Centre for CIVIL SOCIETY

Social Change through Public Policy

UNFREE TO SELL

HOW TRADE RESTRICTIONS HURT FARMERS

Unfree to Sell:

How Trade Restrictions Hurt Farmers

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Executive Summary

The Indian growth story of rising incomes, increased wealth, more freedoms, and higher aspirations has not been the reality for many citizens of Bharat. Sharad Joshi, an economist and former Rajya Sabha Member from Maharashtra, noted this dichotomy in the way the urban residents of India and the rural residents of Bharat were treated (Doshi 1990). At its core, while government treats its urban, non-agricultural population as rational economic actors capable of making decisions about their economic lives, it treats its agricultural population as incapable of doing so. Farmers in India are subject to excessive regulations at every point of their profession. Rules limit the amount of land they can use, the people they can sell to, how much they can sell for, and even their ability to sell off their land (Anand, Shah, and Neema 2020). This approach has left farmers desperately poor and debt-ridden (Ministry of Agriculture & Farmers' Welfare 2017).

This protective attitude is amplified when dealing with the international trade of agricultural produce. Because of India's past as a food-insecure country, various laws that restricted trade and storage were adopted. These policies hurt India's image as a reliable trade partner and limited investment in post-harvest facilities. In addition, market interventions like Minimum Support Prices(MSP) that incentivise production of wheat and paddy mean that most of India's produce is low-value. As a result, India's agricultural supply chains are not well linked to international markets. However, the government adopted the Agriculture Export Policy in 2018, hoping to double the value of agriculture exports to USD 60 billion (4.3 lakh crore) by 2022 (Ministry of Commerce and Industry 2018b). In addition, recent amendments to the Essential Commodities Act(ECA) show there is some political will to make agriculture trade more open.

The policy interventions on agriculture trade have adversely affected farmers and consumers and go against the principles of basic trade theory. The frequent interference in international trade through export and import controls hinders the development of stable trade relations. This policy brief studies the historical motivations for India's trade policy, the current state of agricultural trade, and the legal hurdles to a more open trade environment. It then suggests a series of reforms that would have significant long term benefits to India's farmers.

1. Introduction: India's Agricultural Trade

India remains a minor contributor to global agriculture trade. In terms of value, India only contributes 2.15% to the total share of global exports (Food and Agriculture Organization 2021). This low share is due to India's history as a country dependent on aid and the various protectionist policies that have discouraged agriculture trade. In the early years of independence, food shortage was one of India's most serious problems. For nearly 20 years since 1947, India remained a food importing country and depended on food grains from the United States PL-480 aid program to feed its population (Hatti 1977). The green revolution in the 1960s made the country self-reliant in food grain production by embracing technology and better quality seeds and fertilisers. In the 50 years since the green revolution, from 1965 to 2015, India's foodgrain production grew 3.7 times, while the population only grew 2.55 times. This difference led to a 45% increase in per person food production, making India self-sufficient in food grains and a net exporter of food by 1991 (Department of Economic Affairs 2021). Increase in total production and population is demonstrated below

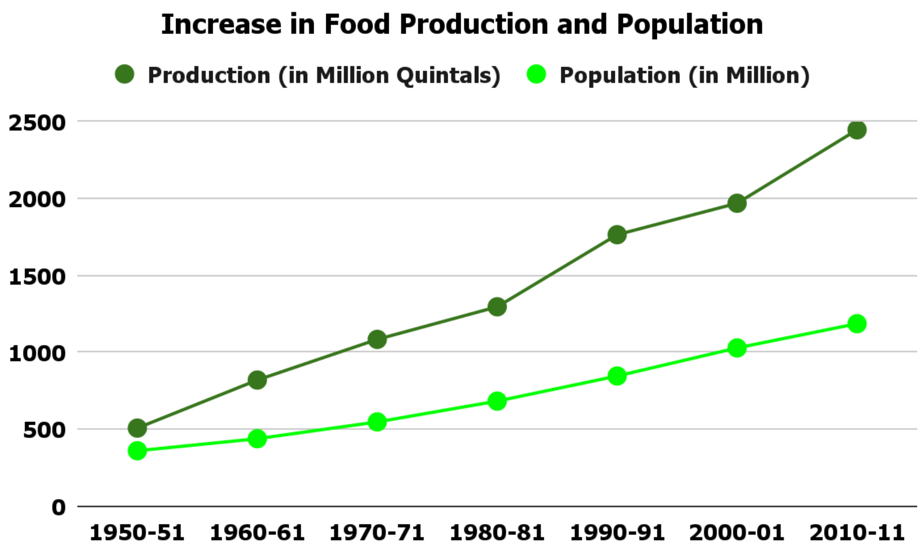

Figure 1: Increase in Food Production and Population

The food security centric-approach of the past is not appropriate for India's current agricultural production since domestic agricultural output far outweighs domestic consumption. In a scenario where there is abundant food production and excess supply in the domestic market, the only way to prevent local prices from collapsing is to integrate Indian agriculture with the international market.

