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**Revising the WTO Measurement of Price Interventions to Better Constrain  
Trade-Distorting Farm Support**

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# **Revising the WTO Measurement of Price Interventions to Better Constrain Trade-Distorting Farm Support**

## **The problem**

One of the innovations adopted in the Agreement on Agriculture (“Agreement”) of the World Trade Organization (WTO) was the inclusion of disciplines on domestic support measures alongside disciplines on border measures, such as tariffs and export subsidies (Agreement on Agriculture 1994). The sum of support under some domestic support measures is subject to a limit, with exemptions and the size of the limit applying in different ways to different WTO members. For a product, the support that is subject to limit is accounted for in the product’s Aggregate Measurement of Support (AMS). It includes certain types of producer payments and subsidies and also price support. The Agreement specifies a particular method for measuring market price support (MPS). One AMS accounts for non-product-specific support provided in favor of agricultural producers in general. This paper generally refers to the limits applying to each of the member’s individual AMSs, although 33 members instead have one single limit applying to the sum of AMSs above a given threshold.

Measuring MPS under the Agreement has proven to be among its most problematic aspects and has been the subject of dispute settlement under WTO rules. An underlying flaw is the requirement that when there is an administered, or government-set, producer price, termed an Applied Administered Price (AAP) in the Agreement, the support must be measured using the difference between the current administered price and a constant reference price based on world market prices from a long-past time period.

The Agreement's way of measuring MPS, which differs in this and other aspects from an economic measurement of price support, is at the root of longstanding and ongoing negotiation controversies at the WTO, as well as recent disputes. This paper examines a possible modification of the Agreement measurement of MPS, which would bring the measured MPS into closer alignment with an economic MPS. Policy decisions affected by the AMS limits would be sounder if based on economically relevant measurement instead of the artificial measurement presently prescribed in the Agreement.

### **Market price support in the Agreement on Agriculture**

The Agreement was one of the results of the trade negotiations in the Uruguay Round from 1986 to 1994. The Agreement's domestic support provisions drew on what already the Haberler report had recognized in 1958, namely that both payments and price regulation could distort production incentives and therefore needed to be accounted for (GATT 1958). Josling estimated the price support component of producer support using economic principles (FAO 1973). Estimates by the Organization for Economic Cooperation and Development (OECD) built on the Josling method and were considered in the Uruguay Round negotiations. In these measurements, the support price is compared to the opportunity cost assessed from world markets in the same time period, and this price gap is applied to total production. However, the negotiations did not adopt such *ex post* estimates using observed variables and settled instead on a measurement involving variables under government *ex ante* control – the administered price, a fixed external reference price (FERP), i.e., a constant, and the quantity of production eligible to receive the administered price (Annex 3; Annexes mentioned in this paper are those of the Agreement). The FERP is based on the product's f.o.b. or c.i.f. prices in the years 1986 to 1988.

These choices allowed governments to enter into binding commitments on support limits in the knowledge that they would be able to control the support so limited. This was a priority for, particularly, the European Communities at the time. A comparison of the two measurements of MPS is shown in Box 1.

$$\text{Economic MPS}_t = [ \text{Domestic Price}_t - \text{Border Price}_t ] \times [ \text{Total Production}_t ]$$

$$\text{Agreement MPS}_t = [ \text{AAP}_t - \text{FERP}_{\text{fixed years}} ] \times [ \text{Eligible Production}_t ]$$

### **Box 1. Comparison of Measurement of Economic MPS and WTO Agreement MPS**

In general, the out-of-date basis for the reference price and its fixity make the MPS of the Agreement into an artificial measurement of price support compared to an economic measurement. The Agreement's Article 20 required negotiations to be continued in 1999. This could have been an avenue to revise the FERP requirement or at least update the FERP from its 1986 to 1988 base. While negotiations did start and were then incorporated into the Doha Round of negotiations from 2001, they have not yielded any change in the FERP provision. For original members of the WTO, the reference price therefore continues to be based on prices in the years 1986 to 1988. Most of the 36 members which have acceded to the WTO after its formation use more recent base years, typically a few years before their year of accession. For example, since its accession in 2001, China uses FERPs based on the years 1996 to 1998.

