture generates over one third of the gross domestic support and substantial percentage of export depend on agriculture.

The Agreement on Agriculture, in its market access obligation provisions, obliges countries to tariffication of the plethora of non-tariff barriers existing at the time of the Uruguay round and to progressively reduce the tariffied protections.¹⁷⁸ As described in chapter two in some detail, Least Developed countries have only the obligation to tariffication of any existing non-tariff

¹⁷⁸Developed and transition countries undertook to reduce tariffs by an average of 36%, 15% per tariff line and developing countries by 24%, 10% per tariff line. Such reductions are to be made by developed countries over a period of six years from 1 January 1995 and by developing countries in 10 years. (Paragraph 5 of the Modalities for the Establishment of Specific Binding Commitments under the Reform Program (MTN.GNG/MA/W/24 20))

barriers and are not obliged to make tariff reductions.¹⁷⁹ Thus, seen strictly from the legal text of the WTO Agreement on Agriculture, Ethiopia, as a Least Developed Country, is not required to make any tariff reduction and its obligation remains to be tariffication. As the country today employs virtually no non-tariff barriers to agricultural products, there will be no change that the country needs to introduce as a result of the accession.¹⁸⁰ Thus, there will be no significant threat to domestic food producing subsistence farmers from open borders.

The accession would be expected to bear a major difference when seen from the experience of LDCs, Cambodia and Nepal. As summarized above, both Cambodia and Nepal ended up binding their tariff rates at very low levels compared to other LDCs and in some cases even developed countries. At 26 and 19 per cent respectively, Nepal and Cambodia have some of the lowest average bound rates among the LDCs. Similarly, Cambodia's maximum duty of 60 per cent is one of the lowest among the LDCs. As show in table 2, the simple average bound rate for LDC members of the WTO is 56%. For Ethiopia, owing to today's low applied tariff (22.4% average agricultural tariff) one may argue that the country will not be asked to make further reductions and there will be no threat to domestic food production. One may even say that the country could negotiate a bound rate far better than it applies today. Because of the following reasons, however, the threat to domestic food production persists as a result of accession to the WTO:

¹⁷⁹ Paragraphs 13-20 of the Modalities for the Establishment of Specific Binding Commitments under the Reform Program (MTN.GNG/MA/W/24 20) enumerate different special and differential treatments. It's under this heading that developing countries and LDCs are treated differentially under paragraphs 15 and 16 read:

Paragraph 15- Developing countries shall have the flexibility to apply lower rates of reduction in the areas of market access, domestic support and export competition provided that the rate of reduction in each case is no less than two thirds of that specified in paragraphs 5, 8 and 11 above. Developing countries shall have the flexibility to implement the reduction commitments over a period of up to 10 years. Paragraph 16- The least developed countries shall be exempt from the reduction commitments.

¹⁸⁰ There are neither quantitative import restrictions nor import quotas. However, there are import prohibitions on items such as opium; ethyl alcohol, narcotic drugs, other spirits denatured or any strength, worn clothing and worn textile articles and rags. (See MFTR, p. 39)

(a) Cambodia use to apply similar (comparable) level of agricultural tariff before its accession to the WTO. Before its accession, in 2003, Cambodia's average rate of duty actually applied was 16.5 per cent. For agricultural products, Cambodia's simple-average rates actually applied in 2003 was 19 per cent.¹⁸¹ Similarly, Ethiopia has applied the following simple average agricultural tariffs since 1995 as shown in table 3.

Table 3 foreign trade policy indicators

TRADE POLICY (TP)	1995-99 [^]	2000-04 [^]	2005-08 [^]	Latest
Tariff Trade Restrictiveness Index TTRI (MFN applied tariff)		11.8	13.1	13.0 *
TTRI (applied tariff including preferences)		..	13.3	13.0 *
OTRI (Overall TRI, applied tariff incl. prefs.+NTMs)		..	14.7	13.8 *
MFN applied tariff - simple avg (%)	28.9	18.8	17.0	17.3
Dispersion (coefficient of variation)	0.8	0.7	0.7	0.7
Maximum rate (excl. alcohol and tobacco)	..	..	35.0	35.0
Agriculture - simple avg (%)	39.5	21.7	18.9	22.4
Nonagriculture - simple avg (%)	27.3	18.4	16.7	16.6
MFN applied tariff - trade weighted avg (%)	18.2	12.8	12.6	12.6
Applied tariff (incl. prefs.) - trade weighted avg (%)	18.2	12.8	12.6	12.6
Agriculture	31.1	13.6	15.7	16.0
Nonagriculture	16.0	12.7	12.4	12.3
Applied tariff (incl. prefs.) - production weighted avg (%)		..	..	..
MFN applied tariff escalation (finished % minus raw %)		..	8.0	5.3
Agriculture		..	8.8	7.8
Nonagriculture		..	10.3	8.1
Import duties (% of imports)		18.5	..	..
Tariff overhang (MFN bound minus MFN applied rate, %)		..	..	..
Bound tariff frequency ratio (% of total lines)		0.0	0.0	0.0 *
Non-ad valorem tariff frequency ratio (%)	0.1	0.1	0.1	0.0
Non-tariff measures frequency ratio (%)	0.6	..	..	..
Anti-dumping initiations	0.0	0.0	0.0	0.0
Overall GATS commitment index (0-100, best)		..	..	..

[^]Indicators shown are period averages (except for Trading across Borders rank: 2005-08 reflects 2008). "Latest" indicates 2008 (for Doing Business, LPI 2009), when not available, 2006 or 2007 (noted by *).

Source, Ethiopia: Trade-at-a-Glance Table, World Trade Indicators 2009/10, available at: <http://www.worldbank.org/wti2008>.

From 1995-1999 → **39.5%**, 2000-2004 → **21.7%**, 2005-2008 → **18.9%**, after 2008 → **22.4%**. Thus, one may expect similar level of average bound tariff and maximum tariff rates with what the country employs today, which will be with a very low policy

¹⁸¹ Sok Siphana (2009), Supra note 165, p.2

space than allowed to LDC members of the WTO. When such lower tariffs are bound in WTO schedules they give market operators and investors, mainly the Multi National Food Companies (MNC), a longer-term perspective on which to base their decisions. This may be a source of confidence for these foreign firms to dump cheap imports to Ethiopian market and displace domestic food production.

