

Peace Clause in Agriculture Agreement

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There may be a proposal from the major developed countries for continuing with the so called "peace clause", i.e., the provision in Article 13 of the Agreement on Agriculture (AOA), which prohibits action against subsidy under the normal procedure of the Agreement on Subsidies. This immunity provision expires at the end of 2003. And then the major developed countries will be exposed to the risk of the other countries raising disputes on their subsidies. Hence the major developed countries will be very keen to continue with the "peace clause". There is no reason for the developing countries to agree to it. They have suffered from the subsidies of the major developed countries too long, and now that an opportunity has come to abolish the special immunity enjoyed by these subsidies, they would naturally like to seize the opportunity and not lose it.

When "peace clause" expires and it is not renewed, all countries, including the developing countries will have their subsidies exposed to actions according to the Agreement on Subsidies. But there are two aspects of the practical situation which reduce the possible adverse impact on the developing countries.

Only a very small number of the developing countries are using domestic subsidy and export subsidy. Those that have not included any subsidy in their schedule under AOA will not get affected by the discontinuance of the "peace clause", as they are in any case exposed to such risk even now. Since they have not included any subsidy in the schedule under AOA, they do not have any protection of the "peace clause". The next question is what effects in practice will be on the other developing countries, i.e., those that have included some subsidies in the schedule under the AOA. Here we come to the second point.

Action against these developing countries can be taken under the Agreement on Subsidy by another country under two conditions, viz., if that country establishes that: (i) the exports from the particular developing country is causing injury to its domestic agriculture, or (ii) the subsidy in the particular developing country is causing serious prejudice to the exports from that affected country. It will be very difficult in practice, particularly for a developed country, to substantiate either of these pleas. Exports from the subsidising developing country to a developed country, particularly to a major developed country, are likely to be much less compared to those from other developed countries. Hence it may be difficult to attribute injury, even if it exists, to the import from a developing country. Similarly, it may not be easy to establish that the developing country is causing serious prejudice to the major developed country through its subsidy, as this argument will appear quite hollow in view of the massive subsidization in the major developed countries themselves.

Hence, even though technically the developing countries too will be denied the benefit of the "peace clause" if it expires, the balance of advantage for the developing countries lies very much in favour of not having an extension of the "peace clause".

However, if the developing countries consider extending “the peace clause” because of some reasons, it should be done only in return for a clear decision that the Special Safeguard provisions can be used by the developing countries even for those cases where there has been no tariffication. As is well known, the Special Safeguard provision in the Agreement on Agriculture gives special benefits to the developed countries for protecting their agriculture and it cannot be used by the developing countries (except a very few) because of the preconditions associated with this provision. Any further continuance of the “peace clause” should be accompanied by an unambiguous and clear provision for enabling the developing countries to use the Special Safeguard for all agricultural products. The current trigger criteria may be provisionally applicable, as it will take time to work out simpler criteria for the developing countries. Side by side, there should be an agreement to work out simpler criteria for the trigger of the Special Safeguard for the developing countries in terms of fall in prices or rise in imports over the previous year.

The developing countries have to ensure that they do not make a one-sided concession (by agreeing to extend the “peace clause”), as it was done in the Singapore Ministerial Meeting in 1996 by agreeing to zero duty on information technology goods and in Geneva Ministerial Meeting in 1998 by agreeing to status quo on duties on electronic commerce which meant in practice zero duty on electronic commerce. In both these cases, the main demanders and the beneficiaries were the major developed countries. They got these significant concessions from the developing countries without giving to them any thing in return.

If they have to agree to extending the “peace clause” for some reasons, they should at least get the use of Special Safeguard in return. It will bring at least some possible relief to the farmers of the developing countries in facing the massive subsidized exports from the major developed countries.