### **FERP and measured support**

In many cases the use of a reference price from long ago makes the measured price gap for a product larger than if a current or recent reference price were used. As the nominal prices of many commodities in world markets have increased since the 1986 to 1988 period, some governments have raised their nominal administered prices. Increases in nominal prices can be

fully or partly linked to monetary inflation, apart from being driven by changes in supply and demand of the commodity. The increasing gap between the administered price and the reference price of many commodities generates an increasing measured MPS under the Agreement.

The artificially large MPS resulting from the Agreement price gap can make a product's AMS large enough that it would exceed its limit. To avoid this, a government would, *ceteris paribus*, need to reduce its administered price. It might need to be set so low that it in effect does not support producer prices. In other words, supporting producers through price-setting would not be possible, not just constrained in level.

The administered price is one of two policy variables a government can use to manage the magnitude of the measured MPS. The amount of MPS that enters the AMS calculation is the product of multiplying the price gap by the quantity of eligible production. While an economic measurement would use the quantity of total domestic production, the WTO measurement allows the use of a smaller quantity. If a government determines and announces the quantity that will be eligible for purchases at the year's administered price, this smaller quantity can be the eligible production in the MPS calculation, as determined in dispute settlement (WTO 2000).

Several members of the WTO have for one or more years notified the WTO that they exceeded their limit or limits on AMS support. These few excesses have in most cases resulted from a large MPS calculated under the Agreement's rules. Examples include rice support in Costa Rica, eggs and milk in Israel, and beef in Norway. Subsequent policy changes made these members' support fall within their limits. Policy decisions were thus made, at least partly, in order to make an artificial support measurement fit within a member's limit. If support had been measured more in line with economic principles, it is possible that other policy choices would

have been made. In the same vein, other members design their support policies such that the MPS measured with Agreement rules does not make the AMS exceed its limit.

### **MPS and acquisition for public stocks**

In addition to the general potential for agricultural policy decisions to be skewed in particular ways because of the artificiality of the measured MPS, the ongoing WTO negotiations have devoted large efforts to an issue that involves the measurement of MPS under the Agreement. The issue arises when a government uses an administered price for its acquisition of public stocks for food security purposes. Government purchases of sufficient quantities could of course be made at domestic market prices, which could also have the effect of raising producer prices above what they would be in the absence of such purchases. If purchases are made at market prices, the Agreement allows the expenditures on purchases to be excluded from calculation of a product's AMS (Annex 2, paragraph 3). Since in this situation there is no administered price, no MPS is calculated. However, flexibility for developing countries using an administered price for the acquisition of such public stocks also allows them to exempt the expenditure "provided that the difference between the acquisition price and the external reference price is accounted for in the AMS" (Annex 2, footnote 5).

Accounting for MPS in the AMS may cause it to exceed the member's applicable limit on AMS support. The risk of this occurring is larger if the MPS is measured with a method that makes it artificially large, as can be the case when using the FERP based on the years 1986 to 1988. In the Doha Round of negotiations, India championed the idea that the MPS calculated by a developing country when using an administered price for acquisition of public stocks for food security purposes would not need to be included in the AMS. This would in effect enable the

government in a developing country to provide unlimited price support for its producers under the rubric of public stockholding for food security purposes. Numerous other members therefore opposed this idea.

The opposition took into account the fact that developing countries are able under the Agreement to exempt from limit many investment and input subsidies. India is the major user of this exemption, to the extent of being an outlier among all developing countries. Effectively exempting also price support would leave producer support for major crops without constraint. This is inconsistent with the long-term objective of the Agreement to establish a fair and market-oriented agricultural trading system that, through strengthened and operationally effective rules and disciplines, results in correcting and preventing restrictions and distortions in world agricultural markets.