A. India Remains a Minor Contributor to Global Agriculture Trade

Despite production growth, India has remained a minor contributor to global agriculture trade. The figure below depicts India's rank and volume in the production and export of different agricultural commodities for the year 2016-17. It can be seen that although India ranks high in total production for certain goods, its export ranking is relatively low. India only increased its share in global agricultural exports from 1.7% in 1961 to 2.15% in 2019. In the same period, China's share increased from 1.4% to almost 5% (Food and Agriculture Organization 2021). India's low share in exports can be explained by an unstable trade policy, small landholdings and poor post-harvest infrastructure. The Agriculture Export Policy 2018 attributes India's low share in international exports to its 'inward looking policies' aimed at food security and price stabilization (Ministry of Commerce and Industry 2018b).

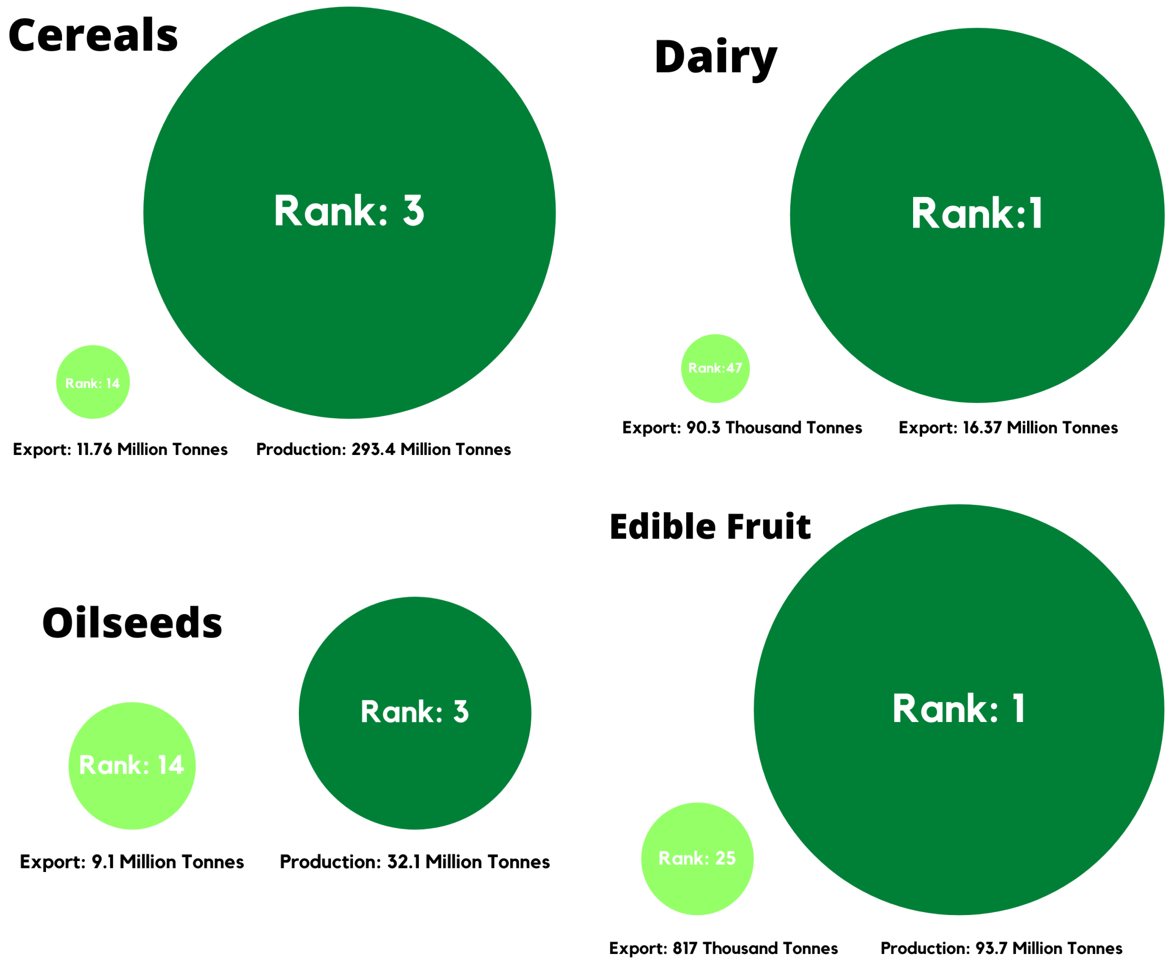

Figure 2: Comparison of Volume and Rank of Production and Export of Certain Commodoties
Adapted from Ministry of Agriculture & Farmers' Welfare 2017

