

UNIVERSITY OF THE WESTERN CAPE

FACULTY OF LAW

**AGRICULTURAL TRADE UNDER THE MULTILATERAL TRADE SYSTEM IN SUB-SAHARAN
AFRICA: A SOUTH AFRICAN PERSPECTIVE WITH LESSONS FROM BRAZIL**

**A mini-thesis submitted in partial fulfilment of the requirements for the LL.M in
International Trade and Investment Law**

By

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DECLARATION

I declare that, '**Agricultural Trade under the Multilateral Trade System in Sub-Saharan Africa: a South African Perspective with lessons from Brazil**' is my own work, has not been submitted before for any degree or examination in any other university, and that all the sources I have used or quoted have been indicated and acknowledged as complete references.

ALAH RUNICK FRU

Signed:



PROF. RIEKIE WANDRAG

Signed.....

May 2011

DEDICATION

I dedicate this research paper to my parents, my dad, **Mr John Fru N.** (of blessed memory) and my lovely mum, **Mrs Fru Esther Nsoh**, whose ill-health had been a major challenge to me immediately I registered to undertake the LLM programme in July 2010.



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KEY WORDS

World Trade Organisation (WTO), Trade in Agriculture, Sub-Saharan Africa, Brazil, Doha Round Development Box, Food Security, Most Favoured Nation Principle, Legal framework, Agreement on Agriculture (AoA), Special and Differential Treatment(SDT).



ACRONYMS

AoA	Agreement on Agriculture
AGOA	African Growth and Opportunity Act
BOP	Balance – of -Payment
DTI	Department of Trade and Industry
EPA	Economic Partnership Agreement
EFTA	European Free Trade Association
FTA	Free Trade Agreement
FAO	Food and Agricultural Organisation
GATT	General Agreement on Tariff and Trade
GOB	Government of Brazil
HIPC	Highly Indebted Poor Countries Initiative
ISI	Import Substitution Industrialisation
MERCOSUR	Common Market of the South (<i>Mercado Comundel Sur</i>)
MFN	Most Favoured Nation
MTS	Multilateral Trading System
NEPAD	New Partnership for Africa's Development
NT	National Treatment
RTA	Regional Trade Agreement
SDT	Special and Differential Treatment
SADC	Southern African Development Community
SACU	Southern African Customs Union
UNECA	United Nations Commission for Africa

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CHAPTER 1

GENERAL INTRODUCTION AND BACKGROUND

1.1- Introduction

In this contemporary business world, putting the interest of developing countries (including Sub-Saharan Africa) at the forefront, agriculture is a topical issue for international trade negotiations at the GATT/WTO. According to an agricultural investment outlook, interregional differences in capital stocks per worker are likely to become more pronounced. While capital stock per worker doubled in East and South Asia, the Near East and North Africa regions, and tripled in Latin America, it was stagnating in Sub-Saharan Africa due to lack of interest in agricultural investment.¹ This huge difference is solely as a result of hours of output per worker and the different development strategies pursued by the various regions in the agricultural sector.² Therefore, despite its comparative advantage in agriculture, Sub-Saharan Africa needs to put in more hours of output per worker as well as invest heavily in the agricultural sector. It is worth noting that Brazil's success from being a net-food importer to a net-food exporter is accounted for by its mass investment, most especially in the area of agricultural Research and Development (R&D).³ With increased production and productivity in R&D, it led to gains from large scale farming via large agricultural enterprises.⁴

According to the US Department of Agriculture (USDA), the volume of world agricultural exports over the recent decades has increased substantially. However, its rate of

¹ An agricultural worker in Latin America was estimated to have about 28 times the capital available compared to a colleague in Sub-Saharan Africa. See, Schmidhuber, J. Bruinsma, J. & Boedeker, G. (2009) 'Capital Requirements for Agricultural Countries to 2050' Paper presented at the FAO Expert Meeting on 'How to Feed the World in 2050', 24-26 June 2009, Rome. 15. Available: http://www.fao.org/fileadmin/templates/esa/Global_perspectives/Long_term_papers/Capital-requirements-agriculture.pdf [5th March 2011].

² See, FAO, (13th Oct. 2009) 'How to Feed the World in 2050' High-level Expert Forum. Paper presented in Rome. 15. Available: http://www.fao.org/fileadmin/templates/wsfs/docs/Issues_papers/HLEF2050_Investment.pdf [5th March 2011].

³ It is accompanied with expansion and incorporating of new agricultural lands as well as increase of agricultural inputs such as Tractors.

⁴ For details on Brazil's production strategy see, Neves, do A. A.W. & Peduto, A. (2010), 'Food Security: the Brazilian Case: Series on Trade and Food Security-Policy Report' *International Institute for Sustainable Development*.

growth in Sub-Saharan Africa is very slow resulting in a steady decline of its share in world merchandise trade (at an annual rate of roughly 7.5%, estimated to be fairly stable at a current rate of 2.5%).⁵ During the period of 1965-1980, the average rate of agricultural growth (1.8% per annum) in Sub-Saharan Africa accompanied with high population growth rate of 2.7% resulted in a decline in per capita food production.⁶ Thus between 1980-82, a rapid increase in population growth rates (3.1%) concurrent to the slow growth rate in agriculture led to a rapid increase of food imports and high demand for food aid.⁷ According to a report by the Food and Agricultural Organisation (FAO), the lack of agricultural investment over decades has led to continuing low productivity and stagnant production in many regions. Such deficiency has been identified as an important underlying cause of the recent food crisis and the many difficulties encountered by developing countries (especially Sub-Saharan Africa) in the Multilateral Trading System (MTS).⁸ To better understand the case of Sub-Saharan Africa regards agricultural trade under the MTS, an introduction to the issues that led to the Agreement on Agriculture (AoA) would be of utmost necessity.

At the beginning of the General Agreement on Tariffs and Trade (GATT 1947), export competition in agriculture was given special treatment.⁹ For instance, while export subsidies were prohibited for non-agricultural products, they were allowed for agricultural products as long as the country using them did not gain more than an equitable share of the market.¹⁰ However, this was a loophole in the GATT (1947)¹¹

⁵ Agricultural Outlook, (2002) 'The African Growth and Opportunity Act: How Much Opportunity?' Available: <http://www.ers.usda.gov/publications/agoutlook/aug2002/ao293f.pdf> [29th December 2010].

⁶ Reasons being that population growth is at a geometric progression while agricultural growth is at a mathematical progression producing many mouths to feed but little food is available.

⁷ Cleaver, K.M. (1993) 'A strategy to develop agriculture in Sub-Saharan African and a focus for the World Bank', *World Bank Technical Paper Vols.23: No.203*. Washington, D.C. World Bank. 23.

⁸ FAO Available: <http://www.fao.org/es/ESC/en/index.html> [29th December 2010].

⁹ Martin, W. & Winters, L.A. (1995) *The Uruguay Round and the developing economies* World Bank Publications, Parts 63: No. 307. 2. See also, Article XI of the GATT 1947. Though it prohibited quantitative restriction on industrial products, nevertheless, there was an exception in the agricultural sector. See also; Hillman, J.S. (1992), 'Agriculture in the Uruguay Round: A United States Perspective', *Tulsa LJ*, vol. 28, 761. Available:

http://heinonline.org/HOL/page?handle=hein.journal/tlj28&dv=37&g_1&collection=journal#773 [30th September 2010].

¹⁰ See GATT Article XVI: 3 1947.

¹¹ Mosoti, V. & Gobena, A. (2007), *International trade rules and the agriculture sector: selected implementation issues*, Food & Agriculture Organization (FAO) of the UN, Legislative Study 98; Rome, Italy. 34-35.

since export subsidies (which are trade distorting *per se*)¹² could not be controlled effectively. This practice contributed in lowering world market prices, thereby hindering producers in exporting Sub-Saharan African countries, mostly because they lacked government support in terms of agricultural subsidies. In order to remedy this deficiency, the need for an Agreement on Agriculture (AoA) was initiated as an annex to the Marrakesh Agreement establishing the World Trade Organisation (WTO).¹³ It began during the Uruguay Round of Trade Negotiations (1986).

Although agriculture was treated differently in the early stage of the original GATT (1947), it was not exempted from its Agenda.¹⁴ However, it was very difficult for the signatories to bring agriculture under the international trade discipline of the GATT. It is worth noting that most member states duly excluded the trade related issues of the agricultural sector from the MTS. The agricultural sector was therefore regarded as *sui generis* from other sectors in the economy and was therefore treated different. According to Melaku Desta:

[... w]hen governments got together to negotiate for multilateral liberalization of international trade, agricultural products were considered a special case be fitting the status of an exception rather than the rule. This was reflected in the content of the first drafts as well as the final versions of both the Havana Charter as well as the General Agreement. Two particularly important trade restrictive and protective measures generally outlawed by the General Agreement were explicitly, albeit conditionally, permitted for agricultural products. They concern the use of quantitative restriction and export subsidies – the two traditional weapons used by governments to protect domestic producers from foreign competition in the domestic market and to artificially enhance the competitive advantage of their producers in foreign markets, respectively. What is more, even in areas where no such express

¹² Most subsidies are potentially those that would be prohibited and are identified as Actionable Subsidies.

¹³ See also, Paragraph two of the Preamble of the AoA. It states that the long term objective of WTO Members is '... to establish a fair and market-oriented agricultural trading system...' Therefore one of the cornerstones of the on-going negotiation is to bring this objective closer to reality.

¹⁴ See also Josling, T.E.; Tangermann, S. & Warley, T.K. (1996) 'Agriculture in the GATT' St. Martin's Press, New York, USA. 11.

exceptions were provided, countries often ignored the rules more in the area of agriculture than elsewhere.¹⁵

Most important amongst the reasons to protect the agricultural sector was the interest of national food security.¹⁶ Thus, as the manufacturing economy was expanding, leading to a relative decline in agriculture, political and social pressures emanated from industrialised countries, such as the US.¹⁷ This resulted to the use of quantitative restrictions in order to protect the agricultural sector from all the rigours of the international markets. Later, these restrictions were broadened through the use of a variety of quotas, variable levies, voluntary export restrictions, and minimum import rules. Also, other protective measures to restrict import were employed by the various countries in the world.¹⁸

Before the Uruguay Round negotiation, there had been a series of negotiations on certain individual agricultural commodities under the GATT (1947). For instance, the Dillon Round (negotiations on tariff cuts to very low levels in respect of soya beans, cotton, vegetables and canned fruits) and the Kennedy Round (negotiations on the International Wheat Agreement and the International Meat Agreement).¹⁹

The reasons for bringing agriculture under the MTS in the GATT framework were as follows: First, it was intended to regulate and encourage the idea of comparative advantage²⁰ in agricultural production, whereby countries could specialise in areas in which they were best in production at lower costs with greater efficiency. Second, member states intended to ensure price stability in the world market for agricultural

¹⁵ Desta, M. G. (2002) *The Law of International Trade in Agricultural Products: From GATT 1947 to the WTO Agreement on Agriculture*, The Hague, Kluwer Law International. 6.

¹⁶ Martin, W. & Winters, L.A. (1995), 2.

¹⁷ Hillman, J.S. (1992), 762.

¹⁸ Martin, W. & Winters, L.A. (1995), 2.

¹⁹ FAO, Available: <http://www.fao.org/docrep/004/w7814e/W7814E04.htm>: [19th September, 2010].

²⁰ The theory of comparative cost advantage is an idea developed by an economist, David Ricardo, in 1817. The theory states that in order for a country to compete in a global market it need not possess an absolute advantage as postulated by Adam Smith; rather, the country needs to concentrate and produce just what it is best at and in respect of which it has a higher level of efficiency with lesser cost incurred. The rationale of this theory is to encourage international trade. For instance, countries should export what they produce with greater efficiency, and in turn import what they cannot produce at a lesser cost compared to other countries. Thus, they should produce more, then export to other countries, and import what other countries produce with a comparative cost advantage. For further reading, see also Frederking, J. (2009) *Comparative Cost Advantage and Factor Endowment: are these theories still relevant?* Druck & Bindung (eds) Books on Demand Germany GmbH, Norderstedt Germany, 3.

commodities. Third, they intended to prevent the adoption of the concept of 'agricultural protectionism' which had adverse effects on producers in developing countries.²¹ For instance, price disincentives jeopardised the chances of developing countries who due to lack of government support (subsidies) were competing with their developed counterparts in agricultural trade.²² It is worth noting that, policy makers of most Sub-Saharan African countries do not care much about investing in agriculture especially with Research and Development (R&D). However, this is where Brazil's success story lies. Thus Kydd and Dorward described such agricultural investment deficiency by Sub-Saharan Africa as an 'agricultural investment dilemma'.²³ Therefore, despite the importance of agriculture, policy makers (governments) are reluctant to design and tailor specific agricultural investment programmes. It could be due to the lack of political willingness as regards the fact that priority is given to other political issues/agenda other than agriculture.

After numerous trade tensions in previous GATT negotiation rounds,²⁴ the Uruguay Round was launched in 1986 at Punta Del Este. Agricultural trade negotiations were also at the forefront with the intention to scrutinise issues on border controls and export subsidies (also to control the broad range of domestic policies on subsidies) which could result in trade distortions. The major actors of this negotiation were the USA, the European Community (EC) and the Cairns Group.²⁵ The EC and Japan²⁶ were interested in protecting their farmers from international agricultural competition. The US demanded for liberalisation of trade in agriculture on a 'zero-zero' basis. On the other hand, Sub-Saharan African countries were mainly focused and demanded for special

²¹ According to the Food and Agricultural Organisation (FAO), the agricultural policies of industrialised countries in the past, before the agricultural negotiations in the original GATT, restricted access to world agricultural markets for low cost producers including developing exporting countries. See further readings: FAO, (1988), 2-3.

²² Hillman, J.S. (1992), 762.

²³ Kydd, J. & Dorward, A. (2001) 'The Washington consensus on poor country agriculture: analysis, prescription and institutional gaps', *Development Policy Review*, vol. 19, No. 4. 4.

²⁴ Before the Uruguay Round of 1986-1990, they had been seven other previous GATT rounds since World War II: Geneva (1947), Annecy (1949), Dillon (1960-61), Kennedy (1964-67), Tokyo (1974-79), before the Uruguay (1986-90) & the on-going round, Doha (1994- till date).

²⁵ The Cairns Group consists of 19 WTO Members, today composed of: Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Indonesia, Malaysia, New Zealand, Pakistan, Paraguay, Peru, Philippines, South Africa, Thailand, and Uruguay.

²⁶ Though Japan was in support of a reduction in export subsidies as a net importer of agricultural commodities, it wanted protection of its rice sector on the basis that it was not solely related to agriculture but played a unique role in the diet, culture and environment of the country.

treatment (Special and Differential Treatment-SDT) in order to meet up with their WTO commitments. They highlighted the importance of agriculture to their economy and requested for lesser obligations under the GATT/WTO especially on the magnitude of cuts on agricultural subsidies and longer time period to fully implement any policy changes.²⁷

During the Uruguay Round, the obligation to grant developing countries SDT was enshrined in the Preamble of the AoA.²⁸ Developed countries were called regarding the particular needs and concerns of their developing counterparts in agricultural products and trade.²⁹ Though it represented a strict application of the principle of non-reciprocity of commitments,³⁰ the provisions were not reflected in the schedules of concessions. However, they were instituted in a very flexible form undertaken by developing countries with provisions of longer transition periods of up to ten years, whereas developed countries had just a maximum of six years.³¹

After the Uruguay Round, a Fourth Ministerial Declaration of the World Trade Organisation (WTO) was launched in Doha (November 2001) called the Doha Development Round of Multilateral Trade Negotiations. There, the member governments re-affirmed a comprehensive negotiation on agriculture, on substantial improvement in market access, reductions of all forms of export subsidies (with a view to phasing them out) and substantial reductions in trade distorting domestic supports. Further, they agreed on SDT³² for developing countries as an integral part of all

²⁷ FAO, Available: <http://www.fao.org/docrep/004/w7814e/W7814E04.htm> [19th September 2010].

²⁸ Paragraph 6 of the preamble of the AoA stipulates that '... commitments under the reform programme should be made in an equitable way among all Members, having regard to non-trade concerns, including food security and the need to protect the environment; having regard to the agreement that special and differential treatment for developing countries is an integral element of the negotiations, and taking into account the possible negative effects of the implementation of the reform on least-developed and net food-importing developing countries...' further its enshrined in its Articles 6(2), (4)(b), 9(4), 15, 20, all of the AoA. s

²⁹ Such needs and concerns included market access and technical assistance.

³⁰ For instance, developed countries were to offer certain trade benefits to developing countries, and were not to expect any favour in return from their developing counterparts.

³¹ Anderson, K. & Martin, W. (2005) 'Agriculture Trade Reform and the Doha Development Agenda: Agricultural Negotiations and Special and Differential Treatment' *The World Economy*, vol. 28, No.9, 1315.

³² The integration of SDT as part and parcel of the WTO's Agreement is cemented under the Doha Development Agenda by virtue of paragraph 13 on Agriculture which states that SDT '...shall be an integral part of all elements of the negotiations on agriculture and shall be embodied in the schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated...' Further paragraph 44 of the Declaration states that '...all SDT provisions shall be reviewed with the view to strengthening them and making them more precise, effective and operational...'

elements of the negotiations on agriculture, and with the view that non-trade concerns would be taken into account in the negotiations as provided in the AoA.³³ Relying on this, most Sub-Saharan African countries have become passive participants under the MTS. Rather than seeking alternative strategies to strengthen their domestic policies, they spend much time requesting for an extension of SDT provisions as a reliable strategy to compete with their developed counterparts in agricultural trade. Thus Sub-Saharan Africa needs to make use of its comparative advantage by strengthening its domestic policies and to an extent liberalise its agricultural economy in order to benefit as Brazil during its Agrarian reform (1950 to 1980).³⁴ Due to trade liberalisation, Brazil in the 1990s realised more gains unlike the period (Protectionism) it practiced the Import Substitution Industrialisation (ISI) strategy.³⁵

Under the GATT, special treatment³⁶ was introduced in order to encourage and facilitate the easy integration of developing countries especially Sub-Saharan Africa, into the MTS on grounds that they were not economically viable and therefore needed technical assistance. However, after 50 years of the creation of the principle of SDT, most developing countries have not benefited much from it. Only developing countries like Brazil, Chile, China, India, and South Korea have been major beneficiaries due to an improvement in their economy.³⁷ Thus majority of developing and least developed Sub-Saharan countries still experience stagnation as well as a decline in their market share in world trade. According to International Trade Statistics compiled by the WTO Secretariat in recent years, the market share of most developing countries still lingers around 25%.³⁸ Notably, the market share of about 48 developing countries has declined

³³ Carlos, P. de Castillo, (Nov. 2005) 'The Agriculture of the Americas in the Context of the Doha Development Agenda', *Inter-American Institute of Agriculture for Cooperation on Agriculture*, 5.

³⁴ It is worthy to note that, due to Brazil's bitter experience on protectionism, liberalisation was adopted as a strategy to achieve its goals. For instance, most of the sectors became engaged in mass investment in agricultural research and productivity.

³⁵ See Graham, D.H.; Gauthier, H. & de Barros, J.R.M. (1987) 'Thirty years of agricultural growth in Brazil: crop performance, regional profile, and recent policy review', *Economic Development and Cultural Change*, vol. 36, no. 1, pp. 1-34.

³⁶ Special treatment was the original word used for Special and Differential Treatment (SDT).

³⁷ Kessie, E. (2007) 'The Legal Status of Special and Differential Treatment under the WTO Agreements', in Bermann, G.A & Mavroidis, P.C. (eds.) *WTO Law and Developing Countries* Cambridge University Press, New York, USA, 12.

³⁸ Kessie, E. in Bermann, G. & Mavroidis, P. C. (eds) (2007). See also WTO Secretariat, Participation of Developing Countries in World Trade: Recent Developments, and Trade of Least Developed Countries, WT/CoM.TD/W/65 of 15 February 2000.

continuously by 0.5% on grounds that they are being marginalised in the MTS.³⁹ Though an attempt to extent SDT provisions seems good, Sub-Saharan African countries should cease from relying too much on it, but rather strengthen and improve their domestic policies to favour trade in the MTS just as Brazil. Therefore as far as International Trade is concerned, the success of Brazil as an emerging power in agricultural growth remains a model for Sub-Saharan Africa to reckon with.

Due to the evolving debate on agriculture in the Doha round by member states, the results of the AoA have not been as positive as members expected. This is due to a failure by member states to agree on issues regarding the AoA most especially as everyone tries to protect their own interest. For instance, members have not been able to decide on a precise and well stated formula regarding tariff cuts and subsidies. Furthermore, there exists an unfolding debate regarding improved market access by developed countries to benefit their developing counterparts on a non-reciprocity basis. The fact is clear: though Africa needs SDT and even more, it is neither an adequate solution to the problem nor an end in itself. Thus considering the economic weakness of developing countries, their needs and concern for development (market access) was placed at the forefront during the launch of the Doha Development Agenda as follows:

We seek to place developing countries' needs and interests at the heart of the work Programme adopted in this Declaration, ... We shall continue to make positive efforts designed to ensure that developing countries, and especially the least-developed among them, secure a share in the growth of world trade commensurate with the needs of their economic development. In this context, enhanced market access, balanced rules, and well-targeted, sustainably financed technical assistance and capacity-building programmes have important roles to play.⁴⁰

It is worth noting that, the Cancun Ministerial Meeting in 2003 ended prematurely⁴¹ because of a lack of progress on issues concerning agriculture. The agricultural issues

³⁹Kessie, E. in Bermann, G. & Mavroidis, P. C. (eds) (2007), 12.

⁴⁰ WTO, Available: http://www.wto.org/english/tratop_e/dda_e/dda_e.htm [31st October 2010].

⁴¹ Most of the ministers in the negotiation room at Cancun did not agree on any agenda and the meeting ended abruptly as they left the negotiation room before other agenda issues were seriously discussed because there was a dispute on the AoA over agricultural subsidies. See also 'Global Trade Negotiations:

tendered for negotiations were concerned with market access, domestic support and export subsidies. Some member states found them either too ambitious or not ambitious enough to be decided upon.⁴² Thus they could not arrive at a consensus on a particular legal framework regarding the issues tabled for discussion.⁴³ Also, at the Sixth Ministerial Conference in Hong Kong (December 2005), no great advancements were made regarding the issues on market access, export subsidies and domestic support measures.⁴⁴ Notwithstanding the numerous tensions, to an extent member states were able to agree on a dead-line (2013) to terminate export subsidies.⁴⁵

1.2- Statement of the Problem

Sub-Saharan Africa has abundant arable land and a large labour force which could be transformed into increased agricultural production to meet its trade and food needs. However, it has not been able to use this opportunity fully in order to compete with other member states under the MTS. Thus Sub-Saharan Africa lacks consistent agricultural policies such as investing in Research and Development (R&D) which can boost its economy. Rather, Sub-Saharan Africa relies on an extension of SDT provisions as a better strategy to integrate itself into the MTS. Although agriculture accounts for about 70% of the total labour force of Sub-Saharan Africa with over 25% consisting of its total Gross Domestic Product (GDP) and 20% of its agribusinesses, very little priority is given to the sector by governments.⁴⁶ It is worth noting that Sub-Saharan Africa together with other developing countries constitutes about two-thirds of the WTO membership.⁴⁷ These countries formed a coalition in the WTO regarding their special needs and

Cancun and Beyond', 'an interview with Senior Vice President of International Policy and Economic Reform, United States Chamber of Commerce, Willard A. Workman and CIPE, .Available: <http://www.cipe.org/pdf/publications/fs/workman.pdf> [7th March,2011].

⁴² WTO Director General Annual Report (2009), 12.

⁴³ WTO, Available: http://www.wto.org/english/thewto_e/minist_e/min03_e/min03_13sept_e.htm [31st October 2010].

⁴⁴ WTO, Available: http://www.wto.org/english/thewto_e/minist_e/min05_e/min05_14dec_e.htm [31st October 2010].

⁴⁵ McCalla, A.F. & Nash, J.D. (eds) (2007), *Reforming Agricultural Trade for Developing Countries: Key issues for a pro-development outcome of the Doha Round negotiations*. Vol.1. Washington, DC, USA, World Bank. XIV – XV.

⁴⁶ UNECA, (2009) 'Developing African Agriculture through Regional value Chains' Economic Report on Africa 2009.117. Abuja Summit on Food Security, Available: <http://www.uneca.org/era2009> [7th March, 2011].

⁴⁷ The WTO Director General Annual Report (2009), 7.

concerns in agriculture under the MTS.⁴⁸ Though agriculture is considered the backbone of Sub-Saharan Africa (for its mass employment of labour force), the region still remains a net-food importer. Though with a comparative advantage in agriculture, there is continues demand for more SDT extensions in the MTS which is not an adequate solution. This practice has rather made Sub-Saharan Africa a passive actor in the MTS. Thus if Brazil, a developing country could benefit under the SDT why not Sub-Saharan Africa who also has a comparative advantage in agriculture?⁴⁹

Notably, since the Uruguay Round, the too many demands by developing countries (Sub-Saharan Africa) for more SDT flexibilities and consideration (on market access and domestic support subsidies) has resulted in a competition and tension on trade in agriculture. Thus because of the use of trade distorting measures (subsidies), it created a disparity between the developed and developing countries. However, this practice is not acceptable in the MTS as both member groups seem to have placed too much emphasis on the use of SDT provisions rather than respecting the WTO Rule Based system which seeks to eliminate trade distorting measures.⁵⁰

Moreover, Sub-Saharan Africa and other developing countries argued that the AoA represents an unbalanced and skewed set of obligations, and that the WTO needs to make necessary changes to its rules to allow them implement specific policies which addresses the problem of agriculture in terms of food security and rural development.⁵¹

⁴⁸ WTO ACP countries whose preferences with the EU are on Agriculture are: WTO members (58): Angola, Antigua and Barbuda, Barbados, Belize, Benin, Botswana, Burkina Faso, Burundi, Côte d'Ivoire, Cameroon, Cape Verde, Central African Republic, Chad, Congo, Cuba, Democratic Republic of the Congo, Djibouti, Dominica, Dominican Republic, Fiji, Gabon, Gambia, Ghana, Grenada, Guinea, Guinea Bissau, Guyana, Haiti, Jamaica, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Papua New Guinea, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Senegal, Sierra Leone, Solomon Islands, South Africa, Suriname, Swaziland, Tanzania, Togo, Tonga, Trinidad and Tobago, Uganda, Zambia, Zimbabwe. WTO observers (10): Bahamas, Comoros, Equatorial Guinea, Ethiopia, Liberia, Samoa, Sao Tomé and Príncipe, Seychelles, Sudan, Vanuatu; and those who are not WTO members or observers (11): Cook Islands, Eritrea, Kiribati, Marshall Islands, Micronesia (Federated States of), Nauru, Niue, Palau, Somalia, Timor-Leste, Tuvalu. Available: http://www.wto.org/english/news_e/pres03_e/pr358_e.htm [7th December 2010].

⁴⁹ Kessie, E. in Bermann, G. & Mavroidis, P. C. (eds) (2007), 12.

⁵⁰ Hoda, A. & Galati, A. (2003) 'Special and differential treatment in agricultural negotiations', Indian Council for Research on International Economic Relations, Working Paper No.100, 12-16.

⁵¹ Matthews, A. (2005) 'Special and Differential Treatment in the WTO Agricultural negotiations', Institute for International Integration Studies Discussion paper No. 61. 3.

These issues were tabled for negotiation in the AoA identified as the 'Development Box' for purposes of development concerns.⁵²

1.3-Research Questions

- What reasons prevent Sub-Saharan Africa from benefiting from SDT provisions despite its comparative advantage in agriculture?
- What are the reasons behind Brazil's success in agriculture that could act as lessons for Sub-Saharan Africa?
- What is South Africa's position in agricultural growth as a leading Sub-Saharan country compared to Brazil in Latin America?
- What robust policy actions could Sub-Saharan Africa put in place to stimulate its agricultural sector?

1.4-Research Objectives

This research seeks to examine and explore the constraints faced by Sub-Saharan Africa in the agricultural sector under the MTS. It also seeks to make recommendations which Sub-Saharan Africa might adopt in order to overcome such constraints under MTS. They include: reforming and tailoring domestic policies for sustainable economic growth; increased competitiveness for products in the domestic, regional and international markets as well as enhance productivity; and promote food security. This research argues that the demand for an extension of SDT provisions by Sub-Saharan Africa is not sufficient *per se*. Furthermore, it calls for Sub-Saharan African to improve on its domestic policies, develop alternative strategies in order to improve the agricultural sector. Never the less, this research will also examine Brazil's experience and strategies in the agricultural sector and to draw lessons for Sub-Saharan Africa. For a better understanding of the readings, first it will lay down the principle of the AoA as well as an overview of SDT.⁵³ In addition, it will examine Brazil's strategic and agricultural policies, for Sub-Saharan Africa to draw lessons that suits its agricultural context. Moreover, it will examine the position of South Africa in agriculture under the

⁵² See also WTO Available:

http://www.wto.org/english/tratop_e/agric_e/negs_bkgrnd28_ph2devt.etc_e.htm [1st October 2010].

⁵³ The right term is 'Differential and More Favourable Treatment' (SDT). This has been a principle of the GATT since the 1960s. See also Gibbs, M. (1998), 1.

MTS. Reason being that, South Africa stands as a leading country in Sub-Saharan Africa just as Brazil in Latin America. It is worth noting that under the Doha Declaration, not all SDT provisions at the WTO Agreements are mandatory.⁵⁴ This imprecision was debated by both the developed and developing countries regarding the status of all SDT provisions.⁵⁵ This resulted in slowing the negotiations at the Doha round.⁵⁶ Though this research will not examine in detail the contentious issues of the concept of SDT, it will to an extent examine the various classes of SDT provisions that apply in agriculture. It will also examine the three pillars of the AoA.

The various issues to be examined in this research are as follows:

- a) A brief historical rundown of GATT to WTO and an overview of the concept of SDT and its various provisions under the AoA;
- b) An overview of the AoA and the three pillars of agriculture: Market access, export competition and domestic support measures;
- c) A review and analysis of Brazil's success story in the agricultural sector;
- d) Constraints faced by Sub-Saharan Africa in the MTS in agricultural investment, and the position of South Africa; and
- e) Alternatives/solutions, such as, regional integration, improvement on trade policies and government intervention to lock in/implement sound domestic policies and capacity building.

⁵⁴Kessie, E. (2000), 975.

⁵⁵ For instance developing countries argued that all SDT provisions are indivisible and should be seen as a package that strikes a careful balance between the rights of developing countries and those of the developed countries. Further that if the provisions were intended to create justifiable rights, then they would not have inserted them in the WTO Agreements, moreover that nothing prevented the drafters from stating clearly that SDT provisions are merely "best-endeavour" clauses that were not capable of being enforced. Lastly, that as some developed countries had agreed to sign the Marrakesh Agreement they believed that the developed countries would honour the commitments they assumed would be in their favour. On the other hand, developed countries took a contrary view as they argued that SDT provisions should be seen for what they are: voluntary commitments assumed by developed countries in favour of developing countries; also that there is nothing in the language of SDT provisions which expresses the intention to create justifiable rights; and that if the position of developing countries was to prevail, then it would harden their negotiation positions in the Doha Development Agenda(DDA) and make them insist on full reciprocity. See also, Kessie, E. in Bermann, G. & Mavroidis, P. C. (eds) (2007),13-14.

⁵⁶ The fact that the 2006 meeting on the Doha Negotiation failed since members could not decide, it is evidenced that the Doha Negotiations have been dragged by Member states because of their wide and varied interests which they sought to protect under the ongoing negotiations.