An interim solution on the issue of acquisition at administered prices of public stocks for food security purposes was eventually agreed at the WTO ministerial conference in 2013 and reaffirmed in 2015 (WTO 2015). While many members saw beyond agriculture and prioritized finalizing the WTO Trade Facilitation Agreement, India held out for its preferred solution to the issue of acquisition at administered prices in agriculture. The interim solution relates to the WTO dispute settlement mechanism, under which a member that exceeds its limit on AMS support risks facing a complaint by another member under the rules for WTO dispute settlement. If the responding member is found to be violating its WTO obligations, the member may become vulnerable to retaliation by the complaining member. However, under the 2013 interim solution in agriculture, as followed up by the WTO General Council in 2014 and the 2015 ministerial conference, a developing country is shielded against dispute if its excessive AMS support is the result of acquisition at administered prices for public stockholding for food security purposes.



The use of the shield, which applies to staple food crops, is subject to several conditions relating to notification and transparency, anti-circumvention/safeguards, and consultations.

### **Relevance of MPS calculations: The case of India**

Disagreements over measuring MPS have been prominent in discussion of the WTO Committee on Agriculture. In 2018 and 2019 the United States, Australia and Canada submitted “counter-notifications” to the Committee, based on their interpretation of the Agreement’s rules for calculating MPS (e.g., WTO 2018). The counter-notifications show India’s MPS levels in excess of the AMS limits. These levels also far exceed both the economic support estimated by the OECD and the measurements submitted by India using its choice of parameters in the Agreement’s formula. Support for sugarcane in India has been subject to WTO dispute challenge, with the panel finding excessive support (WTO 2021). The panel measured MPS along lines of the counter-notifications. While India has appealed the findings, the panel decision inherently may intensify concerns on the part of India that it could face having to limit support that is measured to be very large.

India had by March 2023 reported to the WTO Committee on Agriculture that its AMS for rice exceeded its limits in the marketing years from 2018/19 to 2021/22. India claimed that the interim solution covered the breach of its limits, which resulted from MPS calculated for acquisition at administered prices for public stockholding programs. No other member has invoked the interim solution in relation to excessive AMS support. India’s calculation methodology for MPS deviates from many other members’ interpretation of the Agreement’s rules for such calculations. Several members engaged in consultations on such matters with India in early 2023 under the interim solution.

The two major differences between India and some other members in calculating India's MPS involve the reference price in the price gap and the quantity of production by which to multiply this gap. India effectively considers that its reference price, based on 1986 to 1988 data in Indian rupees (INR) per tonne, is fixed in US dollars (USD) per tonne. The value of the INR was higher in 1986-88 than in later years, which makes the FERP in USD per tonne relatively high. The price gap in recent years is therefore considerably lower in USD per tonne than it would be if the reference price were converted to USD per tonne at the same exchange rate as the conversion of the current year administered price. The counter-notifications express both reference prices and administered prices in INR per tonne, resulting in the much larger price gaps.

India's calculation of MPS for rice accounts for only the quantity of production that government agencies buy at the administered price. For 2021/22 India notified, for example, an eligible quantity of production of 59 million tonnes of rice out of 129 million tonnes produced (WTO 2023b; Ministry of Agriculture and Farmers Welfare 2023). MPS for rice is consequently smaller than if using total production.

The most recent counter-notification concerning India's MPS calculation, submitted by a group of six members, calculates much larger MPS amounts for rice and wheat in the years 2014/15 to 2020/21 than India has calculated (WTO 2023a). This is not surprising, given the differences in treatment of reference prices and eligible production. However, the counter-notification makes evident the artificiality of using reference prices based on the years 1986 to 1988 in line with the Agreement's rules as interpreted by many members. The large price gaps shown differ greatly from the economic reality represented by, for example, calculations of the OECD. They show only small or even negative price gaps for rice and wheat in the years of the

counter-notifications. The magnitude of price-induced production and trade distortions for rice and wheat in India therefore have not been proportionate to the size of the price gaps measured in counter-notifications.

