

Dhaka Roundtable on
**Reviving the Multilateral Trading System:
*Post-Bali Issues***

23 – 24 November 2014, Bangladesh

Session 3

The Issue of Public Stockholding in the WTO

The issue of public stock-holding in the WTO

by

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THE ISSUE OF PUBLIC STOCK- HOLDING IN THE WTO

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Contribution to the Dhaka Roundtable on

“Reviving the Multilateral Trading System: Post-Bali Issues”

Organised by the Centre for Policy Dialogue (CPD), Dhaka in
collaboration with the South African Institute of International
Affairs (SAIIA), Johannesburg

Dhaka, 23-24 November 2014

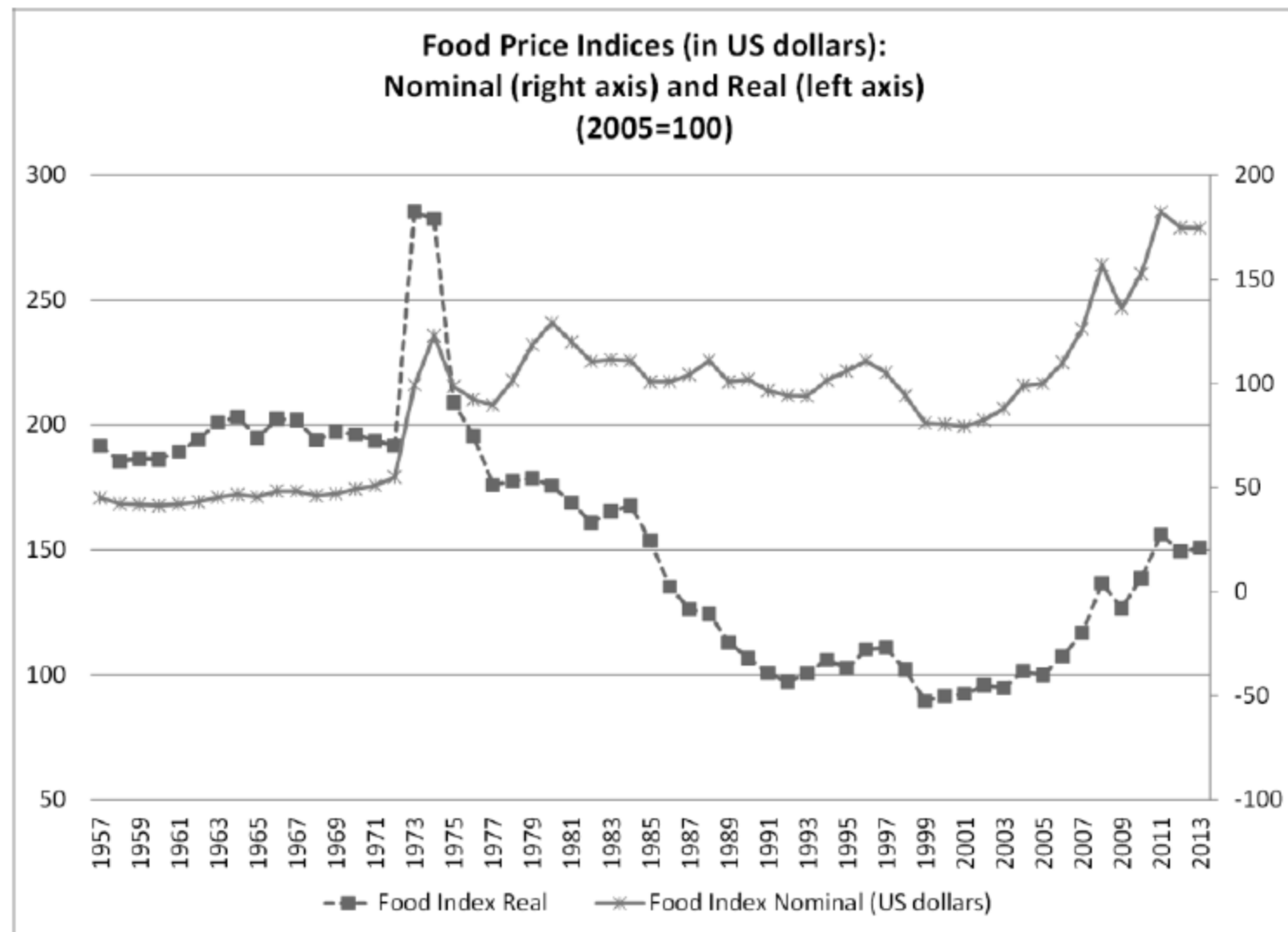
Issues and outline

- **Clarification:** issue is about **procurement prices** for public stock-holding
- The need to see the issue in the broader context of WTO rules, the Doha negotiations and **food security concerns**
- The **Bali Ministerial Decision** on Public Stockholding for Food Security Purposes 2013
 - created an interim mechanism and decided to negotiate a permanent solution
- What might the **elements of a permanent solution** to this issue look like?
- Implications for the **post-Bali Doha work programme**
- **Caveat:** Discussion focuses on WTO issues and not on the economic debate about optimal food security policies

WTO AoA rules and food security

- Food security recognised as a **non-trade concern** which must be taken into account in the reform process
- Consistency between rules and the policy environment needed to pursue food security objectives has long been a source of controversy
 - The notion of '**policy space**'
- Food security in the Doha Round negotiations
 - Some developing countries proposed 'Food Security Box'