(b) Whilst the lower tariffs bound in the WTO schedules bring a confidence to Multi National Food companies to base their long term decision to import cheap food to Ethiopian market, the individual income growth of Ethiopians that would result from the current general economic growth of the country signals the increase in purchasing capacity of the population in the long run together with the cheapness of the imported food. That means, while the fixed lower tariff bound by WTO accession drives the supply side of cheap food import, the individual income increase in the country drives the demand side of it. Sadly, the fruits of the current growth of the country could be used to augment the import of cheap food to the country to the level it displaces domestic food production.¹⁸²

(c) Today's lower applied agricultural tariff has not brought major change because, in addition to the non-bound tariff of the country, which will by itself have the capacity to create suspicion in the mind of foreign firms the unilateral changes of tariff rates at any time the country wishes, the food security strategy contributes for their less participation so far. The food security strategy of the country gives great emphasis on domestic food production and, therefore, food self-sufficiency, which usually requires increasing the level of applied tariffs on imported food when imported food begins depressing domestic production incentives.

(d) The
Special Safeguard Provision of the Agreement on Agriculture, as a mechanism to rescue

¹⁸² Some authors argue that the Ethiopian community has a unique nutrition structure which will create difficulty to foreign firms to compete with domestic producers. However, depending on the margin of cheapness of imported food consumers can easily shift to consumption of imported foods.

domestic food production from foreign competition, can't be resorted to by Ethiopia as the country currently employs no non-tariff barriers which need tariffication.¹⁸³

Whilst these factors pose a threat to domestic food production as a result of the accession and push the country to be food self-reliant at best, there are various reasons why the country should continue to rely on food self-sufficiency strategy:

- ❖ The other sectors, industry or services, are underdeveloped and can't hold the mass population pulled out of agricultural food production. On the top of the underdevelopment of the other sectors, the farming community may not have the necessary know how to operate in these sectors.
- ❖ The abundant resources of the country dictate food self-sufficiency.¹⁸⁴The country can be net exporter of food and can benefit from. Otherwise, the resources which are made naturally conducive for food production would remain idle. Thus, even if, as some writers argue that, the fruit of specialization in agricultural may be small and greater bearing may be made to those on which we can earn higher foreign exchange, our potential which would otherwise remain idle, dictates out specialty in food production.
- ❖ That the dependence on food import should not be made a better option for food sovereignty of the country, even if it's assumed to lack comparative advantage on food

¹⁸³Even if the Special safeguard provision of the Agreement on Agriculture is applied without showing injury to domestic industry, as is in GATT, it applies only to tariffied border measures. The chapeau of paragraph 1 of article 5 of the agreement reads:

Notwithstanding the provisions of paragraph 1(b) of Article II of GATT 1994, any Member may take recourse to the provisions of paragraphs 4 and 5 below in connection with the importation of an agricultural product, in respect of which measures referred to in paragraph 2 of Article 4 of this Agreement have been converted into an ordinary customs duty and which is designated in its Schedule with the symbol "SSG" as being the subject of a concession in respect of which the provisions of this Article may be invoked, if:...

¹⁸⁴Out of the total land area of the country, 440,284 miles (1.1 million square kilometers) with which the country stood 9th in Africa, 66 per cent i.e. 290587 miles, is estimated to be suitable for agriculture. The country has abundant water resources, with huge irrigation potential. There are ten major rivers (7,000 km long) and lakes (7,400 square km in area). The country's annual flow of water is estimated at about 110 billion cubic meters whereas that of ground water is 2.2 billion cubic meters. The country has also potential for livestock development.

production. After all, the need to establish the required food sovereignty doesn't dictate that way.

- ❖ The export restriction discipline of the WTO system is too loose that one can't confidentially depends on imports because in extreme cases no one can force the exporting country to export especially in times of supply shortage. Beginning from GATT to article 12 of the AoA and to the draft modalities of 2008 the discipline on this area is loose.¹⁸⁵

4.7.2.2. Domestic Support

In the first part of the analysis under this chapter, it is noted that the food security effects of persistence or removal of domestic subsidies by the OECD countries on LDCs like Ethiopia happen regardless of the country's accession to the multilateral trading system. Under this heading, the food security effects the domestic support obligations of the WTO Agreement on Agriculture will be analyzed. First, the commitment that the country must take under the domestic support provisions of the agreement will be highlighted and their food security effect follows.

As has been discussed in chapter two, the Agreement on Agriculture doesn't make a complete prohibition, at least had no intention to prohibit, any of domestic support measures including the most trade distortive, amber box measures. It is only because all members of the time, except 35 countries, had not reported to have such trade and production distorting support measures during the base period (1986-1988) that the countries that had not employed such subsidies remained devoid of the right to do so. The original intention seems to subject domestic support measures which are most trade distortive, the amber box, to reduction while others would be free from any serious obligation. Thus, except for reduction obligation of trade distorting amber box measures other support measures are exempt from commitments.

Accordingly, the green box measures under annex 2 of the AoA, the blue box measures as specified under article 6(5) of the agreement, developmental measures for developing countries under article 6(2) of the AoA, and the *de minimis* support of non-exempt measures under article 6(4) of the agreement (5% for developed, 10% for developing countries of the value of domestic

¹⁸⁵ See Chapter Three of this study for the WTO disciplines of export restrictions.

agricultural production) are exempt from reduction commitments. Amber box measures are, obviously, required to be reduced.¹⁸⁶

The first issue in domestic support commitment for Ethiopia is as a Least Developed Country, the country is exempt from any reduction commitments (article 15(2) of AoA). Thus, even if it has administered the most trade and production distorting amber box measures Ethiopia is not required to undertake any reduction thereof. But, as opposed to the obligation that the founding members of the WTO assume under the agreements, since the accession of the new members depend on the 'terms to be agreed',¹⁸⁷ as set out under article 12 of the Marrakesh agreement establishing the WTO, it will be wise to see if there exists any domestic support measure the country employs which may be part of the nonexempt commitments under the WTO Agreement on Agriculture.

