

Negotiating agriculture in the world trade organization: food security as a non-trade concern*

Negociando a agricultura na Organização Mundial do Comércio: segurança alimentar como uma preocupação não comercial

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ABSTRACT

Food security is an important issue in the current international agenda, for the 2007-2008 economic crisis contributed to the rise in food prices, increasing their volatility. As a complex topic, the efforts to assuring food security cannot be restricted to national initiatives, demanding rather a comprehensive global policy, involving all the interested actors. In this regard, WTO has a shared responsibility in the fight against hunger and in the promotion of the right to food. Trade is one of the many elements related to food security, and it may be a relevant tool in fostering sustainable practices to achieve such goal. Agriculture negotiations in the WTO are aimed at guaranteeing stable and rule-oriented markets, with the liberalization of the agricultural sector and the elimination of distortive practices. Food security is a non-trade concern that must be taken into consideration in the reform talks of the Agreement on Agriculture. The main question on this matter is whether food security should be sought in WTO through the adoption of trade policies, which requires strengthening the discipline on the use of restrictive measures, or through the enhancement of liberalization and cooperation in multiple levels.

Keywords: WTO. Agriculture. Food security. Development. Non-trade concerns. Trade policies.

1. INTRODUCTION

Fighting hunger has been a major concern in the international society for many decades now. The efforts towards accomplishing such objective were especially addressed in two global initiatives that require a broader approach on dealing with development and human rights, demanding the implementation of coordinated policies between States, international organizations, civil society, and other entities.

The first one, the Millennium Development Goals (MDG), was an outcome of the United Nations (UN) Millennium Summit, held in New York, in September 2000, when UN Members committed themselves to establish a

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global partnership to reduce extreme poverty¹. They set, accordingly, a list of eight goals, and several targets, to be achieved until 2015. The first of the negotiated goals was to eradicate extreme poverty and hunger, with the specific target of halving, between 1990 and 2015, the proportion of people who suffer from hunger. Consequently, “the proportion of undernourished people in the developing region has fallen by almost half since 1990, from 23.3 percent in 1990–1992 to 12.9 percent in 2014–2016”². Despite the outcomes, there are still about 795 million people worldwide who are estimated to be undernourished, and out of those, more than 90 million children under age five are undernourished and underweight³.

Before the agreed deadline expires and given the necessity to widening and deepen the endeavor to accomplish better levels, UN General Assembly adopted, in September 2015, the Resolution ‘Transforming our world’. Such document encompasses a sustainable development agenda, which should be implemented by 2030⁴. The 17 Sustainable Development Goals (SDG) officially entered into force on January 1, 2016. The new goals continue to demand coordinated action by all international actors, to promote prosperity whilst protecting the planet. The efforts to end poverty, therefore, must be followed by strategies to promote economic growth and social inclusion, and simultaneously combat climate change and preserve the environment. In this context, the hunger-related goal was separated from the one regarding poverty, indicating that the issue has become a more specific concern and calls for a more well-defined initiative. The second of the SDG seeks, hence, to end hunger, achieve food security and improved nutrition and promote sustainable agriculture.

One may associate fighting hunger with fostering the appropriate conditions for the sustainable practice of agriculture, as this activity, alongside forestry and fisheries, can offer nutritious food for all people and be

a resource for decent incomes. It also supports people-centered rural development, since agriculture is the economic sector that employs the most in the world, responsible for the livelihoods of 40 percent of the current global population. Agriculture is, likewise, the main source of income and jobs for poor rural families. Two special categories must be highlighted in this analysis – small producers, giving that 80 percent of the total food consumed in a large part of developing countries comes from 500 million small farms worldwide; and women farmers, for, in most part of the developing world, the households are female headed. Providing, accordingly, the necessary resources and investments for small farmers, mainly for women smallholders, is an important measure to enhance food security, as well as to assure the increase in food production, for both local and international markets⁵.

The World Trade Organization (WTO) was created in 1994, and proposes a rule-oriented system to guide trade liberalization and to enhance cooperation and trade flows among the States. The WTO goals, however, surpass the mere trade liberalization and economic progress, to encompass development objectives, such as improving standards of living, promoting sustainable development, and ensuring full employment. WTO is fully engaged, hence, to the global initiatives aforementioned, as it has a special interest in development issues.

In December 2015, only three months after the adoption of the Resolution ‘Transforming our world’, the WTO Members agreed, during the Nairobi Ministerial Conference, to abolish agricultural export subsidies, delivering a crucial target of the Zero Hunger SDG, which establishes the responsibility to

correct and prevent trade restrictions and distortions in world agricultural markets, including through the parallel elimination of all forms of agricultural export subsidies and all export measures with equivalent effect, in accordance with the mandate of the Doha Development Round⁶.

Trade has, thus, a relevant role to play in achieving the SDGs, as its benefits are important tools to pro-

1 UNITED NATIONS. *General Assembly*: Resolution 55/2. United Nations Millennium Declaration, A/RES/55/2, 18 September 2000.

2 UNITED NATIONS. *The Millennium Development Goals Report*: 2015. United Nations: New York, 2015.

3 UNITED NATIONS. *Goal 1: Eradicate Extreme Poverty & Hunger*. Available at: <<http://www.un.org/millenniumgoals/poverty.shtml>>. Accessed on: 24 Oct. 2016.

4 UNITED NATIONS. *General Assembly*: Resolution 70/1. Transforming our world: the 2030 Agenda for Sustainable Development, A/RES/70/1, 21 October 2015.

