

# FOOD AID AND THE RIGHT TO FOOD

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## I. INTRODUCTION

1. Flows of food aid from developed countries to developing countries began on a significant scale in the 1950s, primarily as government to government transfers of food aid aimed at augmenting food availability in the recipient country whilst simultaneously disposing of food surpluses in the donor country. This approach, which might be called the traditional approach, gave rise to certain problems and changes have taken place in recent years. Food aid in response to humanitarian emergencies has grown in importance, there is more reliance on cash appropriations and local purchases of food, and multilateral agencies and NGO/CSOs have begun to play a far more important role in the delivery of food aid. In particular, there is more interest in ensuring that food aid can contribute to food security and to the realization of the right to food.

2. As explained in General Comment 12<sup>1</sup> on Article 11 of the International Covenant on Economic Social and Cultural Rights, the Right to Adequate Food “... imposes three types or levels of obligations on States parties: the obligations to respect, protect and fulfil (facilitate and provide) the right. The obligation to respect existing access to adequate food requires States parties not to take any measures that result in preventing such access. The obligation to protect requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food. The obligation to fulfil (facilitate) means the State must pro-actively engage in activities intended to strengthen people’s access to and utilization of resources and means to ensure their livelihood, including food security. Finally, whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to fulfil (provide) that right directly. This obligation also applies for persons who are victims of natural or other disasters.”

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<sup>1</sup> United Nations Economic and Social Council, Committee On Economic, Social And Cultural Rights (Twentieth session 1999). General Comment 12, The right to adequate food (Art. 11).

3. This paper has three aims. First, it sets out to describe the role and scope of food aid in realizing the Right to Food. Second, it attempts to assess the extent to which food aid does in fact contribute to the realization of the Right. Finally, it describes some elements of an emerging consensus on directions for reform of food aid practices to strengthen the impact on the right to food. It is important to note that this Information Paper is not intended to provide a general discussion of food aid, but rather to assess food aid from a Right to Food perspective.

## II. FOOD AID DONORS, TYPES AND FLOWS

4. This section provides a brief description of the principal features of food aid in order to lay the groundwork for the subsequent discussion of its impact. Until the mid-1960s the United States was essentially the only food aid donor. From the mid-1980s the European Union (i.e. the European Commission and the member states of the European Union), has also emerged as a significant donor. In 2003, the countries of North America and the European Union provided about 80 percent of all food aid by volume.<sup>2</sup>

5. There are three main types of food aid: programme food aid, project aid and emergency relief. The World Food Programme defines these as follows:

*“Programme food aid is usually supplied as a resource transfer for balance of payments or budgetary support activities. Unlike most of the food aid provided for project or emergency purposes, it is not targeted to specific beneficiary groups. It is sold on the open market, and provided either as a grant or as a loan.*

*Project food aid aims at supporting specific poverty-alleviation and disaster-prevention activities. It is usually freely distributed to targeted beneficiary groups, but may also be sold on the open market and is then referred to as “monetized” food aid. Project food aid is provided on a grant basis and is channelled multilaterally, through NGOs or bilaterally.*

*Emergency food aid is destined to victims of natural or man-made disasters. It is freely distributed to targeted beneficiary groups, and usually provided on a grant basis. It is channelled multilaterally, through NGOs or sometimes bilaterally.”*

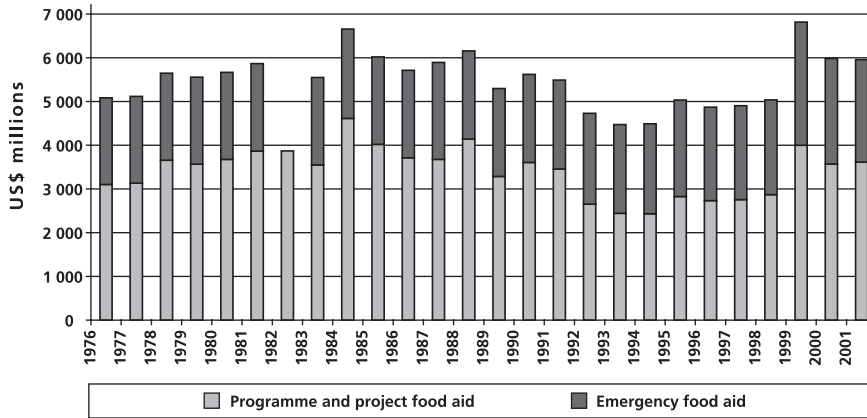
6. Flows of food aid can be assessed in terms of value or in terms of physical quantities. This is done in Figures 1 and 2 below. The value of food aid shipments from the OECD countries has fluctuated at around US\$ 5 billion per year in current prices since the mid 1970s (Figure 1), implying that it has fallen in real terms. It has also declined as a proportion of total bilateral official

<sup>2</sup> WFP, *Food Aid Monitor*, May 2004, Section 6.

development assistance from about 20 percent in the mid-1960s to less than 5 percent today. The proportion of programme and project aid has remained more or less constant at around 60 percent of the total, with emergency food aid making up the balance. Although the proportion of emergency food aid has

FIGURE 1

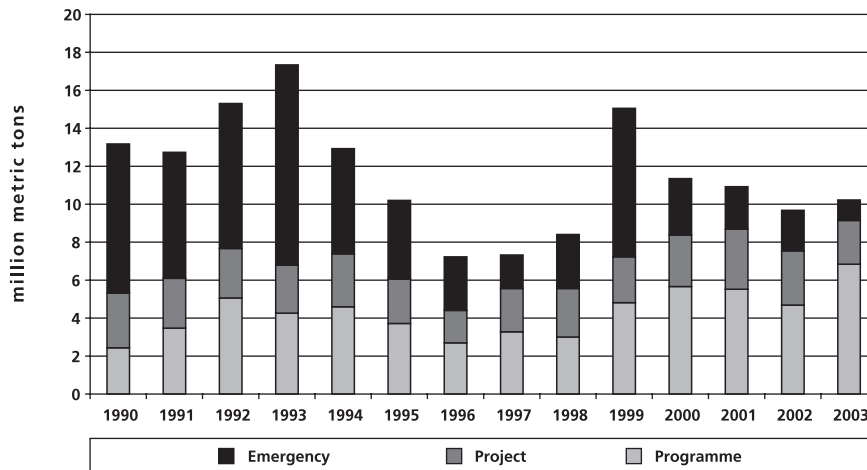
Value of OECD food aid shipments by type



Source: OECD, creditor reporting system. Information on emergency food aid is missing for 1982.

FIGURE 2

Global food aid deliveries by type

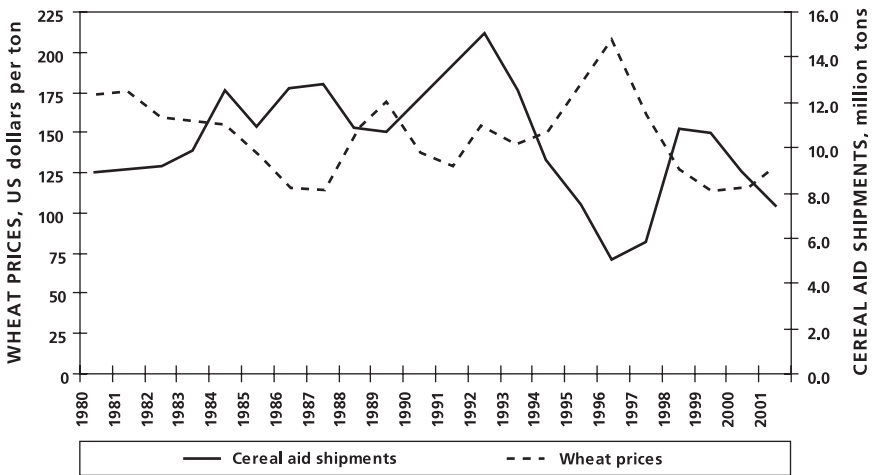


Source: WFP/Interfais May 2004

not increased across the board, the World Food Programme has increased the share of emergency assistance drastically, from 34 percent of its budget on emergencies in 1990 to 87 percent in 2001. Figure 2 below provides a breakdown of deliveries of food aid in metric tons from 1990 to the present. This graph also shows that the share of programme and project aid in total aid flows averaged 60 percent in the 1990s, but has been slightly lower in the last 5 years, and is currently at a historical low of 1.2 million MT. There is one marked difference, however: physical shipments of food aid have fluctuated more than values, implying that food aid shipments are inversely related to international food prices.

7. This is borne out by the evidence presented in Figure 3 below. Where cereal aid (the bulk of food aid) is concerned, the volume is high when international cereal prices are low (wheat prices are used for illustrative purposes here). An important reason for this is that when donor governments decide food allocations in monetary terms, the physical quantity of food supplied is necessarily lower when food prices are higher.<sup>3</sup> Yet developing countries are likely to need food aid precisely when food prices are high.

**FIGURE 3**  
**Cereal aid shipments and wheat prices**



Source: Food aid shipments from FAOSTAT, Wheat prices, U.S. number 1 Hard Red Wheat, fob Gulf of Mexico (annual) from IMF

<sup>3</sup> This assumes that monetary allocations are fixed over the course of the year. There is some evidence that allocations for emergency food aid do vary over the course of year in response to need. This would tend to mitigate the effect described above.

8. Who are the main recipients of food aid? This is simply answered. In 2003, deliveries of cereal and non-cereal food aid totalled about 10 million tonnes, of which about 25 percent was procured through local or triangular purchases.<sup>4</sup> About 75 percent of the total quantity of 10 million tonnes was delivered to sub-Saharan Africa and Asia, another 12 percent to the countries of the Middle East and North Africa and the rest to the transition countries and the countries of the Latin America and Caribbean region. In 2003, the share of food aid provided by the World Food Programme to least developed countries and low-income, food-deficit countries was 48.4 percent and 92.4 percent, respectively, a share that is generally significantly higher than the share of bilateral Official Development Assistance allocated to the poorest countries.