 - Main focus was on the right to maintain import protection
 - 2004 Framework Agreement recognised legitimacy of Special Products and a Special Safeguard Mechanism
 - 2008 draft modalities developed prior to the 2008 price spike and subsequent change in world food price context

Figure 2.1 Food price indices in US nominal and real values



Doha negotiations and food security

- Export restrictions and domestic support disciplines not initially a focus of concern
- The 2008 price spike and subsequent higher level of food prices **changed the negotiation concerns**
 - Higher global food prices made complying with market access and export subsidy commitments easier (many developing countries further reduced import tariffs)
 - At the same time, it made complying with domestic support commitments more difficult (because support is measured against a fixed external reference price)
 - From point of view of net importing developing countries, it also highlighted the lack of effective disciplines on export restrictions
- Led some developing countries to take a much more critical look at the **domestic support disciplines**
- Important to highlight the very considerable policy space under current AoA rules

Domestic support policy space

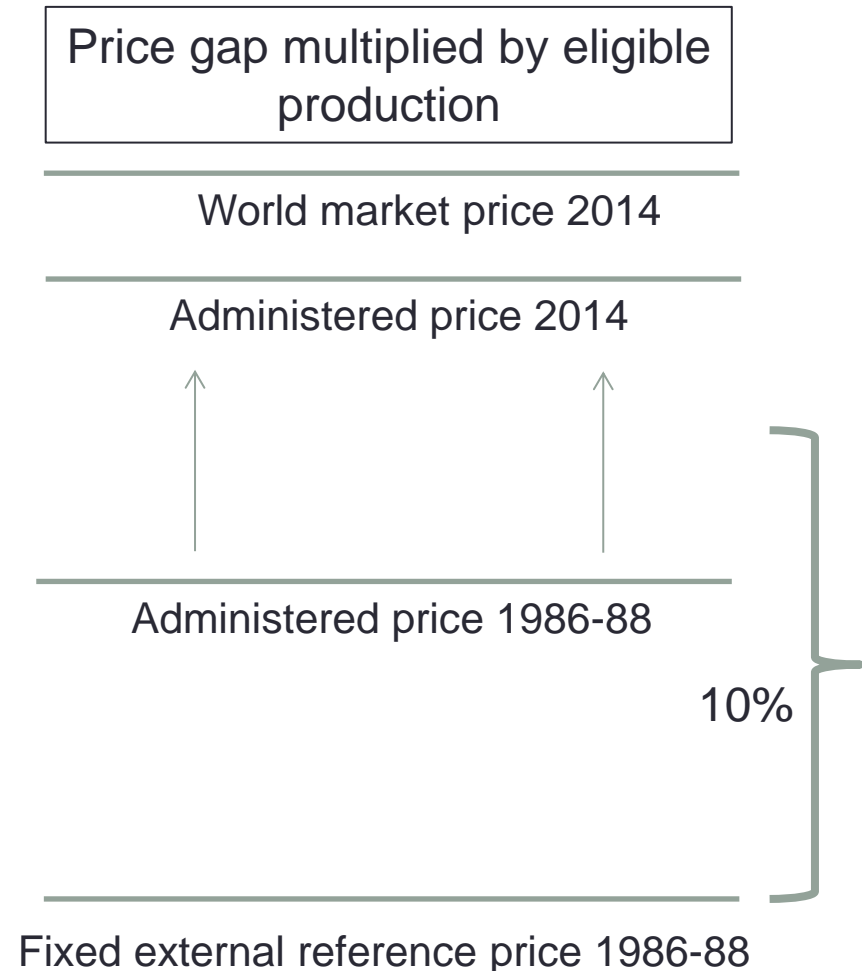
- Determined by **right to exempt support** under some policies when calculating AMSs ...
 - Blue Box Article 6.5
 - Development Box Article 6.2
 - Green Box Annex 2 (includes food assistance and public stockholding programmes which meet specified conditions)
- ... and **size of limits** on AMS support
 - For most WTO members (95 developing, 4 developed), these are individual AMSs based on de minimis limits
 - For remaining WTO members (17 developing countries, 15 developed countries), these are Bound Total AMS