1.5-Significance of the Research

Sub-Saharan Africa has been advocating for more SDT provisions in the on-going Doha Development Agenda due to its weak economic status, and has delayed the results of this round. According to Thomas C. Beierle,⁵⁷ agricultural trade liberalisation would raise world prices by 12% and would result in welfare gains for developing countries of up to \$21 billion annually provided only if investment and productivity gains are factored in.⁵⁸ Therefore, policies complementing agricultural trade liberalisation will reduce food prices. Also, as contended by Ingco M.D. & Nash J.D, agricultural trade liberalisation creates room for a trading system which promotes development.⁵⁹ Thus Sub-Saharan Africa needs to implement strategies complementing to agricultural trade liberalisation.⁶⁰ Though special and differential concerns are considered by most as an issue for Sub-Saharan Africa to bargain for in the ongoing agricultural trade negotiations, this research takes a different view recommending alternative and specific policies that could be adopted by Sub-Saharan Africa which suits its agricultural context.⁶¹

In a nut shell, this research will give a better understanding regarding the principle of SDT and the AoA as well as the various SDT provisions that applies to market access, export subsidies and domestic support measures. Most important, this research will enable and facilitate the decision-making process by Policy makers (governments) to favour growth and productivity despite the political realities and specific constraints faced by Sub-Saharan Africa in the agricultural sector. This research will also assist and guide stakeholders (interested in agricultural investment) on how to lobby Sub-Saharan African governments to their favour. Finally, it will make Sub-Saharan African countries to refrain from spending fabulous sums of money in advocating for SDT enlargement.

⁵⁷ This is found in an analysis conducted by the Economic Research Service of the USDA.

⁵⁸ Thomas, C. B. (March 2002) 'From Uruguay to Doha: Agricultural Trade Negotiations at the World Trade Organization.' Discussion Paper 2-13.

⁵⁹ For details see, Ingco, M.D. & Nash, J.D. (eds) (2004) 'Agriculture and the WTO: creating a trading System for Development.' Washington, DC.

⁶⁰ A lesson should be drawn from the American Policy of Isolationism/Protectionism practised during the 1930s which suffered from economic crises before the outbreak of World War II as a result of border protection from competitors as a strategy to encourage home trade industries.

⁶¹ See also, Mulleta, F.F. (2009) 'Special and Differential Treatment for Trade in Agriculture: Does it answer the Quest for Development in African Countries?' Unpublished LL.M Thesis, University of the Western Cape.

Considering Sub-Saharan Africa's comparative advantage in agriculture and mindful of the fact that it possesses almost similar features as Brazil, if it pursues proper agricultural policies which suits its specific agricultural context, it will benefit in agricultural trade at the multilateral level.

1.6- Scope of the Research

This research paper will focus on trade and agricultural investment strategies in the MTS with lessons drawn from Brazil for Sub-Saharan Africa. It will lay down an overview of the AoA and SDT provisions. Furthermore, it will discuss briefly the historical evolution of the GATT to WTO considering the fact that both SDT and the AoA got their roots from these organs. Moreover, this research will be limited to the Brazilian experience in agriculture from the 1950s. In addition, it will also limit itself to the constraints faced by Sub-Saharan Africa in the agricultural sector. Later it will be narrowed down to examine the position of South Africa in agricultural trade under the MTS. This is because South Africa⁶² has almost similar features as Brazil and notably, it is a leading Sub-Saharan African country in terms of economic growth comparable to Brazil in Latin America. Therefore, it stands out clear that South Africa can stimulate the growth trend in the Sub-Saharan African region if it draws appropriate lessons from Brazil in the multilateral and bilateral trade agreements. Finally, this research will recommend possible solutions that can serve as a way forward for Sub-Saharan Africa in agriculture.

1.7-Methodology

This research will make reference to primary and secondary sources, such as, working papers, GATT's legal text, the AoA, articles, World Bank reports; electronic sources, especially from the WTO, FAO, UNCTAD, and NEPAD websites, reports, textbooks, and other research materials. Further, a study will be made on Brazil's strategy in its agricultural sector, and its participation in the AoA. It will serve as an illuminating lesson for Sub-Saharan Africa. The case of Brazil will be examined based on the fact that both continents are located at the Tropics. Both share almost similar geographical features with a large part of Brazil having similar climatic and soil conditions as in Sub-Saharan

⁶² It is a developing country though its status in the WTO stands as being a developed country. However, the governments are in a negotiation process to retrieve their developing status back.

Africa, favouring agriculture. Secondly, Brazil and most Sub-Saharan African countries are members of the WTO and are entitled to benefit from SDT. Thirdly, Brazil has indulged in South-South cooperation as an emerging world economy and its position serves as a motivation to many Sub-Saharan African countries. This is the case with Brazil's efforts in joint research works on projects⁶³ developed in an attempt to improve agriculture in Sub-Saharan Africa in countries like Burkina Faso, Kenya, Mozambique, Tanzania and Togo.⁶⁴

1.8- Chapter Overview

This research paper is divided into five chapters as follows:

Chapter one includes the research objective, a background study to the evolution of the AoA under the original GATT 1947 to the present. It also includes discussion on the emergence of SDT under the AoA and a criticism of Sub-Saharan African countries' passive attitude in the MTS. Furthermore, it also consists of a scope and the significance of the research. It also, defines the research questions and the methodologies applied. Finally, it provides a general overview of the chapters outline.

Chapter two consists of an overview of the concept of SDT and the legal framework. It also examines the *raison d'être* (rationale) for the application of SDT and the various categories of the SDT provisions applicable to the AoA. In addition, it will examine the three pillars of the AoA: market access, domestic and export support subsidies. Then it is followed by a review of the ongoing negotiations.

Chapter three will examine the Brazilian experience in the agricultural sector since 1950 (three decades), past government policies in the post-world war period; policies complementing to agriculture and trade, and Brazil's involvement in multilateral and bilateral agreements relating to agriculture.

⁶³ It includes projects such as rehabilitation of pastures, natural resource management and the production of clean energy.

⁶⁴ World Bank, 'Africa and Brazil Form Knowledge Partnership to Boost African Agriculture' Available: <http://web.worldbank.org/> [4th May 2011].

Chapter four looks at the background introduction to agriculture in Sub-Saharan Africa and the constraints faced by agriculture. Furthermore, it will look at the South African position, its effort in the agricultural sector under the MTS and bilateral trade agreements

Chapter five provides a conclusion and recommendations to the constraints faced by Sub-Saharan African countries in agricultural trade under the MTS. Most of these recommendations will be formulated from Brazil's experience as lessons drawn.



CHAPTER 2

AN OVERVIEW FROM THE GATT TO THE WTO, THE CONCEPT OF SPECIAL AND DIFFERENTIAL TREATMENT (SDT) AND THE AGREEMENT ON AGRICULTURE (AoA)

2.1- Evolution from the GATT to the WTO

To better understand both the basic concepts of SDT and the AoA, a brief historical evolution of the GATT to the WTO is necessary in as much as both concepts originate from the GATT/WTO.

Before the coming into force of the World Trade Organisation (WTO),⁶⁵ there existed a de facto original GATT (1947). It later came into force provisionally in 1948 (presently GATT 1994). The GATT 1947 was an end product of the Havana Conference in Cuba, due to failure to establish an International Trade Organisation (ITO). During the post War reconstruction period, plans were made to construct an International Monetary Fund (IMF), International Bank of Reconstruction and Development (presently the World Bank) and the ITO at a Conference in Havana.⁶⁶ Despite successful negotiations at the Havana Conference (1948), the US Congress refused to ratify the Charter concluding the ITO.⁶⁷ Nevertheless, 23⁶⁸ member states out of which 11 were developing countries stood to sign the GATT 1947. It is worth noting that there was no formal recognition of such a group as developing countries. Moreover, the GATT did not give room for any provision covering their special needs.⁶⁹

⁶⁵ The WTO has incorporated the GATT 1994.

⁶⁶ These institutions were known as the Bretton Woods Institutions.

⁶⁷ Michalopoulos, C. (2000) 'The role of special and differential treatment for developing countries in GATT and the World Trade Organization' *Working Paper No. 2388*, World Bank, 2, Available: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=630760 [29th November 2010]. See also, Jackson, J.H. (1969) *World trade and the law of GATT: (a legal analysis of the General Agreement on Tariffs and Trade)*. Bobbs-Merrill 49-53.

⁶⁸ These countries were: Australia, Belgium, Brazil, Burma (Myanmar), Canada, Ceylon (Sri Lanka), Chile, China, Cuba, Czechoslovakia, France, India, Lebanon, Luxembourg, the Netherlands, New Zealand, Norway, Pakistan, Southern Rhodesia (Zimbabwe), Syria, South Africa, the United Kingdom, and the United States.

⁶⁹ Michalopoulos, C. (2000), 2.

The fundamental reason for GATT was to setup an international institution to encourage and regulate trade through reciprocal and mutual arrangements, addressing the growing international trade tariff, as well as correcting the effects of the Post War era; thus raising members' standards of living, ensuring full employment, large and steadily growing volume of real income and effective demand, developing full use of the world's resources in expanding production and exchange of goods.⁷⁰

Before the Uruguay round of negotiations, a series of GATT negotiation rounds existed (eight rounds of Multilateral Trade negotiations),⁷¹ and operated under specific frameworks and schedules.⁷² Most developing countries alluded to the Uruguay round amendment as an opportunity to control the 'rogue elephant' (the U.S), and its arbitrary actions (by virtue of Article 301 of its Trade Act).⁷³ In fact, the Uruguay Round at the Marrakesh Declaration (Morocco) marked a turning point to the GATT (1947). For instance, it expanded the scope of the GATT, created an annex establishing the WTO (under the Marrakesh Agreement dated April 15 1994, later came in force on January 1, 1995) and brought about further economic liberalisation which continues to date. For the very first time and due to reforms of the Uruguay round, member states accepted the concept of *Single Undertaking*.⁷⁴ This round also marks a clear departure from the traditional approach of SDT, and contributed to the enormous reductions of tariffs in industrial products. In addition, it created new trade negotiation fronts which address trade in agriculture, services and intellectual property.⁷⁵

⁷⁰ GATT (1947) Legal Text, Paragraph 2 of the Preamble, 424.

⁷¹ The various rounds include: Geneva (1947), Annecy (1949), Torquay (1951), Geneva (1956), Dillon (1960-1961), Kennedy (1964-1967), Tokyo (1974-1979), Uruguay (1986-1990) and the on-going negotiation in Doha (1994- till present). Available: <http://www.wto.org/english> [10th March 2010].

⁷² Hoda, A. (2001) *Tariff Negotiations and Renegotiations under the GATT and the WTO: Procedures and Practice*, WTO, Cambridge University Press, UK. 25-26.

⁷³ Sen, S. (1994), 'From GATT to WTO', *Economic and Political Weekly*, vol. 29, No. 43. 2802-2804. 2802 Available: <http://www.jstor.org/stable/4401936> [10th March, 2011].

⁷⁴ Single undertaking requires that all WTO members must accept jointly all the agreements administered, except for the two plurilateral agreements (Agreements on Government Procurement and Trade in Civil Air Craft), though their membership remains optional.

⁷⁵ Fukasuku, K. (2000) 'Special and Differential Treatment for Developing Countries: Does it help those who help themselves? Working Paper, No. 197, UNU/WIDER, 7. See also, Sunderland, P. (1993) 'Statement, in: GATT, News of the Uruguay Round', 2.

Comparatively, both the WTO and the GATT, maintain similar underlying principles: the Most Favoured Nation (MFN) and National Treatment (NT) principles of which member states of the WTO rely on a framework that restricts the discrimination amongst them. Notwithstanding, there exist some remarkable differences between the GATT and the WTO:

First, the GATT covered only trade in goods and did not include trade in agricultural and textile products. Whereas, the WTO covers extensively trade in services, intellectual property rights, and all goods including agricultural and textile products.⁷⁶ Furthermore, the WTO has extended its coverage on the sectors of investment, government procurement and trade facilitation.⁷⁷

Second, the WTO adopts the concept of *Single Undertaking* for members, as a strategy to implement legally binding obligations. In addition, it made provision for Plurilateral Agreements on certain sectors.⁷⁸ Whereas decision making under the GATT, was more flexible and depended upon members bargaining position. Thus while under GATT, countries could give up certain commitments, with the WTO it was not possible once acceded as a member.⁷⁹

Third, the WTO has gained credibility and legality for its highly legalised dispute settlement system covered under the Dispute Settlement Understanding (DSU).⁸⁰ The DSU acts as a central pillar of the MTS and contributes to the stability of the global economy regards dispute settlement amongst members of the WTO. For instance, it expressly spells out with greater clarity, the rules on consultation and the binding of decisions such as the *Negative Consensus*.⁸¹ In addition, while the WTO has created a

⁷⁶ These agreements are incorporated in the 1994 GATT legal text as the Results of the Uruguay Round of Multilateral Trade Negotiations which established the WTO.

⁷⁷ Among these Singapore Issues, but for trade facilitation, developing countries are a strong resistance to negotiate the two others.

⁷⁸ Agreement on Government Procurement and Agreement on Trade in Civil Air Craft which still remains optional.

⁷⁹ See also Tussie, D. & Lengyel, F. M., 'Developing Countries: Turning Participation into Influence' In Hoekman, B.M, et al (eds), (2002), 51.

⁸⁰ Mosoti, V. & Gobena, A. (2007), *International trade rules and the agriculture sector: selected implementation issues*, Food & Agriculture Organization (FAO) of the UN Legislative Study 98; Rome, Italy, 12.

⁸¹ It is principle relied upon by the Dispute Settlement Body (DSB) which states that, decisions of a dispute will be adopted unless all members oppose the findings.

standing Appellate Body which has been very active in solving disputes in the MTS, the GATT had just two provisions (Articles XXII and XXIII GATT 1947) regulating dispute settlement and it addressed just certain dispute settlement matters.⁸²

Fourth, while the GATT which started as a *de facto* organ was signed only by 23 contracting states although later expanded to 99 members by 1979, the WTO has 153 members, of which about two third is composed of developing countries.

Fifth, as regards membership, while accession by countries to the GATT was more relaxed, accession by countries to the WTO is very complex as prospective members must undergo an accession period. For instance, it took China about 13 years to accede to the WTO while Russia has been under accession since June 1993.

As mentioned earlier, in Chapter one, both the WTO and GATT are composed of a Rule Based system (the MFN and NT Principles).⁸³ It is aimed at promoting fair and freer trade competition, the predictability of binding and transparency principles, and encouraging development and economic reforms. It is worth noting that, the WTO is sometimes described as a 'free trade institution' (basing on its rules based system which is dedicated to open, fair and undistorted competition).⁸⁴ It is therefore classified within three frameworks: Substantive obligations⁸⁵, WTO Exceptions⁸⁶ and the WTO Dispute Settlement Mechanism (Annex 2 of the GATT).⁸⁷

Conclusively, the historical evolution of GATT to WTO laid down an in depth analysis of both the concepts of SDT and the AoA which originated from the failure to establish an ITO.

⁸² WTO, (2004) *A Handbook on the WTO Dispute Settlement System* Cambridge University Press, UK. 112-122.

⁸³ WTO, (2008) 'Understanding the WTO', World Trade Organisation, Geneva, Switzerland. 10-11.

⁸⁴ WTO (2008), 11-12.

⁸⁵ This constitutes the concepts of Non-Discrimination, Reciprocity, Enforceability of Commitments and Transparency.

⁸⁶ These consist of General Exceptions (Article XX), Exceptions to rules on Non Discrimination (Article XIV), Quantitative Restriction (article XI (2)) and Exceptions to SDT (Part IV).

⁸⁷ Hoekman, B.M., (2002) 'The WTO: Functions and Basic Principles', in Hoekman, B.M., Mattoo, A. & English, P. (eds) *Development, Trade, and the WTO: A Handbook*. Washington, DC: World Bank, 47.

2.2-The Principle of Special and Differential Treatment (SDT)

2.2.1-Origin of the Concept of SDT

The genesis of the concept of SDT is wide and varied. The concept of SDT began since the inception of the original GATT (1948-1955).⁸⁸ As mentioned earlier in chapter one, out of the 23 signatories of the GATT (1947), 11 were developing countries.⁸⁹ Neither were these developing countries formally recognised nor were there any special provisions (exceptions) under the GATT Agreements that covered their rights and obligations. However, in subsequent trade negotiations, their interest were recognised and annexed in the GATT agreements.⁹⁰ Thus special and differential treatment was later initiated in order to address the trade interest of this group of developing country members.⁹¹ Thus the SDT concept became prominent and was incorporated in subsequent trade negotiations as an exception to the two basic principles of the WTO Agreements.⁹²

By virtue of the MFN principle: 'any benefit, favour, privilege, or immunity with respect to customs duties and charges granted by any contracting party to products originating or destined from any other country shall be accorded immediately and unconditionally to all like products originating from other WTO member countries'.⁹³ Whereas, the National Treatment principle stipulates: 'no member state shall discriminate between imported products from member countries against domestic products of the home country'.⁹⁴ Thus, it is upon these two basic principles that the platform of the WTO rules based system solely relies. As it is interpreted, it deals with equal treatment for all members and no discrimination irrespective of economic disparity.

⁸⁸ SDT was annexed as one of the instruments of the Marrakesh Agreement that established the WTO.

⁸⁹ They were Brazil, Burma (Myanmar), China, Ceylon (Sri Lanka), Chile, Cuba, India, Lebanon, Pakistan, Southern Rhodesia (Zimbabwe) and Syria. See also, Michalopoulos, C. (2000), 2.

⁹⁰ WTO Secretariat, (1999), 11.

⁹¹ It is worthy to note that the original GATT strictly observed the non-discrimination principle without recognising the presence of the 11 developing countries which stood out of the 23 country members. See also Kessie, E. (2007), 15.

⁹² For details on the history and evolution of SDT, see also, Hudec, R.E. (1987), 'Developing Countries in the GATT/WTO Legal System'; Michalopoulos, C. (2000); Fukasaku, K. (2000); and Whalley, J. (1999) 'Special and differential treatment in the Millennium Round', *The World Economy*, Vol. 22, No. 8, 1065-1093.

⁹³ See WTO Legal Texts: The Results of the Uruguay Round of Multilateral Trade Negotiations, GATT (1947), Article I, 424.

⁹⁴ See GATT, (1947), Article III, 427.

In the 1950s, owing to the accession of a number of newly independent countries, the fundamental objective of the GATT's rules based system was challenged. Upon the basis of developing countries weak economies, they argued that it was unjust to compete on a level playing field with well-established industrialised countries under the MTS.⁹⁵ Based on their argument and considering their trade needs, at the Marrakesh Agreement the idea of SDT was then annexed in the GATT/WTO. However, in the GATT, there is still no certain and precise legal definition of the concept of SDT. Whatever the case, multiple and varied definitions have been advanced regarding SDT's structure and the manner of its application under the MTS. According to Ceara, SDT is defined as 'measures to compensate developing countries for the structural asymmetries existing between them and the developed countries'.⁹⁶ Alternatively, SDT can be defined as those special rights and privileges accorded to developing member countries of the GATT with due exclusion of developed countries.⁹⁷

The rights and privileges under SDT in its various forms are made available only to developing countries without extension to their developed counterparts. These privileges take into account the economic imbalance and developmental needs of both groups under the MTS. The application of such a concept of SDT has resulted to an unfolding debate pertaining to legal enforceability⁹⁸ and criticism that there is no precise/standard criterion according to which GATT/WTO classifies developing countries as regards benefits in SDT preferences. It is evidenced that, designation by member states was and still, is by self-selection regardless of members' economic status. Thus the criterion remains a self-selection process. It seems therefore that, the WTO does not bother to set any standard criteria for determining economic status of its members.⁹⁹ The aim of the preferences under SDT is to grant developing countries

⁹⁵Kessie, E. (2000), 959.

⁹⁶Ceara, M. 'Special and Differential Treatment and the WTO: The Greater Caribbean this Week' Available: <http://www.acs-aec.org/column/index21.htm> [31 October 2010]. These structural asymmetries are expressed mainly in reduced access to technology, finance deficiencies in human resources and infrastructure which have resulted in the low systemic competitiveness of developing countries.

⁹⁷Whalley, J. (1999), 1066, see also (For definition on SDT) Garcia, F.J. (2004) 'Beyond special and differential treatment' *Boston College of International Comparative Law Review*, Vol. 27, 292.

⁹⁸ See Kessie, E. (2007), 12-35. (It expounds on the debate of the legal enforceability of SDT under GATT Agreements).

⁹⁹ Under the WTO, members form part of a category of developing countries through self-designation, while LDC's form part of the UN category accepted by WTO members. For instance, South Africa during accession self-designated itself as a developed country while China still has its status as Developing

leeway to access the markets of industrial countries and also to have a policy discretion that permits them to protect their own domestic markets.¹⁰⁰ One thing is certain: there is still no official definition of what constitutes a 'developing country'.¹⁰¹ During the 1954-55 GATT review session, three main provisions were adopted as agreed upon to address the needs of developing countries. Amongst them, two provisions (Article XVIII and Article XVIII (B)) permitted developing countries in their early stage of development to implement quantitative import restrictions (whenever deemed necessary),¹⁰² whereas, Article XVIII(C) was revised to allow the imposition of both tariffs and quantitative trade restrictions in order to support infant industries.¹⁰³ Considering the imprecision in the definition, SDT is interpreted as follows:

The term 'special and differential treatment' (SDT) has a narrow meaning in the WTO. It describes preferential provisions that apply only to two groups of members: developing countries (DCs) and the least developed (LDCs).¹⁰⁴

As mentioned earlier in Chapter one, from the very beginning of the GATT, SDT was never intended as part of the GATT Agreements. Surprisingly, SDT was later integrated into GATT Agreements in an attempt to promote trade liberalisation, overcome the economic weaknesses of developing member countries in the MTS and the difficulties faced during the implementation of the GATT rules.¹⁰⁵ The interest of SDT is expressed by the wordings of paragraph two of the Preamble of the WTO as follows; that, the parties to this agreement:

although graduated from being called a Developing Country. See also Pangestu, M. (2000) 'Special and Differential in the Millennium: Special for whom and How different' *World Economy* Vol.23: Issue 9, 1285-1302.

¹⁰⁰Oyejide, T. A. (2002) 'Special and Differential Treatment' In Hoekman, B. M. et al (eds), 504.

¹⁰¹Michalopoulos, C. (2000), 2.

¹⁰² They included a strategy for long term development for monetary reserves in times of Balance of payment problems.

¹⁰³Michalopoulos, C. (2000), 4.

¹⁰⁴ IISD, (2003) 'Special and Differential Treatment', IISD Trade and Development Brief, No 2 of Series, International Institute for Sustainable Development prepared by IISD Swiss Agency of for Development and Cooperation (SADC); see also Oyejide, T. A., in Hoekman, B. et al (eds), (2002), 504.

¹⁰⁵ See Kessie, E. (2007), (On the origin of SDT), 16. The arguments put forth by developing countries led to the redrafting of Article XVIII of the 1954-1955 GATT review session, inclusion of Article XVI: 4 on exemption on export subsidies, Article XXVIII *bis* on flexibility of tariff protection in GATT and the adoption of Part IV (it comprises Articles XXXVI, XXXVII & XXXVIII) which compelled developed countries to offer trade concessions to their developing counterparts thus increasing their trade opportunities. In this regard, a Committee on Trade and Development was mandated to monitor the application of this Part IV (all this was done effectively after the adoption of the Enabling Clause by contracting member states)

[R]ecognizing further that there is need for positive efforts designed to ensure that developing countries and especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development...¹⁰⁶

Thus this expresses the concern of WTO members to take into account the special interests of developing and least developed countries. Therefore certain measures were to be implemented in order to easily accommodate these countries in the MTS.

2.2.2-The Raison D'être of SDT under the Multilateral Trading System (MTS)

The raison d'être for integrating SDT provisions within the GATT Agreements relates to the arguments raised by developing countries.¹⁰⁷ The reasons are many and cover a range of differing and dynamic views of developing countries needs and requirements of the international system.¹⁰⁸ One of the main ideas for SDT rests on the economic disequilibrium in the MTS that exists between the developed and developing member countries, to the favour of the developed countries. The consequence of such economic disequilibrium raised the concern of developing country members at the WTO. Since SDT was made prominent during movements towards trade liberalisation, upon the accession of newly independent developing countries to the GATT in the 1950, they kept insisting for more SDT. Ardently, they argued and even opposed the single undertaking principle, but demanded for more and flexible trade preferences from their developed counterparts. The situation is expressed by Hudec R as follows:

[I]n particular, developing countries have consistently denied the relevance to themselves of the twin GATT concepts of 'equal treatment' and reciprocal trade liberalization. Arguing that 'equal treatment of unequals is unfair', developing countries have demanded discrimination in their favour under the general rubric of 'special and differential treatment' or, more recently, 'differential and more favourable treatment'. Arguing that reliance on the market thwarts economic development, developing countries have insisted

¹⁰⁶ GATT Legal Text, (1994) Marrakesh Agreement Establishing the WTO, 4.

¹⁰⁷ See WTO Ministerial Conference Paper, (Nov 2001), WT/MIN (01)/ST/138, (Presented by Chair Person of SADC Ministers of Trade on the Rationale of S&DT), 1. See also Michalopoulos, C. (2000), 15.

¹⁰⁸ Page, S., & Kleen, P. (2005) *Special and differential treatment of developing countries in the World Trade Organization*, EGDI Secretariat, Ministry of Foreign Affairs, Sweden, 4.

on their need to introduce protection at home while receiving market access and preferential treatment abroad...¹⁰⁹

Thus, developing countries sought to achieve two preferences under the GATT. First, they intend to achieve the rights to Import-restriction Measures in order to protect their infant industries as against the imports of developed countries. Second, they sought to achieve the right to preferences that will enhance their access to developed country markets. However, other reasons for developing countries interest in SDT as follows:

First, developing country members under the original GATT base their claim on the existence of economic disparity (differences). They argued that, considering the weak nature of their economic and financial status, they cannot compete effectively with developed countries on a level playing field.¹¹⁰ Therefore, on grounds that one size does not fit all and for reasons of economic disparity, developing countries requested for special treatment as a disadvantaged social group.¹¹¹ Since, most developing countries saw the need for SDT as a better solution to integrate themselves in to the MTS, they kept advocating for more and more extension. They regard SDT as a solution to help prevent the situation, wherein a lion's share would keep going to the lions, while the poor lambs would themselves be swallowed up in the process.¹¹² However, they need to prove to be tough in order to grab a lion's share.

Second, in the 1950s, developing countries alleged that, SDT is a means to solve their problem of permanent Balance-of-Payment difficulties.¹¹³ However, owing to the views of Singer-Prebisch, if developing countries are given a preferential market access to developed countries' markets, it will boost the exports of their home domestic products. Thus, it will offset the effects of secular decline in their terms of trade as well as improve

¹⁰⁹Hudec, R. E. (1987), 12.

¹¹⁰Sarkar, P. (1986), 'The Singer-Prebisch hypothesis a statistical evaluation', *Cambridge Journal of Economics*, vol.10, No. 4, 355-371.

¹¹¹ Stevens, C. (2002) 'The future of Special and Differential Treatment (SDT) for developing countries in the WTO' Institute of Development Studies (IDS), Working Paper 163, Brighton, Sussex, BN 1 9RE, England, United Kingdom, 6.

¹¹²See Singer-Prebisch doctrine stated by Streeten, (1981), 217 in Sarkar, P. (1986), 370.

¹¹³Whalley, J. (1999), 1067. See also Trade Measures on the Balance-of-Payment Purposes 194, 'Declaration on Trade Measures Taken for Balance-of-Payments Purposes', adopted on 28 November 1979, (L/4904), Articles XII & XVIII: B GATT.

their economic growth.¹¹⁴ However, this can be possible only if they are able to produce enough agricultural products. For instance, Sub-Saharan Africa (a developing country region) is unable to produce much in order to compete with developed countries. In this light, most developing countries look at trade liberalisation as a hindrance to their infant industries since their economy is reliant mostly on the colonial style of commodity exports. Thus they sought to use protective tariff and non-tariff barriers; export subsidies and control policies as a strategy to pursue and promote industrialisation and diversification.¹¹⁵

Third, in an attempt to meet up with the standards in the MTS, developing countries faced many challenges as they factored in a lot of resources (such as accessing new markets and setting up of production standards). These difficulties arose due to lack of adequate trained workers, less capital and the availability of fewer subsidies. Thus intend they believe that SDT will help adjust their policies so that they can meet up with the commitments of the MTS.¹¹⁶ On this view, they turned to rely on SDT preferences such as market access to developed countries' markets and the provision of technical assistance as a way out under the MTS.¹¹⁷ It is worthy to note that a higher proportion of developing countries' economies is composed mostly of the primary sector.

Last, because most developing countries have a fragile economy and mindful of the fact that it is costly in an attempt to implement the MTS rules, SDT was relied upon as a remedy. As such developing countries were to be given special treatment in order to easily facilitate their integration into the MTS.¹¹⁸ It is evidenced by the very poor nature of their background in trade. For instance, upon accession of newly independent developing countries to the GATT, the market share of most developing countries in world trade is very minimal. As mentioned earlier in chapter one, Sub-Saharan African countries market share in world agricultural trade is stagnating and has declined continuously. However, most developing countries attribute this decline to

¹¹⁴Whalley, J. (1999), 1067.

¹¹⁵Michalopoulos, C. (2000), 3.

¹¹⁶Page, S. & Kleen, P. (2005), 6. See provisions of the WTO on implementation principles; by virtue of Article 41(1) of the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) members are required to bring their domestic laws on enforcement of intellectual property rights in conformity with the provisions of the Agreement.

¹¹⁷Michalopoulos, C. (2000), 17.

¹¹⁸Kessie, E. (2007), 12.

marginalisation in the MTS and that they incur very heavy costs in implementing WTO rules which becomes cumbersome and onerous.¹¹⁹

From a general perspective, the *raison d'être* of SDT is the cornerstone for most developing countries bargaining position (in the ongoing GATT/WTO negotiations). Initially they sought to protect their domestic markets; later on, they requested for more preferences on access to developed country markets on a non-reciprocal basis. However, developing countries laid their claim for SDT on two main grounds: protecting their infant industries against their developed counterparts and seeking of preferences to access developed country markets.

2.2.3-The Six Classes of SDT Provisions and their application to the AoA

When the special needs and concerns of developing countries were recognised under the GATT, SDT was incorporated gradually under a series of negotiation Rounds ranging from 1947.¹²⁰ The mode of SDT provisions are grouped into six various classes.¹²¹ Most of these provisions have given room for an unfolding debate as regards the extent to which they are legally enforceable.¹²² The six classes of SDT could also be identified under two categories: Positive Actions and Exemptions. First, Positive actions commits developed member countries of the WTO to provide preferential and differential treatments to their developing counterparts (especially to Least-developed and Net-Food Importing developing countries-NFIDCs). Second, with Exemptions, developing countries are given the right to undertake lesser and flexible commitments in the MTS unlike their developed counterparts.¹²³ The six categories of SDT as well as the provisions applicable to the AoA are as follows:¹²⁴

¹¹⁹ Michalopoulos, C. (2000), 15.

¹²⁰ For details on the evolution of SDT from the inception of the GATT till present, see also Page, S. (2004) 'The Evolution of Special and Differential Treatment in the Multilateral Trading System, A working paper prepared for International Centre for Trade and Sustainable Development Workshop 6 December 2004, London, Overseas Development Institute.