9. How large are food aid flows relative to commercial flows of food? The value of food aid as a percentage of the value of food exports has fallen from a high of 2.8 percent in the mid-1980s to 1.4 percent in 1999-2001.

### III. HOW CAN FOOD AID CONTRIBUTE TO THE REALIZATION OF THE RIGHT TO FOOD?

10. There are essentially three paths by which food aid can affect the right to food.<sup>5</sup> It can save lives in emergencies through direct provision of food, thereby *fulfilling (providing)* the right to food. It can strengthen the ability of the poorest to build sustainable livelihoods, thereby *fulfilling (facilitating)* the right to food. Finally, it can insulate the poor from fluctuations in international food prices, thereby *protecting* the right to food of the poor from the actions of others. This should not, of course, be read as implying that food aid will necessarily have these beneficial effects, only that the potential exists under the right circumstances.

#### A. Protection during emergencies

11. The majority of the world's poor live in rural areas and depend, directly or indirectly, on agriculture for their employment and income. Since agricultural production can be quite volatile, especially when irrigation is not available, a serious crop failure can wipe out the incomes of the poor. Since credit markets do not always work well, they may not be able to borrow to cover their consumption and may be forced to sell their assets, including productive assets such as livestock, skimp on medical expenses, undermining the right to health and possibly withdraw children from school, which threatens their

<sup>4</sup> A triangular purchase occurs when country A finances the purchase of food from country B for delivery to country C.

<sup>5</sup> Webb (2002). *Food as aid*, p. 1.

right to education. General Comment 12 notes that it is not acceptable that the enjoyment of one right is at the expense of another right. If a large number of poor people simultaneously attempt to sell their assets, market prices can be expected to crash, thereby making matters worse.

12. Under such circumstances, social safety nets, including but not limited to, food based safety nets, can protect the livelihoods of the poor. For example, food (whether from foreign or domestic sources) can be used to provide relief to those who cannot work, e.g. through a food ration system, or food-for-work programmes can be set up to employ those who can work. Food aid may be particularly helpful in this regard for countries that lack enough foreign exchange to buy food on the international market.

13. If these programmes work well, the poor are not forced to sell off their productive assets, children do not have to be withdrawn from school and infrastructure including roads and irrigation networks, can be built to reduce the likelihood of future crop failures. This also works to *fulfil (facilitate)* the right to food.

14. From this analysis, it is clear that what really matters is protecting the entitlements to food of the poor. Entitlements are defined as the set of all those commodity bundles over which a person can establish command given the legal, political, economic and social arrangements of the community in which he or she lives. These resources need not be exclusively monetary but may also include traditional rights, e.g. to a share of common resources. If the entitlements of the poor are protected, a reduction in the availability of food need not develop into a famine. If they are not, a famine can result. A K Sen has shown that the Bengal famine of 1943, the Bangladesh famine of 1974, and the Ethiopian famine of 1974 developed without any large decline in food availability.

15. It is critical to note that external food aid to cover emergency shortfalls makes sense primarily in situations where the food security of a large number of people is affected by the same events, and the government is unable or unwilling to provide assistance. If one person suffers a shortfall in his or her food security, while another gains, then there is no particular need for *external* assistance since there is no aggregate shortfall in the community as a whole. The focus in these cases should, therefore, be on ensuring that domestic assistance is forthcoming.

## **B. Enabling development**

16. Targeted food aid can be used in programmes that enable development of vulnerable groups' human and physical capital. An example of this is using food aid to build human capital by providing school meals as an incentive to increase school attendance, or by supporting training in agricultural,

income-production or other skills. Food aid can also play an important role in improving the standard of nutrition, both directly by providing essential food to those who lack access to adequate food, and indirectly when provided in conjunction with nutrition education or when used to finance health inputs that complement food intakes. Food aid can also help fight “hidden hunger”, i.e. micronutrient deficiencies, especially of iron, iodine and vitamin A, that afflict at least as many people as caloric deficiencies and have serious implications for health and the development of human capabilities. It is important to note that the inducement to participate in these programmes *brought about by food aid* may be as important as the direct impact of food itself.

### C. Insulating the poor from food price fluctuations

17. In developing countries the poorest of the poor spend 80 percent or more of their income on food. The consequences of allowing international food price fluctuations to pass through to local markets can be bad for the poor. This is particularly true if they are forced to sell off productive assets to buy food when food price spikes occur because that impairs even their existing income earning capacity – which may already be low. Indeed, it has been shown that sharp increases in food prices can have as great an impact on hunger and mortality as crop failures.

18. It is arguable that a state that lets this happen has failed to live up to its obligation to *protect* their right to food from the actions of other enterprises and individuals. Food aid can help governments meet their obligations. One possibility is to use food aid – together with food from other sources such as commercial purchases – to build up a buffer stock of foodgrains that can be used to mitigate the effects of supply instability. Through this means, food aid can play a role in *protecting* the right to food of those amongst the poor who would otherwise lose access to adequate food when prices rise.

19. The above discussion explains how food aid *can* help implement the right to food. However, this does not mean that it does so. Indeed it is shown in the next section that some of its features detract from the ability of states to implement the right to food.

## IV. DO CURRENT FOOD AID PRACTICES CONTRIBUTE TO THE REALIZATION OF THE RIGHT TO FOOD?

20. This section analyses the impact of current food aid practices on the right to food. As explained above, there are three types of food aid: programme aid, project aid and emergency aid. In programme aid, the traditional and historically most widely used form, food is shipped to the recipient country, sold on local markets without attempting to target any particular group, and

the proceeds are credited to either the recipient government or to NGOs/CSOs. The main effect is to *increase the availability of food* in the recipient country without targeting. This is also the main effect of programme aid where food is shipped to the recipient country and provided directly to targeted beneficiary groups, or monetized, except that this form of food aid is more targeted. Food aid to cover emergency shortfalls does not, by definition, increase food availability beyond what is normally available.

21. There is also a second possibility, which is to provide resources to buy food in the affected area and distribute it to those who need it.<sup>6</sup> This increases demand for local food and thereby creates a tendency for food prices to rise, thus helping local food producers. This is increasingly being resorted to by donors.

22. To sum up, when food is sourced from outside the country, food aid can *increase food availability* in the recipient country in an untargeted or targeted way or it can *cover emergency shortfalls*. When food is procured locally it provides incentives to local farmers. The impact of food aid on the right to food depends crucially on these primary effects.

### A. The impact of programme food aid on increased food availability

23. FAO figures show that in 1997-99, average dietary energy supply in 30 countries, with a total population of 570 million, was below 2 200 kcal/person/day. In many of these countries, even the highest level of dietary energy supply ever achieved between 1961 and 1999 was grossly inadequate, yet they suffered further declines, some very sharp ones. If low aggregate food supply in a country contributes to inadequate access to food, then augmenting aggregate supply through food aid makes sense. But does food aid in fact increase food availability in the recipient country, and if so, what are the consequences for access to food?

24. In answering this question, Engel's Law - one of the most firmly established empirical generalizations in Economics - proves useful. This states that when incomes increase, not all the increase is spent on food. Therefore the proportion of total income spent on food decreases with rising incomes. Since an unrequited transfer, such as food aid, is equivalent to an income increase for the recipient, the increased demand for food will not equal the increased supply. The size of the gap depends on whether food aid reaches the very poor, i.e. on whether it is well targeted. If it is, the gap will be small because the very poor tend to spend almost all of any income increase on food. Irrespective

<sup>6</sup> There is, admittedly, a third possibility, which is for the donor agency to provide cash to the needy or pay people to work on public projects, but then that cannot really be called food aid.



of whether this gap is large or small, the implication is that consumers in the recipient country will not wish to consume all of the food supplied as aid. Hence there will be a tendency to cut back on commercial food imports.

25. To prevent this and other undesirable effects, the Food Aid Convention of 1999 requires member countries to observe certain rules when giving food aid. First, food aid donors are prohibited from tying food aid to commercial exports of agricultural products to recipient countries. Secondly, food aid is to be given as a grant to the maximum extent possible (at least 80 percent of a member's commitment). Thirdly, food aid is to be provided in accordance with FAO's *Principles of Surplus Disposal and Consultative Obligations*, especially the system of Usual Marketing Requirements (UMR).

26. UMRs require the recipient country to continue to import at least as much as it did from normal commercial channels before receiving food aid. If a UMR is seriously implemented, the total quantity of food in the recipient country exceeds the quantity demanded at prevailing market prices. Therefore an import subsidy is required to restore commercial imports to the level that would have prevailed in the absence of food aid. However this means that domestic food prices must fall below world prices, hurting the interests of net suppliers of food (although benefiting net buyers of food). An example of this problem comes from Mozambique, where it was found that large programme aid shipments of yellow maize in Mozambique caused market prices of both white and yellow maize to fall sharply. Other examples also exist (e.g. large inflows of food into Russia in 1999), but it has to be said that there is little detailed empirical evidence of the size of the impact on local food prices.

27. The crux of the matter is that the impact on access to food depends on the size of food aid flows relative to commercial flows, the extent to which local food markets are integrated with national and international markets, and the extent to which food aid reaches the poor, i.e. how well targeted it is. As shown above, today food aid makes up about 1.4 percent of commercial trade in food, but this percentage is, of course, considerably higher in some countries. As far as the second consideration is concerned, if local markets are well integrated with national and international markets,<sup>7</sup> there is likely to be little impact on local food prices. As far as the third consideration is concerned, the impact can be mitigated quite considerably if the poor can be targeted and if some market segmentation is possible, i.e. if food could be supplied cheaply to the poor (e.g. through a food rationing system) while being provided at higher prices to the rich through open market sales. This would tend to weaken any tendency for market prices of food to fall.