Policy space and WTO rules: how AMS is calculated

- Current AMS includes both **market price support** and **budget support**
- Market price support calculated as the **difference** between any domestic administered price and a fixed external reference price FERP (1986-88), **multiplied** by volume of eligible production
- While issue is raised in the narrow context of procurement prices for public food security stocks, the broader context is whether **price support** is a necessary instrument for developing countries to promote their food security?

Domestic support ceilings begin to bite

- With rising domestic support prices (in part reflecting general rise in global food prices), a number of developing countries at risk of breaching their AMS commitment, even where administered price is below the world market price
- Hence desire to find ways of relaxing this commitment to accommodate, in particular, price support policies for domestic farmers
- Recall no limits on public 'public good' expenditures, input and investment subsidies



WTO rules on public stock-holding

- Public stockholding for food security purposes included as **a Green Box measure**, provided (for developing countries):
 - their operations are transparent and conducted in accordance with official published objective criteria or guidelines
 - if food for public reserves or food assistance programmes is **purchased at market prices**, then these programmes qualify as green box programmes without restriction (footnote 5)
 - if the stocks of foodstuffs are acquired and released at **administered prices**, the difference between the acquisition price and the external reference price must be accounted for in the product's AMS (footnote 5)
- G-33 proposal was to exempt purchases at administered prices from counting towards a product's AMS

Bali Ministerial Decision on public stockholding for food security purposes

- As an interim solution, WTO members shall **refrain from challenging** through the WTO dispute settlement mechanism compliance of a developing member with its Total AMS or *de minimis* AMS limits in relation to 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**, provided it complies with a **number of conditions** set out in the Decision.
- Conditions relate to notification and transparency requirements, anti-circumvention and safeguards, consultation and monitoring

Bali Ministerial Decision on public stockholding for food security purposes

- Committed to negotiate **a permanent solution** for the issue of public stockholding for food security purposes
- “1. Members agree to put in place an interim mechanism as set out below, and to negotiate on an agreement for a permanent solution¹, for the issue of public stockholding for food security purposes for adoption by the 11th Ministerial Conference.
- 2. In the interim, until a permanent solution is found, and provided that the conditions set out below are met, Members shall refrain from challenging.....”

Bali Ministerial Decision – state of play

- July 2014 India **vetoed adoption** of the Protocol of Amendment to incorporate the Trade Facilitation Agreement (TFA) into WTO legal framework until permanent solution to public stock-holding issue had been found
- India proposed that a permanent solution be reached by **31 December 2014**
- Other WTO members felt this reopened the Bali package and **froze work** on preparing post-Bali Doha work programme
- India's stance apparently linked to concern that peace clause was not indefinite until permanent solution was found
- India-US understanding Nov 2014 makes clear this is the case
 - Formal text not official published
- Understanding now needs **approval** of all WTO members

PERMANENT SOLUTIONS TO PUBLIC FOOD SECURITY STOCKS

Bali Decision – guidance on permanent solution

- “to negotiate on an agreement for a permanent solution¹, for the issue of public stockholding for food security purposes for adoption by the 11th Ministerial Conference”, i.e. end 2017.
- “¹ The permanent solution will be applicable to all developing Members.”
- Intended as special and differential treatment.
- Not intended to re-open how domestic support in general is measured for AMS purposes

Buying at market prices

- Buying food security stocks at market prices for distribution at subsidised prices to vulnerable populations is fully in accord with existing AoA rules
- Note that even procurement at market prices provides some **support** to domestic farmers to the extent that it increases effective demand
- Where countries have tariff binding overhang, they have possibility to ensure that market prices track desired prices by varying border tariffs
- Issues arise when government announces administered prices even if procurement takes place at (higher) market prices

