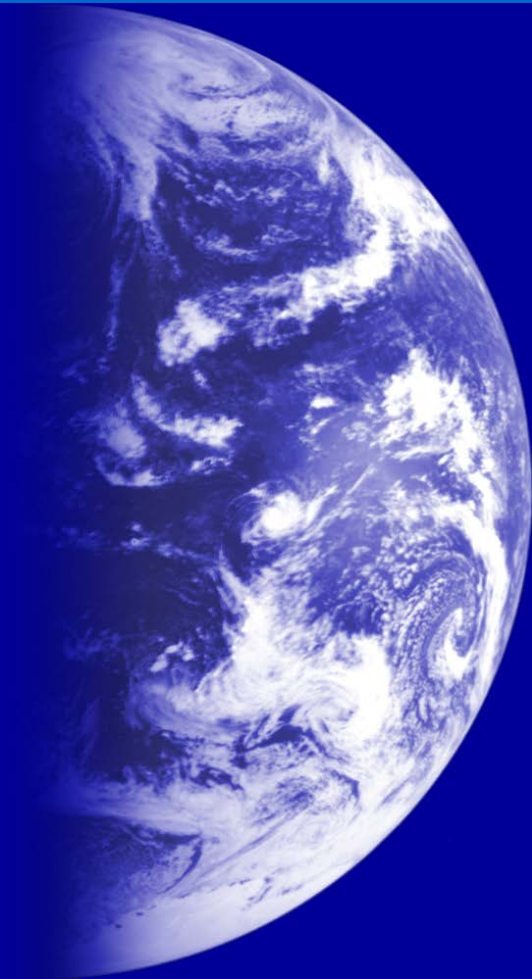


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WTO Rules Applying to Food Reserves After Bali

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Overview

- I. What happened in Bali?
- II. What might change for WTO rules applying to public food reserves?
- III. How good is this for national and for global food security?
- IV. What should be done in the «work programme»?
- V. Issues for discussion

I. What happened in Bali?

- First ministerial decision package since the establishment of WTO (1995) – including in the perhaps most sensitive topic of agricultural trade
- A “peace clause” might now be shielding certain stockpile programmes from subsidy complaints in formal litigation
- Decision provides a starting point for a WTO Work Programme for food security, until 2017...
- ... but this may also unduly widen the limited window for government-financed competition
- ... without increasing global food security!

II. Which rules might change?

- i. Present rules: «three pillars» – and general subsidy rules
- ii. Changes in Bali: Ministerial Decision

II(i): Present WTO rules (summary)

- Agreement on Agriculture **objective** is “to establish a fair and market-oriented agricultural trading system [...] through the negotiation of *commitments on support and protection*” and that “commitments [...] should be made in an equitable way among all Members, having regard to non-trade concerns, including *food security* and the need to protect the environment”.

II(i): Present WTO rules (cont'd)

- **Three pillars** provide rules for (1) market access (tariffs), (2) export subsidies and (3) domestic support
 - 1) **Market access**: «tariffication» means all products have maximum tariffs, and no more *variable border levies* and *price bands* allowed.
 - 2) **Export subsidies** reduced but not abolished for former users
 - Other forms remain un-regulated: export credits, export state trading and food aid abuse.

II(i): Present WTO rules (cont'd)

3) **Domestic support** measures are placed in the so-called “**amber**”, “**green**” and “**blue**” boxes, with \pm same rules for developing countries (except *de minimis* or Art. 6.2 AoA)

- **All product and price support is «*amber*»** i.e. limited (but not prohibited) for each country.
- The ***Green Box*** lists all measures which may be maintained or introduced by WTO Members without any limits or reduction commitments, provided they “have no, or at most minimal, trade-distorting effects or effects on production.”

II(i): Present WTO rules (cont'd)

- **Food reserves** are listed as «*green*» as long as they don't «**have the effect of providing price support to producers.**» (para 3)
 - Purchases and sales must be «made at current market prices»
 - Developing countries have the right to operate such schemes at **administered prices**, but only as long as «**the difference between the acquisition price and the external reference price is accounted for in the AMS**» (i.e. Amber Box)

II(i): Present WTO rules (cont'd)

- **Food aid** is also «green» and can be provided «either at market or at subsidized prices» and under «programmes establishing clearly-defined criteria related to nutritional objectives» (para 4)
 - Attempts in the Doha Round to prevent «commercial displacement» have failed (Heri and Häberli 2011).