¹²¹ See the WTO Committee on Trade and Development, Special and Differential Treatment Provisions in WTO Agreements and Decisions: Special Session, Note by Secretariat, TN/CTD/W/33, (8 June 2010)

¹²² For an analysis of how the WTO and Appellate Body interpreted the SDT Legal Provisions, recourse can be made to Kessie, E. (2007), 22–35.

¹²³ See also Mulleta, F.F. (2009), 22-23.

¹²⁴ The AoA contains fourteen SDT provisions incorporated under four different categories. See also WTO, (8th June 2010), Committee on Trade and Development, Special and Differential Treatment Provisions in WTO Agreements and Decisions: Special Session, Note by the Secretariat TN/CTD/W/33, 17.

2.2.3.1- Provisions aimed at increasing trade opportunities for developing countries

With regards to this class of GATT/WTO Agreements, the provisions are aimed at committing WTO members (especially the developed countries), to adopt and rely on measures to increase trade opportunities of their developing counterparts (especially the Least Developed countries).¹²⁵ This category consists of fifteen provisions established under the various Agreements, and just one under the AoA. With this class, developed members are obliged to grant preferential market access to products of developing member countries. This is aimed at stimulating developing countries' exports industry and to enhance exports earnings dealing with the problem of balance-of-payments (BOP). On this premise, developing countries are exempted from the MFN rule regarding trade with their developed counterparts. These benefits are possible under the Generalised System Preference, introduced under the Enabling Clause,¹²⁶ criticised for making developing countries become passive actors in the MTS.¹²⁷ Regarding the AoA; this category of SDT is enshrined in paragraph 5 of the preamble as follows:

Having agreed that in implementing their commitments on market access, developed country Members would take fully into account the particular needs and conditions of developing country members by providing a greater improvement of opportunities and terms of access for agricultural products of particular interest to these Members, including the fullest liberalization of trade in tropical agricultural products as agreed at the Mid-Term Review, and for the growing of illicit narcotic crops;...¹²⁸

¹²⁵ See Article XXXVI & XXXVII under Part IV of the GATT.

¹²⁶ This clause allows developed WTO members to take action favouring developing countries without the need to accord the same treatment to other members. The enabling clause's measures include the GSP, non-tariff measures under the GATT, regional and global trading arrangements between developing countries and special treatment for the least developed countries.

¹²⁷ For detail information, see Decision on Differential and More Favourable Treatment, Reciprocity, and fuller Participation of Developing Countries, L/4903, BISD 26S/203 (28 November 1979) (Enabling Clause), Para. 2(a), Available: <http://jiel.oxfordjournals.org/content/6/2/507.full.pdf+html> [23rd January 2010].

¹²⁸ See WTO Legal texts on AoA, 33.

This class of SDT provision is considered a positive action *per se* because it obliges the developed member countries to consider the trade needs of their developing counterparts (such as enhance market access), in order to encourage them to diversify their agricultural production in the multilateral trade thereby avoiding the sale of illegal products like narcotics.

2.2.3.2- Provisions that require WTO members to safeguard the interests of developing countries

This category of SDT contains 43 provisions under the various GATT Agreements. As regards its role, developed countries are obliged to take cognizance of the special and differential situation of their developing counterparts. They are to protect and exempt developing countries from all mishaps in any attempt to impose measures on constructive safeguard remedies¹²⁹ and/or anti-dumping duties,¹³⁰ which they foresee are likely to affect the trade interests of developing countries.¹³¹ However, none of these SDT provisions are found under the AoA. As noted, they are classified under positive actions.

2.2.3.3- The Flexibility of commitments, actions and the use of policy instruments

Akin to this SDT category, WTO members aim at motivating and encouraging the participation of developing countries with the introduction of flexibilities and trade concessions. Developed members of the WTO therefore decided to respect the principle of Non-reciprocity with their developing counterparts,¹³² removing certain commitments on tariffs in order to stimulate developing countries participation in international trade. As it applies, developing countries were given the rights to assume

¹²⁹ See WTO Legal Texts, Article 9.1 on the Agreement on Safeguard Measures, which is also Article 15 Antidumping Agreement, which obliges developed countries but it is not enforceable as in the locus classicus of 'European Communities Anti-Dumping Duties on Imports of Cotton-Type Bed Linen from India, Panel Report', WT/DS141/R (30 October 2000), Para. 6.229. In this dispute, 'constructive remedies' was interpreted as an alternative to accept price undertakings instead of imposing anti-dumping duties. But it was rejected because it appeared to have no positive obligation on the undertaking party. For detail information, see also Kessie E. (2007), 27.

¹³⁰ See, Agreement on Implementation of Article VI of the GATT 1994, signed 15 April 1994, entered into force 1 January 1995, LT/UR/A-1A/3 (Anti-Dumping Agreement), Article 15, 43.

¹³¹ Mitchell, A.D. & Voon, T. (2009), 'Operationalizing Special and Differential Treatment in the World Trade Organization: Game Over', *Global Governance*, vol. 15, 343.

¹³² See GATT (1994), signed 15 April 1994, entered into force 1 January 1995, LT/UR/A-1A/1/GATT/1 (GATT 1994), art. XXXVI: 8. See also Ad Art XXXVI: 8; Enabling Clause, Para. 5

fewer and lesser obligations under the various Agreements.¹³³ But with the AoA,¹³⁴ developing countries are given the privilege of flexibility under government support measures;¹³⁵ furthermore, to assume fewer and lesser obligations such as reducing tariffs by 24% (on average) over 10 years (Developed Countries by 36% over six years) while on each tariff line, they are to reduce by at least 10% (Developed Countries by 15%).¹³⁶ Regarding trade distorting domestic measures, developing countries are expected to reduce such measures by 13.5% over 10 years (Developed Countries by 20% over 10 years). As regards export subsidies, developing countries are to reduce their value and volume by 24% and 14%, respectively, over 10 years (Developed Countries by 21% and 36%, respectively, over six years); whereas Least Developing countries were exempted from any reduction commitments.¹³⁷ It is worth noting that the provisions of this category (of the AoA) are not positive actions for they do not obliged members to take in to account the concerns of developing countries.

2.2.3.4-Provisions of transitional time-periods of member countries under the WTO

This provision gives developing country members the freedom of longer time periods to comply with their fewer and lesser obligations under the MTS, unlike their developed counterparts. It is worth noting that almost all WTO Agreements¹³⁸ makes provision for longer transitional time periods for developing countries. However, that is not the case with Anti-Dumping and Pre-Shipment Inspection Agreements as both takes a different approach regarding time periods and flexibility. Regarding the desirable form of compliance in both, developing countries have to decide either on whole or just certain provisions of the said Agreements.¹³⁹ As stated in the AoA, developing countries were

¹³³ See, WTO Committee on Trade and Development, Special and Differential Treatment Provisions in WTO Agreements and Decisions: Special Session, Note by the Secretariat TN/CTD/W/33. 17, (8 June 2010).

¹³⁴ Under the AoA, they are nine provisions which are enshrined under this class of S&DT. They are: Articles 6.2; 9(b) (iv); 9.4; 12.2; 15.1; Annex 2, Para. 3; Annex 2 Para.4, on Domestic Food Aid and Annex 5, Section B, all of the AoA.

¹³⁵ The measures could be direct or indirect which aim at encouraging agricultural and rural development programmes with the use of investment subsidies. See also, Article 6.2 AoA.

¹³⁶ WTO Legal Texts, Article 6.4(b) on the AoA, 39.

¹³⁷ WTO Legal Texts, Article 15.1 and 15.2 on the AoA, 39.

¹³⁸ See for example GATT legal text, Article 27.3 Subsidies and Countervailing Measures (SCM), on the various TRIPS and TRIMS Agreements.

¹³⁹ See Kessie, E. (2007), 32. See Also WTO Secretariat.

given a ten year flexibility term for the implementation of their reduction commitments (Developed Countries were given six years), whereas Least Developed countries were not required to undertake any reduction commitments.¹⁴⁰ However, this transition period is no longer valid for developing country members since the time allocated has expired.

2.2.3.5-Provisions relating to technical assistance for Developing Country members

In this category of positive actions, the WTO Secretariat and developed country members are obliged in most of the WTO Agreements.¹⁴¹ They are committed to provide technical assistance to their Developing and Least Developed counterparts in order to enable them to participate actively and effectively in the MTS. Technical assistance is expressed in various forms: technology processing, research and infrastructural development, training, and the seeking of technical expertise in the various domain of trade. In fact, this is one of the primary bases upon which developing countries rest their interest regarding SDT. Despite this, Sub-Saharan Africa need not over rely on the gestures, but should rather put in more effort and commitment so that it can benefit as Brazil had.

2.2.3.6-Provisions aimed at assisting Least Developed Country members

This category is aimed only at guarding and protecting Least Developed Countries.¹⁴² Although SDT provisions are stated for Developing countries, this category is made special only for least developed countries basing on the UN classification criteria on countries economic status. Three of the provisions under this category are definitely positive actions and are applicable to the AoA.¹⁴³

From a general perspective regarding the concept of SDT, one could say that, though its form and flexibility appears acceptable and though necessary for developing country members; it is not adequate enough to rely solely on SDT. It needs to be complemented

¹⁴⁰ See WTO Legal Texts, Article 15.2 on the AoA.

¹⁴¹ See Article 9 of the Sanitary and Phytosanitary Measures (SPS) Agreement, wherein members agreed to provide technical assistance to Developing countries either bilaterally or via an appropriate international organisation.

¹⁴² Mitchell, A. & Voon, T. (2009) 'Operationalizing Special and Differential Treatment in the World Trade Organization: Game Over', 346.

¹⁴³ See, WTO Legal Texts, Articles 15.2 (dealing on SDT reduction commitments); 16.1; and 16.2 (Both Articles deal only to Least developed countries and NFIDCs) on the AoA.

with other trade strategies. Whatever the case, the view of this paper is not to build any solid argument or detailed dynamics on SDT validity, but rather to establish and illustrate an overview of the concept for a better understanding before going into the crux of the matter. In this light, an overview of the AoA will follow suit, considering the fact that it also contains the basis of the subject-matter under discussion.

2.3-The Agreement on Agriculture (AoA)

2.3.1- Introduction to and the Raison D'être for the AoA under the Multilateral Trading System (MTS)

As mentioned earlier in chapter one, ever since the beginning of the GATT (with a Plethora of Rounds ranging from the signing of the Uruguay Round Accord in 1994), the most controversial issue has been the ongoing negotiations on agriculture.¹⁴⁴ For instance, since post-World War II, industrial countries like the US (and Japan), sought to protect the agricultural sector because in an attempt to expand their manufacturing industries, it led to a simultaneous decline in their agricultural sectors. For instance, in Japan (1968), the income of non-agricultural products increased and surpassed that of the agricultural products, thereby leading to decline in the number agricultural workers, and a shift of active agricultural population to the non-agricultural industrial sectors.¹⁴⁵ It is worthy to note that, non-tariff barriers to agricultural imports were to be tariffied while bound tariffs were scheduled in order to phase out reductions. Also, farm productions and export subsidies were to be reduced (mostly between 1995 and 2000), in order to prevent chaos in agricultural trade in the years prior to the formation of the WTO.¹⁴⁶

Finally, the AoA came into existence a decade ago owing to the Marrakesh Declaration establishing the WTO.¹⁴⁷ Despite the fact that from the very beginning agricultural trade

¹⁴⁴For details on the history of and rationale for the AoA under the GATT, see Anderson, K. (1998) 'Agriculture, WTO, and the Next Round of Multilateral Trade Negotiations' School of Economics and Centre for International Economic Studies, University of Adelaide, SA 5005 . For details on Agricultural protectionism, see also, Josling, T.E., Tangermann, S. & Warley, T.K. (1996), 'Agriculture in the GATT' St. Martin's Press, New York, USA. 275-285.

¹⁴⁵ Masaki, M. (2007) 'Active Agricultural Population in Post War Japan' *The Developing Economies*, Vol.7 Issue 2, p 159-169 Available:<http://onlinelibrary.wiley.com/doi/10.1111/j.1746-1049.1969.tb00527.x/pdf> [31st October 2010].

¹⁴⁶ See Anderson, K (1998), 1.

¹⁴⁷ Recourse can be made to Para. 1 of the preamble on the AoA which states that the long term objective is 'to establish a fair and market-oriented agricultural trading system', See also article 20 AoA which sets the base for the reform process of the AoA.

was given very little importance, the AoA later gained a legal status incorporated into the GATT legal text. It was aimed at setting the basis of its negotiation through the launching of a reform process of the Uruguay Round, regarding the *three pillars of the AoA*, and also to take a first step forward to achieve its long term goals as stated in the preamble.¹⁴⁸ It is in this light that the discipline of the agreement on Market Access, Export Subsidy and Domestic Support came into existence. By virtue of Article 20 of the AoA, these pillars were negotiated under the reform process (Built in Agenda) as elaborated below.

2.3.2-The Legal Framework of the AoA and its structures

Since the inception of the GATT, Agricultural negotiations, has been a controversial issue under the AoA. It is worth noting that the AoA rests on three pillars: Market Access, Domestic Support, and Export Subsidies. This structure was not mandated arbitrarily, but was dictated by the GATT because of the very nature of its loopholes that needed the AoA to plug them.¹⁴⁹ Considering the controversies that surround the AoA, Desta describes the three pillars as a 'three-pronged plug' into the agriculture specific loop holes under the GATT,¹⁵⁰ which has therefore extended under the Doha Round of trade negotiations.¹⁵¹ They are as follows:

2.3.2.1- Market Access

Market access is the most controversial and indispensable agenda under the AoA. It simply refers to the terms and conditions under which agricultural products (goods and services) could be imported within WTO member countries.¹⁵² This could be done either when member countries relax their borders by phasing out or reducing NTBs or tariffs, respectively against foreign products. Though GATT had a preference for tariffs over NTBS, the need for import restrictions was solely for the generation of tax revenue, enforcement of internal health protection, protection of home industries, and technical

¹⁴⁸ See, Para.2 of the Preamble of the AoA.

¹⁴⁹ Desta, M. G. (2006), 3.

¹⁵⁰ Desta, M. G. (2006), 3.

¹⁵¹ For details on current issues on agriculture see Hhanrahan, C.E. & Schnepf, R. (2007) 'WTO Doha Round: The Agricultural Negotiations' *The World Trade Organization: another round*, CRS Report for Congress, 87.

¹⁵² Desta, M. G. (2006), 8. For definition on Market access, see Goode, W. (2003) *Dictionary of Trade Policy terms* (4thed) New York, Centre for International Economic Studies, Cambridge University Press, 232.

regulations which led to varying forms of barriers imposed by member countries via the rights conferred on them.¹⁵³ Here two types of barriers exist: tariff and non-tariff barriers (NTBs) by which members of the GATT were solemnly bound.¹⁵⁴ The onus of justifying the imposition of agricultural import restrictions pursuant to these exceptions had always proved tough due to GATT's narrow interpretation.¹⁵⁵ It is worth noting that the task at hand which proved challenging has always been the issue of converting non-tariff barriers into their tariff equivalence during the process of 'tariffication'.¹⁵⁶ Nevertheless, under the Uruguay Round, those pre-existing NTBs were converted into their tariff equivalents. Irrespective of its consistency with GATT rules,¹⁵⁷ they were criticised for their distortive nature as NTBs (border measures), reflected in the Appellate Body's report in the *Chile-Price Band Case*.¹⁵⁸ Thus, despite an improvement in tariffication under the Uruguay Round, the system still receives criticism owing to continued future increase of very high tariffs and trade restrictions which go far beyond the former applied tariff and NTBs. It was therefore described as, 'dirty tariffication'.¹⁵⁹

Regards tariffication, both developed and developing countries were to reduce their bound tariffs on agricultural products by 36% and 24% respectively. Also, regarding their minimum tariff lines, they were to reduce by 15% and 10%, over a period of six and 10 years respectively.¹⁶⁰ In as much as the leverage is brought down by 15% minimum, developed countries will maintain the advantage of protecting their sensitive products from tariff reduction. This is possible since all they needed was to attend the required leverage (15%) irrespective of the products tariffied.¹⁶¹ In this light, member states were

¹⁵³ Desta, M. G. (2006), 8.

¹⁵⁴ See articles II and XI of GATT 1947 for the binding of tariff reduction commitments and the abolition of quantitative restrictions. For the exceptions and few others, see also Article XI:2(c) and Article XVIII which makes provision for the only agricultural specific exception in the GATT

¹⁵⁵ For details about the debates see, Sumner, A.D., & Tangermann, S. (1998), 5-6.

¹⁵⁶ See WTO Legal Texts, footnote 1 of Article 4(1) of the AoA. It enlists the NTBs that were to be converted to tariff equivalence.

¹⁵⁷ Desta, M.G. (2006), 9. See also GATT, (1994) article 4 (2), footnote 1 on the AoA concerning the tariffication exercise applied to a range of measures.

¹⁵⁸ See, Appellate Body Report, (WT/DS207/AB/R, issued on 23 September 2002, Para 200.

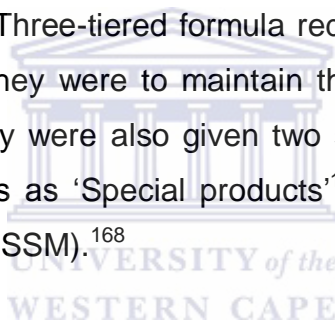
¹⁵⁹ For details on tariffication as regards the base period, See Desta, M.G. (2006), 9. s

¹⁶⁰ See Para. 5 of the WTO, Modalities for the Establishment of Specific Binding Commitments under the Reform Programme (MTN.GNG/MA/W/24), 20 Dec. 1993. See also, GATT (1994) Article 15 (2) of the AoA.

¹⁶¹ Most of the sensitive products of developed countries were not exposed to tariff reduction in as much as they could reach an overall tariff rate/cut to the required minimum. See Gifford, M. & Montemayor, R.,

obliged to establish tariff rate quotas¹⁶² at low or minimum duty rates in order to give effect to the minimum/current market access opportunity.¹⁶³ Finally, members were obliged to make special arrangements that allow for the introduction of Special Safeguard (SSG) measures on tariffed products with less stringent conditions upon the imposition of import quantity surges (quantity restriction measures).¹⁶⁴

Currently under the ongoing market access negotiations, the most contentious issue is concerned with the extent of the amount of tariff reduction to be achieved and the desired targets which placed members at extremes. For instance, the US and the Cairns Group supported the 'Swiss Formula'¹⁶⁵ which suggested harmonisation and reduction of all tariffs by 25% maximum (in an equal annual instalment of five years). Furthermore, the EC tabled a proposal, of which all tariffs were to be reduced at an overall average of 36% and a minimum tariff line of 15%.¹⁶⁶ While, Developing countries were to apply the Harbinson's Three-tiered formula reduction as regards sensitive and special products, with SSGs, they were to maintain the terms and conditions of their high unbound tariffs. Lastly they were also given two special provisions to declare an unspecified number of products as 'Special products'¹⁶⁷ for protection as well as the Special Safeguard Mechanism (SSM).¹⁶⁸



(2008) *An Overview Assessment of the Revised Draft WTO Modalities for Agriculture*, International Centre for Trade and Sustainable Development (ICTSD), 7-8.

¹⁶² For definition on Tariff Rate Quota, see Goode, W. (2003), 349.

¹⁶³ Members were to maintain the pre-existing volume of agricultural imports of 3%. For details, see also paragraph 5 of the WTO, Modalities for the Establishment of Specific Binding Commitment under the Reform Programme (MTN.GNG/MA/W/24), 20 December 1993.

¹⁶⁴ See Article 5 of the AoA whose conditions are less stringent than that of GATT article XIX. It applies annually to surges but not more than 30% of its bound rates.

¹⁶⁵ 'Swiss formula' is a term used to describe a tariff harmonization formula originally suggested by Switzerland during the Tokyo round of negotiations for tariff reductions in manufactured products.

Notably, it is not supported by the Swiss in the current agricultural negotiations

¹⁶⁶ See also The EC'S Proposal for Modalities in the WTO Agriculture Negotiations. See also Binfield, J., Donnellan, T., Hanrahan, K., Hart, C. & Westhoff, P. (2004), 'CAP reform and the WTO: Potential impacts on EU agriculture', *American Agricultural Economics Association Annual Meeting, Denver, Colorado*. Available: <https://mospace.umsystem.edu/xmlui/bitstream/handle/10355/3066/CAPReformWTO.pdf?sequence=1> [20th January 2010].

¹⁶⁷ The first original draft modalities applied the term 'Strategic Products' and was designated with the symbol 'SP' in their schedules all subjected to a uniform requirement of 10% average and 5%, per-tariff-line minimum reduction regardless of existing tariff levels.

¹⁶⁸ See details on Working Document No.5, 'Overall Reduction of Trade-Distorting Domestic Support: A Tiered Formula', 9-10. See also WTO Revised Draft Modalities for Agriculture, TN/AG/W/4/Rev.4, and 6th December, 2008.

In brief, if the proposed market access modalities are implemented as specified on paper, it will lead to substantial increase in market opportunities for developing countries into developed country markets. Notwithstanding, to an extent the benefits would depend on the production capacity of these developing countries and their contributions. For instance, Brazil as a developing country is taking advantage by improving its agricultural R&D by virtue of Article 6.2 of the AoA which tolerates domestic support measures; Sub-Saharan Africa is reluctant to develop interest in agricultural R&D due to diverse political interest.

2.3.2.2-Export Support

Generally, export support refers to 'subsidies that are contingent upon export performance' in various forms.¹⁶⁹ They are defined as 'direct payments (other financial contributions) by governments (any public body) provided to domestic producers or exporters considering the exportation of the goods or services'.¹⁷⁰ Under the SCM Agreement, they are deemed to be illegal for manufactured products since they are trade distortive *per se*, and are contingent upon export.¹⁷¹ Under the original GATT, subsidies were not subjected to any strict discipline; however member countries were obliged to notify these subsidies especially when alleged to be of any serious adverse effect on the trade interests of other country members.¹⁷² Therefore, during the 1954/55 session of the GATT, Article XVI was modified and a two-tiered distinction was made between domestic and export subsidies.¹⁷³

Export subsidies flatly prohibited by the SCM Agreement were permitted under the AoA. Two categories exist as follows: listed¹⁷⁴ and non-listed agricultural export subsidies. First, listed subsidies are subjected to reduction commitments of both volume (quantity) and value (budget) of exports. Thus as regards exports volume and value, developed countries were to reduce subsidies by 21% and 36%, respectively, at 1986-90 base period, over a six year implementation period. Whereas developing countries were to

¹⁶⁹See WTO Legal Texts, Article 1(e) of the AoA; see also Article 9 of the AoA (which contains all listed subsidies). See also, Gorter, H. et al on Export Competition Policies in Ingco, M.D. & Nash, J.D. (eds) (2004), 43.

¹⁷⁰Goode, W.(2003), 143.

¹⁷¹ See WTO Legal Texts, Article 3 Para. 1, of the SCM.

¹⁷² See Article XVI, Section A of the GATT.

¹⁷³ For details on Export subsidies, see Desta, M. G. (2006), 18.

¹⁷⁴ See WTO Legal Texts, Article 9(1) of the AoA.

reduce by 14% and 24%, respectively (only two-thirds of these obligations) over a 10 year implementation period.¹⁷⁵ It is worth noting that, by virtue of article 9 (1) of the AoA, only countries who listed their products in the schedule of commitments could benefit from listed subsidies.¹⁷⁶ Second, with non-listed export subsidies, there is no schedule of reduction on commitments. However, these subsidies were not to be applied in a manner that will result in the prohibition of export subsidy commitments.¹⁷⁷ Here, there exist three export support subsidies: export credits, export credit guarantees, and insurance programmes.¹⁷⁸ These forms of subsidies have been criticised especially by developing countries for its too many adverse effects on international trade.

At the Hong Kong Round, a vast majority of WTO members demanded a complete phasing out of all forms of export subsidies (the July 2004 package) with a dateline set for 2013.¹⁷⁹ However, the EC (a proponent of subsidies) strongly opposed both the idea of total elimination and the view of bringing it in line with the rules of non-agricultural products. Later, the Harbinson's first draft modalities proposed a formula by which 50% of export subsidies were to be eliminated over a five year period, and the other, over nine years in equal instalments.¹⁸⁰ In addition, other issues were negotiated: export credit programmes, food aid and trade distorting practices regarding state trading export enterprises.¹⁸¹ Generally, negotiations on export subsidies have raised strong and staunch responses amongst members of the WTO. For instance, the EC who is one of the highest users of export subsidies stood against the view to phasing out all export subsidies.¹⁸²

¹⁷⁵ See Articles 3(3), 8 and 9(2) (b)(IV) of the AoA.

¹⁷⁶ The countries are 25 WTO member countries; see Background paper on export subsidies by the Secretariat, TN/AG/S/8, 9 April 2002, Para. 4.

¹⁷⁷ See WTO Legal Texts, Articles 3(3) and 10(1) of the AoA.

¹⁷⁸ See WTO Legal Texts, Article 10 Para. 2, of the AoA.

¹⁷⁹ WTO, Doha Ministerial Declaration, WT/MIN(01)/DEC/1 adopted on 14 November 2001, Para.13

¹⁸⁰ For details see WTO, Negotiations on Agriculture: First Draft of Modalities for further Commitments, WTO doc. TN/AG/W/1, 17 February 2003, Paras. 28-31. See also Paras. 32-34 of these modalities regarding the approach for developing countries over a period of 10 & 12 years on value and volume, respectively. See also WTO, Work Programme: Decision Adopted by the General Council on 1 August 2004(WT/L/579, 2August 2004), also known as 'July package'.

¹⁸¹ For details, see July package Para.18.

¹⁸² WTO Committee on Agriculture 'European Communities Proposal on Export Competition G/AG/NG/W/34, 18th September 2000. Paras.4 & 5.

2.3.2.3-Domestic Support

This class of domestic support simply refers to assistance or subsidies (support) provided to agricultural producers for products used especially under the AoA, and are not contingent upon export.¹⁸³ They comprise government measures of assistance which is either via direct¹⁸⁴ or indirect¹⁸⁵ payments to agricultural producers regardless of whether the products are exported. These forms of support occur in different ways ranging from direct budgetary transfers to highly disguised forms of market price support. They are intended to guarantee certain levels of income for agricultural producers and are implemented mainly either by setting up minimum artificial market prices, which is higher than world market prices or by providing direct budgetary transfers to agricultural producers.¹⁸⁶ It is worth noting that, several domestic support measures have proved to be trade distortive in agricultural production and at the multilateral trade level whenever in an attempt to make producers/recipients better off.

Considering the trade distortive measures, the AoA adopts a 'positive list' approach, which in principle prohibits all trade distorting measures unless specifically permitted. Reasons being that, these measures are classified under three broad categories as follows: those available to all WTO members; those available exclusively to developing countries; and those available almost exclusively to developed and/or high-income developing countries. These measures are classified under three broad categories: Amber Box; Blue Box and Green Box Measures.¹⁸⁷ They are explained below as follows:

¹⁸³ Goode, W. (2003), 113.

¹⁸⁴ Direct support could be in the forms such as: decoupled from production, income support; structural adjustment assistance; direct payments under environmental programmes and under regional assistance programmes.

¹⁸⁵ Such as, research and development, disease control and food security.

¹⁸⁶ Desta, M.G. (2006), 22-23.

¹⁸⁷ For more understanding, see Chapter 6 of Ingco, M.D. & Nash, J.D. (eds) (2004), 119-146.

(a.) Amber Box Measures

From its traffic appellation, it is identified by a yellow light. These measures are noted for their significant and minimal trade distorting effects especially in market price support measures. They are prohibited to all members except the 35 member countries,¹⁸⁸ who used them during the base period (1986-88) as well as undertook the AMS¹⁸⁹ reduction commitments in their schedules. As noted, only 35 members including Brazil and three other African countries¹⁹⁰ were permitted to use these measures because during the base period, they had undertaken domestic support commitments. However, there exist an exception which grants a *de minimis*,¹⁹¹ levels of support and an SDT option made available to Developing countries. This exception has created a potential pitfall for the continual use of subsidies aligned to their huge domestic support. Reduction commitments under this category of subsidies are made applicable to total agricultural support and are not related to any specific agricultural sector.¹⁹² Despite the nature of the subsidies, several WTO Members¹⁹³ have argued in favour of a total elimination of the Amber Box Measures.¹⁹⁴ Nevertheless, this is a very crucial matter for it has not been properly decided, by member states considering that all subsidies are trade distorting *per se*.

¹⁸⁸ Argentina, Australia, Brazil, Bulgaria, Canada, Chinese Taipei, Colombia, Costa Rica, Cyprus, Czech Republic, EC, Hungary, Iceland, Israel, Japan, Jordan, Korea, Lithuania, Mexico, Moldova, Morocco, New Zealand, Norway, Papua New Guinea, Poland, Slovak Republic, Slovenia, South Africa, Switzerland-Liechtenstein, Thailand, Tunisia, United States, Venezuela. For the list, see Committee on Agriculture, Special Session, Total Aggregate Measurement of Support, Note by the Secretariat, TN/AG/S/13, 27th January 2005.

¹⁸⁹ For definition of the AMS, see GATT (1994) Article 1(a) of the AoA. Besides, the AMS covers all support provided on either a product-specific or non-product specific basis that does not qualify for exemption. Thus Developed countries are to reduce by 20% over six years, by 13.3% in the case of Developing countries over ten years and no reduction for Least Developed countries.

¹⁹⁰ They are: Papua New Guinea, South Africa and Morocco.

¹⁹¹ For a proper interpretation of the phrase *de minimis*, see Goode, W. (2003), 104.

¹⁹² Ingco, M.D. & Nash, J.D. (eds) (2004), 119.

¹⁹³ They are: Proponents for: (The Cairns group, the South-East Asian Nations-ASEAN and the US) and the opposing countries: (The EU, Japan, Switzerland, and Norway). See also, WTO for countries' proposals. Available: http://www.wto.org/english/tratop_e/agric_e/negs_bkgnd03_props2_e.htm [28th January 2011].

¹⁹⁴ For details see, Desta, M. G. (2006), 24-26.

(b.) Blue Box Measures

Blue Box Measures are direct payments of about 85% or less than the base level of production, made to farmers under production-limiting programmes, upon fixed area (yields) not subjected to reduction commitments although they met the conditions *sine qua non*.¹⁹⁵ These measures are excluded from the calculation of Total AMS and reduction commitments because they met certain important conditions. Though these measures apply to all WTO members; only nine with the EC (15 countries counted as one), have notified the WTO of the use of the Blue Box Measures, in at least one of the years (since 1995 to 2003).¹⁹⁶ Just as the Amber Box Measures, most member countries proposed to delete the Blue Box Measures from the AoA, transferring its contents into the Amber Box Measure and deal with it accordingly. However, this view receives staunch responses from proponents of the Blue Box Measures (those who have made maximum use of subsidies) as well as non-users like Switzerland and Korea (excluding the US which no longer maintains export subsidies). However, it is the US and the Cairns Group who led the camp proposing to scrap the Blue Box Measures.

Currently under the ongoing negotiations on the Blue Box Measures, the issue has been whether to retain or to scrap them? Given a critical look, the first Harbinson's modalities proposal, expresses the desire to eliminate the Blue Box Measures and put its contents in the Amber Box category. Furthermore, it suggested to either subject the Blue Box measures to reduction commitments, or to keep them as a separate category *per se*, though subjected to similar disciplines as the Amber Box Measures.¹⁹⁷ The US-EU, jointly proposed decoupling (to cap) the total value of the Blue Box Measures at 5% of the total value of national agricultural production in each member country. On the other hand, the G20 countries' proposal called for

¹⁹⁵ GATT, (1994) Article 6(5) of the AoA.

