

# Consequences of Agricultural Trade Liberalization: a Food Insecure Country's Perspective

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## I. Introduction

With around 90% of the export revenue derived from it, more than 84% of the population depending on it for employment and contributing to about 50% of the GDP, agriculture is the backbone of the Ethiopian economy.<sup>1</sup> As a country endowed with abundant land, water resources and labour, it is presumed to have a comparative advantage in agriculture, and hence to be food self sufficient. However, this is far from the truth as millions of people in the country depend on emergency food aid and suffer from chronic hunger every year.

Food security of a country is affected by different factors; one of which is international trade policy. Agricultural trade policy reform in the context of the WTO involves a reform in the three pillars of the Agreement on Agriculture (AOA): tariff, export subsidies and domestic support measures.<sup>2</sup> Reforms in each may one way or another have an implication on food security<sup>3</sup>. For example, lower tariff in agricultural products may lead to increase in import which may in turn bring the price of imported food down. This will enhance food security as food becomes affordable by many. On the other hand, this situation could also have a negative consequence on countries like Ethiopia which largely depend on the agriculture sector as a means of export earnings and employment for the major share of the population. This is so as the lower prices of imported agricultural products could suppress the price of domestically produced products and discourage domestic production. The rules of AoA on domestic support and export subsidies may also have an impact on food security in that their reduction or removal may increase the price of food in the world market. This will in turn increase the import bills of food importing countries and decrease the amount of food supply to food deficit countries in the form of food aid. The removal of support, however, may become beneficial in the long run as it could enhance competitiveness of agricultural products from developing countries including Ethiopia. This chapter examines the food

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<sup>1</sup> "Ethiopia: Building on Progress; A Plan for Accelerated and Sustained Development to End Poverty (PASDEP) Annual Progress Report 2005/06 Ministry of Finance and Economic Development (MoFED), Addis Ababa (June 2007), p 25 & 84

<sup>2</sup> On the Agreement on Agriculture's three pillars see generally Melaku Geboye Desta (sole author), *The Law of International Trade in Agricultural Products: From GATT 1947 to the WTO Agreement on Agriculture* (Kluwer, 2002).

<sup>3</sup> See below section V for details.

security implications of Ethiopia's accession to the WTO. It asserts that the WTO accession process has been burdensome particularly to LDCs and does not consider the special condition of these countries. This is so despite the different reiterations and adoption of different measures to help LDCs in their accession process. The chapter will also address the possible challenges and options the country may resort to during the accession process so as to address its food security concerns. Accordingly, the next section will briefly describe the trends of imports and exports of the country in an effort to indicate how much the country is dependent on the agriculture sector (II) Subsequently, the notion of food security will be defined and the state of food (in)security in Ethiopia will be assessed thoroughly (III) This is followed by a discussion of the causes of the food insecurity in the country which distinguishes between non-trade related and trade related factors (IV). The main part of this chapter is devoted to an in-depth look into the treatment of agriculture within the WTO wherein the trade instruments of the country will be assessed in light of the requirements of the WTO (V) The chapter will be finalized by making some concluding observations (VI).

## **II. Composition and Directions of Imports and Exports**

Agriculture has for long been the major source of Ethiopia's export revenue and continues to be so even now despite the government's attempt to diversify exports away from agricultural products. Sources indicate that over 80% of the country's export revenue comes from the agriculture sector.<sup>4</sup> Coffee, pulses, leather and leather products, oilseeds and chat constitute the highest share of export for the past seven years. According to a report of the National Bank of Ethiopia (NBE), 74.7% of Ethiopia's export revenue for the year 2007/08 came from these five agricultural products, a slight increase from the share in 2006/07 which was 72.9%.<sup>5</sup> From among these five products, the major share goes to coffee, its share being 35.8% followed by oilseeds 14.9%, pulses 9.8%, Chat 7.4% and Leather and Leather products 6.8%.<sup>6</sup> The remaining 25.3% goes to Gold (5.4%) and 'other' products, the latter containing

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<sup>4</sup> International Trade Centre, Trade Competitiveness Map, (Ethiopia 2008) also available at <[http://www.intracen.org/appli/TradeCom/TP\\_TP\\_CI.aspx?RP=231&YR=2008](http://www.intracen.org/appli/TradeCom/TP_TP_CI.aspx?RP=231&YR=2008) > accessed on January 29, 2010. the report by Ministry of Finance and Economic Development (MoFED) indicates that the sector's contribution to export earning could be as high as 90%. See supra note 1, p 25

<sup>5</sup> National Bank of Ethiopia (NBE), Annual Report, (July 2009), p 79.

<sup>6</sup> Ibid. The figure for the previous year was coffee 35.8%, oilseeds 15.8%, chat 7.8%, leather and leather products 7.6% and pulses 5.9%

agricultural products like fruits and vegetables, flower, live animals, and Meat and Meat products.<sup>7</sup>.

When we look into the direction of trade for the year 2007/08, most of the exported products were destined to Europe accounting for 41.9% of the country's export followed by Asia and the Middle East with 35.2% of export, Africa 14.2% while America accounts for 8.2%.<sup>8</sup>

On the other hand, the country imports a variety of goods including food. For the year 2007/08, the share of value of imported goods from the total imports was 3.8%, semi finished goods 18.5%, Fuel 23.8%, Capital goods 26.1%, consumer goods 22.3% and miscellaneous (including military imports) 5.6%.<sup>9</sup> The country's food import for the year 2006/07 amounted to a total of 258.5 million USD, which is 5% of the total import while the amount for the year 2002/03, when the country was harshly hit by drought resulting in high incidence of food insecurity in many parts, was 231.7 million USD, which was 7.38% of value of the total imports.

The direction of trade for import for the year 2007/08 was mainly dominated by Asia constituting 62.2 percent of all imports. Out of the total import from Asia, about 72.8 percent originates from only four countries: china 23%, Saudi Arabia 21.1%, UAE 14.6% and India 13.2%.<sup>10</sup> The imports from Asia are followed by Europe with 24.6%, Africa with 6.8% and America with 5.8%.<sup>11</sup>

Despite the fact that the country hugely depends on the agriculture sector as a source of government revenue and employment for more than 80% of the population, the protection given to the sector is very minimal. The country's simple average tariff on agricultural products is 22.4%.<sup>12</sup>

### **III. Food Security Situation in Ethiopia**

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<sup>7</sup> See NBE Report supra note 5, p 79. For previous year data, see IMF, IMF Country Report No 08/260, (July 2008), p 26 also available at <[www.imf.org](http://www.imf.org)>[ accessed on January 29, 2010]

<sup>8</sup> NBE Report supra note 5, p 85

<sup>9</sup> Id., p 84

<sup>10</sup> Id., p 85

<sup>11</sup> Id, p. 85-86

<sup>12</sup> WTO, ITC and UN, (2009), *World Tariff Profiles 2009*, p 76

What is food security? Food security is very flexible concept as is reflected in the different attempts at defining it in research and policy usage. The 1996 World Food Summit defined food security as follows: “Food security, at the individual, household, national, regional and global levels [is achieved] when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life.”<sup>13</sup> This definition was further refined in The State of Food Insecurity in the World 2009: “Food security exists when all people, at all times, have physical, social and economic access to sufficient, safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life.”<sup>14</sup> Four essential points can be taken from this definition: adequacy of the food supply, stability of the supply across the year, affordability of the food and quality and safety of the food. This definition is adopted as a working definition for the purpose of this chapter.

