

## **CHAPTER III**

### **AGRICULTURE POLICY IN WTO AND INDONESIA**

This chapter will explain about Indonesia relation with WTO that started when it became member in 1990 until the 9<sup>th</sup> ministerial meeting in Bali. This chapter will also explain about Indonesia agriculture policy, and also the G33 proposal in the meeting which is related to agriculture policy.

#### **3.1 World Trade Organization (WTO) and Its Agriculture Negotiations**

The early start of the establishment of World Trade Organization is the desire of countries to create a multilateral trade system with fairness through promoting and stabilizing the economic exchanges among countries arranged against the regulations of national government that often seek to restrict those exchanges. So, the purpose of international rules is to reduce the protectionism of national regulation, and even more it is to reduce the uncertainty and unpredictability of international trade relation and to promote stability<sup>24</sup>. Then, this chapter will give an understanding about WTO.

WTO is the only international trade organization which has special right to control trade problem or trade policy among countries. System that has been made in WTO is made by the consensus among countries through the highest decision maker called Ministerial conference. The result of the ministerial conference is binding the government and having obligation to implement it in the domestic policy.

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<sup>24</sup> Winham R Gilbert, *the Evolution of the Global Trade Regime*. In J. Ravenhill, *Global Political Economy*, New York: Oxford University Press 2005, Pg. 88.

The first effort of world trade regime establishment is the launched of General Agreement Trade and Tariff (GATT) in the negotiation of Uruguay round in Punta del Este, Uruguay, in September 1986. At that time GATT only was controlls limited and general trade area such as reducing protectionism from non-tariff barrier.

The early of GATT is to establish International Trade Organization (ITO), United Nation Law Body which are parts of Bretton Woods (International Monitary Fund and World Bank). Even the ITO charter finally agreed on UN Conference on Trade and Development in Havana, in March 1948, the ratification process by the state legislative body did not run so well. The most serious challenge is from the United States. By United State's action of not ratifying the Havana charter, it clearly showed that ITO effectively cannot be established. However, GATT still becomes the basis instrument to control multilateral trade between countries.

WTO was created as part of the Uruguay round negotiations result agreed on 15<sup>th</sup> of Decembers 1993, and it came into existence on 1<sup>st</sup> January 1995<sup>25</sup>. WTO is the only international body who controls international trade activity. The organization keep developing also the world economic system, it make interdependence between countries through international trade. The main ideas are to release the policies of The Reciprocal Trade Agreement which mean policies of reciprocal to decreasing trade tariffs<sup>26</sup>.

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<sup>25</sup> Ibid., Pg.106.

<sup>26</sup> Huala Adolf, Hukum Ekonomi Internasional, Jakarta : Rajawali Grafindo, 1998, Pg. 20.

The goal of WTO, first is to push the flow of trade between country with decreasing or erasing any barriers which can disrupt the flow of goods and services. Second, facilitates the negotiation and provide permanent negotiation forum. Third, facilitates dispute settlement body among states, even though WTO policy is already agreed by countries but sometimes there is a different interpretation among states. So, there is need a neutral legal procedure to overcome these kinds of problem in order to establish a fair trade among countries.

Indonesia is one country that agreed and ratified the establishment of WTO in which UU No. 7/1994 became a prove that Indonesia government was ready to implement any WTO agreement signed by every WTO member country.

### **3.1.1 Uruguay Round**

It is known that Uruguay round is the key of the international trade system creation. It started from it launch in September 1996, also called as Punta Del Este, until the negotiation of Geneva in January 1995 who was created international trading system organization (WTO) which covered all agenda of Tariffs Non-tariff barriers, natural resource products, textiles and clothing, agriculture, tropical products, GATT articles, Tokyo Round codes, Anti-Dumping, subsidies, intellectual property, investment measures dispute settlement, and the GATT system and Services. WTO replaced GATT as an international organization, but the General Agreement still exists as the WTO's umbrella treaty for trade in goods, updated as a result of the Uruguay Round

negotiations<sup>27</sup>. The basis of Uruguay round is becoming a main problem in the discussion and work of WTO itself. WTO negotiated the issue among its members in the ministerial conference which is held every 2 years.

In every negotiation undertaken there are always problems faced by its members. It also happened in Uruguay round and every ministerial meeting in which agricultural sector has always been a constraint in every multilateral agreement. Although it only accounted for 13 percent of total world trade but agriculture is very important for most developing countries, Agricultural issues are closely related to socio-economic issues (among others, food security, livelihood security and rural development). Meanwhile for developed countries, the provision of domestic subsidies has an important political dimension in their agricultural policies.

### **3.1.2 Agreement on Agriculture**

Early era of agriculture agreement at WTO is went to the agriculture agreement is sign in 1993. When WTO was established at that time, there was new issue in trade which is agriculture is intellectual property right. After that agriculture sector is in the hand of multilateral trade organization to liberalize agriculture sector. This agreement is also called as AoA (Agreement on Agriculture). With this new free market paradigm of agriculture sector it is meant that agriculture liberalization is an obligation that needs to obey by all country<sup>28</sup>.

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<sup>27</sup> World Trade Organization, The Uruguay Round. Retaken from [www.wto.org: https://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/fact5\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact5_e.htm)

<sup>28</sup> Hasibuan, A. I, Post Food Policy Ratification of the Agreement, Jurnal Kajian Politik Dan Masalah Pembangunan, 2015, pg. 1636.