¹⁹⁶ See WTO, Committee on Agriculture on Special Session, Blue Box Support: Note by the Secretariat, TN/AG/S/14, and 28th January 2005.

¹⁹⁷ See, WTO, Negotiations on Agriculture: First Draft of Modalities for the Further Commitments, WTO document, TN/AG/W/1, 17 February 2003. Revised on 18 March 2003, 43.

the elimination of the Amber Box Measures together with Blue Box Measures. All these resulted in slowing down the ongoing negotiations.

(c.) Green Box Measures

Green Box Measures are expressly defined by virtue of Annex 2 of the AoA contained in a non-exhaustive list. Fundamentally, in order for a subsidy to qualify as a Green Box Measure, it must not distort trade or should effect at most just minimal distortion. Furthermore, funds must be provided by the government but not through higher VAT and it must not involve price support to producers.¹⁹⁸ Most of these measures are usually considered as neutral, since they do not adversely affect trade. They include government assistance on food security measures, general services (such as pest control, training, infrastructural development) and food aid. Alternatively, member states are allowed to provide an unlimited amount of direct income support to their farmers but decoupled from production decisions and trade. They could also provide income, insurance and disaster relief services on non-profit conditions, and assistance for structural adjustment, environmental and regional development programmes. However, these subsidies must not be applied in excess of the actual losses suffered or extra costs incurred by governments during implementation of the programme. In this category, it is worth noting that 83 members lodged their notifications by 2004 though they started in 1995 (implementation year). Amongst, 68 had already provided Green Box notifications.¹⁹⁹ This expresses some degree of mass improvement regards transparency, unlike the case with the Amber Box Measures.

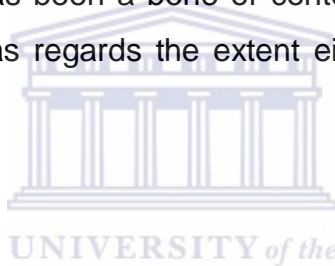
Regard the ongoing negotiations, some countries stood against the subsidies listed in Annex 2, on grounds that it is trade distorting due to huge amounts paid out by members as subsidies. In effect, they suggested abolishing it altogether, putting its contents under the category of the Amber Box

¹⁹⁸ See, WTO Legal Texts, Annex 2 Para.1 of the AoA.

¹⁹⁹ For details on Green Box Measures, see the WTO Committee on Agriculture Special Session, Green Box Measures: Note by Secretariat, TN/AG/S/10, 8 November 2004.

Measure.²⁰⁰ Thus while, others suggested putting a cap on the amount of money that could be spent, some suggested to narrow the scope of the measures which falls under the Green Box Measures, whereas a third category still proposed to enlarge the Green Box Measures with additional measures.²⁰¹ However, it should be noted that the first Harbinson's modalities draft suggested that the provisions of Annex 2 be maintained subject to minor modifications on issues regarding direct payments to producers, decoupled income support, and government financial support for income insurance and income safety-net programmes.²⁰²

From a general view as well as ongoing negotiations, the WTO distinction between trade distorting (non-green) and non-trade distorting (green) domestic support measures is contemplated at between 50-85% reductions.²⁰³ This has been a bone of contention among member states of the WTO to decide as regards the extent either to reduce and/or apply the subsidies.²⁰⁴



2.4-Conclusion

Generally, for a better understanding of the subject matter of this mini-thesis, recourse was made to both the concept of SDT and the AoA and an overview of the transition from the GATT to the WTO. It is worth noting that there is a strong correlation between SDT and the AoA regarding the participation of developing countries under the MTS, especially Sub-Saharan Africa which has a comparative advantage in agriculture.

As mentioned earlier in the concept of SDT, three concerns were raised. First, the dilemma of members not agreeing regarding the legal enforceability remains a key

²⁰⁰ See the proposal of a group of 11 developing countries in the WTO document (Cuba, Dominican Republic, Honduras, Pakistan, Haiti, Nicaragua, Kenya, Uganda, Zimbabwe, Sri Lanka and El Salvador: Special and Differential Treatment and a Development Box) G/AG/NG/W/13, 23 June 2000.

²⁰¹ See WTO Secretariat, WTO Agricultural Negotiations: The Issues, and Where We are Now, Updated December 2004. [Online]. Available: http://www.wto.org/english/tratop_e/agric_e/agnegs_bkgrnd_e.pdf [9th February 2011].

²⁰² All are found under Annex 2 of the AoA, Paras.5, 6 & 7, respectively.

²⁰³ For details on ongoing negotiation, see also Gifford, M. & Montemayor, (2008), 5-7; Desta, M. G. (2003), 28-29.

²⁰⁴ For more information concerning the Multifunctionality of agriculture and its implications, see Ingco, M.D. & Nash, J.D. (eds) (2004), 167-177.

issue which has led to an unfolding debate. Second, there exists a difficulty within the WTO to establish a good and precise legal definition for SDT. Last, there exists the inability of the WTO to set a standard and well-recognised criterion for identifying the economic status of member states under the GATT/WTO (especially the developing group). Thus this continued practice on 'self-designation', has attracted a lot of criticism on grounds that the WTO does not bother about the necessary implications, due to its inability to provide an adequate mechanism for establishing economic status of its members. Furthermore, the six forms of SDT were granted and incorporated in the GATT during the Uruguay round. However, from the very beginning, they were not intended as part of the GATT's agenda. It is worth noting that the concern of developing countries interest for more SDT lies on: protecting their infant industries against their developed counterparts, and to request for market access preferences to developed countries.

Under the concept of the AoA, the key issues discussed were basically concerned with the strategies on the various subsidies as well as determining the extent to which they could be reduced and applied without necessarily distorting trade. These issues were set out in detail under the three pillars of agriculture (market access, export support and domestic support measures) under the AoA. Despite the nice architectural design of the 'three pillars' of Agriculture under the AoA, it has to an extent failed to achieve an appropriate goal on the reduction and elimination of subsidies therefore contributed in delaying the results of the ongoing Doha negotiations. Although member states could still find it difficult to agree on certain issues they in a way agreed to eliminate and/or reduce all subsidies by 2013.

Without fear of contradiction, it could be said that, the slow nature of the ongoing negotiations is as a result of a desire by member states not agreeing on agricultural issues which is said to dictate the pace of trade negotiations in the WTO.²⁰⁵ As noted: while developing countries are more concerned about SDT, it is equally not supported by most developed countries; as well as the issue of total elimination of subsidies which is equally unsupported by some developed countries. However, the nexus between SDT and the AoA under the MTS leaves an open-ended relation from developing

²⁰⁵Mosoti, V. &Gobena, A. (2007), 85.

countries' perspective (Sub-Saharan Africa) since with a comparative advantage in agriculture they are at the same time striving for more SDT in order to fit into the MTS. This is by virtue of the fact that about 70% of the GDP of most developing economies is obtained from the agricultural sector.



CHAPTER 3

BRAZILIAN AGRICULTURE UNDER THE MULTILATERAL TRADING SYSTEM (MTS)

3.1- Introduction

Since the inception of SDT, Brazil was amongst the few developing countries that benefited from its application. Considering the fact that, both Sub-Saharan Africa and Brazil has a similar feature, a Brazilian experience in agriculture since the 1950s would be a good ground for Sub-Saharan Africa to draw lessons. In order to better understand the Brazilian position and success in agricultural trade, a brief background history of Brazil and the agrarian reform is necessary.

Brazil is the world's fifth largest country and includes about one-half of the land mass in South America.²⁰⁶ It is bordered by its Latin American neighbours²⁰⁷ except Chile and Ecuador.²⁰⁸ As a 'continent',²⁰⁹ it is fundamentally differentiated from its Latin American neighbours. For instance, it contains abundant and huge natural resource potential for growth,²¹⁰ amplified by the availability of usable land space which is mostly composed of a tropical, but temperate climate in the south. This unique feature is as a result of its geographical position which crowns it the largest country in South America. Its location is complemented by a highly diversified ecological environment which makes it suitable for the production of a wide range of agricultural products.²¹¹

In 1822, Brazil gained independence and was later proclaimed a Republic by the military government in 1889. At that point in time, Brazil was politically dominated by

²⁰⁶ The total area of Brazil is 8,514,877 sq km, an area slightly smaller than the US. See, the World FactBook Available: <https://www.cia.gov/library/publications/the-world-factbook/geos/br.html> [23rd February 2011].

²⁰⁷ Brazil's border countries and land boundaries include: Argentina 1,261 km, Bolivia 3,423 km, Colombia 1,644 km, French Guiana 730 km, Guyana 1,606 km, Paraguay 1,365 km, Peru 2,995 km, Suriname 593 km, Uruguay 1,068 km, Venezuela 2,200 km; except Chile and Ecuador. See The World Fact Book, Available: http://www.indexmundi.com/brazil/land_boundaries.html [23rd February 2011].

²⁰⁸ Momsen, R.P. (1968), *Brazil: a giant stirs*, Princeton, N.J: Van Nostrand, Canada, 7.

²⁰⁹ It is called a 'Continent' because of its landmass and its influence within its Latin American Neighbours.

²¹⁰ Brazil has a huge deposit of natural resources such as bauxite, gold, iron ore, manganese, nickel, phosphates, platinum, tin, rare earth elements, uranium, petroleum, hydropower, timber.

²¹¹ However, it is worthy to note that Brazilian trade, social and agricultural policies have also contributed massively to the success of its Agricultural sector.

Coffee exporters,²¹² until the rise to power of populist leader, Getulio Vargas in 1930. Furthermore, Brazil in 1985 underwent more than half a century of populist and military rule before the regime peacefully ceded power to civilian rulers.²¹³

After 20 years of civilian rule, the economy of Brazil became stable and continued to enjoy rapid development/solid economic growth and became one of the world's emerging economies (as a result of strong and well-developed industrial and agricultural sectors with expansive natural resources, accompanied with a large pool of labour force).²¹⁴ The Brazilian economy dominates the South American continent and it stands as an initiator and/or active participant of the *Southern Common Market* (MERCOSUR),²¹⁵ and many international organisations such as the International Bank of Reconstruction and Development (IBRD), International Monetary Fund (IMF), World Health Organisation (WHO), World Intellectual Property Organisation (WIPO), and the United Nations (UN) and the WTO (Joined upon formation in 1st January 1995).²¹⁶

As the world's fifth most populated country, it has an estimated population of 201,103,330 (July, 2010 est.).²¹⁷ Moreover, the economy is rated the tenth largest in the world and has definitely become one of the world's largest agricultural exporters. Despite the effects of the 2008 global financial crisis, Brazil in 2010 succeeded to revive the confidence of its consumers and investors as it recovered from its down turns. As a result of this success, it was ranked the world's eighth best largest economy with a

²¹² Before the coffee boom, coffee was intended for home consumption. It was cultivated on the hillsides around the city of Rio de Janeiro in the 1760s. It later became a regular item of trade from 1813 onward. See, Becker, B.K. & Egler, C.A.G. (1992), 68.

²¹³ Momsen, R.P. (1968) Chapter 2.

²¹⁴ The most important successes of Brazil resulted from: a) entrepreneurship of its farmers, b) availability of basic infrastructure, c) large extension of agricultural land and adequate climatic conditions, d) suitable landscape for mechanization, e) good physical soil characteristics and f) availability of mineral resources, such as limestone and phosphate essential for overcoming limitations to farming in the tropical acid soils. Available: <http://labexkorea.wordpress.com/category/agricultural-research-in-brazil/> [27th March, 2011]

²¹⁵ Brazil: Agric-food 'Past, Present and future Report', Canada, February 2009. Available: <http://www.ats.agr.gc.ca/lat/4034-eng.htm> [23rd February, 2011].

²¹⁶ CIA, World

FactBook. Available: <https://www.cia.gov/library/publications/theworldfactbook/fields/2107.html?countryName=Brazil&countryCode> [23rd February 2011].

²¹⁷ IndexMundi. Available: <http://www.indexmundi.com/brazil/population.html> [22nd February, 2011]; See also CIA, World Fact Book: Available: <https://www.cia.gov/library/publications/the-world-factbook/geos/br.html> [23rd February 2011].

purchasing power parity of \$2.194 trillion (2010 est.).²¹⁸ Today, Brazil is South America's leading economic power and regional leader with an attractive scene for investment in agricultural products. Nevertheless, Brazil still suffers from the problem of highly unequal income distribution and crime which remains a pressing matter. In January 2010, Brazil assumed a non-permanent seat at the UN Security Council for the period 2010-11.²¹⁹

The confidence created by the Brazilian economy to consumers and foreign investors contributed in developing a conducive environment for Brazil's agricultural commercialisation and investment. This is one of the underlying successes of Brazil's strategic growth in promoting and encouraging economic and social development as well as fostering poverty alleviation. It is worthy to note that, prior to the world financial crisis in 2007 inflation was stable at 4% with an economic growth rate of 5.4%. Concurrently, agriculture was growing at a rate of 5.3%, the industrial sector followed with 4.9% and the service sector with 4.7%. Empirically, the transition of the Brazilian economy over the past few years from export-led to demand-led growth has been at an unstable but steady rate predicting progress and expansion in the economy. In fact, these shifts helped the Government of Brazil (GOB), to pay off its debt, lowered interest rates, and cut back spending. It resulted in a trade surplus of \$24.7 billion in 2008 including a total export of \$197.9 billion and imports of \$173.2 billion.²²⁰ In summary, Brazil's economy is characterised by a large and well developed agricultural, mining, manufacturing, and service sectors. It outweighs that of other South American countries. Its presence in the world market has been expanding due to its realised GDP of \$2.194 trillion (2010 est.).²²¹

The agricultural evolution in the Brazilian economy could be traced in a series of waves emanating from specific export booms ranging from the transformation of rural employment and incomes, to the expansion of an enormous land frontier. It is worth

²¹⁸ CIA, World Fact book: Available: <https://www.cia.gov/library/publications/the-world-factbook/geos/br.html> [23rd February, 2011].

²¹⁹ Index Mundi, Available: <http://www.indexmundi.com/brazil/background.html> [13th March 2011].

²²⁰ USDA, (February 2009) *Macro Economic Situation and trends*, Agricultural Economy and Policy Report of Brazil, Available: <http://www.fas.usda.gov/country/Brazil/Brazil%20Agricultural%20Economy%20and%20Policy.pdf> [23rd March 2011].

²²¹ Index Mundi, Available: <http://www.indexmundi.com/brazil/> [29th February 2011].

noting that until the 1940s, economic growth in Brazil was almost entirely dependent upon the cultivation of few key agricultural commodities such as coffee and sugar.²²²

3.1.1-The Role of Agriculture in the Brazilian economy

Brazil is a major agricultural player in the MTS. Its fertile land and recent advanced farming techniques transformed the country from a net-food importer to a net-food exporter. This transformation was partially due to the available agricultural land in use (approximately 230 million hectares) which comprises of a total of about 6.9% of arable agricultural land in use,²²³ with 0.89% permanent crops²²⁴ and 92.18% of others crops²²⁵ (2005 est.).²²⁶ The agricultural sector makes a major contribution to the Brazilian economy for it stimulated economic growth and foreign exchange earnings. According to John Waino:

Brazil's agricultural sector is the country's largest employer. Most of the growth in agricultural output during the last 10 years has come in the form of productivity gains, as farmers adopted new technologies and lowered costs in order to deal with competitive pressures caused by real exchange rate appreciation, the opening of markets to international or regional competition, and rising real wages. Higher yields have resulted from improved seed and pest control management and increased use of fertilizer and irrigation.²²⁷

In 2008, the agribusiness sector (including production, processing, and distribution) contributed up to 25% of Brazil's GDP (crop production and related inputs comprised

²²²Goldin, I. & De Rezende, G.C. (1990) *Agriculture and economic crisis: lessons from Brazil*, Development Centre of the Organisation for Economic Co-operation and Development, OECD, France: Paris, 10.s

²²³ The agricultural land in use consists of cultivated lands for crops such as wheat, maize, and rice.

²²⁴ Permanent crops includes: citrus, coffee, and rubber that are not replanted after each harvest. Lands of such crops include lands under flowering shrubs, fruit trees, nut trees, and vines, excluding lands under trees grown for wood or timber.

²²⁵ 'Others' is construed to mean any land not used for arable or permanent crops, but includes permanent meadows and pastures, forests and woodlands, built-on areas, roads, barren land, etc.

²²⁶ Index Mundi, Available: http://www.indexmundi.com/brazil/geography_profile.html [13th March, 2010], See Waino, J. (May 1998) 'The Future of Brazil's Agricultural Sector', *Agricultural Outlook*, 34-38, USDA 35.

²²⁶USDA, (Feb. 2009) 'The Economy as it relates to Agriculture', *Agricultural Economy and Policy Report-Brazil*, Available: <http://www.fas.usda.gov/country/Brazil/Brazil%20Agricultural%20Economy%20and%20Policy.pdf> [13th March 2011].

²²⁷Waino, J. (May 1998), 35.

18%, while livestock and related inputs accounted for about 7%). The contribution of Brazil's agribusiness on overall exports was 36% in 2008.²²⁸ Considering this, the economy is gradually becoming one of the world's largest agricultural exporters. According to the *Agência de Notícias Brasil-Árabe* (ANBA), the activity of Brazil's agricultural sector, grew by 6.5% in 2010, and is ranked second among the country's top-growing sectors. Furthermore, Brazil's economy grew by 7.5% last year (with agricultural contribution of 180.8 billion Reals (US\$ 109 billion)) coupled with a GDP of 3.675 trillion Reals (US\$ 2.1 trillion).²²⁹

According to FAO statistics (2008), Brazil is one of the world's top eight producers of at least twenty-eight different agricultural commodities.²³⁰ As mentioned earlier, being a number one coffee producer for more than a century, Brazil is currently a leader in sugar and frozen concentrated orange juice with a world market share of 82%.²³¹ Brazil is ranked second in tobacco, ethanol, cattle meat (beef and poultry) and soybean production and is the largest in commercial cattle herd.²³² The main export products in Brazil consists of coffee, soybeans, wheat, rice, corn, sugarcane, cocoa, citrus, beef, while import commodities includes machinery, electrical and transport equipment, chemical products, oil, automotive parts, and electronics (which favours agriculture).²³³ Agricultural commodities have played a vital role in stimulating Brazil's growing trade deficit. For instance, an average annual growth rate of Total Factor Productivity (TFP) of Brazilian agriculture between the period 1975-1998, and 1998-2002 was estimated at about 3.3% and 5.7% respectively. It was rated of having a signified growth and trade balance higher than the 1.8% growth rate achieved by US agriculture during 1948 and 2002.²³⁴ Also, Brazilian agricultural GDP (all goods and services produced) from 2000-

²²⁸ See also, Agricultural Economy and Policy Report, 'The Economy as it relates to Agriculture' *Agricultural Economy and Policy Report – Brazil*, February 2009,

²²⁹ *Agência de Notícias Brasil-Árabe* (06/03/2011), 'Over ten-year period, agriculture leads economic growth' Available: <http://www2.anba.com.br/busca.kmf?id=3v51khptces3fh9wo8g> [15th March 2011].

²³⁰ FAOSTAT, Available: <http://faostat.fao.org/desktopdefault.aspx?pageid=339&lang=en&country=21> [15th March 2011].

²³¹ Pellin, D.C. (2008) 'Agriculture in Brazil', Sector Report (Revised), UK Trade & Investment,3, Available: www.uktradeinvest.gov.uk [15th February 2011].

²³² FAOSTAT, Available: <http://faostat.fao.org/desktopdefault.aspx?pageid=339&lang=en&country=21> [15th March 2011].

²³³ Index Mundi, Available: <http://www.indexmundi.com/brazil/> [29th February 2011].

²³⁴ Gasques, et al., (2004) in Chaddad, F.R., Josling, T.E. & (ed) 2006, 'The evolution of agricultural policies and agribusiness development in Brazil' *A publication of the American Agricultural Economics Association*, Vol. 21, No. 2, 85-90.85.

2010, grew annually at 3.67% (on average) with a country's overall GDP of an annual average growth of 3.59%.²³⁵

During the post-war economic growth in Brazil (1950 to 1980), the economy received much attention on specialisation in and available attempts at agricultural development. Since 1950, the attention was centred on a structural change and sustained industrialisation with strong backward linkages into its intermediate capital goods sector.²³⁶ During this period, the Brazilian agricultural sector witnessed a series of drawbacks and government interventions.²³⁷ Thus due to the adoption of the Import Substitution Industrialisation strategy (ISI) and the rush to open markets and new technology, it led to high levels of indebtedness as a result of too much reliance on credits as well as inadequate infrastructural development of storage and transport facilities. Moreover, most of the soils were chemically poor and required high inputs of fertilisers in order to control the acidity content and replace the minerals which were very costly and led to high level of resource wastage. A review of Brazilian agriculture and policies would be recounted in two broad periods: The period of 1950 to 1980 (three decades before the AoA) and from 1980 onwards (the period of liberalisation).

3.1.2-A Review of Brazilian Agriculture and Past Government Policies

Before the advent of structural changes in the Brazilian agricultural sector, the economy (during the colonial era) was solely a traditional supplier of farm products such as coffee and sugar.²³⁸ These changes date back to the early 1900s owing to an anti-agricultural bias of import substitution.²³⁹ However, during the 1940s, foreign competition

²³⁵ ANABA report by Sophia Gebrim, (06/03/2011) An analysis by the coordinator for Strategic Planning at the Ministry of Agriculture, Livestock and Supply, José Garcia Gasques. Available: www2.anba.com.br [26th March, 2011].

²³⁶ Graham, D.H.; Gauthier, H. & de Barros, J.R.M. (1987),1.

²³⁷ The Brazilian economy has a long history of government intervention in the agricultural sector ranging from its introduction in the 1940s for food security concerns as well as the adoption of the import substitution industrialisation beginning from the 1950s. For details, see Graham, D.H., Gauthier, H. & de Barros, J.R.M. (1987).

²³⁸ Back in the 1890s, coffee production in Brazil was intended for domestic consumption. However, due to increase in World demand for the product, it became a commercial cash crop experiencing a coffee boom in the 1890's with Brazil producing about 60% of the World's Coffee. See, Nicholls, W.H. (1970) 'The Transformation of Agriculture in a Semi-Industrialized Country: The Case of Brazil' in Thorbecke, E. (ed) *The role of agriculture in economic development*. UMI London /New York, 318-319, Available: <http://www.nber.org/chapters/c11887.pdf> [15th March 2011].

²³⁹ During this period, more support was given to the industrial sector rather than the agricultural sector. For instance, the GOB protected the agricultural sector via the implementation of high import taxes. See, Nicholls, W.H. (1970) in Thorbecke, E. (ed), 327.

diminished, and importable goods became scarce. Accompanied with a fall in the demand of primary products, the GOB was forced to reduce coffee stocks to manageable proportions while accumulating large foreign-exchange balances.²⁴⁰ Due to these changes, it implemented strategies in order to revive/transform the agricultural sector into a semi industrialised country.²⁴¹

It is worth noting that the Brazilian agricultural sector has undergone a series of evolutionary and structural changes in agricultural development including the problems faced and the specific roles/policies found in the different segments implemented by the society to tackle the problems.²⁴² Below, the evolution of Brazilian agriculture would be reviewed in two broad chapters (in phases: 1950-63, 1964-73, 1973-80 and from 1980 to present) dwelling on the institutional and policy changes as well as the various strategies implemented in capitalising the agricultural potentials (a response to the drawbacks).

3.1.2.1-The Institutional Evolution of the Brazilian Agricultural Sector before the AoA

The success story of the agricultural sector in Brazil is complemented by a series of transformations from the last three decades (prior to the AoA). These periods ranges from 1950-63, 1964-73 and from 1973-80.

(A)- The Period 1950-63

This period marked the beginning of horizontal expansion in Brazilian agriculture.²⁴³ During this period, Brazilian overall agricultural exports products accounted for over 90%. Under the ISI, the GOB implemented import substitution strategies²⁴⁴ which predominated and penalised exports. The main idea was to attract funds from external

²⁴⁰ Nicholls, W.H. (1970) in Thorbecke, E. (ed), 327.

²⁴¹ The Brazilian economy went across a trend of from Import Substituting Industrialisation (ISI) to export promotion and import liberalisation, then to multilateral and regional agreements. See also Nicholls, W.H. (1970) in Thorbecke, E. (ed). 311-386.

²⁴² Cardoso, E. (2009) 'A Brief History of Trade Policies in Brazil: from ISI, Export Promotion and Import Liberalisation to Multilateral and Regional Agreements', Paper Prepared for the conference on Political Economy of Trade Policy in the BRICS. March 27-28, 2009, New Orleans, LA.

²⁴³ Agricultural expansion was accompanied with the incorporation of new lands, especially along the agricultural frontier, with the advent of aggressive road construction. See, Baer, W. (2001) *The Brazilian Economy: Growth and Development* 5th ed. Praeger Publishers, USA, 400.

²⁴⁴ The GOB implemented high exchange rates, tariffs and non-tariff barriers for imported products.

financing in order to increase economic growth.²⁴⁵ As part of its strategy, mechanisms were implemented such as overvalued exchange rates, floodgate of quotas, tariffs, import licensing, direct government investment (subsidies) and import prohibitions on agricultural export activities were implemented.²⁴⁶ The protectionist view of the GOB was to implement a policy that could, stimulate supply (agricultural products) in the domestic market before it could allow exports from other countries in to the Brazilian territory. Akin to this, the Brazilian economy began to grow (a direct consequence of horizontal expansion) at a tremendous pace between 1949 and 1969 as agricultural GDP increased at a rate of 4.2% each year.²⁴⁷ In order to achieve this setback, selected agricultural imports such as machinery and tractors were given favourable exchange rates at lower taxes.²⁴⁸ Reason being that, in the 1930s and 1940s (the period of Great Depression and World War II), Brazil was isolated from the rest of the globe because of the practice of isolationism. Thus ISI was at the forefront being the main strategy to the GOB in an attempt to achieve economic growth.²⁴⁹ Nevertheless, the strategy did not last longer for its bias in favour of the industrial sector.²⁵⁰

As regards the balance of trade, the Brazilian economy experienced a net implicit taxation of agriculture through its foreign trade policies. Although the population of Brazil represented about 3% of the 1990 world's population, its share in global trade was estimated at less than 1% for half a century.²⁵¹ As earlier mentioned, during the period of protectionism (1930-1960), ISI was the sole strategy for external financing by which the GOB could adopt and rely upon. For instance, the GOB implemented a food pricing policy which targeted solely urban consumers on the sale of domestic food crops

²⁴⁵Baer, W. & Villela, A.V. (January 1974) 'Industrial Growth and Industrialization: Revisions in the Stages of Brazil's Economic Development', *Journal of Developing Areas*, Vol.7:No.2, 217-234.

²⁴⁶Cardoso, E. (2009). 5.

²⁴⁷ HO, R. (2 June 2005) 'Brazil as a Major International Agricultural Player of Soybeans', E297C-EDGE, 4.

²⁴⁸For instance import barriers were lowered for certain production inputs but were erected for certain imports that competed with national productions; See also Graham, D.H.; Gauthier, H. & de Barros, J.R.M. (1987), 2.

²⁴⁹Cardoso, E. (2009), 2.

²⁵⁰Graham, D.H.; Gauthier, H. & de Barros, J.R.M. (1987), 5.

²⁵¹ Cardoso, E. (2009), 2.

in the urban milieu. This marked out a market shift of resources into industries thereby contrasting sharply with the slow development of manufacturing before mid-1950s.²⁵²

Notably, during the first phase of post war agricultural growth, the agricultural sector was accompanied with continued expansion of traditional export crop-activity. For instance, coffee expansion was noted in the Brazilian cities of Western Sao Paulo²⁵³ and Parani²⁵⁴ associated with intensive labour force and sharecropping system (under tenancy arrangements). It is worth noting that the modernisation of agricultural production in the south of Brazil was limited to selected areas of mechanisation complemented by the use of imported tractors and other farm technological inputs. However, the federal government did very little regarding agricultural research as a result of inadequate finance, poor administration as well as underinvestment in human capital. Notwithstanding, research efforts were initiated by the state of Sao Paulo in the coffee and cotton sectors.²⁵⁵ As mentioned earlier, the lack of commitment by the public sector in agricultural investment was affiliated to a bias in the agricultural sector through foreign-trade, exchange-rate, domestic-pricing policies and increased politicisation of agricultural development policies on land-reform debates.²⁵⁶

During the early 1960s, Brazil experienced a trade growth marked with a coffee boom from the late 1940s though it was accompanied with many controversies.²⁵⁷ This resulted in a public debate on issues for prospects on structural reforms (in the form of

²⁵² Cardoso, E. (2009), 5.

²⁵³ Sao Paulo is the most populous Brazilian state and the largest city in the Southern Hemisphere. Available: <http://brazilgeeks.com/brazil-travel-info/sao-paulo-brazils-largest-city/> [15th March 2011].

²⁵⁴ Parana is a Brazilian frontier state located in the south which began in the 1930s and settlement there was completed by 1970. Available: <http://en.db-city.com/Brazil/Paran%C3%A1> [15th March 2011].

²⁵⁵ Graham, D.H.; Gauthier, H. & de Barros, J.R.M. (1987), 3.

²⁵⁶ Graham, D.H.; Gauthier, H. & de Barros, J.R.M. (1987), 3. For further details on issues on land reform, see also Cehelsky, M. (1979) 'Land Reform in Brazil: The Management of Social Change', Boulder, Colo.: Westview Press, USA; and William, R. C. (1970) 'Economic Consequences of a Land Reform in Brazil' Amsterdam: North Holland Publishing Co.

²⁵⁷ It consists of increased regional disparities emerging from the bias of economic policies favouring the South over the Northeast with serious consequences for resource allocation, regional equity, and patterns of internal migration. See Graham, D.H.; Gauthier, H. & de Barros, J.R.M. (1987), 'For regional disparities emerging in Brazil', see also Baer, W. (April 1964) 'Regional Inequality and Economic Growth in Brazil' Economic Development and Cultural Change. Vol. 12: no. 3. 268-285.

agrarian and tax reforms) which were accompanied by the lessening of regional income disparities aimed at broadening the domestic market to meet its equity goals.²⁵⁸

Finally, this period of Brazilian Agriculture was marked with a positive supply response as well as in other Latin American countries. Thus in case of any short fall in the performance of the ISI, it would have been attributed to 'urban' and 'anti-export' protectionist bias policies rather than to any negative effect of structural deficiencies in output. Therefore, this could be attributed to the protectionist policy (the ISI strategy) implemented by the GOB during the period of the Great Depression (the 1930s) and the effects of World War II (1940s).

(B)-The Period 1963-73

The second phase of post-war agricultural growth is a bit characterised with gradual transition from the ISI strategy implemented by the GOB back in the 1950s. It also marks the beginning of conservative modernisation from 1970²⁵⁹ as well as a slight transition from the inward-oriented import-substitution policy to an outward-oriented export-substitution regime (strategy).²⁶⁰ Later, the GOB gradually abandoned the protectionist policy in favour of trade liberalisation. As a good response to the impacts of protectionism, liberalisation was pursued as improvements were made on trade and exchange rate policies. During 1964, Brazil instituted a military administration under a military coup government which downplayed and eliminated significant land reform measures. It was aimed at promoting accelerated industrial growth which could attract massive and new foreign investment.²⁶¹ However, this was not a pro-agricultural view for it resulted in significant bias against the agricultural sector with many issues left undone. These issues included inadequate finance from the public sector leading to

²⁵⁸ For details on the debate on reforms concerning economic disparity of Brazil, see also Neri, M. C. & Camargo, J.M. (1999) 'Macroeconomic Fluctuations and Income Distribution in Brazil', Available: <http://www.eclac.org/publicaciones/xml/1/4561/lcl1275i.pdf> [25th March, 2011].