II(i): Present WTO rules (cont'd)

- My assessment:
 - The wording in these paragraphs appears “development-blind” and outdated, and the ceilings in some countries’ AMS with high inflation rates are in reality lower today than at the end of the implementation period.
 - However, the purpose of such domestic support disciplines is to prevent a *race to the bottom* which primarily comes at the expense of efficient producers, especially in poor countries.
- (Häberli 2012 a + b on shortcomings of WTO food security rules)

II(ii): Ministerial Decision (7 December 2013)

- exempts from dispute settlement challenges
«support provided for traditional staple food crops in pursuance of public stockholding programmes for food security purposes existing as of the date of this Decision» (para 2)
- this «peace clause» has conditions:
 - detailed notification obligations, full reporting and monitoring by the Committee on Agriculture, and acceptance of consultations on request
 - compliance with AoA paras 3 and 4
 - «not distort trade or adversely affect the food security of other Members»

II(ii): Ministerial Decision (cont'd)

- My assessment:
 - the decision leaves unchanged the basic distinction between the Amber and Green Boxes...
 - ...but breaches will remain unchallenged
 - no mention is made of the Subsidy Agreement which prohibits subsidies with a causal effect of injury on other countries

II(ii): Ministerial Decision (cont'd)

- Legal nasties:
 - This decision is not a *waiver*, *interpretation* or *amendment* and has therefore no legally binding value (Benitah 2014, Van den Bossche 2013)
 - Any WTO Member can at any time lodge a complaint against a measure by another Member, and obtain the establishment of a Panel
 - Can a Panel invoke this «peace clause» and not rule, even if the complainant successfully argues injury?

III: How good is this for national and for global food security?

- No rules have changed in Bali
 - welcome «cooling down» of an emotional debate...
 - ...vs new actors on international export markets using food reserves (India/Rupia devalued)
 - Turning point on the crucial question whether developing countries obtain more policy space for managing food reserves – at the expense of other countries (*global food security*).
- This requires a wider discussion on the role of stockpiles in a *national food security* strategy.

IV. What to do in the «work programme»?

- The challenge here will be
 - to prevent the abuse of food reserves and food aid as instruments of commercial displacement
 - to ensure that any social policy component would have no or only minimal trade impacts (and no price depression on local farmers – but that is not WTO's business)

(Jaud et al 2013, Konandreas 2012, FAO 2013, de Schutter 2011)

IV. A good «work programme» (cont'd)

1. Upfront questions

1. Does public ownership of stockpiles stabilise prices – or prevent private stocks and risk management tools to operate properly?
2. How to address social policy objectives within the present Green Box framework (i.e. with «no or at most minimal» trade distortions)?

IV. A good «work programme» (cont'd)

2. Discuss **WTO rules adaptation** for

1. **Private stockpile schemes** under government control, and alternatives for stockpile financing (Häberli 2013, Gouel “state-contingent optimal policy”)
2. **Regional («virtual») food reserves**: review relevant WTO rules, and look into International Energy Agency (IEA) mechanisms (Trethewie 2013, Lines 2011, Larson et al 2014)
3. **Export restrictions** affecting commercial and food aid supplies to net food-importing developing countries (NFIDCs) (Martin and Anderson 2012)

IV. A good «work programme» (cont'd)

- 3. Ultimately:** Only competitive farmers can feed “9 billion”. Unless the numerous anti-small farm policy biases are removed, subsistence farmers and nomads will not even feed themselves. Moreover, they are not obviously more climate change-resilient than big farms. For the sake of global food security, WTO must therefore continue to act as a bulwark against agricultural policies affording protection at the expense of other farmers.

V. Issues for discussion

- A reminder: WTO is not about good policies, only about the difference between protection and protectionism, by regulating market access and ensuring respect of rules and commitments (upon a complaint)
- Stockpiles (and food aid) must be managed so as not to impair negotiated rights of another country.
- Can economists find a way to ensure that social policies are not protectionist? Do you agree the solution is to dissociate agricultural production and social protection?

Thank you for your attention!



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