Market Access for Agricultural Products

Bindu Samuel Ronald

The School of Economic and Business Laws
West Bengal National University of Juridical Sciences
KOLKATA

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Bindu Samuel Ronald*

The aim of this paper is to analyse the implications of signing the WTO agreement on market access for agricultural products. An attempt will be made to assess whether exports of Indian agricultural produce have increased post WTO period, as contemplated, or whether the signing of the WTO has opened the Indian markets to cheaper agricultural products from other countries, thereby creating a surge in agricultural imports and in the process harming the domestic farmers.

This paper has been divided into three sections. Section I outlines the process of globalisation and liberalisation of agriculture. Section II highlights the role of WTO and deals with the import of agricultural products into India and the export of Indian agricultural products to the world markets. Section III discusses the road ahead and offers suggestions relating to market access for Indian agricultural products.

* The views expressed in this paper are those of the authors and do not necessarily reflect the views of GOI, UNDP or IIPA.

1

Globalisation and Agriculture

Introduction

The process of 'globalisation' amalgamates a country's economy with that of the world. Globalisation and liberalisation were intended to bring about expansion, prosperity and economic growth, with trade playing a significant role in the economic growth of any country.

The multilateral scaffold of international trade originated with the end of World War II. The major trading countries of the world erected protections, which made governments sentient to the need for multilateral discipline in the field of international trade. This resulted in the formulation of the Havana Charter, which, without endorsement by UK and US, remained unexecuted. However, the international trade chapter of the Charter was taken out and converted into the GATT in 1947, which was subscribed to by 23 countries including the US but GATT was not an organisation, it was only an agreement. Its implementation was administered by the Interim Commission for the International Trade Organisation (ICITO), which was the formal organisation located in Geneva. Nevertheless, GATT continued to be the international economic front though it had no formal identity as an inter-governmental organisation. The GATT has been reinforced and complemented from time to time. The latest of such efforts has been in the Uruguay Round of Multilateral Trade Negotiation, which resulted in the establishment of the World Trade Organisation, having the formal status of an inter-governmental organisation that had not been available to the GATT. The original GATT treaty (GATT 1947) covered a wide array of trade related domestic policies within its ambit. Yet, at the same time, governments were left with substantial discretion in the administration of such policies. Such discretionary power led to the adoption of biased trade measures on the part of governments. This resulted in contraction of market access opportunities in the international market.

Agreement on Agriculture

Disciplines in the field of agriculture have been quite malleable compared to the general disciplines in GATT 1947 in respect to market access, domestic and export subsidies. There were certain inherent defects in GATT 1947; it did not specifically apply to agricultural trade and contained many loopholes. It allowed countries to use non-tariff measures such as import quotas and subsidies. In such a scenario trade in agricultural products between countries became highly distorted. Each country tried to protect its domestic market by erecting high barriers in trade in agricultural products, which sort of insulated the markets from external trade.

It was strongly felt that in the absence of a dogmatic mechanism, the nationalistic behaviour of trade strategy adopted by the trading partners of the world would result in a war like situation in imposing tariffs, providing subsidies, indulging in dumping of goods, retaliating by imposing countervailing duties and anti-dumping measures. It was felt that soon, many countries would further resort to restricting trade by means of non-tariff barriers. The subject "agriculture" found an important place in the Uruguay Round of multilateral trade negotiations and the final outcome was the "Agreement on Agriculture" (AoA). The AoA is an integral part of the WTO agreement and contains new disciplines in the sector of agricultural trade and tries to remove the defects of GATT 1947. The long term objectives of the negotiations as set out in the Punta del Este Declarations were to establish a fair and market-oriented agricultural trading system and to initiate a reform process through the negotiation of commitment on support and protection and the establishment of strengthened and more operationally effective GATT rules and disciplines.

Some industrialised and developed countries, which are big producers and exporters of agricultural products, have been maintaining high levels of protection and support for their domestic producers and also high levels of subsidies. This has naturally hurt other major exporters of agricultural products. The WTO tried to bring down the disparities in the playing field of different countries.

It is impossible for any country to be completely self- sufficient. If every country could be self-sufficient and produce all the things it needed (whether goods or services) with the same cost effectiveness and efficiency as another country, then there would be no need for trade and international markets. Since there are considerable differences between countries, it is more advantageous and beneficial for countries to enter into an exchange, with each one specialising in the production of those goods or services, in which it has a comparative advantage and this holds good in agriculture too.

The playing field in the case of agricultural products is highly skewed and it has always been considered the most distorted sector of international trade, where the rich and the developed countries have always had the upper hand. The developed and the rich countries of the world have the ability to subsidise agriculture and are in a position to artificially lower their prices and sell their produce. In the process they are undercutting the market for the developing countries' producers. All the different countries of the world are not on the same footing, but are at different levels of development, which makes fair competition between them very difficult and unbalanced. Every country whether developed or developing or underdeveloped, tries to protect its domestic market by erecting high barriers in the form of tariff and non-tariff restrictions, to cushion its competitiveness in the world market.

India became one of the founder signatories of the WTO in the Uruguay Round of GATT in 1994. One very important change launched by the Uruguay Round agreement was "Trade in Agricultural Products", which was to deal with barricades and distortions, primarily affecting developing countries' trade. The Uruguay Round negotiations brought a new quality to the international trading environment, especially in the agricultural sector. The AoA forms a component of the final Act of the Uruguay Round of the multilateral trade negotiations, which was signed by member countries in April 1994 at Marrakesh, Morocco and came into force on 1st January 1995. The agricultural sector has been playing an important role in international trade and in the changed market scenario under the WTO; and in the milieu of the AoA, international trade in agriculture has assumed a larger significance.

Free and fair trade in agricultural products is considered to be the fundamental guiding principle of the AoA. The objective of the AoA has been to bring about some sort of 'discipline' in an otherwise distorted and unregulated sector of trade and to make policies in agricultural trade more market oriented. It aimed at giving more predictability, certainty and security for both the importing and exporting countries, which is very important, as transparency brings about more confidence in the traders. The AoA is indeed a noteworthy preliminary step towards 'fairer competition' and a 'less distorted' sector. The WTO Agreement on Agriculture together with individual country's commitments to reduce export subsidies, domestic support and import duties on agricultural products are significant steps towards reforming agricultural trade between countries.

In respect to the agricultural sector, the provisions of this agreement override the provisions of GATT 1994 and those of other WTO agreements applicable to trade in goods. Hence, if a conflict arises between any provision of this agreement and any provision of GATT 1947 or a WTO agreement applicable to trade in goods, the former will prevail.

Areas of Commitment

There are three main areas of commitment in the AoA, viz.

(1) Market access, i.e., the disciplines on import restraints and import limitations;

(2) Domestic support i.e., support by governments to domestic producers; and

(3) Export subsidies i.e., support by governments to export.

The formula, which formed the basis for the members' quantitative commitments are not contained in the agreement; these were decided as agreed modalities in December 1993. These modalities prescribed the base reference levels for the three fields of disciplines and the extent of the reduction in tariffs, domestic support and export subsidies, which members were expected to achieve. Though agreed modalities themselves do not form part of the agreement, they formed the basis for the quantitative commitments made by various members, which after scrutiny were included in the schedules of members and became enforceable (Bhagirath Lal Das, 1999).

Market Access under AoA

A significant objective of the world agricultural trade restructuring is to develop market access opportunities crossways for products and countries. Market access includes tariffication, tariff reduction and access opportunities. It was considered that the process of tariffication and reduction in tariffs would provide market access to products from efficient producers of agricultural commodities. Member countries made commitments to reduce their tariffs up to a certain level. Under the provision of market access under AoA, ordinary tariff including those resulting from their tariffication are to be reduced by an average of 36 percent with a minimum rate of reduction of 15 percent for each product over a six-year period. Developing countries are required to reduce tariffs by 21 percent in 10 years[1] with a minimum rate of reduction of 10 percent per product (WTO 2000). A country can change its bindings, but only after negotiating with its trading partners, which could mean compensating them for loss of trade. In agriculture, 100 percent of products now have bound tariffs. This results in a substantially higher degree of market security for traders and investors.

Under normal circumstances, an imported product is expected to have free entry into the importing country. However, a member is allowed to impose a tariff i.e., customs duty on the imported product at the time when it enters the importing country. Tariffs usually serve the purpose of getting revenue for the government and in the case of developing counties it forms an important source of income. Tariffs are used for the protection of the local industry by making domestic products cheaper for a developing country, protecting its domestic produce and farmers. Differential tariffs can also be used to bring about a rational allocation of foreign exchange if it is scarce. However, in the international scenario, tariffs affect the competitive position of imported products adversely as it increases the price of the imported product in the trade if there are frequent changes in the tariff. The AoA tried to eliminate the uncertainties in the world market that can be caused by arbitrary changes in the tariff policies by domestic governments (Bhagirath Lal Das, 1999) and tried to provide access to the markets of the world for all. The new role for market access in agricultural products is 'tariff only' (WTO 2000). Those agricultural imports, which before the Uruguay round, were restricted by quotas and other non-tariff measures[2] have under the new scheme been replaced by tariffs, which try to provide more or less equivalent levels of protection. The rule under WTO tries to assure that

[1] The implementation period for developed countries is from 1995-2000, for developing countries from 1995 to 2004. Least developed countries do not have to make commitments to reduce tariffs or subsidies.

[2] The difference between tariff and non-tariff barriers is that the latter is non quantifiable and discriminatory in action.

the quantities imported, before the agreement came into force, could continue to be imported and if there were additional imports, they will be charged duty rates that are not too prohibitive. This is done by a system of tariff quotas[3] - WTO members currently have a combined total of 1,379 tariff quotas in their commitments. The numbers in brackets in (Table 1) show how many quotas each country has (see www.wto.org).