²⁵⁹ This strategy was practised especially by President Collor upon accession to the Brazilian Presidency. It comprised a bit of Liberal, Ecological and Social Democratic agendas with the aim to redistribute power within the elite away from the old to the modern owing to protected capitalism, inefficient, paternalistic capitalists behaviours practised in the past. For details on conservative modernisation, see also, Schneider, B.R. (1991) 'Brazil under Collor: anatomy of a crisis', *World Policy Journal*, vol. 8, no. 2, 321-347. 325.

²⁶⁰ Graham, D.H.; Gauthier, H. & de Barros, J.R.M. (1987), 3.

²⁶¹ Collier, D. (ed) et al (1980) *The new Authoritarian in Latin America*, Princeton University Press, New Jersey, USA, 3.

under investment in human capital, rural education, public health programmes as well as lack of agricultural research.²⁶²

Nevertheless, during the transition period (1960s), an extensive coffee eradication program was instituted accompanied with new varieties of agricultural products. It was aimed at increasing productivity as well as reducing the oversupply of coffee that existed during the boom period (1950s). This programme spurred a relative increase in the output of domestic food-crops such as import-substitution on the promotion of domestic wheat. Furthermore, it laid a foundation for expansion of non-coffee agricultural exports such as soybeans and citrus products. In addition, new frontier areas were created in Goias and southern Mato Grosso for the expansion of domestic food crops; later it was extended to non-traditional exports.²⁶³ According to Cardoso E, the growth of trade during the 1960s and 1970s opened the doors for an agrarian and tax reforms debate.²⁶⁴

Coupled with these attempts (from the 1930s to the early 1960s), a dominating strategy in the Brazilian economy was long established through the ISI in order to promote the manufacture of domestic agricultural inputs. These inputs included the use of tractors and related agricultural equipment, fertilizers and chemical inputs. Concurrently (1964), in an attempt to promote a more rapid modernisation of agricultural production, Brazilian policy makers laid emphasis on stabilising and reforming the structure of its financial markets. In order to achieve its goal, increase credit concessions were made and adopted as an important instrument of agricultural policy which aimed to attract/encourage investment in the sector.²⁶⁵ Furthermore, measures were implemented to eliminate price distortions that worsened the decade of inflation, as follows: government expenditure was curtailed, the wage sector was squeezed and the tax collection mechanism was improved with the institution of a Capital Market Law in 1965.²⁶⁶ Gradually, there was a transition from the ISI strategy towards a period of trade liberalisation.

²⁶² Collier, D. (ed) et al (1980), 130.

²⁶³ Graham, D.H.; Gauthier, H. & de Barros, J.R.M. (1987), 4.

²⁶⁴ Cardoso, E. (2009). 2.

²⁶⁵ ABCC 'Investments in Brazil: An Overview' Market Development, 2. Available: <http://www.ambassadedubresil.com/pdf/Investments%20in%20Brazil.pdf> [20th March 2011].

²⁶⁶ Baer, W. (2001), 74.

In conclusion, the second phase of post war economic growth could be termed a more relaxed period moving from protectionism, despite the existence of certain constraints on agricultural export activities. Besides, this period was characterised by a relative rise in domestic food-crop outputs, increased land concentration, implemented foundation for the production of domestic input supplies, mass introduction of agricultural mechanisation through cheap rural credit as well as the existence of area expansion. Regarding productivity, most of the increase was due to the placement of new lands under cultivation rather than the use of old agricultural areas to increase productivity.

(C)- The Period 1971-80

The third phase of post war agricultural growth is characterised by a profound expansion of exports in agricultural commodities particularly in both processed and semi processed agricultural products. It was considered a step forward to promote manufactured agricultural exports as well as stimulate economic development.²⁶⁷ In order to accomplish its goal, more efforts were made to expand and diversify the country's export structure. For instance, financial institutions were modernised, tax incentives were properly put in place in order to attract funds for backward regions like the south of Brazil especially in sectors like agriculture while government infrastructures were improved in the later sixties.²⁶⁸ Thus, in the early 1970s, the overvalued exchange rate system (on the implicit taxation policy on agricultural policies) was reduced though not eliminated. However, the underlying issue was neither to complete trade liberalisation nor to achieve a good exchange rate policy, rather it was setup as a relative price protectionist's strategy intended to offset subsidies contingent upon exports (export incentive subsidies).²⁶⁹ It is worth noting that way back in the 1940s, where agricultural trade was highly protected prior to the GATT (1947) there was much use of export subsidies. The expansionist's policy promoted growth in processed and unprocessed soya bean export products due to government intervention via providing support to farmers. Nonetheless, it created room for discrimination in favour of industry over agriculture. For instance, the domestic food crops in Southern Brazil were being displaced by industrial exports. With this, it resulted in an interest in agricultural

²⁶⁷ Graham, D.H.; Gauthier, H. & de Barros, J.R.M. (1987), 4.

²⁶⁸ Baer, W. & Villela, A.V. (January 1974), 233.

²⁶⁹ Graham, D.H.; Gauthier, H. & de Barros, J.R.M. (1987), 4.

mechanisation transforming the labour market (both in the Southern and South Eastern Brazil), from a tenancy system based on sharecropping arrangements to a large and growing temporary nonfarm-resident (seasonal labour force).²⁷⁰ As perceived from the trend taken (from a more government protectionist's view to a pro-trade liberalised implementation policies), the policy atmosphere of this phase seems more relaxed than the previous ones.

It is worth noting that during the mid-1970s, agricultural credit²⁷¹ reached proportions that were almost equal to the total gross value of agricultural outputs marking an improvement from the old school practice. This however led to a large diversion of funds for non-agricultural purposes as well as the substitution of borrowed capital by farmers through government loans. Consequently, it resulted in a substantial rise of an annual rate of inflation of between 40%-50% coupled with fixed nominal lending rates for agricultural borrowers at 15%.²⁷² It resulted in high negative real interest rates for the Agricultural Bank of Brazil²⁷³ with only few borrowers able to contribute significantly to the wealth and income distribution in rural Brazil.²⁷⁴ This was accomplished through the establishment of a new regional shift in agricultural production, a restructured and financed national agricultural research strategy.

First, through a new regional shift in agricultural production, alcohol was derived from sugar cane and manufactured as imported gasoline and biodiesel fuels.²⁷⁵ This product accounted for over 73% of Sugar Production in the state of Sao Paulo.²⁷⁶ Thus, the practice of subsidising cane cultivation (for ethanol production) at the expense of agricultural resources resulted to a debate on land availability.²⁷⁷ Second, due to a restructured and financed national agricultural research strategy, effort was made to

²⁷⁰ Graham, D.H.; Gauthier, H. & de Barros, J.R.M. (1987), 5.

²⁷¹ This credit was provided by the GOB intended solely for agricultural expansion.

²⁷² The *Banco do Brasil* is a principal lending source to Brazilian farmers for agricultural development. See Baer, W. (2001), 280.

²⁷³ In Portuguese it is Banco do Brasil.

²⁷⁴ Graham, D.H.; Gauthier, H. & de Barros, J.R.M. (1987), 5.

²⁷⁵ This is very common in Brazil today and Brazil is noted worldwide for ethanol production.

²⁷⁶ For details on an overview of Brazil's ethanol production, see De Oliveira, M.E.D.; Vaughan, B.E. & Rykiel Jr, E.J. (2005) 'Ethanol as fuel: energy, carbon dioxide balances and ecological footprint', *Bioscience*, JSTOR, 593-602.

²⁷⁷ Due to the fact that the total agricultural land in use was small, the issue of agricultural diversion to the production of ethanol was a problem because it led to a debate which sought to evaluate the amount of agricultural resources attempted to be foregone for sugarcane expansion. See also, Graham, D.H.; Gauthier, H. & de Barros, J.R.M. (1987), 5.

substitute domestically manufactured agricultural inputs with the use of tractors and agricultural machinery, fertilizers and chemical inputs (pesticides, herbicides, and fungicides) for imported products.²⁷⁸ This led to marked improvement and change in Brazilian agriculture crowning the period of modernisation.

Unlike the first phase of agricultural growth (1950-1960), from the mid-1970s, farmers were pushed to pay considerably high import prices for farm products. This practice (under the import substitution strategy) became very costly in the earlier period. This was as because the costs of insurance and freight (CIF) were included. This shift was accompanied with the expansion of export-crop activity such as soybeans which was cultivated mostly in the Central West region (especially Southern Mato Grosso) with other agricultural activity in the Amazon region.²⁷⁹ This was marked by rapid growth with a series of structural changes composed of agricultural exports dated from late 1960s to 1981-82. In particular, during the mid-1960s, the shift to unprocessed agricultural exports accounted for roughly 73% of the total exports while total agricultural exports accounted for 84%. Spontaneously by 1978, semi and completely processed agricultural products expanded at a remarkably fast rate at 29% of the existing total exports.²⁸⁰ The dynamics of agricultural growth and diversification in the Brazilian economy was accounted for by transition from the export-substitution to trade liberalisation strategy. This was the very best of the responses which accompanied total elimination of both export protectionists and overvalued exchange rate policies that were noted for the existing distorting characters and severe inequities in the Brazilian agricultural sector.

Generally, the Federal Government of Brazil in 1973 instituted and launched a National Research Agency (EMBRAPA). Its basic aim was to put in effect major international agricultural research centres with comprehensive investments focusing on a broad variety of crops in different ecological settings and most important was the implementation of the 'Agricultural Priority' programme. First, a substantial amount of investment in human capital was negotiated in the form of scientists trained in the field

²⁷⁸Graham, D.H.; Gauthier, H. & de Barros, J.R.M. (1987), 6.

²⁷⁹World Bank, (1981) 'Brazil: Integrated Development of the Northwest Frontier' A World Bank Country Study (Washington, D.C.: World Bank

²⁸⁰ Graham, D.H.; Gauthier, H. & de Barros, J.R.M. (1987),17.

of agricultural sciences in many different international centres and foreign universities. Second, a new emphasis was developed on research in order to improve the productivity of small farmers. Third, efforts were made to discover technological breakthroughs in response to increase yields in the acidic soils of the frontier region (the Cerrado) of the Southeast and Central West of Brazil.²⁸¹

Conclusively, an analytical response on the evolution of past agricultural growth and institutional policies of Brazil expressed strong government protectionist's intervention and later gradual trade liberalisation (1950-1980). By virtue of this evolution, the Brazilian agricultural output composed of twelve major crops (out of which seven are exports and five were of major domestic products) accounting for over 98% of all total crop outputs in that period.²⁸² More specifically, Brazilian agriculture performed well in its transition over the post war period (1950-80). For instance, Agriculture grew at a rate of 4.5% per year (on average) from 1950 to 1965 and almost about 5% per year (on average) from 1965 to 1980. This period disclosed responsive changing incentives and the opportunities that existed among Brazilian producers. Back in the 1950s, Brazil's agricultural drive and export performance was built around a set of traditional tropical crops such as coffee, sugar and cacao which underwent a series of trade booms. Today, it has contributed to the country as a key player in international trade via the practice of modernisation and crop diversification especially on agricultural exports products.

3.1.2.2-The Institutional Evolution of Brazilian Agriculture from 1980 and the AoA

From 1980, the growth of Brazilian Agriculture entered a new era highlighted by moves towards an AoA established under the Uruguay Round. Thus during the late 1980s, the GOB after learning from its past mistakes,²⁸³ adopted liberal and diversified multilateral trade policies which contributed enormously to the food and agricultural sector.²⁸⁴ Brazil, being one of the most heavily protected economies in the world, later in the period of

²⁸¹Graham, D.H.; Gauthier, H. & de Barros, J.R.M. (1987), 6.

²⁸²Graham, D.H.; Gauthier, H. & de Barros, J.R.M. (1987), 8-9.

²⁸³During this period, the Brazilian economy was marked by a high and skyrocketing level of inflation, instability and trade distortions which were results of protectionist policies.

²⁸⁴Chaddad, F.R. & Jank, M.S. (2nd Quarter 2006) 'The evolution of agricultural policies and agribusiness development in Brazil', *A publication of the American Agricultural Economics Association*, vol. 21: no.2, 85, Available: http://www.granos.agr.br/stored/1202821874_97371.pdf [21st March 2011].

1988 to 1995, experienced a trend of improved trade. Thus its average nominal tariffs fell from 43.4% (1987) to 13.9% (1995) leading to a simultaneous fall in the rate of protectionism from 55.8% to 20.0%. This improvement impacted largely on the ratio of import/consumption trade flows across all manufacturing sectors from 15% (1986) to 31% (1998).²⁸⁵ It is worthy to note that, as a result of the worsening economic downtrend experienced during the practice of protectionism, the GOB under the auspices of multilateralism brought down its tariff rates at average in order to redress the situation.²⁸⁶

Unlike the past (1950-80), beginning from the late 1980's the GOB was no longer interested in protectionism rather trade liberalisation was the sole concern for economic growth. Thus there was interest especially in the agricultural trade sector which suffered most from discrimination under the ISI policy. It is worth noting that, agricultural export commodities played a critical role in stabilising Brazil's growing trade deficit. For instance, between 1994 and 1996, the agricultural sector contributed a sum of \$25.3 billion to trade balance, equivalent to an average of \$8.4 billion per year.²⁸⁷ Prior to the period of agricultural expansion, 1983 was noted as a period of 'agricultural crisis'. It was characterised by a dramatic fall in agricultural output and a price explosion which led to a drastic increase in the wholesale sector at an agricultural price index of 336% unlike the industrial sector which rose only to 200%.

Notably, during the mid-1980s and 1990s, agricultural production (especially in rice and corn) increased considerably due to elimination of discriminatory policies.²⁸⁸ At that same moment, Brazil experienced a variation on annual inflation rates, high external debts and years of negative economic growth. Consequently, its annual (1980) inflation rate stood at 100%, later increased to 200% (1983) before it went up to hyperinflation with annual rates of over 1,000%. This practice is related to the high rates of

²⁸⁵Ferreira, F.H.G.; Leite, P.G. &Wai-Poi, M. (2007) 'Trade Liberalization, Employment Flows and Wage Inequality in Brazil', *World Bank Policy Research Paper No. 4108*, 2.

²⁸⁶ With the advent of the Uruguay Round negotiations in the 1980s up to the impact of the WTO on tariff reduction, there was mass improvement.

²⁸⁷Waino, J. (1998), 38.

²⁸⁸Baer, W. (2001), 363.

government intervention in agriculture supported with the injection of credit in the soya beans sector.²⁸⁹

At the beginning of trade reforms, the ISI strategy was abandoned during the rise to power by the populist democratic government. In addition several policies were introduced which favoured small producers of food crops (such as corn and dry beans) as well as consumers over producers of export-oriented crops. In effect, by 1987, Import Licensing was abandoned accompanied with programmes on the reorganisation of research and extension focusing on varieties of food crops rather than solely soy beans.²⁹⁰

Due to inflationary crisis in the 1980s, Brazil by mid-1989 experienced an unserviceable foreign debt (\$120 billion). As a result, exports quantitative restrictions were eliminated²⁹¹ which has today placed Brazil at a better position to face the negative impacts of economic recession. Thus in recent years it has achieved strong growth accompanied with low inflation rates reflecting on the continued implementation of sound macroeconomic policies. For instance, import tariffs were averaged nearly at 45% while the Real currency was severely overvalued. This policy bias made the investment climate in Brazil unfriendly.²⁹²

Moreover, 1990-1992 was highlighted by the assumption of power by the Collor government. Many reforms were introduced under the Collor's Macroeconomic Stabilisation Plans. These plans were designed solely to modernise and revamp the economy²⁹³ in an attempt to increase foreign competition via trade liberalisation with flexible investment policies. In effect, the foreign exchange market was converted into a floating exchange rate in order to attract more imports, market import was deregulated, and the main non-tariff trade barriers (including trade licensing) were removed.²⁹⁴ This marked the genesis and the turning point of the Uruguay Round Negotiations towards

²⁸⁹Schnepf, D.R.;Dohlman, E. &Bolling, C. (December 2001) 'Agriculture in Brazil and Argentina: Developments and Prospects for Major Field Crops' *Agriculture and Trade Report No. WRS013*, *Economic Research Service, USDA*, 41, Available:<http://ers.usda.gov/publications/wrs013/wrs013f.pdf> [22nd March 2011].

²⁹⁰Schnepf, D.R.;Dohlman, E. &Bolling, C. (December 2001), 41-42.

²⁹¹The quantitative restrictions on exports included soya beans, soybean oil and meal, maize and cotton.

²⁹²Schnepf, D.R.; Dohlman, E. &Bolling, C. (December 2001), 42.

²⁹³Brazilian stabilisation Plans included the Cruzado Plan (1986), Bresser Plan (1987), Collor Plans and the Real Plan.

²⁹⁴Schnepf, D.R.;Dohlman, E. &Bolling, C. (December 2001), 42.

an AoA (under the WTO). Notwithstanding, 1993 was marked with the introduction of the Real Exchange rate peg under the Real Plan. It is worthy to note that, the evolution of Brazilian agricultural growth until date is open ended and continues in as much as Brazil remains an active participant under the MTS.

From a general perspective, the post war phase of Brazilian agricultural growth (1950-1980) highlighted multiple reasons for Brazilian economic growth under the MTS. Thus Brazilian agricultural growth (from 1950) has undergone tremendous improvement prior to and after the AoA. The subsequent subsections will elaborate on the various strategies (policies) implemented by Brazil in the agricultural sector.

3.2- Strategies (policies) complementing the Brazilian Agricultural Sector

During the post war agricultural growth in Brazil, specific agricultural sector policies were largely implemented to overcome the challenges faced.²⁹⁵ The strategies (policies) were intended to stimulate effective participation in the production sector²⁹⁶ as well as facilitate agricultural marketing, storage and transportation sectors in an attempt to reduce production costs and to enhance agricultural product prices. These instrumental policies involved the use of credit and fiscal mechanisms as well as price compatibility (on production costs and marketing guarantee). These were accomplished via the implementation of research and technology incentives; technical assistance and rural extension; agricultural insurance; cooperative activity; rural electricity and irrigation systems. Finally, housing was provided to rural workers with the use of land resources.²⁹⁷ These policies are discussed below as follows:

3.2.1-Trade Policy

From the beginning of the post war period of agricultural growth, the GOB implemented the ISI strategy. Until the 1980s, accompanied with the effects of economic crisis which resulted from the shocks of high prices in petrodollars, the GOB was pushed to reconsider international trade as fundamental to economic development. Thus MTS was

²⁹⁵ See also, Helfand, S.M. (1999) 'The political economy of agricultural policy in Brazil: Decision making and influence from 1964 to 1992' *Latin American research review*, vol. 34, no. 2, 3-41. Available: <http://www.jstor.org/stable/2503911> [24th March, 2011].

²⁹⁶ The production sector was largely composed producers and the rural workers.

²⁹⁷ See also, article 187 (1) &(2) of the 1988 Federal Constitution of the Federative Republic of Brazil, Reformed in 1996(English), Available: <http://pdba.georgetown.edu/Constitutions/Brazil/english96.html#mozTocId271835>[22nd March, 2011].

recognised as a contribution to fair and equal development with access to the world's largest markets being considered as indispensable to the creation of wealth and social progress to Brazil's agricultural products. Finally, they saw the spirit of south-south trade cooperation as necessary thereby recognising the need for more flexible rules at the multilateral level by developing countries.²⁹⁸

As mentioned earlier, despite the fact that tariffs were re-established after 1979, most quantitative controls were gradually abandoned. In 1988, due to the gradual moves on trade liberalisation, the GOB (by 1990) embarked fully on privatisation and trade liberalisation due to flexibilities implemented on export subsidies and exchange rate policies.²⁹⁹ Consequently, all quantitative control measures were unconditionally and immediately eliminated and a schedule for tariff reduction was established.³⁰⁰ Thus by 1997, nominal tariffs were rated on average (one-tenth) of what existed in 1987³⁰¹ in attempt to redress the worsened balance of trade deficit suffered during the crisis. The economy of Brazil underwent a lot of agricultural reform in order to stimulate growth.³⁰² Considerably, the economy has been on a good policy framework such as fiscal responsibility, income distribution and an inflation targeting regime which attracted a very solid Foreign Direct Investment (FDI)(totalled US\$34.6 billion) in 2007.³⁰³

Akin to these reforms, the GOB established a series of price stabilisation plans which operated under various regimes. First, the Crusado Plan in 1986, decreed by the Sarney government presented a definitive program to 'de-index' the economy and wipe out inflation. The plan, was aimed at freezing prices upon foreign economic policies consisted primarily on fixing exchange rates. Second, the Bresser Plan was introduced by the new Minister of finance, Luiz Carlos Bresser Pereira, in June 1987. It took over the Crusado Plan and was impregnated with lots of frequent small devaluation strategies to redress the existing domestic inflation. Furthermore, it promoted an

²⁹⁸WTO, (May 2009) 'Trade Policy Review by Brazil' WT/TPR/S/212/Rev, Para.16, 15.

²⁹⁹On Brazil's policies on export subsidies, see also Rodrik, D. (December 1993) 'Taking Trade Policy Seriously: Export Subsidization as a Case Study in Policy Effectiveness' NBER Working Paper Series, No. 4567, Massachusetts Avenue, Cambridge, USA. 16-22.

³⁰⁰ Ferreira, P.C. & Rossi, J.L. (2003) 'New Evidence from Brazil on Trade Liberalization and Productivity Growth', *International Economic Review*, vol. 44: no. 4, 1383-1405; 1385-6.

³⁰¹The period of 1987 was marked with the abandonment of import Licencing.

³⁰² For details see OECD, (2005) 'OECD Review of Agricultural Policies Brazil' OECD

³⁰³WTO, (2nd February 2009), 'Trade Policy Review Report by Brazil', WT/TPR/G/212 (09-0399), para.7, 6.

improved balance of trade which stimulated a fall in domestic demand and attained a current-account balance by 1987. In January 1989, the Summer Plan was introduced aimed at temporarily freezing wages and exchange rates.³⁰⁴ Thus in the late 1989, prior to the Collor de Mellor plan (March 1990), the Customs Policy Council (*Conselho para Política Aduaneira*) issued 'Resolution 1,666' to reduce the average legal tariff from 41% to 35.5%. Under this regime, there was opposition to the intrusive and interventionist bureaucracy of corrupt and highly paid officials (*marajás*). In addition much emphasis was laid on deregulation and greater openness to world markets.³⁰⁵ Finally in 1994, the Real Exchange Rate Peg was introduced under the Real Plan which aimed at stimulating agricultural productivity.

Notably, since 1990 (coupled with the existence of the Uruguay Round of the AoA), as a result of international integration the Brazilian economy experienced mass improvement in agricultural products due to open markets. Thus gains were accomplished through the use of unilateral substantial reduction of tariff rates which fell from 51% to 12% (all on average). It is worth noting that, Brazilian participation in multilateral trade agreements expresses the desire and ability to bind itself to all tariff lines with substantial reduction commitments on import barriers.³⁰⁶ As a way forward, Brazil indulged in intra and extra-regional preferential trade agreements with its Latin American Neighbours and Free Trade Agreements (FTA with North American countries) in order to take advantage of regional trade opportunities.³⁰⁷ From the period of 1995, the Brazilian Chamber of Foreign Trade (CAMEX) was charged with the functions of adoption, coordination, and implementation of trade policy in goods and services stipulated by Decree No. 4,732 of 10 June 2003.³⁰⁸

³⁰⁴ However, though the Summer Plan led to a little decline in expenditures, it worsened the budget deficit resulting from freezing the prices of the public-sector services. As a result, imports began to increase significantly in the mid-1989, and Brazil's 1989 trade surplus was US\$16.1 billion, well below the record of US\$19.2 billion of the preceding year.

³⁰⁵ Brazil Country Studies Available: <http://countrystudies.us/brazil/80.htm> [23rd March, 2011].

³⁰⁶ Three tariff reduction programs were implemented during the periods: 1988-1989, 1991-1993 and in 1994. While two of the tariff reforms were undertaken to eliminate the redundant share of nominal tariffs (without an impact on import volumes previously), NTBs were abolished by 1990.

³⁰⁷ Cardoso, E. (2009), 3.

³⁰⁸ Ministry of Development, Industry and Foreign Trade Available: <http://www.desenvolvimento.gov.br/sitio/interna/interna.php?area=1&menu=1497&refr=433> [23rd March 2011].

3.2.2-Institutional Policy

During the last century, agricultural development services in Brazil were established with a modern extension in the state of Minas Gerais (1948). Later, the GOB promoted and encouraged an increase in the private sector participation in the agricultural economy. In order to accomplish its goal, the GOB instituted the Brazilian Company for Agricultural Research (EMBRAPA in 1973) as well as funded other research programmes (including cocoa, coffee, and limited sugarcane research programmes). It is worth noting that, the success of Brazilian agribusiness lies with EMBRAPA and other state research institutes including universities, private companies and non-governmental organisations. Due to government intervention, the growing participation and involvement of the private sectors in agricultural research and development became so rapid. Thus a developed and well-coordinated massive R&D policy was tilted towards a more sustainable agricultural system.³⁰⁹ Credit volumes were increased and linked to support policies of stock management, improved distribution and the commercialisation of food and agro industries. Consequently, it amounted to a better allocation of resources, increased and improved productivity, and product quality accompanied with reduced food prices.³¹⁰ These attempts fell within the recent basic aims of EMBRAPA's first 5-year plan (the Plano Diretor for 1988 to 1992).³¹¹

EMPRAPA a public company attached to the Ministry of Agriculture is funded mainly from the Federal budget. According to a report from Director, Gasques, between 2003 - 2010, over 270 billion Reals (US\$ 163 billion) were allocated as agricultural credit in Brazil.³¹² It is worth noting that Brazil has invested over 1.0% of its GDP in agricultural R&D.³¹³ Thus the Director's view is supported by EMBRAPA's fundamental aim, which basically seeks to address the needs of Small-Scale and Resource-Poor Farmers via

³⁰⁹ A sustainable R&D was concentrated on products in the area of plant breeding, pesticides, fertilizers, machinery, sugar and intensive livestock production both at the national and international levels.

³¹⁰ Lopes, M.A (2010) 'Turning Science into Agribusiness – the Development of Advanced Tropical Agriculture in Brazil' a lecture presented at the Department of Latin American Studies of Hankuk University of Foreign Studies, Seoul Republic of Korea, 5 November 2010.
Available:<http://labexkorea.wordpress.com/category/agricultural-research-in-brazil/>[26th March, 2010].

³¹¹World Bank, (26th July, 1990) *Brazil Agricultural Sector Review: Policies and Prospects* Country Operations Divisions, Brazil Department, Vol. II; 60.

³¹²ANBA, (6th March 2011) 'Over ten-year period, agriculture leads economic growth', A report by Sophia Gebrim of the Ministry of Agriculture, Livestock and Supply, Available:www2.anba.com.br[26th March 2011].

³¹³Lopes, M.A. (2010) Available: <http://labexkorea.wordpress.com/about/> [26th March 2011].

the introduction of new agricultural technological needs.³¹⁴ Coupled with the above mentioned, are efforts made by EMBRAPA to generate new technology for modern commercial farmers. Indeed this entails a lot of money to be incurred since it involves massive investment. This should therefore serve as a lesson for Sub-Saharan governments whenever issues of agricultural investment are concerned.

Moreover, the GOB at all Federal levels created and fused both the Brazilian Company for Technical Assistance and Agricultural Extension (EMBRATER 1973) with the Network of State Extension Companies (EMATERs).³¹⁵ As a result, the GOB encouraged and influenced increased private sector participation in order to play a greater role in agricultural trade. For instance, EMBRAPA coordinated agricultural extension moves, provided training assistance, methodology, work programming, financial advice and communications to Brazilian farmers.³¹⁶ By virtue of the recent publication of *law 12,383*, EMBRAPA now gains autonomy to operate abroad unlike before when its functions were limited within the national territory.³¹⁷ Furthermore, the GOB provided continued field assistance to farmers, private extension consultants, including employees of producer cooperatives (such as private extension consultants, input and machinery suppliers) and contracted producers of agro industrial enterprises. Without prejudice, the role of the GOB remarkably influenced private sector participation instituted as a strategy to boost agricultural growth. Thus, private extensions and agricultural supply companies such as the EMATERs were and are very active with the use of regular and skilful strategies developed in addressing farmers in the commercial sector. Moreover, network agricultural programs were created under a new production technology which featured especially via major TV stations and parent publishing houses, and were published in monthly agricultural magazines.³¹⁸

³¹⁴World Bank, (26th July 1990).

³¹⁵ It is also abbreviated as ASTERs in federal territories.

³¹⁶World Bank, (26th July 1990), 60.

³¹⁷ANBA, (13th March 2011) 'Embrapa gains agility abroad', Arab-Brazilian Chamber of Commerce, Available: http://www2.anba.com.br/noticia_tecnologia.kmf?cod=11633739[26th March 2011].

³¹⁸World Bank, (26th July 1990), 62, Annex 10; 11 of 13.

3.2.3-Fiscal Policy

In an attempt to regulate Balance of Trade Deficit (BOP) thereby reducing inflation, the GOB implemented responsive budgetary and tax policies that could achieve credit objectives.³¹⁹ Thus the GOB implemented strategies that targeted rural credits with inclusive selected bank control credits at fixed rural credit interest rates (direct financing).³²⁰ For instance, a peculiar arrangement was developed which enabled the government to bypass its fiscal budget, a policy instrument which contributed to control both the quantity and price of rural credits.³²¹ As a result, the GOB in 1979, devalued the Real by 32%, unified the free and floating exchange rate markets as well as eliminated several export subsidies.³²² Thus in order to achieve liberalisation, the GOB established (1997) an export credit guarantee fund (Export Credit Insurance-ECI) to bolster Brazilian agricultural exports. Consequently, exports rose by 246.90% from US\$3.3 billion to US\$8.2 billion between 2004 and 2008.³²³ Nevertheless, in mid-1994, the Real Plan (1994-1998) brought inflation under control which fell from four digits in June 1994 to two digits in June 1998, and subsequently to 35% in June 1998.³²⁴ Despite, the aims of the Real Plan (1995 and 1998), there existed a strong Real exchange rate appreciation which led to a collapse of the domestic currency (1999) resulting in a more flexible exchange rate regime.³²⁵ This is one of the contentious issues faced by the Brazilian agricultural economy which resulted in an attempt to expand agricultural land solely for productivity and food security. Nevertheless, it is worth noting that both the *Banco do Brasil* and the *Banco Central do Brasil* have acted as main providers of rural credit to desperate Brazilian farmers for agricultural investment.³²⁶

³¹⁹The Agricultural credit objectives were established in 1965 by the Agricultural Credit Law 4829.

³²⁰Rural credit was supplied only to Brazilian farmers at interest rates determined by the administration, and accounted for by most formal rural credit. See also, Araujo, P.F.C. & Meyer, R.L (1977) 'Agricultural Credit Policy in Brazil: Objectives and Results' *American Journal of Agricultural Economics*, Oxford University Press, 957-961.

³²¹World Bank, (26th July 1990) 'World Bank Review of Brazilian Agriculture', 35, Annex 8, 2 of 9.