5 UNITED NATIONS. *Goal 2: End hunger, achieve food security and improved nutrition and promote sustainable agriculture*. Available at: <<http://www.un.org/sustainabledevelopment/hunger/>>. Accessed on: 24 Oct. 2016.

6 UNITED NATIONS. *Goal 2: End hunger, achieve food security and improved nutrition and promote sustainable agriculture*. Available at: <<http://www.un.org/sustainabledevelopment/hunger/>>. Accessed on: 24 Oct. 2016.

mote development, in a coordinated and broader policy effort⁷.

This is just the first step towards negotiating agriculture issues in the WTO, as the matter has long been avoided by developed countries, regardless of the complaints of developing Members. The needs of developing countries regarding agriculture are not only economic-related but also comprehend a development feature, as the sector is, in most cases, the foundation for the economic and social structures of these nations.

In the present paper, we will start our analysis by defining food security and relating this concept to the right to food and fighting hunger. This exam aims at presenting the complexity of this phenomenon and the breadth of its reach. In the third section, we will assess the negotiations on agriculture in the WTO, providing a historic overview of the long process that culminated in the conclusion of the Agreement on Agriculture (AoA). We will discuss, accordingly, the need to reform such Agreement during the Doha Round, especially in light of the Article 20, and the challenges of such task. The fourth section proposes a critic study on the relation between negotiation in agriculture and the promotion of food security as a non-trade concern. We consider the options available to Members to protect their agricultural markets from food prices volatility, ensuring food availability and access. In this sense, we compare the adoption of trade policies, and their impact on domestic and international markets and the pursuit of greater agricultural liberalization, followed by shared and comprehensive initiatives. We conclude the paper with a reflection on the intricacy of the issue, highlighting the need to seek a broader approach to promoting food security.

2. THE CHALLENGE OF FOOD SECURITY

The right to food was first recognized in Article 25 of the Universal Declaration of Human Rights from 1948, as part of the right to a decent standard of living. It has since been identified as a broad human right, associated not only with the idea of standards of living but equally with the principle of human dignity. The

7 WORLD TRADE ORGANIZATION. *DG Azevêdo*. Trade is vital in meeting Sustainable Development Goals. Available at: <http://www.wto.org/english/news_e/news16_e/dgra_21sep16_e.htm>. Access on: Oct. 2016.

right to food can be defined as

[...] the right to have regular, permanent and unobstructed access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensures a physical and mental, individual and collective, fulfilling and dignified life free from anxiety⁸.

Accordingly, the right to food indicates that access to food markets is as important as the availability of food. Markets play, hence, a central role in the right to food, which demonstrates the connection between economy, trade, development, and human rights. Rules regulating the markets become essential, insofar as they prevent distortions or disloyal conducts, which could lead to or exacerbate food insecurity⁹.

Food security, in line with the right to food, “exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life”¹⁰. It is achieved, then, when the combination of four main elements is identified. The first one is food availability, meaning the availability of food in sufficient quantities and on a regular basis. It comprises local stock and production, as well as the ability to bring in food from abroad, either through trade or food aid. The second factor is food access, which entails the capacity to regularly obtain the essential amount of food,

8 UNITED NATIONS. ‘Preliminary Report of the Special Rapporteur of the Commission on Human Rights on the Right to Food’ (2001) UN Doc. A/56/210, 23 July 2001. para. 22. The definition of the right to food was also discussed in the Committee on Economic, Social and Cultural Rights, which concluded that it should not be limited, and determined that “[t]he right to adequate food is realized when every man, woman and child, alone or in community with others, have physical and economic access at all times to adequate food or means for its procurement. The right to adequate food shall therefore not be interpreted in a narrow or restrictive sense which equates it with a minimum package of calories, proteins and other specific nutrients. The right to adequate food will have to be realized progressively. However, States have a core obligation to take the necessary action to mitigate and alleviate hunger as provided for in paragraph 2 of article 11, even in times of natural or other disasters. UNITED NATIONS. *Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant)*, 12 May 1999, available at: <<http://www.refworld.org/docid/4538838c11.html>>. Access on: 27 Oct. 2016. para. 6.

9 FEUNTEUN, Tristan. Cartels and the Right to Food: An Analysis of States’ Duties and Options. *Journal of International Economic Law*, v. 18, p. 341–382, 2015. p. 341-343.

10 Rome Declaration on World Food Security and World Food Summit Plan of Action, World Food Summit, November 1996, para. 1.

through any means, such as purchase, home production, or food aid. The third aspect is food utilization, asserting the nutritional feature that consumed food must have on people's diet. It covers a broad range of actions and conditions, such as cooking, storage and hygiene practices, and water and sanitation infrastructure. The fourth and final characteristic is stability, referring to the achievement of all the three previous components, on a regular basis, as understood in the expression "at all times"¹¹.

As an intricate subject, ensuring food security requires a comprehensive approach, reflecting the increasingly interdependent world. Issues that were previously left to the exclusive competence of municipal law now must be addressed in a wider way, to seek efficient and sustainable answers that may deal with the core of the problem¹². In this sense, a global action must be pursued, including coordinated policies among all levels, i.e., States, international organizations, civil society, and all international actors that may have an input on the matter. Cooperation is, therefore, fundamental so each nation can guarantee food security to its population, both through domestic resources and capacities, as well as regional and international initiatives. As a global concern, it needs a collective solution and shared responsibilities¹³.

In ensuring food security, States are acting according to their obligations under international human rights law. They must respect the right to food and fulfill it, so their population has appropriate access to the adequate amount of food¹⁴. The challenge ahead on this aspect is a very difficult one, as food markets must enhance their production by sixty percent to supply the adequate amount of food to a projected world population of 9.7 billion people by 2050¹⁵.