Before the regime change in 1991 and consequent economic liberalization through the IMF-World Bank supported Structural Adjustment Program (SAP), which was introduced in 1992/93, Ethiopia's agriculture was characterized by extensive government intervention. Notably subsidies have been effected through maintaining overvalued exchange rate and preferential interest rate on credit as well as direct budgetary support for agricultural inputs, especially for fertilizers.¹⁸⁸ On the other hand, crop prices were kept lower than their market value, using government parastatal marketing institutions, in order to ensure a staple and low food price for urban consumers.¹⁸⁹

The currently employed domestic support measures aim to improve the performance of agriculture whereby it will be possible to achieve the objectives of the strategy which are food

¹⁸⁶ See Chapter two of these study and the and annex 5 and 6 of Modalities for the Establishment of Specific Binding Commitments under the Reform Program (MTN.GNG/MA/W/24 20)

¹⁸⁷ Since the WTO is an inter-governmental organization which does not have any power to negotiate accession agreements with the aspirants, it is the Member countries that dictate the terms and conditions for such entry (Adhikari, 2002).

¹⁸⁸ Mohammed, Jemal (1995), Agricultural subsidy in a Liberalized Economy: The Case of Ethiopia, a paper presented on National Agricultural Policy Workshop, Addis Ababa(unpublished) as sited and used for the same purpose by Gashahun Lemessa Fura, Ethiopia's Accession to the WTO: Implications for the Agricultural Sector, p. 32

¹⁸⁹ Ibid

self-sufficiency, improvement of food security, substantial increase in agricultural exports, and sufficient supply of raw materials to domestic industries. These agricultural support measures are summarized under 'policies affecting foreign trade in agricultural goods' of the Ethiopia's Memorandum of Foreign Trade regime.

The specific support measures include: introduction of menu based extension packages to enhance farmers choice of technologies; expand borrowers, coverage of micro financing institutions; expand agricultural Technical Vocational Education Training (TVET); measures for the improved functioning of markets for agricultural inputs (fertilizer, seed, etc.) and outputs; organize, strengthen and diversify autonomous cooperatives to provide better marketing services and serve as bridges between small farmers (peasants) and the non-peasant private sector; strengthen agricultural research, extension, natural resource management, water harvesting, and small-scale irrigation; strengthen crop protection activities to reduce damage caused by migratory and non migratory pests through integrated pest management approach including indigenous practices and pesticide application; and improve production and productivity of livestock through strengthening animal health services, improvement of feed and nutrition and breeding practices.¹⁹⁰

All the support measures are part of the developmental measures and the exempt green box measures of the AoA. This is because, the above support measures are employed to encourage agricultural and rural development as an integral part of the development, and to subsidize agricultural inputs¹⁹¹ generally to low-income or resource-poor producers as set out under the developmental box in article 6 of the AoA, and falls in one of the listed exempt green box measures under annex two of the agreement. Therefore, there would be virtually no major change to be introduced to the country's domestic agricultural support regime as a result of WTO accession.

All the support measures that the country employs today, which are listed above, are one way or another decisive in the effort of the country to be food self-sufficient. They provide means

¹⁹⁰ MFTR, p. 49

¹⁹¹ Even if it is possible to subsidize agricultural inputs to resource poor farmers generally under the developmental measures under article 6(2) of the agreement, Ethiopia subsidizes only the improved functioning of markets for agricultural inputs.

towards achievement of the three pillars of the Ethiopian Food Security Strategy.¹⁹² The introduction of menu based extension packages to enhance farmer's choice of technologies; expanding agricultural Technical Vocational Education Training (TVET); measures for the improved functioning of markets for agricultural inputs; strengthening agricultural research, extension, natural resource management, water harvesting, and small-scale irrigation are essential to increase *food productivity*. Expanding borrowers, coverage of micro financing institutions; organizing, strengthening and diversifying autonomous cooperatives to provide better marketing services and serve as bridges between small farmers (peasants) and the non-peasant private sector are vital to enhance *access to food*. Finally, strengthening crop protection activities to reduce damage caused by migratory and non migratory pests through integrated pest management approach including indigenous practices and pesticide application is a good mechanism to strengthen the *emergency response capacity* of the country. Therefore, all the currently applied agricultural support measures are very important to the achievement of the three pillars on which the Ethiopian Food Security Strategy rests i.e. increasing the availability of food through increased domestic production, ensuring access to food for food deficit households; and strengthening emergency response capabilities.

If the country would make no major change in reforming its existing agricultural support measures because of WTO AoA domestic support commitments, there will also be no significant effect of this commitment on the existing food security situation of the country.

4.7.2.3. Export Subsidy

It's noted under the first analysis in this chapter that depending on whether export subsidies were subject to countervailing measures, the food security effect of the removal or persistence of export subsidies in major trading nations occurs regardless of the Ethiopia's accession to the WTO. Under this heading, analysis of the food security effects of the export subsidy commitments of the WTO AoA will be analyzed. In the same manner made for domestic support measures above, the export subsidy obligations under the agreement will be highlighted first and the analysis of their food security implication follows.

¹⁹² See section 4.3 of this chapter for details of the Ethiopian Food Security Strategy.

As has been noted in detail in chapters two and three, AoA makes agriculture the only sector in which export subsidies are legal. Falling short of prohibition, the agreement subjects the export subsidies listed under article 9(1) of the AoA to reduction of a dual nature: quantitative (by 21%) and budgetary (by 36%) – on a 1986-1990 base period and over a six years implementation period. Developing countries were required to undertake only two thirds of these obligations to be implemented over a period of ten years. As far as export subsidies not listed under article 9(1) are concerned article 10(1) of the agreement provides that they should not be used to circumvent the export subsidy commitments taken under article 9.

As in domestic support measures, LDCs like Ethiopia are exempted from reduction commitments. But for a similar reason I analyzed the domestic support policy of Ethiopia i.e. because accession depends on ‘terms to be agreed’ between the WTO members and a candidate country, export subsidy policies of the country should be analyzed. However, there are no subsidy measures for export of agricultural products employed by Ethiopia.¹⁹³ Consequently, there would be no visible change on the food security situation of the country as a result of the export subsidy commitments of the AoA.

Experience of LDCs who have acceded to WTO, as has been summarized above, shows that a number of countries, including Cambodia and Vietnam, are required to eliminate all forms of export subsidies. As per the text of the AoA, LDCs are not required to make any reduction commitment but only if they have maintained any such subsidy during the base period.¹⁹⁴ Thus, as members who had not shown to have export subsidies during the base period (1986-88) are not allowed to introduce it latter, and experience of other acceded LDCs dictate Ethiopia will not be allowed to hold any such subsidy, even if LDCs are said to be exempt. Therefore, because of the export subsidy commitments of the AoA, the country would be handicapped to apply any such measure even if the developments of the immense potential in the agricultural sector dictate that way. However, from strictly food security perspective, export subsidies for food products

¹⁹³ MFTR, p. 48

¹⁹⁴ Because under paragraph 12 of the Uruguay Round Modalities for Agriculture (MTN.GNG/MA/W/24), export subsidy commitments include undertakings not to introduce or re-introduce subsidies on the export of agricultural products or groups of products in respect of which such subsidies were not granted during the course of the base period.

ensure food security of another importing country, not the exporting country, by making food commodities available at cheaper price.