AoA has a goal of fair trade that want to achieve in WTO “... to establish a fair and market-oriented agricultural trading system ...” (World Trade Organization. The Results of the Uruguay Round of Multilateral Trade Negotiations: The Legal Text, Geneva, Switzerland, 1994). WTO itself does not use the word of free trade but fair trade so it means that WTO does not want to make a free trade but fair trade<sup>29</sup>. It needs to emphasize that what happens practically are quite different condition, and words of fair trade are only mysterious words which only want to achieve a free trade.

AoA’s concept is to create fair market-oriented agriculture trade system and make agriculture commodities become industrial trade commodities or manufacture. The agreement also includes other issues outside trade such as food security, environment protection, and special right for developing country which are also market access for their agriculture product. In Agriculture agreement there are several classifications of agriculture product called Harmonized System of Product Classification (HS). There are classifications of commodities such as rice, oat, kind of bread, butter, yoghurt and more that are also classified as agriculture products but fish and forestry are not classified as agriculture product<sup>30</sup>.

So Uruguay round in 1993 and the implementation of AoA in WTO, as the basis of world agriculture regulation, makes WTO has a significant role as a determinant in agriculture policies of its members with it obligation to open its

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<sup>29</sup> Tito Pranolo, *Pembangunan Pertanian dan Liberalisasi Perdagangan*. Konpernas XIII Perhepi, 2000, Pg. 13.

<sup>30</sup> Muhammad Nafan Aji Gusta Utama, *Persetujuan Bidang Pertanian WTO dan Pembentukan Kelompok G-33*, Jakarta : Penerbit Fisip Universitas Indonesia, 2010, Page 30

market for agriculture export import product, decreasing domestic support, and decreasing export subsidy.

1. **Domestic Support Decreasing:** Total decreasing of domestic subsidy known as Trade Distortion Cause is about 20 percent from AMS<sup>31</sup> (Aggregate Measure of Support) from the basis period of 1986-1988. For developing country, the decreasing is two third about 13.3 percent. This regulation is not implemented for country whose AMS is not more than 5 percent or for developing country whose AMS is below of 10 percent. The exception is granted subsidy which has a small impact or trade.

2. **Export subsidy:** Export subsidy decreased about 21 percent in every product according to the average of 1986-1990. Meanwhile, the budgetary for export subsidy will also decrease about 36 percent in 6 years. For developing country, the decreasing is about two third with the time implementation of 10 years.

3. **Market Access:** All of export barrier will be converted to the tariff and decrease about 6 percent for developed countries with minimum decreasing in every line of about 10 percent with the implementation time for 6 years.

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<sup>31</sup> Aggregate Measure of Support is included in the calculation of the category of Domestic support pillars. The main Debate in domestic support opinion is that policies guarantee domestic prices will lead to a situation of excess production (Over-production). It is expected to reduce imports and in turn will lead to other policies which Export Subsidies and low-priced dumping on the world market. Agricultural agreement distinguishes between (a) direct assistance programs that excite and increase production in the country, and (b) assistance program that does not have a direct connection to production (no direct effect).

Meanwhile, for developing country the decreasing is about 24 percent with implementation time for 10 years<sup>32</sup>.

Reda Wayan and Made Susila in their writings entitled: "The essence and the Impact of Trade Liberalization on the Plantation Subsector" wrote a brief history of the agricultural liberalization which contains: "The issue of trade in agricultural products seems to have been destined to be the culprit of contention in the GATT negotiations. Since the preparation of Havana Charter (1940), which is the forerunner of the World Trade Organization (WTO), there is no agreement on how trade in agricultural commodities should be treated. This contradiction is then sustained in the preparation of the basic framework of GATT in 1947. Some delegations argue that trade in agricultural products must be free in accordance with the provisions of GATT and partly argued that the problem should be organized with the involvement of the exporting and importing countries and between developing and developed countries. From here on, the problem of trade in agricultural products continues to be a central issue at the next GATT negotiations, i.e. Dillon Round (1960-62), Kennedy- Round (1963- 67), the Tokyo Round (1973-79), and Uruguay Round (1986-1993), After going through a series of tough and long negotiations, GATT was finally signed on 15 December 1993. One of the peculiarities of this round is the inclusion of agricultural commodities on the agenda of the talks. In other words, the success of PU caused to the agricultural sector together with other sectors or the agricultural sector is no longer treated exclusively within the framework of the GATT. Thus, the distortion

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<sup>32</sup> Hasibuan, A. I, Post Food Policy Ratification of the Agreement, Jurnal Kajian Politik Dan Masalah Pembangunan, 2015, Pg. 1636.

of trade in agricultural products is expected to be lost or decreased so as to increase the efficiency and volume of trade in agricultural products ... "<sup>33</sup>.

### **3.1.3 History of Agriculture Talks in Doha round**

In the fourth Ministerial Conference in Doha, Qatar, in November 2001, WTO member governments agreed to launch new negotiations. They also agreed to work on other issues, in particular, such as the implementation of the present agreements. The entire package is called the Doha Development Agenda (DDA)<sup>34</sup>. When members of WTO held that ministerial meeting, a lot of countries face a problem about current international trade issue. So, here DDA came up as a basis of international trade regulation or basis law. Doha Development Round or DDA is the current trade-negotiation round of WTO commenced in November 2001 under the general-director Mike Moore. Its objective is to strengthen, and to fix the rule of WTO which is more fair, and also to answer the development interest of developing countries and LDCs (Least Developing States). Another objective of DDA is to negotiate global market access.