The legal admissibility of India's treatment of its 1986 to 1988 reference price data to generate its FERP and its argument about eligible production has not been tested for rice and wheat. However, in the dispute over India's MPS for sugarcane, the WTO panel calculated the MPS price gap using 1986 to 1988 prices in INR per tonne. This generated much larger price gaps in the years 2014-15 to 2018-19 than in an economically meaningful comparison. For example, calculations for sugar by the OECD showed positive price gaps in all but one of the years concerned (Table 1). However, since international sugar prices in these years were higher than in 1986 to 1988, the price gaps were nevertheless smaller than if reference prices from 1986 to 1988 had been used, as proposed by the complainants and determined by the panel. The panel also used essentially all production of sugarcane to calculate MPS, whereas India considered that the quantity was nil since government agencies were not the purchasers of sugarcane at the administered price. India has appealed the panel report and, in the absence of a functioning WTO Appellate Body, the case remains unsettled.

**Table 1. Comparison of Economic and Agreement MPS for Sugar and Sugarcane**

	Year				
MPS as Percent of Value of Production	2014	2015	2016	2017	2018
Economic %MPS (sugar)	13.3%	8.3%	-0.9%	28.0%	23.5%
Agreement %MPS (sugarcane)	93.6%	91.8%	86.1%	91.4%	90.2%

Source: Brink and Orden (2023).

Apart from the dispute over India's support for sugarcane, the choice of base years for the reference price in the price gap calculation was one of the issues in the dispute over MPS for rice and wheat in China (WTO 2019). The issue arose because China in its 2001 accession to the WTO had used reference prices based on 1996 to 1998 prices. The resulting price gaps were much smaller than what the United States as the complaining party had calculated using 1986 to 1988 prices. The panel found China's AMSs for rice and wheat to have been in excess of their limits even with the smaller price gap. Less ambitious policy changes were needed for China to come into compliance with these smaller price gaps than if the 1986 to 1988 prices were used. China has claimed compliance since 2020 by lowering its administered prices and, in legally authorizing its support programs, setting a cap on the maximum quantity that will be purchased, hence capping eligible production.

## **Assessment**

In general, as we have noted, the out-of-date basis for the reference price and its fixity make the MPS of the Agreement into an artificial measurement of support compared to economic support. A government seeking to comply with its WTO limit on certain support is therefore required to make policy choices relating to an artificial measurement of support rather than an economically more sound measurement. Moreover, the artificiality of the measured support plays a key role and may be a stumbling block in finding a permanent solution to the issue of providing producer support by means of acquisition of public stocks for food security purposes.

The solution to these interrelated issues could be to revise the Agreement's rules about the 1986 to 1988 base years for the reference price and its fixity. Suggestions along these lines

have been made by, for example, Orden et al. (2011), Hoda and Gulati (2013), Konandreas and Mermigkas (2014), Montemayor (2014), Matthews (2014, 2015), Josling (2015), ICTSD (2016), Díaz-Bonilla (2017), Hoda (2017), Brink and Orden (2020, 2023), Glauber and Sinha (2021) and Cahill and Tangermann (2021). Galtier (2023) outlined a significantly different price gap calculation, where a domestic price for an importing country would be compared to the current or one-year lagged sum of the unit value of imports and the import tariff. The price gap and calculated MPS would thus be smaller than if using a reference price not including import tariffs. Brink and Orden (2020, 2023) suggested the use of a lagged moving average reference price, derived from world markets excluding tariffs, and showed comparative measurements for wheat in China and India over the period 2008 – 2018. Orden and Brink (2022) showed the corresponding measurements for rice and wheat in India over 2008 – 2020.

### **Lagged moving average reference price**

The MPS formula of the Agreement could be modified to allow a government to choose an administered price during the current year in relation to a moving average of recent years' reference prices. The modification would calculate the price gap as the difference between the administered price and a reference price based on recent lagged world prices instead of world prices from a long-ago fixed period. Using a lagged moving average reference price would bring the measurement of MPS under the Agreement more closely into alignment with the economic price support, which is what matters for domestic and world markets.