³²²WTO (2nd February 2009) 'Trade Policy Review Report by Brazil', WT/TPR/G/212 (09-0399), Para. 37 & 38, 12.

³²³WTO, (2nd February 2009) 'Trade Policy Review Report by Brazil', WT/TPR/G/212 (09-0399), 12 Para 39.

³²⁴OECD, (2005) *Review of Agricultural Policies: Brazil*, 31. See also, Chapter IV, Federative Constitution of Brazil.

³²⁵Cardoso, E. (2009), 18.

³²⁶WTO, (2nd February 2009) 'Trade Policy Review Report by Brazil', WT/TPR/G/212 (09-0399), 8 Para. 19.

3.2.4- Land Development Policy

The issue of land development has been a bone of contention in the Brazilian economy since colonisation. In 1985, the GOB implemented the National Plan for Land Reform (PNRA) in attempt to expropriate land in the interest of the landless settlers.³²⁷ Its basic aim was to create a colonised government land project centred especially in the Amazon.³²⁸ It is worth noting that, the 1988 Brazilian Federative Constitution incorporated provisions which supported land reform and expressed that land must fulfil its 'social function'. Thus land must be made productive according to certain clearly-specified criteria³²⁹ such as encouraging agricultural production. Most importantly since 1971,³³⁰ the GOB in an attempt to fight against food security, limited the outright purchase of rural farmland by foreigners (companies owned by aliens). Thus under the former government of President Lula da Silva (2010), land acquisition laws³³¹ were tightened³³² and reinterpreted restricting foreigners (speculators) from indulging too much in foreign investment in agricultural land. Brazil's land acquisition policy was influenced by acts of wanton acquisition of agricultural lands in Sub-Saharan Africa by foreign governments (China, South Korea and the Gulf states) on grounds of food



³²⁷ PNRA was later on replaced by *Instituto Nacional de Colonização e Reforma Agrária* (INCRA), the government's land reform agency under a new policy pattern for land reform.

³²⁸ Alston, L.J., Libecap, G.D. & Mueller, B. (1999) 'A model of rural conflict: violence and land reform policy in Brazil' *Environment and Development Economics*, vol. 4, no. 02, 3. Available: <http://siti.feem.it/gnee/pap-abs/mueller2.pdf> [24th March, 2011].

³²⁹ See, Chapter III of the Constitution of the Federative Republic of Brazil, Reformed in 1996; World Bank Review of Brazilian Agriculture, (26th July, 1990), Annex 6 on Selected Topics in Land Tenure, 1-9.

³³⁰ Land acquisition law of 1971 was incorporated by Law No. 5,709, of October 7, 1971 which is regulated by Decree No. 74,965, of November 26, 1974 and provides that individual foreigners with residence in Brazil cannot acquire more than an area equivalent to 50 units of rural land.

³³¹ This Official Gazette of the Union (*Diário Oficial da União - DOU*) was issued in August 23, 2010 with a published Legal Opinion CGU/AGU N° 01/2008 - RVJ, dated September 3, 2008. Available: <http://www.mondaq.com/article.asp?articleid=108576> [6th April 2011].

³³² During 1971, foreigners were limited just to one-fourth of a county while nationals were limited to less than 10%. However, under the *Controladoria Geral da União* (a federal agency in charge of assisting the President in matters relating to defending the Public Assets of foreigners and other related issues on transparency), companies under alien control cannot acquire rural lands of more than 50 modules (*módulo de exploração in definida*) in which no type of exploration has been defined (approximately 600-12,000 acres). By virtue of the bylaws, these companies are limited to implementing agriculture, cattle-raising, and industrial projects that are related to their business activities, within an area not exceeding 25% of the total area of the municipality where the company is located. Notably, the law does not apply retrospectively thereby it does not invalidate previous land acquisitions. Available: http://www.loc.gov/lawweb/servlet/lloc_news?disp1_l205402194_Brazil [6th April 2011].

security which has almost contributed to very high risk of Sub-Saharan African countries losing their agricultural land to these rich countries.³³³

3.2.5-Agricultural Commodity Marketing and Pricing Policy

As mentioned earlier, agricultural growth in Brazil is attributed to increased productivity, lower prices for imported inputs coupled with increased agricultural land use areas. As a result, the GOB operated a minimum price programme for selected agricultural commodities such as rice, beans, cassava, maize, soya beans and cotton. Thus in each planting season (yearly), a minimum producer price plan is announced for the forthcoming crop season. Thus during harvest times, crops are acquired by government via direct purchases, and of storage loans to producers, handlers and cooperatives. It is worth noting that, such mechanisms were used to determine the value of production credit for official use. This scheme was aimed at stimulating the production of commodities, stabilise annual and seasonal price uncertainty and also to regulate public and private stocks deemed to be consistent with the price stabilisation objective.³³⁴ Prior to this reform, a government agency (*Superintendencia Nacional de Abastecimento* (SUNAB)) was set up aimed at regulating distribution, set up prices and profit margins of basic foodstuffs at all levels. Furthermore, the *Companhia de Financiamento da Producao* (CFP) was instituted aimed at assisting in direct government purchases of commodities at minimum guaranteed prices.³³⁵ According to the Director of the Ministry of Agriculture and Planning, Gasque, commodity prices have played an important role in the GDP growth rate especially during the second half of 2010 which highlighted exports in specific product sectors (coffee, orange, wheat and cane).³³⁶ Thus the processes of marketing loans were facilitated which enabled producers to carry on production and repay their loans when due and after their products were sold at the current market price or delivered to the CFP at the minimum price. Though this strategy does not on its own accounts to the success of Brazilian agricultural trade, it is but

³³³ Black Sea Grain (2011) 'Brazil tightens land acquisition by foreigners: 'speculators and sovereign funds', an interview in the Financial Times.

Available: <http://www.blackseagrain.net/aboutukragroconsult/news-bsg/brazil-tightens-land-acquisition-by-foreigners-2018speculators-and-sovereign-funds2019> [26th March 2011].

³³⁴ Fox, R.F. (1979) 'Brazil's minimum price policy and the agricultural sector of northeast Brazil', 16.

³³⁵ OECD, (2005), 71.

³³⁶ ANABA, (06/03/2011) 'Over ten-year period, agriculture leads economic growth' report by Sophia Gebrim of the Ministry of Agriculture, Livestock and Supply) Available: www2.anba.com.br [26th March, 2011].

obvious and certain that it contributed enormously in targeting the low income farmers who indeed formed the majority of Brazilian farmers.

3.3- Brazil in Multilateral and Bilateral Trade Agreements

Upon Brazil's accession into the WTO in 1995, MTS was regarded to be at the top of its trade policy while preferential agreements were looked upon as complements to the system. As an original member of the GATT, Brazil is considered as one of the most active participants in promoting trade liberalisation under the WTO. As a result, it has undertaken commitments under market access, domestic support and export competition disciplines. Under the MTS, Brazil has submitted proposals³³⁷ to various issues under the WTO; most relevant, it made a large number of notifications under the AoA.³³⁸ Furthermore, in an attempt to resolve disputes (especially in agriculture), Brazil has made recourse to the WTO dispute settlement (DSU) mechanism in the areas of subsidies, antidumping and countervailing measures.³³⁹ It is worth noting that, one of the most famous and successful Agricultural dispute ever initiated in the WTO by Brazil is the *US-Upland Cotton Case*.³⁴⁰ Brazil's success in this case, has acted as a lesson for most Sub-Saharan African countries especially the C4 countries (Burkina Faso, Mali, Benin and Chad) under the DSU.³⁴¹

As a major exporter of both agricultural and agro-industrial goods, Brazil under the Cairns Group, adopted a massive and aggressive negotiating in favour of agricultural trade liberalisation.³⁴² It is worth noting that Brazil's quest for agricultural trade

³³⁷Details on Proposals by Brazil, is available:

http://search.wto.org/search?q=WTO+Proposals+by+Brazil&site=English_website[29th March, 2011].

³³⁸Details on notification by Brazil to the WTO,

available:http://search.wto.org/search?q=brazil%27s+notifications+in+the+WTO&site=English_website[29th March 2011].

³³⁹Brazil participated as a complainant in 25 cases, respondent in 14 cases and as third Party in 61 cases, available:http://www.wto.org/english/thewto_e/countries_e/brazil_e.htm#disputes [29th March 2011].

³⁴⁰See Panel Report, *United States – Subsidies on Upland Cotton (Recourse to Article 21.5 of the DSU by Brazil)*, WT/DS267/RW and Corr.1, was adopted 20 June 2008, modified by Appellate Body Report WT/DS267/AB/RW, DSR 2008:III, 997 to DSR 2008:VI, 2013.)

³⁴¹In August 2006, Brazil expressed dissatisfaction to the WTO DSU, and initiated a case against the US policy on the use of excessive export subsidies by its Upland Cotton farmers. See also: Zunckel, H.E.; (2005) 'The African Awakening in United States-Upland Cotton', *Journal of World Trade* 39(6): 1071; Kluwer Law International: The Netherlands.

³⁴²Cairns Group, Available:<http://cairnsgroup.org/Pages/default.aspx>[29th March, 2011].

liberalisation³⁴³ extended from the Uruguay Round towards the Doha Round with much emphasis laid on the issue of market access.³⁴⁴ Moreover, in months preceding the WTO Ministerial Conference in Cancún (September 2003), Brazil in coalition with the G20,³⁴⁵ pushed for ambitious agricultural reforms against the developed countries requesting for flexibilities that favoured developing countries.³⁴⁶ Brazil's bargaining position was not only driven by the internal setups of agricultural negotiations under the WTO, but due to broader shift in the country's foreign economic policies. For instance, Brazil's trade negotiation strategies were drifted towards a view of the North-South as well as South-South cooperation which acquired a growing relevance. In addition, Brazil has and is still a participant (member) in several coalitions of the NAMA-11 and Friends of Antidumping Negotiations (FANs)³⁴⁷ and 'W52' sponsors.³⁴⁸

3.3.1-Brazil's commitments and implementation under the AoA

(a)- Import Measures

All agricultural and food commodities imported to Brazil are subjected to ad valorem tariffs. It is worth noting that, no specific tariffs, tariff-rate quota (TRQ) or special safeguards are imposed. Owing to Brazil's agricultural reform and upon the application of an average MFN tariff for agricultural products, its bound tariff was drastically reduced from 58.8% (1995) to 35.6% (2004).³⁴⁹

³⁴³ They proposal included issues on market access and the reduction or elimination of export and domestic support schemes.

³⁴⁴ See WTO Ministerial Conference WT/MIN (03)/W/6; 4 September 2003, (03-4609).

³⁴⁵ G20 WTO members (23) are: Argentina, Bolivia, Plurinational State of, Brazil, Chile, China, Cuba, Ecuador, Egypt, Guatemala, India, Indonesia, Mexico, Nigeria, Pakistan, Paraguay, Peru, Philippines, South Africa, Tanzania, Thailand, Uruguay, Venezuela, Bolivarian, and Republic of, Zimbabwe. Available: <http://www.g-20.mre.gov.br/> [29th March 2011].

³⁴⁶ See, WTO Groups in the Negotiations, Available:

http://www.wto.org/english/tratop_e/dda_e/negotiating_groups_e.htm#grp016[29th March, 2011].

³⁴⁷ Brazil is a continued active user of anti-dumping (AD) measures. For instance, by October 2008, it had in force 63 AD measures which affected the exports of 23 trading partners with an average duration of six and a half years. See also: Kume, H. & Piani, G. (2005) 'Antidumping and Safeguard Mechanisms: The Brazilian Experience, 1988-2003', *World Bank Policy Research Working Paper* 3562, April 2005. Furthermore, Brazil once won a WTO appeal against the US for antidumping measures imposed on Brazilian juice violating the rules of International Trade. See: 'ANABA (27/03/2011) 'Brazil wins WTO appeal against US'. Available: http://www2.anba.com.br/noticia_diplomacia.kmf?cod=11696610[1st April, 2011].

³⁴⁸ Viega, P. M. 'Brazil and the G20 Group of Developing Countries' In Gallagher, P.; Low, P.; Stoler, A.L (eds) (2005) *Managing the challenges of WTO participation: 45 case studies*, Chapter 7.

³⁴⁹ OECD, (2005),115.

Furthermore, the minimum and maximum tariff lines for Brazilian agricultural products are in line with WTO obligation, ranging from 0% to 55% maximum. Brazil's simple applied average MFN rate for agricultural products was 10.4% in 2004 which later reduced to 10.2% in 2009. The extent to which Brazil pursued trade liberalisation is expressed by improvements in its market access and economic growth. For instance, Brazil's bound tariff on agricultural products for 2009 was reduced to 35.4%³⁵⁰ though three times greater than the MFN applied rate of 10.2% (2009 est.). It is worth noting that the average tariffs for Brazilian agricultural products are lower than that of other goods. Nevertheless, a number of internal measures were put in place to assist agricultural production.³⁵¹

Prior to the Uruguay Round, Brazil undertook agricultural tariff rate quota (TRQ) commitments on wheat, apples, and pears.³⁵² Thus in 2004, Brazil notified other WTO members of its intention to eliminate the TRQ, however, it was never opened for wheat.³⁵³ It is worth noting that, Brazil did not reserve the right to apply SSG for agricultural goods.³⁵⁴ Nevertheless, Brazil has applied preferential tariff quotas under the MERCOSUR without constraints from the WTO market access commitments.³⁵⁵ Furthermore, the GOB applies a range of non-tariff measures in agricultural trade which includes: Sanitary and Phytosanitary (SPS) requirements, regulations to Technical Barriers to Trade (TBT), Non-automatic Import Licensing, Certification and Customs Valuation.³⁵⁶ Relatively, Brazil's schedule of commitment have imposed higher tariff rates for beverages, spirits, dairy products and sugar but are lower for live animals, cut flowers and plants as well as oil seeds.³⁵⁷

³⁵⁰ It is estimated to have reduced by 0.2% against 35.6% in 2004 marking the final year of the implementation period of developing countries.

³⁵¹ Such measures included the existence of guaranteed producer prices and credit at preferential rates with a 25% reserve required from banks as part of demand deposits for agriculture.

³⁵² A 10 000 tonnes metric TRQ was opened for both apples and pears but was never applied since 1998 because the MFN tariff is lower than the in-quota rate of 15%.

³⁵³ WTO (2009) 'Trade Policy Review Brazil' Report by the Secretariat, WT/TPR/S/212/Rev.1, (09-2317) 11 May 2009, 96, para 14.

³⁵⁴ OECD, (2005).

³⁵⁵ Reasons being that it does not contravene the obligation of the WTO tariff obligations.

³⁵⁶ OECD, (2005), 117.

³⁵⁷ WTO, [Online]. Available: http://www.wto.org/english/tratop_e/schedules_e/goods_schedules_table_e.htm#bb [30th March, 2011].

(b)-Export Measures

Brazil is among the 26 members states of the WTO that has reserved the right to use export subsidies under the Uruguay Round Agreement. Brazil's domestic support measures for agriculture includes the provision of agricultural credit at preferential conditions, price support measures and stabilization mechanisms, and option contracts. In 2007, Brazil's Aggregate Measure of Support (AMS) for 2003-04 went below a *de minimis* level (less than 10%) of the value of production.³⁵⁸ Moreover, Brazil also notified measures that exempted its reduction commitment on production (rural) credit for low-income and resource-poor producers. It also included funds for investment credits of US\$97.6 million, and US\$280.5 million, respectively.³⁵⁹ Despite the fact that Brazil does not have a specific agricultural export credit programme, it has a number of export credit programmes (See Table 3.1):



³⁵⁸ For instance most of the AMS notified by Brazil corresponded to the minimum support prices under the Policy of Guaranteed Minimum Prices (PGPM) and the Premium per Output Flow (PEP) programme.

³⁵⁹ WTO document; G/AG/N/BRA/23, 8 May 2007.

Table 3.1 Main Agricultural Support Measures and Programmes

(R\$ million/US\$)

PROGRAMME	DESCRIPTION	AMOUNT
i)Rural Credit ³⁶⁰	Financing of agricultural activities at rates controlled and fixed by the Government	51,200 (2007) (US\$28.4 billion)
ii)BNDES/FINAME ³⁶¹ and Automatic for agriculture	Financing of specific agricultural activities, including the acquisition and maintenance of machinery and equipment, at preferential conditions	3,600 (2007) (US\$2 billion)
iii)Programme to Strengthen Family Farming (PRONAF) ³⁶²	Support for family farming, artisan fisheries, aquaculture, livestock, and extraction of forest products	8,400 (2006/07) (US\$4.67 billion)
iv)Policy of Guaranteed Minimum Prices (PGPM) ³⁶³	Price support mechanism	2,100 (2007) ^a (US\$1.17 billion)

a- Net cost to the Treasury. Source: Information provided by the Brazilian authorities.³⁶⁴

During a September 2008 WTO Agricultural Committee Meeting, Brazil's estimated expenditure for 2008/2009 support programmes stood at approximately US\$40 billion. According to Brazil, most of the measures (such as the *Programa Nacional de Fortalecimento da Agricultura Familiar*-PRONAF programme) would continue to be

³⁶⁰WTO, (2009) 'Trade Policy Review Brazil' Report by the Secretariat, WT/TPR/S/212/Rev.1, (09-2317)11 May 2009, 96, paras. 20-29.

³⁶¹WTO, (2009) WT/TPR/S/212/Rev.1, 96, paras 30--32.

³⁶²WTO, (2009) WT/TPR/S/212/Rev.1, 96, paras. 30-32.

³⁶³WTO, (2009) WT/TPR/S/212/Rev.1, 96, paras, 36--37.

³⁶⁴WTO, (2009) WT/TPR/S/212/Rev.1, 96, paras, 33-35.

classified under the SDT provisions of Article 6.2 of the AoA excluded from calculation of the AMS.³⁶⁵

First, under the rural credit programme, policy thrust was shifted from granting direct credit while ensuring that credit from the financial system was allocated to agriculture at preferential market rates. Under this policy, the National System of Rural Credit (SNCR) was charged to grant credit to farmers from both public and private sources at fixed government interest rates.³⁶⁶ However, according to the OECD, this policy affects overall allocation of credit, both within and beyond agriculture.³⁶⁷ Nevertheless, agricultural credit got its legal base from *Law No. 4,829*, of 5 November 1965 recently amended by *Law No. 11,718*, of 20 June 2008. Moreover, the Central Bank through the Agricultural Credit Manual provided credit to the public, modified each year by the National Monetary Council (CMN).³⁶⁸

Second, the BNDES (FINAME) Agricultural Credit Company provides credit for the acquisition and maintenance of machinery and equipment. It also included irrigation systems and domestically manufactured refrigeration equipment. BNDES finances up to 100% of investment and applies under different conditions to foreign-owned companies. Thus since early 2004, it has administered many agricultural credit programmes.³⁶⁹

Third, the PRONAF³⁷⁰ whose structure was modified by *Resolution BACEN No. 3,559* of 28 March 2008 was later modified by *Resolution BACEN No. 3,589* of 30 June 2008. Since 1 July 2008, it attempted to simplify the process of obtaining credit, eliminates

³⁶⁵ WTO 2008 Report on Negotiations in Agriculture, Document G/AG/R/52, 11 November 2008.

³⁶⁶ Despite the fact that Rural credit programmes were criticised by OECD for being trade distortive, they were designed primarily to benefit producers who did not have access to commercial credit.

³⁶⁷ OECD (2007), *Agricultural Policies in Non-OECD Countries: Monitoring and Evaluation*. Chapter 2: Brazil, 44.

³⁶⁸ Rural credit can stem from different sources: such as 25% of banks' demand deposits as mandatory resources which may be granted for production, investment or marketing, to farmers and cooperatives, or persons engaged in production or insemination research, fishing, or in activities providing certain services to farmers; rural savings; constitutional funds, the Workers Support Fund (FAT), and agricultural federal programmes managed by the BNDES.

³⁶⁹ The programmes are: Tractor Fleet Modernization Incentives Programme (MODERFROTA); Incentives Programme for Irrigation and Storage (MODERINFRA); Cooperative Development Programme for the Enhancement of Agricultural Value Added (PRODECOOP); Programme for the Modernization of Agriculture and the Conservation of Natural Resources (MODERAGRO); Credit Cooperatives Capitalization Programme (PROCAPCRED); Incentive to Investment in Agribusiness Programme (INVESTIAGRO); Agriculture-Livestock Integration Programme (PROLAPEC); Warehousing Incentive Programme for Domestic Cereal Producers; and Programme of Commercial Planting and Recovery Forest (PROPFLORA).

³⁷⁰ See also, MDA Available: <http://www.mda.gov.br/portal/saf/> [31st April 2011].

several financing categories and replaced them with a single category entitled 'Family Farming'.³⁷¹ By December 2006, the Price Guarantee Programme for Family Farming (PGPAF)³⁷² was attached to the PRONAF.

Fourth, Brazil under the Policy of Guaranteed Minimum Pricing Scheme, grants support to selected agricultural products through the various price support schemes.³⁷³ These schemes included production of commodities such as coffee, corn, cotton, milk, rice, rubber, sorghum and soybeans. According to the OECD, falling international prices will lead to a rise in market price support.³⁷⁴ Consequently, the scheme led to improvement in trade liberalisation and Brazil's ability to meet up with WTO commitments.

Other agricultural domestic support measures in Brazil are as follows: Rural Product Certificate (CPR),³⁷⁵ Aid to Development of the Agricultural Sector Programme,³⁷⁶ Brazilian Coffee Fund (FUNCAFE),³⁷⁷ Household Agriculture Insurance Programme (SEAF),³⁷⁸ Agricultural Activities Guarantee Programme (PROAGRO),³⁷⁹ and Sugar

³⁷¹For details on this this group, see: WTO (2005) *Trade Policy Review: Brazil*.

³⁷² The PGPAF carries out an indexation of credit taken by small farmers whose price is fixed at the time the credit is granted. The value is then converted to an equivalent in volume in terms of the product financed. Upon repayment of the credit, if the price of the product financed has decreased, the farmer will benefit from a discount from the monetary amount due, and will pay back the equivalent of the expected physical production.

³⁷³They include the following: Premium for Product Outflow (PEP) and Outflow of Product Value (VEP); Public Option Contracts; Private Option Risk Premium (PROP); and the Agricultural Products' Sale Option Private Premium (PEPRO).

³⁷⁴OECD, (2007), 35. For instance, in 2005/06 the volume of crops benefiting from price support doubled, with an extension of price guarantees to soybeans for the very first time. Moreover, as observed, by limiting the regional coverage of price guarantees the government in the past had sought to limit the coverage of support to smaller farmers, but later payments breached this implicit objective and create a worrying precedent. As a result, a downturn in market conditions was widely anticipated.

³⁷⁵ This financial instrument was created by Law No. 8,929 of 22 August 1994. According to it, the issuer (a farmer or a cooperative) sells his crop prior to the harvest and receives cash, assuming an obligation to deliver a certain amount of commodities at a future date in a specified place. The CPR then receives offers for guarantee from the *Banco do Brasil* and other banks, as well as some insurance companies.

³⁷⁶ By virtue of Ministerial Act MAPA No. 367/2005, as amended by Ministerial Act No. 623 of 7 July 2008, it is aimed at developing infrastructure in the agricultural sector with motivation to increase competitiveness.

³⁷⁷ By virtue of Decree No. 2,295 of 21 November 1986 and managed by the *Banco do Brasil* this organ finances research and infrastructure projects for the coffee industry in Brazil.

³⁷⁸ Also known as PROAGRO MAIS, it was established by Resolution CNM 3,234/2004, and exclusively covers farmers that enrolled in the PRONAF programme as they receive guarantees for 100% of the credit offered, plus 65% of estimated future net revenues only up to a total of R\$2,500 per farmer. Recently, the Brazil Specialty Coffee Association (BSCA), in partnership with the Ministry of Agriculture, Livestock and Supply, plans to promote a series of activities (on specialty coffee) for the promotion of trade abroad. After the fair, the idea is to promote a trip of a group of importers to Brazil between June and August (2011). The efforts by the Ministry of Agriculture has shown the interest and support that the GOB in the agricultural sector. See: ANAB, available: http://www2.anba.com.br/noticia_opportunidades.kmf?cod=11689579 [1st April 2011].

Crop Guarantee Programme Garantia Safra and the New Biodiesel Programme announced by the GOB.³⁸⁰

In conclusion, the agricultural policy of Brazil is in line with WTO obligations under the AoA. This is supported by a drastic reduction of Brazil's tariffs in 1995 upon accession to the WTO to 36.5% in 2004. It is worthy to note that, Brazil's success in agricultural trade lies under Article 6.2 of the AoA which permitted the use of the Green Box Measures. In this light, Brazil embarked on mass R&D in the agricultural sector as a strategy for economic growth.

3.3.2- Brazil in Bilateral Trade Agreements on Agriculture

By virtue of Article XXIV (5) of the GATT 1947,³⁸¹ Brazil under the WTO actively pursued Regional Customs and Free Trade Agreements. These groups were regarded as complements to the MTS with the aim to enhance its interest in South-South trade as thereby promoting growth and development in the Agricultural sector.³⁸²

First, upon the accession of Brazil to the WTO (1995), it initiated integration among its Latin American and Caribbean neighbours through the creation of a major regional trade agreement called the MERCOSUR.³⁸³ By virtue of Brazil's influence under the MERCOSUR, regional benefits³⁸⁴ were extended to Bolivia and Chile as well as to the

³⁷⁹ This organ was established by the GOB under Law No. 5,963/73 as a short-term credit guarantee scheme regulated by the National Monetary Council (CMN), administered by the Central Bank. The premiums paid by farmers are determined according to the crop risk which ranges from 1.2% to 6.7% of the total credit.

³⁸⁰ This organ is regulated by the following laws: Law No. 11,097 of 13 January 2005, Law No. 11,116 of 18 May 2005 and Law No. 10,848 of 15 March 2004, Decree No. 5,448 of 20 May 2005, Decree No. 6,006 of 28 December 2006, and now Decree No. 6,606 of 21 October 2008. This programme established a minimum blending ratio as operated for ethanol and created a certificate (the Social Fuel Stamp) that makes biodiesel manufacturers and importers eligible for official credit at both reduced interest rates and on federal taxes.

³⁸¹ GATT Article XXIV (5) states '... the provisions of this Agreement shall not prevent, as between the territories of contracting parties, the formation of a customs union or of a free-trade area or the adoption of an interim agreement necessary for the formation of a customs union or of a free trade area...' GATT Article XXIV (5).

³⁸² For impacts on Regional Agreement on Agriculture, see also, Diao, X., Roe, T & Somwaru, A. (2001) 'what is the cause of Growth in regional Trade: Liberalisation or RTAs? The Case of Agriculture', *Blackwell Publishers Ltd, Oxford: Uk*. See also: OECD, (2009) *Agricultural policies in Emerging economies 2009: Monitoring and evaluation*, Chapter 2: Brazil.

³⁸³ Members are: Argentina, Paraguay, Uruguay and Brazil. In Portuguese it is 'Mercosul'.

³⁸⁴ MERCOSUR preferences rates on all products were to be extended to Bolivia and Chile by 2011 or 2014.

other members of the Latin American Integration Association (ALADI).³⁸⁵ In addition, Brazil signed bilateral trade agreements with Cuba (December 1999) and Mexico (July 2002), and as a member of the MERCOSUR, it also signed economic cooperation agreements with Mexico (July 2002), the Andean Community (December 2003) and Peru (August 2003).³⁸⁶

Second, Brazil in its capacity as a member of the MERCOSUR negotiated an Interregional Association Agreement with the European Union. The agreement is aimed at liberalising trade with a view to establishing a free trade agreement most especially trade in agriculture.³⁸⁷

Third, Brazil being one of the 34 Western Hemisphere members, signed the Free Trade Area of the Americas (FTAA) initiatives. Economically its participation in the FTAA is deemed to be more beneficial than the Free Trade Agreement with the European Union.³⁸⁸ The FTAA was appraised for its expansionary contributions (particularly in agricultural trade) on output and employment in most Latin American countries. This is buttressed by the overwhelming success of landless farmers in the Brazilian territory who could not make it in the 1950s because of government's protectionist practice under the ISI strategy.

Fourth, Brazil under the MERCOSUR and the MTS has signed preferential trade agreements with certain African³⁸⁹ countries and unions such as the South African

³⁸⁵ For details on Mercosur, see also, O'keefe, T.A (1994) 'An Analysis of the Mercosur Economic Integration Project from a legal Perspective: Recent Developments' *Int'l Lawyer* Vol. 28, available: http://heinonline.org/HOL/Page?handle=hein.journals/intlyr28&div=34&g_sent=1&collection=journals[31st March 2011].

³⁸⁶ OECD (2005), 119.

³⁸⁷ Regarding the views on agricultural products, the bone of contention was bilateral tariff concessions, EU Quotas and the protection of intellectual property rights on geographical indications. See: Spanakos, A.; Mauricico, A. & Bordin, C. (eds) (2004) *Reforming Brazil* Maryland, USA, 226, Chapter 11.

³⁸⁸ Reasons being that Brazil is US' main partner under the FTAA. See: Spanakos, A.; Mauricico, A & Bordin, C. (eds) (2004), 222-223.

³⁸⁹ With the growing influence of Brazil in Agricultural and social development in the world, representatives of the UN organisation visited the Brazilian capital (Friday 23 March 2011), Brasília, to learn about the Brazilian social development programs in order to gain experience in areas of transfer of income and hunger alleviation coupled with strategies to strengthen family farming. The objective is to analyse possible expansion to Africa. The committee was led by the regional director at the UNDP for Africa, Tegegne work Gettu. They met with the minister of Social Development and Hunger Alleviation, Tereza Campello, and with the executive secretary at the ministry, Rômulo Paes de Sousa. This explains there would be existing everlasting bilateral relationships between Brazil and the African continent. More importantly, the African continent still aims at expanding trade, economic and political relations with

Customs Union (SACU),³⁹⁰ Mozambique, and the Economic and Monetary Union of West Africa (ECOWAS).³⁹¹ This bilateral relationship acts as a link for donation (especially via the Africa-Brazil Cooperation Program-ABCP) and a contribution for investment strategies. Thus most African countries need to adopt and rely on this link by Brazil with genuine concern for it would serve as a lesson.³⁹² It is worthy to note that Brazil as a member of the MERCOSUR is also a member of the BRICS.³⁹³

Generally, these regional trade agreements have proven to develop a close relationship between intra-regional agricultural and trade liberalisation conducted by member countries in the WTO including Brazil and its signatories. Thus much is still to be told by member states about the successes of the proliferation of Regional trade agreements under the MTS.

3.4-Conclusion

From the outset (1950-60), Brazilian agricultural policy was too protectionist via the application of the ISI with bias in favour of agriculture over industry. As consequence to the crisis in the 1970s, agriculture underwent a new turn for liberalisation starting from the 1990s. Thus pursuant to Article 6.2 of the AoA, there was government intervention with the implementation of support measures.³⁹⁴ As a result, the GOB undertook drastic reduction moves on tariff protection and abolished all non-tariff barriers in an attempt to achieve its goal under the Uruguay Round and the MERCOSUR. Without fear of contradiction, the success of Brazil's agricultural trade underlies its policy reforms, tilted especially towards the agricultural support measures.³⁹⁵ This is possible by virtue of the fact that Brazil as a developing country takes opportunity under the SDT and injects

Brazil. See: 'Brazil promotes special coffees abroad' ANABA, Available:http://www2.anba.com.br/noticia_servicos.kmf?cod=11696024[1st April 2011].

³⁹⁰This Union Unites Botswana, Lesotho, Namibia, Swaziland and South Africa.