Africa is a continent known for many of its problems, one of which being food insecurity. In particular, hunger and famine in the sub Saharan region has been a common incident and Ethiopia is one of the countries in this region most affected by food shortage and at times chronic famine. It has been noted that “Historical accounts and records left by palace chroniclers, residents and travelling foreigners reflect that disasters such as famines and plagues were believed to be punishments from God for failing the true faith.”<sup>15</sup> As indicated by the FAO national report on Ethiopia, food security has been a growing problem in Ethiopia as the number of people looking for food aid has been increasing continuously.<sup>16</sup> The report indicated that during the last days of the imperial regime (around mid 1974), about 1.5 million people (5% of the population) required food aid while the number grew to 7 million (17.4%) during the *Derg*<sup>17</sup> regime and by the end of 2003, about 14.5 million or 22% of the total population (most of them farmers) is unable to feed themselves during periods of drought.<sup>18</sup> Generally speaking, for many decades, there has never been a year in which some portion of the population remains unaffected by food shortages or famine. The best guesstimates of different stakeholders shows that in the years 2000, 2001, 2002, 2003, 2004 and 2005, 7.7, 6.5, 5.2, 12.2, 7.2 and 3.8 million people respectively were estimated to be in

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<sup>13</sup> FAO, (1996), World Food Summit Plan of Action, Paragraph 1, also available at <[http://www.fao.org/wfs/index\\_en.htm](http://www.fao.org/wfs/index_en.htm)> [accessed on February 10, 2010]

<sup>14</sup> FAO, *State of Food Insecurity in the World in 2009*, (Rome, 2009), p 8

<sup>15</sup> Sue Lautez and Daniel Maxwell, Why Do Famines Persist in the Horn of Africa? Ethiopia, 1999-2003, in Steven Devereux, eds, *The New Famines: Why Famines Persist in an Era of Globalization*, (Routledge 2007), p 223

<sup>16</sup> FAO, Role of Agriculture Project Conference, National Report Ethiopia, (2003), p 3

<sup>17</sup> The Provisional Military Government which overthrew the Imperial regime in 1974 and stayed in power until 1991.

<sup>18</sup> Ibid

need of emergency food assistance while the figure for the years 2006, 2007, 2008, 2009 and 2010 was estimated to be 2.6, 2.3, 2.29, 4.9, and 5.2 million.<sup>19</sup> The Government and the UN have appealed for food aid for about 2.8 million people for 2011.<sup>20</sup> From these numbers one can see that for more than ten years, no single year passed by without there being a food security problem in the country.

Ethiopia, as a low income food deficit country, highly depends on food imports and food aid. The value of commercial food import in the country in any given year would range from 5 to 7 percent of the total import. One study indicates that the amount of commercial food import to the country rose by 8 fold between 1980 and 2001.<sup>21</sup> Another study by the World Bank also shows that Ethiopia is one of the 35 net food importing countries in the sub-Saharan Africa region.<sup>22</sup>

One indicator of the shaky situation of food security in the country is the increase in the amount and frequency of food aid to the country. As indicated above, for more than ten years, no single year has passed without there being a need for international emergency assistance to the country.

#### **IV. Factors contributing to food insecurity**

Even though drought is commonly regarded as the main cause of famine in the country, other factors also play a role in the food insecurity of the country.<sup>23</sup> The factors contributing to food insecurity can be categorized as trade related and non-trade related.

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<sup>19</sup> Information compiled based on data from FAO/WFP, Ministry of Agriculture and Rural Development (MoARD) and Disaster Management and Food Security Sector (DMFSS). It should be noted the numbers given indicate the January estimate which may vary from the July estimate. For instance, the number of estimated beneficiaries of relief assistance for June/July 2009 has increased to 6.3 million as opposed to the January estimate of 4.9 million. All the numbers indicate people in need of emergency food assistance, while the number of chronically food insecure people by far exceeds those who need emergency assistance.

<sup>20</sup> *afriquejet en ligne*, Ethiopia: Food aid seeking Ethiopians up by 500,000 in months, available at <[afriquejet.com/news](http://afriquejet.com/news)> [accessed on February 15, 2011]

<sup>21</sup> Berhanu Adnew, The Food Security Role of Agriculture in Ethiopia, 1 *electronic Journal of Agricultural and Development Economics*, No 1, (2004), p 140. The country's food import rose from 100,000 MT in 1980 to over 800,000 MT in 1986, averaging 400,000 MT per year. Ibid.

<sup>22</sup> Francis Ng and M. Ataman Aksoy, *Who are the Net Food Importing Countries?*, World Bank Policy Research Working Paper 4457(January 2008). The study indicates that only 12 out of 47 sub Saharan African countries are net food exporters. Ethiopia's raw food export for the years 1980/81, 1990/91, 2000/01 and 2004/05 was 26, 12, 25 and 46 million USD respectively while its food import for similar period was 45, 96, 86 and 108 million USD respectively, exhibiting net import deficit of -19, -84, -61 and -61 million USD. Id, p 32

<sup>23</sup> Sue Lautez and Daniel Maxwell, *supra* note 15, p 223

## 1. Non-trade factors

One among the non-trade related factors is natural catastrophe like drought and flood in some parts of the country. The country's agriculture is mainly rain fed and the output highly depends on the weather condition in a particular year. Erratic rain fall and drought are often cited as the major reasons for crop failure and extreme variability in food production resulting in food insecurity in the country.<sup>24</sup> The reports of Disaster Prevention and Preparedness Agency (DPPA) indicate how much the country's agricultural production and food security is affected due to weather changes. As erratic rainfall is a source of concern for some parts of the country, so is flood in others. For instance, flood in different parts of the country including Gambella, Amhara, Southern Nations Nationalities and People Region (SNNPR), Tigray, Afar and Oromia has contributed to crop failure for the year 2007 and hence to food insecurity in those regions.<sup>25</sup> On the other hand, the food insecurity situation in the Somali region for the same period was attributed to combined effects of poor rains, localized events and disruption of market due to insecurity and counter insurgency measures.<sup>26</sup>

In addition to the weather condition, food insecurity in the country has been attributed to the effect in increase of population coupled with the fragmented size of individual land holding. The 2007 census result of the country indicates that the number of population stands at 73.9 Million<sup>27</sup>, with an annual growth rate of 2.6 percent between 1994 and 2007.<sup>28</sup> An increase in population increases fragmentation of land and reduces productivity by increasing stress on the already fragile natural resource base and hence places burden on the food production. Moreover, the output from the fragmented land decreases as 'soil fertility, already very low, is declining due to intensive cultivation and limited application of yield-enhancing inputs';<sup>29</sup> On top of poor technology employed on farming, fragmented land holdings and dwindling farm output, 'limited off-farm employment opportunities restrict diversification and migration options, leaving people trapped in increasingly unviable agriculture.'<sup>30</sup> Absence of off-farm employment opportunities exacerbates the situation as the people are not in a position to earn money from other sources to purchase food. Even in times when production

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<sup>24</sup> Tennessie Nichola, The Food Security Problem in Ethiopia-A Supply Side Analysis, 74 *South African Journal of Economics* 2, (June 2006), p1

<sup>25</sup> DMFSS, Humanitarian Requirements for 2008: Government-Partners Joint Document, (April 2008), p

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<sup>26</sup> FAO/WFP Crop and Food Security Assessment Mission to Ethiopia, *Integrating the Crop and Food Supply and the Emergency Food Security Assessments*, (20 March 2008), p11

<sup>27</sup> Central Statistics Authority, Summary and Statistical Report of the 2007 Population and Housing Census Result, (Addis Ababa, 2007/8), p 8

<sup>28</sup> Id., p 12. The report also indicates that about 84 percent of the total population in the country was found in rural areas, while the remaining 16 percent lived in urban areas. Id., p 19

<sup>29</sup> Stephen Devereux, *Food Insecurity in Ethiopia: A discussion paper for DFID*, (October 2000), p 1

<sup>30</sup> Ibid

boosts in some areas, absence of a developed infrastructure and communication network inhibits access to food in some parts of the country. Generally, lack of basic services and rural infrastructure coupled with land holdings and policies that do not promote investment in the agriculture sector have contributed to the food insecurity situation of the country.

## **2. Trade-related factors**

International trade rules may also contribute towards food security conditions of a country. It has been noted that ‘Though popular discourse continues to characterise famines in the horn of Africa as exogenous events -and attributes the causation of these events largely to the whims of nature- clear reasons for the persistence of famines are built into Ethiopia’s position in the international economy.’<sup>31</sup> As indicated above, the country relies heavily on agriculture as its export commodity. Hence, international trade rules, policies of trading partners and changes in international price of agricultural commodities will highly affect the country’s economy as well as the food security of its inhabitants. A case in point is the decline of international price of coffee in 2001. In any given year, the major share of export commodity from Ethiopia goes to coffee. This dependence of the country on a single commercial agricultural commodity threatened the livelihood of its farmers when international coffee prices collapsed in 2001.