The formula would be:

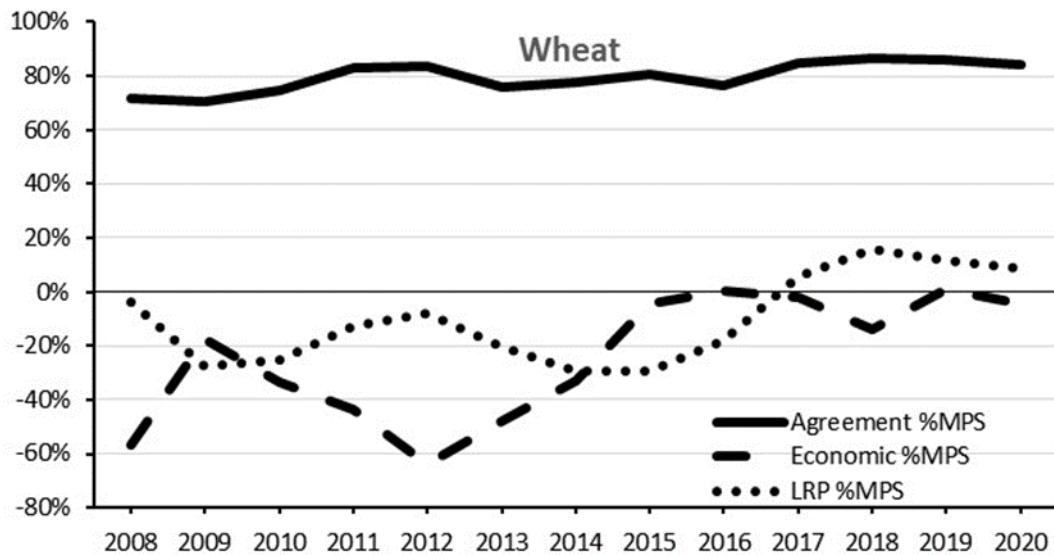
$$\text{LRP MPS}_t = [\text{AAP}_t - \text{LRP}_t] \times [\text{Total Production}_t]$$

where  $AAP_t$  is the applied administered price at time  $t$  and  $LRP_t$  is the moving average of lagged border prices (e.g., average  $(t-1, t-2, t-3)$  or an Olympic moving average from five lagged years). The LRP MPS enables a government to use an administered price to benchmark producer prices in the domestic market within the space available from its applied border protection. Some members see this as an essential policy option. Using AAP in the price gap leaves room for the domestic price to exceed the AAP without raising the LRP MPS, which accommodates the effects on domestic prices of tariffs or other border or behind-the-border policy measures, without subjecting these effects to the domestic support discipline.

To bring the MPS closer to an economically relevant MPS, the price gap is applied to total production whether purchased under a price support program or not. Using total production is in contrast to the smaller quantity of government purchases which some WTO members use as eligible production to calculate MPS. This accounts for all production benefiting when the AAP exceeds the border price and geographical market arbitrage causes the support price to underpin the minimum producer price nationally.