11 DIAZ-BONILLA, Eugenio. *Agricultural Trade and Food Security: Some Thoughts about a Continuous Debate*. E15Initiative. Geneva: International Centre for Trade and Sustainable Development (ICTSD) and World Economic Forum, 2014. Disponível em: <www.e15initiative.org/>. p. 1.

12 ZHANG, Ruosi. Food Security: Food Trade Regime and Food Aid Regime. *Journal of International Economic Law*, v. 7, n. 3, p. 565-584, 2004. p. 566.

13 ROME Declaration on World Food Security and World Food Summit Plan of Action, World Food Summit, November 1996. para. 1.

14 ZHANG, Ruosi. Food Security: Food Trade Regime and Food Aid Regime. *Journal of International Economic Law*, v. 7, n. 3, p. 565-584, 2004. p. 567.

15 G20. G20 Action Plan on Food Security and Sustainable Food

Hunger is equally a complex concept as it has multiple causes and effects, being aggravated by actions or negligence of several actors, in many spheres. Fighting hunger demands, accordingly, comprehensive policies involving different layers. The right to food as a human right, likewise, encompasses various elements that must be taken into consideration, as well as multilevel initiatives that must be implemented to tackle the issue.

Trade is among the factors that can encourage food security, ensure the right to food, and fight hunger, especially when it comes to trade in agriculture, which will be the central point of the present analysis. In this sense, the World Food Summit has established in its Plan of Action the commitment to guarantee that agricultural trade foster food security and promote a fair and market-oriented system¹⁶.

3. NEGOTIATING AGRICULTURE IN THE WTO

The AoA is the main multilateral regulation on trade in agriculture. The negotiations that resulted in the document were a long and difficult process, as they dealt with a very sensitive subject and the Members had different interests on the topic. Similarly, current negotiations on reforming the AoA have also proved to be problematic, preventing the delivery of the Doha Round.

3.1. Historical Background on Agriculture Negotiations: from GATT/1947 to the WTO

Agriculture negotiations have historically been marked by great government involvement and strong interest by the private sector. Although GATT/1947 contracting parties have attempted to bring the subject under multilateral trade discipline, it remained largely at the margin of international rules until the creation of the WTO¹⁷.

In view of the aforementioned, developed nations have established complex domestic systems of protection of its agricultural production. They have also raised

Systems, Turkey, 2015, para. 1.

16 ROME Declaration on World Food Security and World Food Summit Plan of Action, World Food Summit, November 1996.

17 STEWART, Terence P. (Ed). *The GATT Uruguay Round: A Negotiating History (1986-1992)*. Commentary. Boston: Kluwer Law and Taxation Publishers, 1993. p. 131

strong tariff and non-tariff barriers to imports. Reducing or eliminating the level of aid conferred upon the economic sector after it is granted is very difficult, especially if we consider the evolution in the organization and lobby capacity of interest groups¹⁸.

Agriculture was initially out of the scope of GATT/1947. It was only on the fifth negotiating round that the matter was brought to the table. Indeed, during the Kennedy Round (1962-1967)¹⁹ the contracting parties adopted several amendments to GATT/1947 general clauses. A very significant modification related to the inclusion of Part IV to the Agreement, which directly regulated problems faced by developing countries²⁰. For the first time during the former multilateral trading system, there was a reduction in tariffs applying over certain agricultural products, boosted by negotiations held between the United States of America (USA) and the European Economic Community (EEC)²¹.

Still

[f]rom the outset, agriculture has been viewed as a 'special case' in the GATT. GATT rules pertaining to agriculture were originally drafted to be consistent with the agricultural policies of the major signatories, rather than vice-versa. In some cases, the GATT adopted special rules with respect to agriculture; in other cases, nations gained special treatment by explicit waivers, reservations in accession agreements, or informal 'grandfather' agreements. Still other policies are nominally addressed by the GATT, but in practice the provisions have had little or no effect²².

With the launch of the Uruguay Round, developing countries advocated for the reduction of protectionist policies in the agricultural sector in force in developed States, which was proven to adversely affect their growth²³. For that group of nations, agriculture repre-

sents a large part of the economy. At the time of the WTO negotiations, they already shared the understanding they would benefit from trade liberalization in this sector.

Furthermore, many developing countries, and all least developed countries (LDCs), import food. The potential rise in staple foodstuff was seen as a risk for the maintenance of the subsistence nutrition levels of their population, as they have strain current account budgets²⁴.

During negotiations, Jamaica presented a statement expressing its concerns relating to food security. It highlighted the need for extending the special and differential treatment to the agricultural sector, with a view to ensuring food security "[...] through increased self-sufficiency and a stable supply of imported agricultural products at equitable prices²⁵". Even though Jamaica acknowledged that food security was not the same as self-sufficiency, it affirmed that some minimum level of self-sufficiency was essential to achieve food security. The country emphasized that agriculture and food security were key elements to developing economies, and admitted the importance of food aid programs²⁶.

The USA position was diametrically opposed to that of developing nations. It recognized that food security was a common concern of GATT/1947 contracting parties. However, it claimed that food security was the ability to acquire necessary foodstuff and, in this sense, trade-disruptive practices aimed at ensuring self-sufficiency in production would not be acceptable under the new multilateral regime that was being formed²⁷.

The Cairns Group²⁸ also presented a proposal addressing food security, in which it stated that:

Food self-sufficiency policies are an inappropriate, ineffective and costly means of achieving food

18 STEWART, Terence P. (Ed). *The GATT Uruguay Round: A Negotiating History (1986-1992)*. Commentary. Boston: Kluwer Law and Taxation Publishers, 1993. p. 131.