### a) Declining coffee price as an example

Coffee is one of the most traded commodities in the world. ‘With worldwide sales of \$55 billion, coffee is the second-most-traded commodity after petroleum. However, the trade is dominated by a handful of multinational corporations that purchase coffee beans from small producers in nearly 50 developing countries.’<sup>32</sup> These countries rely on coffee as a vital source of foreign exchange, income and employment. In the late 1980s, the earnings by coffee exporting countries was some USD 10-12 billion while this earning dropped to USD 5 billion in 2003; and the price of coffee dropped from 120 US/pound to just over 50 cent in

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<sup>31</sup> Sue Lautez and Daniel Maxwell, *Supra* note 15, p 238

<sup>32</sup> Elizabeth Neuffer, (July 19, 2001), *The Shadows of Globalization: The Coffee Connection; Thousands of Miles From Boston's Breakfast Tables and Fast-Food Restaurants, at the End of a Global Trade Network, Guatemala's Farmers are Barely Scraping By*, *Boston Globe*, as cited by Carmen G. Gonzalez, *Trade Liberalization, Food Security and the Environment: The Neoliberal threat to Sustainable Rural Development*, 27 *Colum. J. Envtl. L.*, (2004), 435. The four multinational corporations that dominate the industry are Proctor and Gamble, Philip Morris, Sara Lee, and Nestle, representing 60 percent of U.S. sales and 40 percent of worldwide sales. *Ibid*

that year, the lowest in real terms for 100 years.<sup>33</sup> This decline in the price and earning has affected many developing countries, including Ethiopia. Those farmers relying on coffee as the source of income become unable to earn enough money which will enable them to buy food and other essentials for their livelihood. This led to migration of farmers in these countries. For instance in Guatemala, the world's seventh-largest coffee producer, coffee revenues dropped by half in the course of two years, and rural unemployment climbed to 40 percent; while in Mexico, the collapse in coffee prices resulted in an exodus of 300,000 coffee farmers from the countryside in search of better economic opportunities.<sup>34</sup> In Tanzania, smallholder farmers were being forced to take their children out of school, undermining the next generation's prospects of escaping poverty.<sup>35</sup> Ethiopia was no island to the coffee crisis. The country has lost almost USD 300 million in export revenues over the two years as a consequence of the slump on prices.<sup>36</sup> The price drop also led to food shortages as coffee farmers were unable to pay for food. The report of the International Coffee Council indicated that the coffee farmers in Ethiopia had to cut back on food consumption, living on one meagre meal a day, with frequent cases of malnutrition and they were unable to pay for their children's education and for basic medicine.<sup>37</sup> Moreover, since coffee on average constitutes over 50% of export earnings the government suffered severe fiscal constraints making it difficult to cover cost of commercial food import.

b) Ban on livestock exports as another example

Many of the people residing in the eastern and north eastern part of the country rely on livestock production and export as main source of income. As their livelihood is tied to the production and exportation of the livestock, the decline in the price of livestock and the export bans to which Ethiopian livestock was subjected also contributed to the food insecurity of the people in these parts of the country. With an estimated number of 96

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<sup>33</sup> International Coffee Council, *Impact of the Coffee Crisis on Poverty in Producing Countries*, (2003), ICC-89-5 Rev 1, paragraph 2, also available at < <http://dev.ico.org/documents/icc89-5r1e.pdf> > [accessed on Feb 15, 2010]

<sup>34</sup> Robert Collier, *Mourning Coffee; World's Leading Java Companies are Raking in High Profits but Growers Worldwide Face Ruin as Prices Sink to Historic Low*, S.F. Chron., (May 20, 2001), as cited by Carmen Gonzales, *supra* note 29 p. 436

<sup>35</sup> Celine Charveriat, *Bitter Coffee: How the Poor are Paying for the Slump in Coffee Prices*, (May 2001), Oxfam Policy Paper, available at <<http://www.maketradefair.com/en/assets/english/BitterCoffee.pdf>> [accessed on February 15, 2010]

<sup>36</sup> Ibid

<sup>37</sup> Ibid

million<sup>38</sup> livestock population by 2009, Ethiopia is a country with the highest livestock population size in Africa. It is the sixth largest source of export revenue for the government treasury. The sector, however, has faced difficulty following export ban in various times by the major importing countries in the Middle East, Saudi Arabia and UAE.<sup>39</sup>

For the second time in less than three years, export ban was put in place by Middle East countries in 2000.<sup>40</sup> The import ban by Saudi Arabia between February 1998 and April 1999 resulted in slump of the price of livestock by around 30% in Ethiopia and other Horn countries.<sup>41</sup> In 2000, six Gulf States – Saudi Arabia, Bahrain, Oman, Qatar, Yemen and the United Arab Emirates banned livestock import from nine African countries, including Ethiopia. During that time, nearly half of the animals were exported from Ethiopia, so the negative effects have been more seriously felt there,<sup>42</sup> the effect on communities in the Somali region being as bad as the failure of rains.<sup>43</sup> In 2009 also, the Kingdom of Saudi Arabia imposed a temporary import ban on Ethiopian livestock which stayed from March to May. The declining livestock prices and the recurrent ban has ‘resulted in asset depletion and weakened community traditional coping mechanisms.’<sup>44</sup> This makes it difficult for the pastoralists to raise enough money to buy food. As noted by Sue Lautez and Daniel Maxwell, ‘the livestock import bans that prevented Afar and Somali pastoralists from marketing their livestock to the Middle East, for example, cannot be ameliorated with a sack of food aid.’<sup>45</sup>

The low purchasing power of the people coupled with the current increase in world price of food has also been identified as a cause for food insecurity in Ethiopia. The price of food items in the country has been on the rise for a while now. The country’s general consumer price index has risen steadily since 2002 (when grain prices reflected a very bad growing

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<sup>38</sup> 44 million cattle, 46 million sheep and goats and three million camels. Abiye Wondyifraw, (2009), Addis Fortune

<sup>39</sup> For instance, during 2006/07 the bulk of the total meat Ethiopia exported went to Saudi Arabia and UAE. The two Gulf states accounted for slightly over 2.8 million kilograms (48.11pc) and 2.6 million kilograms (45.5pc), respectively, of the total over 5.8 million kilograms of meat exported, according to data from the Ministry of Trade and Industry.

<sup>40</sup> On this ban see also chapter... by Tilahun Esmael.

<sup>41</sup> FAO, Rift Valley Fever threatens livelihood in the Horn of Africa, 16 *Empres Transboundary Animal Diseases Bulletin 1*, (2001), p 15-16

<sup>42</sup> Ayele Solomon *et al*, *Livestock marketing in Ethiopia: A Review of Structure, Performance and Development Initiatives*, Socio-economics and Policy Research Working Paper 52, (ILRI, Nairobi, Kenya 2003). The Republic of Yemen lifted its ban in December 2001, but the more lucrative Saudi market remained closed until 2003. Ibid. Also see Saudi Arabian Market Information Resource, (August 23, 2003) ‘Saudi Arabia Lifts ban on Ethiopian Meat’, available at <<http://www.saudinf.com/main/y6060.htm>> [accessed on February 15, 2010]

<sup>43</sup> IRIN Humanitarian News and Analysis, (September 2000), SOMALIA: IRIN Focus on Saudi livestock ban, available at <<http://www.irinnews.org/InDepthMain.aspx?InDepthId=56&ReportId=72321&country=yes>> accessed on February 15, 2010