Actually the deadline for all subjects to reach the agreement is in the negotiation by 1<sup>st</sup> January 2005. The only exceptions were the negotiation on improving and clarifying the Dispute Settlement Understanding (with a deadline of 31<sup>st</sup> May 2003 and technically not part of the "single undertaking") and the negotiations on a registration system for geographical indications for wines and

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<sup>33</sup> Markus Eko Susilo, *Liberalisasi Pertanian dan Kemiskinan di Indonesia*, full at: [http://www.kompasiana.com/markus.simanjuntak/liberalisasi-pertanian-dan-kemiskinan-di-indonesia\\_55108a2b8133118e33bc6aec](http://www.kompasiana.com/markus.simanjuntak/liberalisasi-pertanian-dan-kemiskinan-di-indonesia_55108a2b8133118e33bc6aec),

<sup>34</sup> World Trade Organization, *Understanding WTO*, Geneva : WTO Information and External Relations Division, 2015, Pg. 77.



spirits (with a deadline of the Fifth Ministerial Conference in 2003). Those deadlines were missed and the dates are now history<sup>35</sup>. WTO principle of single undertaking means: nothing is agreed until everything is agreed. It means the agreement cannot be agreed if there is one country that does agree with the negotiation. Another principle in WTO is there is no veto right and also no special treatment for every country. They have same right. So this reason make the agreement of WTO sometimes is hard to agree and needs a long time to agree because there is interest among countries.

The scope of the main issue in the DDA talk are: Agriculture, Non-Agricultural Market Access (NAMA), services, rules, intellectual property: geographical indications and biodiversity, trade and environment, trade facilitation, special and differential treatment, dispute settlement, e-commerce, jargon buster, and country groupings. The scope of agriculture talk in DDA is stated in the paragraph 13 in the DOHA ministerial declaration.

### **3.1.4 Road to Ministerial Conference in Bali**

The highest body in WTO is ministerial meeting which is held every two years, since the agreement of DDA. However, its marked that every ministerial conference in WTO, DDA is always the main issue of broadening trade agenda reflected in the following negotiation timeline<sup>36</sup>.

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<sup>35</sup> World Trade Organization, The Doha Round texts — introduction. Retrieved from [https://www.wto.org/english/tratop\\_e/dda\\_e/texts\\_intro\\_e.htm](https://www.wto.org/english/tratop_e/dda_e/texts_intro_e.htm)

<sup>36</sup> Dee, M. ‘The 9th WTO Ministerial Conference: A victory for the WTO but what next?’, GR:EEN Working Paper Series, No. 45, 18 December 2013.

**Table 10.3.1.4: The WTO's Negotiation Timeline: From Doha to Bali 2001-2013**

<i>Year</i>	<i>Negotiations</i>	<i>Negotiations Timeline</i>
2001	MC4: Doha	<b>Doha Development Agenda is launched</b> , the first round of multilateral trade negotiations by the WTO. China accedes to the WTO.
2003	MC5: Cancun	Negotiations intended as a stock-taking exercise for the Doha Round's midterm review. The G-20 Group is formed. <b>Conference ends with no consensus</b>
2004	General Council	Intended as the year that the Doha Development Agenda is concluded. <b>A framework for negotiations is agreed with the intention of concluding the Round in 2005</b>
2005	MC6: Hong Kong	No conclusion but conference aimed at breaking deadlock and narrowing consensus towards modalities for negotiation. Some agreement over LDC issues including Aid for Trade and Duty-Free Quota Free access <b>Some narrowing of positions with the intention of concluding the Round in 2006</b>
2006	General Council	No conclusion with negotiators still trying to find agreement over agriculture and industrial goods. <b>Ends in the suspension of the Doha Round on 23rd July 2006</b>
2008	General Council	Negotiations reopen in 2007 culminating in a July 2008 mini-ministerial. Negotiators come close to consensus for the Round's completion but are stalled at the last over disagreement, notably led by India, on the Special Safeguard Mechanism (SSM) in agriculture. <b>Some narrowing of positions leads to a further framework for negotiations agreed by December but no substantive breakthroughs</b>
2009	MC7: Geneva	Doha negotiations at an impasse. Discussions concentrate on the theme of "The WTO, the Multilateral Trading System and the Current Global Economic

		Environment" in light of the global recession. <b>No significant breakthroughs for the Doha Round</b>
2011	MC8: Geneva	Calls by world leaders over 2010 for the Round's conclusion fail to be met. Negotiations focus upon finding ways through impasse by considering alternatives to the single undertaking and recommit efforts to bring the Round to a conclusion. Russia accedes to the WTO. <b>No substantive breakthroughs but agreement to explore 'early harvest' for some aspects of the Doha negotiations including on trade facilitation for developing countries.</b>
2013	MC9: Bali	Intended to deliver a 'Doha Lite' package addressing trade facilitation, some Agricultural Components and LDC/development issues. Dominated by the issue of food security and disagreements between the United States and India. <b>Bali Package was approved on 7th December 2013 signifying the first global trade deal approved by the WTO's members in 18 years. Post-Bali Work Programme for the remainder of the Doha Round agreed.</b>

Source: Dee, M. 'The 9th WTO Ministerial Conference: A victory for the WTO but What Next?', GREEN Working Paper Series, No. 45, 18 December 2013.