Table 1: Tariff Quotas of WTO Member Countries

Australia (2)	Hungary (70)	Panama (19)
Barbados (36)	Iceland (90)	Philippines (11)
Brazil (2)	Indonesia (2)	Poland (109)
Bulgaria (73)	Israel (12)	Romania (12)
Canada (21)	Japan (20)	Slovak Republic (24)
Colombia (67)	Korea (67)	Slovenia (20)
Costa Rica (27)	Latvia (1)	South Africa (53)
Czech Rep (24)	Malaysia (19)	Morocco (16)
Dominican Rep (8)	Mexico (11)	New Zealand (3)
Switzerland (28)	Ecuador (14)	Thailand (23)
El Salvador (11)	Nicaragua (9)	Norway (232)
Tunisia (13)	Eligible Unit (87)	Venezuela (61)
United States (54)	Guatemala (22)	

Source: www.wto.org

Special Safeguard Provisions

To protect domestic markets, countries may invoke the Special Safeguard Provisions (SSG). 'Safeguards' are contingency restrictions on imports taken temporarily to deal with special circumstances such as a sudden increase in imports.

Where the non-tariff restrictions on agricultural products have been converted to tariffs, governments are allowed to take special emergency action in order to prevent swiftly falling prices or surges in imports, from hurting domestic farmers. The SSGs may be invoked if the volume of imports of a product entering the customs territory of the member granting the concession during any year exceeds a trigger level, which relates to the existing market access opportunities. The price at which imports of that product may enter the customs territory of the member granting concession, as determined on the basis of the cost insurance freight import price of the shipment concerned, expressed in terms of its domestic currency, falls below a trigger price equal to the average 1986 to 1988 reference price for the product concerned.

The additional duty imposed as SSG is only maintained until the end of the year in which it has been imposed and only levied at a level, which cannot exceed one third of the level of the ordinary customs duty in effect in the year in which the action is taken. The special agricultural safeguard can only be used on products that were tariffied - which amount to less than 20 percent of all agricultural products (as defined by 'tariff lines'). However, they cannot be used on imports within the tariff quotas and they can only be used if the government reserved the right to do so in its schedule of commitments on agriculture. In practice, the special agricultural safeguard has been used in relatively few cases. India has not reserved the rights to use SSG measures.

The trigger level set according to the following schedule, based on market access opportunities, defined imports as a percentage of the corresponding domestic consumption during the three preceding years for which data are available:

(a) Where such market access opportunities for a product are less than or equal to 10 percent, the base trigger level shall be equal to 125 percent;

(b) Where such market access opportunities for a product are greater than 10 percent, but less than or equal to 30 percent, the base trigger level shall equal 110 percent; and

(c) Where such market access opportunities for a product are greater than 30 percent, the base trigger level shall equal 105 percent.

[3] Under this system lower tariff rates are charged for specified quantities and higher rates are charged for quantities that exceed the quota.

The additional duty can be imposed in any year where the absolute volume of imports of the product concerned entering the customs territory of the member granting the concession exceeds the sum of (x), the base trigger level set out above multiplied by the average quality of imports during the three preceding years for which data are available and (y), the absolute volume change in domestic consumption of the product concerned in the most recent year for which data are available compared to the preceding year; provided that the trigger level shall not be less than 105 percent of the average quantity of imports in (x).

The additional duty imposed is set according to the following schedule:

(a.) If the difference between the c.i.f. import price of the shipment, expressed in terms of the domestic currency (herein after referred to as the 'import price') and the trigger price is less than or equal to 10 percent of the trigger price, no additional duty shall be imposed;

(b.) If the difference between the import price and the trigger price (herein after referred to as the "difference") is greater than 10 percent, but less than or equal to 40 percent of the trigger price, the additional duty shall be equal to 30 percent of the amount by which the difference exceeds 10 percent;

(c.) If the difference is greater than 40 percent, but less than or equal to 60 percent of the trigger price, the additional duty shall equal 50 percent of the amount by which the difference exceeds 40 percent, plus the additional duty allowed under (b);

(d.) If the difference is greater than 60 percent, but less than or equal to 75 percent, the additional duty shall be equal to 70 percent of the amount by which the difference exceeds 60 percent of the trigger price, plus the additional duties allowed under (b) & (c).

(e.) If the difference is greater than 75 percent of the trigger price, the additional duty shall be equal to 90 percent of the amount by which the difference exceeds 75 percent, plus the additional duties allowed under (b), (c) & (d).

What a member country can do as a measure under the SSG is increase duties. There is no provision for imposing quantitative restriction on imports. According to the AoA, all the non-tariff barriers have to be converted to tariffs and the quantitative restrictions (QRs) that were maintained by countries had to be removed. The importing countries have always been concerned that removal of QRs will result in large quantities of imports since QRs were barriers created to restrict the inflow of foreign products. The SSG was a response to the concern of the importing countries that the removal of QRs may lead, despite the tariff equivalents, to sudden increases in imports, by permitting them to impose special safeguards on tariffied products.

The right to make use of SSG has been reserved by only 36 countries. It is not available to India. The SSG mechanism seems to have a built-in discrimination against developing countries. The SSG provisions shouldn't be allowed to continue and if allowed to continue, the developing countries should demand universal applicability of these provisions. Only if safeguard provisions are made universally applicable to all the countries or are made available to India - can India gain and benefit from such safeguard provisions, which allows placing restrictions on imports either when there is a surge in imports or there is a price fall.

Subsidies

The agreement defines three categories of subsidies: prohibited, actionable and non-actionable.

Under WTO, members assume an obligation on the maximum levels of tariffs on different products. These tariff levels are recorded in schedules, which are maintained in the WTO[4] in Part I of a member's schedule. The basic rate of duty is the duty with reference to which the reduction is to take place. The bound rate of duty is the final bound level at the end of the implementation period.

The AoA distinguishes between support policies that affect and stimulate production directly and those that are considered to have no direct effect on the production.

[4] India has also bound its tariffs and the schedule of the WTO contains India's tariff ceilings on various products. Attached as annexure.

Government policies, which support domestic prices or subsidised production in some way, encourage overproduction. This squeezes out imports, not allowing access to imported foreign products, or leads to export subsidies and low-priced dumping in the world markets. Subsidies can play a significant role in developing countries and in the transformation of centrally planned economies to market economies.

Under AoA a member country limits its domestic subsidies to agriculture in the first year of implementation i.e., 1995, to a particular level and then progressively reduces the subsidies in each subsequent year during the period of implementation. The developed countries have committed to reduce the domestic support by 20 percent over six years (1995-2000) and the developing countries have committed to cutting their domestic subsidies or support by 13 percent over a 10 year period (1995-2001). Domestic support is quantified through what has been called the Aggregate Measure of Support (AMS). The initial level[5] is recorded in the schedule along with the annual and final bound commitment levels.[6]

The AoA, with regard to domestic support or subsidies, requires member countries to reduce trade-distorting subsidies. The domestic subsidies have been divided into three categories: Green, Blue and Amber. The Green and Blue Box subsidies are permitted under the provisions of WTO and the reduction commitments do not apply to them. Amber Box subsidies are those to which the reduction commitments apply. All subsidies that have "no or at most minimal, trade-distorting effect or effects on production" and do not have the" effect of providing price support to producer" are considered Green Box subsidies and are exempt from reduction commitments.[7] Governments are permitted to give subsidies in order to improve the productivity and efficiency of agricultural production. Direct payments under production limiting programmes are also exempt from reduction commitments provided that:

- Such payments are based on fixed areas or yields.
- Such payments are made in 85 percent or less of the base level of production.
- Livestock payments are made on a fixed number of herds.
- Government assistance programmes to encourage agriculture and rural development in developing countries and other support on a small scale when compared with the total value of the product or products supported - 5% or less in the case of developed countries and 10% or less for the developing countries (see WTO 2000). These subsidies are referred to as the Blue Box measures.

Amber Box subsidies are those domestic supports, which are considered to be trade distorting. The agreement establishes a ceiling on the total domestic support (calculated as the AMS) that the government may provide to domestic producers. In addition it requires that AMS should be reduced by agreed percentages.

The AMS is calculated on a product-by-product basis using the difference between the average external reference prices for a product and its applied administered price multiplied by the quality produced. To arrive at AMS, non-product specific domestic subsidies are added to the total subsidies, calculated on a product-by product basis. The Green Box and the Blue Box subsidies are exempt from inclusion in the AMS. Further, where support granted to a particular product is less than five percent, expenditure or subsidisation of that product specific domestic subsidy is

[5] Base total Aggregate Measurement of Support.

[6] Final Bound Commitment level is the maximum total AMS level permissible in the last year of the implementation period.

[7] Agreement on Agriculture, Annexure 2 e.g. - Government expenditure on agricultural research, pest-control, inspection and grading of particular products, marketing and promotion services.

- Financial participation by the government in income insurance and income safety-net programs.
- Payment for natural disaster.
- Structural adjustment assistance.
- Payment under environmental programs.
- Payment under regional assistance programs.

excluded from the calculation if it does not exceed 5 percent of the value of the agricultural production. For developing countries, the 'de minimis' percentage is 10 percent.

Developing countries, in order to encourage their agricultural and rural development, are further permitted to exclude from the AMS calculation and thus from reduction commitments, the following:

- Investment subsidies generally available to agriculture;
- Input subsidies generally available to low-income resource poor producers; and
- Subsidies to encourage diversification from narcotic crops.