19 STIGLITZ, Joseph E.; CHARLTON, Andrew. *Fair Trade for All: How can trade promote development?* Londres: Oxford University Press, 2005. p. 42.

20 JACKSON, John Howard. *Sovereignty, the WTO, and Changing Fundamentals of International Law*. Nova York: Cambridge University Press, 2006. p. 98.

21 TREBILCOCK, Michael J.; HOWSE, Robert. *The Regulation of International Trade*. 2. ed. Nova York: Routledge, 2005. p. 160.

22 STEWART, Terence P. (Ed). *The GATT Uruguay Round: A Negotiating History (1986-1992)*. Commentary. Boston: Kluwer Law and Taxation Publishers, 1993. p. 134.

23 IRWIN, Douglas A.; MAVROIDIS, Peter C.; SYKES, Alan O. *The Genesis of GATT*. Nova York: Cambridge University Press, 2008. p. 124.

24 STEWART, Terence P. (Ed). *The GATT Uruguay Round: A Negotiating History (1986-1992)*. Commentary. Boston: Kluwer Law and Taxation Publishers, 1993. p. 163

25 FOOD SECURITY. *Statement by Jamaica at Eighth Meeting of Negotiating Group on Agriculture*. MTN.GNG/NG5/W/65, p. 01

26 FOOD SECURITY. *Statement by Jamaica at Eighth Meeting of Negotiating Group on Agriculture*. MTN.GNG/NG5/W/65, p. 01.

27 ELABORATION of United States Agriculture Proposal with Respect to Food Security. MTN.GNG/NG5/W/61. p. 01.

28 Group formed by Argentina, Australia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Indonesia, Malaysia, New Zealand, Pakistan, Paraguay, Peru, Philippines, South Africa, Thailand, Uruguay and Vietnam. The Cairns Group. Available at: <<http://cairnsgroup.org/Pages/map/index.aspx>>. Access on: 31 Oct. 2016.

security objectives and directly damage the interests of other countries. Secure supplies of food can be achieved through means such as: the maintenance of adequate food and feed grain stockpiles to ensure against shortages; [and] the diversification of sources of supply²⁹.

It is thus noticeable that developing countries did not have a uniform negotiating position regarding food security during the Uruguay Round. In fact, agricultural exporting countries were more open to liberalizing agricultural trade. It is worth mentioning that those countries played a key role along the debates.

In this context, the main hindrances to the negotiations on agriculture were the permanence of export subsidies; barriers to market access, such as import quotas; disruptive trade practiced by state trading entities; and health and sanitary regulations³⁰. Most of these subjects were object of modest regulation by the AoA.

Indeed, the AoA has initiated the process of reduction of traditional forms of agricultural protection. Under the rules of the Agreement, domestic support to the sector must be quantified and is subject to compulsory minimum reductions. Also, export subsidies must be gradually reduced. Finally, non-tariff barriers existing at the time of the negotiations, such as quotas, must be converted into tariff equivalents³¹.

The Agreement also provides for certain forms of subsidies exempt from reduction commitments, and allows for the imposition of extra duties in situations in which the overall volume of exports exceed a certain level or in which prices fall below the trigger price.

3.2. A turbulent path

An important rule included in the AoA is its Article 20, concerning the commitment of the Members in continuing the reform process on the multilateral regulation of agricultural markets. Among the elements that the Members must take into account while doing so, the

provision mentions the analysis of non-trade concerns:

Article 20: Continuation of the Reform Process

[...] Recognizing that the long-term objective of substantial progressive reductions in support and protection resulting in fundamental reform is an ongoing process, Members agree that negotiations for continuing the process will be initiated one year before the end of the implementation period, taking into account:

(c) [...] non-trade concerns, special and differential treatment to developing country Members, and the objective to establish a fair and market-oriented agricultural trading system, and the other objectives and concerns mentioned in the preamble to this Agreement;

Such norm encompasses the need of discussing matters that relate to trade but are not purely economic, corroborating with the broader goals of the WTO expressed in its preamble, regarding, for example, enhancing living standards and promoting sustainable development. For agriculture negotiations, this means the pursuit of a fair and market-oriented framework, the consideration of developing countries interests and deficiencies, embodied in special and differential treatment rules, and the assessment of an open-ended set of values – the non-trade concerns. Albeit the lack of a definition in the AoA of what a non-trade concern could be, the expression reveals that agriculture policies may have multifunctional purposes, surpassing the mere protectionist objectives. In this sense, governmental support and protection may aim at developing rural areas, alleviating poverty, and combating hunger. With respect to the subject of the present paper, the rise in food prices in global markets and the need to ensure food security may also fall under the non-trade concerns category³².

In this regard, the need to reform the AoA becomes even more evident after the economic crisis that hit the world in 2007-2008. Since then, an upsurge in commodities has caused the escalate of the world food prices. Because of this rising, millions of people have been placed in the poverty level, aggravating the food situation, mainly in developing and LDCs countries. Moreover, this framework has contributed not only to the increase in food prices but also to their volatility, insofar this event has a direct impact on food supply,

29 WORLD TRADE ORGANIZATION. *Comprehensive Proposal for the Long-Term Reform of Agricultural Trade*. GATT Doc. No. MTN.GNG/NG5/W/128. Available at: <https://www.wto.org/gatt_docs/English/SULPDF/92090008.pdf>. Access on: 31 Oct. 2016.

30 STEWART, Terence P. (Ed). *The GATT Uruguay Round: A Negotiating History (1986-1992)*. Commentary. Boston: Kluwer Law and Taxation Publishers, 1993. p. 134-140.