4.8. Food Security Issues Unfolding the Doha Round

The Uruguay Round Agreement on Agriculture included a commitment to start new negotiations on agriculture, the so called the inbuilt agenda, by the end of 1999 as the long term objective of the agreement, establishing fair and market oriented agricultural trading system, dictates the same.¹⁹⁵ The 1999 Ministerial meeting to launch this Round ended in failure in Seattle. In spite of the Seattle failure, negotiations started on agriculture and services in early 2000. Six 'Special sessions' of the Committee on Agriculture led to intensive discussions and a stock-taking in 2001.¹⁹⁶

In the late 2001, the Doha Declaration provided a better definition of the mandate for the agriculture negotiations.¹⁹⁷ The declaration specifically acknowledges that special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the Schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development.¹⁹⁸ Food security is distinctively mentioned as an important ingredient of the development needs of developing countries. During the same ministerial conference, the Doha, members decided to include the developments in agriculture negotiations under the Doha Development Round scheduled to complete as a part of a single undertaking by 1 January 2005. All the deadlines set in the Doha Development Round were failed and the Cancun

¹⁹⁵ The Agreement on Agriculture, Article 20.

¹⁹⁶ Giovanni Anania and Jean-Christophe Bureau(2005), The negotiations on agriculture in the Doha Development Agenda Round: current status and future prospects, *European Review of Agricultural Economics* Vol 32 (4) (2005), p. 540

¹⁹⁷ Paragraph 13 of the declaration reads: "... [The declaration] aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. "

¹⁹⁸ Paragraph 13 of the Doha Declaration

Ministerial Conference, September 10-14, 2003, ended without any ministerial declaration¹⁹⁹ mainly because developing countries stood as a relatively united group, in front of the rigid positions of the European Union and the United States on issues such as export subsidies, and, perhaps a more important stumbling block, cotton subsidies.²⁰⁰

After suspension of negotiations for the remainder of 2003, WTO members approved a Framework Agreement that includes major developments in the most contentious and crucial issue on July 31, 2004, usually called the July package or Framework agreement.²⁰¹ With a limited progress on the Framework agreement, which provides guidelines but not specific concessions, members established, at Hong Kong ministerial conference (13 - 18 December 2005) a deadline to establish modalities no later than 30 April 2006 and to submit comprehensive draft Schedules based on these modalities no later than 31 July 2006. On April 21, 2006, WTO Director-General Pascal Lamy announced there was no consensus for agreement on modalities by the April 30 deadline.²⁰² Current negotiations were on the latest draft modalities, the December 2008 draft Modalities for Agriculture. This latest Draft Modalities contains five sections and fourteen annexes and is structurally not much different from the WTO AoA, structured under the obvious three pillars.

Under the ongoing Doha negotiations, tariff reductions were agreed to be made on the basis of a tiered formula in which higher tariffs face deeper cuts. While this is agreed on the 2004 framework agreement,²⁰³ at the Hong Kong ministerial, members adopted four bands for structuring tariff cuts²⁰⁴ to subject different bound tariff level to different levels of tariff cuts.

¹⁹⁹ Uttam Deb and Muhammad Al Amin (2009), Current State of Doha Round Negotiations on Agriculture: Issues, Concerns and Strategies for Bangladesh. Centre for Policy Dialogue (CPD) Occasional Paper 85, p. 11

²⁰⁰ Giovanni Anania and Jean-Christophe Bureau, *Supra* note 195, p. 541

²⁰¹ Ian F. Fergusson (2008), World Trade Organization Negotiations: The Doha Development Agenda, CRS Report for Congress, p. 5

²⁰² *Ibid.*, p.6

²⁰³ Paragraphs 28-30 of the Doha Work Program, Decision Adopted by the General Council on 1 August 2004 (July Package), WT/L/579

²⁰⁴ Hong Kong Ministerial Declaration, WT/MIN/(05)DEC, December 2005, paragraph 7.

Following the adopted four bands, the December 2008 draft modalities has proposed agricultural tariff cuts of 50% - 70% through the four bands for developed countries and 2/3 lesser under each bands for the developing countries.²⁰⁵

Such a significant reduction in tariffs has a promising food security implication in the long run. While consumers in the net importing countries will benefit from cheap imports of food items even in the short term, the avoidance of trade distortion has a long term positive signal for food security as it paves the way for producing food where it can be efficiently done including for Ethiopia as the country can have exporting capacity in the long run.

There are, still, some exceptions to the tiered tariff reduction formulas adopted. Each developed country Member shall have the right to designate up to 4 per cent of tariff lines as "Sensitive Products" and Developing country Members shall have the right to designate up to one-third more of tariff lines as "Sensitive Products".²⁰⁶ Developing country Members shall be entitled to self-designate Special Products guided by indicators based on the criteria of food security, livelihood security and rural development.²⁰⁷ And, developing members are provided with the flexibility, in the form of special and differential treatment, to increase their tariffs beyond their bound limit as a Special Safeguard Mechanism (SSM) against an import surge or a price fall.²⁰⁸

From food security perspective, the designation of food items as "Sensitive Products" by developed countries have an effect of shielding inefficient food producers in the developed world and, therefore, implicates on the very creation of food insecurity problem. The usage of Special Products and SSM by developing countries as an extension of Special and Differential Treatment is positive, from food security angle, for net food exporting developing countries. But for net food importers like Ethiopia both measures have the effect of reducing the volume of food that will be available on the local markets and raise the price of food commodities.

²⁰⁵Revised Draft Modalities for Agriculture, December 2008, paragraphs 61–63.