The burden of proof regarding the fulfilment of conditions for a measure to qualify for being exempt is dependent on the subsidising member. There is no specific provision as to how inflation will be taken into account while comparing the annual bound commitment level with the current total AMS. All the members belonging to developed countries and 12 members from developing countries have made reduction commitments in their schedules. Members from the least developed countries are not required to make any reduction commitments. Thus, members from other developing countries, excluding the 12 that have made commitments, cannot apply domestic subsidies beyond what is exempted in de minimis.

When a country restricts imports in order to safeguard its domestic producers, in principle it must give something in return. The agreement says the exporting country (or exporting countries) can seek compensation through consultations. If no agreement is reached, the exporting country can retaliate by taking equivalent action - for instance, it can raise tariffs on exports from the country that is enforcing the safeguard measure. In some circumstances, the exporting country has to wait for three years after the safeguard measure was introduced, before it can retaliate in this way - i.e., if the measure conforms with the provisions of the agreement and if it is taken as a result of an absolute increase in the quantity of imports from the exporting country.

The WTO's Safeguards Committee oversees the operation of the agreement and is responsible for the surveillance of the member's commitments. Governments have to report each phase of a safeguard investigation and related decision-making and the committee reviews these reports.

Export subsidies are considered the most trade distorting of the subsidies granted by governments. These are given to enable farmers to sell their products in international markets.

The AoA prohibits export subsidies on agricultural products unless subsidies are specified in a member's list of commitments. Where they are listed, the agreement requires WTO members to cut both the amount of money spend on export subsidies and the quantities of export that receive subsidies. Taking the average of 1986-1990 as the base level, developed countries have agreed to cut the value of the export subsidies by 36 percent over six years, starting in 1995 and the developing countries have agreed to cut the value of the export subsidies by 24 percent. Developed countries have also agreed to reduce quantities of subsidised exports by 21 percent over six years and the developing countries by 14 percent over 10 years.

The export subsidies, which are subject to reduction commitments[8] are put under six basic categories. These are:

1. The provision of direct subsidies by governments that is contingent on export performance.
2. The sale of non-commercial (publicly owned) stocks of agricultural products by governments at a price lower than the comparable price charged for like products to buyers in the domestic market.
3. Payments on the export of an agricultural product that are financed by virtue of government action whether or not a charge on the public account is involved, including payments that are financed from the proceeds of a levy imposed on the agricultural product concerned, or on an agricultural product from which the exported product is derived.

[8] See generally Article 9.1 of AoA.

4. The provision of subsidies to reduce the costs of marketing exports of agricultural products (other than widely available export promotion and advisory services) including handling, upgrading and other processing costs and the costs of international transport and freight.
5. Internal transport and freight charges on export shipments, provided or mandated by governments, on terms more favourable than domestic shipments.
6. Subsidies on agricultural products contingent upon their incorporation in exported products.

2

Role of WTO

India's Commitment under WTO

The period after 1980-1981 saw India facing severe Balance of Payment (BOP) difficulties, which continued into the 1990s. This forced India into adopting the structural adjustment programmes of the IMF and World Bank, and globalisation is a part of the structured adjustment programme (Kapila 2001).

India had begun to cautiously introduce policies way back in the 1980s, but the liberalisation process only began to accelerate in 1991. India had been pursuing a complicated and highly regulated trade regime system before 1991. High tariffs, severe quantitative restrictions, complex-licensing schemes, state trading and bureaucratic red tape cut off India from the world trade market.

India was one of the leading countries, which said, from the very beginning of the Uruguay Round of discussions in 1986, that 'Agriculture' should be brought within the purview of the General Agreement on Trade and Tariffs (GATT). Export and domestic subsidies have been the primary tools used for trade distortion. As a result the poor and developing countries like India were finding it difficult to access the agricultural product markets in the developed and developing countries.

As regards India's commitment under the WTO, with regard to the market access provision, India was maintaining QRs due to BOP constraints (which is a GATT consistent measure), by which it did not have to undertake any commitments in regard to market access. The only commitment India has undertaken is to bind its primary agricultural products which it has done at 100 percent for non-processed food; processed foods at 150 percent and edible oils at 300 percent. For some agricultural products like skimmed milk powder, maize, rice, spelt wheat, millets etc., which had been bound at zero or at low bound rates, negotiations[9] were successfully completed in December 1999 and the bound rates for these products have been raised substantially[10].

India signed the AoA, visualising that its provisions would help India get access to markets in the developed and other developing countries and which would boost its economic growth. Yet, even after seven years of the implementation of the agreement, markets in developed countries still remain inaccessible to countries like India. The question remains as to whether the WTO agreements are development friendly? Whether we have achieved the growth, which we thought we would achieve by signing the International Treaty? Do we have to restructure our domestic policies or is there the need to redesign the structure of the AoA to guarantee fairer access to international markets for developing countries like India? There appear to be imbalances in the agreement and problems in the implementation of the provisions of the treaty. Developed countries have been using the provisions of the AoA, to suit their purposes, because of lacunas and ambiguities in the provisions. The trad-

[9] Negotiations took place under Article XXVII of GATT.

[10] See http/commin.nic.in/doc/wtoaoal.htm.

ing system under WTO has failed to deliver the promised market access for exports from India and other developing and the least developed countries. The WTO established the Dispute Settlement Body (DSB) to resolve the disputes arising between different countries on trade issues. A study of the dispute settlement mechanism shows that developed countries have been using this institution more and more to their advantage. The developed countries are in a better position and have better bargaining power. If the WTO and Dispute Settlement Body decide a case before them against developed countries like the US and EU, they are in a position to pay the penalties levied on them rather than complying with the decisions which are against them.[11] The dispute settlement system provides a multilateral forum for resolving trade disputes among WTO members in four stages: consultation, panel review, appellate body review, and implementation of the ruling. The WTO members have actively used the dispute settlement system during the last couple of years. The US and the EU have been the most active participants both as plaintiffs and defendants. Analysis of the different cases, settled by the dispute settlement body, show that to date[12] the US has gained more than it has lost in the dispute settlement system. The WTO cases have also resulted in a substantial number of changes in Foreign Trade practices, providing commercial benefits to the US.[13] The question is can India as a developing country with lack of foreign exchange reserves, take a stance on defying the decisions of the WTO, if the DSB decisions are not in its favour?

Import-Export Performance Post / Pre WTO

India, for about five decades, kept its markets insulated and protected by erecting high tariffs and non- tariff barriers. After years of isolation it is only recently that India began to open its markets to world trade. The licensing, protectionism and governmental control gave way to liberalisation, permissiveness and globalisation. In a developing agrarian economy like India, it is important that we fully develop the agricultural sector's potential capacity. The question that faces us is whether liberalisation of the Indian economy and becoming signatories of a multilateral trading agreement opened new vistas of growth for the Indian economy in terms of agricultural trade? We need to find means, methods and policies to boost our agricultural sector and improve our agricultural products. Of course, India has witnessed a change in trading patterns since the initiation of liberalisation in the early 1990s, in tune with the globalisation process, to some extent.

The central focus of the government's various export-import policies has been to maximise agricultural exports in order to earn more foreign exchange and provide remunerative prices to farmers, keeping in view the prime consideration of ensuring adequate availability of essential commodities to the domestic consumers at reasonable prices. The objective of the government's import policy has been to regulate imports, keeping in view the domestic demand and supply situation, the interest of the farmers and the outflow of foreign exchange.

India's agricultural exports can be divided into three categories i.e., export of:

- Non- processed products;
- Semi- processed products; and
- Processed ready to eat products.

Non-processed products are essentially of a low value high volume nature, while semi-processed products are of intermediate value and limited volume and processed and ready to eat products are of high value and low volume. This study shows that the major agricultural exports of India are shrimp, basmati rice, cashew, wheat, and boneless meat of bovine animals, cane jaggery, tea, wheat, coffee and onions.

[11] The Banana Case is a glaring example where the decision of the DSB was defied and the EU thought it was better to get away by paying the monetary penalty.

[12] United States General Accounting Office, 2000, 'World Trade Organization: US experience in the Dispute Settlement System: The First Five years', GAO>T-NSIAD/OGC-00-202.

[13] US- Philippines: Pork and Poultry products case and US-Canada: Milk and Milk products case.

In the US-Philippines case, a dispute involving barriers to US exports of pork and poultry in the Philippines market, the US used the WTO dispute settlement to challenge tariff rate quotas and other measures maintained by Philippines on pork and poultry imports. Following consultations, the Philippines agreed in February 1998 to reform its restrictive tariff rate quotas and licensing practices.

The liberalisation process initiated in the early 1990s gave a boost to agricultural exports. In a span of five years, from 1991-1992, agricultural exports initially doubled. One of the reasons for this was that to begin with the domestic prices of several agricultural commodities were below the international prices. The Indian rupee was devalued in 1991, which further increased the gap between the domestic and international prices. The price situation changed after 1996 with the conclusion and implementation of the Uruguay Round and the establishment of the WTO. International prices have since then dropped considerably as compared to the domestic prices and rather than exporting agricultural products, India has become an attractive market for agricultural imports, causing irreparable injury to the Indian agricultural producers.

Indian agricultural exports showed a steady pace of growth during 1991 to 1996 and thereafter took a downward turn. India's agricultural exports hovered around $ 2-3 billion during 1990-1991 to 1992-1993. It jumped to $ 4 billion in 1993-1994 and witnessed a further jump to $ 7 billion till 1996-1997, but this tempo of growth could not be sustained after this period and declined to $ 5.5 billion by 1999-2000. In contrast, agricultural imports witnessed an 80 percent increase after 1996-1997 (Ramesh Chand, 2002). These import-export trends, from the period of liberalisation and in the period after India signed the multilateral trade agreement, compel us to examine the efficiency, effectiveness and competence of the agriculture and trade policies adopted by India.