The activities of decision making in ministerial conference in WTO carried out by the General Council. Then, there is trade council that has responsibility in international trade. Underneath, there are subsidiary bodies covering board, committee and sub-committee tasked to implement and oversee the implementation of WTO agreements by member states.

Once, Doha mandate has been given on the agriculture Negotiations which is begun in March 2000 when there was still a lot of disapproval of the various parties. It has 126 members (85 % of the 148 members) that have submitted 45 proposals and four technical documentations on how negotiations should be run. One of the great successes of developed countries and agriculture exporting

countries is the publishing of the mandate "reduction, with the possible elimination, all forms of subsidies."<sup>37</sup>

Thereafter the tone of ministerial conferences appeared to revert the type. The 2003 Cancún ministerial ended in collapse which was caused by the US-EU joint paper, a proposal of the Group of 21 (against the US-EU joint proposal), and the proposal of Group 33 (who championed the concept of Special Products and Special Safeguard Mechanism - SP & SSM). After 5<sup>th</sup> WTO summit in Cancun, Mexico in 2003 ended up in a deadlock, there was new agreement in a session of the WTO General Council on 1<sup>st</sup> August 2004. There were an agreement upon the General Council's decision on the Doha Work Programme, which is also often referred to as the July Package. On that occasion, there were frameworks agreed for further negotiations on the DDA (Doha Development Agenda) for the five key issues, namely: (1) agriculture negotiations, (2) market access of non-agricultural products (NAMA), (3) relieve or development and implementation issues, (4) and Trade Facilitation services, and (5) handling other Singapore issues.<sup>38</sup>

The 2005 Hong Kong conference was similarly fraught but eventually concluded with a limited agreement that appeared to get the Doha round moving again as outlined in the Doha Ministerial Declaration, which contained the direction and the time-line for each issue to be negotiated. Decisions in the Declaration on the three pillars of agriculture negotiations ware: domestic support,

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<sup>37</sup> Muhammad Reza Syarifuddin Zaki, *Analisi Diplomatik Tim Satgas G-33 dalam Memperjuangkan Publick Stock Holding di WTO*, Yogyakarta: Universitas Gadjah Mada 2014, .

<sup>38</sup> Erna Maria Lokollo, *From the Cancun Mexico 2003 Conference to Stocktaking WTO 2010 Meeting: A Long Agricultural Negotiation Battle of the Developing Countries*, 2010, Pg. 122.

export subsidy, market access but the negotiation remained stopped. Even more over the continuation of the negotiations which were halt in July 2006, it still did not find any agreement among its members which finally declared the round deadlocked.<sup>39</sup>

Energetic negotiating marked the run-up in the Bali meeting. It was seen from large number of proposals put on the table and more than 600 brackets being inserted into the draft texts (reflecting areas yet to be agreed). Agenda stacking (the practice of loading the agenda with a wide range of issues) proved to be an ineffective pre-phase method of negotiating<sup>40</sup>. However, proposal which was proposed by G-33 led by India was already prepared a month before in November 2012. A group of developing countries tabled an informal proposal at the World Trade Organization (WTO), seeking additional flexibility in the global trade body's rules on agriculture. The G-33 involved three elements, all of which relate to domestic farm support payments which were exempted from any cuts or ceiling under WTO rules, on the basis that they caused no more than minimal trade distortion – known as 'green box' subsidies by negotiators. Other proposal changes would ease current requirements on domestic food aid and food stockholding programmes. The permission of food purchased at administered prices (above prevailing domestic market prices) from low income or resource-poor producers exempted from countries, will make maximum permitted ceiling on trade-distorting support at the WTO. The group also proposed a range of

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<sup>39</sup> Rorden Wilkinson, Erin Hannah & James Scott (2014) The WTO in Bali: What MC9 Means For The Doha Development Agenda And Why It Matters, (Third World Quarterly, 2014) Pg. 1035.

<sup>40</sup> Ibid.,

schemes primarily used by developing countries – such as farmer settlement, land reform and other programmes to promote rural development and poverty alleviation – that could be classed as green box payments under a new clause. There are also identified four variables that could potentially be modified or clarified so as to provide developing countries with greater flexibility under WTO rules. These included the ‘de Minimis’ ceiling (which was set at ten percent from the total value of production for most developing countries), and three elements used to calculate countries’ levels of market price support: the external reference price, which was based on a 1986-88 benchmark; the volume of eligible production; and the level of administered prices<sup>41</sup>. Group of G33 also gave three additional options for addressing the problem tabled in September 2013, again by a sub-set of G33 members: first, public stockholding could be assessed against a three-year rolling average of current prices rather than the 1986–88 reference price; second, excessive inflation rates, above 4%, could be taken into account when calculating the contribution of public stockholding to the AMS; and, third, a Peace Clause, exempting public stockholding programmes from legal challenge at the WTO, could be introduced ‘until a final mechanism is established to address the food security challenges of developing countries’.<sup>42</sup>

### **Agreement in Bali Ministerial meeting**

At the WTO’s Ninth Ministerial Conference, held in Bali, Indonesia, from 3 to 7 December 2013, ministers adopted the “Bali Package”. Actually, the

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<sup>41</sup> FAO, G-33 Proposal: Early Agreement on Element of the Draft Doha Accord to Address Food security, 2013, Pg. 2.