²⁰⁶ Ibid, paragraphs 71&72

²⁰⁷ Ibid, paragraph 129

²⁰⁸Doha Work Programme, Annex A, paragraph 42; Hong Kong Ministerial Declaration, paragraph 7

The reduction in the overall trade distorting domestic support was agreed to be made on a tiered formula basis with the adoption of a framework agreement for negotiation of modalities in July 2004.²⁰⁹ The Hong Kong Ministerial Declaration developed three bands for reductions in Final Bound Total AMS and in the overall cut in trade-distorting domestic support, with higher linear cuts in higher bands.²¹⁰ Following the formulation of bands of reduction, the revised draft Modalities of December 2008 proposed to reduce trade distorting Domestic Support measures (Aggregate Measurement of Support, AMS) by 70% in the first band for members like EU having AMS over 40 billion USD, 60% for a support between 15-40 USD and 45% for all other members.²¹¹

Such an immense reduction in trade distorting domestic support programs by the EU, US and Japan has conventionally posed the threat that it will worsen the food insecurity conditions of food importing countries as the international price of food commodities will no longer be supported by tax payers in those rich countries. In this regard, a World Bank study projects that, setting other factors aside, the liberalization of agricultural trade in OECD countries will cause an 18% rise in the price of cereals in net food-importing developing countries, threatening the economic accessibility of food to the poor in these countries.²¹² However, these steps are the necessary prerequisites to the move towards fair and market oriented agricultural trading system, in which more food commodities will be produced in developing countries possessing the comparative advantage and feeds would be available on a market price. Thus, while the reform program poses some pain in the short run, they represent an enduring solution to the problem of food importers in the medium and long term. As such, while the massive reductions in the trade distorting domestic support measures is taken as a blessing, the Revised Draft Modalities for Agriculture has fallen short of providing disciplines regarding the support being provided for

²⁰⁹ Doha Work Programme, Annex A, paragraphs 6 & 7

²¹⁰ Hong Kong Ministerial Declaration, WT/MIN/(05)DEC, December 2005, paragraph 5

²¹¹ Revised Draft Modalities for Agriculture, December 2008, paragraph 13

²¹² Fantu Farris Mulleta (2010), The Quest for Affordable Food: Prospects in the Doha Round for Net Food-importing Developing Countries, African Institute of International affairs Development Through Trade Program, Occasional Paper Number 54, p. 16

biofuel production from food commodities. For net food importers like Ethiopia such reform is a loss in the short run and represents a gain in the medium and long run.

The Export Subsidies disciplines of the Revised Draft Modalities of December 2008 has made it clear that the remaining scheduled export subsidy entitlements shall be eliminated until the end of 2013 for developed countries and 2016 for developing countries.²¹³ From the Food Security vantage point, this contributes to the long term food security conditions by paving the way for productivity and competitiveness of food producers in developing countries.

But, what is worth mentioning as far as the export subsidy disciplines of the Revised Draft Modalities is concerned is the issue of international food aid. The Draft Modalities seems to divide international food aid in to non-emergency and emergency aids, presumably to subject the latter under less stringent requirements. While all food aid transactions are required to be made under the disciplines which ensure that they are needs-driven; in fully grant form; not tied directly or indirectly to commercial exports of agricultural products or of other goods and services; not linked to the market development objectives of donor Members; and agricultural products provided as food aid shall not be re-exported in any form²¹⁴, aids provided under emergency conditions enter the so called 'safe box'²¹⁵ and will not be subjected to those disciplines. Thus, the requirements set above, inter alia, the duty to care for market displacement effects of food aid are available in only non-emergency food aid situations. While one can comprehend the urgent food needs of the needy in emergency situations, the floppy nature of the food aid disciplines created by the Draft Modalities is further clear in the fact that any NGO, in addition to the more suited institutions like World Food Program (WFP) can make emergency appeal to set the 'safe box' in motion.

4.9. International Food Aid and its Implication for Ethiopia's Food Security (Incentive Structure)

While the establishment of World Food Programme (WFP) in 1962 and the signing of Food Aid Convention (FAC) in 1967 are praised for marking the beginning of multilateral food aid and

²¹³Revised Draft Modalities for Agriculture, December 2008, paragraphs 162 & 163

²¹⁴Ibid, Annex L, paragraph 2

²¹⁵Ibid, annex L, paragraphs 6-10

guaranteeing a predictable flow of aid every year respectively, a concern remains that a continuous in kind food aid practices translate into dependency instead of independence in recipient countries. The distortion affect at the national level, is that the increased supply will reduce the demand for local produce and will lower returns. This can affect future production decisions and have negative food security implications.²¹⁶ The incentive to produce food for the following seasons is taken away when farmers know that cheap food imports and food aid will flood their markets especially when food aid is given in kind.

Coming to the situation of food aid in Ethiopia, for the last two decades in particular, Ethiopia has become increasingly reliant on food aid to meet national food deficits. Over the last fifteen years the food insecurity situation has resulted in importing an average of 700,000 metric tons (MT) food aid per annum to meet food needs, among others, demonstrating the scale of the problem in Ethiopia.²¹⁷ In 1984-85, external food aid made up just over 26% of the total food availability in the country. Over the last decade, this has declined to an average of 10% of the volume of national cereal production.²¹⁸

In Ethiopia, various studies²¹⁹ confirm the existence of non-negligible food aid effects on local food prices. Harmful effects are most likely to occur when food aid arrives or is purchased at the wrong time, when food aid distribution is not well targeted to the most food insecure households, and when the local market is relatively poorly integrated with broader national, regional and global markets.²²⁰ In terms of threshold, Food aid shipments that constitute less than 10% of

²¹⁶ David Harris (2007), Food Aid and Agricultural Trade Reform, Australian government Rural Industries Research and Development Cooperation, RIRDC Publication No 07/136, August 2007, p.37

²¹⁷ The FDRE Food Security Strategy, 2002

²¹⁸ Ibid

²¹⁹ For instance see: Getaw Tadesse and Gerald Shively (2010), Food aid, food prices and producer disincentives in Ethiopia, November 2010, and also see, Meron Assefa Arega (2011), the Impact of Food Aid on Grain Prices in Ethiopia, February, 2011.

²²⁰ Ibid, Meron Assefa (2011)

domestic production appear to be benign, but shipments above this level show signs of being disruptive to local markets.²²¹

With respect to the relationship between the WTO disciplines and food aid issues, it is established that the target of WTO disciplines, as instruments of trade liberalization, should be only the market displacement aspect of food aid. Accordingly, as has been discussed in detail at the end of Chapter three of this study, the AoA tries to address the issue of food aid in two ways:

- a) **Article 10-** in which AoA requires that the provision of food aid shall not be tied to commercial exports of agricultural products to recipient countries, and that food aid transactions shall be carried out in accordance with the FAO Principles of CDCO and be made in fully grant form to the extent possible.
- b) **Article 16-** in which developed country Members are required to take such action as is provided for within the framework of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries.²²²

As far as these rules of the AoA help to shift in kind food aid to cash, they will contribute to avoid the unnecessary disruptions of food aid-supported programs in the country. Cash provision, if properly managed, would be conducive to the avoidance of market distortions and would encourage local production, e.g. by applying the recent modality of the Productive Safety Net Programme (PSNP). On the other hand, food for work is a plausible option that supports domestic development endeavors.