India has a comparative advantage in certain commodities for agricultural exports because of near self-sufficiency of inputs; relatively low labour costs and diverse agro-climatic conditions. These factors have enabled increase in the export of some agricultural commodities over the years. For certain commodities like basmati rice, India has a niche market access in spite of competition. The export of basmati rice in April-June 2001 was 7.84 percent of the total agricultural exports of India, close on the heels of export of shrimps, which was 9.83 percent of the total agricultural exports. Marine products have topped the list of agricultural exports in the last decade.[14] Indian imports of agricultural products have also witnessed a phenomenal change in the last decade especially in the post WTO era.

A study of some of the agricultural commodities shows that India has improved its export performance in certain sectors of agricultural trade. Rice export was not reported in 1960-1961. However, commodities have changed their contribution and ranks over a period of time. Rice, which had a 1.03 percent share and ranked XIII on total agricultural export, bagged the top position during the post WTO scenario and accounted for about 23.70 percent of the total agricultural export. The study of the graph of basmati rice exports shows considerable growth. In 1992 the value of the export of basmati rice stood at Rs. 256.41 crores, which went up to Rs. 4403.85 crores in 1999 and though there was some fluctuation in the next two years stood at Rs. 784.16 crores in 2001. The import of rice in comparison to the export stands at Rs. 17.79 crores, which was as low as Rs. 0.02 crores in 1997. The production of rice has remained almost constant at an average of 81844 tons per year. Until 1991, export of common rice was subject to canalisation, minimum export price and export quota. There were restrictions on stocking rice beyond a limit unless there was an export order at hand. Imports of rice were subject to QRs and were resorted to at times when the domestic production dropped. The import of rice has gone up after the QRs were removed to meet WTO commitments. However, with the decline in international prices compared to domestic prices of rice during 1999-2000 and 2000-2001, the import of rice became attractive for India. In order to ward off unrestricted imports, India increased its import duties on rice to 80 percent. A major boost to rice export occurred during 1995-1996 when under a major policy change, the Government of India released two million tons of rice from its stocks for exports, to reduce the Food Corporation of India's excess stock holding. During 1995-1996 and 1998-1999, India exported more than four

[14] The export and import values of various agricultural commodities for the last 10 years have been attached as appendix.

million tons of rice accounting for nearly one fifth of the world rice trade. Rice export has witnessed large fluctuations. In the case of wheat the imports have been more than the exports. The production of wheat in 1993 stood at 57,210 tons and in 2001 it was recorded as 68,760 tons. The quantity of wheat imported into the country has been fluctuating. In 1999 India imported wheat valuing 1,164.78 crores, but again in certain years due to a good wheat crop, the country has been able to go in for large exports. The trade in wheat does not show a steady trade chart.

The value of exports of cereals has been considerably higher than its import into the country, except in 2000 when it went up to Rs. 114.07 crores and then went down to Rs 15.61 crores in 2001. On an average the import of cereals had been ranging between Rs. 1.07 and Rs. 0.5 crores during the period of 1992 to 1999.

The export performance of cashews from India during the period 1992 to 2001 shows a steady growth. It has grown from Rs 614.52 crores in 1992 to Rs. 1878.47 crores in 2001. In the year 2000 it had generated foreign exchange to the tune of Rs. 2456.61 crores. The import of cashews has also grown from an import value of Rs. 266.66 crores in 1992 to Rs. 962.14 crores in 2001. There has also been a steady growth in the import values of fruits and nuts into India, which in 1992 was valued at Rs 100.05 crores, from where it has steadily grown to Rs. 803.99 crores in 2002.

In the case of spices, India seems to have gained a niche market access. The export of spices from India was to the value of Rs. 372.13 crores in 1992 from where it has steadily increased and in 2001 it stands at Rs. 1622.62 crores. On the contrary the import values have been comparatively less, which ranged between Rs. 74 crores in 1994 to Rs. 249.6 crores in 2001.

Import of sugar into the country has increased in the last 10 years. Another area where imports have grown in leaps is in the case of edible oils. Now about 70 percent of the total share of the agricultural imports is made up of edible oils. It is the single largest agricultural import of India. In the year 2000 the value of vegetable oil imports had gone up to Rs. 8046.05 crores.

India's coffee exports improved in 1992 to 2001. In 1999 its value had gone up to Rs 1727.92 crores from Rs 332 in 1992.

Marine products are another sector of agricultural trade where India seems to have improved. The graph of marine products' exports from India shows a consistent upward growth. In 1992 the value of exports was Rs. 1442.72 crores, which has increased to Rs. 6368.37 in 2001.[15]

However, it is interesting to note that although exports have improved in certain sectors, the major importers of Indian agricultural products, even after the WTO era, have been the developing countries and not the developed countries.

In the case of basmati rice, the exports from India (quantity in thousands) have been largely to Belgium (8,315), Canada (6,868.52), Bangladesh (4,057.40), Bahrain (1,447.24), France (9,881.59), Germany (4,455.20), Ghana (2,007.52), Italy (7,095.73), Kuwait (51,138.89), Mozambique (2,950), Netherlands (3,505.66), Oman (6,995.64), Saudi Arabia (235,258.05), South Africa (5955.13), UK (49,683.57), UAE (17,966.39), Yemen (16,960.16) and USA (24,683.57).

In the case of onion exports from India, the exports have largely been to Bahrain (16,169.27), Bangladesh (47,251.1), Malaysia (95,226), Mauritius (6,246.01), Pakistan (7,809.90), Saudi Arabia (10.075.24), Singapore (15,349.03), Sri Lanka (80,996.55), UAE (86,156.67), UK (1,623.30) and USA (1,590.00).

In the case of refined sugar cane, the exports from India have largely been to Afghanistan (8859), Bangladesh (146,211.48), Chinese Taipei (2,083), Germany (4,334.90), Indonesia (22,556.10), Malaysia (199,47888.47), Maldives (3,448), Pakistan (11,918), Singapore (15,921.61), Sri Lanka (221,152.92), UAE (32,231.50), UK (50) and USA (8,138.00).

[15] Import and export performance of select agricultural products are given in the annexure.

Table 2: Percentage Share of Developed Countries in India's Agricultural Exports

Commodity	2001-2002	2002-2003
Prawns	88.18	83.14
Cashew	87.75	86.31
Shrimp	86.62	89.14
Basmati	22.92	25.70
Soya Bean	15.35	34.87
Instant Coffee	14.47	14.90
Wheat	5.07	3.54
Cane Sugar	4.96	5.54
Boneless Meat	1.63	4.64
Onion	0.74	1.70

Source: Ministry of Commerce, Government of India

The major exports in the case of bovine boneless meat have been to Angola (12200.33), Egypt (18561.20), Georgia (7353.16), Bahrain (1987.09), Iran (59336.67), Jordan (9511.53), Korea DP RP (3040.330), Kuwait (4250), Lebanon (3018.08), Malaysia (50,684.18), Philippines (33,060.52), UAE (222111,256.16), UK (27.65), USA (2257.11) and Yemen (4575.16).

With regard to cashew kernels Canada (1454.32), France (1346.91), Japan (3,310.68), Israel (969.91), Netherlands (9876.38), Saudi Arab (1650.03), Singapore (978.55), Spain (12263.68), UAE (3187.221), UK (44471.86) and USA (39611.99) have been the major importers.

In the case of wheat, the majority of exports have been to Bangladesh (736,217.19), China (97,123), Indonesia (498495), Korea RP (92000), Malaysia (244955.17), Philippines (625230), Sri Lanka (123640.09), UAE (63,261) and Vietnam (187771.22).[16]

WTO hasn't helped much in opening the developed countries' markets for Indian agricultural products. Market access in the developed countries still remains a problem due to high tariffication and other barriers to import in those countries.

The percentage share of agricultural and allied products in the total exports of India from, 1991-1992 to 2000-2001 shows that there is no remarkable change in the post-WTO era. The share was 17.87 in 1991-1992,16.89 in 1992-1993, 18.04 in 1993-1994, 15.78 in 1994-1995, 19.12 in 1995-1996, 20.55 in 1996-1997, 18.83 in 1997-1998, 18.05 in 1998-1999, 15.06 in 1999-2000 and 13.36 in 2000-2001. On the contrary the imports have steadily increased from three percent to seven percent in the post-WTO period. There is a need to change the domestic policies of the country and states in order to improve the production and exports of agricultural products from India and restrain the free inflow of products into the country.

Domestic Policy Changes after WTO

India has, as per the WTO obligations, bound its tariff rates. In most of the agricultural products, India bound its rates at a high rate, but certain products like milk in powder, granules or other solid forms of fat content, by weight not exceeding 1.5 percent, milk not containing added sugar, oats, rice in husk, husked rice, semi-milled or wholly milled rice whether or not polished or glazed, millet etc. the bound rates were zero percent. The graph of rice exports has shown an upward move. It was felt that certain measures had to be taken to protect the domestic market and domestic producers from an import surge and so our tariff rates were raised. We negotiated in the WTO under Article XXVII of GATT, which was successfully completed in December 1999, and the bound rates for these products have been raised substantially. Today, the bound rates on rice stand at 80 percent. Yet, what we need to consider is – whether our tariffs for agricultural products are bound high enough so as to prevent large-scale imports of agricultural products, into the country. The Indian government has introduced various policy reforms to create a competitive environment for Indian agricultural products in the world market.