<sup>7</sup> Providing there are good storage, road and rail facilities and telecommunications facilities as well as well-functioning markets.

28. This analysis suggests that programme food aid increases food availability in a country and does undoubtedly improve access to food for net buyers (marginal farmers, the rural landless and the urban proletariat). However, because it lowers food prices, it does so at the expense of the state obligation to *protect* the right to food of net sellers from the actions of others.<sup>8</sup> It can also be argued that it detracts from the state obligation to *facilitate* the right to food for those producers who either lack or are in danger of losing access to adequate food. This is because lower prices for producers affect their livelihoods. This effect can be mitigated to some extent by purchasing food locally.

## B. The impact of aid to cover emergency shortfalls

29. The available evidence indicates that food aid flows have responded effectively to large-scale crises due to crop failures, civil strife or natural calamities (floods, earthquakes, volcanic eruptions, etc.). However, food aid seems to have been less effective in meeting smaller scale emergencies arising out of fluctuations in food supply. The limited evidence available on this point indicates that food aid does not always stabilize food availability, especially when it is used as a means of surplus disposal. In some cases, slow and inefficient bureaucratic procedures are used to dispense food aid with the result that the need has disappeared by the time the aid is disbursed.

30. Strengthening domestic agricultural production capability and reducing its dependence on rainfall, coupled with a system of safety nets underpinned by buffer stocks may offer a superior alternative. Unfortunately, over the past 20 years buffer stocks have been run down in many countries in response to arguments that they were “too large and too expensive” to maintain, or that they had been built up to serve political constituencies rather than for humanitarian reasons. Countries were encouraged to rely on international foodgrains markets to make up unexpected shortfalls in supply. Unfortunately, these expectations have not been borne out. Experience has shown that poor transport networks in developing countries, coupled with order and delivery delays, work against timely delivery of food to areas and people suffering from food shortages. Many developing countries also lack expertise in dealing with international grain markets. It seems clear that buffer stocks, fed at least in part by food aid, should continue to play an important role in countries with large numbers of people living on the edge of starvation.

31. To sum up, food aid flows do seem to respond reasonably well to large-scale emergencies but less well to stabilise food availability in the face of

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<sup>8</sup> Lower food prices reduce the entitlements of net sellers of food. Those amongst them who find themselves deprived of access to adequate food have had their right to food violated. Not all net sellers of food fall into this category.

smaller scale fluctuations in food availability. However, it is important to manage food aid for emergency relief in ways that serve both relief and development objectives by building local and national capacities to the extent possible.

## V. HOW CAN THE IMPACT OF FOOD AID ON THE RIGHT TO FOOD BE STRENGTHENED?

32. As discussed earlier, food aid can play a role in helping states meet their obligations to *protect* and also to *fulfil (facilitate)* and *fulfil (provide)* access to adequate food of the appropriate quality. However, the extent to which it does so depends crucially on the uses to which it is put (increasing food availability or covering emergency shortfalls), the precision with which food aid is targeted and how it is procured and disbursed.

33. From the discussion above, it would seem that food aid needs to focus on emergency and humanitarian assistance to cover temporary shortfalls in food availability because that avoids collateral damage of the kind inflicted by programme and project aid as conventionally procured and disbursed. This does not rule out a role for programme and project aid, provided the modalities of procurement and disbursal are designed to enable development.

34. The rest of this section describes the elements of an emerging consensus on what needs to be done to ensure that food aid contributes to the realization of the right to food. The Statement tabled in closing of the Policies Against Hunger II: International Workshop on Food Aid – Contributions and Risks to Sustainable Food Security, Berlin, 2-4 September 2003, describes some elements of this consensus.

### A. Change focus from donors' needs to recipients' needs

35. Historically, programme and untargeted project food aid has been provided to suit the convenience of donors rather than that of recipients. These forms of food aid continue to be a means of surplus disposal and to serve the foreign policy objectives of the donor countries. These motives do not lead to the service of recipients' needs. As shown by the recent trend of reduced emphasis on programme and project food aid (shown in Figures 1 and 2), the international community is moving towards food aid that is targeted to the recipients' needs. Secondly, there are delays in delivery, varying from up to two years for programme aid to up to five months for emergency shipments. Thirdly, if food aid is allocated in monetary terms, this implies – as shown in Figure 3 on page 8 – that volumes decline when food prices are high, despite the fact that the need for aid is high at precisely this time. The importance of simple bureaucratic inertia should not be

underestimated either: countries that have historically received programme food aid often continue to get it even after needs have changed, while more deserving candidates are not considered.

36. Human rights principles and norms enhance greater attention to the needs of the people and stress the responsibility of governments. Two major changes would be helpful. First, the international governance of food aid needs to be reformed with a view to achieving predictability and timely delivery of food aid. The Berlin statement makes some interesting points here. It asks for food aid to be separated from commercial trade, for food aid to be given exclusively as grants to least developed countries, for the replacement of the Food Aid Convention by a Food Aid Compact, and for an international code of conduct on food aid to be monitored by an independent body.

37. One change in particular seems desirable and that is to increase the share of multilateral food aid, as this is less likely to mirror the vagaries of domestic policies.

38. Another is to base “food aid allocations [...] on a sound needs assessment, involving both recipients and donors, [...] optimally targeted to the needy and vulnerable groups”.<sup>9</sup> In recent years, some donors have made significant shifts in their food aid strategies, away from domestic farm support and export promotion, and have started paying attention to meeting nutritional needs at minimum cost. For example, in 1993 Denmark reduced its use of more expensive, processed animal products to less expensive basic vegetable commodities, thereby enabling Danish contributions to the World Food Programme to provide six times more calories and three times more protein than the 1990 Danish food aid basket, and at lower cost.<sup>10</sup>

### **The importance of macro and micro targeting**

39. Food aid needs to be properly targeted at two levels. At the macro level, it should flow to countries and regions that have the greatest need and, within countries, it should flow to the people who have the greatest need. Finally, where emergency relief is concerned, it should be delivered on time.

40. There is evidence that food aid is today mainly directed toward low-income food deficit countries (LIFDCs) and that the flow of aid is (weakly) inversely related to the availability of food from other sources (domestic and foreign). But these effects are weak for a variety of reasons explained above.

<sup>9</sup> Berlin Statement.

<sup>10</sup> Colding and Pinstrup-Andersen, 1999.

41. The next step is to ensure that food aid reaches the food insecure within a country and, hopefully, no one else. However, it must also be recognized that perfect targeting of food aid is not possible because food insecurity can only be measured through other indicators that are not necessarily perfectly correlated with the concept. Some of the greatest targeting errors come not from reaching the wrong people – in many food recipient communities, even the middle of the local income distribution is desperately poor and failing to enjoy its full right to food – but from providing vulnerable people with relatively ineffective assistance.

42. One of the biggest problems is deciding on appropriate criteria for eligibility. A commonly proposed solution, community-based targeting, can go wrong if there are deep divisions within “communities”. The provision of food as aid, as opposed to the provision of cash as suggested by some, does offer one notable advantage. As food is in general less desirable than cash, aid provided in the form of food is likely to be better targeted to the poor because the non-poor are less likely to covet it and thus capture it.

43. The setting up of vulnerability analysis and mapping (VAM) systems and poverty maps, or a food insecurity and vulnerability information and mapping system (FIVIMS), is an essential part of good targeting. Predicting the onset of a crisis is essential if food aid is to be delivered on time.

## **B. Use better procurement and disbursement methods**

44. The key question is whether it is possible to procure food in a manner that impacts the right to food at least as much as food distribution.

45. Procuring food from within the recipient country has a lot to recommend it. It offers the advantage of stimulating local production while simultaneously providing food to the needy that is far more likely to be culturally acceptable than food from outside. In recognition of this, the World Food Programme and the European Union have increased their reliance on local purchases and triangular transactions as sources of food. In 2003, 21 percent of global food aid was procured in developing countries or territories in transition (provisional figures). In the same year, 70 percent of WFP’s food purchases came from developing and transition countries, representing 33 percent of the total food provided by the Programme. The European Union has expanded the use of local purchases and triangular transactions, from 16 percent of total deliveries in 1989-91 to about 65 percent in 2003.

46. It can, however, conflict with the obligation to provide food of adequate quality as production and storage facilities and capacities for food and bio-safety standards assessment need strengthening and upgrading in many developing countries if they are to supply food of adequate quality and safety.

There is evidence that food aid donors, particularly multilateral donors take care to provide food of adequate quality. Other problems with this mode of procurement include the (often high) cost of transporting food over poor quality roads<sup>11</sup> and the difficulties involved in negotiating with large numbers of scattered smallholders to buy food. There is also a risk of causing food prices to spike where local food markets are thin and the donor agencies buys large quantities of food.

47. There is also unexploited potential for using the proceeds from sales of food provided as programme or project aid. If the funds made available to the recipients are spent on, for example, medicines, mosquito nets, and other interventions, this may be more helpful, *at the margin* to beneficiary populations than an extra allocation of cereals. This is because good nutrition requires complementary inputs in addition to food. A number of NGOs are in fact doing this. Another alternative is for governments to spend the proceeds on providing or improving primary education, health care facilities, etc. or on infrastructure development in rural areas and other measures to lower production costs and improve the competitiveness of local producers. The negative impact on producers could then be reduced. It would be difficult to show, unfortunately, that additions to the general revenue of governments are in fact spent on such measures.

### **Set up evaluation and monitoring systems**

48. Good evaluation and monitoring systems can make their greatest contribution in showing whether food is the most effective form of assistance. They are required for answering questions such as the following: under what circumstances and in which situations is food distribution superior to cash distribution in terms of welfare impact on food insecure households? This is in addition, of course, to their usual role in establishing whether food assistance programmes have worked as intended, i.e. who they were intended to reach and whether they did effectively reach the intended beneficiaries. Participation of the beneficiaries and accountability –two key human rights principles– play an outstanding role.