31 TREBILCOCK, Michael J.; PUE, Kristen. The Puzzle of Agricultural Exceptionalism in International Trade Policy. *Journal of International Economic Law*, v. 18, p. 233–260, 2015. p. 238.

32 SCHOENBAUM, Thomas J. Fashioning a New Regime for Agricultural Trade: New Issues and the Global Food Crisis. *Journal of International Economic Law*, v. 14, n. 3, p. 593–611, 2011. p. 601.

creating a vicious circle. The global food market is now characterized by a growing uncertainty regarding food prices, availability, and accessibility, which are also affected by external factors, such as environment and weather phenomena. Finally, one should highlight that the development process of many countries, especially of those developing nations and LDCs, also constrain the demand for foodstuff³³.

The scenario becomes even more troublesome by the deliberate action of governments that adopt trade policies to protect domestic agricultural markets. Several WTO Members have, accordingly, employed measures such as export bans, export quotas or permits, and subsidies to protect domestic supplies from the rise in prices of foodstuff in global markets. In a domino effect, these protectionist practices have spread suspicion all over the world and put trading partners under alarm, promoting insecurity in agricultural markets. Consequently, States have started to seek self-sufficiency, as they could not rely on unstable world markets, which has motivated stockpiling and speculative buying³⁴.

Those restrictive practices are part of the beggar-thy-neighbor policies. In periods of economic crises, governments often turn inwards, imposing trade barriers to protect their markets and assets, at the expenses of other countries or of international markets³⁵. In the agricultural sector, the beggar-thy-neighbor policies may have even more disastrous outcomes, for the subject is closely related to sensitive non-trade concerns, such as the right to food. In the attempt of isolating the domestic agricultural market and foodstuff prices from the volatility of prices of global markets, protectionist trade measures contribute to enhancing the instability and the prices in the international agricultural market.

The consequences of higher food prices are amplified, and all countries bear the impact, which, however, is a heavier burden on developing countries and LDCs.

33 SCHOENBAUM, Thomas J. Fashioning a New Regime for Agricultural Trade: New Issues and the Global Food Crisis. *Journal of International Economic Law*, v. 14, n. 3, p. 593–611, 2011. p. 595-597.

34 SCHOENBAUM, Thomas J. Fashioning a New Regime for Agricultural Trade: New Issues and the Global Food Crisis. *Journal of International Economic Law*, v. 14, n. 3, p. 593–611, 2011. p. 598.

35 For more information about the beggar-thy-neighbor policies following the 2007 economic crisis and the role of the WTO in refraining them, see BALDWIN, Richard E.; EVENETT, Simon J. Beggar-thy-neighbour policies during the crisis era: causes, constraints, and lessons for maintaining open borders. *Oxford Review of Economic Policy*, v. 28, n. 2, p. 211–234, 2012.

In more developed nations, primary commodities represent only a small share of the cost of processed food products, which are a significant part of the food consumed in those territories, enabling the absorption of the price increase. In poorer States, on the other hand, where that kind of expensive goods are not so consumed, changes in the price of foodstuff are more directly felt, to the extent that food purchases are accountable for a large share of the expenses of a household and shortages are more likely to occur³⁶. Similarly, the sensitive aspect of trade in agriculture is confirmed by the heavy short-term impact that food price spikes exert on consumers, especially when dealing with staple goods and the poorer segment of the population³⁷.

The challenge in this matter is to identify what is truly a non-trade concern that should allow trade policies, and what is only a disguised protectionist measure. In addition, WTO Members must also reach an agreement as to how non-trade concerns should be included in the reform discussion and which changes they should entail.

All these elements raise issues on how the multi-lateral trading system could reflect the new reality of agricultural trade and efficiently regulate the markets. It should also be able to advance a continuous liberalization in the sector, whilst providing the appropriate tools to protect legitimate concerns, especially in light of the current prices volatility and the fear of food shortages³⁸. This is the point we will address in the next section.

4. THE RELATION BETWEEN TRADE IN AGRICULTURE AND FOOD SECURITY

At first, as the most part of the food consumed in developing countries is from domestic crops, one may think that trade is not directly related to food security. The practice attests, however, that trade can be of an utmost relevance in stabilizing prices and availability of

36 SCHOENBAUM, Thomas J. Fashioning a New Regime for Agricultural Trade: New Issues and the Global Food Crisis. *Journal of International Economic Law*, v. 14, n. 3, p. 593–611, 2011. p. 598.

37 TREBILCOCK, Michael J.; PUE, Kristen. The Puzzle of Agricultural Exceptionalism in International Trade Policy. *Journal of International Economic Law*, v. 18, p. 233–260, 2015. p. 245.

38 SCHOENBAUM, Thomas J. Fashioning a New Regime for Agricultural Trade: New Issues and the Global Food Crisis. *Journal of International Economic Law*, v. 14, n. 3, p. 593–611, 2011. p. 601.

food in the domestic market, regardless of whether the largest percentage of the food consumed is produced domestically. Additionally, trade in agriculture and foodstuff has been increasing in the last years, a trend that is expected to continue in the coming decades, which impacts the percentage of food imports in the total amount of the food consumed in a given domestic market. The matter becomes even clearer when it comes to volatility, to the extent that volatility seems to have a larger effect in domestic markets than in international ones, commodities that are highly internationally traded have lower volatility than those less traded, and this phenomenon is higher in countries where governments actively interfere in the market and in products that suffer such intervention³⁹.

