

# INDIA'S 'WHEAT WAIVER' WTO DEMAND IS RISK-FRAUGHT

Relevant for: International Relations | Topic: World Trade, WTO and issues involved

'Adding newer objectives and shifting goalposts might result in falling between two stools' | Photo Credit: PTI

One of the cardinal demands of India in the World Trade Organization (WTO) — and rightly so — has been to find a permanent solution to the issue of public stockholding (PSH) of food to protect India's food security (PSH policy). India's PSH policy is based on procuring food from farmers at an administered price (minimum support price or MSP), which is generally higher than the market price. The PSH policy serves the twin objectives of offering remunerative prices to farmers and providing subsidised food to the underprivileged.

However, under WTO law, such price support-based procurement from farmers is counted as a trade-distorting subsidy, and if given beyond the permissible limit, breaches WTO law. Currently, India has temporary relief due to a 'peace clause' which bars countries from bringing legal challenges against price support-based procurement for food security purposes. However, a permanent solution to this issue is still not in the offing.

The WTO ministerial meeting in June at Geneva did precious little to address this issue. Paragraph 10 of the declaration on food security adopted at the Geneva ministerial states: "We recognize that adequate food stocks can contribute to the realization of Members' domestic food security objectives and encourage Members with available surplus stocks to release them on international markets consistently with WTO rules".

As I have argued, *prima facie* this might show that India's concerns about the PSH issue have been taken on board. However, for India, the real issue is not about maintaining adequate food stocks, which WTO rules do not prohibit, provided food is stocked by employing non-trade distorting instruments such as providing income support to farmers (cash transfers independent of crop production). India's concern is that it should have the policy space to hold public food stocks using the MSP, which is a price support instrument. However, there is no mention of price support in the Geneva declaration.

Conspicuously, in the run-up to the WTO ministerial meeting and, subsequently, India's demand for a permanent solution to the PSH policy has acquired a new dimension. India insists that it should also be allowed to export food, most notably wheat, from the pool of the foodgrain procured under the MSP. This demand was recently re-articulated by Finance Minister Nirmala Sitharaman at the G20 meeting in Indonesia. The Russia-Ukraine war has unleashed a food crisis in many countries. India perhaps wishes to capitalise on this opportunity.

However, WTO law proscribes countries from exporting foodgrain procured at subsidised prices. There is a sound economic rationale behind it. Allowing a country to export foodgrain procured at subsidised prices would give that country an unfair advantage in global agricultural trade. The country concerned will sell foodgrain in the international market at a very low price, which, in turn, might depress the global prices and have an adverse impact on the agricultural trade of other countries. Accordingly, paragraph 4 of the 2013 WTO decision on PSH for food security purposes, clearly states that countries procuring food for food-security purposes shall ensure that such procured food does not "distort trade or adversely affect the food security of other Members".

The same spirit is reflected in paragraph 10 of the Geneva ministerial food security declaration, which states that countries may release surplus food stocks in the international market in accordance with WTO law.

Debatably, the WTO may agree to a temporary waiver to allow the export of wheat from public stockholdings given the ongoing food crisis in some countries. In fact, before the WTO ministerial meeting, India reportedly requested such a waiver. However, it is very unlikely that such a request will be acceded to.

The history of waivers at the WTO is fraught with huge let-downs. The recently adopted waiver on intellectual property (IP) for COVID-19 medical products is a case in point. The IP waiver is restricted to only COVID-19 vaccines and does not cover diagnostics and therapeutics. The shallowness of the IP waiver is further reinforced by the fact that it is limited to only patents and does not cover other IP rights.

Moreover, as per Article IX.3 of the WTO Agreement, waivers can be adopted only in “exceptional circumstances”. The WTO filibustered for two years acknowledging a once-in-a-century pandemic such as COVID-19 as an “exceptional circumstance” for the IP waiver. Thus, the possibility of it recognising an ongoing war between two nations as an “exceptional circumstance” to adopt a waiver for permitting wheat exports from public stocks is profoundly remote.

Developed countries have historically opposed India’s PSH programme as they apprehend that India might divert some of its public stock to the international market, thus depressing global prices. While this argument should be taken with a pinch of salt, India actively pushing for exporting food from its official granaries gives fresh ammunition to the naysayers to stick to their guns in opposing a permanent solution to the PSH issue. Thus, India should revisit its stand on asking for a waiver for wheat exports from its public stockholding, which, in any case, was not a part of India’s PSH policy. Besides, as reported, the Government’s wheat procurement has been 57.5% less than the original target for this season. So, if the public procurement has been so low, what is the point in asking for a waiver to export wheat from the public stock?

Spending scarce negotiating capital on this issue might dilute India’s core agenda of pushing for a permanent solution for its PSH programme to attain the goal of food security and providing remunerative prices to the farmers. The laudable objective of helping countries facing food crises can be accomplished by strengthening India’s commitment to the United Nations World Food Programme. Or, if the domestic situation ameliorates, India can lift the ban imposed on private traders to export wheat. Negotiations at the WTO require crystal clarity of the core objectives that should be relentlessly pursued. Adding newer objectives and shifting goalposts might result in falling between two stools.

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