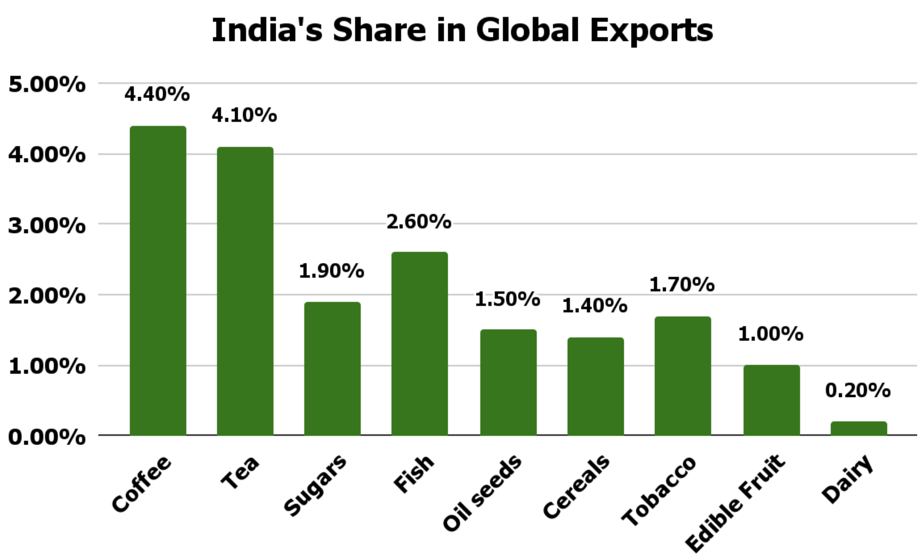

Figure 3: India's Share in Global Exports in Certain Commodoties
Adapted from Ministry of Agriculture & Farmers' Welfare 2017

B. India's Exports are Predominantly Low-Value

India's agricultural export basket is mainly composed of low-value, raw and semi-processed commodities like cereals, fruits, and vegetables. Only 15% of the basket (by value) is value-added or high-value commodities such as animal products and processed food items, compared to 49% in China and 25% in the US (Ministry of Commerce and Industry 2018b). The volume of trade of a particular commodity represents its share in terms of physical weight, whereas value represents its revenue. Although cereals form 60% of India's export basket in terms of volume, the export value generated is much lower. To generate more revenue from export, India needs to diversify its export basket and target a higher share for high-value commodities. This requires better incentives for farmers to grow crops like oilseeds and cotton that are more remunerative, or at least stopping the incentives to produce low-value goods.

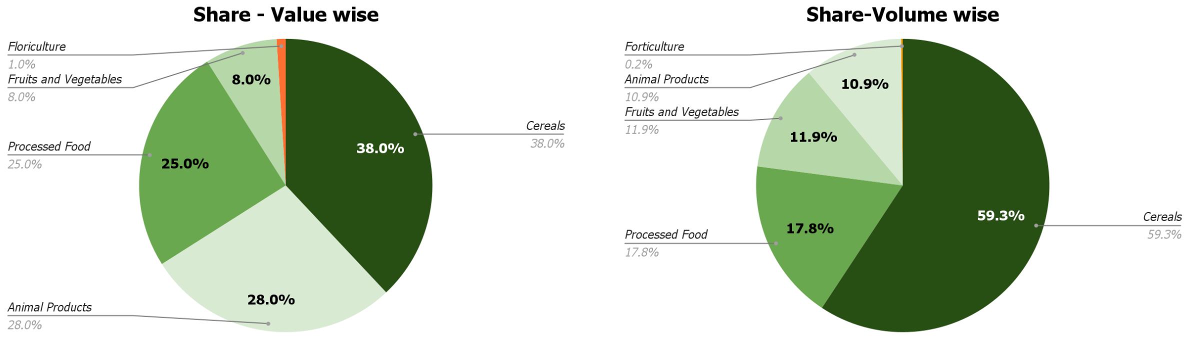

Figure 4: India's Exports by Volume and Value in Different Categories
Source: Adapted from: Ministry of Commerce and Industry 2018a