<sup>42</sup> Rorden Wilkinson, Erin Hannah & James Scott, The WTO in Bali: What MC9 Means for the Doha Development Agenda and Why it Matters, Third World Quarterly, 2014, Pg. 1043.

negotiations were scheduled to be over at 6<sup>th</sup> December but because of a range of issues that were covered in the meeting, it needed to be held more. There are three issues that discussed in the meeting such as, trade facilitation, agriculture and development. One of the issue that caused a lot of contagion in the meeting is agriculture issue and the proposal proposed by India in the name of G33. A Ministerial Declaration called for a clearly defined work programme on the remaining Doha Development Agenda issues to be concluded by the end of 2014.<sup>43</sup>

The meeting was very dramatic as Indian Minister Sharma's morning press conference on 5 December appeared just to prepare another failure in agriculture negotiation. Discussions facilitated by Azevêdo continued until 4am on 6<sup>th</sup> December without success. The tension between US and India in negotiation the public stockholding was very contagious. The failure also was reinforced by the behind the scenes of split that emerged among developing countries: in the Africa group, between India and Pakistan, and in the G33. The struggle to produce Bali Package was hindered by the attitude of India that did not agree and insisted that the interim solution was not the right decision as it related to the fundamental problems of food security stocks. In the negotiations related to the interim solution, developed countries like the United States actually have approved the proposal of developing countries to provide subsidies of more than

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<sup>43</sup> World Trade Organization annual report, Geneva : WTO Information and External Relations Divisions, 2014, pg 1

10 percent of national output, but there is time limitation in its implementation<sup>44</sup>. On the evening of the ministerial Anand Sharma announced that in India's position, it would not agree to the peace clause in Bali on the basis that a temporary solution was inadequate to address the food security challenges faced by developing countries and to readdress the historical injustices of previous multilateral agreements. Mirrored by the deadlock condition in Bali, New Zealand then formed a group discussion with other developed countries and proposed to approve the terms which was desired by India but it was rejected by the United States. Then United States Called president Barack Obama and finally the percentage was approved but with the interim period for 4 years. Change criterion of agricultural subsidies offered by developed countries was also rejected by India because food security was a thing that was not negotiable. On the other hand, other developing countries who were members of the G33 to agree with the terms offered by the United States, including the other G33 countries such as Indonesia, Russia, and China tried to convince India to soothe its position<sup>45</sup>. In the last minute India soothed its position which resulted a four-year peace clause that will remain in place until a permanent solution can be found<sup>46</sup>. India in the end approved the Bali Package which states that members of the WTO authorized the deployment

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<sup>44</sup> Julkifli Marbu, KTM WTO Hasilkan Paket Bali Negara Berkembang Diberi Fasilitas, <http://www.republika.co.id/berita/ekonomi/bisnis-global/13/12/07/mxfk6i-ktm-wto-hasilkan-paket-bali-negara-berkembang-diberi-fasilitas>, 2013,

<sup>45</sup> Junaedi Berutu, Keputusan India Dalam Meyetujui Kebijakan Subsidi Pertanian dalam Bali Package. *eJournal Ilmu Hubungan Internasional*, 2015, Pg 379.

<sup>46</sup> Rorden Wilkinson, Erin Hannah & James Scott, *The WTO in Bali: what MC9 Means for the Doha Development Agenda and Why It Matters*, *Third World Quarterly*, 2014, Pg 1043-1044.



of an interim mechanism for negotiations to produce a permanent solution that will be adopted in the WTO KTM 11 or over four years.<sup>47</sup>

However, the result of agriculture agreement in the WTO ranged into four proposal. The four issues were picked after WTO members called for a change of approach at the last Ministerial Conference in 2011. The ministers wanted to try to get the Doha Round to move again, following several years of impasse. They agreed that members should select issues that might be agreed earlier than other issues, on the understanding that the rest of the Doha Round package would be agreed later:

### **1. GENERAL SERVICE**

The G-33 is also proposing to expand the list of “general services” under the “Green Box”, a call from the African Group dating back to 2006. This proved less controversial. Developing countries want more programmes that are relevant to them on the list, and the African Group and G-33 have identified: land rehabilitation, soil conservation and resource management, drought management and flood control, rural employment programmes, issuing land ownership titles and settlement programmes.<sup>48</sup>

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<sup>47</sup> Julkifli Marbu, KTM WTO Hasilkan Paket Bali Negara Berkembang Diberi Fasilitas, <http://www.republika.co.id/berita/ekonomi/bisnis-global/13/12/07/mxfk6i-ktm-wto-hasilkan-paket-bali-negara-berkembang-diberi-fasilitas>, 2013

<sup>48</sup> World Trade Organization, Briefing note: Agriculture negotiations — the bid to ‘harvest’ some ‘low hanging fruit’. Retrieved from [https://www.wto.org/english/thewto\\_e/minist\\_e/mc9\\_e/brief\\_agneg\\_e.htm#generalservices](https://www.wto.org/english/thewto_e/minist_e/mc9_e/brief_agneg_e.htm#generalservices), 2013

## 2. PUBLIC STOCKHOLDING – PEACE CLAUSE

This is the most debating issue on the Bali package, this controversial issue became the major block in the agreement of MC9 proposals. Proposal of public stockholding proposal proposed by India and other G-33 countries is their demand in order to protect their food security especially poor farmer.