Re-examine eligible production

- Many countries assumed that eligible production referred to amount **actually purchased** by government at administered price
- Not so, according to WTO *Korea Beef* case, it is amount that is **eligible** that must be used in AMS calculation
- However, eligible production not necessarily **total production** if there are **specific limitations** laid down by legislation
 - e.g. maximum ceiling on government purchases, purchases limited to less favoured regions or small producers
- No economic case for redefining concept of eligible production
- In any case, share of production needed to build/maintain food security stocks will likely be only small share of total production

Allow for excessive inflation – (re)define commitments in external currency

- Whether the **Fixed External Reference Price** (FERP) is denominated in local or external currency
 - Denomination in external currency provides protection against excessive rates of domestic inflation if exchange rate changes driven by purchasing power parity
 - An alternative might be to notify in constant prices (i.e. domestic inflation-adjusted) but note de minimis AMS ceiling automatically increases with inflation
 - Does not provide protection against fundamental changes in underlying world market prices
 - But note world market price has increased much more in USD than, e.g. in SDRs.
- Some countries (e.g. India) switched to notifying in external currency
- May need understanding to secure **legal certainty**
 - Current rules require AMS notifications to ‘take into account the constituent data and methodology’ used in determining base AMS
- Would apply to AMS calculation generally and not limited to procurement for public stock-holding for food security purposes

Clarify link between administered and market prices (Diaz-Bonilla 2013 and 2014)

- Builds on the **economic idea** that, if purchases are made at administered prices which are in line with (or less than) current tariff-inclusive import or export parity prices, then they are only minimally-trade distorting
- Countries would be assumed not to have a price gap (for purposes of footnote 5) provided their administered procurement prices meet this criterion
- Could be justified as a ‘White Box’ analogous to the ‘Blue Box’ protecting developed countries production-limited support programmes
- Operational issues:
 - Rules for calculating the adjusted FERP
 - Safeguards to prohibit exports from food security stocks accumulated on this basis

Other options

- Make **the interim arrangement permanent** (i.e. extend to all developing countries for all procurement operations in connection with public stocks for food security purposes)
 - The original G-33 proposal
 - Creates a breach with fundamental Green Box principle that exempted measures should not provide price support
 - Could potentially create scope for extensive price support in developing countries which would significantly impair the market access negotiated by other Members
- Increase **de minimis percentages** for AMS ceilings
 - No obvious link with food security rationale

Other options

- Change the 1986–1988 base period for FERPs to more **recent values**
 - Makes legal definition consistent with economic concept of agricultural support
 - Would follow OECD methodology for calculating agricultural support (Producer Support Estimates)
 - Hard to confine change to developing countries, with potentially dramatic implications for much higher domestic support ceilings also in developed countries
 - Such a major change could be difficult to negotiate in the context of a stand-alone agreement, would need to be folded back into the general Doha discussions on domestic support
 - A sledgehammer to crack the public stock-holding nut?