However, It is argued that article 10.4 AoA stands apart from other parts of the AoA because the disciplines on food aid are not enforceable and are merely provided in the hope that WTO Members will abide by them in good faith; Members who do not comply were not subject to retaliation under the WTO's Dispute Settlement Understanding owing to the unclear obligations, and in the case of 10.4(c) of the AoA are, even, framed in aspirational language.²²³ More, the

²²¹ Getaw Tadesse and Gerald Shively (2010), *supra* note 219.

²²² The details of the measures that the Marrakesh decision seeks to take are summarized at the end of chapter three of this study.

²²³ Simone Heri and Christian Häberli (2009), *Supra* note 117, p. 17

Marrakesh Decision, and through it, the entire WTO system on this issue, is shown to be ineffective as it suffers from both legal and institutional deficiencies.²²⁴ Thus, there is a minimal effect that would result from the accession as far as addressing the domestic distortion effect of food aid is concerned.

²²⁴ For a brief discussion of the two defects of the Marrakesh decision, See, Melaku Geboye (2001), *supra* note, 85

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

5.1 CONCLUSION

Economic globalization, as one of the defining features of today's world is, by and large, characterized by high levels of international trade and foreign direct investment. The law of the World Trade Organization (WTO) is currently the most ambitious effort to manage and regulate the most important part of the current world's defining feature, international trade. Despite the fierce debate on the worthiness of the WTO system in general terms, almost all global trade players are part of the system and a number of outsiders are applying for membership which is to pass through rigorous screening and negotiation process. Thus, it would be wise to conclude that the decision to join the WTO by countries reflects issues that transcend specific reasons and encompass aspects of not only extracting benefits in terms of socio-economic development (by boosting export-oriented production and attracting investment), but also addressing the demands and impacts of rapid globalization and trade liberalization. That means it is only when seen from the angles of both the straight forward economic and non-economic reasons that rationale for accession can be fully justified and became sensible.

Considering the inevitability of being part of this global endeavor and fully convinced of the fact that the best way to accelerate economic growth and development is to integrate its economy into the multilateral trading system, the Ethiopian government applied to membership of the WTO on January 13, 2003. The General Council established a Working Party to examine the application of Ethiopia on 10 February 2003. Ethiopia's Memorandum on its Foreign Trade Regime was circulated in January 2007. The Working Party on the Accession of Ethiopia held its first meeting on 16 May 2008 to begin the examination of Ethiopia's foreign trade regime. After 3-year break, the second Working Party meeting was held recently on 6 May 2011 to re-launched the accession talks that started in 2008.

WTO accession means almost everything to an acceding nation owing to the wide area the rules cover. They enter in to, almost, every human business life. When it comes to Ethiopia, Agriculture means everything: it is the source of employment for over 85% of the population, 87% foreign export earnings and contributes 45%% to the GDP. Thus, if the rules of the multilateral trading system are to have some effect on the country's agricultural sector, there would be a vividly visible effect on the overall performance of the country's economy. More, the important role that the country's agriculture plays in an effort to ensure the food security of its population is an evidence to the fact that the policy changes that will come on the Agricultural sector of the country as result of the WTO Agreement on Agriculture will, no doubt, have an impact on food security situation of the country. The examination of implication of WTO AoA on Ethiopia's food security situation is, therefore, what triggered this research. That requires the scrutiny of international trade in Agriculture during the GATT and WTO first.

During the GATT period, the subsidies and quantitative restrictions provisions of the agreement together were enough to keep agriculture effectively out of the existing discipline of international trade for non-agricultural goods. They basically licensed countries to: subsidize their farmers to the extent they wished; provide border protection as desired; and export the surplus thus generated with export subsidies. The Uruguay Round AoA, which was negotiated during the Uruguay round of trade negotiations (1986-1995), is considered as a remarkable move in disciplining agriculture in the three pillars of: market access, domestic support and export subsidy, in a way the three pillars explain the structural defects of GATT in disciplining international trade in agriculture. While, still, AoA makes agriculture the only sector in which export subsidies are legal, a substantial move in disciplining agricultural trade has been made in obligation to tariffication of the plethora of non-tariff barriers to agricultural trade, reducing the tariffied border protections and in reduction of the most trade distorting amber box domestic support measures.

For no country is self-sufficient on production of entirety of its needs owing to difference in factor endowments and since a trial to that effect ends up in inefficiency, international trade has become a tool with which needs and efficiency will be attained, at least theoretically. In the same line of thinking, for different reasons, based on comparative advantage or otherwise, countries rely on international trade, although at different levels, to import or export food products. It's this

reliance of countries on international trade that establishes the foundation for the link between international trade and food security. The following paragraphs summarize the links in specific terms.

First, one has to always be conscious that trade regulations cannot, by them self, solve food insecurity, but they enhance or reduce the contribution of trade to food security. Security in food is a combination of various factors of which international agricultural trade in general and trade in food staples in particular are important. Food Security is best ensured through the right combination of production, trade and (where appropriate) aid policies. That's why most food security strategies, including Ethiopia's, make their prime concern on food production, and when lacking a comparative advantage in food production, shift the focus to food trade (imports), and food aid policies appearing as emergency mechanisms in both policy objectives.

The production incentives, availability of food, and price of food items are determined on market access rules of a country and its trade partners. Domestic support policies, usually employed by the OECD countries, determine the output (the amount of food available) at the international market, the price of food items and the strategy to be followed by international food aid organs. Export subsidy measures of countries determine whose food items are available for sale on the world market in which the absence of these forms of subsidies signals on availability and price of food items in the international market.

As far as Ethiopia's Food Security is concerned, Policies of international trade in Agriculture are expected to have an important bearing on the terrible food security conditions of the country as commercial food imports and food aid cover far more than insignificant percentage of the country's annual food needs. First, the chance to boost its trade based entitlements to food security by effectively utilizing her preferential trade regimes, erosion of preferences that may come by a drive from net exporting developing countries that will affect the country's ability to finance its food imports, and the effect of export restriction by food exporters on the food security of the country happen from Market Access reforms even if the country is not part of the system .i.e. regardless of the country's accession. From the subsidies side too, the food security effects of persistence or removal of domestic subsidies by the OECD countries on LDCs like Ethiopia happen regardless of the country's accession to the multilateral trading system.