The explanation of public stockholding is when governments buy food from farmers at supported prices to build up stocks, that counts as “Amber Box” domestic support — the type that is considered to distort trade by affecting market prices and the quantities produced<sup>49</sup>. The domestic support normally was within the agreed limits, but India proposal wanted to increase the limit (this limit called as Aggregate Measurement Support or called as Amber box) of domestic subsidies is exempted from the trial of WTO. Amber box is calculated as the difference between the present support price and the 1986–88 reference price multiplied by production that is eligible for the support of another demand of India that wanted to change its reference price to current reference price. Most developing countries are allowed an amount that is conceptually minimal (“de minimis”) — up to 10 per cent of the value of production<sup>50</sup>. India and Indonesia also want to increase the de minimis from 10 percent into 15 percent, so that their proposal is blocked by developed state, especially United States and its allies. In this case India more insisted with it proposal rather than Indonesia, Indian Commerce and Industry Minister, Shri Anand Sharma, stated that, “Food security

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<sup>49</sup> Ibid.,

<sup>50</sup> Ibid.,

is non-negotiable”<sup>51</sup> and Indonesia Trade minister Gita Wirjawan said at the first time Indonesia would bring proposal to increase domestic subsidy to 15% but on other hand he also said if rejected, it was okay if it was only 10%.<sup>52</sup> Although many countries believe food security issue is important agenda but in countering the discipline of WTO fair trade, it could distort world market. So, peace clause is implemented in order to meet the negotiations. Content of peace clause is that developing states can do what they want with their public stockholding proposal just for four years or until the permanent solution is found. During this four years developed states need to hold themselves if developing state do their public stockholding proposals.

### **3. TARRIF RATE QUOTAS ADMINISTRATION PROVISION**

Tariff quotas (also known as tariff-rate quotas, TRQs) are where import duties are lower on quantities within the quotas and higher for quantities outside. They were agreed in the 1986–94 Uruguay Round negotiations as a means of allowing exporters some access to other countries’ markets when the normal (out-of-quota) tariffs on imports are high.<sup>53</sup>

Under the existing WTO Agreements, many countries negotiated concessions to permit imports of specific products at a lower import tariff than

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<sup>51</sup> Dee, M. ‘The 9th WTO Ministerial Conference: A victory for the WTO but what next?’, GR:EEN Working Paper Series, No. 45, 18 December 2013.

<sup>52</sup> Deny, S. (2013). RI akan Perjuangkan Subsidi Pertanian 15% di KTT WTO. Retrieved from Liputan6.com.

<sup>53</sup> World Trade Organization, Briefing note: Agriculture negotiations — the bid to ‘harvest’ some ‘low hanging fruit’, Retrieved from [https://www.wto.org/english/thewto\\_e/minist\\_e/mc9\\_e/brief\\_agneg\\_e.htm#generalservices](https://www.wto.org/english/thewto_e/minist_e/mc9_e/brief_agneg_e.htm#generalservices), 2013

usual for specified quantities. These quotas are administered by importing countries in a variety of ways. The proposal deals with this administration, with a view to flesh the existing general obligation to make it possible to fill these quotas with some more details.

First, it contains a number of provisions on procedural and transparency aspects. Second, it provides for an "under fill" mechanism. In which a quota has a consistently low fill rate then a country could be asked by another WTO members to change the management method to "first-come first-served" for a trial period to see if the fill rate increased. However this under fill mechanism also had a clause on "special and differential treatment" ("S&D") which completely exempted all developing countries from it, so it would only apply to developed countries. rules.<sup>54</sup>

#### **4. EXPORT COMPETITION**

At the WTO's 2005 Hong Kong Ministerial Conference, ministers set a target date of 2013 for the elimination of export subsidies and the imposition of disciplines on the other elements, to be achieved in the context of an overall outcome in the DDA negotiations. Since the DDA has not yet been completed, these steps have not occurred yet. The original proposal for Bali was for cuts to the permitted limits for the value of export subsidies and a standstill provision on

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<sup>54</sup> EUROPEAN COMMISSION, Ninth WTO Ministerial Conference (Bali, Indonesia, 3-6 December 2013), EUROPEAN COMMISSION, 2013,

the volume, and some provisions on the maximum repayment term for export credits, and provision for S&D treatment for developing countries.<sup>55</sup>

If it is agreed, members would “exercise utmost restraint” in using any form of export subsidy. They would “ensure to the maximum extent possible” that progress will be made in eliminating all forms of export subsidies, that actual subsidies will be well below the permitted levels, and that disciplines will apply to export policies that may have the same effect as subsidies. These policies are grouped together as “export competition”. They include subsidies and other advantages gained from government-supported export credit and insurance, food aid and exporting state trading enterprises.<sup>56</sup>

### **3.2 World Agriculture Trade Condition and Indonesia Agriculture Subsidy Policy**

As previously described with membership of Indonesia in the body of WTO and directly meant that Indonesia also agreed on one of WTO annex which is AoA which is makes Indonesia government have a limitation space to determine it agriculture policy. Indonesia history in liberalize its market was started in the era of rapid development at that time Indonesia did an economic and market reformation which is act as one of the WTO establisher. National policies on agricultural development cannot be separated from the influence of external factors, especially in the era of globalization that characterized their economic openness and free trade, it would be hard to find their agriculture policy

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<sup>55</sup> Ibid.,

<sup>56</sup> World Trade Organization, Briefing note: Agriculture negotiations — the bid to ‘harvest’ some ‘low hanging fruit’. Retrieved from [https://www.wto.org/english/thewto\\_e/minist\\_e/mc9\\_e/brief\\_agneg\\_e.htm#generalservices](https://www.wto.org/english/thewto_e/minist_e/mc9_e/brief_agneg_e.htm#generalservices), 2013.

development are sterile from the influence of external factors. External factors currently have more influence in agriculture development policies.