The sectoral export composition has entirely changed during the post-WTO era.

The government's EXIM policy 2002-2007 seems more export oriented. Export restrictions like registration and packaging requirements on butter, wheat and wheat prod-

[16] See http/commerce.nic.in/ecomentasp

ucts, coarse grains, groundnut oil and cashew to Russia are today being removed. Quantitative and packaging restrictions on wheat and its products, butter, pulses, grain and flour of barley, maize, bajra, ragi and jowar have already been removed with effect from 5th March, 2002.

Restrictions on exports of all cultivated varieties of seed except jute and onions have been removed.

To promote the export of agro and agro-based products, 20 agricultural export zones have been notified.

In order to promote diversification of agriculture, the new EXIM policy provides transport subsidy for export of fruits, vegetables, floriculture, poultry and dairy products.

Compatibility of Existing Indian Policy to WTO Provisions

The AoA provides for domestic subsidies. Domestic supports are the subsidies that the government gives to its domestic producers. The main complaint about this is that it encourages overproduction, which in turn squeezes out imports or leads to export subsidies and low priced dumping in the world markets.[17] Domestic policies that have a direct effect on production and trade have to be cut back. The developed countries have an obligation to reduce these figures by 20 percent over six years and developing countries by 13 percent over ten years. For the purpose of reducing trade-distorting subsidies, the AoA divides subsidies into three categories: Green Box subsidies, Blue Box subsidies and Amber Box subsidies. Green and Blue Box subsidies are permitted subsidies under the WTO provisions and do not attract any reduction commitments. Amber Box subsidies attract reduction commitments. In the case of India the product specific support is negative. The non-product specific support i.e., subsidies on agricultural inputs, such as, power, irrigation, fertilizers etc., is well below de minimis permissible level of 10 percent of the value of agricultural output. Therefore, India is under no obligation to reduce domestic support, currently extended to the agricultural sector.

The agreement establishes a ceiling on the total domestic support (calculated as Aggregate Measure of Support)[18] that the governments may provide to the domestic producers. Domestic support given to the agricultural sector within the specified de minimis level, that is, up to 10 percent of the total value of agricultural produce in developing countries and 5 percent in developed countries is allowed.

In other words, AMS within this limit is not subject to any reduction commitment. In India, for the present, the minimum support price provided to commodities is less than the fixed external reference price (1986-1988) determined under the agreement.

The government has been giving certain subsidies to agriculture in the form of minimum support price, public distribution system and input subsidies. These policy measures have not in anyway been limited by the provision of the WTO agreement.

The minimum support price that is provided by the Indian government to agricultural commodities is well below the price determined under the WTO agreement. Product specific subsidies are normally provided in the form of minimum support price to specific crops and are calculated with reference to the international price for the commodity. The minimum support price is provided to rice, wheat, pulses, groundnuts, cotton, tobacco, sugarcane, copra etc. In most of the products, the minimum support price provided is negative and even in the case of cotton and sugarcane, where the minimum support price is positive, it is still less than 10 percent. Even the non-product specific subsidies in India for agricultural inputs like power, irrigation, and fertilizers are below the minimum permissible level of 10 percent of the value of agricultural output.

Export subsidies of the kind listed in the agreement, which attract reduction commitments, are non-existent in India. Exemption of export profits provided in India from in-

[17] Supra note 29.

[18] Herein after referred to as AMS, AMS is calculated, on a product to product basis by using the difference between the average external reference price for a product and its applied administered price multiplied by the quantity produced. To arrive at AMS, non-product specific domestic subsidies are added to the total subsidies calculated, on a product-by-product basis. The Green & Blue Box subsidies are exempt from inclusion in AMS.

come tax, under Section 80-HHC of the Indian Income Tax Act, is not among the listed subsidies. It is also worth noting that developing countries are free to provide certain subsidies, such as, reduction of export marketing costs, internal and international transport and freight charges. India is making use of these subsidies in certain schemes of Agricultural and Processed Food Products Export Development Authority (APEDA), especially for assisting export of horticulture products.

Quantitative Restrictions

India had been pursuing QRs in the form of licenses and quotas for agricultural imports, to provide means for controlling the volume of trade flows into the country. After many years of imposing QRs and quotas on agricultural product imports, India at last began lifting this non-tariff barrier.

During the last decade, India has radically reformed its restrictive trade policies and made efforts to open its domestic market to global trade. For almost half a century, India was practically closed to global agricultural trade. Agricultural and consumer products were subject to licensing requirements that efficiently barred their import by the private sector. Agricultural trade is still subject to stiff tariffs, but providing market access is a significant development. India, as a developing country with low foreign exchange reserves had obtained an exception from GATT as early as in 1947, to inflict import restrictions on the ground of BOP and consistently opposed any outside pressure to remove these restrictions. India continued with its policies of QRs to safeguard its domestic market. With the Uruguay round AoA signed in 1995 by India, it became obligatory upon India as a URAA signatory to remove all QRs from all products. India's BOP position has changed after the economic reforms initiated in 1991 and its foreign exchange reserves have progressively increased since then. The US and other trade partners protested to the WTO that India with its improved foreign reserves could no longer justifiably claim a BOP exception. Finding India reluctant to remove the QRs, the US approached the DSB and the Appellate Body of the WTO in 1997. The DSB and the Appellate Body of the WTO, both ruled that India was not warranted in maintaining the QRs on BOP grounds. Under the market access provisions, India had committed only to the removal of QRs.

Since 1997, India picked up speed in the process of lifting the QRs and has been autonomously removing QRs on imports progressively in successive EXIM policies. Between 1997 and 1999, India lifted QRs from 620 consumer food products; with effect from 2002 the QRs on the remaining agricultural products have also been lifted. Now India can only impose bound tariffs. The QRs were barriers created to restrict the free inflow of products from foreign markets at cheaper prices, thus affecting the domestic farmers. It is however, too early to say, whether as a result of the removal of the QRs, there has been any surge in the imports of agricultural products into the country. Nevertheless, a study of the import performance of the items on which the QRs were removed with effect from 31.3.2000 shows that there has been an increase in imports in many important sectors. There is a need for a safeguard measure, which should include provisions for the imposition of QRs under particular conditions, especially when there is a surge in imports, or there is a decline in the prices of the commodities. These are important safeguards for a developing country like India, which lags behind developed countries like US by over a century, as far as technology and economic resources are concerned and as a result of centuries of colonial rule.

The removal of QRs from the agricultural products is bound to increase the level of imports into the country, which will then be available to the consumers at a much lower cost. The large scale dumping of products at lower costs definitely affects the domestic producers. Countries like the US have, over the years, highly subsidised agriculture by providing assistance to their domestic farmers, by supplying subsidised irrigation facilities, fertilizers, technological support etc. that has resulted in overproduction of their agricultural products.[19] The developed countries have been looking for markets, which they find in plenty in the developing and least developing countries. With the removal of QRs it

[19] According to Frontline 2002 the armour-plated farm economies of the prosperous world have either been reinforced (US) or are being allowed to carry on with their lavish subsidy programme (the EU).

becomes easier for the developed countries to dump their cheaper products in countries like India. Although we can say that there are provisions like countervailing measures and anti-dumping proceedings that can be forced against countries dumping products in large quantities and at lower prices, it is very difficult to initiate these measures. The removal of QRs is definitely going to increase the import of products into the country, harming our domestic market.

While the European Commission's attempt to reform what some economists describe as the 'demented common agricultural policy' was thwarted by France and Germany in October 2002, the US has rushed to provide an additional $180 billion subsidy over the next 10 years. It claims that they are within the limits agreed to at the WTO.

Support to wheat farmers in the EU accounts for 46 percent of receipts and adds 86 percent to their income. The subsidy for rice growers in Japan equals more than seven times the world price of their output. India's farm subsidies are negative. It offers no direct subsidies to farmers, but provides $ 1 billion worth of indirect support (on inputs) to about 110 million farming families. About 900,000 US farmers get subsidies that have risen 700 times since 1996.

Daily subsidy per cow: US-$2, EU-$2.50, and Japan-$7.50, India-nil. The average US dairy farmer has assets of over $100 million and a net income of $80,000.

Removal of QRs from agricultural products is a major change in the trade policy that India had to make to comply with the WTO commitments. When the QRs were removed on the products, the government also had to increase its customs, tariff on the products to regulate the inflow of imports of the products from which QRs were removed. There has been an increase in the tariff rates of most of the products (within the bound rates), as they existed before the WTO and after. The question arises as to whether we will be able to stop the surge of imports into the country in the absence of an effective trade barrier like QRs, at the current binding rates that are available to us? At the time of signing the agreement we had bound some of our agricultural products like rice, wheat etc. at zero percent, but later on finding that these bound rates were to our detriment, we had to raise these binding levels, went to the WTO under Article, XXVII and raised our binding rates. Would we require a new schedule of bound rates in the present circumstances with the removal of QRs? With the removal of the QRs India will have to increase productivity and improve the quality of its agricultural products to be able to compete efficiently in the international market and to ward off the surge in imports of agricultural products into the country. Otherwise India will end up as a major importer of agricultural products in the international market, depleting our foreign exchange reserves and to the detriment of our domestic producers.

Although the AoA has defined rules for international trade, its achievement in terms of immediate market opening has been limited, especially for developing countries like India. The anticipated gains of agricultural trade liberalisation therefore, have eluded the developing countries even after Marrakesh. Although India has tried to regulate its domestic policies and has made definite changes in them to suit the terms of the WTO and AoA, Indian exports have not achieved the expected boom in trade and the level of imports of agricultural products into the country continues to increase.