³⁹¹Members include: Nigeria, Ghana, Guinea, Sierra Leone, and The Gambia.

³⁹²Sotero, P, (2009) *Brazil as an Emerging Donor: Huge potential and growing pains*, World Bank Institute. Special Report, 18-20.

³⁹³ The BRICs are composed of Brazil, Russia, India and China, as well as South Africa. For details See also: Davenport, R. Chadha, R. & Gale R. (2009) 'Competition Policy Reform in Agriculture: A Comparison of the BRICs Countries', *Australian Agricultural and Resource Economics Society 53rd Annual Conference*.

³⁹⁴ As earlier mentioned, these measures act as mechanisms to support producer prices and substantial credit preferences to the agricultural sector.

³⁹⁵These policies included the Land Development Policy, Agricultural Marketing and Pricing Policy, Fiscal policy, Institutional Policy and more importantly, the contribution of the Constitution.

enough money (subsidies) in agricultural R&D for it is neither regarded as direct nor actionable subsidies. Brazil's active participation under multilateral, regional and bilateral trade agreements is ample evidence of its bargaining position particularly in agriculture.

Further in Chapter four, this research will look at agricultural trade in Sub-Saharan Africa and in particular, the position of South Africa which is a leading country in Sub-Saharan Africa.



CHAPTER 4

AGRICULTURE IN SUB-SAHARAN AFRICA: A SOUTH AFRICAN PERSPECTIVE

4.1- Background and Impediments to Agriculture in Sub-Saharan Africa

As Brazil in the 1960s, Sub-Saharan Africa was a net-food exporter and grew considerably in the 1950s, more rapidly than Asia. However, in the 1980s, Sub-Saharan Africa became a net-food importer when prices of its key commodity exports tumbled and resulted in a slowdown in agricultural growth. For a better understanding of Sub-Saharan Africa's slow growth in agriculture, an inference is drawn from two developing countries that experienced a similar oil boom in their predominant agricultural economy; Nigeria in Sub-Saharan Africa and Indonesia in Asia. It is evidenced that until 1970, Nigeria's economy outweighed that of Indonesia, but over the next quarter-century, the reverse was true for the Indonesian economy which is now at the forefront. Reason being that, the Indonesian economy experienced a marked diverged outcome despite the fact that both countries experienced a common oil boom in their predominant agricultural economy.³⁹⁶ Though the impediments of agricultural growth in Sub-Saharan Africa are not unique, principal findings have proven that African agriculture has been shackled by many and varied factors.³⁹⁷

It is worth noting that the factors responsible for Sub-Saharan African slow pattern of agricultural growth and trade varies in regions as well as from country to country. For instance, in the 1970s, political instability in most Sub-Saharan African Countries has resulted in economic deterioration and uncertainty, thereby distracting stakeholders

³⁹⁶ For details on the comparison about Nigeria and Indonesia's agricultural economy relating to oil boom, see Pinto, B. (1987) 'Nigeria during and after the oil boom: A policy comparison with Indonesia', *The World Bank Economic Review*, vol. 1, no. 3, 419. See also, Scherr, S.J. (1989) 'Agriculture in an export boom economy: a comparative analysis of policy and performance in Indonesia, Mexico and Nigeria', *World Development*, 543-560; and Nyatepe-Coo, A.A. (1993) 'External disturbances, domestic policy responses and debt accumulation in Nigeria', *World Development*, Vol. 21: no. 10, 1621-1631.

³⁹⁷ For details, see Collier, P. & Gunning, J.W. (1999a) 'Explaining African economic performance' *Journal of economic Literature*, vol. 37, no. 1, 64-111. See also, Collier, P. & Gunning, J.W. (1999b) 'Why Has Africa Grown Slowly', *Journal of Economic Perspectives*, vol. 13. See also, Pretty, J. (1999) 'Can sustainable agriculture feed Africa? New evidence on progress, processes and impacts', *Environment, Development and Sustainability*, vol. 1, no. 3, pp. 253-274; see also, Easterly, W., Kremer, M., Pritchett, L. & Summers, L.H. (1993) 'Good Policy or Good Luck?' *Journal of Monetary Economics*, vol. 32, no. 3, 459-483. See also, Azam, J.P., Fosu, A. & Ndung'u, N.S. (2002) 'Explaining slow growth in Africa' *African Development Review*, vol. 14, no. 2, pp. 177-220; and Azariadis, C. & Drazen, A. (1990) 'Threshold externalities in economic development' *The Quarterly Journal of Economics*, vol. 105, no. 2, 501.

from investing in agriculture. Moreover, the existence of poor public policies (on investment choices), coupled with insufficient infrastructural development weakened the legal framework and judicial system. Consequently, it corrupted the management of public resources, particularly those involved in the marketing of key crops and minerals.³⁹⁸ In addition, the limited openness to international trade (caused by high tax rates) coupled with the lack of social capital, prompted as low and undercapitalised agricultural sector leading to low per capita income. It is worth noting that, most Sub-Saharan African Countries still practice a continued colonial pattern of trade in commodity exports. Furthermore, the landlocked geographic location (which contains about 40% of the Sub-Saharan African population)³⁹⁹ of certain poor Sub-Saharan African countries (Chad, Sudan, Central Africa), has made it difficult (natural barrier to trade) and most costly for agricultural imports. Finally, the lack of appropriate and established institutions with the capacity building in most Sub-Saharan African countries has also been a problem for slow economy growth.⁴⁰⁰ All these policies have impacted negatively on African agriculture thereby rendering it less competitive in the MTS.

The Director-General of the WTO Lamy, called on Sub-Saharan African governments to regulate the continued rise in agricultural prices. Reason being that Africa's current food trade deficit was estimated at USD 20 billion and could become worst if not regulated.⁴⁰¹ Since 1980, Sub-Saharan Africa's aggregate per capita GDP has declined almost at a rate of 1% per annum, with almost 32 countries becoming poorer⁴⁰² as a result of the world economic crisis in the 1980s.

Although the constraints of agricultural growth and productivity faced by Sub-Saharan African countries are not unique, attempts were made at sub-regional levels as well as on country by country basis in order to identify the country specific constraints. For instance, in countries like Somalia, Mozambique, Chad, Sudan and Ethiopia, suitable strategic actions were attempts to reduce civil strife and provide disaster relief from

³⁹⁸ Calamitisis, E. A (March 1999) 'Adjustment and Growth in Sub-Saharan Africa: The Unfinished Agenda', *Finance & Development* Vol. 36:No 1, 6.

³⁹⁹ See FAO News on Africa's food challenge. [Online].Available: <http://www.fao.org/news/story/en/item/35770/icode/> [24th March 2011].

⁴⁰⁰ Collier, P. & Gunning, J.W. (1999a), 3. For details on the special challenges responsible for Sub-Saharan Africa's low agricultural growth, see also See FAO (2009).

⁴⁰¹ See Lamy, P. (2011).IPS. [Online].Available: <http://ipsnews.net/news.asp?idnews=54669> [10th April 2011].

⁴⁰² Collier, P. & Gunning, J.W., (1999a), 3.

disasters which affect the countries. Furthermore, sound transparency principles ought to be established with the introduction of techniques to generate rapid increase in food production thereby providing farm inputs. Moreover, rural transports and agricultural policy ought to be improved. On the other hand, as regards the West and Central African zones, strategic actions on implementing sound macro-economic policies were deemed best in stimulating agricultural growth (especially in the CEMAC/franc zones). For instance, the best option strategy for a country like Zaire with abundant natural resources is: enhanced improvement in government management towards investment and infrastructural development. Whereas, a best-suited option strategy for better agricultural performing countries like Botswana, Kenya, Tanzania and Nigeria, would be to pursue continued improvement in their agricultural policy and technological transfer.⁴⁰³

In conclusion, factors that influence slow agricultural growth in Sub-Saharan African countries vary from various regions as well as countries. These results from the lack of capacity building, regarded as a cornerstone to better implementation of most agricultural policies. Furthermore, this chapter will to an extent provide a brief rundown of the agricultural growth trend and its role in Sub-Saharan Africa. It will expound on agricultural trade policies in South Africa considered a major Sub-Saharan country, its commitments in the AoA and its participation under other trade agreements.

4.2-The Evolution of Agriculture in Sub-Saharan Africa

Sub-Saharan African agriculture as that of Brazil underwent an evolution through various phases (during the post war-period) with similar experience. First, during the 1960s, the agricultural economy was characterised by state intervention and control via the implementation of an import substitution strategy. For instance product markets and marketing boards were created characterised by taxation, price setting mechanisms and public trading monopolies initiated by most Sub-Saharan African governments. Second, the food production trends combined with imports, population growth and poverty experienced a phase (1960-1980 periods) of food deficit. For instance, during this period, aggregate food production in Sub-Saharan Africa grew very slowly at a rate of

⁴⁰³ Cleaver, K.M. (1993) 'A strategy to develop agriculture in Sub-Saharan African and a focus for the World Bank' World Bank Technical Paper, Vol.23: No.203, 1.

1.8% per annum, a rate below the aggregate growth of Latin America as well as Asia.⁴⁰⁴ Third, in the 1980s, Africa underwent an era of structural adjustment, characterised by gradual privatisation of state-owned farms, reduction of agricultural taxes and the dismantling of marketing boards for key commodities thereby reversing the import substitution strategy.⁴⁰⁵

These moves were suddenly triggered by a rise in world real interest rates which resulted in a global recession, and later, in unfavourable terms of trade for Africa. Suddenly, Sub-Saharan Africa's interest to reform the public-sectors was instigated and sponsored by the Bretton Wood Institutions (World Bank and the IMF under the 'Structural Adjustment Plan') with loans under conditionality terms.⁴⁰⁶ Today most of these African countries are seeking for debt relief under the Highly Indebted Poor Countries (HIPC) initiative. However, this does not qualify as a panacea for agricultural productivity, food security and poverty alleviation as most Sub-Saharan governments are still adamant not to improve their domestic policies. Thus Africa's food deficit has persisted and most particular is that agricultural productivity in Africa is growing at a regressive rate. In the near future, current rise in food prices may lead to actual food insecurity especially among the least developed countries (net-food importers).⁴⁰⁷ Therefore, in order for Sub-Saharan Africa to meet its food security needs in the next ten years, agricultural production should increase by 1% to 2% (per year) accompanied with an improvement in policy reforms.⁴⁰⁸ It is worth noting that, the mode of current agricultural investment pursued in Sub-Saharan Africa by least developed countries with foreign investors has proved the worst. For instance, countries like Sudan, Zambia, Angola and Mozambique are currently selling their land assets to rich countries like the Gulf States, China and South Korea. Consequently, these rich countries produce food and export them to feed their rich-country populations in order to safeguard against food

⁴⁰⁴ For details, see, Eicher, C.K. (1982) 'Facing up to Africa's Food Crisis', *Journal of Foreign Affairs*, 153.

⁴⁰⁵ Sahn, D.E., Dorosh, P.A., & Younger, S.D. (1997) *Structural Adjustment Reconsidered: Economic Policy and Poverty in Africa*, Cambridge University Press, Cambridge, UK.

⁴⁰⁶ Anderson, K. (ed) (2009) *Distortions to Agricultural Incentives: A Global Perspective, 1955-2007*, Palgrave Macmillan, 331.

⁴⁰⁷ For details, see, Rosen, S. & Shapouri, S. (2008) 'Rising food prices intensify food insecurity in developing countries', *Amber Waves*, vol. 6, no. 1, 16-21.

⁴⁰⁸ See, Wiebe, K. D et al (2001) 'Agricultural Investment, Production Capacity and Productivity'. In Zepeda, L. (ed) *Agricultural Investment and Productivity in Developing Countries*, FAO Economic and Social Development Paper 148.

insecurity.⁴⁰⁹ Thus such a practice of wanton acquisition of farm/rural land by aliens coined as 'Agricultural Investment' seems inhuman as it puts the lives of desperate African citizens at risk of food insecurity. As mentioned earlier in chapter three, in order to avoid such a mess, Brazil under the reign of President Lula (2010), revised and tightened the provision on land acquisition by aliens. Giving it a critical look, if continued with such an investment scheme, Africa will remain a loser, as it will not only suffer from the rising food prices, but would also face challenges to compete in agricultural trade under the MTS. Although Sub-Saharan Africa is noted for its comparative advantage in agriculture, if it does not pursue favourable investment strategies that suit its context, it may end up growing at the regressive progression. Ultimately all that matters is food sufficiency.

4.3-The Role of Agriculture in Sub-Saharan Africa

Generally, it is worth noting that agriculture is the cornerstone of Africa's economy. Considering the fact that Sub-Saharan Africa has a comparative advantage in agriculture, it is therefore an integral part of development in most Sub-Saharan African. For instance, it constitutes a large share of national output and employs a majority of the labour force in most developing countries.⁴¹⁰ According to a 2005 report by the World Bank Commission for Africa, agriculture is a critical sector for the Sub-Saharan African Region for it accounts for about 30% of the GDP and employs about 75% of the population.⁴¹¹ With regards to a 2008 World Development Report, the GDP growth of Agriculture for the poorest people in Sub-Saharan Africa is about four times more effective in raising their per capita income, than the GDP growth outside the agricultural sector.⁴¹² The role of Agriculture in this region is indispensable. For instance, Agriculture serves as a major employer, *inter alia*; it comprises a significant source of income, export and rural livelihood to the people, and contributes as a stimulant for other economic sectors in most Sub-Saharan African countries.

⁴⁰⁹ See, Hallam, D. (2011) 'International investment in developing country agriculture: issues and challenges', *Food Security*, vol. 3, 91-98.

⁴¹⁰ Diao, X. et al (2007) *The role of agriculture in development: Implications for Sub-Saharan Africa*, International Food Policy Research Institute, 3.

⁴¹¹ See, A 2005 Report by the World Bank Commission for Africa. Available: <http://web.worldbank.org>[13th April 2011].

⁴¹² Webber, C. M. & Labaste, P. (2009) *Building competitiveness in Africa's agriculture: a guide to value chain concepts and applications*, 1.

Despite the contribution of agriculture to Sub-Saharan Africa's overall economy growth, only little official development assistance is given to it. For instance, Sub-Saharan Africa's public expenditure for agriculture is only about 4% of governments' spending although the sector is still taxed at relatively high levels.⁴¹³ As mentioned above, this accounts for Sub-Saharan Africa's minimal and continued decline of agricultural market share in world trade. Thus in the 53.4% contribution to Sub-Saharan Africa's total agricultural exports to world agricultural trade, only about five African countries are accountable: Cote d'Ivoire, Egypt, Ghana, Kenya and South Africa. Among agricultural exports from Africa, South Africa stands alone and accounted for 17.7% of the continent's total share in world agricultural export.

In conclusion, agriculture is the backbone of most Sub-Saharan African countries. Despite the fact that the constraints on agriculture are many and varied at Sub-regional and national levels, it is evidenced that the lack of agricultural growth and productivity; to an extent it is as a result of bad public policies pursued by most Sub-Saharan African governments at the multilateral level. Thus Sub-Saharan Africa's minimum market share of world agricultural exports is as a result of this practice. As mention earlier, just few Sub-Saharan African countries are accountable for the region's overall agricultural exports.

4.4-South African Agriculture under the Multilateral Trading System

4.4.1- Background to the South African Economy and Political evolution

Under the first multi-racial elections in 1994 which marked an end to Apartheid, the Republic of South Africa ushered in majority rule under an ANC government, led by Nelson Mandela. Since then, South Africa has struggled to address the imbalances that existed during the Apartheid-era strategically by putting in place decent housing, education, and health care facilities for its citizens without discrimination.⁴¹⁴ Recently

⁴¹³World Bank,

Available:http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:21513382~pagePK:64257043~piPK:437376~theSitePK:4607_00.html [3th April 2011].

⁴¹⁴ For details on the evolution of South Africa's economy, see, Stadler, A. (1987) *A Political Economy of Modern South Africa*, Publisher Property Ltd, Werdmuller Centre, South Africa.

(January 2011), South Africa assumed a non-permanent seat on the UN Security Council for the term 2011-12.⁴¹⁵

South Africa is located at the southern tip of the continent of Africa.⁴¹⁶ It has a total land area of 1,214,470 sq. km, ranked 25th in the world, an area slightly less than twice the size of Texas. It has a total population of 49,004,031 (July 2011 est.) and a growth rate of -0.38% (2011 est.), ranked 220th in the world. South Africa has a GDP per capita income of \$10,700 (2010 est.) with the agricultural sector accounting for 3% (2010 est.), and employing 9% of the labour force (2007 est.). South Africa's total land use pattern is comprised of a 12.1% of arable land,⁴¹⁷ a 0.79% of permanent crops⁴¹⁸ and lastly an 87.11% of other crops⁴¹⁹ (2005 est.).⁴²⁰

Just as Brazil in Latin America, South Africa is considered the economic powerhouse and a gateway to other Sub-Saharan African countries. South Africa leads and contributes to the continent in industrial output and mineral production. Thus it generates a large proportion of Africa's electricity. As an emerging market, it possesses an abundant supply of natural resources; well-developed financial, legal, energy, communication and sophisticated transport sectors; and a stock exchange market, ranked among the top 18th in the world. Throughout the Southern African region and especially in the Southern Africa Customs Union (SACU), South Africa has a modern infrastructure which supports efficient distribution of goods under the MTS. It is worthy to note that, from 2004 to 2007 South Africa had a robust economic growth due to the benefits of macroeconomic stability and a global commodities boom. However, from 2007 due to electricity crisis, South Africa experienced a fall in its GDP to nearly 2% in 2009. Consequently, it resulted in a high unemployment rate with an out-dated infrastructure which constrained agricultural growth. For instance, South Africa

⁴¹⁵The World Fact Book, CIA. Available: <https://www.cia.gov/library/publications/the-world-factbook/geos/sf.html> [14th April 2011].

⁴¹⁶South Africa is border by border countries: Botswana 1,840 km, Lesotho 909 km, Mozambique 491 km, Namibia 967 km, Swaziland 430 km, and Zimbabwe 225 km.

⁴¹⁷ Arable land includes land cultivated for crops like wheat, maize, and rice that are replanted after each harvest.

⁴¹⁸Permanent crops includes land cultivated for crops like citrus, coffee, and rubber that are not replanted after each harvest; includes land under flowering shrubs, fruit trees, nut trees, and vines, but excludes land under trees grown for wood or timber.

⁴¹⁹The term 'Other' includes any land not arable or under permanent crops; includes permanent meadows and pastures, forests and woodlands, built-on areas, roads, barren land,

⁴²⁰CIA. The World fact book, available: <https://www.cia.gov/library/publications/the-world-factbook/geos/sf.html> [14th April 2011].

experiences a current balance of payment (BOP) deficit of -\$16.51 billion (2010 est.) with a rising external debt of \$80.52 billion (30 June 2010 est.).⁴²¹ Despite the fact that South Africa has a booming economy, it is worth noting that, the majority of its GDP is composed of the industrial (31.2%) and services sectors (65.8%) (2010 est.), with the least acquired from the agricultural sector (3%, 2010 est.). Nevertheless, the problem of food security and agricultural trade still remains an issue for South Africa and Sub-Saharan Africa as a whole under the MTS.

4.4.2-Review of Agriculture in the South African Economy

South Africa has a diversified economy, with its services and manufacturing sectors accounting for 65.8% and 31.2% of GDP respectively. In 1995, agriculture declined from 3.9% to 2.8% in 2008 and later increased to 3% in 2010.⁴²² Despite its minor contribution to GDP (3% in 2010 est.), the sector still remains important as it employs a large proportion of the unskilled workforce. Though Agriculture in South Africa is capital intensive and commercial, it is mostly in the hands of very few people.⁴²³ Nevertheless, primary agriculture has played an important role. As a result, it contributes to linkages in the up and down stream industries, created employment opportunities, and has also stimulated participation in foreign trade under the MTS and inter-regional linkages under regional agreements.⁴²⁴ Nevertheless, the greatest problem remains that of agricultural productivity and supply.

Prior to the 1990s (during 1960s-1970s), South Africa's trade policy was characterised by high tariffs accompanied with extensive import controls.⁴²⁵ It was aimed at promoting export at the expense of import liberalisation, solely for reasons of domestic protection. However, in 1985 with the financial sanctions imposed on South Africa and the debt crises suffered with a BOP deficit (in the early 1990s), trade liberalisation was pursued as a panacea for macroeconomic growth and stabilisation. As a result, South Africa adopted two strategies. First, it adopted the Multilateral Trade Liberalisation System

⁴²¹ The World Fact book, Available: <https://www.cia.gov/library/publications/the-world-factbook/geos/sf.html> [14th April 2011].

⁴²² The World Fact Book, Available: <https://www.cia.gov/library/publications/the-world-factbook/geos/sf.html> [14th April 2011].

⁴²³ WTO Secretariat Report on South Africa's Trade Policy WT/TPR/S/222/ZAF, 281.

⁴²⁴ OECD (2007),32.

⁴²⁵ For instance, by 1983, about 77% of imports were subject to direct import controls.

under the Uruguay Round (1985) which began effectively in 1 January, 1995. Second, it adopted the Unilateral Trade Liberalisation System, whose schedule later expired in 1999.⁴²⁶

According to a 2005 OECD review of agricultural policy, the economies of South Africa and Brazil have undergone radical reforms over the past 10-15 years. These reforms are regarded as a contributing factor to a stable macroeconomic and investment climate stimulating agricultural growth in South Africa. Although the contribution of agriculture to South Africa's GDP is relatively small (3%), agriculture has contributed as well as benefited from these reforms; *inter alia*, achieving poverty reduction, sustainable economic development and poverty alleviation.⁴²⁷ It is worth noting that, agricultural growth in South Africa is mostly influenced by farm exports products, making South Africa a net-food exporting country in Sub-Saharan Africa. Although livestock is an essential category of agricultural production in the economy of South Africa, South Africa remains a net-food importer of meat (livestock) originating mostly from Botswana and Namibia.⁴²⁸ Although the commercial farming sector is relatively well developed, most of the people in rural areas survive on subsistence agriculture although a larger number still suffers from lack of agricultural resource equipment and information on recent technologies.⁴²⁹

South Africa has a variety of food categories. Most important for exports are sugar cane, maize and wheat. Traditionally, South Africa has also been a net-exporter of maize and sugar whereas it is a net-importer of wheat. In line with horticultural production, it consists of all the major fruit groups, such as, deciduous, citrus, and subtropical, vegetables and flowers. As regards fruits produced and exported, there are citrus (61%), oranges, apples (44%), pears, peaches, table grapes (61%), and avocados.⁴³⁰ However, the importance of agriculture and trade in the overall economy declined since 2003. Furthermore, state intervention in agricultural markets declined when agricultural imports were subjected to a complex tariff structure while export

⁴²⁶For details South Africa's Trade policy and Trade Development, see, Jonsson, G. & Subramanian, A. (2000), *Dynamic gains from trade: Evidence from South Africa*, International Monetary Fund, 5-10.

⁴²⁷OECD, (2006), *Agricultural policies in OECD countries: at a glance 2006*, 36.

⁴²⁸WTO (2009) Secretariat Report WT/TPR/S/222/ZAF, Para. 184,331.

⁴²⁹May, L. (2000) 'The structure and composition of rural poverty and livelihoods in South Africa' In :*At the crossroads: Land and agrarian reform in South Africa into the 21st Century*, 61.

⁴³⁰WTO, (2009) Secretariat Report WT/TPR/S/222/ZAF.Para.183, 332.

products benefited from higher average protection.⁴³¹ This practice resulted in a decline in agriculture in the overall economy. This is a common practice with most Sub-Saharan African countries which limits the chances of international trade and therefore calls for change.

4.4.3-Institutions and Policies complementing the South African Agricultural Sector

South Africa has a limited potential in agriculture due to the numerous and varied constraints faced: poor land quality, scarcity of water,⁴³² and high variable climatic conditions.⁴³³ Consequently, the government embarked on reform policies particularly on land and several other programmes which aimed at redressing problems faced by small farmers (especially the black farmers) and supporting disadvantaged farming communities. Most of these reforms were developed within the framework of the Agricultural Broad Based Black Economic Empowerment (AgriBEE). It is worth noting that, in 2007, a draft Charter was finalised and approved by the Minister in Charge of Agriculture.⁴³⁴ This framework was the output of the Broad Based Black Economic Empowerment Act,⁴³⁵ launched in 2008. The creation of the AgriBEE was an initial effort by the government after numerous consultations with stakeholders, in recognition of the role of commercial farmers. It is aimed at enhancing productivity and empowerment of small holder farmers as well as promoting the participation in and equitable access of the black people to the agricultural sector. Another major fundamental issue in South African agricultural policy is the issue of land reform.⁴³⁶ Despite South Africa's comparative advantage in agriculture and the large endowments of precious stones and metals, the importance of agriculture has declined relatively. Thus this lack of ability to compete in world agricultural trade is as a result of low interest in agricultural investment.

⁴³¹WTO, (2009) Secretariat Report WT/TPR/S/222/ZAF.Para.175, 330.

⁴³² For instance almost 50% of South Africa's water is used for agricultural purposes (Government Communication and Information System, 2008).

⁴³³ South Africa has been subdivided into a number of farming regions according to climate, natural vegetation, types of soil, and the type of farming practised (Government Communication and Information System, 2008).

⁴³⁴ WTO (2009) Secretariat Report WT/TPR/S/222/ZAF. Annex 4. Para. 180,331.

⁴³⁵ Act No. 53 of 2003

⁴³⁶ See, Department of Agriculture, Forestry and Fishery (DAFF) (2010) Report on Agriculture, available: <http://www.doa.agric.za/> [15th April 2011].

4.4.3.1- Institutions complementing the South African Agricultural Sector

As far as agricultural sectorial policies are concerned, six main institutions are responsible for formulating, implementing and regulating agricultural sectorial policies. They are: The Department of Agriculture and Land Affairs (currently separated into the Department of Agriculture, Forestry and Fishery, and Department of Rural Development and Land Reform); the Department of Water Affairs-DWA (formerly the Department of Water Affairs and Forestry); Department of Environmental Affairs-DEA (former Department of Environmental Affairs and Tourism); Department of Trade and Industry-DTI. Besides, there exist other institutions, such as, the Agricultural Research Council (ARC); National Agricultural Marketing Council (NAMC); supported with two financial institutions, such as, Land and Agricultural Bank (Land Bank) and the Development Bank of South Africa (DBSA).⁴³⁷ All these institutions have gone a long way in promoting agricultural growth and productivity; in particular the main policy objectives outlined in the White Paper on Agriculture (1995).⁴³⁸ This was later restated in the Strategic Plan for South African Agriculture (2001) and more recently in the Annual Strategic plans of the Department of Agriculture.

4.4.3.2-Policies complementing to South African Agricultural Sector

The main objective of the South African agricultural trade policy reform was to promote the integration of the sector into the global economy as a means to encourage greater competition and access to markets, technology and capital.⁴³⁹ In an attempt to achieve the policy objectives outlined in the White Paper on Agriculture, the government of South Africa established regulations (Acts) to be formulated and implemented. The main objective is to create an efficient and internationally competitive sector (which contributes to the objectives of the Growth, Employment and Redistribution-GEAR Strategy), increasing economic growth by reducing income inequality and eliminating poverty. Other agricultural policy objectives include the emergence of small and

⁴³⁷ For details, see also DAFF Annual Report (2010).

⁴³⁸ For details on the agricultural policy goals, see South African White Paper on Agriculture (1995), 3.

⁴³⁹ OECD, (2009),139.

medium-sized farms, food security, food safety, and environmental protection.⁴⁴⁰ These policies (strategies) are intended to stimulate and increase effective private sector participation in the agricultural production sector; address past injustices regarding land redistribution, agricultural support programmes (especially with disadvantaged subsistence farming communities), and implementing a programme of economic empowerment of the black population.⁴⁴¹

The South African agricultural sector is regulated by a number of laws and regulations (37 pieces of legislations out of which five are pending) such as the Animals Protection Act 1962,⁴⁴² Veterinary and Para-Veterinary Professions Act 1982,⁴⁴³ Animal Diseases Act 1984,⁴⁴⁴ Meat Safety Act 2000,⁴⁴⁵ Animal Identification Act 2002,⁴⁴⁶ Animal Health Act 2002,⁴⁴⁷ Societies for the Prevention of Cruelty to Animals Act 1993,⁴⁴⁸ Liquor Products Act 1989,⁴⁴⁹ Agricultural Product Standard Act 1990,⁴⁵⁰ Conservation of Agricultural Resources Act 1983,⁴⁵¹ Fencing Act 1963,⁴⁵² Subdivision of Agricultural Land Act 1970,⁴⁵³ Plant Breeders' Rights Act 1976,⁴⁵⁴ Plant Improvement Act 1973,⁴⁵⁵ Perishable Products Export Control 1983,⁴⁵⁶ Onderstepoort Biological Products Incorporation Act 1999,⁴⁵⁷ Genetically Modified Organisms Act 1997,⁴⁵⁸ Agricultural Produce Agents Act 1992,⁴⁵⁹ Marketing of Agricultural Products Act 1996,⁴⁶⁰ Agricultural



⁴⁴⁰ Agricultural and Environment is matter to decide on. South Africa being a WTO member is obliged to address environmental issues. See WTO 10 and 14 January 2011 report on Trade and Environment as Members were ready to move forward on environment negotiations.

⁴⁴¹ See, OECD Policy Brief (2006) *Agricultural Policy Reform in South Africa*.

⁴⁴² Act No. 71 of 1962.

⁴⁴³ Act No. 19 of 1982.

⁴⁴⁴ Act No. 35 of 1984.

⁴⁴⁵ Act No. 40 of 2000.

⁴⁴⁶ Act No. 6 of 2002.

⁴⁴⁷ Act No. 7 of 2002.

⁴⁴⁸ Act No. 169 of 1993.

⁴⁴⁹ Act No. 60 of 1989.

⁴⁵⁰ Act No. 119 of 1990.

⁴⁵¹ Act No. 43 of 1983.

⁴⁵² Act No. 31 of 1963.

⁴⁵³ Act No. 70 of 1970.

⁴⁵⁴ Act No. 15 of 1976.

⁴⁵⁵ Act No. 53 of 1973.

⁴⁵⁶ Act No. 9 of 1983.

⁴⁵⁷ Act No. 19 of 1999.

⁴⁵⁸ Act No. 15 of 1997.

⁴⁵⁹ Act No.12 of 1992.

⁴⁶⁰ Act No. 47 of 1996

Research Act 1990,⁴⁶¹ Agricultural Pests Act 1983,⁴⁶² Animal Improvement Act 1988,⁴⁶³ Fertilizer, Farm Feeds, Agricultural Remedies and Stock Remedies Act 1947,⁴⁶⁴ Agricultural Laws Extension Act 1996,⁴⁶⁵ Agricultural Laws Nationalisation Act 1998,⁴⁶⁶ Root Constantia Trust Act 1993,⁴⁶⁷ Kwa-Zulu Cane Growers Association Act: Repeal Act 2002,⁴⁶⁸ Marine Living Resources Act 1998,⁴⁶⁹ National Forest Act 1998,⁴⁷⁰ National Veld and Forest Fire Act 1998,⁴⁷¹ Sea Fishery Act 1988.⁴⁷² Whereas the pending Legislations include the following: Plant Breeders' Rights Amendment Bill, Pound Bill, Fertilizer and Feeds Bill, Marine Fisheries Bill and the National Bill for Agricultural Training Institutes of South Africa.⁴⁷³

Considering the above mentioned applicable legislation, it buttresses South Africa's sophisticated legal framework in Agriculture. Therefore it demonstrates an insight of South Africa's efforts in Agricultural reform. Nevertheless, this research will expound briefly on the important policy reforms.