<sup>44</sup> FAO/WFP supra note 25,

<sup>45</sup> Sue Lautez and Daniel Maxwell, supra note 15, p 238

season) and has reached double-digit levels since 2005.<sup>46</sup> A FAO country report indicates that between June 2007 and June 2008, the nominal price of maize shot up by an average of 202 percent, wheat by 83 percent and sorghum by 83 percent.<sup>47</sup> This increase in the price of food in Ethiopia is a reflection of the situation in the world, with a record of 83 percent increase in global food prices between 2005 and 2008.<sup>48</sup> A cumulation of various factors is considered to have contributed to the crisis in world food price.

c) The world food price crisis

The fall of world agricultural production, especially from developing countries is pointed at as one major cause for the food price crisis. Compared to the period between 1970 and 1990, when the production of aggregate grains and oilseeds rose by an average of 2.2 percent per year, the annual growth rate since 1990 has declined to about 1.3 percent.<sup>49</sup> This adverse impact of the production decline affected food security in developing and least developed countries. The decline in the growth rate of production was impacted by resource scarcity issues, notably climate change and water depletion<sup>50</sup> as well as policy measures taken by governments in developing countries. 'In many developing countries, the agriculture sector receives limited support in terms of the government budget and domestic investment, even though it is often among the largest contributors to gross domestic product (GDP) and employment.'<sup>51</sup> Lack of government support for the sector is mainly related to domestic policy changes following implementation of structural adjustment programs. UNCTAD reports point out that the structural adjustment programs have encouraged fiscal austerity and abandoned or weakened the role of key institutional support measures, including marketing boards, subsidies for agricultural inputs and stabilization funds for both agricultural commodities and food staples.<sup>52</sup>

This low agricultural productivity has been reinforced by a systemic failure of development strategy, the lack of public and private investment in the rural and agricultural commodity

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<sup>46</sup> FAO/WFP Supra note 25, p 9

<sup>47</sup> FAO, Country Information. Available at <<http://www.fao.org/isfp/country-information/ethiopia/en>> [accessed on February 1, 2010]

<sup>48</sup> UNCTAD, *The 2008 Food Price Crisis: Rethinking Food Security Policies*, G-24 Discussion Paper Series No 56, (Geneva, 2009), p 1. During this time, while maize prices almost tripled, wheat prices increased 127 percent, and rice prices increased 170 percent. Ibid.

<sup>49</sup> Id., p 3

<sup>50</sup> FAO, *Soaring Food Prices: Facts, Perspectives, Impacts and Actions Required, High Level conference on World Food Security: The Challenges of Climate Change and Bioenergy*, (HLC/08/INF/1), (Rome, April 2008), p 5

<sup>51</sup> UNCTAD, *Addressing The Global Food Crisis: Key Trade, Investment and Commodity Policies in Ensuring Sustainable Food Security and Alleviating Poverty*, (Geneva, 2008),12

<sup>52</sup> Ibid. See also, UNCTAD, *Trade and Development Report*, (Geneva, 1998),

sector of many developing countries. Foreign direct investment flow in agriculture has been limited. For instance, World inward FDI stock in agriculture comprised only \$32 billion, which is only 0.2% of total inward FDI stock in 2007 despite significant growth in FDI since 2000, particularly in developing countries.<sup>53</sup> On the other hand in Ethiopia, the FDI inflow into the agriculture sector accounted for 32 percent of the total FDI inflows, which varied between USD 545million and USD 265 Million between 2004 and 2007.<sup>54</sup> Like in many other developing countries, however, FDI is usually minimal in food items but relatively important in some cash crops, such as cut flowers. This trend seems to improve since 2007 where FDI in food and meat production increased mainly following the south-south FDI flow driven by food security concern.<sup>55</sup>

What has been considered as a new additional cause for the 2008 world food price crisis is the increase in price of energy worldwide. The increase in fuel prices in 2007 has resulted in increased cost of producing agricultural goods due to high price of agricultural inputs like fertilizer. In addition to this, the cost of freight has doubled within one year beginning in February 2006, affecting food importing countries adversely.<sup>56</sup> The increase in price of fuel served as a force for the diversion of food grain production to biofuel. The emerging biofuels market is a new and significant source of demand for some agricultural commodities such as sugar, maize, cassava, oilseeds and palm oil.<sup>57</sup> This increase in demand for these commodities has been pointed out as one of the factors behind the increase in their prices in world markets. Moreover, the demand for these crops can also impact on the upward movement of the price of other crops competing with these feedstock crops for land.<sup>58</sup>

#### d) Multilateral trade rules

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<sup>53</sup> UNCTAD, *World Investment Report 2009*, (Geneva, 2009), p111

<sup>54</sup> Lucie Weissleder, *Foreign Direct Investment in the Agricultural Sector in Ethiopia*, Ecofair Trade Dialogue Discussion Papers, No 12, (October 2009), p 9

<sup>55</sup> A case in point is the recent Saudi Arabian investment in Ethiopia. The Kingdom of Saudi Arabia, in its effort to provide food security for its nation has embarked on large scale investment projects in agriculture, particularly in cereal production, in African countries, one of which is Ethiopia. In March 2009, the Kingdom announced the arrival of the first food crop harvested in Saudi owned farms abroad-rice harvested in Ethiopia. Outsourcing food production to poor African countries, some of which suffer from chronic hunger, has given raise to concern. Some analysts argue that foreign investment in agriculture, even if earmarked for export, could ultimately help poor countries, providing them with employment, infrastructure, access to agricultural technology and export tax revenues while others remain sceptical of this move. For more see Javier Blas, (march 5, 2009), Saudis Get First Taste of Foreign Harvest, *Financial Times*, also available at <[http://www.ft.com/cms/s/0/e3b5be70-0926-11de-b8b0-0000779fd2ac.html?nclick\\_check=1](http://www.ft.com/cms/s/0/e3b5be70-0926-11de-b8b0-0000779fd2ac.html?nclick_check=1)> [accessed on February 9, 2010]

<sup>56</sup> FAO, supra note 49, p 7

<sup>57</sup> Ibid

<sup>58</sup> UNCTAD, supra note 50, p11

Multilateral trade rules have also contributed to the decrease in agricultural production of developing countries. The WTO agreement on Agriculture tried to discipline the world agricultural trade. However, its long term objective of providing for substantial progressive reduction on agricultural support and protection reflected in paragraph three of the preamble has not so far been achieved. The long standing agricultural subsidies and domestic support in developed countries have posed critical obstacles to agriculture development in developing countries. ‘Quantitative analysis and case study evidence by FAO and UNCTAD indicates that agricultural subsidies in developed countries have been associated with rapidly increasing food imports in developing countries, alongside the decline in agricultural production.’<sup>59</sup> Liberalization of agriculture sector following the structural adjustment programs made these countries susceptible to pressure from the importation of subsidized food exports of the developed countries. The policy change has limited the countries’ opportunity to protect their agricultural sector and undermined domestic production. Many developing countries which were traditionally food exporters have become net food importers over the past 20 years<sup>60</sup>

## **V. The Impact of the WTO Framework on Agriculture**

Agriculture has always been shielded from the rules applicable for industrial products and benefited from special arrangements which derogate from the rules within the GATT. Food security has been put forward as a reason for the exceptional treatment of agriculture.<sup>61</sup> Protecting the sector was perceived as a means of ensuring consumers reasonable prices and protecting producers against fluctuations in the price of agricultural products<sup>62</sup> so as to guarantee food supply. The concerns of states resulted in the protection of the sector with high tariffs and introduction of support to farmers. The Uruguay round pronounced the end of this distortion by introducing some disciplines to the sector. A separate agreement on agriculture was adopted which contains rules on three major areas; market access, domestic

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<sup>59</sup> Id., p14

<sup>60</sup> Id., p14-15. One example here is the case of Ghana. Ghana’s poultry sector was at its prime in the late 1980s, but declined steeply in the 1990s due to the withdrawal of government support and the reduction of tariffs. Poultry imports rose by 144 percent between 1993 and 2003, and a significant share of this was heavily subsidized by Europe. Between 1992 and 2002, EU frozen chicken export to West Africa rose eight fold, mainly due to import liberalization, practically wiping out the half million chicken farmers in Ghana. In 2003, Ghana’s parliament raised the poultry tariff from 20 to 40 percent, still much below the bound rate of 99 percent. However, the IMF objected to this move and the new approved tariff was not implemented. For more, see, UNCTAD, supra note 47, p12

<sup>61</sup> Melaku Geboye Desta, Food Security and International Trade Law: An Appraisal of the World trade Organization Approach, 35 *Journal of World Trade* 3, (2001), p 449

<sup>62</sup> Fabian Delcros, The Legal Status of Agriculture in the World Trade Organization : state of Play at the Start of Negotiations, 36 *Journal of World Trade* 2, (2002), p 219

support and export subsidy, also known as pillars of the agreement. Each of these pillars has a link with food security. The following sections of this chapter will look into this relationship and the possible options and challenges Ethiopia may face at the time of accession. To that end, an examination of the country's trade policy instruments as well as the experience of two recently acceded LDCs, Cambodia and Nepal will be assessed.