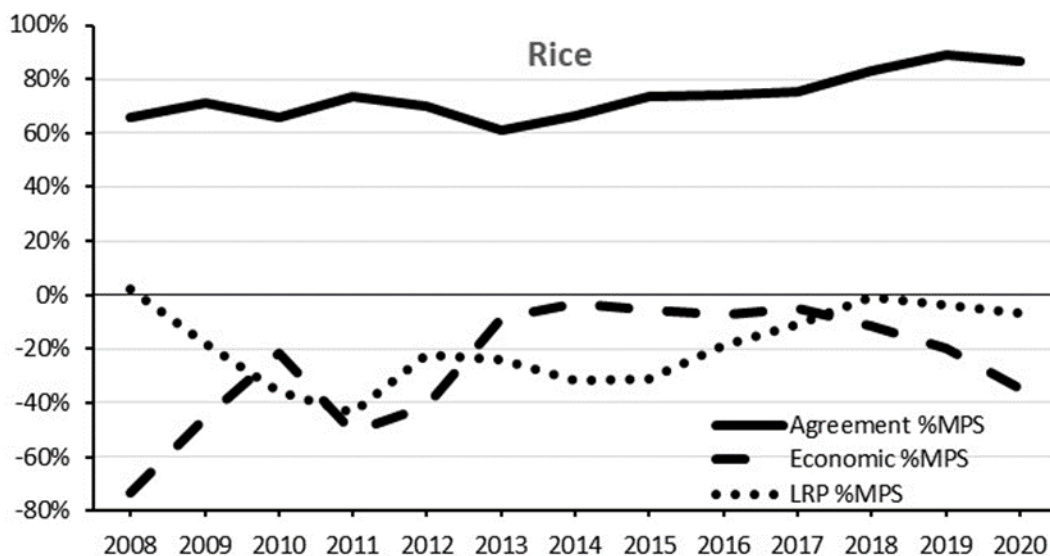
While not as perfect as an *ex post* calculation, this *ex ante* calculation would enable a government to choose an administered price that makes the calculated MPS more similar to an economic MPS than when using the reference price stipulated in the present Agreement. In many cases, the measured MPS would be smaller than measured under present rules. A smaller MPS, including when using administered prices to acquire stocks for food security purposes, would make it easier to comply with the limits. There is, thus, a sensible technical fix that could ease the impasse over producer support related to food security programs and strengthen the role of WTO domestic support rules in achieving the objective of the Agreement.

Figures 1 and 2 illustrate, respectively, for wheat and rice in India the calculated %MPS (MPS as a percentage of the product's value of production). The %MPS calculated with the Agreement reference price based on 1986 to 1988, as in counter-notifications and the sugarcane dispute, is much larger in all years than either the economic %MPS, using the current year's reference price, or the LRP %MPS, using the three-year lagged average reference price.



**Figure 1. Percentage MPS for wheat based on alternative reference price calculations**

Source: Authors' calculations using data on India's support prices and from OECD (2022), as reported in Orden and Brink (2022).



**Figure 2. Percentage MPS for rice based on alternative reference price calculations**

Source: Authors' calculations using data on India's support prices and from OECD (2022), as reported in Orden and Brink (2022).

### Potential for resolution of the reference price issue

WTO negotiations on agriculture have placed only some domestic support issues under the heading of 'Domestic support'. They have placed one domestic support issue under the separate heading of 'Public stockholding for food security purposes'. This is also the heading of paragraph 3 in Annex 2 (green box), i.e., it concerns the Agreement's domestic support provisions. The negotiations as a whole remain stymied by the specific impasse about accounting for MPS when stocks are acquired at administered prices for food security purposes in developing countries. Bringing the measurement of MPS closer to an economic measurement would allow more meaningful policy choices to be made in order to comply with the Agreement limits on producer support, whether in the context of price support policies in general or more specifically in the acquisition of public stocks at administered prices.



Members have over the years suggested a variety of approaches to unlock the impasse in domestic support, including acquisition of public stocks at administered prices. Not all suggestions are public. These initiatives contributed to the inclusion of a key suggestion in a draft text for the 2022 WTO Ministerial Conference, namely that an assessment of the external reference price be taken under consideration (WTO 2022). While no decision was taken on this or any other suggestion, its recent inclusion in draft text at that level may indicate a certain shared interest among some members to address the artificiality of the price gap in calculating MPS under the Agreement. Preparations are underway for the February 2024 Ministerial Conference. Members building on the shared interest revealed in 2022 may make headway towards improving the measurement of price support.

## **Conclusion**

Continued discussions of improved measurement of MPS under the Agreement are to be welcomed. A price gap calculation using lagged average reference prices would in many situations yield a smaller and more economically meaningful measurement of MPS than the MPS as currently calculated. A smaller AMS would more easily be accommodated within a member's AMS limits, in contrast to the limits severely constraining or even ruling out any MPS. An economically meaningful MPS could allow a government to support producers to some extent through acquisition at administered prices, while constraining the level of that support. This could be a consideration in charting a path towards resolving the impasse on acquisition at administered price of public stocks for food security purposes.

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