## **C. Use food aid to enable development**

49. Food should be given as aid only where it offers the most cost-effective way to achieving development objectives. To this end, development needs assessments should be carried out before deciding whether food or general financial assistance is the most efficient alternative, for example, by assessing whether food is unavailable or is in short supply locally (in which case

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<sup>11</sup> The costs of shipping foodgrains by sea are usually far lower than the costs of moving foodgrains by truck or train.

providing cash or food vouchers would in any case not permit people to access food), or whether financial and/or market infrastructure is weak or non-existent, making it difficult to transport and distribute large sums of cash to remote areas. It should be noted that “leakage” of cash resources tends to be easier to conceal than “leakage” of large volumes of physical resources. Food aid can be particularly helpful in protecting the assets of the poor and preventing vulnerable people from falling into destitution. It can also play a helpful role in building up human capital and infrastructure. It may also smooth the process of adjustment to economic shocks by helping to alleviate the costs of adjustment through food-based safety nets.

50. For example, if food aid is used as part of a food-for-work programme to build roads, bridges, schools and irrigation works, it can be said to “improve measures of production, conservation and distribution of food by making full use of technical and scientific knowledge and by developing or reforming agrarian systems” (Article 11:2 ICESCR). There is also some empirical evidence that food aid promotes agricultural production by relaxing working capital constraints. By these means, people can be empowered to provide for themselves. In a similar way, the promotion of human development and future earning capability through, for example, school meals to encourage attendance, or nutrition programmes that focus on the needs of vulnerable groups, can also empower people to provide for themselves.

#### **D. Ensure that emergency food relief also contributes to long-term economic development**

51. There will always be some who cannot provide for themselves, in particular children, the old, and those who are handicapped. The victims of natural disasters (including crop failures) and other emergencies such as civil wars are also unable to provide for themselves and it is here that emergency relief based on food aid can be of help. Providing food to those who need it at the time they need it and in the most appropriate form is critical because the need for food cannot be postponed. People, especially children at certain critical stages in their lives, who go without enough food for a sufficiently long time can suffer irreversible damage to their health. To acquire food, households are forced to sell productive assets and avoid undertaking potentially profitable but riskier investments for fear of the consequences of failure. Food aid that flows into a social protection strategy (safety net) can be particularly useful in this regard.

52. In this context, the impact of HIV/AIDS is particularly important. The basic problem is that an AIDS epidemic leads to a hollowing out of the population pyramid in countries; it kills people of prime working age while sparing the very young and the very old. This can have a catastrophic impact on agricultural production and general economic development by causing

the agricultural labour force to shrink, but also by preventing agricultural skills from being passed on to the next generation. Households with AIDS patients thus face reduced incomes, coupled with an increased need for food and medicine. Orphans have special needs.

53. Under these circumstances, “food assistance can provide a safety net to catch families before they become destitute, and thus even more vulnerable to the risk of infection, and they can support the needs of orphans and foster families in the aftermath of family dissolution due to AIDS”.<sup>12</sup> To avoid stigmatising them, it might be better to target such assistance on the basis of food security and not HIV status.

54. By providing a safety net, food assistance ensures that productive potential is preserved and livelihoods remain intact. Unfortunately, the need is immense: up to 50 million metric tons of foodgrains per year for Africa according to some estimates.

## VI. CONCLUSIONS

55. It is important to note that food aid alone cannot be expected to respect, protect and fulfil the right to food, but needs to be one component of an integrated response. However, food aid can make an important contribution to the realization of the Right to Food, depending on how well it is targeted and how it is disbursed, i.e. as programme, project or emergency aid. Programme food aid that is not well-targeted tends to lower food prices by creating an excess supply of food. Since lower food prices benefit net buyers of food but harm net sellers, this tends to create tradeoffs between the state obligation to provide the Right to Food and the obligation to fulfil (facilitate) since the livelihoods of net sellers are affected and some of them will now find themselves deprived of access to adequate food.

56. The human rights framework offers important incentives to ensure positive effects of food aid on the realization of the right to food by emphasising the rights and needs of individuals and the duties of governments, as well as the responsibilities of donors. In recent years, there has been a significant shift towards project and emergency food aid, which is better targeted, and for which there is evidence of a stronger positive impact on the Right to Food. There appears to be an emerging consensus that this trend needs to be further encouraged in order to strengthen the impact on the Right to Food. This will require action on several fronts, based on four fundamental principles.

<sup>12</sup> Berlin Statement, International Workshop on Food Aid – Contributions and Risks to Sustainable Food Security. Berlin, 2-4 September 2003.



These are: i) that food aid should flow in response to the nutritional needs of the recipients and should not be used as a means of surplus disposal, ii) that improved procurement and disbursement methods should be used; iii) that food aid should be used to enable development to the maximum extent possible and, in particular, iv) that emergency food aid should provide relief in a manner that also promotes development.

57. As far as the first principle is concerned, good targeting, at both macro and micro levels is clearly an essential element. Not only should food aid flow to the countries and regions that need it most, but within countries it should flow to the groups that need it most. Food aid thus needs to be based on a sound needs assessment involving both donors and recipients. Repayment capacity would also be an important component of such an assessment. For example, it has been suggested that food aid should be provided exclusively in the form of grants to least developed countries, since their repayment capacity is limited. It has also been suggested that the international governance of food aid needs to be reformed in order to improve the predictability and timely delivery of food aid. According to the Berlin statement, this could be achieved by a clearer separation of food aid from commercial trade, the replacement of the Food Aid Convention by a Food Aid Compact, and an international code of conduct on food aid to be monitored by an independent body. Such a code of conduct, dating from 1996, already exists in the European Community and its Member States. One change in particular seems desirable and that is to increase the share of multilateral food aid, as this is less likely to mirror the vagaries of domestic policies in the donor countries.

58. As far as the second principle is concerned, several suggestions for improvement have been made. One is that food aid should be “untied”, i.e. financial resources should be provided to finance imports of food (e.g. from neighbouring countries) or, for that matter, to purchase food in the recipient country itself. This offers the possibility of realizing efficiency gains which may be fairly large, while stimulating agriculture in the countries where the it is procured and providing food that is culturally appropriate if it is sourced from within the country or from neighbouring countries. However it also has some drawbacks. First of all, as it is politically more acceptable for many countries to provide aid in the form of food, requiring food aid to be provided in this manner may cause a reduction in its supply. But this need not happen if the efficiency gains from “untying” food aid are sufficiently large<sup>13</sup>, because these are then likely to outweigh the effects of a reduction in the total value of food aid, so that the availability of food is not affected. A related problem is that this could exacerbate the problem of food aid shipments being low when

<sup>13</sup> Surely not a completely implausible assumption.

food prices are high and vice versa since a fixed quantity of cash would buy variable quantities of food. Moreover, the quality of locally procured food is often problematic it is not easy to procure food in the quantities needed by negotiating with large numbers of smallholders. For all these reasons, there is a strong case for continuing to provide food as aid, while experimenting with alternatives where appropriate. Another possibility is to use the proceeds from the sale of programme or project aid to finance health interventions such as providing mosquito nets, which may have a larger incremental impact on nutrition by preventing disease than an extra allocation of cereals.

The importance of evaluation and monitoring systems as an essential part of a good food aid programme cannot be overemphasized.

**59.** As far as the third principle is concerned, the emerging consensus sees food aid as an enabler of development. Food aid can play a helpful role in building up human capital and infrastructure, e.g. through a food-for-work programme to build roads, bridges, schools and irrigation works. It may also smooth the process of adjustment to economic shocks by helping to alleviate the costs of adjustment through food-based safety nets. There is also some empirical evidence that food aid promotes agricultural production by relaxing working capital constraints. By these means, people can be empowered to provide for themselves. In a similar way, the promotion of human development and future earning capability through e.g. school meals to encourage attendance, or nutrition programmes that focus on the needs of vulnerable groups, can also empower people to provide for themselves.

**60.** The above principle implies that emergency relief in particular should also contribute to development. This requires attention to a number of points. In emergencies (including crop failures), people cannot provide food for themselves and food aid that flows into a social protection strategy (safety net) can be useful in providing the right to food as well as preventing lasting damage to the productive capacities and livelihoods of the victims, thereby serving to fulfil (facilitate) the right. Well designed and targeted food-based safety nets can ensure that households are not forced to sell productive assets to acquire food and can undertake potentially profitable but riskier investments without fear of the consequences of failure. They can also prevent irreversible damage to children's physical and mental development and thus allow them to lead healthy and productive lives. The needs of HIV/AIDS patients and orphans deserve special attention. Food assistance can provide a safety net to catch families before they become destitute, and thus even more vulnerable to the risk of infection, and they can support the needs of orphans and foster families in the aftermath of family dissolution due to AIDS.

**61.** To sum up, food aid has an important role to play in implementing the right to food, provided it is given in the form of project or emergency aid that is well-targeted. There appears to be an emerging consensus on what

this implies for the mechanics of food aid. In essence, what is required is a stronger emphasis on food aid delivery by multilateral agencies in support of projects that promote development while relieving immediate distress. Food aid programmes should incorporate strong monitoring and evaluation mechanisms in order to ensure that these principles are applied.