## **1. Market access**

Agricultural market access, the first pillar of the agreement, refers to the terms and conditions under which agricultural products could be imported into WTO member countries.<sup>63</sup> Countries may prevent or limit import in to their domestic market through the use of tariffs or non-tariff barriers. The GATT 1947 favoured tariffs as a means of protecting domestic markets by prohibiting the contracting parties from using non-tariff measures under Article XI GATT. However, as agriculture was treated uniquely, the provision contains an exception under paragraph 2 which allows countries to use quantitative restrictions on agricultural products.

### **a) Tariffs-only principle**

Article 4:2 of the AoA prohibits the use of agriculture specific non-tariff measures as members are required to convert their non-tariff barriers in to tariff and not to maintain or resort to measures other than customs duty.<sup>64</sup> The prohibited type of measures under this provision include quantitative import restrictions, variable import levies, minimum import prices, discretionary import licensing procedures, voluntary export restraint agreements and non-tariff measures maintained through state-trading enterprises. Part of Article XI:2 of the GATT, which deals with import restrictions, is now inoperative as regards agricultural products as it is superseded by the Agreement on Agriculture. However, Article XI:2(a) GATT which deals with temporary application of export restrictions for the purpose of relieving critical shortage of food stuff is still applicable as it is endorsed by Article 12 of the AoA with the introduction of disciplines on its use.

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<sup>63</sup> Melaku Geboye Desta, *Legal Issues in International Agricultural Trade: The Evolution of the WTO Agreement on Agriculture from its Uruguay Round Origins to its Post Hong Kong Directions*, FAO Legal Papers no 55, (Rome, 2006), p 8

<sup>64</sup> Article 4/2 of the Agreement on Agriculture

Accordingly, members may only use customs duties to protect their agriculture domestic market under the agreement. This may entail changing non-tariff measures to their tariff equivalents, a process commonly referred to as 'tariffication'. Members, after tariffing their non-tariff barriers, are required to reduce them. Hence, the obligation of Members under the market access pillar of the Agreement on Agriculture is tariffication of non-tariff barriers followed by tariff reduction. Accordingly, developed countries are required to reduce their duties by a simple average of 36% over a six-year period from 1995 base year while the requirement on the developing countries was 10% over a 10-year period for similar base year.<sup>65</sup> On the other hand, LDCs are exempted from undertaking any reduction commitment.<sup>66</sup>

A look into the current market structure of countries reveals that not much has changed in market access of agricultural products. The extensive escape hatches and caveats that are manipulated to maintain or even increase actual protection curtailed substantial change in market access.<sup>67</sup> In the absence of appropriate supervision of the tariff conversion process and to prevent backsliding, members often resort to 'dirty tariffication' or 'ceiling binding' by grossly overestimating the tariff value of their equivalent previous non-tariff barriers.<sup>68</sup> Even when the tariffication process resulted in low tariff, market access is still impeded due to the support given to the sector which makes competition from developing countries, which do not and cannot provide support, difficult.

On the other hand, the liberalization process through which a number of developing countries underwent as a result of the Structural Adjustment Programs has resulted in a drastic reduction of tariffs on imports, including agricultural products.<sup>69</sup> These low tariffs may possibly enhance food security of these countries by making food available at cheaper prices. However, there is also a danger that low prices will suppress domestic prices and production thereby leading to dependence on food imports and a decrease in self-sufficiency. The problem is more serious for developing countries where two-thirds of the population lives in

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<sup>65</sup> Desta, supra note 2, p 73

<sup>66</sup> Article 15/2 of the AoA

<sup>67</sup> M. Rafiqul Islam and Rizwanul Islam, The Global Food Crisis and Lacklustre Agricultural Liberalization: Demystifying their Nexus Underpinning Reform, 10 *Journal of World Investment and Trade* 5, (October 2009), p 683

<sup>68</sup> Ibid

<sup>69</sup> UNCTAD, *WTO Accession and Development Policies*, (Geneva, 2001), p 141

rural areas, agriculture generates over one third of the gross domestic support and substantial percentage of export depend on agriculture.<sup>70</sup>

#### b) Prohibition of export restrictions

The other matter related to market access and of particular importance to food importing countries is the rule regarding prohibitions of export restrictions. In principle, members are prohibited from imposing restrictions on imports and exports other than duties as per Article XI:1 GATT. However, as an exception, members are allowed to temporarily use export restrictions to relieve critical shortage of food stuff. Countries respond to high domestic food demand by imposing a complete or partial ban on export of food products. This is to increase domestic supply and stabilize the price. It should be stressed that resort to export restrictions is a temporary measure and it can be used only when there is ‘critical shortage’ of foodstuff domestically. Another obligation on states using export restrictions is to give due consideration to the implication of the measure on importing country’s food security and to notify in advance of the measure to the committee in agriculture (Article 12:1 (a) and (b) AOA). The conditions for export restriction are criticized for being vague and imprecise.<sup>71</sup> According to this view, “the two crucial terms ‘critical shortage’ and ‘temporary’ in the provision are not defined anywhere. The advance notification requirement is rarely adhered to. The right to impose export taxes has been exercised unfettered. It could be excessively high, and unlike import tariffs, is not subject to binding.”<sup>72</sup> This lack of notification and unfettered use of export restrictions will endanger food security of countries relying on food imports. On the other hand, it gives policy space for food exporting countries that are faced with shortage of food supply.

#### c) Market access and Ethiopia’s accession to the WTO

Market access is one of the key issues in Ethiopia’s accession negotiation. Currently, Ethiopia is a beneficiary of different special and differential market access treatments from different countries including the European Union’s Every Thing but Arms (EBA) initiative and the African Growth Opportunity Act (AGOA) of the US.<sup>73</sup> The EBA grants full duty free

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<sup>70</sup> Diaz-Bonilla, E., Diao, X., and Robinson, S., *Thinking Inside the Boxes: Protection and Investment in the Development and Food Security Boxes*, paper presented at the International Conference; Agricultural Policy Reform and the WTO: where are we heading?, (2003)

<sup>71</sup> Rafiqul Islam and Rizwanul Islam, supra note 66, p 684

<sup>72</sup> Ibid

<sup>73</sup> MOFED, *Ethiopia : Trade and Transformation ; Summary and Recommendation of Diagnostic Trade Integration Study*, (2004), p 40-41

access to all products exported from Ethiopia to the European Union market; while the AGOA's benefit extends to a limited number of products. In light of this, whether accession to the WTO will open a new market for Ethiopia becomes an issue as the country is already beneficiary of the special market access privileges in the most of its export destinations. On the other hand, the country's concern during the accession will likely be on how much or how far it will be required to open up its market.