4.4.3.2.1-Trade Policy

This policy category involves effort by South Africa to pursue trade liberalisation and integration into the global economy as an attempt to increase international competition. It is regarded as a way to promote economic efficiency and to promote welfare benefits.⁴⁷⁴ Thus trade liberalisation is regarded not as a panacea *per se* to poverty reduction. Therefore, it cannot be achieved by relying on the outcome of a single policy as it also depends on existing conditions as well as consideration of the production structure and options to rely on in the various countries.⁴⁷⁵

⁴⁶¹ Act No. 86 of 1990.

⁴⁶² Act No. 36 of 1983.

⁴⁶³ Act No. 62 of 1988.

⁴⁶⁴ Act No. 36 of 1947.

⁴⁶⁵ Act No. 87 of 1996.

⁴⁶⁶ Act No. 72 of 1998.

⁴⁶⁷ Act no. 38 of 1993.

⁴⁶⁸ Act No. 24 of 2002.

⁴⁶⁹ Act No. 18 of 1998.

⁴⁷⁰ Act No. 84 of 1998.

⁴⁷¹ Act No. 101 of 1998.

⁴⁷² Act No. 12 of 1988.

⁴⁷³ See, South African Department of Agriculture, available: <http://www.doa.agric.za/> [16th April 2011].

⁴⁷⁴ Department of Industry (DTI) (2010) *South African Trade Policy and Strategy Framework*, 11-12.

⁴⁷⁵ DTI (May 2010), 10.

4.4.3.2-Institutional Policy

Unlike the 1980s (period of Apartheid) when South Africa had just three Agricultural Departments (Department of Agricultural Technical Services, Department of Agricultural Economics and Marketing, and Department of Agricultural Credit and Land tenure), of recent, it is served by 14 Agricultural Departments each with individual agricultural policies. The institutions complementing South Africa's agricultural policy consist of the Agricultural Research Council (ARC), the National Agricultural Marketing Council (NAMC), and two financial institutions such as the Land and Agricultural Bank (Land Bank) and the Development Bank of South Africa (DBSA).

4.4.3.2.3-Fiscal Policy

This policy Category consists mainly of the budgetary and tax policies on concessions. It is implemented in order to enhance fiscal efficiency, reduce inflation (through fiscal discipline) and budgetary deficit. It is worth noting that the tax concessions to South African farmers resulted in the depreciation of assets for over three years at rates of 50%, 30% and 20% (per annum) respectively.⁴⁷⁶

4.4.3.2.4-Land Development Policy⁴⁷⁷

Under the South African Agricultural policy, Land reform is considered a fundamental element for agricultural growth.⁴⁷⁸ For instance, one of the most important land reforms which began in 1994 was the implementation of the Land and Assistance Act (as amended, Act No. 126 of 1993). It addresses three main elements (schemes): the restitution of unjustly distributed land acquired from indigenous people (especially the black farmers who suffered the consequences), land redistribution and land tenure reform. All these schemes are basically aimed to foster reconciliation and stability, promote economic growth, improve household welfare and alleviate poverty in rural areas.⁴⁷⁹

⁴⁷⁶Van Rooyen, J. et al (1996) *Structural Adjustment and Agricultural Policy Reform in South Africa*, 29.

⁴⁷⁷For details about Land reform in South Africa, see Greenberg, S. (2010) *Status report on land and agricultural policy in South Africa, 2010*, PLAAS, School of Government, University of the Western Cape.

⁴⁷⁸WTO (2009) Secretariat Report WT/TPR/S/222/ZAF. Annex 4. Para.181, 331.

⁴⁷⁹OECD (2009), 34.

OECD reviews that, land redistribution is a main driver to accomplish the political objective to transfer 30% of white-owned agricultural land (around 25 million hectares) by 2014.⁴⁸⁰ In order to achieve this policy objective, much budget is needed under the 'Willing Buyer and Willing Seller' scheme which enables the buying and redistributing of White-owned lands. As a result, various programmes were instituted as follows: The Comprehensive Agricultural Support Programme (CASP) implemented in 2004/ 2005 aimed at providing an on and off farm infrastructure; and the Micro-agricultural Financial Scheme of South Africa (MAFISA) aimed at providing financial access to farmers, administered by the Land Bank on behalf of the National Department of Agriculture.

Furthermore, the OECD reviewed that, in an attempt to accelerate the pace of land redistribution from 2006/2007, three strategies were implemented: First, the land and Agrarian Reform Project (LARP) (2006/2007) was structured within the framework of delivery and collaboration on Land reform and agricultural support services ('One Stop Shop' service centres). Second, the Pro-Active land Acquisition Strategy (PLAS), as a new instrument was created to accelerate land delivery. Third, this strategy dwells on the Sourcing of Strategic Partners, such as key non-governmental stakeholders, with the aim to speed up land delivery and more importantly, ensure stability of the farm projects.

Generally, Land reform policy is the main underlying issue in the South African agricultural policy. It is at the top priority in order to solve the injustices that existed during the Apartheid era.

4.4.3.2.5- Agricultural Marketing and Pricing Policy

With respect to the orientation on agriculture and agro-food industries, the principal legislation, the Marketing of Agricultural Products Act,⁴⁸¹ was implemented. In order to reduce state intervention, it was aimed at improving market access, market efficiency of agricultural products, export earnings and the viability of South Africa's agricultural

⁴⁸⁰OECD (2009), 142.

⁴⁸¹Act No. 47 of 1996: Marketing of Agricultural Products Act (as amended)

sector.⁴⁸² By virtue of this Act, marketing funds were transferred to the National Agricultural Marketing Council (NAMC).⁴⁸³ Though state intervention was limited by this Act, the state established guidelines for prices on certain products such as grape fruits (also for grape juice; drinking wine, distilled wines, wine spirit, and export wines); milk and other dairy products; and cotton lint. This Act implemented five main schemes: Single-Channel Fixed Price Schemes, Single Channel Pool Schemes, Surplus Removal Schemes, Supervisory and Price Regulatory Schemes and Promotion Scheme.

4.4.4-South Africa in Multilateral and Bilateral Trade Agreements on Agriculture⁴⁸⁴

South Africa, the gateway and powerhouse of Africa is a strong proponent of multilateralism. It considers multilateralism as a strategy to achieve globalisation and the opportunities of interdependence in the national economies.⁴⁸⁵ Historically, South Africa's membership of the GATT/WTO (1995) has played an active role in the ongoing Doha Development Agenda negotiations. This resulted in the various configurations under AoA and NAMA, which are deemed interesting in the ongoing negotiations. For instance, South Africa is an active member of seven WTO negotiation groups.⁴⁸⁶ These groups include: African Pacific Group (ACP),⁴⁸⁷ African group,⁴⁸⁸ G-90,⁴⁸⁹ Cairns group,⁴⁹⁰ G-20,⁴⁹¹ NAMA-11,⁴⁹² 'W52' sponsors⁴⁹³ and the Joint proposal.⁴⁹⁴ South

⁴⁸² Its approval was by the Departmental Executive Committee (DEXCO), so that it could regulate domestic market, control imports and exports, promote demand, and support agricultural research and development. See Act No. 47 of 1996, Article 2 (2), a-d.

⁴⁸³ The NAMC was created as the only government body to assist in the marketing of agricultural products.

⁴⁸⁴ Much information can be obtained from the Republic of South African Department of International Relations and Cooperation. Available: <http://www.dfa.gov.za/foreign/Multilateral/inter/index.html#S> [19th April 2011].

⁴⁸⁵ For details South Africa's perception in Multilateralism of the WTO and the Doha Round, see DTI (May 2010), 34-37.

⁴⁸⁶ See WTO, available: http://www.wto.org/english/tratop_e/dda_e/negotiating_groups_e.htm#grp001 [18th April 2011].

⁴⁸⁷ It consists of 58 WTO Members from a geographical identification, and involves agricultural preferences from the EU, Available: <http://www.acpsec.org> [18th April 2011].

⁴⁸⁸ This group consists of 41 African Members of the WTO from a regional perspective and involves general issues.

⁴⁸⁹ It consists of 65 WTO Members from the African Group, ACP and the least-developed countries dealing on general issues.

⁴⁹⁰ It consists of 19 WTO members in a Coalition of agricultural exporting nations lobbying for agricultural trade liberalization.

⁴⁹¹ It consists of 23 WTO members in a Coalition of developing countries pressing for ambitious reforms of agriculture in developed countries with some flexibility for developing countries.

Africa considers the Doha negotiations to be at a position to offer members of the WTO an opportunity to strengthen the rules-based trading system. This barely reduces the imbalances/inequities and supports development-related issues not yet regarded as an integral part of any previous multilateral trade negotiation under the GATT/WTO.⁴⁹⁵ Furthermore, South Africa as any other WTO member considers bilateral trade agreements as a complement to the MTS. It is worth noting that, the proliferation of Trade Agreements is a contentious issue in the WTO.

4.4.4.1-South Africa's commitments to and implementation of the AoA

(a)-Import Measures:

During the Uruguay Round of multilateral trade negotiations, South Africa was self-designated as a developed country, and undertook similar agricultural commitments like developed country members. Thus since 1994, South Africa has undergone considerable tariff reform compared to other members. Currently, South Africa's binding rate is 96.5% and its simple average final bound rate on agricultural products is at ceiling rates averaging 39.5%. Notably, South Africa's simple average MFN applied rate is deemed to have declined from 15% in 1997 to 8.9% in 2009.⁴⁹⁶ Consequently, the simplification of South Africa's tariff regime, has led to a remarkable improvement of trade liberalisation. As regards *non ad valorem* (NAV) duties, South Africa has not fully protected agriculture from global distortions. Despite South Africa's simple lower tariff (8.9%), when compared with other upper middle income countries it is considered having a high WTO bind coverage (96.5%). It is worth noting that, as a member of SACU, South Africa applies a common external tariff to non- member states as well as *ad valorem* tariffs and specific duties on import protection on agriculture and agro-food

⁴⁹²It is consist of 10 WTO members in a Coalition of developing countries seeking flexibilities to limit market opening in industrial goods trade.

⁴⁹³It is consist of 109 WTO members acting as Sponsors of TN/CW/52, a proposal for "modalities" in negotiations on geographical indications and "disclosure" under intellectual property rights.

⁴⁹⁴ It is consist of 9 WTO members acting as Sponsors of TN/IPW/10/Rev.2 proposing a database that is entirely voluntary on issues TRIPS GI register.

⁴⁹⁵WTO, (2009) Secretariat Report WT/TPR/S/222/ZAF. Annex 4. Para. 29. 290.

⁴⁹⁶ South Africa's Tariff Profile (2010). Available:

<http://stat.wto.org/TariffProfile/WSDBTariffPFView.aspx?Language=E&Country=ZA> [19th April 2011].

products. SACU for instance, has a preference price agreement for certain agricultural products with the EU.⁴⁹⁷

According to the Department of Trade and Industry (DTI), South Africa's too many duty free lines (considered as the higher number) have resulted in a greater rate of tariff dispersion.⁴⁹⁸ These bindings provided the country with substantial degree of freedom without necessarily violating its WTO obligations. This contributed in making South Africa's economy moderately protected by tariffs. For instance, South Africa applies strict SPS requirements on agricultural products. This practice is regarded as a major barrier to trade as most agricultural goods are subjected to strict quality standards and/or technical regulations. Furthermore, there is continued maintenance on import prohibitions and control measures on certain products (such as live plants and animals) which are subjected to the above control measures.

In addition, South Africa adopts and applies tariff rate quotas (TRQs) that cover a large range of agricultural products (such as, animal products, potatoes, vegetables, fruits, cereals, coffee, tea, oil seeds, sugar, food preparations, wine and spirits, vinegar, tobacco, and cotton) which are not binding.⁴⁹⁹ It is worth noting that the initial TRQs for certain products (such as, sheep meat/mutton, fresh milk and cream, cheese, eggs, certain cereals crops, potatoes, and sugar) were expected to increase.⁵⁰⁰ However, the MFN tariffs on most of the significant lines appeared to be at below the blanket rate (20%) scheduled as the maximum rate for TRQs in the AoA.

Moreover, South Africa levies a standard rate VAT of 14% on all domestically produced and imported agricultural goods whereas certain basic foodstuffs such as brown bread, maize meal, eggs, milk, fruit, and vegetables (including their exports) are zero-rated. However, specific levies are applied on certain agricultural products. They are collected especially at the first point of sale by the various agricultural associations concerned.⁵⁰¹

⁴⁹⁷ For detail on the Agreement regarding preferences in agriculture between SACU and the EU, visit: Available: http://www.worldtradelaw.net/fta/agreements/SACU_EFTA_Switz.pdf [19th April 2011]).

⁴⁹⁸ Department of Trade and Industry-DTI, (May 2010), Para. 46. 15.

⁴⁹⁹ Sandrey, R. & Jensen, H.G. (2007) 'South African agriculture: a possible WTO outcome and FTA policy space—a modelling approach', *South Africa way ahead: trade policy options. Trade Law Centre for Southern Africa*, 10.

⁵⁰⁰ WTO (2009) Secretariat Report WT/TPR/S/222/ZAF. Annex 4. Para. 195. 335.

⁵⁰¹ See Table (Table IV.3) in WTO (2009) Secretariat Report WT/TPR/S/222/ZAF. Annex 4. 336.

Furthermore, imports and domestically produced dairy products, potatoes, red meat, and sorghum are levied at the same rate, except exports of bulk wine.⁵⁰²

(b)-Export Measures

Since the abolition of the General Export Incentive Scheme (GEIS) in July 1997, South Africa's exports have become zero-rated considering the fact that no subsidies were applied for agro-food products. However, the South African Sugar Association still subsidises sugar, with the costs borne by local consumers. Furthermore, in order to ensure a smooth and active participation of small and medium enterprises and disadvantaged communities exporting under certain quota conditions (such as with the US and EU), South Africa introduced an export permit system.⁵⁰³

4.4.4.2-South Africa's commitments in Bilateral Agreements

(a)-South Africa-Southern African Customs Union (SACU)

South Africa is a founding member of SACU created on 11 December 1969 with the signature of member states (South Africa, Botswana, Lesotho, Namibia and Swaziland). SACU entered into force on the 1st of March 1970, thereby replacing the Customs Union Agreement of 1910. It is considered the oldest existing customs union in the World with a common external applied tariff on movement of goods to non-member states whereas with member states, it applies duty free and quota free.⁵⁰⁴ Under SACU, import and export restrictions were encouraged in an attempt to protect infant industries thereby encouraging the BLNS countries to improve their economies. By virtue of Article 31 of the SACU agreement, member states were obliged to seek the consent for newly signed trade agreements with third parties before they were enforced. On the other hand, existing bilateral trade agreements entered into by member states prior to 2002 were to remain in force upon unanimous approval from all member states.⁵⁰⁵

⁵⁰² WTO (2009) Secretariat Report WT/TPR/S/222/ZAF. Annex 4. Para. 196. 336. Also see:

⁵⁰³ OECD, (2009), 145. See also: ITAC, available: http://www.itac.org.za/export_regulations_page.asp [19th April 2011].

⁵⁰⁴ Department of International Relations and Cooperation, available: <http://www.dfa.gov.za/foreign/Multilateral/africa/sacu.htm> [19th April 2011].

⁵⁰⁵ For detail on the new issues on SACU, see Kirk, R. & Stern, M. (2005), 'The New Southern African Customs Union Agreement', *The World Economy*, vol. 28, no. 2, 169-190.

Whatever the case, the provision is duly respected regarding the diverse views by BLNS members as regards EU-Economic and Partnership Agreement (EPA) and South Africa who refused the EU-EPA deal.⁵⁰⁶

(b)-South Africa-Southern Africa Development Community (SADC)

During a new era (1994), South Africa became a member of SADC under a Free Trade Agreement implemented between 2000 and 2012 among SADC member states.⁵⁰⁷ For instance, the Department of Foreign Affairs at the Directorate of SADC National Contact Point is charged with the duty to monitor and manage South Africa's role in the process of regional integration. The relevant programmes and activities of SADC member states are directed to the actual Departments. For instance, the Department of Agriculture is in charge of agricultural negotiations.⁵⁰⁸

(c)-SADC-EC EPA Negotiations

South Africa as a member of the SADC is involved in the SADC-EC EPA negotiations. Basically, this negotiation is aimed at replacing the non-reciprocal trading preferences that ACP countries received from the EU under the Lome Agreement. It is worth noting that, the negotiation is compatible with WTO FTAs rules.⁵⁰⁹ It is worth noting that South Africa had committed to a South Africa-EU Trade, Development and Cooperation Agreement (TDCA).⁵¹⁰ Regarding the conclusion of the EU-EPA negotiation, South Africa has not yet decided unless the EU agrees not to introduce new issues for negotiation.⁵¹¹

⁵⁰⁶For details, see TRALAC Brief: Available:

http://www.tralac.org/unique/tralac/pdf/20080129_Erasmus_Discussion_InterimSADC_EPA.pdf [19th April 2011].

⁵⁰⁷ They are: Angola, Botswana, Democratic Republic of Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe

⁵⁰⁸See, DAFF 2010 Annual Report.

⁵⁰⁹For details on SADC/EU EPA Negotiations, see Holland, M. (June 1995), 263-283.

⁵¹⁰ The Republic of South Africa signed a free trade agreement (TDCA) with the European Union in October 1999 but was fully implemented in 2004 and applied de facto to the BLNS. For details see Tsololo, M., Mogotsi, I.B. & Motlaleng, G. (2010) 'The Impact of European Union-South Africa Trade Development and Cooperation Agreement on Botswana, Lesotho, Namibia and Swaziland', 129-148.

⁵¹¹ICTSD (2010) 'South Africa Gives Green Light to SACU-EU EPA Talks' *In Bridges Weekly Trade News Digest*, 10. Available: <http://ictsd.org/i/news/bridgesweekly/86969/> [28th April 2011].

(d)-SACU-MERCOSUR

As a member of SACU, South Africa is also involved in the SACU⁵¹²- MERCOSUR⁵¹³ Preferential Trade Agreement. It was signed in December 2004 as a step towards a Free Trade Area. The issues decided included the principle of SDT for small and lesser-developed economies of the parties. The agreement also covered (narrowly) Agricultural and industrial goods. By virtue of Annexes 1 and 2, both parties setup respective tariff concessions covering about 1000 products (each with a preference margin) spread over 100-10% whereas the other Annexes covered the General Rules of Origin, Safeguards, and Dispute Settlement.⁵¹⁴ The final round of Negotiations between SACU and MERCOSUR was held on the 17– 8 April 2008 in Buenos Aires, Argentina, and it eventually replaced the agreement signed (December 2004) in Belo Horizonte, Brazil.

(e)-SACU-European Free Trade Association (EFTA) FTA Negotiations

South Africa as a member of the SACU also concluded FTA negotiations on several agreements with the European Free Trade Association EFTA (in Pretoria- South Africa from 24-26 August 2005). It includes two FTAs with three separate bilateral agricultural agreements between SACU and Norway, Iceland and Switzerland/Liechtenstein respectively.⁵¹⁵ These four agreements have formed an instrument of an FTA between SACU and EFTA.

(f)-SACU-United States of America (USA) Trade, Investment and Development Co-operation Agreement (TIDCA)

South Africa as a member of SACU (16 April 2008), signed an agreement on TIDCA with the USA. Initially, this agreement was initiated in 2001 between SACU and USA, known as the Africa Growth and Opportunity Act (AGOA). It was aimed at concluding an

⁵¹² It comprises of Botswana, Lesotho, Namibia, South Africa and Swaziland.

⁵¹³ It comprises of Argentina, Brazil, Paraguay, and Uruguay.

⁵¹⁴ SACU, Available: <http://www.sacu.int/traden.php?include=about/traden/bilateral.html> [20th April 2011].

⁵¹⁵ For details on the SACU-EFTA FTA, see the policy document/Act. Available: <http://www.sacu.int/docs/tradeneg/efta-fta2006.pdf> [20th April 2011].

FTA on duty-free and quota-free market access opportunities.⁵¹⁶ Though comprehensive negotiations with the USA began in 2003, because of diverse views on a number of issues (2004), member states suspended the TIDCA. It is aimed at promoting and expanding investment, and to diversify trade between SACU and the USA. It also establishes a Consultative Group on Trade and Investment.⁵¹⁷

Generally, South Africa's bilateral trade agreements have proven to be wide and open ended. It also joined Brazil in the BRICS⁵¹⁸ as well as its being involved in a bilateral trade agreement with India. This is as a result of the proliferation of Regional and Bilateral Trade Agreements alleged to exist in a Corp Web theory in the multilateral trade world.

4.4.4.3-Conclusion

Generally, economic development in most Sub-Saharan African countries is linked to the indispensability of agricultural growth and sustainability especially of export products. This is evidenced as agriculture employs and absorbs a majority of the unskilled labour force as well as contributes significantly to Africa's total market share of exports to world trade and GDP (per capita). It also serves as a means of subsistence to the majority of the African poor population. Despite agriculture's importance, most African countries hesitate to comply fully with the rules of trade liberalisation both at the multilateral and regional levels. Thus although most developed countries tend to maintain high agricultural tariffs and provide greater agricultural subsidies, the low level of agricultural productivity and the lack of export diversification in most parts of Sub-Saharan Africa is the result of bad public policies and practices mentioned earlier.

In the case of South Africa, though agriculture is of greater importance to the economy, its contribution to GDP is minimal (3%) unlike the industrial and services sectors. This

⁵¹⁶For details, see DAFF, AGOA and Sub-Saharan Africa. Available:

http://www.daff.gov.za/daoDev/sideMenu/internationalTrade/docs/AGOA_AfricanGrowthOpportunityAct.pdf [20th April 2011].

⁵¹⁷For details on SACU-USA TIDCA, see the Act. Available: <http://www.sacu.int/docs/tidca/agreement.pdf> [20th April 2011].

⁵¹⁸For details, see Latest News on South African Focus. Available: <http://www.southafricanfocus.com/2011/04/20/south-africa-joins-brazil-in-the-brics-it-decisions/> [20th April 2011].

buttresses the fact that, the government does not develop much interest in the agricultural sector resulting in lack of adequate investment on R&D compared to the case of Brazil. Though South Africa expresses its interest in agriculture in bilateral trade agreements, it continues to suffer the problem of agricultural productivity as it tries to meet up with food supply and sufficiency. Consequently, South Africa, implements the land reform policy although it is not adequate to serve as the only panacea. Despite the fact that, South Africa reduced its agricultural tariff barriers, its tariff structure is still considered as one of the most complex and highest in the world (with an average duty rate as high as New Zealand's). However, way back in December 1993, South Africa solicited for a developing country status from the GATT.⁵¹⁹ Nevertheless, South Africa's efforts to overcome trade constraints, is proven by its active involvements in a series of bilateral trade agreements.



⁵¹⁹ Van Rooyen, J. et al (1996), 11.

CHAPTER 5

CONCLUSION AND RECOMMENDATIONS

5.1-CONCLUSION

As a widely accepted notion, Sub-Saharan Africa's comparative advantage in agriculture was previously an issue that need not be questioned due to its favourable conditions (good climate, available cheap labour and natural resources). However, the fallacy of such statement became a concern as Sub-Saharan Africa moved from being a net-food exporter in the 1960s to a net-food importer in the 1980s. It is evidenced that Sub-Saharan Africa's comparative advantage in agriculture is not effectively put into use. Therefore one can say that Sub-Saharan Africa's slow agricultural growth is attributed mostly to the lack of proper and adequate agricultural investment policy especially in the area of R&D. Moreover, the slow progress in regional integration, inadequate training of agricultural specialists, bad governance and poor institutional framework policies are also responsible for these shortcomings. Finally, due consideration is taken of the existence of conflicts and the lack of ability to connect and expand small farm holders to international markets.

Upon accession of newly independent developing countries into the GATT/WTO (1950s), the idea of SDT was conceptualised in the MTS, to provide wider ranges of flexibilities and preferences to these developing countries. It was introduced for reasons of economic weakness/differences that exist between developing countries and their developed counterparts. Among these flexibilities, various exceptions and deviations were introduced under the rule based MTS. These flexibilities broadened the scope of SDT. However, today developing and least developed countries still request for much extension which is deemed not necessarily the only panacea for easy integration into the MTS.

At the beginning of the GATT, export competition in agriculture was given special treatment. This however became a leeway for the protection of the agricultural sector by most countries. For instance, while quantitative restrictions were allowed for agricultural products, they were prohibited for non-agricultural products. This practice was aimed at safeguarding national food security and to encourage agricultural home industries.

Nevertheless, GATT finally brought agriculture into negotiation under the AoA as well as incorporated SDT provisions with the aim to facilitate developing countries integration into the MTS. As mentioned earlier in chapter two, the concept of SDT and the AoA are closely linked considering the fact that most of the agricultural preferences given to developing countries under the MTS are contained in both concepts.

However, it is worth noting that since the conceptualisation of SDT, only countries like Brazil, Chile, China, India, and South Korea have benefited most due to tangible development in their economy whereas Sub-Saharan African countries remain stagnant experiencing a decline in their market share of agricultural world trade. This scenario is therefore questioned: Why such a decline in Sub-Saharan Africa's agricultural exports? Why have Brazil and the other countries benefited from SDT and not Sub-Saharan Africa? This research paper argued that though Sub-Saharan Africa needs SDT, SDT is not actually the only panacea in the MTS. Therefore there exist alternative strategies (basically on domestic policies) which if pursued Sub-Saharan Africa will meet up with standards. Thus the case of Brazil expresses an illuminating lesson for Sub-Saharan Africa. For instance, the GOB, basing on the provisions of Article 6.2 of the AoA, invested massively in agricultural R&D and further strengthened its institutional and pricing policies. Therefore, if adopted and relied upon, Sub-Saharan Africa would be able to crack such a hard nut as Brazil did.

It is worth noting that the reasons accounting for Sub-Saharan Africa's negative agricultural growth and development are not unique. Thus they vary both at regional and national levels. They face complex technical, economic, social, and political challenges. First, Sub-Saharan Africa lacks adequate agricultural investment and infrastructural development. Second, there is decline in the technical skills to support agricultural development. Third, the landlocked geographic location⁵²⁰ prevents a majority of small agricultural countries in Sub-Sahara Africa (like Malawi) from economies of scale in research, training and policy design. These countries face huge transport costs for agricultural inputs (such as fertilizer) and export products (at an average of 50%) higher than in a typical coastal country.⁵²¹ Fourth, most Sub-Saharan agricultural institutions are not well structured due to corruption. Fifth, most Sub-

⁵²⁰Most of the population of Sub-Saharan Africa lives in landlocked countries.

⁵²¹World Bank, (2008) *World Development Report 2008: agriculture for development*, 232.

Saharan countries lack capacity building. Sixth, the existence of political instability as a consequence of a power struggle is the top priority of most governments. Finally, Sub-Saharan Africa lack adequate regional integration blocks and worst still, most of the countries continue to rely on the old colonial pattern of commodity exports.

Despite South Africa's position as the powerhouse and gateway of Sub-Saharan Africa (flexible nature of investment in the economy), its contribution of agriculture to its GDP is merely 3% compared to the services (31.2%) and industrial (65.8%). However, in an attempt to redress the problem of slow agricultural growth, South Africa through its agricultural policy, laid much emphasis on reforming land and price regulations. Furthermore, as a member of SADC and SACU, South Africa also maintains a common external tariff to non-members and a duty-free and quota-free access to member states of SACU.

5.2- Recommendations

According to the findings and conclusion to the above mentioned constraints faced by Sub-Saharan African countries in agricultural growth and development, the following recommendations are as follows (to meet up with future global trade in agricultural products in the MTS):

Foremost, Sub-Saharan Africa should pursue and increase its capacity to pursue agricultural investment, especially in research and infrastructural development (most especially in rural areas). Forinstance, when Brazil, attempted to integrate into global agricultural trade, the GOB invested heavily into sustainable research and development which has today made Brazil a powerhouse in the global economy. Therefore Sub-Saharan African countries (especially the least developed) should cease from selling their farm/rural lands to the rich countries (the Gulf, Japan and Korea) as a means to attract agricultural investment. These rich countries produce and export these agricultural products to their rich countries population for reasons of food security thereby leaving Africa in absolute food crisis.

Moreover, African countries should also challenge the bias in agricultural commodity trade by switching from the old colonial system of commodity exports trade to modern agricultural manufactured exports. This is achieved via bridging both agricultural and industrial sectors in order to expand export, based on converting primary agricultural commodities into processed and semi-processed agricultural products. It can be realised if there is mass improvement and transfer of technical know-how in agricultural technology from the developed (rich) to poor Sub-Saharan African nations rather than monetary assistance. Thus in order to make it effective there must be adequate government intervention (incentives and implementation) via policies that favour agricultural development. For instance, with Brazil's diversified agriculture and modernised technology on large scale agricultural farming, it is able to produce ethanol from sugar and on a large scale. It is of utmost importance that Sub-Saharan African countries should ensure a suitable domestic policy on agricultural productivity and sustainable growth rather than relying on the long awaited SDT extension which has proven to be inadequate.

In addition, considering the fact that Sub-Saharan African countries have a comparative advantage in agriculture, governments (either as regional blocks or at national levels) should design and tailor proper agricultural reform programmes that suit their goal. This will help achieve food security and meaningful international trade goals in agricultural products. Just as Brazil, Sub-Saharan governments should incorporate and create more research institutions, agricultural universities (educating and training of researchers, farmers and extension workers) and most importantly, improve on capacity building at all levels (human and administrative).

Furthermore, Sub-Saharan Africa should pursue the right and effective strategy of regional integration (strong regional blocks) and oppose the adoption of stringent control measures by individual member states which would only exist to damage the objectives of regional integration. Sub-Saharan Africa should also develop a strong bargaining position eliminating tariff peaks and tariff escalation on processed and semi-processed agricultural products. This would greatly discourage the amount of exports on value-added and high priced agricultural commodities. Through this, Sub-Saharan African countries should make reciprocal concessions with their developed counterparts

reducing their high bound agricultural tariffs, in exchange for better market access for their agricultural commodities into major export markets like the EU. In order to succeed, Sub-Saharan Africa should produce specifically products that could compete with the EU's sensitive and special products (in order to penetrate the markets).

However, just as Brazil, Sub-Saharan African governments should develop a political willingness that could encourage agricultural trade, promote the creation of smallholder farmer Associations, as well as Cooperatives and other Business Associations. This would enable rural farmers to raise capital (via loans) from these cooperatives in order to purchase agricultural inputs such as fertilizers and machine. A typical example is the case of a small country like Malawi as the government assists farmers to purchase fertilizers. Thus for reasons of economies of scale, it would be better for landlocked small countries to integrate as a block and purchase farm inputs on a large scale in order to avoid high transportation costs. These governments should also develop strategies to attract stakeholders such as providing reasonable agricultural tax concessions. With this, Sub-Saharan African agriculture would improve due to the increased participation of stakeholders thus boosting the market share in global agricultural trade.

Finally, the governments of Sub-Saharan African should develop a proponent view for agricultural trade negotiations as well as encourage mass investment in agricultural research. This will serve as a cornerstone to economic development. Overall, it is evidenced and worthy to note that the key to agricultural growth and development is in the hands of governments.

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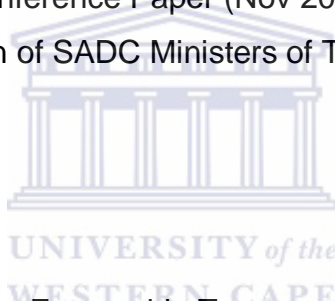
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