With the membership of Indonesia in the WTO it means Indonesia agreed with the treaty of Agriculture (AoA) by WTO in 1995, it is a process of radical agricultural liberalization. Fate of Indonesian farmers handed to the liberalization of agricultural systems over the international free market. This brings Indonesia market particularly in its food commodities, to remove its tariffs and other barriers, as well as launch a privatization of food. It caused that government need to adapt their national policies to the development policy of the WTO, all of agriculture policy jurisdiction determine under the WTO. This situation led to the weakening of Indonesia jurisdiction erosion of national sovereignty, and narrowed the ability of its government, community to determine their best choice in food policies.

Starting from the agreement of AoA (Agreement on Agriculture), the incapability of Indonesia government to face full liberalization through the DDA and the WTO ministerial meeting, it means that Indonesia government is still weak in tackling the onslaught of foreign food commodities that enter the domestic market and decreased productivity of the balance of domestic food. This phenomenon has put Indonesia as a net importer, particularly for rice which is as a major food commodity that is consumed by its all population.

With its membership in the one and only capitalism organization, it binds Indonesia to begin enforcing the flag of liberalization echoed by WTO. Indonesian government has formally ratified the establishment of the WTO as outlined in Law No. 7/1994 dated November 2, 1994. This ratification answered

with certainty, that any decision of the WTO shall be a national law for Indonesia<sup>57</sup>.

Since Indonesia did a radical of food liberalization its import is increasing significantly, with the government under pressure from the International Monetary Fund (IMF) in 1998. The level of dependence on food imports has doubled, that of rice by 10 percent, maize 20 percent, soybeans 55 percent and 50 percent sugar. Even though commodities, it has absorbed respectively 23 million, 9 million, 2.5 million and 1 million households, or about 68 percent of the total households in Indonesia. Thus, the increase in food imports since 1998 has increased the number of poor farmers in Indonesia<sup>58</sup>.

Even though Indonesia already liberalizes its agriculture market, Indonesia is still giving an agriculture subsidy which is categorized as green box. There are three subsidies given by government to its agriculture sector: seed subsidy, fertilizer subsidy and rice price policy. The explanation and the problem faced by Indonesia government in the distribution subsidy are (based on the strategic research, agriculture subsidy research, of BAPENNAS).<sup>59</sup>

1. **Seed Subsidy:** Seed subsidy is changing of production licensed seed cost by government if the seed has been sold. The objectives are: ( a) To help alleviating the food crop farmers in order to buy seedlings for distribution

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<sup>57</sup> Hasibuan, A. I, Post Food Policy Ratification of the Agreement, Jurnal Kajian Politik Dan Masalah Pembangunan, 2015, Pg . 1635.

<sup>58</sup> A. Husni Malian, Kebijakan Perdagangan Internasional Komoditas Pertanian Indonesia, Pg.135.

<sup>59</sup> Badan Perencanaan Pembangunan Nasional, Laporan Kajian strategis, Kebijakan subsidi pertanian yang efektif, efisien dan berkeadilan, Jakarta: Badan Perencanaan Pembangunan Nasional, 2011,

certified at an affordable price ; ( B ) to increase the use of quality seed yielding varieties ; and ( c ) to stabilize of prices of superior quality seed . All these objectives result in increased productivity and food crop production quality. The implementation of this subsidy is based on UU Number 10 year 2010 about APBN (National Expenditure Income Budget) year 2011 (Article 11). The problem faced by the government in the implementation is that there was decreasing total of seed subsidy given by government in 2009-2010 even though there is a little increasing in 2011. It is caused by :

- a. The difference between seed subsidy price and non-subsidy price is not quite different in which the quality is better.
- b. There is another promising program that is BLBU in which the amount of seed is huge
- c. There is another source of seed seller outside government body that can give a cheap seed with good quality

2. **Fertilizer Subsidy:** it is government money that allocated to subsidize fertilizer price, which makes the gap between subsidy fertilize and non-subsidy fertilizer, and in which the objective is to increase the ability of farmer to buy fertilizer according to the recommended amount needed. Law basis in the fertilizer subsidy implementation is based on the UU Number 47 Year 2009 about ABPN (National Expenditure Income Budget) Year 2010 (Article 9, Verse (1)a) and UU Number 10 Year 2010



about APBN year 2011 (Article 10, Verse (1) until (4). The distribution of fertilizer subsidy is based on the farmer planning where stated in the *RDKK (Rencana Definitif Kebutuhan Kelompok/Definitive Plan of Group Need)* then, it is given to the distributor Line IV and distributor Line III then to the local agriculture service. After that give, it is given to the Provincial agriculture service and finally to the agriculture ministry. Even the law basis and the distribution flow policy of fertilizer subsidy is already clear but in the field there are still happening a deviation on the distribution beside the weakness of the fertilizer subsidy policy itself, irresponsibility act from the fertilizer user, distributor and weakness of the supervision that cause the implementation is not right based on the policy that exist.