As a result of successive trade reform programs embarked on by the Government since 1992, the country has dismantled quantitative restrictions and also reduced its tariff rates from a pre reform maximum of 240 per cent to a maximum of 80 per cent in 1995 and then 35 per cent in 2002.<sup>74</sup> The average (un-weighted) tariff rate declined from 28.9 percent in 1995 to 17.5 percent in 2002; the simple average applied MFN rate on agricultural products for 2008 was 22.4 percent.<sup>75</sup> Hence, currently the country has a very low tariff rate on both agricultural and non-agricultural products. Nonetheless, if the accession process will entail a further tariff reduction, it will put the country in a very difficult position. While further reduction of tariffs from their current level is unlikely to happen based on the accession experience of LDCs, the real question is at what level the country would bind its tariffs upon accession. In this regard the country may learn from the experience of Nepal. Before the accession of Nepal to the WTO, its tariff on agricultural products was very low (0-10 percent) and the Nepalese negotiators wanted to create a policy space by offering a 60 percent bound tariffs on agricultural products. In the end it was able to bind the average tariff on agricultural products at 42 per cent.<sup>76</sup> Hence, Ethiopia may learn a good lesson and negotiate for a bound tariff by far higher than its current levels so that it may preserve a policy space to protect its agriculture sector, which is the back bone of the economy, and to manipulate the tariff levels when circumstances dictate. Since the country does not have the financial capacity to provide monetary support, binding the tariff on higher level than the applied rate will give the farmers some degree of protection. This may also boost the trade based entitlement of the farmers to food security as they may be positioned better to sell their produce competitively.

On export restrictions, the country may be required to bring its measures in line with Article XI of the GATT and the current export restriction on cereal may be raised as an issue of concern. However, here also the experience of another acceded LDC, Cambodia may be of some help. During the accession of Cambodia, the Working Party requested explanation

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<sup>74</sup> Id, p 20..

<sup>75</sup> WTO, ITC and UN, *World Tariff Profiles 2009*, (WTO Secretariat, Switzerland, 2009), p76

<sup>76</sup> Ratnakar Adhikari, Navin Dahal and Manisha Pradhananga, *Ensuring Development supportive Accession of Least-developed Countries to the WTO*, International Institute for Sustainable Development, (June 2008), p 30

regarding the export licensing restriction imposed on rice. The representative of Cambodia, after informing the Working Party of the lifting of the restriction, emphasised that the country would maintain the right to reintroduce the restrictive measure in the future for the purpose of preventing and relieving critical food shortage.<sup>77</sup> The export restriction imposed by Ethiopia currently is a response to the food crisis of 2008 and is presumed to be a temporary measure and it is possible that it will be tolerated.

## 2. Export subsidies

The second pillar of the Agreement on Agriculture addresses export subsidies. The agreement defines export subsidies as subsidies contingent upon export performance (Article 1(e) AoA), however, it doesn't define what subsidy means. Here, the Vienna Convention on the Law of Treaties of 1969 could help us as it states under Article 31, paragraph 1 that the interpretation of agreements should be made in accordance with their context.<sup>78</sup> 'Context' in this situation covers not only the text of the Agreement on Agriculture rather extends to other relevant multilateral agreements forming part of the WTO agreement,<sup>79</sup> like the agreement on Subsidies and Countervailing Measures.<sup>80</sup> Accordingly, export subsidy can be defined as financial contribution made by the government or any public body contingent upon export performance and conferring a benefit on the recipient.

### a) Rules on export subsidies in the GATT and the Agreement on Agriculture

Subsidies were covered under the GATT agreement. However, the obligation on the contracting parties was only to notify one another on amount of their subsidies and to consult each other on their content (Article XVI:1 GATT). Article XVI:4 GATT was adopted later in 1955 with additional obligation in the contracting parties to cease to grant export subsidies for any product other than primary products.<sup>81</sup> However, a country granting subsidy for its agriculture has to make sure that the support does not result in that country having more than an equitable share of world export trade in that product (Article XVI:3 GATT). The ambiguousness of the requirement of not having 'more than equitable share of world export' has resulted in this provision being not so much effective in disciplining agriculture. The

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<sup>77</sup> WTO, *Report of the Working Party on the Accession of Cambodia*, WT/ACC/KHM/2, (August 2003), paragraph 113 and 160

<sup>78</sup> Article 31:1 of the Vienna Convention on the Law of Treaties states that 'A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.'

<sup>79</sup> Desta, *supra* note 2, p 214

<sup>80</sup> Article 1 of the SCM Agreement defines a subsidy as a financial contribution made by a government or any public body conferring a benefit on the recipient

<sup>81</sup> Delcros, *supra* note 61, p 223

Agreement on Agriculture also permits the use of export subsidies which are absolutely prohibited by the Subsidies Agreement. The agreement rather requires countries to reduce expenditure for export subsidies as well as volume of subsidized exports;<sup>82</sup> and it allows permissible levels of market distortion.<sup>83</sup>

The obligation on export subsidies brings with it two major concerns: 'To the extent that developed countries reduce export subsidies, developing countries products will become more competitive on both domestic and world markets, thereby boosting the production of both cash and subsistence crops.'<sup>84</sup> However, it will also create concern for food importing countries as their import bill may increase as a result of increase in food price following reduction of support. On the other hand, several food exporting countries are concerned on the use of non-commercial transactions, like food aid as a means of side stepping their (reduction) commitment.<sup>85</sup>

Normally, untied food aid provided in fully grant form should not constitute a concern for food exporters. However, a problem may arise in a situation wherein the provision of food aid is tied to other commercial sales and in which there is some element of concessionality.<sup>86</sup> Differentiating between food aid and commercial transaction could be difficult when the latter involves subsidized food. Article 10.4 AoA attempts to respond to this concern of food exporting countries. The provision first requires member countries to ensure that provision of food aid is not tied with commercial exports of agricultural products. Furthermore, the agreement also adopted the threshold level of concessionality set by the Food Aid Convention for a transaction to qualify as food aid and then to exclude such transactions from the ambit of the rules on export subsidies.<sup>87</sup> To further assuage the concerns of food exporting countries, a committee on agriculture decision requires members to make an annual notification on the quantity of food aid provided to least developed and net food importing

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<sup>82</sup> The reduction commitment on budgetary outlay is 36% and 21% on volume for 1986-1990 base period over a six year implementation period for developed countries while the obligation of the developing countries will be one third of the developed ones. (see article 9.2 of the AoA). Least developed countries, on the other hand, are exempted from reduction commitment. The obligation under article 9 AoA suggests that countries who were providing export subsidy during the base period will continue to do so, provided they meet their reduction commitment; while countries which were not providing export subsidy during the base period will cannot introduce it in the future. As a result, only 25 countries (WTO members) scheduled their export subsidy reduction commitment, and the list does not include developing countries. See Desta, *Supra* note 62, p 19

<sup>83</sup> Gonzales, *Supra* note 31, p 464

<sup>84</sup> *Id.*, p 475

<sup>85</sup> Desta, *supra* note 60, p 451

<sup>86</sup> Joseph McMahon, *The WTO Agreement on Agriculture : a Commentary*, (Oxford, Oxford University Press, 2006)

<sup>87</sup> Desta, *Supra* note 60, p 451

countries, the proportion of such aid made in fully grant form or appropriate concessional terms.<sup>88</sup>

#### b) Export subsidies and Ethiopia

Export subsidy is the least worrying area for Ethiopia's accession as the country does not maintain any export subsidy and neither does it have the financial capacity to introduce one in the near future. And again, the Hong Kong Ministerial Conference in 2005 ended with WTO members pledging to ensure the parallel elimination of all forms of export subsidies and disciplines on all export measures with equivalent effect to be completed by the end of 2013,<sup>89</sup> without disregarding the single undertaking nature of the WTO system. Hence, the conclusion of the Doha round is supposed to bring with it an end to the practice of export subsidy, including for the 25 countries that are currently granting it. In view of these facts, there will not be much to be achieved through the accession. However, this does not mean that the changes that come as a result of change in international rules on export subsidy do not affect the country at all. As mentioned above, the Doha Ministerial Declaration calls for the reduction, with the view to phasing out of, all forms of export subsidies. The adoption and implementation of the current proposal on the elimination of support measures will enable the achievement of the long term objective of the AoA; establishment of a fair and market oriented agricultural trading system. On the other hand, the immediate impact of the elimination of the support would be an increase on the price of food in the world market, which could be to the detriment of food importing and food aid dependent countries. A World Bank study projects that, setting other factors aside, the liberalization of agricultural trade in OECD countries will cause an 18% rise in the price of cereals in net food-importing developing countries.<sup>90</sup> This will affect the economic accessibility of food<sup>91</sup> in the short run. But the creation of a fair and market oriented agricultural trading system will be to the benefit countries like Ethiopia, in the long run. The dismantling of the unfair trading practices will enable the farmers in many poor countries to get a fair marketing ground to sell their produce. This will in turn allow the farmers to boost their production and address the food security concern of the country as a whole.