3

The Road Ahead

Drawbacks and Suggestions

Agricultural and allied activities are vital to the national well being as, besides providing the basic needs of the society and raw material for some of the important segments of Indian industry, they are a means of livelihood for almost two thirds of the workforce. Agricultural growth has a direct impact on poverty eradication.

Domestic policy in the agricultural sector has to be guided by domestic supply and self - sufficiency considerations. To encourage exports of agricultural products, the government has set up agricultural export processing zones.

Government acquires and subsidises the sale of certain commodities through the Public Distribution System (PDS) that is targeted at low-income families. Over the years PDS has become more targeted, while procurement by government agencies has continued to swell. The result has been a substantial increase in stocks, which greatly exceed the levels considered necessary to ensure food security and the costs associated with maintaining these stocks. Long-term interim policy changes have to be brought about in this regard.

Trade in agricultural products is still not free for the farmers producing certain crops.[20] The country has, over the years seen, substantial improvement, in the domestic supply and production of agricultural products besides generating export surpluses in commodities like rice, wheat, sugar, coffee, milk products, fruits, vegetables, spices, marine products etc. A restriction on the movement of agricultural products and procurement through the levy system, in times when there is a comfortable supply, is detrimental to the interest of both the farmers and the consumers. Movement restrictions deprive the farmer from getting remunerative prices for his produce. It also harms the consumers in areas where there is a temporary scarcity (which may be due to any of the reasons such as drought, floods, earthquakes etc.). They will be forced to pay higher prices than they would have paid if there had been free movement of goods between states. The licensing and stocking requirements and restrictions on the movement of agricultural commodities, under the Essential Commodities Act 1955, have to be done away with. The entire country should be viewed as a single market.

Each country bound its tariffs at a particular rate and under the provisions of the AoA have an obligation to reduce the tariff total by a certain percentage. It has been observed that many products of export interest to developing countries will continue to face high tariffs as the AoA commitments require reductions on an average basis for each country's agricultural products. The developed countries continue to maintain high tariffs on some products like sugar, rice or dairy, which are of export interest to developing countries like India. So in spite of having an organisation like WTO regulating international trade, the beneficiaries are the developed countries who continue to keep their markets closed to developing countries and at the same time have access to the markets of the develop-

[20] The entire country is still not one market and there are controls and regulations effected by the state governments under the Essential commodities Act 1955.

ing countries. These developed countries have been making substantial reductions on less sensitive tariff lines in which there is not much trade. This kind of tariff reduction does not serve the purpose it was initiated.

The access opportunity has to be provided by low tariffs, which are specified in the member's schedule, up to a certain quantity of imports. There are also the tariff quotas, to protect the access. Based on bilateral or multilateral agreements, they will, naturally, be country specific. This is definitely not a fair form of trade where preferences are given to countries under specific agreements. The tariff quota should be global and not specific to countries and ensure that all countries have the opportunity of utilising the quotas. Under the provision, which allows for tariff quota in agriculture, some developed countries have liberally provided for country specific tariff quotas. This results in other countries not getting the chance of utilising these access opportunities. The AoA was expected to provide a level playing field for trade. Regional Trade Agreements (RTAs) have considerably increased in the last decade and much of the trade is conducted within these RTAs. Bilateral and multilateral agreements outside the WTO also undermine the objectives of the WTO and the AoA. By having provisions, which allow discrimination between countries, distorts trade in agricultural products, which the WTO aimed at doing away with, India stands to loose in the world market since it does not have strong regional groupings to strengthen its trade.

In a country like India, what we have is subsistence farming where the major part of the produce is for the farmer's own consumption and very little of the produce goes to the market, unlike market-oriented agriculture practiced in the developed countries. The effects of lowering the tariffs are felt more by these small producers, from countries like India who have to face stiff competition from the developed, industrialised countries where the farmers are given high subsidies, helping them to overproduce. In the absence of trade restrictions on imported agricultural products, developed countries are able to sell these products at artificially lowered prices and domestic producers from countries like India will suffer heavily. It is the small farmers who constitute the major farming section in India, who are threatened. In India, the contribution of agriculture to the economy is significant in terms of both revenue and employment.

A number of developed countries have continued to provide a lot of domestic support to their agricultural sectors. In many developed countries the subsidies have been cosmetically altered, by shifting the support from one 'Box' to another. Developed countries have been manipulating their subsidy commitment and have been shifting their subsidies from the Amber Box to the Green and Blue Boxes, thereby distorting international trade. If we decide to move out of WTO agreements, the question arises, as to whether we have the capacity to trade in the international market more beneficially for our imports and exports? If at this stage we move out of WTO, we are definitely going to lose market access to many of the developed countries. Under the WTO rules the use of Non Tariff Barrier (NTB) is prohibited, which would definitely be levied against a country if it were not a member of the WTO. For a country to be able to survive without multilateral treaties governing trade, it needs to have strong regional groupings, which would provide alternative markets to trade. There have to be bilateral treaties with strong market forces. A country like India does not have strong bargaining power either in the WTO or outside WTO. The aggressive stance adopted by some of the developed countries, coupled with weak unity and the low bargaining power and position of most developing countries, has prevented more favourable outcomes during and after the Uruguay Round. The bargaining power of the developed countries is much greater. This was clearly evident in the Banana case.[21] between the US and the EU where the EU refused to implement the decision of DSB and instead opted to suffer trade sanctions to the tune of millions of US dollars. India does not have the bargaining power or the power to pay retaliatory tariffs. In a situation, where a matter goes be-

[21] The Banana case between Caribbean countries and U.S. In this case the EU adopted a new bananas import regime that favored bananas from domestic producers and from former European colonies in Africa, the Caribbean and the Pacific. The *WTO* Dispute Settlement Body (DSB) authorised U.S. retaliatory tariffs amounting to $191.4 million a year, the level of damage to U.S. companies being calculated by arbitrators.

fore the WTO and the DSB, the Indian farmers do not have the ability and resources to marshal a large volume of data, for presentation before the concerned authorities.

The solution vital for improving export competitiveness is to provide for both a strategic tariff policy with a view to providing targeted support to exports as well as exchange rates beneficial to exports. India requires a policy, which focuses on achieving overall lower average tariffs, which benefits exports through cheaper cost of inputs while protecting sensitive items likely to be affected due to the removal of QRs. Shifting to eight-digit tariff nomenclature and tariff rationalisation can do this. The Customs department follows a six-digit HS classification. This leads to charging the same duty on all the products at the six-digit level. Thus, we are not in a position to strategically increase or lower the tariff duties on certain sub-groups of a particular product. There is a need to shift to the eight-digit tariff nomenclature and tariff rationalisation. At present the Customs, Directorate General of Commercial Intelligence and Statistics (DGCI & S) and Directorate General of Foreign Trade (DGFT) use different nomenclatures and codes for classification of the goods imported and exported by India. The Customs use a six-digit code for the purpose of tariffs and four to six digit classifications for excise duty; Directorate DGCI & S uses eight-digit codes for statistical purposes and DGFT has broadly extended the eight-digit DGCI & S codes up to 10 digits to suit their own purpose.[22] By strategic tariff policy we can protect our vital sectors by judiciously levying higher duties. Lower tariff rates can be thought of for items, which are in the nature of inputs, and higher rates of duties can be imposed for sensitive items, which affect the domestic market. If we follow the six-digit nomenclature then it leads to levying the same duty for all items at the six-digit level.[23]

Agricultural exports constitute an important segment of India's exports. We need to have WTO provisions and more friendly developing countries, to derive benefits out of its provisions. Otherwise market access provisions under the WTO will remain a handiwork of the developed countries, for the advantage of the developed countries. We need to get greater market access in the developed countries' markets for India's agricultural products and provide effective measures to safeguard the large-scale imports of agricultural products at cheaper costs, which would affect the domestic producers.

According to the analysis of the Indian export performance of the agricultural products in the world market, the products can be grouped into the following categories:

- The agricultural products for which the export values have increased in the last decade i.e., 1992-2001 period, which was under study. These agricultural products are basmati rice, marine products, spices and cashew.
- The agricultural products for which the export values show a negative growth. In certain agricultural products the export values have declined over this decade.
- Certain agricultural products can be classified under 'new high growth' items, where the exports were relatively low in the year 1992-1993, but that have consistently grown in strength.
- Other items can be grouped under the category, which shows an inconsistent growth.

In order to perk up the exports of agricultural products, thereby bringing optimum foreign exchange into the country, India has to involve national strategies identifying and prioritising the key products, which have shown a steady growth over the decade, as well as emerging agricultural products, which show the potential for growth.

India needs to identify the major markets to which it can export its agricultural produce at maximum returns in terms of foreign exchange. The major markets for the Indian agricultural products are the developing counties and not the developed countries. We need to improve our exports to the existing large markets and also identify emerging

[22] see www commin.nic.in.

[23] The common nomenclature is already finalized at 8-digit level by the Ministry of Finance and Ministry of Commerce.

markets. There is a need to constantly monitor the identified markets, which are existing or are emerging, to recognise their changing demands and accordingly modifying our domestic policies, taking into account the changes in the world markets, so as to gain through exports. A study of the export markets for the top ten Indian agricultural products exported shows that India has been exporting its agricultural products more to the developing countries than the developed countries.