The Food Security effects of accession to the WTO AoA and the analysis based on the accession experience of LDCs differ based on the commitments to be undertaken under the three pillars of the agreement: Market Access, Domestic Support and Export Subsidies.

Under Market Access commitments, even if the country may not be required to make further reduction to its currently applied agricultural tariff, de facto liberalized, there still exists a chance in which domestic food production could be under threat:

- a) When the existing lower tariffs are bound in WTO schedules they give market operators and investors, mainly the Multi National Food Companies (MNC), a longer-term perspective to dump cheap imports to Ethiopian market and displace domestic food production.
- b) The growth of domestic individual income drives the demand side of imported food, and
- c) The Special Safeguard Provision of the Agreement on Agriculture, as a mechanism to rescue domestic food production from foreign competition, can't be resorted to by Ethiopia as the country currently employs no non-tariff barriers which need tariffication.

While as an LDC Ethiopia is not required to make any reduction commitments both under the domestic support and export subsidy commitments of the AoA, experience of LDCs who have acceded to WTO shows that a number of countries, including Cambodia and Vietnam, are required to eliminate all forms of export subsidies. Owing to the fact that the country had never employed any such subsidy during the base period (1986-88), it would not be allowed to introduce it. Thus, as a result of the Export Subsidy commitments of the WTO AoA, the country will be handicapped to make any such subsidy even if it is believed to be vital for agricultural development in the future.

As far as the rules of the AoA help to shift in kind food aid to cash, they will be contributive of avoiding unnecessary market disruptions effects of food aid-supported programs in the country. However, owing to a loose discipline of international food aid in the WTO system, there is a minimal effect that would result from the accession as far as addressing the domestic distortion effect of food aid is concerned.

5.2 RECOMMENDATIONS

5.2.1. GENERAL RECOMMENDATIONS

The following series of specific measures must be taken, in view of the analysis made above, to enhance the contribution of agricultural trade in the WTO to food security of the country or, at least, avoid any harm coming to its food security situation.

First, it has to be noted that trade regulations and policies cannot, by them self, solve food crises, but they enhance or reduce the contribution of trade to food security. Security in food is a combination of various factors of which international agricultural trade in general and trade in food staples in particular are important. Food Security is ensured through the right combination of production, trade and (where appropriate) aid policies. Stated differently, diversification of entitlements (from production-based entitlements, trade-based entitlements and transfer-based entitlements) is an important tool through which any state including Ethiopia can promote food security. Thus, the expectation is limited to see a contribution, if any, that the trade regulations could bring to the food security situation of the country.

To the extent international trade in agricultural products affect the food security of the country, the following series of measures should be taken with utmost care.

Primarily there are measures that the country should take in complimenting the push that all acceding LDC make towards:

- ❖ Making Article XII of the WTO be interpreted with clear-cut guidelines detailing transparent criteria for accession of a country or a separate custom territory and the incorporation of a specific provision for the accession of LDCs, where the LDCs, seeking accession, will not be required to undertake bilateral negotiation on market access;
- ❖ Making commitments of LDCs commensurate with their level of economic development, capacity and their trade and financial needs, and not be required to undertake higher level of commitments than those made by the founding LDC member countries of the WTO;

- ❖ Driving member countries of the WTO to provide technical assistance to the acceding LDCs to implement the commitments they have been asked to make by the existing member countries at the time of the formers' accession to the WTO; and
- ❖ More importantly, reaffirming the importance of the agricultural sector in the economies of LDCs, particularly its role in human development, food security and rural development, so that LDCs should not be required to make commitments on subsidies and tariffs and should also have access to simplified safeguard mechanism;

While the above are general efforts that need to be made along with all interested countries, the government of Ethiopia should take the following specific measures:

- a) As the country's future food security hinge on going away from rain fed agriculture to irrigation and modern means of productions, which require the country to have a policy space to pursue its food self-sufficiency strategy, negotiators should take care of not losing these policy spaces through very low tariffs which could displace domestic production. They should strive not to give up the country's right to use support mechanisms important to increase productivity. This is because, the accomplishment of the food self-sufficiency strategy normally requires increasing tariffs when foreign imports unduly threaten domestic production or may require giving various subsidies. From strictly legal point of view, however, the WTO AoA provides sufficient policy space to do so as LDCs are exempt from tariff reduction, and various domestic support measures in the form of green box and development box provide a good deal of opportunity. However, as has repeatedly been noted, accession is the result of negotiation. This has been articulated in this study from the accession experience of Cambodia and Nepal. The strategies that may help to have enough policy space to meaningfully pursue the country's Food Self-sufficiency strategy during the negotiation to the author's mind are:

- To make a convincing case in the negotiation process, the country should introduce domestic support measures which may be important in the long run development of the agricultural sector. This not only becomes persuasive to any negotiating country by glaring Ethiopia's need to adopt such measures to ensure its food security, but also helps the country itself to have a practically tested

experience of the needed policy space, to meaningfully appreciate the importance of adopting such measures and well articulate the country's interest in various negotiation fora.

- For the same reason made above tariffs should also be practically raised above the very low level currently applied to the level necessary to protect domestic production in the long run. In addition, tariffs serve as the only practical protection mechanisms for Ethiopia since the country may not be able to subsidize its farmers in the short run.
 - At the market place you earn what you negotiate, not what you deserve. Thus, the country should equip its negotiators with the requisite knowledge, expertise and diplomatic experience to secure the best out of the available opportunities.
- b) After everything possible to have enough policy space in the form of higher bound tariffs and having favorable commitments on the area of subsidies is made, as a negotiation there could be some interest that the country would be required to give up to negotiators of other nations. This is naturally a consequence of negotiations. In such a case, whilst a significant threat to crop farmers of the country is likely to be true if the current low tariffs are to be bound by the accession, the government should work towards increasing the production capacity of local farmers to stand competition. This, of course, is not an option which will be left out until the results of WTO negotiations are known. It is, always, a home work that awaits the country not only to the agricultural sector but on all sectors in which WTO commitments bear influence. In this regard, while a good progress has been observed as the fruits of the Food Security strategy (1996, 2002) by the reduction seen in the share of Food Aid and imports to total grain production in the country, there has to be a more rigorous plan and implementation to increase crop production capacity of Ethiopian subsistence farmers. Infrastructures for modern irrigation has to be adopted and put to use in large scale to get rid of the rain fed agriculture of the country, off farm income opportunities for farmers, especially for those cash crop producing areas, should be developed, productive seeds and fertilizers should be provided sufficiently and on time to the farmers, and rural markets should be integrated both to bridge the supply gap in food deficit areas and intensify production in surplus producing regions. More generally, the country's immense potential paves a half

way, in an endeavor to developed crop production and curb the chronic food insecurity in the country.

