

Lecture 06: The GATT and Agriculture

Dear students, in this lecture we will be going to see the GATT provisions on agriculture. So, as we were discussing, and we have now an idea about who are the aggregate producers and who are the agricultural exporters in the world. Now, we have to see that what are the provisions which come up in 1947 in the GATT and we have to remember that these provisions came up on the background of the Great Depression in the 1930s followed by lot of legislations, I would say that, protectionist legislations in the US and other countries and as a result of the Second World War and 1945 onwards the formation of various institutions. These GATT rules are specifically formed on this particular background of severe food shortage and even famine in some of the countries like India. And the world famous famine which affected during the Second World War in Kolkata is also to be specially mentioned.

CONCEPTS COVERED

GATT Provisions on Agriculture



So, we will see in this class specifically the GATT provisions with regard to agriculture.

Historical Perspective

- **The GATT had been explicitly written to accommodate the agricultural import controls and export subsidies of the United States.**
- **The production subsidies of the United Kingdom had been condoned, and its use of discriminatory bulk purchases and tariff preferences had not been effectively constrained.**
- **Import quotas and Foreign exchange restrictions were in the EC.**
- **QRs were allowed.**

So, if we look into this GATT. So, you can see that always there was a tussle between the United States and the United Kingdom for tariff preferences, and at the same time non-tariff barriers because you can see that agriculture exports and import controls as well as subsidies play a crucial role in the agricultural market because these developed countries mostly subsidize their agricultural sector. So, the agricultural market the production may be high and their demand depends upon circumstances and the prices mostly depend upon the tariffs or tariff preferences. Some of the countries even put import quotas for certain products in order to maintain the domestic prices of agricultural goods. Foreign exchange restrictions that is another important criteria as a non-tariff barrier. Quantitative restrictions(QR) - Article 11 of GATT specifically prohibits quantitative restrictions, but in agricultural sector, QR are allowed by many countries because of the special requirements of that particular country. So, in the agricultural sector the quantitative restrictions were very common. So, the imports are not allowed in certain areas. So, the governments take decisions with regard to the import of these particular commodities.

Post ITO

- **As it became clear that the ITO would not be created, the developed and developing exporters were left to rely primarily on the GATT as a means of resolving conflicts in agricultural trade.**
- **The protectionist policies of industrialized countries created large distortions in world food markets, depressing the world price of temperate agricultural commodities to uncompetitively low levels and generating global market instability.**



And the non-formation of ITO - So, in the last class we saw that the ITO was dead. So, in the post war period the countries thought that ITO was going to be the answer to control the world trade, but it was not happened and the entire discussions came to the WTO as to the GATT instead of ITO. So, the protectionist policies of the industrialized countries was one of the most important reasons for distortions in the world food markets. Why it is known as distortions? Because artificial markets are created because of subsidies and these products, the developing countries were not able to compete with these prices, these artificially made prices and which depressed the world prices and the world markets of agricultural commodities. So, in short, developing countries products were not highly competitive or uncompetitive with regard to the developed country products because of this artificial creation of markets.

GATT & Agriculture

- The basic principles underlying the GATT include the principles of non-discrimination, reciprocity, transparency and the use of tariffs rather than quantitative measures to provide protection.
- Agriculture was treated separately in the GATT under a number of headings, of which subsidies and quantitative restrictions were the most important.
- These exemptions meant that there were few disciplines on agricultural policy, particularly in developed countries.



So, the basic principles, the questions asked in the GATT were: can we impose the basic principles to the agriculture as well because the GATT includes the principle of non-discrimination, reciprocity, transparency, removal of quantitative restrictions and tariff cuts. But most of the members considered agriculture as a separate agreement because you cannot blanketly apply these rules, MFN clause or national treatment principles or specifically other non-tariff measures. So, they considered agriculture as a separate agreement and also considered that in certain cases these exceptions to be applicable to agriculture agreement because if the developing countries wants to survive then you have to put some kind of restrictive measures in force.

Special Treatment of Agriculture

- **Quantitative import restrictions, banned for all other commodities, could be used in the case of agricultural commodities,**
- **Providing that domestic production of the commodity in question was also subject to certain restrictions, or**
- **To domestic price stabilization or price support policies.**



So, within the GATT agriculture was considered separately and it got a special treatment because we already said that (QR) quantitative restrictions are banned or I would say that

restricted in all other agreements, but agriculture agreements and in commodities it took a liberal treatment. And also restrictions in domestic productions are removed or domestic price stabilization and price support policies are continued. For example, the MSP, the minimum support price scheme in India is very popular in certain products that includes the price support policies of the government. So, what does it mean? It means that even though QR are banned in other agreements, within the agriculture agreement it is permitted as a part of the governmental policies.