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<sup>88</sup> McMahan, supra note 85, p 179-180

<sup>89</sup> WTO, Doha Work Program Ministerial Declaration, WT/MIN(05)/DEC, (2005), also available at <[http://www.wto.org/english/thewto\\_e/minist\\_e/min05\\_e/final\\_text\\_e.htm](http://www.wto.org/english/thewto_e/minist_e/min05_e/final_text_e.htm)>[accessed on February 15, 2010]

<sup>90</sup> McCalla A & J Nash (eds), *Reforming Agricultural Trade for Developing Countries*, 2. Washington, DC: World Bank, (2007), p. 209, as cited by Fantu Farris Mulleta *The Quest for Affordable Food: Prospects in the Doha Round for Net Food Importing Developing Countries*, South African Institute of International Affairs: Development Through Trade Program, Occasional Paper No 54, (February, 2010), p 16

<sup>91</sup> Ibid

### 3. Domestic support

Disciplines on domestic support – the third pillar of the Agreement on Agriculture - will also be of concern for Ethiopia's accession and also to its food security concern.

#### a) The three “boxes” of support

Domestic support refers to the monetary contribution given by the government or other public bodies to agriculture producers irrespective of export of the products. Governments provide support to their agricultural producers in different ways – ranging from direct budgetary transfers to highly disguised forms of market price support.<sup>92</sup> Though the support given benefits the recipient farmers, it may entail distortion to the patterns of international trade.<sup>93</sup> The provision of support lowers the price of locally produced goods below the level of imports and there is a danger that it may drive out import competition. In view of this, the Agreement on Agriculture introduced disciplines on domestic support measures; which are portrayed in boxes with different colours: Amber, Blue and Green.<sup>94</sup>

Support measures which have significant trade distorting impact fall within the amber box. Countries, other than the ones that have reported to have used such trade distorting measures during the 1986-88 base period<sup>95</sup> cannot introduce them. And those countries, which have reported using such measures for the 1986-88 base period are required to undertake reduction commitment of the Aggregate Measure of Support (AMS).<sup>96</sup> According to Article 6.3 AoA a member is considered to have complied with its domestic support reduction commitment if the support in favour of agricultural producers for that year does not exceed the annual or final bound commitment level specified in its schedule. The reduction commitment of the member countries slightly differs with the difference in their development status. Accordingly, developed countries undertook 20% reduction commitment while the

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<sup>92</sup> Desta, supra note 62, p 22.

<sup>93</sup> Desta, Supra note 2, p 313

<sup>94</sup> In a similar manner to export subsidies, the GATT did not impose a meaningful discipline on the use of domestic support. Article XVI/1, which applies for subsidies in general, requires countries to notify the use of support to member countries and to consult with a country that is affected by the support.

<sup>95</sup> Only 35 countries have reported to have used trade and production distorting measure during this period. These are: Argentina, Australia, Brazil, Bulgaria, Canada, Chinese Taipei, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, EC, Hungary, Iceland, Israel, Japan, Jordan, Korea, Lithuania, Mexico, Moldova, Morocco, New Zealand, Norway, Papua New Guinea, Poland, Slovak Republic, Slovenia, South Africa, Switzerland, Liechtenstein, Thailand, Tunisia, United States, Venezuela. See Desta Supra note 62, p 24

<sup>96</sup> The Aggregate Measure of Support (AMS) refers to the annual level of support, expressed in monetary terms, provided for an agricultural product or non product specific support provided in favour of agricultural producers in general. Article 1(a) of the AoA.

developing countries' commitment is 13.3%. Hence, while the 35 countries have entered a commitment to reduce the level of farm support, the remaining, mainly poor developing and least-developed countries, cannot make use of any measure falling under the amber box, with few exceptions (exceptional measures).

The first exception is the *de minimis* level of support. This exception is available for both developing and developed countries which do not fall under article 6.3 AoA. Here, the members are exempted from reduction commitment of product specific or non product specific domestic support that falls below a certain percentage of the total value of production of a basic agricultural product during the relevant year.<sup>97</sup> The level of *de minimis* support for developed countries is 5% while for developing countries it is 10%. (Article 6.4 AoA)

The second exception, which applies only for developing countries as a special and differential treatment is measures falling under article 6.2, also known as Development Box measures. These measures include generally available agricultural investment subsidies, agricultural input subsidies generally available to low income or resource poor producers and support to encourage diversification from growing illicit narcotic crops. Domestic support measures given by developing countries which meets one of these three conditions will not be included in the calculation of the members current total AMS. (Article 6.2 AoA)

The Blue Box contains production limiting programs which are exempt from reduction commitment provided the payment is based on fixed area and yield, or made on 85% or less of the base level of production while for livestock if the payments are made on a fixed number of head. (Article 6.5 (a) AoA). It covers payments directly linked to acreage or animal numbers, but under schemes which also limit production by imposing production quotas or requiring farmers to set aside part of their land.<sup>98</sup> The blue box measures are available for every member of the WTO, irrespective of development status. However, only a handful of countries have notified the WTO that they are currently using or have used blue box measures. These countries are the EU, Iceland, Norway, Japan, the Slovak Republic, Slovenia, and the US (now no longer using the box),<sup>99</sup> all of which are OECD members. Many debate on the relevance of the blue box and there are proposals to scrap it from the AoA.

Certain support measures provided through government programs that are believed to have no or minimal trade distorting effect fall under the green box, and hence are exempted from reduction commitment. These measures are provided in a detailed but non exhaustive list

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<sup>97</sup> McMahan, supra note 85, p 70

<sup>98</sup> WTO, Agriculture Negotiation Background, p 56 also available at <[www.wto.org](http://www.wto.org)>

<sup>99</sup> Ibid

under Annex 2 of the AoA. Green box measures tend to be programmes that are not directed at particular products, and include direct income supports for farmers that are not related to (are “decoupled” from) current production levels or prices.<sup>100</sup> Hence, they are allowed without limits, provided they comply with relevant criteria set under annex 2. (The criteria set are the support in question must be provided through a publicly funded government program not involving transfer from consumers and the support in question shall not have the effect of providing price support to producers)

Paragraphs 2 to 13 of Annex 2 provide list of specific types of policies which fall under the green box. The first category, general services, includes measures providing services or benefits to agriculture or the rural community that do not involve direct payments to producers or processors. Measures such as pest and disease control, extension and training services, research and infrastructural services also fall under the first category. Paragraphs 5 to 13 allow for various direct payments to producers to be exempt from the reduction commitment. Members are also allowed to provide income insurance and disaster relief services on condition that farmers are not made to profit from it. Moreover, members can also provide assistance for structural adjustment, environmental and regional development purposes.