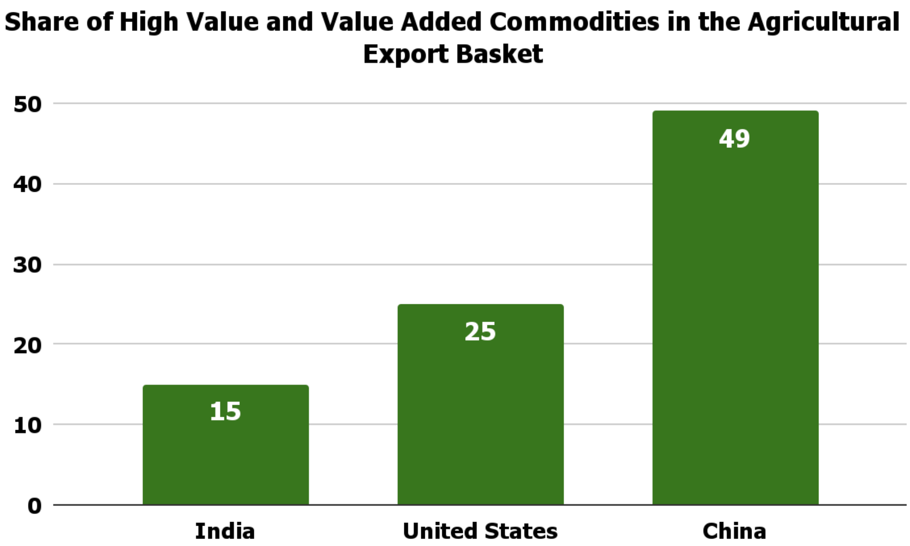

Figure 5: Share of High Value and Value Added Commodoties Across India, United States of America and China
Adapted from Ministry of Agriculture & Farmers' Welfare 2017

In 2017-18, over 50% of India's agricultural import by value was vegetable oils. Unlike in exports, most imports consist of either high value or processed commodities.

Table 1: India's Top 10 Agricultural Imports (2017-18)[1]		
Commodity	Value in Rs. (Crores)	Approximate Share in Total (%)
Vegetable Oils	74,996	53
Pulses	18,748	13
Fresh Fruits	12,525	9
Cashew Nuts	9,134	6
Spices	6,377	4
Cotton Raw	6,306	4
Sugar	6,036	4
Wheat	2,358	2
Misc. Processed Items	2,238	2
Cocoa Products	1,472	1

2.Restrictions on Agricultural Trade

A.India's Agriculture Policy is Slowly Evolving

In order to attain self-reliance in basic food grains like rice and wheat, the government imposed high duties on their import and frequently restricted their export. However, since the 1990s, international trade as a percentage of India's agriculture Gross Domestic Product (GDP) increased from 5% in 1990-91 to about 18% in 2011-12 (Hoda and Gulati 2013). But by 2017-18, this fell to 14% (Sheeba and Reena 2019). The Agriculture Export Policy, 2018 states that it is important for India to frame a stable and predictable trade policy with limited interference from the state, so that a positive signal can be sent to the global market. It discusses the need to restrict or ban exports only in the rarest of circumstances so that farmers can confidently plan their production for the overseas market. The policy lists down the following three aims that signal an intent of shifting away from agri-trade protectionism (Ministry of Commerce and Industry 2018b).

- Providing assurance that the processed agricultural products and all kinds of organic products will not be brought under the ambit of any kind of export restriction (viz. Minimum Export Price, Export duty, Export bans, Export quota, Export capping, Export permit etc.)
- Identification of a few commodities which are essential for food security in consultation with the relevant stakeholders and Ministries. Any export restriction on such identified commodities under extreme price situation will be based on decision of a high level committee. Also, any kind of export prohibitions and restrictions on the identified commodities above would be taken up in a World Trade Organisation(WTO) compatible manner.
- Liberalised import of agricultural products for value addition and re-export.

Nevertheless, the policy in its first aim, continues to maintain the old view that all primary agricultural products and non-organic agricultural products shall still remain under some export restrictions. Such provisions demonstrate that India's agricultural trade policy still focuses on adequate food security and price stabilisation. The Government of India is known to frequently introduce export restrictions in response to price rises. Recently in September last year, the government imposed a ban on the export of all varieties of onion, in anticipation of a supply crunch and price rise. Earlier in September 2019 as well, the government had imposed such a ban (Haq 2020).