Not coincidentally, thus, that a more assertive approach to agriculture is the main demand of developing Members, particularly those that form the G20. The conclusion of the Doha Round depends on substantial progress on this issue, as it has been demonstrated by the debates and outcomes of the last couple of Ministerial Conferences.

In this context, one of the most important issues is to integrate the discussions over food availability and prices in the negotiations. Members must agree on what would be a reasonable solution to cope with the food crisis: to resort to self-sufficiency and protectionism or to maintain and deepen the trading opening orientation⁴⁰. Through the arguments presented in this section, we will show that liberalization is still the best option to answer the problem in a sustainable and long-term way.

Despite the new stress given to the subject, mainly because of the Doha Round and the MDGs, food security is not a new concern in the multilateral trading system. During the Uruguay Round, the Marrakesh Declaration and the establishment of the Net Food-Importing Developing Countries category (NFIDC) represent initiatives aimed at attempting to prevent any possible negative effect of agricultural liberalization in the most vulnerable Members. In most recent efforts,

during the Doha Round, many developing Members requested the creation of a Food Security Box, which would be a set of lawful and legitimate measures to protect domestic markets. Such proposal later evolved into the Special Safeguard Mechanism (SSM), which, however, would leave the developing countries that opted to implement it in a worse scenario. The losses would not be only in terms of food security, but also of employment, production, and export levels. In this sense, if a developing Member is resolute in adopting a trade policy to ensure food security, the 'least worst' option would be to increase tariffs, provided that the money be invested in research and development strategies for the agricultural sector⁴¹.

The biggest challenge in this regard is balancing the need for developing countries, and especially for LDCs, to maintain enough policy space to take the appropriate measures to meet their domestic demands, whilst strengthening the multilateral framework on agriculture. Both developing and developed nations resort to trade policies to protect their agricultural markets, and the former group of States also employ those instruments to cope with issues related to poverty and hunger. Trade policies are particularly popular amidst economic crises, as they are relatively easy to implement and represent an immediate response to sensitive subjects that often arouse public outcry and trigger influential lobbies. Nevertheless, the interdependence of the world economy, trade, and market, alongside the increasing role of developing countries in those spaces, makes it impossible to sustain domestic policies that are ever more adverse to the international agricultural markets. Restrictive trade practices become, then, less effective, producing even the contrary results to those initially thought. In the period between 2006-2008, for instance, trade remedies employed to reduce the price of foodstuff in domestic markets were accountable for about half of the increase in world prices of rice. Protectionist measures concerning domestic agricultural markets contribute, therefore, to increase price volatility in the global food market, as they foster beggar-thy-neighbor policies⁴².

39 DIAZ-BONILLA, Eugenio. *Agricultural Trade and Food Security: Some Thoughts about a Continuous Debate*. E15Initiative. Geneva: International Centre for Trade and Sustainable Development (ICTSD) and World Economic Forum, 2014. Disponível em: <www.e15initiative.org/>. p. 1.

40 SCHOENBAUM, Thomas J. Fashioning a New Regime for Agricultural Trade: New Issues and the Global Food Crisis. *Journal of International Economic Law*, v. 14, n. 3, p. 593-611, 2011. p. 602.

41 DIAZ-BONILLA, Eugenio. *Agricultural Trade and Food Security: Some Thoughts about a Continuous Debate*. E15Initiative. Geneva: International Centre for Trade and Sustainable Development (ICTSD) and World Economic Forum, 2014. Disponível em: <www.e15initiative.org/>. p. 11.

42 FOOD SECURITY PORTAL. *A New Paradigm for the Doha Development Round*. IFPRI Policy Seminar. Feb 26, 2016. Available at: <http://www.foodsecurityportal.org/new-paradigm-doha-devel-

Enhancing food security requires, accordingly, the reform of the WTO agriculture agreement, to include some specific measures that could properly address the issue on the multilateral trading system. There should be, for example, a more restrictive rule on export controls, to identify the requirements that must be met and the process to be followed upon the implementation of such measures. These have been a common practice among several countries since the 2007 economic crisis, provoking collateral effects on third nations such as food shortage and prices increase. The existing regulation on this matter (Article 12 of the AoA) is very vague and does not impose any real restriction on the employment of the resource, being necessary a more efficient approach. Furthermore, vulnerable Members facing difficulties in satisfying their population right to food should be recognized as “food insecure States”. This would enable them to resort to some exceptional well-delimited support or protectionist practices, observed some conditions, aimed at enhancing food security⁴³.

As mentioned, food security and the global food crisis are complex phenomena that require coordinated and comprehensive actions to reach a sustainable solution. Trade is only one of the elements impacting food security, and any trade policy or multilateral trading regulation will not be able to answer food security concerns, if not followed by broader inclusive policies. In this sense, efforts must focus on distributive measures, sustainable growth, empowerment of women, and enhancement of health services, to name a few initiatives⁴⁴. Concerning the AoA, reforming the Agreement will not address all the problems, but will represent a progress towards ensuring fair access to food markets and reasonable prices for foodstuff⁴⁵.

Any revision in the AoA must comprise the goals related to food security – availability, access and utilization of food and stability –, which does not necessarily mean that self-sufficiency and trade policies should trump

trade liberalization nor the achievements implemented through agriculture negotiations in the WTO. On the contrary, trade liberalization in agriculture does not impose any constraint on the government scope of action, being rather a relevant instrument for promoting food security. In this regard, a stable and well-functioning food market is essential in guaranteeing food security, as long as there are adequate assistance and encouraging policies that foment research, exchange of information and practices, infrastructure investments, and extension services, among other capacity building measures. A lasting solution for the problem of hunger and food crisis depends, hence, on multilevel actions, engaging all actors interested on the matter, from States to international organization. In what concerns the WTO, the multilateral regulation on trade in agriculture must be strengthened, trade-distorting and protectionist measures reduced, and mechanisms such as export controls on foodstuffs applied only as last resort⁴⁶.