Increasing food production capacity of the country is justified not only to fill the pitfalls of negotiations, but also, the deeper liberalization measures to be taken at the Doha round, as envisaged by the Modalities of December 2008, are likely to raise international price of food commodities. Thus, reliance on international food imports or food aid would become costly.

- c) If again any threat which competitiveness of domestic farmers can't overcome happens, the legal and institutional frame work for the general safeguard measures in the WTO system like anti-dumping and countervailing measures should be put in place. Additionally, Special Safeguard Measures and Tariff Rate Quotas should be used to reduce the risk of a potential surge in imports.

In sum, in addition to complimenting the push that all acceding LDCs make to create a smooth leveled field commensurate with their development needs in their accession process, Ethiopia should exert a paramount effort to secure the necessary policy space for the growth of the country's agricultural sector, further strengthen the production capacity of its persistence farmers to fill any loopholes coming out of the negotiation process and prepare the requisite base to make use of safeguard measures for any risk beyond competitiveness.

5.2.2. SPECIFIC RECOMMENDATIONS

From Food Security perspective, even if the country doesn't accede to the WTO, it will continue to face the following difficulties to its troubled food security situation from the trade liberalization reform processes taking place internationally:

- The liberalization that is to be expected from the Doha Round has aimed to eliminate Export Subsidies and drastically reduce Domestic Support measures in OECD countries. These reforms, regardless of the Ethiopia's accession, increase her food import bill, which is already high, and risks the availability of emergency food aid.
- The same liberalization in the area of Market Access which substantially reduces tariffs on tiered formula basis is a danger if it goes deep to the preferential tariff arrangements of

the country which results in preference erosions. This process reduces foreign currency earning and makes commercial food imports difficult.

- If export restriction disciplines of the WTO AoA are not tightened, even if the country does not accede to the system, there will be a problem of smooth commercial food imports from the international market for there will be scarcity of food items on the market.

On the other hand, the following points should be noted as far as the accession to the WTO Agreement on Agriculture of the country is concerned:

- a) As the time goes far, the costs of acceding to the WTO will increase. This is because as the country grows economically and individual income raises, there will be a stiff demand for market access from other WTO member countries negotiating with Ethiopia.
- b) Part of the solution to the real problem of the country i.e. the supply side deficiencies, could also be found in the accession as the accession facilitates Foreign Direct Investment which can help to diversify the production base of the country.
- c) As a country endowed with land, labor and other natural resources helpful for agricultural development and as a country aspiring to be a middle income earner, the liberalization measures in the WTO system are also helpful in the long run.

Therefore, while there are food security effects of international trade liberalization measures regardless of the country's accession, there is also a room, though scanty, in which the country's food security could benefit from the accession.

The Domestic Support provisions of the WTO AoA provide a sufficient policy space to continue the current support schemes the country employs to the agricultural sector. Among these flexibilities available under the agreement are: LDCs are exempt from any tariff reduction commitments, developmental measures under the development box are exempt for developing countries in general from calculation of total AMS, and the green box measures are exempt for all. Even if the support to be provided can't fall in any of the exempt measures, which is unlikely, the trade distorting amber box measures can be used by complying with the deminimis

level (10% of total production). Currently Ethiopia uses only few of the exempt support measures which showing that there is still much to exploit the flexibilities available.²²⁵

From purely food security view point, export subsidies do not help the subsidy granting country. It, rather, awards lower food price to the importing country, even if it may act as disincentive to domestic production of such importing countries. Thus, even if Ethiopia is assumed to have the financial capacity to grant export subsidies to its agricultural producers, that will not be helpful, at least, from food security perspective. What the country should strive to achieve is the abolition of this type of subsidies altogether because though it raises international food prices in the short run, it will help the country in the long run by allowing production of food items at the place they can be made most efficiently.

The visible risk to the long run food security of the country comes from binding the existing lower tariffs. If the already lower tariffs of the country are bound, they provide a policy confidence to, inter alia, Multinational Food Corporation to dump cheap food imports to the country. While the fixed lower tariff bound by WTO accession drives the supply side of food dumping to the country, the current individual income increase in the country drives the demand side of it. Sadly, the fruits of the current growth of the country could be used to augment the import of cheap food to the country to the level it displaces domestic food production. This becomes more painful as the country can't use the Special Safeguard Provision of the Agreement on Agriculture, as a mechanism to rescue its domestic food production from foreign competition, because the country currently employs no non-tariff barriers which need to undergo tariffication process. The Special Safeguard Mechanisms of the WTO AoA are available to countries which have undergone the process of tariffication.

The experience of the first two acceded LDCs, Cambodia and Nepal, in this regard, signals the need for serious caution. At 26 and 19 per cent respectively, Nepal and Cambodia have some of the lowest average bound rates among the LDCs. As shown in table 2, in Chapter Four above, the simple average bound rate for LDC members of the WTO is 56%. Acceding LDCs countries are required to carry a draconian responsibility than the LDC members of the WTO. These countries use to apply similar lower level of average tariffs with which Ethiopia applies today.

²²⁵ Refer back Title 4.7.2 in general and 4.7.2.2, specifically, of this study for the agricultural domestic support measures of Ethiopia and their compliance with the WTO Agreement on Agriculture.

Before its accession in 2003 Cambodia had an average applied agricultural tariff rate of 16.5% which is comparable with 22.4% which is Ethiopia's average applied agricultural tariff today. Finally Cambodia was able to have a bound agricultural tariff rate of 28.1%. With this trend no more better could be expected for Ethiopia. Therefore, for the reasons reviewed in chapter four above (sub title 4.7.2.1), the writer would like to give due attention again, that there will be a threat to the food production base of the country. Thus, using the strategies tried to be indicated in the first part of recommendation of this study, the country should strive to secure the higher tariff level available to LCD members of the WTO during the negotiations.

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