1. Adapted from Ministry of Commerce and Industry 2018b

B. Import Controls Hurt Consumers

India's import tariffs on agricultural products are the 4th highest globally, with an average applied rate of 32.8%.Neighbouring countries like Bangladesh and Pakistan have rates of 16.9% and 13.4%, respectively (WTO 2018).India frequently changes its applied rates to stabilise domestic prices, which increases uncertainty in foreign trade. For example, in 2019, the import tariff was raised from 30% to 40% for wheat. Similarly, the tariff for sugar increased from 40% in April 2015 to 100% in February 2018 (Times 2018). The Agriculture Export Policy 2018 notes that such arbitrary changes in trade policy require constant manual adjustment and result in uncertainty for domestic and international markets (Ministry of Commerce and Industry 2018b). Proper integration with international supply chains would protect against large fluctuations in prices in the long term, since agricultural commodities would be able to move from areas of relative surplus to areas of relative shortage with ease.

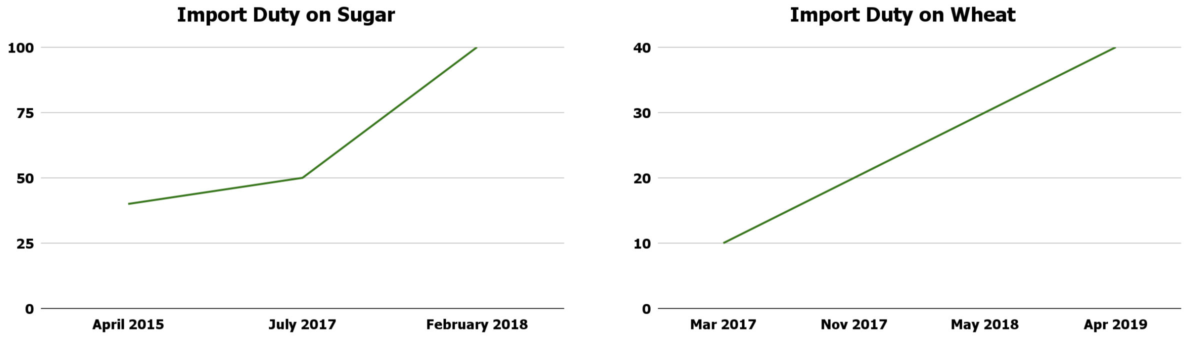

Figure 6: India's Changing Tariffs on Wheat and Sugar
Adapted from Times 2018

The 2019 Trade Barrier Index ranks India at the bottom of its ranking amongst 86 countries due to its trade restrictions. The report tags India as "the worst offender of trade liberalism" (Thompson 2019). The US Department of Agriculture argues "In the quest for self-sufficiency for many basic food commodities, India's trade policy has focused on export controls and a highly restrictive import regime. Such protectionist policies keep India's per capita agriculture imports artificially low." (Donahoe 2016)

Underlying such measures is an inherent belief amongst policymakers that exports are good, but imports are bad. In his book "Free Trade and Prosperity", Panagariya argues against this view. He explains that while imports can be consumed directly or used to produce other consumable commodities, the only reason to export is to earn foreign exchange and import cheaper goods abroad. A policy of import substitution that seeks to replace imported commodities with domestic production inevitably reduces the export of another set of goods. In simpler terms, although import controls on agricultural commodities may increase the production of that particular good, it causes a fall in the production of exportable goods that India can produce efficiently. India's emphasis should be on efficient allocation of resources arising out of free trade instead of reducing trade deficits.

Import controls are also disadvantageous for consumers. Import restrictions through tariffs and other measures limit consumers' choices on the quality and range of goods available. Moreover, lack of competition and reduced supply means consumers pay a higher price for substandard goods since local firms do not need to compete with more efficient global counterparts. In some cases, agro-based industries that depend on imported agricultural goods as raw materials also suffer from such restrictions (Guarino 2018). While removing import restrictions may impose a short term cost on a previously protected sector, it will bring long-term benefits for all sectors of the economy.

Besides extensive import controls, India's binding overhang, the gap between the average WTO-bound rate and the applied rate, is large (the bound rate is 113.5% while the applied rate is 32.8%). Shweta Saini and Ashok Gulati argue that a sizable binding overhang allows the government to modify rates without violating its WTO commitments and increases uncertainty in trade policy (Saini and Gulati