Special treatment of Agriculture

- **The use of agricultural export subsidies was explicitly permitted,**
- **Conditional upon the observance of "equitable" market shares;**
- **But "equitable" was difficult to define and agricultural export subsidies proliferated.**



And then most importantly the agriculture export subsidies - Export subsidies to agriculture was permitted but subject to certain conditions like equitable market trace. So, what is equitable? It is very difficult to define related to agriculture export markets and agriculture export subsidies. That is why the export subsidies are proliferated to many countries. So, later on during the negotiations it was the removal of export subsidies that was considered as one of the pillars of agriculture agreement along with removal of non-tariff barriers. So, most of them use export subsidies also in the agriculture sector.

Special Treatment

- **Other mechanisms for protecting agriculture,**
- **Such as variable import levies and domestic subsidies, were not explicitly covered by the GATT,**
- **And provided additional loopholes for agricultural policymakers wishing to protect the agricultural sector.**



So, we are talking about how the agriculture got a special treatment in GATT. And also, there are special treatments to protect the agriculture sector. For example, variable import levies, domestic subsidies. So, we can see that variable levies as well as quotas are also imposed in the agriculture imports. And it means that the agriculture sector even though other non-tariff barriers were completely banned in other sectors, but in agriculture it is allowed by the GATT, within the GATT negotiations.

GATT Negotiations

- The difficulties in reaching an agreement on agriculture were one of the main reasons it took so long to complete the Uruguay Round negotiations.
- Important stepping stones on the way were the mid-term review in April 1989, the presentation of the Dunkel Draft Final Act in 1991 and the US-EU bilateral Blair House Accord in November 1993.
- Agriculture has had a difficult history in the GATT.
- The GATT does not say much about agriculture specifically, which meant that, in theory agricultural trade was to be treated essentially like trade in other goods.
- However, some GATT articles provided exceptional status for agricultural products, an indication that the drafters of the GATT were well aware of the unique political status that agriculture enjoyed in some major countries at that time.



If you look into the negotiations especially the *Dunkel Draft* which was formed in the GATT in 1947, the developed countries were in favour of reducing these non-tariff barriers including subsidies and also the negotiating history is very tough because there is a large number of developing countries and the surplus produces in US and European

Union and there are large quantity of importers. So, the agriculture negotiations were very tough for the participants to negotiate reconciling provisions within the GATT.

GATT & Subsidy

- **The original GATT had only a section that required the contracting parties to report "any subsidy, including any form of income or price support, which operates directly or indirectly to increase exports of any product from, or to reduce imports of any product into its territory, to other parties".**
- **Thus, originally there was no prohibition on subsidies, domestic or export.**

So, subsidy was always a point of discussion and we will see the definition of subsidy, especially the agriculture subsidy later on, but these subsidies include income support, price support and operational support, export support and also the import support and even transporting support. So, it means that from the GATT period itself there was no prohibition of subsidies on agricultural products, from the very beginning. So, subsidies for export are permitted. So, the negotiations were going on.

GATT

- **This became what is now **Article XVI:1**.**
- **Later, the prohibition against export subsidies on other than primary products was added as **Article XVI:4**.**
- **It was only in 1955 when **Article XVI** was extended.**
- **Its **Article XVI:2** recognized that export subsidies may have harmful effects.**
- **This is followed by the famous **Article XVI:3****
- **When **Article XVI:4** which prohibits export subsidies for other, non-primary products, was made a part of the GATT, the special treatment of agriculture was complete.**

And then we can see that certain provisions came up. So, the sum of the provisions which we can see is XVI:1, prohibition of export subsidies other than primary products which was added later on and then, article XVI is one of the important provision. It was

added, extended and finally, you know some pious languages exists like export subsidies may be harmful because the agriculture negotiations are very tough because nobody wants to touch upon the agriculture sector of its own country because it is a very sensitive issue at the domestic level. So, XVI:3, XVI:4, other than non-primary products and then special treatment. So, you can see XVI:1, XVI:2, XVI:4 and XVI:3, so many provisions were included, but with all these provisions, certain restrictions or control was put for the agricultural products. The free rate was stopped with these particular provisions and other provisions.

GATT & QR

- **Four GATT rules deal with quantitative restrictions:**
 - **Article XI** prohibits the use of quotas (with certain exceptions);
 - **Article XII** provides for an exception to **Article XI** for balance of payments reasons;
 - **Article XIII** outlines rules on quotas (on imports and exports); and
 - **Article XIV** provides exceptions to **Article III** under certain balance of payments situations.

Specifically, we can see that in general the GATT has completely banned quantitative restrictions under article 11, but in agriculture it is banned with certain conditions. The article 12 which provides an exception for article 11 in case of balance of payment problems. For example, this was the Indian QR case: argument of the government of India before the dispute settlement body that India is facing balance of payment problems. So, we should get an exemption under article 12, but unfortunately the panel and the appellate body rejected the Indian argument and said that India was facing balance of payment problem in 1991 and the WTO came into existence in 1995. So, you cannot claim this particular privileges after 1995 by showing an old balance of payment problems. And most importantly under article 13, import and export quotas are abolished. So, you can see only two situations one the quotas abolished and then second is this quotas can be only imposed during balance of payment problems or balance of payment situations otherwise these are completely banned under the GATT provisions.