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# MONITORING THE IMPLEMENTATION OF THE RIGHT TO ADEQUATE FOOD

## 2

### I. INTRODUCTION

1. International commitment to the eradication of hunger was clearly stated at the 1996 World Food Summit, where Heads of State and Government reaffirmed:

*“the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger”<sup>1</sup>*

2. The 2002 World Food Summit: five years later then invited the FAO Council to establish an Intergovernmental Working Group (IGWG), with a mandate to elaborate, in a period of two years, a set of voluntary guidelines to support member Nations’ efforts to achieve the progressive realization of the right to adequate food in the context of national food security.<sup>2</sup>

3. The resulting Voluntary Guidelines, a human rights-based practical tool addressed to all States, were adopted by the 127th Session of the FAO Council in November, 2004. Their stated objective is to:

*“...provide practical guidance to States in their implementation of the progressive realization of the right to adequate food in the context of national food security, in order to achieve the goals of the Plan of Action of the World Food Summit...”*

4. The Voluntary Guidelines address a whole range of activities that States should undertake in order to realize the right to adequate food. Monitoring is specifically treated in the Guidelines.

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<sup>1</sup> Rome Declaration on World Food Security. The right to adequate food was also expressed in Article 11 of the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR).

<sup>2</sup> Paragraph 10 of the Declaration adopted at the 2002 World Food Summit: *five years later*.

## **GUIDELINE 17: MONITORING, INDICATORS AND BENCHMARKS**

17.1 States may wish to establish mechanisms to monitor and evaluate the implementation of these Guidelines towards the progressive realization of the right to adequate food in the context of national food security, in accordance with their capacity and by building on existing information systems and addressing information gaps.

17.2 States may wish to consider conducting “Right to Food Impact Assessments” in order to identify the impact of domestic policies, programmes and projects on the progressive realization of the right to adequate food of the population at large and vulnerable groups in particular, and as a basis for the adoption of the necessary corrective measures.

17.3 States may also wish to develop a set of process, impact and outcome indicators, relying on indicators already in use and monitoring systems such as FIVIMS, so as to assess the implementation of the progressive realization of the right to adequate food. They may wish to establish appropriate benchmarks to be achieved in the short, medium and long term, which relate directly to meeting poverty and hunger reduction targets as a minimum, as well as other national and international goals including those adopted at the World Food Summit and the Millennium Summit.

17.4 In this evaluation process, process indicators could be so identified or designed that they explicitly relate and reflect the use of specific policy instruments and interventions with outcomes consistent with the progressive realization of the right to adequate food in the context of national food security. Such indicators could enable States to implement legal, policy and administrative measures, detect discriminatory practices and outcomes, and ascertain the extent of political and social participation in the process of realizing that right.

17.5 States should, in particular, monitor the food-security situation of vulnerable groups, especially women, children and the elderly, and their nutritional status, including the prevalence of micronutrient deficiencies.

17.6 In this evaluation process, States should ensure a participatory approach

5. This paper aims at providing practical guidance for States on monitoring the implementation of the right to adequate food, based on the Voluntary Guidelines. It focuses on strengthening and institutionalising a rights-based approach to monitoring of the right to adequate food at country level.

## **II. RIGHTS BASED MONITORING**

6. Rights based monitoring (RBM) systems are distinguished from other monitoring systems because they should address the nature of rights-based

development: a comprehensive economic, social, cultural and political process. A rights-based approach to development integrates the norms, standards and principles of the international human rights system into the plans, policies and processes of development. The norms and standards are those contained in international treaties and instruments. By definition, rights-based approaches are incompatible with development policies, projects or activities that have the effect of violating rights, and they permit no “trade-offs” between development and rights.

7. A RBM system, as a component of a rights-based approach to development, incorporates the advantages, or added value, of such an approach, and works to promote their integrity. Some important advantages are described below.<sup>3</sup>

- > Easier consensus, increased transparency and less “political baggage” in national development processes. Development objectives, indicators and plans can be based on the agreed universal standards of the international human rights instruments rather than on imported foreign models, prescriptive solutions, partisan approaches or arbitrary policies.
- > More effective and complete analysis. Traditional poverty analyses based their judgments on income and economic indicators alone. A human rights analysis reveals additional concerns of the poor themselves, including the phenomena of powerlessness and social exclusion.
- > A more authoritative basis for advocacy and for claims on resources, with international legal obligations and national commitments empowering development advocates.

8. The stakeholders of a RBM system, described in greater detail below, include rights holders (with emphasis on the poor and vulnerable) and duty bearers (with emphasis on the State). In general, a RBM system provides information through which rights holders can hold duty bearers accountable and which strengthens the rights holders’ capacity for self-action.

9. The monitoring process generally consists of four main components. They are: information (data) gathering from primary and secondary sources; information processing, organization and transformation (indicators); information analysis and interpretation; and dissemination (reporting). They provide a starting point for establishing RBM systems for the implementation of the right to adequate food as described in this paper under the headings: what should be monitored; how monitoring should be carried out; and for and by whom monitoring may be carried out. The latter brings into focus institutional aspects. A number of considerations are also suggested for the development of general strategies, an implementation agenda and a work plan.

<sup>3</sup> See <http://www.unhcr.ch/development/approaches-07.html>.

### III. WHAT TO MONITOR

#### Three dimensions of the right to adequate food – adequate, available, accessible

10. The Voluntary Guidelines embrace three important substantive attributes, or dimensions of the right to adequate food: adequacy, availability and accessibility. These dimensions, described below, form a sound basis for the development of indicators within appropriate frameworks.

- > The concept of “*adequate*” food has three components.<sup>4</sup> First, food should be available in a quantity and have nutritional quality sufficient to satisfy the dietary needs of individuals. Second, the food should be safe for human beings to eat and free from adverse substances. This incorporates an element of consumer protection. Third, the food should be acceptable within a given culture.
- > “*Availability*” of food refers to a sustainable supply of adequate food, with environmentally and economically sustainable food systems. Sustainability indicates a long term availability and accessibility to adequate food. Areas critical for improving overall food availability are contained in the Voluntary Guidelines, such as land, water, agriculture, technology, extension and credit availability. International cooperation in augmenting food availability is also relevant.
- > “*Accessibility*” of food suggests a stable access to adequate food. It incorporates both physical and economic access to food within the household’s livelihood. It also suggests the accessibility of food in ways that do not interfere with the enjoyment of other rights, and corresponds to the Voluntary Guidelines that are directed at improving the management of resources.

11. There are clear differences and some interactions among these three dimensions. The overall aim is to distinguish dimensions that relate to quantity and availability from the predominantly qualitative aspects of the right to food. The dimensions of adequacy and accessibility are key to understanding the scope of the normative content of the right to food; however, adequacy has quantitative and qualitative attributes, while accessibility suggests more physical and economic attributes. Availability, on the other hand, relates to quantity, but also identifies obligations of duty holders directed at enhancing food availability in the country. Further, it offers the possibility of monitoring some of the more operative obligations and responsibilities identified in the Voluntary Guidelines.

<sup>4</sup> Based on paragraph 8 of General Comment 12, adopted by the UN Committee on Economic, Social and Cultural Rights (CESCR) in 1999.



## Indicator development

12. Monitoring the implementation of the right to adequate food can be achieved with reference to a well-defined monitoring framework. A few examples are described below. An initial step in establishing such a framework is determining what to monitor. In this context, development of appropriate indicators identifying what to monitor is an essential tool for the monitoring process.

13. Although there are different examples and categories of indicators that can be used for monitoring, it would be fundamental to ensure that the indicators are rights-based (RB), and not simply general development (GD). While the GD indicators focus on the general status of human conditions and capabilities and normally cover all population groups, RB indicators:

- > relate to relevant human rights instruments, standards and normative principles;
- > assess whether, and the extent to which, duty bearers have fulfilled their obligations to respect, protect and fulfil;
- > require disaggregation of data, to focus on the most vulnerable and disadvantaged groups of society.

14. The indicators should be both qualitative (descriptive) and quantitative (numeric). Qualitative indicators can, however, sometimes be presented in numeric form.

15. The choice of specific indicators for monitoring the implementation of the right to adequate food may vary from country to country, and situation to situation. It may be potentially confusing, and reduced to an exercise of cataloguing possible alternatives. To avoid this, a general framework may first be developed to guide the selection of indicators. It would also assist in analysing outcomes and establishing a linkage between the policy tools, means of implementation and desired impacts. A framework for identifying and designing indicators could address issues such as the following.

- > There should be explicit linkage to relevant human rights instruments, standards and normative principles<sup>5</sup> as well as to the Voluntary Guidelines.
- > The attributes of the “core content” of the right to adequate food should be put in the context of local needs and priorities.
- > The framework should be amenable to a disaggregation of indicators to appropriate levels for the country.

<sup>5</sup> These would include Article 11 of the 1966 International Covenant on Economic, Social and Cultural Rights, the 1996 Rome Declaration on World Food Security of the World Food Summit, General Comment 12, the 2002 Declaration of the World Food Summit: *five years later*, as well as national human rights instruments and laws.

- > The framework should relate and contribute to a common approach for monitoring other human rights. In this context, three key categories of indicators should be considered: structural, process and outcome/impact,<sup>6</sup> described below.
- > The principles of participation, accountability and redress should be applicable to all categories of indicators.

## Examples of frameworks to guide indicator development and selection

16. Complementary indicator development frameworks are presented in Annex I, II and III. They are illustrative only, and are examples of different types of frameworks that individual States may wish to develop and tailor to their situations to guide the selection of their own set of indicators.

17. A framework for the development of indicators useful for assessing the duty-bearer's implementation of its obligations in relation to household food security is in Annex I. This example takes as indicators the obligations of the State, described in human rights instruments,<sup>7</sup> to respect, protect and fulfil (facilitate and provide) the right. In particular:

- > States should respect existing access to adequate food by not taking any measures that result in preventing such access.
- > States should protect the right of everyone to adequate food by taking steps so that enterprises and individuals do not deprive individuals of their access to adequate food
- > States should promote policies intended to contribute to the progressive realization of people's right to adequate food by proactively engaging in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security. States should, to the extent that resources permit, establish and maintain safety nets or other assistance to protect those who are unable to provide for themselves.

18. In this framework, these human rights obligations of the State are related to the three dimensions of household food security described above - adequacy, availability and accessibility – the normative principles of the right to adequate food.