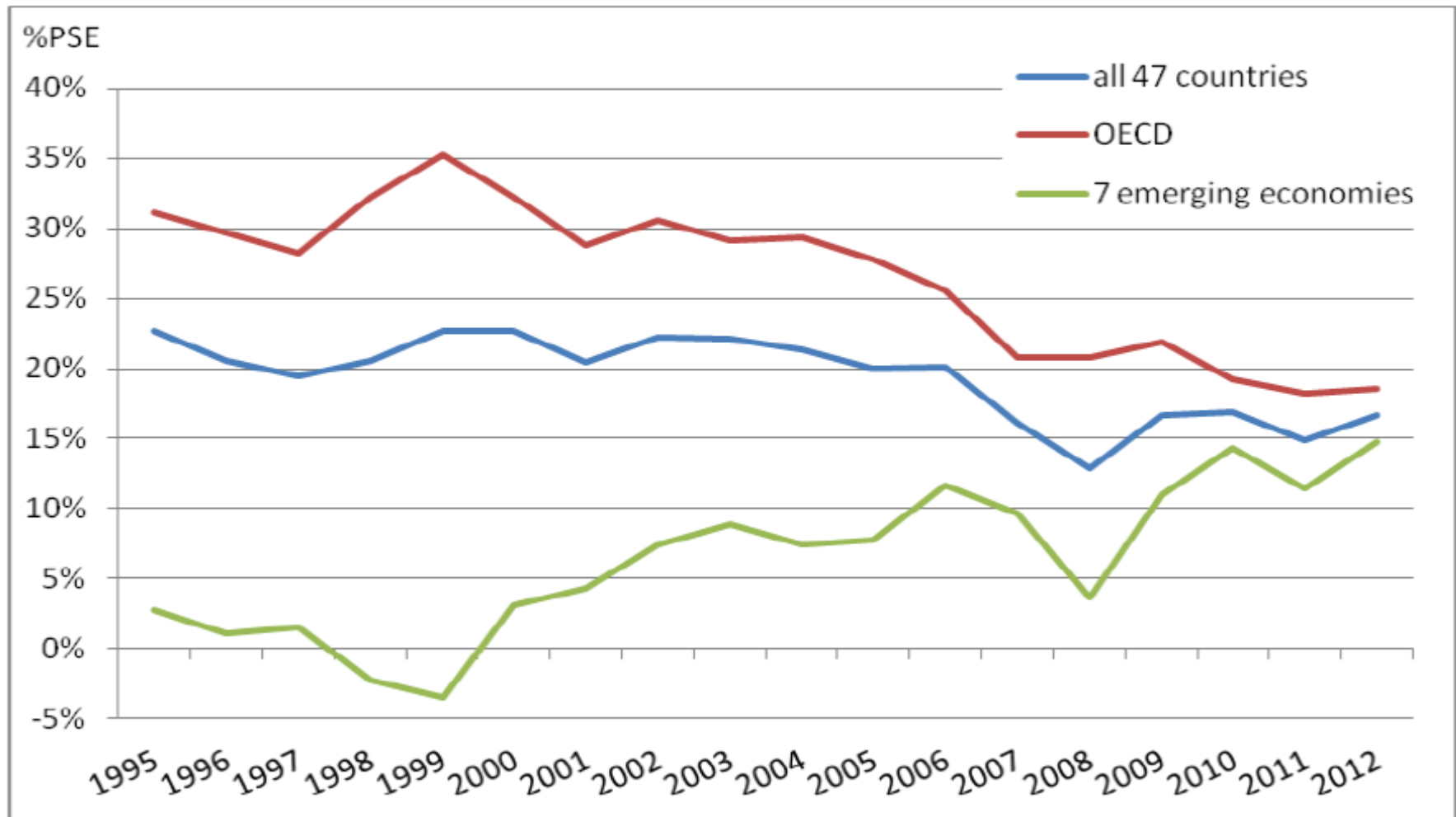
Political economy of negotiating a permanent solution (1)

- Ball is in the court of India and like-minded nations to propose solutions
 - A G-33 proposal? Is there widespread developing country backing?
- Two **narratives**
 - Permanent solution is about correcting perceived inequities and injustices arising out of skewed bargaining process that led to Uruguay Round AoA rules
 - Permanent solution being sought in context where (some) developing are rapidly growing their shares in world production and exports as well as the level of domestic support provided to their producers
- Too simplistic to think of this as just a **North-South issue**
 - Developing country farmers increasingly affected by the agricultural policies of other developing countries

Agricultural support in developing countries now close to OECD levels

Source: Tangermann, 2014

Figure 3.1. Producer Support Estimate as a Share of Gross Farm Revenue, 1995-2023



Political economy of negotiating a permanent solution (2)

- WTO is a **negotiating arena**
 - Can demandeurs offer something in return?
 - e.g. Subramaniam proposal to offer lower tariff bindings
- All negotiating proposals have a **cost**
 - No benefit in expending negotiating energy looking for policy space which you will not use
 - Could the domestic policy objectives be achieved in a more WTO-compatible manner?
- Proposals supported by **economic reasoning** may have greater chance of securing consensus than simply carving out greater exemptions from disciplines

Implications of procurement price issue for wider post-Bali Doha work programme

- Revisit **existing disciplines** (Bali)
 - Rules for measurement of and/or ceilings on Amber Box domestic support
- **Level the playing field** (Doha agenda)
 - Tariff cutting formulae, sensitive products, SPs and SSM
 - Domestic support (OTDS, Amber Box, Blue Box, Green Box)
 - Elimination of export subsidies and equivalent disciplines
- Potential **new disciplines**
 - Limits on export restrictions and taxes
 - Risk management instruments (beyond those currently considered)
- **SPS measures** and private standards
 - Issues to do with process standards (e.g. carbon tariffs)
- WTO rules just one element of **global food security governance**

Further reading:

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