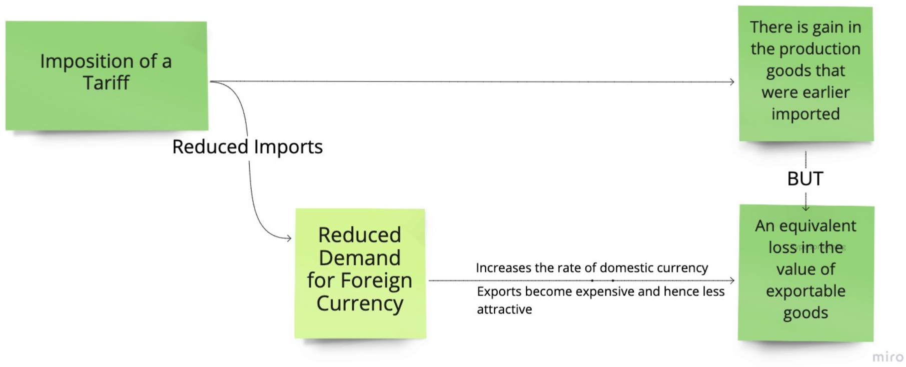

Figure 7: Adapted from Lerner's Symmetry Theorem

2017). In order to improve certainty in agricultural trade, India should reduce its binding overhang by agreeing to a lower bound rate.

C. Export Controls Hurt Farmers

Export restrictions have been used as a trade policy instrument to control agricultural markets. India has justified these measures to contain the growth of domestic prices and ensure sufficient internal supplies to respond to rising food prices. Export restrictions and, in particular, export bans have had repercussions at domestic and global levels, with adverse effects on Indian farmers.

While export restrictions provide temporary relief as an emergency measure, their effects on consumer protection tend to disappear in the long run. Furthermore, these constraints tend to distort incentives for farmers who shift land and inputs away from commodities facing frequent bans and move them towards other products for which policy measures are predictable.

I. Export Bans and Frequent Changes in Export Rules

The government imposes arbitrary and frequent control on exports of agricultural goods using duties, quotas, bans, and Minimum Export Prices (MEP)[2]. For instance, export rules were changed seventeen times for onions between 2014 and 2019 (Pandey and Patnaik 2020). The imposition of arbitrary bans and other export restrictions causes two problems: First, it creates an uncertain and unstable environment where it is difficult for farmers to plan production. Second, it hurts India's image as a reliable exporter. For instance, during the onion export ban of 2020, Bangladesh expressed its disapproval against the move and decided to import onions from Egypt and Turkey (Basu 2020). The Economic Survey of 2014 observed:

> Generally an ad hoc trade policy has been followed for agricultural commodities, more often as a knee-jerk reaction to the domestic price situation, which puts the domestic as well as international market under great uncertainty, and the farmer, being at the bottom of the pyramid, is severely impacted. It also leads to erosion of confidence in India being a trustworthy supplier in the international market. A stable and long-term trade policy with respect to agricultural products is essential for increasing productivity (Department of Economic Affairs 2014).

An OECD and ICRIER study documented that the government's control over agri-exports was a form of implicit taxation. The report estimates that this implicit taxation amounted to Rs. 2.65 lakh crores per annum between 2000-01 and 2016-17, totalling Rs 45 lakh crores. Farmers have protested these

2. Export duty is a kind of tax levied on goods exported from the country; Export Quota is a limit that the government imposes on the maximum volume or value of goods that can be exported from the country; Export ban is a blanket restriction imposed on the export of a commodity; Minimum Export Price is the minimum price below which an exported cannot sell her product in the international market.

export controls by the government. In September 2020, the government imposed a ban on the export of onions. Raju Shetti of the Swabhimani Shetkari Sanghatana said, "...farmers had been selling onions at throwaway prices at Rs.4-5 per kilo. Now, when farmers have started to make some money ... comes this astounding betrayal." (Banerjee 2020)

Minimum Export Prices have similarly hurt farmers. Since 2016, the government imposed MEPs on Potatoes twice. Jaswinder Singh Sangha of the Jalandhar Potato Growers' Association said: "Farmers were enthused to sow more this time because of higher prices, but the latest MEP imposition will dampen that. We will be particularly affected, as the orders for our material are mostly placed during August-September."(Chaba 2016)

II. Subsidies Incentivize Overproduction of Low-value Agri-products

Every year, the government declares a Minimum Support Price(MSP) on a range of agricultural goods and promises to procure them at this price through the Food Corporation of India. Though MSPs exist for 23 crops, the FCI procures only paddy and wheat, which it uses for the Public Distribution System (PDS) programme.Guaranteed procurement by the government at artificially determined Minimum Support Prices distort farmers' sowing decisions causing overproduction of crops like wheat and paddy.

The figure below depicts the percentage of land cultivated under different crops. Most land in India is used to grow food grains because of government incentives.