19. An example of an indicator development framework useful for assessing the state of realization of the right to adequate food (outcomes/impacts) is in Annex II. It is also useful for a violations approach in analysing and

<sup>6</sup> These categories have also been adopted by the Special Rapporteur on the Right to Health.

<sup>7</sup> These obligations appear in the ICESCR, General Comment 12 and the Voluntary Guidelines.

interpreting information and data, and in reporting. Such an approach would indicate the failure to respect, protect or fulfil a right. However, there are some concerns with a violations approach. Although its advantages include an emphasis on rights and obligations, a visible link with accountability and a clearer implementation of a rights-based approach, there are also some important difficulties. One is the volatile political and moral implications of the term “violations”.<sup>8</sup> In addition, the parameters and standards that identify such violations are themselves undefined, including the concept of non-retrogression (protection of the level of realization of rights).

20. This framework considers the three dimensions of the right to adequate food (adequacy, availability and accessibility) in terms of the three key categories of indicators described below: structural, process and outcome/impact. It consists of an illustrative list of questions, some of which (in italics) demonstrate the need to review qualitative (descriptive) information before assessing quantitative (numeric) indicators. Often, such questions provide a link to relevant human rights instruments or norms.

- > **Structural indicators** broadly capture information reflecting the legal and institutional framework for the realization of the human right. They include information indicating whether:
  - > the relevant treaties and international instruments have been ratified or otherwise endorsed by the country;
  - > steps have been taken to implement their provisions in national law; and
  - > institutional arrangements are in place to implement the provisions.
- > **Process indicators** provide information that relates a policy or programme instrument to a “milestone outcome” consistent with the progressive realization of the right. These indicators should provide clear guidance to States with respect to the implementation of legal, policy and administrative measures, detect discriminatory practices and outcomes, and ascertain the extent of political and social participation in the process of realizing the right to adequate food.

Useful process indicators could include policy measures used to improve food availability, such as developing regulations for food imports or support to agricultural extension services. Process indicators that assist in monitoring improvements in availability and accessibility of food could include, for example, indicators on access of farmers to genetic resources for food production, access to food aid and the coverage of school children by nutrition supplement programmes.

- > **Outcome/impact indicators** provide summary information on the state of realization of a human right. They may describe a consolidated impact

<sup>8</sup> Alternative terms could be non-fulfilment, non-compliance or non-realization.

of two or more process indicators. Examples of useful outcome indicators could be the share of household expenditure on food or the nutritional status of children captured through anthropometric measures.<sup>9</sup>

21. These three categories of indicators help to bring out the “added” value of rights-based monitoring. Selection of appropriate process indicators could promote accountability in implementing and monitoring the right. Further, a combination of structural, process and outcome indicators enables an assessment of State obligations – as primary duty bearer – to respect, protect and fulfil the realization of human rights. A suitable choice of outcome indicators allows assessment at the individual level of the enjoyment, or the violation/denial, of human rights.

22. It should be noted that the dimensions and categories shown in Annex II do not divide indicators into groups that are mutually exclusive. For example, an indicator for food availability could also be used for food accessibility. The main objective is to simplify the normative framework for easy analysis and selection of indicators, and facilitate a systematic and comprehensive identification of relevant indicators. Some benefits to this approach are that it:

- > simplifies the selection of indicators;
- > encourages the use of contextually relevant information;
- > facilitates a more comprehensive coverage of the different attributes or aspects of the realization of the right; and
- > possibly minimizes the overall number of indicators required to monitor the realization of the right to food in any context.

23. In particular, minimization of the number of indicators would not be possible if an alternative approach were taken, such as identifying indicators corresponding to each of the Voluntary Guidelines. This approach would also be constrained because it is not always possible to identify a unique indicator that could be used to monitor the implementation of a specific Guideline. Sometimes a single indicator may be seen as being adequate to cover more than one Guideline and in other cases a few indicators may be required to cover just one Guideline.

24. There is an additional advantage to using the structural/process/outcome categories of indicators: they attempt to capture the “flow” and “stock” aspects of the process of social change and development that underpins the protection and promotion of the human right. A “flow” indicator allows monitoring of momentary changes, for example the per capita availability of food grains from year to year. A “stock” indicator reflects summary outcomes

<sup>9</sup> These measures involve weighing and measuring the children, and do not take into account food consumed.

that consolidate such changes over successive years, such as anthropometric measures for school children. An appropriate mix of such indicators could potentially overcome some of the constraints associated with availability of suitable information and data gaps.

25. In some cases the use of an indicator may depend on contextual factors. For example, the indicator on land reforms could assess progress in land consolidation or land distribution to the landless, depending on the context.

26. Finally, an example of an indicator development framework useful for monitoring large national programmes is in Annex III. Unlike the previous two examples, it does not specifically refer to the three dimensions of the right to adequate food. The focus of this example is rather on inputs, processes, outputs, intermediate outcomes and final outcomes or impacts. It is duty-oriented; information on the level of resources and processes indicate the level of duty discharged by the State.

### Additional criteria for indicator selection

27. States may wish to be guided by the following criteria as they select and develop their own set of indicators.

- > **Measurement of change:** Monitoring is about measuring change over time. The indicator should be capable of measuring differences over time with a minimum of random measurement errors.
- > **Disaggregation:** The indicator has to be equally valid for all categories or classes involved in the disaggregated analysis. This is important for making comparisons across different population groups.
- > **Ease of construction:** Data should be generated by simple measurement techniques, requiring a minimum of data transformation, and making use of available data, if possible.
- > **User friendly:** The indicator should provide clear and transparent information that the intended users can understand.
- > **Action relevance:** The information provided by the indicator should contribute to the formulation of action and to more informed decision making.
- > **General application:** The indicator should generally be relevant but “sensitive” to different social and cultural settings.
- > **Specificity:** The indicator should be specific to a given phenomenon, thus avoiding different interpretations.

28. A challenge in the selection process, however, arises from the fact that few indicators will consistently conform to all these criteria. It may therefore be necessary to consider trade-offs in selecting from among various indicators, with the aim of selecting the best indicators possible.

## IV. HOW TO MONITOR

29. The “how” of monitoring the right to adequate food in a RBM system is anchored in human rights principles such as accountability, empowerment, participation, non-discrimination and attention to vulnerable groups. Its focal point is information analysis and interpretation, based on a clear process of information gathering, management and dissemination. It allows for the examination of actual change against intended change, and provides an understanding why change did or did not take place. It also involves setting time-bound targets, or benchmarks, and information dissemination (reporting) for well-defined users’ groups. These elements are addressed in the step-by-step guidelines below, together with relevant human rights principles.

### A. Important considerations in RBM processes

#### Clear and specific analytical questions

30. The first step towards achieving sound analysis and interpretation is to prepare clear and specific analytical questions. If possible, they should be asked so that responses can be either “yes” or “no”.

#### Transparent conclusions

31. Similarly, the conclusions should be transparent and clearly understood by the intended users. Information and analytical results should be understood by rights holders with different technical knowledge, socio-cultural and ethnic backgrounds and social experiences.

#### Application of statistical methods

32. Information sought can be simple or complex. Some questions can be prepared so they are answered by applying simple statistical techniques to one or more indicators. Others could be more complex and involve several indicators. However, not all analyses need to apply statistical methods. What is important is that there are clear criteria for accurate interpretation.

#### Participatory and empowering analytical process

33. The analytical process itself should be participatory and empowering. The direct involvement of rights holders in the monitoring process should be assured, without discrimination. Data collection and information gathering should be done in local languages. Information systems should integrate indigenous knowledge. Access to information should be guaranteed for those who do not read.

34. Capacity among rights bearer and duty holder groups to facilitate simple, participatory monitoring methods should be strengthened. Information gathered at local levels should offer an opportunity for rights holder groups to indicate their priorities and aspirations. It should then be returned to the

rights-holder groups for interpretation (assisted as needed) according to their priorities and aspirations. The information should measure concrete results for comparison with agreed results and targets; this would provide the basis for discussion between rights holder groups and duty bearers.

### **Priority Areas of Analysis for RBM of the Right to Food**

35. Some examples are given below where information and data can support priority areas of analysis in RBM process related to the implementation of the right to adequate food.

## **B. Identification and characterization of vulnerable groups**

36. Guideline 17 calls upon States, in particular, to monitor the food-security situation of vulnerable groups, especially women, children and the elderly, and their nutritional status. Vulnerability refers to the full range of factors (man-made or natural) that place people at risk of becoming food-insecure. The degree of vulnerability of individuals, households or groups of people is determined by their exposure to certain risk factors and their ability to cope with, or withstand, stressful situations that result from exposure to risks. Different population groups can usually be identified as being vulnerable with respect to different attributes of the right to adequate food, depending on the type of risk to which they are exposed, and on their livelihood strategies. For example, young children may suffer from dietary inadequacy due to within-household food distribution practices, whereas internally displaced population groups may be vulnerable to inadequate food access due to lack of productive assets.

### **COMMUNITY AND HOUSEHOLD VULNERABILITY TO POVERTY - KENYA**

A recent study on community and household vulnerability to poverty in Kenya, undertaken by the International Livestock Research Institute, analysed five different types of assets upon which individuals draw to build their livelihoods (natural, social, human, physical and financial capital), using an integrated and cross-sectoral approach. The use of remote sensing and other tools made gathering information at a level of disaggregation sufficient to: analyse spatial variations of vulnerability at community and household level; understand the factors conditioning these variations; and identify and characterise vulnerable groups.