We need to make an effort to improve India's price competitiveness, which would definitely help India capture a higher share in the world imports. There are various reasons why India lags behind in being price competitive. One of the factors, which contribute to the higher pricing of products, is that the farmer does not sell his products directly into the main market. Various intermediate steps are involved, before the produce finally comes to the ports for export, due to which, the price becomes higher and ultimately in the international markets, Indian agricultural products are more expensive, thereby losing their competitiveness. There are restrictions on direct sales from farm to traders, sales outside regulated markets and disposal of forestry produce raised on farmlands. These need to be appropriately changed to reduce transaction costs, reduce the share of the middlemen and to give a wider choice to farmers in production and sale. We need to capture major markets of the world like the markets of EU, Japan and US, identify the top imports of these countries and evaluate our major exports to these countries. In case of major imports of US from India, most items like agricultural and marine products have specific duties, which limits imports of these items to US. India exports many agricultural products to developing countries. These markets should be exploited by looking into their demands, which would be a major revenue earner for the country. We also need to identify high productivity areas and improve on the agricultural production in this area so that we are able to produce much more than the domestic requirement and export the surplus.

While a comprehensive lower tariff regime is beneficial to the country's competitiveness, there must be, in place, an efficient and fast-responsive trade defence mechanism to protect the domestic industry, as and when it faces unfair trade practices. An elaborate anti-dumping investigation infrastructure has been put in place by the Department of Commerce. Except in very few suo moto cases, anti-dumping investigations are mainly initiated at the behest of the aggrieved industry. The process of anti-dumping procedures has to be effectively used to counter the problem of large scale dumping of imported agricultural products into the country.

India's proposals in past negotiations included suggestions like allowing developing countries to maintain an apt level of tariff bindings commensurate with their developmental needs and the prevailing distortions in international markets, seems very appropriate. There is a need for a separate safeguard mechanism including provision for the imposition of QRs under specified circumstances, particularly when there is a surge in imports or a decline in prices. There have to be exemptions for developing countries from obligations to provide minimum market access. Although, right now we are under no obligation under the WTO to provide minimum market access, it will not be long before the developed countries, will put pressure on India, to provide minimum access. There must be exemptions to all measures taken by developing countries for poverty mitigation, rural development and rural employment.

While many countries protect the sensitive sectors by non-tariff measures, genuine non-tariff measures like quality certification, labelling for genetically modified food, can be followed in a WTO attuned way. This strategy if used with care, will not only safeguard India's sensitive sectors, but also promote exports. The developed countries being very quality conscious, India will definitely benefit if world recognised certification bodies, issue such quality control and quality assurance certificates for its agricultural products.

Developed countries continue to give large domestic subsidies, which affect international trade. There has to be a provision in the AoA, which provides that the total domestic support provided by developed countries, should not exceed a certain value of the total agricultural production of that country.

During the Uruguay Round, it was expected that following the AoA, distortions in agricultural trade would be reduced. It was also expected that the contemplated fair trading regime would help the efficient producers in realising higher prices for their products. On the contrary, prices of most agricultural commodities are declining in the world markets. International trade in agricultural products is highly competitive and in such a situation, India needs to strategically chalk out its policies so that it gives optimum benefits in terms of export competitiveness to its products, barricading effectively the domestic market, from a surge of agricultural imports. In order to perk up the exports of the agricultural products bringing optimum foreign exchange into the country, India has to involve better national strategies. It needs identifying and prioritising of the key products, which have shown a steady growth over the decade, as well as agricultural products, which have the potential for escalation and then negotiate in WTO, so as to make WTO more developing country friendly.

The Doha declaration made commitments to comprehensive negotiations aimed at substantial improvements in market access with a view to phasing out all forms of export subsidies and substantial reductions in trade-distorting domestic support. Cancun was a failure. The July package in its Annexure provided a framework for establishing modalities in agriculture.

The Hong Kong Ministerial Declaration reaffirmed the commitment to the mandate on agriculture as set in paragraph 13 of the Doha Ministerial Declaration and to the Framework adopted by the General Council on 1st August 2004. The Hong Kong Ministerial has agreed to ensure the parallel elimination of all forms of export subsidies and disciplines on all export measures to be completed by the end of 2013. On market access, the progress made on ad valorem equivalents were noted and four bonds for structuring tariff cuts, have been adopted recognising the need to agree on the relevant threshold – including those applicable for developing country members, which will have the flexibility to self-designate an appropriate number of tariff lines as special products guided by indicators based on the criteria of food security, livelihood security and rural development. Developing country members will also have the right to have resource to a Special Safeguard Mechanism based on import quantity and price triggers, with precise arrangements to be further defined.

What the developed countries have done till date is economic jugglery - hiding reality and trying to fool the world with faulty images of projected growth. India has raised its concern about the developed countries at the various Ministerial Conferences. Over ten years after the WTO came into existence, and after six ministerial conferences, developing countries have miserably failed to force the rich industrialised countries to remove even a single dollar from the colossal agricultural support they grant to agriculture. The Doha and Cancun Ministerial Conferences have not benefited the developing countries. The outcome of the Hong Kong conference is to be seen. As for the Hong Kong Ministerial there has been excitement over the promise by the developed countries to eliminate export subsidies by the year 2013. Over the years the developed countries have been successful in getting market access to developing countries without showing analogous reciprocation. India hopes that the developed countries will be adhering to promises made at the Hong Kong Ministerial sans juggling subsidies from one Box to another.

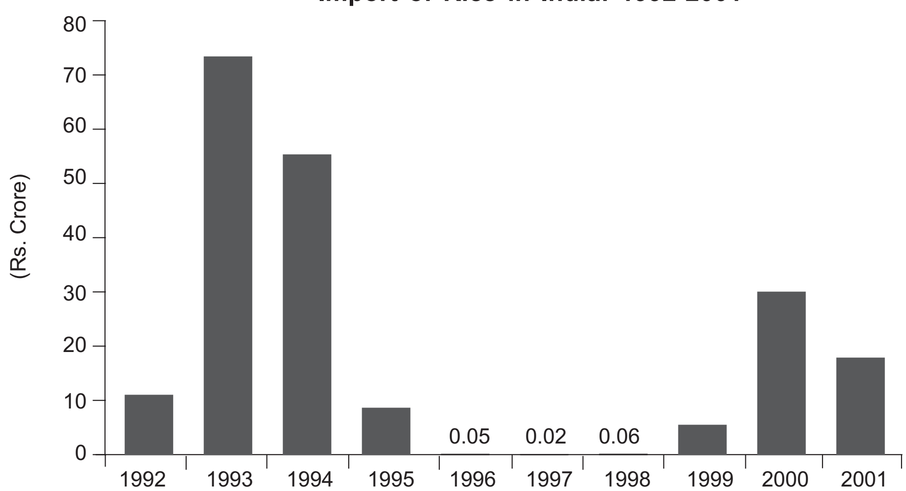
Annexures

Import of Rice in India 1992-2001

(Rs. Crore)

Date	Value
31/03/1992	10.94
31/03/1993	73.32
31/03/1994	55.26
31/03/1995	8.55
31/03/1996	0.05
31/03/1997	0.02
31/03/1998	0.06
31/03/1999	5.41
31/03/2000	29.95
31/03/2001	17.79

Import of Rice in India: 1992-2001

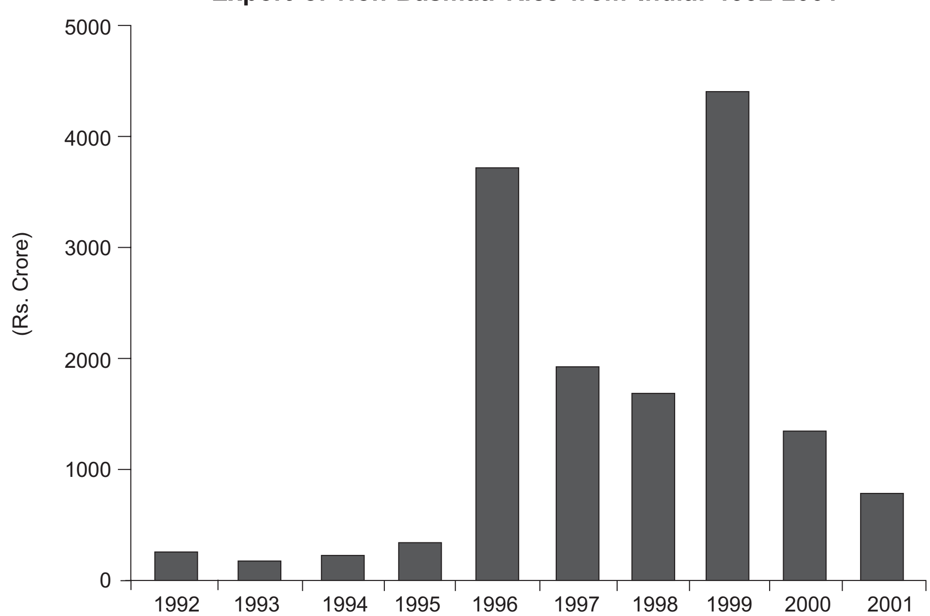


Export of Non-Basmati Rice From India 1992-2001

(Rs. Crore)

Date	Value
31/03/1992	256.41
31/03/1993	174.96
31/03/1994	225.46
31/03/1995	340.47
31/03/1996	3717.41
31/03/1997	1924.72
31/03/1998	1685.38
31/03/1999	4403.85
31/03/2000	1345.58
31/03/2001	784.16