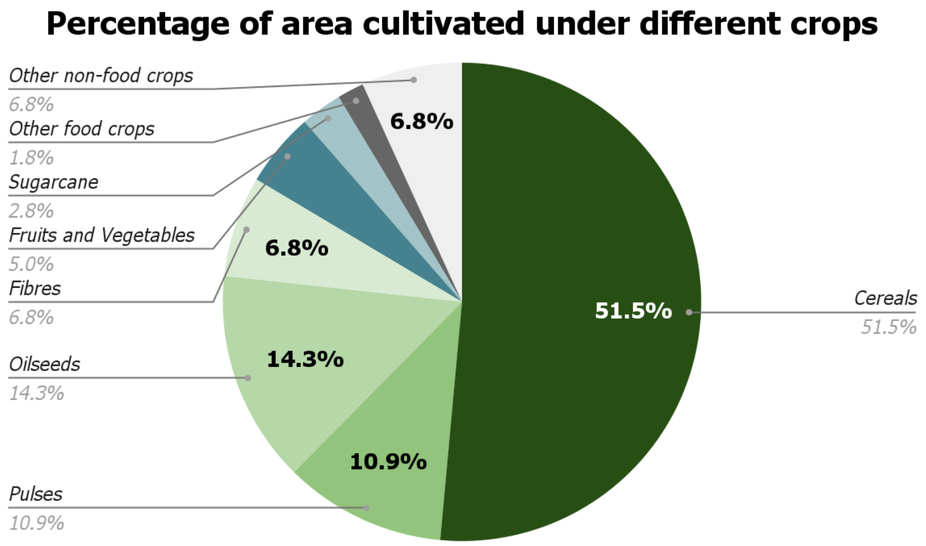

Figure 8: Adapted from Department of Agriculture 2017

Apart from MSP, the government also subsidises various agricultural inputs like fertilisers, water, seeds, electricity, machinery and credit. Such subsidies mask the actual cost of production and distort the farming pattern towards low-value cereal centric crops. Dr Ashok Gulati et al. argues that free electricity has induced farmers to overexploit groundwater and grow excess paddy, ignoring its suitability to a given region's soil(Gulati, Kapur, and Bouton 2019).

The government should gradually shift from MSP and input subsidies to cash transfer programmes to move farmers away from rice and wheat to higher-value crops. Besides ensuring that farmers' production choices are not distorted by policies favouring one crop or one type of input over another, such a policy will curb leakages common to other forms of subsidies (Ramaswami 2019).

D. Legal Challenges

I. Restrictions due to Essential Commodities Act

For many years, the Essential Commodities Act had been used alongside export controls by the government to respond to an increase in the price of certain agricultural commodities. To protect against rising prices and ensure sufficient supply in the domestic market, it imposed stock limits under the act during shortages. These limits aimed to protect against hoarding and ensure that all supply reaches the market quickly. However, doing so only resulted in more price fluctuations and limited the trade prospects of farmers and agricultural traders. The Economic Survey of 2019-20 notes that the imposition of stock limits only increased "the volatility of the wholesale and retail prices instead of smoothening them." (Department of Economic Affairs 2020) Because the act criminalised large stockpiling, traders bought lower than their capacity, thus hurting the farmer by low sales. Moreover, there was little incentive to build quality post-harvest infrastructure when the government could criminalise these storage facilities.

The recent amendment to the Essential Commodities Act changes this a little by removing limits on stockpiling; it still allows the government to impose stock limits on non-perishable agricultural food items if there is a 50% increase in their retail price (Ministry of Law and Justice 2020). Such an exception impedes the development of storage facilities as it dissuades farmers and traders from investing in long-term storage. This concern is aggravated because the government invoked this provision to impose stock limits on onions in the early days of introducing the law in October 2020 (Sharma and Biswas 2020). However, the act makes an exception for exporters and excludes them from stock limits as long as their stock matches the 'demand for export' (Ministry of Law and Justice 2020). However, this is again an unclear standard that leaves much discretionary power with the state.

II. Restrictions due to Foreign Trade (Development and Regulation) Act

The Foreign Trade (Development and Regulation) Act 1992 (FTDR Act) empowers India's government to formulate trade policy and issue orders prohibiting, restricting or otherwise regulating the export and import of goods (Ministry of Law and Justice 1992). There are two main entry barriers for any importer/exporter: Obtaining a licence (after submitting an application and paying the fee) and getting an importer-exporter code number from the Directorate General of Foreign Trade [DGFT]. The Indian Trade Classification (Harmonized System) (ITC (HS)) lays down the import and export policies for all goods.