Exceptions

- **The agricultural exceptions under Article XI:2 are:**
- **export restrictions can be used to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting countries;**
- **import and export restrictions can be used to bring about "the application of standards or regulations for the classification, grading, or marketing of commodities in international trade"; and**



And article XI:2 says that export restrictions can be used to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting countries. It means that whenever there is a food security problem the exporting countries can put restrictions; import restrictions as well as export restrictions. This is subject to the standard regulations and classification. So, we were talking about that the government has put a specific ban on the export of rice under the article XI:2, otherwise the government of India cannot put such a condition.

Exceptions

- **import restrictions can be applied on any agricultural or fishery product imported in any form necessary to the enforcement of governmental measures that operate to:**
 - **Restrict the production or marketing of the like domestic product or of a domestic product that is a close substitute;**
 - **Remove a temporary surplus of a like domestic product by making the surplus available to groups of domestic consumers free or at reduced prices;**
 - **Restrict the quantities produced of any animal product that is directly dependent wholly or mainly on the imported product.**



So, what are the other exceptions other than Article XI:1. Here we can see the import restrictions: restrict the production or marketing of the like domestic product of a domestic product that is a close substitute. I think these imports can be taken care of by the anti-dumping agreement. Removal of temporary surplus and then restrict the

quantities produced of any animal product that is directly dependent wholly or mainly on the imported product. So, these provisions give certain exceptions to the strict implementation of Article XI.

Distortions in World Market

- **The high level of domestic support to producers - about 60 percent of the value of production in OECD countries in 1986-88 - paid by taxpayers and consumers as a result of both domestic support and border protection led to increasing amounts of surplus production which could be disposed off in world markets only with export subsidies.**
- **The large scale use of export subsidies, mainly by the US and the EC, in order to dispose of their surpluses tended to depress world market prices and make them more unstable. Large-scale**

So, we said that all the developed countries always say that the world agriculture market is distorted. How it is distorted? Distorted by quotas, distorted by subsidies and distorted by non-market access. There is no market access for agricultural goods. So, that is why I said that our perception during 1980s, 90s during the Uruguay Round of negotiations, this was the main contention of developing countries that US and EU are the highest providers of subsidy. But in the last class, in the last figure we saw that it is not the US and EU who are the largest providers anymore. So, in a period of 20-25 years the developing countries became the largest providers of subsidies, instead of the US and the EU. This was our old argument and we have to make new arguments.

Distortions

- **During the second half of 1980s, there was a "subsidies war" between the two major exporters as they fought to maintain their share in world markets.**
- **Agricultural protectionism also imposed implicit taxes on farmers.**
- **The GATT institutions were often used in an attempt to resolve these disputes, but not with much success as rules were made ineffective due to the various exemptions.**
- **In fact, 60 percent of all trade disputes submitted to the GATT dispute settlement process between 1980 and 1990 were concerned with agriculture.**



And what is this distortion? These distortions were discussed in the various round of negotiations where the subsidies war was not going on between the developed and developing nations, it was going on between the developed nations. And agriculture protectionism and imposing additional taxes was the usual story. And if you see the fight between UK, Canada and US it is very evident the high level of protectionism which prevails in the agricultural markets and exceptions to this are very rare. So, in you can see that how complex the agriculture issue was during the 80s and 90s. So, it is reported that 60 percent of the trade disputes submitted to the GATT dispute settlement system was on agriculture between 1980 and 1990. So, it shows the controversial problems and the acute problems which was faced by the members at that point of time. So, there was a lot of dispute between members on the agriculture sector at that point of time.

Uruguay Round Negotiations

- (i) improving market access through, inter alia, the reduction of import barriers;**
- (ii) improving the competitive environment by increasing discipline on the use of all direct and indirect subsidies and other measures affecting directly or indirectly agricultural trade, including the phased reduction of their negative effects and dealing with their causes;**
- (iii) minimizing the adverse effects that sanitary and phytosanitary regulations and barriers can have on trade in agriculture, taking into account the relevant international agreements.**



The Uruguay round of negotiations which started from 1986, they talked about improving the market access and reducing import barriers and also there must be a discipline in subsidies not blanket ban, but the discipline in subsidies and then minimizing the adverse effect of standards, sanitary and phytosanitary measures and technical barriers to trade on agricultural products. They discussed these three important points in the Uruguay round of negotiations and finally, the agriculture agreement was signed in 1995 with new provisions and disciplines and the core principles. So, in the next class we will discuss about the agriculture agreement, WTO agreement on agriculture, its provisions and which was actually concluded in the Uruguay round of negotiations. So, in the background we saw the present world agricultural scenario, at the same time we saw the GATT provisions and how they were negotiated and how they were concluded and what are the limited provisions during the GATT negotiations. And in the next class we will discuss about these WTO provisions or WTO agreement on agriculture.

Thank you.