The real condition is distribution scheme among who will get the subsidies. Everyone can get them from small farmer or even big farming company. Dwi Andreas who is *Ketua Umum Asosiasi Bank Benih Tani Indonesia/General Chief of the Association of Indonesian Farmer Seed Banks (AB2TI)* said, that the government provides indirect subsidies through price subsidies for fertilizer, seed, and *alsintan* (tools and machine for agriculture need). "It's questionable who will benefit from these subsidies, for small farmers often do not enjoy subsidies."<sup>60</sup> The distribution scheme in giving fertilizer and seed subsidy is very messy

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<sup>60</sup> Tri Listiyarin, RI Masih Butuh Subsidi Pertanian, Cukup Ubah Skemanya, accessed from <http://www.beritasatu.com/ekonomi/334065-ri-masih-butuh-subsidi-pertanian-cukup-ubah-skemanya.html>, 2015

based on IV Chairman Supreme Audit Agency (BPK) Rizal Djalil. He said that the company has conducted a performance audit of the distribution of subsidized fertilizer. "One example is the definition of the farmer. There is a regulation that defined farmer as individuals who depend on farming for living but in other legal instruments stated company engaged in the agricultural sector is also a farmer," he said. Discrepancies in these regulations, he said, are the reason subsidized fertilizer distribution also enjoyed by large corporations and they cannot be prosecuted by law enforcement officials. Based on the performance audit of the CPC, approximately 30% of subsidized fertilizer fell into the hands of large companies.<sup>61</sup>

Beside the distribution weakness of the fertilizer subsidy the condition of Indonesia farmer to make a planning about how much amount that they need to buy fertilizer is questionable. Indonesia farmer is still weak in making a fertilizer planning so sometimes they buy fertilizer as much as possible not based on the recommended amount of the land needed. Another problem is there are lot of farmers who need a fertilizer that do not get that subsidy because the incapability on making the RDKK. Relocation of the fertilizer subsidy is also questionable in some areas. There is an amount of fertilizer distributed more than that area needed or even there are areas that do not get fertilizer subsidy

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<sup>61</sup> Noviarizal Fernandez, Kesejahteraan Petani: Benang Kusut Subsidi Pupuk, accessed from <http://industri.bisnis.com/read/20160302/99/524351/kesejahteraan-petani-benang-kusut-subsidi-pupuk>, 2016

because of the lateness of government SK (*Surat Keputusan/Decision Letter*) that need to make before fertilizer subsidy is distributed or even the lateness of the fertilizer producers, or the worst fertilizer subsidy sold to the foreign country. These all kinds of problem are centered on the KP3 (*Komisi Pengawas Pupuk dan Pestisida/Commission of Fertilizer and Pesticide Supervisor*) weakness function on the budgetary and supervision.

3. **Rice price policy:** this policy is a direct subsidy from government by buying farmer rice in the farmer or milling level. The objective of the policy is to protect farmers from price devaluation in the harvesting time, so farmer do not suffer from lost. Laws Number 10 Year 2010 about APBN Year 2011 (Article 9), is the basis of the rice price policy in 2011.

Even though Indonesia already gives three subsidies, but the problem is amounting of that three subsidies policies allowed from WTO. Domestic support in 2013 increase 55.6 percent. This increasing is quite significant from 1995 to 2007 from 410 million to 26 trillion. However, this policy is still far from higher de Minimis that is allowed by WTO which is 10% percent from developing country. The highest domestic support ever given by Indonesia is about 7.3 percent from total national output. The implementation of tariff is still low, diminishing of export subsidy and the lack of domestic support.<sup>62</sup> Total of subsidy given by government is always fluctuated each year, but it is far from the

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<sup>62</sup> Muhammad Reza Syarifuddin Zaki, Analisis Diplomatis Tim Satgas G-33 Dalam Memperjuangkan Public Stockholding Di WTO, Universitas Gadjah Mada, Yogyakarta, 2014

maximum subsidy that can be given by according to the WTO international legal trade rules.

**Table 11.3.2 Percentage of fertilizer subsidy and seed subsidy with the total of non-energy subsidy, 2008-2014**

Year	Fertilizer subsidy	% total subsidy	Seed subsidy	% total subsidy
2008	15,181.5	5.51%	958.2	0.36%
2009	18,329.0	13.27%	1,597.2	1.16%
2010	18,410.9	9.55%	2,177.5	1.13%
2011	16,443.6	5.53%	96.9	0.03%
2012	13,958.5	4.03%	60.3	0.02%
2013	17,932.7	5.15%	1,454.2	0.42%
2014	21,048.8	6.31%	1,564.8	0.47%

*Source: Agricultural census year 2013*

The total of seed and fertilizer subsidy is considered as low, seen from total subsidy given by the government is between 4-6%. Government prefers to give energy subsidy with total of about 282.1 trillion compared to non-energy subsidy with total of 51.6 trillion.

However, there is also injustice condition in given domestic support and export subsidy between developed country and developing country. According to Gita, “every year the US government farm subsidies of approximately \$ 100 billion / year to farmers. While EU governments provide agricultural subsidies amounted to 80 billion euro / year. Differences with developed countries, agricultural subsidies for developing countries only make up 5-10% of the total production / year”.<sup>63</sup> Developed countries almost cannot give export subsidy to their famers.

<sup>63</sup> Wiji Nurhaya, Gita Sindir AS dan Eropa yang Memberi Subsidi Besar ke Petaninya, 2013

Sri Mulyani Indrawati said the “agricultural subsidies in developed countries are greater than the subsidy given by government to the Indonesian farmers making it difficult for Indonesia to export agricultural products to the country.”