As mentioned above, one of the concerns related to disciplining of export subsidies and domestic support is the potential increase in the price of food thereby increasing the import bills of food importing countries and threatening food supply for emergency food aid. In this regard, the agreement on agriculture as well as another ministerial decision tried to address the concern. For instance, paragraph 3 of Annex 2 categorizes measures taken by governments for purposes of achieving food security under the green box and hence exempt from reduction commitment. Such measures include expenditures in relation to the accumulation and holding of stocks of products which form an integral part of a food security program identified in the national legislation<sup>101</sup> and expenditures in relation to the provision of domestic food aid to section of the population in need.<sup>102</sup>

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<sup>100</sup> Id, p 53-54

<sup>101</sup> For such measures to be exempt from reduction commitment, conditions stipulated under paragraph 3 have to be fulfilled. These conditions are: there has to be correspondence with the volume and accumulation of the stock on the one hand and the predetermined targets related solely to food security, there has to be financial transparency in the process of stock accumulation and disposal, and lastly food purchases by the government has to be made at current market prices and sales from food security stocks shall be made at no less than the current domestic market price for the product and quality in question. The basic aim of setting these conditions is ‘avoiding the practice of trade and production distorting subsidies disguised as genuine food security measures.’ See Desta, Supra note 62, p 415

<sup>102</sup> Paragraph 4 of Annex 2. The paragraph also provides for conditions such as the aid must take a form of direct provision of means to allow eligible recipients to buy food either at market or subsidized prices, food

b) The Ministerial Decision on least developed and net food importing countries

The reform under the Agreement on Agriculture was predicted to seriously affect LDCs and net food importing developing countries; and the two groups were treated in a peculiar way within the WTO regime. A Ministerial Decision was adopted to ameliorate the negative effects of the liberalization and improve food security in these countries.<sup>103</sup> Paragraph 3 of the decision committed the WTO to:

- a. review the level of food aid established periodically by the Committee on Food Aid under the Food Aid Convention 1986 and to initiate negotiations in the appropriate forum to establish a level of food aid commitments sufficient to meet the legitimate needs of developing countries during the reform programme;
- b. adopt guidelines to ensure that an increasing proportion of basic foodstuffs is provided to least-developed and net food-importing developing countries in fully grant form and/or on appropriate concessional terms in line with Article IV of the Food Aid Convention 1986;
- c. give full consideration in the context of their aid programmes to requests for the provision of technical and financial assistance to least-developed and net food-importing developing countries to improve their agricultural productivity and infrastructure.

Despite this reiteration in the decision, many countries have reported their dissatisfaction on its implementation. For instance, Egypt noted that ‘in the five years since the Marrakesh decision was taken, net food importing and least developed countries have had nothing but a lot of good will messages and fine rhetoric; but no concrete action.’<sup>104</sup> Some are of the view that the dissatisfaction mainly arises due to ambiguity in the language which made it difficult to parties to agree whether the commitments have been met.<sup>105</sup> ‘The WTO did review food aid levels and did initiate negotiation under the Food Aid Convention, resulting in the 1999 FAC. But the result of the convention was unsatisfactory as the minimum level of commitment by donors declined.’<sup>106</sup> Currently, one of the issues on the negotiating table of the WTO members is the strengthening of the decision.

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purchases by the government must be made at current market prices and the financing and administration of the aid must be transparent.

<sup>103</sup> WTO, (1994), Decision on Measures Concerning the Possible Negative Effects of the Reform Program on Least Developed and Net Food Importing Developing Countries.

<sup>104</sup> McMahon, supra note 85, p 181

<sup>105</sup> Linda M Young, Options for World Trade Organization Involvement in Food Aid, 3 *The Estey Centre Journal of International Law and Trade Policy* 1, (2002), p 16

<sup>106</sup> Ibid

### c) Impact on Ethiopia's accession

Like many other countries, the Government of Ethiopia has a package of support programs in order to enhance and speed up agricultural commercialization. This support program mainly covers general services such as agricultural research, training and extension, pest and disease control, market and promotion services, infrastructure services, domestic food reserve and food aid, resource conservation and environmental protection, irrigation, settlement and regional support.<sup>107</sup> The specific support measures in agriculture include, among others, menu based extension packages to enhance farmers choice of technologies; agricultural Technical Vocational Education Training (TVET); measures for the improved functioning of markets for agricultural inputs (fertilizer, seed, etc.) and outputs; organize, strengthen and diversify autonomous cooperatives to provide better marketing services and serve as bridges between small farmers (peasants) and the non-peasant private sector; strengthen agricultural research, extension, natural resource management, water harvesting, and small-scale irrigation; and measures to improve production and productivity of livestock through strengthening animal health services.<sup>108</sup> The country also allocates budgetary outlays for activities related to food aid distribution to deprived people in remote, mountainous and other disadvantaged areas for relief purposes.

These domestic support measures are believed to improve the performance of the agriculture sector and achieve the objective of the country's economic policy, Agricultural Development Led Industrialization (ADLI) and also its poverty reduction strategy; both of which aim at food self-sufficiency and improved food security. One concern for the country's accession to the WTO is on whether all the measures fall under the permitted sphere of 'green box' measures and if not, whether it will be within the *de minimis* level exception allowed under article 6.4 of the AoA.<sup>109</sup> In this regard, an assessment of the different support measures the Government of Ethiopia provides vis-à-vis the specific policy measures provided under paragraphs 2-13 of Annex 2 of the AOA informs us that the measures of the Government fall under the green box measures and hence exempted from reduction commitment.

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<sup>107</sup> WT/ACC/ETH/3, p 49

<sup>108</sup> Ibid

<sup>109</sup> The country's budgetary expenditure for 2005, for instance, was around 155 million USD.

## **VI. Concluding Remarks**

This chapter looked into the possible challenges the country may face during its accession process. It looked into the compatibility of some of the agricultural trade instruments with the WTO rules on agriculture. In doing so, consideration of the food security concern of the country was taken into account. Experience of acceded countries have so far indicated that acceding countries are required to take from the negotiation table obligations more than they can handle. Though the WTO has put in place different documents in order to help LDCs easily accede, the results so far achieved are not as such satisfactory. In view of this, the chapter tried to look into some relevant parts of the accession experience of two recently acceded LDCs, Cambodia and Nepal by way of drawing comparison of Ethiopia's condition and showing possible ways of addressing challenges that may be faced by Ethiopia during accession in light of its food security concern.

On the first pillar, market access, Ethiopia is currently beneficiary of different special and differential market access treatments from different countries, the EBA initiative and the AGOA being good examples. As the country is already beneficiary of these special market access privileges, it is doubtful if its accession will bring new market for it. The major concern, on the other hand, is how much the country will be expected to open up its market during the accession. As a result of the successive unilateral liberalization measures taken by the government since early 1990s, the country currently maintains a very low tariff rate on both agricultural and non agricultural products. A requirement to further reduce the tariffs will place the country in a very difficult position. Experiences of other acceded LDCs indicate that such a request is an unlikely event. Hence, the real question here will be at what level the country would bind its tariffs upon accession. In this regard the experience of Nepal could be a good lesson; negotiate for a bound tariff by far higher than its current levels so that it may preserve a policy space to protect the agriculture sector. This will help to boost the trade based entitlement of the farmers to food security. The other area of concern with the first pillar of the agreement is export restriction. The country currently maintains export restriction on cereal as a response to the 2008 food crisis. Here also, the experience of another acceded LDC, Cambodia, may be of some help. Moreover, it should be noted that the export restriction imposed by Ethiopia currently is a response to the food crisis of 2008 and is presumed to be a temporary measure and it should be tolerated.

The second pillar of the AoA, export subsidy is the least worrying area for Ethiopia's accession as the country does not maintain any export subsidy and neither does it have the

financial capacity to introduce one in the near future. On the other hand, the support measure taken by other countries will affect the country. The Doha Ministerial Declaration calls for the reduction, with the view to phasing out of, all forms of export subsidies. The adoption and implementation of this proposal will enable the achievement of the long term objective of the AoA; establishment of a fair and market oriented agricultural trading system. Though the elimination of the support is expected to increase the price of food in the world market and increase the import bill of net food importing countries like Ethiopia, the creation of a fair and market oriented agricultural trading system will be beneficial in the long run.

Like many other countries, the Government of Ethiopia has a package of support programs in order to enhance and speed up agricultural commercialization. These domestic support measures are believed to improve the performance of the agriculture sector and achieve the objective of the country's economic policy and its poverty reduction strategy. Both the economic policy and the poverty reduction strategy aim at food self-sufficiency and improved food security. In this regard, the concern for the country's accession to the WTO is on whether all the measures fall under the permitted sphere of 'green box' measures and if not, whether it will be within the *de minimis* level exception. As can be seen from the list of measures notified by the Government of Ethiopia, all the measures fall within the green box and hence will not be a problem in its accession.