Section 3 of the Act gives the Central Government power to prohibit, restrict or regulate the export of goods or services, including agri-goods. Section 7 (Importer-exporter Code Number) and Section 8 (Suspension and cancellation of Importer-exporter Code Number) of the Act can restrict the trade of agri products.

The Indian government frequently uses the aforementioned act to prohibit, restrict or regulate the international trade of agricultural goods. For example, rules on onion export under the act were changed seventeen times between 2014 and 2019, over three times a year on average (Pandey and Patnaik 2020). The government made these changes because of rising onion prices. Onion farmers could not sell their stock for more remunerative prices in the international market, limiting their already meagre income. Similarly, on rice, they were changed fourteen times in the same period. In March of 2008, the government used the act to ban the export of all edible oils. This ban existed for almost ten years. Only on April 6, 2018, were these restrictions lifted. However, the ban on the export of mustard oil remains.

The act also gives the central government the power to impose quantitative restrictions on imports. The imposition of quantitative restrictions can adversely affect both the enterprises and the consumers of that particular good. Finally, such quantitative restrictions that treat domestic firms favourably harms competition

III. Challenges at the World Trade Organisation

WTO rules on trade limit the amount of distorting subsidies that the government can offer. WTO categorises subsidises into four boxes (WTO 1994):

- Green Box: These are subsidies that are not distortionary. WTO rules permit these subsidies without limits, subject to policy-specific criteria.
- Amber Box: These are trade and production distorting measures linked to the quantity of production. This includes MSP. There are limits to this measure
- Blue Box: These are support measures that require farmers to limit their production. Presently, there is no limit on support measures under the blue box.
- Development Box: Under this box, developing countries can provide domestic support in agriculture. India is a developing member country at WTO.

Export subsidies also distort farmers' choices of trade and production and fall under the amber boxIndia's subsidies under the amber box have been questioned several times for going beyond WTO's permissible limits. Recently, the United States, Canada, and Australia complained against India for not declaring its agricultural export subsidies for more than eight years. Summarising these complaints, the WTO Chairperson, Harold Aspelnd, said that the member states "urged India to reform its agricultural policies that continued to be based on significant levels of domestic and export support for key crops." (Mishra 2021)

Earlier in 2020, the United States, European Union and Canada had accused India of underreporting its price support for five pulses and exceeding the permissible limits (Suneja 2019). If India's distortionary subsidies violate these limits, its products can face high countervailing duties in importing countries. This is another reason India should shift from subsidies falling in the amber box to direct income support measures of the green box that are not subject to limitations.

3. Conclusion and Recommendations

India was a food insecure country in the early years after independence. This insecurity meant India opted for a policy agenda that was appropriate for a country with shortages. India no longer suffers from this problem. Domestic production far outstrips consumption. However, the policy environment has not evolved with the times. MSP policies that encourage overproduction of wheat and paddy coupled with frequent export and import restrictions have hurt Indian farmers and consumers. Fortunately, the Agricultural Export policy of 2018 shows there is some degree of political will to overhaul this system. If India wants to integrate with global supply chains and make farming a profitable enterprise, some fundamental changes in agriculture and trade policy are required.

1. **Rethink MSP system:** The current system of MSP causes the overproduction of crops like wheat and paddy. Cereals make up over 50% of cultivated land area. These crops are not profitable for farmers. Moving away from MSP to cash transfers will allow farmers to move to more higher-value crops.
2. **ECA needs reform:** The ECA has hurt investment in post-harvest facilities, particularly in warehousing and storage. The Economic Survey of 2019-20 noted that it did not even help in reducing price volatility.The Act needs reform to encourage investments in storage and long-term planning for farmers, Farmer Producer Organizations, and agri-businesses.
3. **FTDR needs to be limited:** The provisions of this act allow the Government to prohibit, restrict or regulate the trade of agricultural goods. The use of ad hoc trade policy decisions has created uncertainty in the market and hurt India's image as a reliable trade partner. Reforms that set clear limits and parameters on when and how this act can be used will lead to a more stable trade environment.
4. **Reaffirm commitment to WTO norms:**The WTO has challenged India's policies for violating permissible limits. In addition, India's import tariffs are amongst the highest in the

world. Reducing the binding overhang and meeting WTO commitments on subsidy limits will allow for more easy international trade. This change will benefit both farmers and consumers.

Moving to higher-value commodities and adopting a more open trade policy can play a significant role in improving the lives of farmers across the country. The plan to Double Farmer's Income cannot be achieved by relying solely on domestic consumption. Integrating with international supply chains, moving away from an MSP model of farmer support, and investments in post-harvest infrastructure would help Indian farmers to sell their crops for more remunerative prices.

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