The needed increase in production of foodstuff demands responsible investments, which benefit from an encouraging environment and well-functioning markets, according to a rule-oriented multilateral trading system. In the same way, transparency in agricultural markets must be enhanced, to facilitate the exchange of information and the availability of data, reducing the likelihood of unexpected price volatility and of disconnected harmful domestic policies⁴⁷.

Nowadays, the center of the food security issue is the impact of high prices and volatility on consumers, shifting the focus from producers, the main object of protection of developed countries. Nevertheless, resorting to trade restrictive policies to ensure adequate food access and availability to consumers may be a counter-productive and very costly practice. They could affect other economic sectors that would have to absorb the artificially increased resources, and the fiscal structure of the government, which could contribute to increasing the volatility of the domestic market. A more efficient and stable way to promote food security would be fostering measures that encourage production, rather than limit trade, and reduce costs, mainly through investments in infrastructure, in research and develop-

opment-round>. Access on: 29 Oct. 2016.

43 SCHOENBAUM, Thomas J. Fashioning a New Regime for Agricultural Trade: New Issues and the Global Food Crisis. *Journal of International Economic Law*, v. 14, n. 3, p. 593–611, 2011. p. 607–608.

44 DIAZ-BONILLA, Eugenio. *Agricultural Trade and Food Security: Some Thoughts about a Continuous Debate*. E15Initiative. Geneva: International Centre for Trade and Sustainable Development (ICTSD) and World Economic Forum, 2014. Disponível em: <www.e15initiative.org/>. p. 2.

45 SCHOENBAUM, Thomas J. Fashioning a New Regime for Agricultural Trade: New Issues and the Global Food Crisis. *Journal of International Economic Law*, v. 14, n. 3, p. 593–611, 2011. p. 593.

46 SCHOENBAUM, Thomas J. Fashioning a New Regime for Agricultural Trade: New Issues and the Global Food Crisis. *Journal of International Economic Law*, v. 14, n. 3, p. 593–611, 2011. p. 607.

47 G20. G20 Action Plan on Food Security and Sustainable Food Systems, Turkey, 2015. para. 6,7.

ment and in areas allowed under the AoA. Multilevel efforts comprehending broad initiatives such as support for land ownership by small producers, appropriate management of natural resources, strengthened safety nets, good governance, women empowerment, and macroeconomic stability are essential in achieving this goal. These practices would also contribute to overcoming the impasse between the protection of producers and the protection of consumers. They increase profits for producers, whilst enhancing food supply and reducing prices for consumers⁴⁸.

When addressing food security, the most important element to bear in mind is the impact of the practices and measures on the life of the people who are affected by poverty and hunger, whether they are small producers or impoverished consumers. To be efficient, any policy must represent a combination of broader initiatives to tackle every aspect of the problem, and to consider the heterogeneity of the households. In this regard:

To summarize, when discussing poverty and food security problems it must be remembered that trade policies are just an instrument (and in several cases a blunt one) to address those concerns, with a variety of potential aggregate and

distributive impacts that need to be considered. Trade policies can make a positive contribution to poverty alleviation and food security within a properly defined global program of macroeconomic, investment, institutional, and social policies, in which differentiated approaches and instruments are targeted to the households and individuals that suffer from poverty and food insecurity. Usually, trade policies aimed at a specific food product, even if labelled “special,” “food security staple,” or any other name suggesting the need for special consideration, do not necessarily represent the more effective, efficient, or even equitable, way of addressing poverty and food security problems of affected households⁴⁹.

As an example of how distorting trade policies may injure both domestic and global agricultural markets, we can mention the case of Argentina. From 2002-2015, the country’s regulation on agriculture was substantially

protectionist, marked by a high level of government interference in the sector. The main goal was to create a gap between the domestic market and the global one. Among the measures implemented were the imposition of “export taxes on most exported grains, quantitative restrictions on grain exports, and maximum prices set for live cattle and retail sales”⁵⁰. Consequently, domestic crop prices were significantly lower than those prevailing on international markets, since the supply was artificially increased in the internal market. This short-term outcome was accompanied by a heavy increase in the tax burden for Argentinian farmers, as well as the discouragement to invest in new technologies and agricultural practices. On a long-term analysis, these actions could cause the migration of farmers, especially of small producers, to other activities, and the decline of the agricultural productivity, which would result in the increasing of prices⁵¹.

Following the formation of a new government in December 2015, Argentinian rules concerning the agricultural sector were completely reviewed. In this regard, export taxes for most agricultural products were removed or have been steadily decreasing, and the export permit system was abandoned, making it cheaper and easier to trade agricultural products. Accordingly, a market that was previously stagnated and unsuccessful in exporting its products, have in a few months registered record levels in terms of export values in US dollars. The predictions are also optimistic – in the next ten years, agricultural production in Argentina could grow by up to thirty-one percent, the highest in South America, and its share of the international cereal market could increase from three percent to eight percent in a ten-year period⁵².

Besides improving international trade of agricultural products, eliminating restrictive trade policies may also have a positive impact on ensuring food security. Developing countries, as it is the example of Argentina,

48 DIAZ-BONILLA, Eugenio. *Agricultural Trade and Food Security: Some Thoughts about a Continuous Debate*. E15Initiative. Geneva: International Centre for Trade and Sustainable Development (ICTSD) and World Economic Forum, 2014. Disponível em: <www.e15initiative.org/>. p. 248-249.