*Source: Better Understanding Livelihood Strategies and Poverty through the Mapping of Livelihood Assets: A Pilot Study in Kenya, ILRI-FIVIMS Collaborative Projects – Final Report, June 2004.*

37. An analysis to identify and characterize vulnerable groups should focus on the so-called Who, Where and Why questions. *Who* are the food insecure and vulnerable population groups and how can they be identified? *Where* are they located? *Why* are they food insecure and/or vulnerable? In this context, each group's livelihood strategies and activities should be understood and respected. The answer to "why" they are food insecure or vulnerable should assist in identifying actions to implement the right to adequate food in each group.

38. Typical monitoring questions may include:

- > how has the exposure to risks changed for specific groups?
- > are vulnerable groups better equipped to withstand the impact of recurring or other risks?

Reduced vulnerability increases the probability of enjoying the right to adequate food.

39. In applying the Guidelines, the initial approach to assessing vulnerability may be based on the livelihoods of households, with special attention to be given to the vulnerability of women, children and the elderly in vulnerable households. In each country, it would be desirable to assess the major vulnerable groups by population segments and by region.

40. The process of identifying the vulnerable groups, using appropriate criteria, should be based on human rights principles of participation and transparency, allowing also for self-selection by households or individuals based on their perceived vulnerability.

41. Guideline 13 links the "who", "where" and "why" by suggesting that States should establish Food Insecurity and Vulnerability Information and Mapping Systems (FIVIMS) in order to identify groups and households particularly vulnerable to food insecurity, along with the reasons for being vulnerable to food insecurity.

#### **LIVELIHOODS ANALYSIS OF VULNERABLE GROUPS - BENIN**

The livelihoods of artisanal fishers in Benin have been characterized by qualifying livelihood assets (*human, physical, social, natural and financial capital*), livelihood strategies and income-generating activities during the rainy season (*seasonal wage work, production of foods for market*) and the dry season (*preservation and sale of fish, and cash transfers among family members*). Key risk factors identified were: health risks (*malaria, diarrhoea and respiratory infections*), indebtedness and lack of capital, and breakdown of traditional methods of fishery management

Source: *The State of Food Insecurity in the World (SOFI)*, 2000



42. General policy and programme measures may affect different population groups unevenly, or may not target vulnerable groups in an efficient manner with a minimum of leakage. To address this, an analysis of the distributional effects of policies and programmes can be undertaken. It should be based on disaggregated information and data, and monitor factors such as discrimination against vulnerable groups or the impact of affirmative action programmes.

43. This would be consistent with Guideline 13, which invites States to systematically undertake disaggregated analysis on the food insecurity, vulnerability and nutritional status of different groups in society. It should be done with particular attention to assessing any form of discrimination that may manifest itself in greater food insecurity and vulnerability to food insecurity, or in a higher prevalence of malnutrition among specific population groups, or both, with a view to removing and preventing the causes.

### C. Institutional and legal framework

44. The establishment and functioning of monitoring systems at the national level requires an adequate legal and administrative basis. Guideline 7 invites States to consider whether to include provisions in their domestic law to directly implement the progressive realization of the right to adequate food in the context of national food security. For adequate, effective and prompt remedies, administrative, quasi-judicial and judicial mechanisms may be envisaged. They should be accessible, in particular, to members of vulnerable groups.

45. The importance of a sound administrative basis is reinforced by Guideline 13, which recognizes that effective accountability and administrative systems are essential to prevent leakages and corruption. A complementary suggestion is in Guideline 5, which encourages States to take measures, as necessary, to implement effective anticorruption legislation and policies.

46. An analysis to determine the adequacy of the existing legal and administrative framework for RBM may therefore be a priority. Some considerations would include whether the law provides an institutional mandate and authority to gather information and undertake analysis and assessment, and a requirement to report. Access to information and information sharing among different agencies should also be mandated by law. A need for or effectiveness of anticorruption legislation could be examined, and an assessment of the process for, and effectiveness of, administrative remedies could be assessed.

47. The effectiveness of RBM systems depends to a great extent on the institutional arrangements, including operations and policies. Guideline 5 suggests that States, where appropriate, should assess the mandate and performance of relevant public institutions and, where necessary, establish,

reform or improve their organization and structure. It also suggests that States may wish to ensure the coordinated efforts of relevant governments ministries, agencies and offices. Institutional aspects of monitoring are discussed more thoroughly below.

48. An analysis could be undertaken of existing institutional structures and policies to implement food security policy and programme measures, including basic services delivery. It could take into account the existence of or need for a lead agency with a clear mandate, and assess the degree to which efforts are coordinated among relevant government agencies and among sectors. Another point for analysis could be the extent to which relevant institutions provide for full and transparent participation of the private sector and civil society, in particular the representatives of the groups most affected by food insecurity.

49. The aims would be to ascertain whether the institutions are conducive to reaching the most food-insecure and vulnerable, and to ensure sound governance and accountability to rights holders.

#### **D. Benchmarks**

50. Setting national benchmarks, time-bound targets for assessing progress, is a mechanism for holding duty bearers accountable. The level at which such benchmarks are set is important because it indicates whether or not obligations have been met. However, there may need to be ongoing adjustment of the level of the benchmarks, particularly if they were set unrealistically high or low. The process of setting national and sub-national benchmarks should involve the direct participation of both rights holder groups and duty bearers, and be supported by a detailed analysis of available data related to the food and nutrition conditions and trends in the country and at sub-national levels.

51. Guideline 17 encourages the establishment of benchmarks to be achieved in the short, medium and long term.

52. Targets and benchmarks should be expressed in such a way that repeated measurements over time lead to clear conclusions on the progress made. In this context, there should be a clear understanding of what is meant by progress. For example, if a benchmark is adopted to reduce the number of malnourished people by 10 000 in five years, an average annual reduction of 1 000 people in the first three years may not necessarily represent progress.

53. In considering whether to use benchmarks and for what purpose, it may be appropriate to consider benchmarks that take into account international commitments. Other uses for benchmarks would depend on in-country needs and processes, and in any case should be firmly linked to accountability mechanisms.

## E. Reporting

54. Dissemination of information and analyses, or reporting in a RBM system, responds to the need for all stakeholders, in particular the rights holders, to have access to available information and data on the realization of the right. The information should be available on a non-discriminatory basis, and be clearly understood by the various groups of rights holders. Because the right should be continuously pursued, the information/data should be available at different points of time or as a time series. This would facilitate both monitoring the progressive realization of the right and, as appropriate, the non-fulfilment of the right. It is also consistent with the principles of transparency and accountability.

55. A framework for reporting should incorporate a schedule of publication and dissemination of relevant information. This may need to be preceded by a careful analysis of the information needs of different user groups, to ensure that the information is timely, relevant and accessible for each user group. This should also guide what distribution means are to be employed when targeting specific user groups. For example, if RBM-provided information is to serve as an advocacy tool, it should be able to fulfil functions such as:

- > raising awareness on entitlements and duties;
- > assisting in articulating claims of rights holders;
- > facilitating in monitoring the progress by duty bearers in meeting their obligations.

56. In addition, Section III of the Voluntary Guidelines invites States to report, on a voluntary basis, on relevant activities and progress achieved in implementing the Guidelines, to the FAO Committee on World Food Security.

57. A communications strategy for reporting and disseminating of information would assist in fulfilling obligations to report. It could address the responsibility for and means of dissemination, and the various forms in which the information may be reported. The responsibility could be assigned to a specific institution, and the means could include identified publications, networks and organizations, as well as through the media.

### Mapping

58. Maps have been found to be highly useful dissemination tools that provide a means of both monitoring and reporting on the progress towards the realization of the right to adequate food. The Voluntary Guidelines refer to this technique as a way of identifying vulnerable groups and households, together with reasons for their food insecurity.

59. Some advantages to the use of maps are:

- > issues and challenges of the implementation of the right to adequate food are highlighted;

- > spatial representation is provided;
- > they are easily understood;
- > they easily show changes over time in implementation;
- > user-friendly software is widely available.

60. Maps can be constructed based on a range of indicators that directly relate to the implementation of the right to adequate food, such as geographic inequality and incidence of poverty. In addition, it can assist in development of strategies, allocating budgets, measuring progress and targeting programmes. Some examples of the use of mapping are shown in the table below.

EXAMPLES OF THE USE OF POVERTY MAPS		
USE	INDICATOR	COUNTRY
Assessing geographical inequality	Distance to Roads	Brazil: Parà and São Paulo
Reaching the most needy	Incidence of poverty versus number of poor	Viet Nam
Reaching the most needy	Geographical targeting of government programmes for the poor	Mexico
Monitoring outcomes at sub-national levels	Change in poverty incidence	Ecuador

61. Hunger and poverty maps are useful tools for RBM assessments. Today's software<sup>10</sup> can combine information from different maps and assist in defining such aspects as the location of the poor and hungry, as well as the causes of poverty and hunger (e.g., whether people have access to markets or crops).

62. Many countries have constructed poverty maps. The use of poverty maps may be important for monitoring the right to adequate food, because poverty can be used as a proxy indicator to identify and locate food insecure and vulnerable groups. In addition, hunger maps can assist with the development of relevant strategies, with budgetary planning and in the assessment of targeting of major development, social safety and other food security programmes.

<sup>10</sup> Examples of mapping software include Geographical Information Software (GIS), which can combine data from different kinds of maps, and market-available ArcGIS and ArcView.

## V. MONITORING FOR WHOM?

### Duty bearers

63. Duty bearers that implement the right to adequate food exist at national, sub-national and community levels, and have multiple information needs. As noted above, the primary duty bearer is the State, with its executive, legislative and judicial branches. Other duty bearers include: public security agencies; public interest firms; regulatory and consumer protection agencies; and private institutions that provide public services, such as water, health services, mass communication and industry.

64. For duty-bearers at the policy implementation level (such as public officers, parliamentarians, judges, prosecutors, and police officers) the RBM information is fundamental to (re)affirm their responsibility to undertake all possible efforts to meet their obligations, to help identify possible capacity gaps in public institutions and to prepare recommendations to overcome capacity gaps.