Export of Non-Basmati Rice from India: 1992-2001

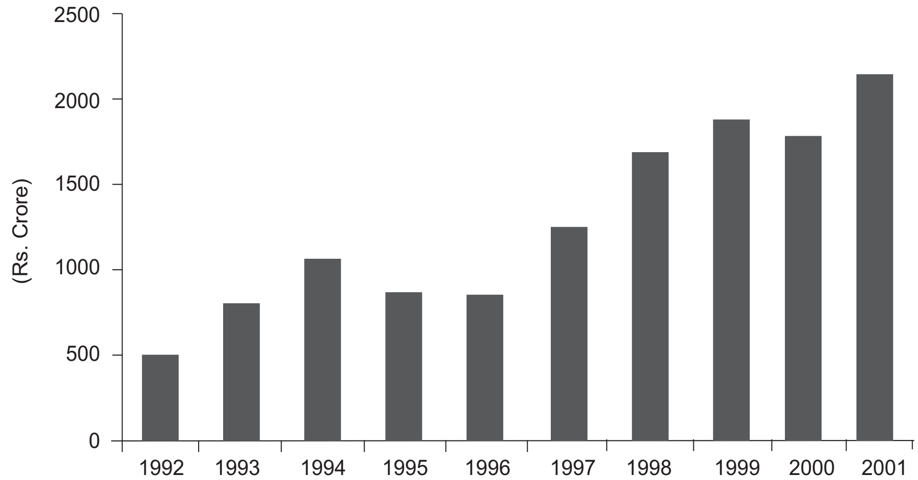


Export of Basmati Rice from India: 1992-2001

(Rs. Crore)

Date	Value
31/03/1992	499.18
31/03/1993	800.64
31/03/1994	1061.26
31/03/1995	865.32
31/03/1996	850.67
31/03/1997	1247.64
31/03/1998	1685.62
31/03/1999	1876.91
31/03/2000	1780.34
31/03/2001	2141. 94

Export of Basmati Rice from India: 1992-2001

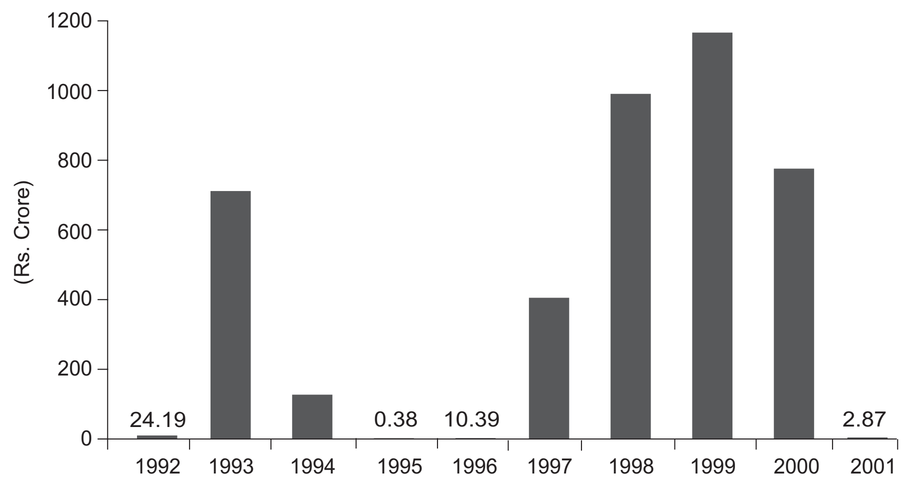


Wheat Imports of India: 1991-2001

(Rs. Crore)

Date	Value
31/03/1991	24.19
31/03/1993	710.06
31/03/1994	125.65
31/03/1995	0.38
31/03/1996	10.39
31/03/1997	403.76
31/03/1998	988.98
31/03/1999	1164.78
31/03/2000	774.35
31/03/2001	2.87

Wheat imports of India: 1992-2001

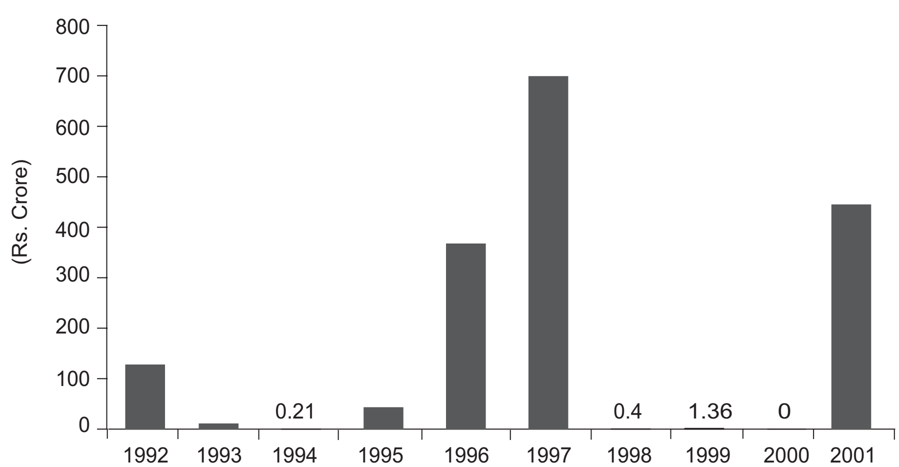


Export of Wheat from India: 1992 - 2001

(Rs. Crore)

Date	Value
31/03/1992	126.98
31/03/1993	10.21
31/03/1994	0.21
31/03/1995	42.34
31/03/1996	366.76
31/03/1997	698.45
31/03/1998	0.4
31/03/1999	1.36
31/03/2000	0
31/03/2001	444.23

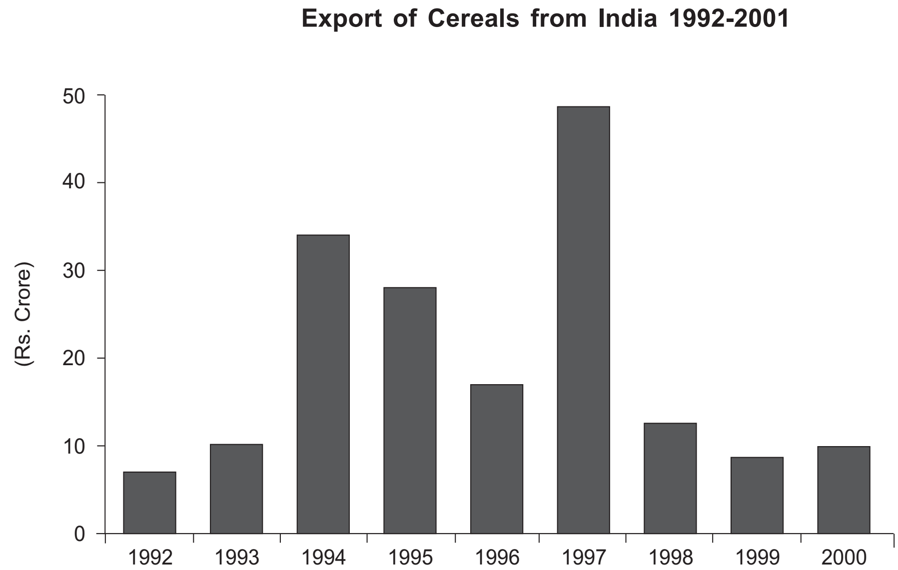
Export of Wheat from India: 1991-2001



Export of Cereals from India: 1992 - 2001

(Rs. Crore)

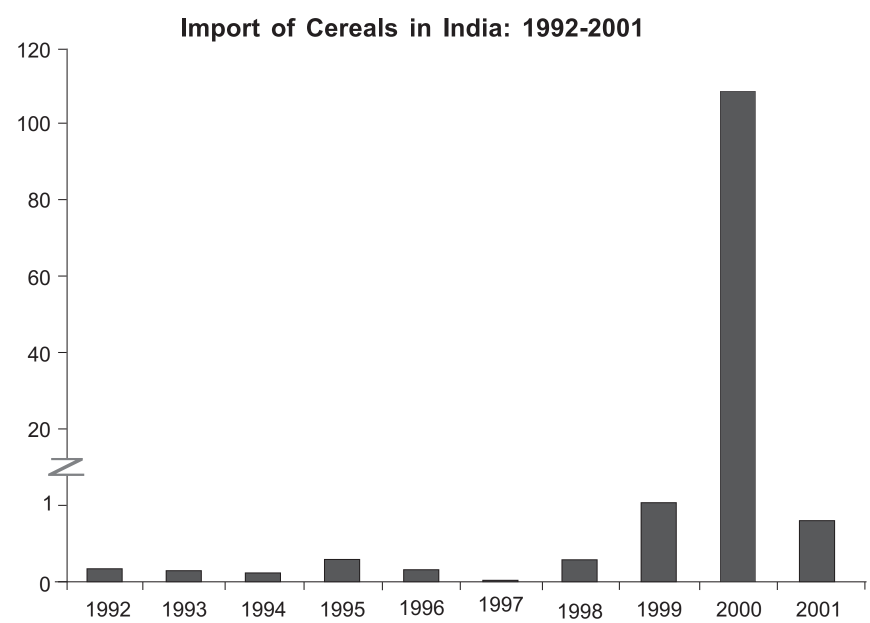
Date	Value
31/03/1992	7.01
31/03/1993	10.16
31/03/1994	34.02
31/03/1995	28.03
31/03/1996	16.97
31/03/1997	48.65
31/03/1998	12.59
31/03/1999	8.68
31/03/2000	9.91
31/03/2001	39.08



Import of Cereals in India from: 1992 - 2001

(Rs. Crore)

Date	Value
31/03/1992	0.22
31/03/1993	0.19
31/03/1994	0.11
31/03/1995	0.34
31/03/1996	0.24
31/03/1997	0.5
31/03/1998	0.34
31/03/1999	1.07
31/03/2000	114.07
31/03/2001	15.61



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