49 DIAZ-BONILLA, Eugenio. *Agricultural Trade and Food Security: Some Thoughts about a Continuous Debate*. E15Initiative. Geneva: International Centre for Trade and Sustainable Development (ICTSD) and World Economic Forum, 2014. Disponível em: <www.e15initiative.org/>. p. 4.

50 FOOD SECURITY PORTAL. *A New Paradigm for the Doha Development Round*: IFPRI Policy Seminar. Feb 26, 2016. Available at: <http://www.foodsecurityportal.org/new-paradigm-doha-development-round>. Access on: 29 Oct. 2016.

51 FOOD SECURITY PORTAL. *A New Paradigm for the Doha Development Round*: IFPRI Policy Seminar. Feb 26, 2016. Available at: <http://www.foodsecurityportal.org/new-paradigm-doha-development-round>. Access on: 29 Oct. 2016.

52 FOOD SECURITY PORTAL. *A New Paradigm for the Doha Development Round*: IFPRI Policy Seminar. Feb 26, 2016. Available at: <http://www.foodsecurityportal.org/new-paradigm-doha-development-round>. Access on: 29 Oct. 2016.

have achieved a fundamental role in the international multilateral trading system. Their policies and decisions have an important influence on international markets and on the pursuing of global food security. This new position, as well as the interdependent arrangement of the current international society, requires a broader system of cooperation and coordinated actions. Independent policies are usually not efficient nor sustainable in the long-term. Furthermore, the Argentinian case also indicates the need of guaranteeing greater transparency in market information-sharing among countries, so trade partners can obtain all the appropriate data to avoid suffering from unexpected changing policy that could affect their own markets⁵³.

Therefore, when it comes to trade policies to assure food security, the AoA does not constrain government actions intended to address poverty and hunger, which can have both good and bad outcomes for domestic and global agricultural markets. In the first case, the agreement encourages the adoption of measures to protect the vulnerable share of the population, promoting programs targeting poor producers and/or consumers, and enabling food stocks and domestic food aid initiatives. Developing countries have enough policy space to pursue well-defined programs for food safety and guaranteeing the right to food. On the other hand, the AoA does not preclude the implementation of many disguised protectionist policies either, which contributes to favoring trade distorting practices, worsening the volatility of food prices and aggravating the food crisis⁵⁴.

5. FINAL CONCLUSIONS

Food security is a multilayered theme that requires a comprehensive approach, emphasizing the interdependence of the current international society. The seek for a common and sustainable solution must involve the efforts of all interested actors, in a wide range of areas. International trade is only one element in this configura-

tion, meaning that well-designed trade policies and the WTO rules on trade in agriculture may contribute to accomplishing food security, as long as they are part of a broader initiative that can reach all the many levels of the issue.

The reform of the AoA is indispensable in the WTO efforts to promote food security, in line with its development goals and the needs of developing countries and LDCs. WTO Members, when negotiating the new set of rules and commitments, must bear in mind the heterogeneity of the 164 countries that form the membership of the organization. Even among the group of developing countries or the one comprised only of developed nations it is possible to identify different demands and interests. Considering such diversity and the importance of non-trade concerns for the agricultural framework, Members must seek a coordinated position in dealing with the right to food and food security, prioritizing a trade favorable approach over a domestic restrictive and distorting policy.

Instead of policies that artificially impact food availability and prices, countries should focus their efforts on individual and collective measures that promote food security on a long-term basis, through the strengthening of market efficiency in developing States and the enhancement of the international cooperation endeavor. Eliminating export subsidies is an important step towards a more stable global market. This initiative should be followed, for example, by the improvement of market information exchange and the reform of the AoA, to adequate the WTO rules to the current demands of the global agricultural market⁵⁵.

In this regard, the best way to address food security as a non-trade concern in the multilateral trading system is through human and financial resources, as well as strengthening domestic institutions and promoting capacity building. This does not mean that all trade policies should be avoided nor that they do not convey any advantages to those countries that suffer from food insecurity. On the contrary, the AoA must allow the employment of essential and well-defined policies as a temporary resource to protect vulnerable domestic markets from import surges and/or unfair trade

53 FOOD SECURITY PORTAL. *A New Paradigm for the Doha Development Round*: IFPRI Policy Seminar. Feb 26, 2016. Available at: <<http://www.foodsecurityportal.org/new-paradigm-doha-development-round>>. Access on: 29 Oct. 2016.

54 DIAZ-BONILLA, Eugenio. *Agricultural Trade and Food Security*: Some Thoughts about a Continuous Debate. E15Initiative. Geneva: International Centre for Trade and Sustainable Development (ICTSD) and World Economic Forum, 2014. Disponível em: <www.e15initiative.org/>. p. 20.

55 FOOD SECURITY PORTAL. *A New Paradigm for the Doha Development Round*: IFPRI Policy Seminar. Feb 26, 2016. Available at: <<http://www.foodsecurityportal.org/new-paradigm-doha-development-round>>. Access on: 29 Oct. 2016.

practices⁵⁶. The reform of the AoA in this context is concerning the need to enhance the discipline on these policies, so they cannot serve as protectionist and trade distortive practices, harming the global agricultural market and the food security of other countries, lessening the progress achieved by trade liberalization.

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56 DIAZ-BONILLA, Eugenio. *Agricultural Trade and Food Security: Some Thoughts about a Continuous Debate*. E15Initiative. Geneva: International Centre for Trade and Sustainable Development (ICTSD) and World Economic Forum, 2014. Disponível em: <www.e15initiative.org/>. p. 20.

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