65. For duty-bearers at the planning and decision making level, the information is used to evaluate the adequacy of planning and to provide a basis for shifts in policy planning and implementation. This ensures that the funds are effectively allocated and used both to achieve the relevant goals and benchmarks, and to monitor relevant progress within the publicly agreed time frame.

### Rights holders

66. All human beings are right holders in respect to the right to food. „By taking into account the principles of equality and non-discrimination, the Voluntary Guidelines indicate that the approach should focus on poor and vulnerable people who are often excluded from the processes that determine policies to promote food security. They also refer to the need for inclusive societies free from discrimination by the State in meeting their obligations to promote and respect human rights.<sup>11</sup>

67. For individual rights holders, and organizations and interest groups that represent them, the RBM information is fundamental to (re)affirm and clarify the different dimensions of their right to adequate food and the corresponding obligations of the duty bearers. It could also provide factual information for social mobilization, participation and lobbying actions and in directly presenting their claims and demands to existing public institutions, including legislative, judiciary, executive, and monitoring institutions.

<sup>11</sup> Paragraph 19.

## Human rights monitoring bodies

68. Human rights monitoring bodies are key institutions in the monitoring process, and can include human rights commissions and national ombudspersons. They normally have a mandate to monitor public agencies' compliance with national legislation and international obligations regarding human rights, sometimes with an explicit mandate to monitor economic and social rights, including the right to adequate food. They generally comply with the 1991 Paris Principles, which recognise the necessity for human rights bodies to be autonomous from the Government and impartial, essential qualities for effective monitoring.<sup>12</sup>

## VI. MONITORING BY WHOM: INSTITUTIONAL ASPECTS

### A. Institutional responsibilities and attributes

69. The major task of institutions designated to take part in a human rights-based RBM system is to bring stakeholders together in a participatory process. The RBM system itself can build on existing institutions and monitoring systems. In fact, most countries currently have in place institutions and monitoring systems that are relevant to implementing the right to food, such as an agricultural database in the ministry of agriculture, a health monitoring system in the ministry of health and national statistical surveys on income and expenditures, health, nutrition or environmental conditions in the office of statistics.

70. An important first step in developing a RBM system is the identification of stakeholders that would contribute to or depend upon the monitoring process. Stakeholders – institutional and non-institutional - may be grouped into three categories: information providers; independent interpreters of the available information (“intermediate users”); and the ultimate users of that information for articulating their claims and monitoring the realization of the right to food (“end users”).

71. This may involve, *inter alia*, the ministries of agriculture, food, public health and family welfare (including women and children), the national human rights institution, relevant civil society organizations engaged in monitoring human rights, consumer groups, other social groups, parliamentary committees and claim holders at large. The information in an RBM system has different uses

<sup>12</sup> *Principles relating to the status and functioning of national institutions for protection and promotion of human rights*, endorsed by the Commission on Human Rights in March 1992 (resolution 1992/54) and by the General Assembly in its resolution A/RES/48/134 of 20 December 1993.

for various stakeholders. For greater clarification, a table of users and uses of RBM information is provided in Annex IV. Because institutions play a central role in collecting, analysing and disseminating such information for RBM systems, the principles of *participation, transparency and accountability* should be applied when identifying institutions, their responsibilities and their information collection methods.

72. One mechanism for applying these principles is to assemble the different monitoring stakeholders in a participatory process. Their respective competencies and perspectives, focused on different aspects of the right to adequate food, and various methods of information collection, would enable formation of a collegium for monitoring the right to adequate food. This collegium could identify an independent institution to take a lead in interpreting the available information from a human rights perspective and, as appropriate, coordinate the assessments of other partners. The institution could be, for example, the national human rights body or a human rights non-government organization (NGO).

73. In structuring a RBM system, a distinction should be made between institutions that represent independent monitoring mechanisms, and those responsible for implementing programmes and providing information on progress in meeting obligations for the realization of human rights. For example, in the case of a monitoring system for implementation of the right to adequate food, a human rights commission and a ministry of agriculture/health and family welfare would have distinct but complementary roles.

74. It is important that the process to select institutions for RBM responsibilities is nationally owned and implemented. It should also be sufficiently decentralised and inclusive, so the concerns of different stakeholders may be taken into account.

75. Some criteria that may be used for selecting national institutions for RBM activities or strengthening existing institutions are listed below, mindful that any one institution may not meet all criteria. The list assists in addressing existing problems such as limited mandates, weak capacity to understand and monitor right-to-food issues, inconsistent/inadequate methodologies among ministries and agencies, and limited access to or insufficient/no sharing of information and data. The criteria describe attributes that institutions should have to enable effective RFM.

- (a) a clear mandate for monitoring the right to food, endorsed at high level (e.g. Parliament), and widely known and understood by key stakeholders;
- (b) adequate and identifiable human and financial resources to undertake the monitoring tasks, in order to achieve sustainable, high-quality monitoring;
- (c) a well-defined RBM work plan, on the basis of which it can be held accountable for outputs and results;

- (d) a high level of credibility *vis-à-vis* duty bearers and rights holders – the institution should be seen as an objective and independent player, and a clear agenda to promote and facilitate the implementation of the right to food for all;
- (e) strong linkages with key actors, institutions and organizations, both in the government sector and in civil society, to ensure that RBM information and analysis transforms into decision-making and effective multi-sector actions;
- (f) effective access to all relevant RBM information generated by both government institutions and civil society organizations, relying on existing information networks but with a mandate and the capacity to verify the validity of information;
- (g) as part of its mandate, the institution should establish advisory committees with specific expertise in both technical and human rights aspects, related to right to food monitoring;
- (h) a good communications and advocacy strategy in place to proactively promote the implementation of the right to food, and empower rights holders.

76. Major challenges in considering institutional responsibilities and attributes for RBM are to decide which institution(s) would be most effective, to prioritize the responsibilities and attributes according to the country's circumstances and to address any need for institutional partnerships in the monitoring process. Potential roles for such partnerships could be considered for academic institutions and coalitions or associations of civil society organizations.

## B. Capacity development

### Capacity development in RBM

77. It is evident that duty bearers in a RBM system need adequate capacity to undertake their duties. Capacity strengthening may be necessary to achieve the objectives of monitoring, and if so an initial activity would be the assessment of capacity development needs. The assessment should take into account the components of capacity within a human rights framework:

- > responsibility, motivation and leadership;
- > authority;
- > access and control of human, financial and organizational resources;
- > capacity to communicate and build partnerships (see "Capacity development in dissemination skills" in box below);
- > capacity to make rational decisions.

78. Although capacity development is considered in the context of institutions in this paper, it is also relevant for individuals, groups, households, communities and civil society organizations.



### **CAPACITY DEVELOPMENT IN DISSEMINATION SKILLS**

The media can play an important part in food insecurity and vulnerability early warning by ensuring that the information produced regularly by local authorities is widely disseminated. In 2003 the Kenya Food Security Steering Group (KFSSG) hosted a two-day training on Public Information and Media Skills for key decision makers and potential spokespeople responsible for delivering information to the media. The workshop helped to improve the interactions between the KFSSG and the media for a more balanced and constructive media coverage of food security related issues, to improve skills of members for dealing with the media and to identify main issues and strategies for improving media relations.

*Source: Proceedings of the Public Information and Media Skills Workshop, KFSSG, March 2004*

79. Duty bearers should have adequate technical and managerial skills to discharge the duties that they will undertake. Other qualities that capacity strengthening should seek to promote in duty bearers include motivation and a clear understanding of the relevance and importance of their tasks. Institutionally, they should be empowered, have some degree of autonomy based on delegated authority, and have adequate access to resources.

80. In-country capacity development may also be needed in designing integrated and disaggregated analyses, appropriate statistical methods, statistical interpretation and dissemination methods such as maps.

### **Capacity development for data collection and disaggregation**

81. Institutional capacity and appropriate methodologies for collection and analysis of data are necessary for RBM. Human rights monitoring data could be based on multiple sources and data collection methods, each of which may require specific methodologies for collection and analysis. For example, monitoring data could be comprised of: data based on events and testimony, particularly for violation of human rights; socio-economic statistics collected by ministries and agencies to monitor public programmes; household perception and opinion surveys; and analyses and judgements by relevant experts.

82. Further, an important requirement of a RBM approach is availability of information /data at a level of disaggregation that captures the country's vulnerable population groups. To achieve this, data should be available by sex, major population age-groups, regions (including rural and urban) and where possible by demographic groups such as racial, ethnic or religious groups, minorities, refugees, internally-displaced persons and migrants.

83. Gaps in the available capacity to provide relevant data should be assessed in developing a RBM system, and the means to address the gaps in information should be identified.

## VII. IMPLEMENTATION STRATEGY, AGENDA, WORK PLAN

84. The practical guidance provided by the Voluntary Guidelines for implementing the progressive realization of the right to adequate food provides the foundation for establishing a RBM system. The what, how, who and institutional aspects of monitoring implementation of the right, described above, build upon that foundation. On a more general level, and looking ahead, those aspects should be consolidated, for planning purposes, in an overall implementation strategy, an implementation agenda and a work plan. Some guidelines in this regard appear below.

85. An overall implementation strategy for developing a RBM system to monitor the implementation of the right to adequate food could focus on information and human rights aspects discussed above.

86. Regarding information aspects, a strategy could take into account, and build upon existing monitoring information systems related to emergencies and structural food insecurity and malnutrition. Local or community level information should be incorporated, and a RBM framework developed to identify minimal information gaps and the need for adjustments in existing information systems.

87. Human rights aspects principles should be mainstreamed in food security and poverty monitoring. On a broader scale, it should be ensured that the RBM process itself is rights based: participatory; empowering; transparent; and provides a basis for holding duty bearers accountable.

88. On a more practical level, an implementation agenda and work plan should be developed. Setting up or strengthening a RBM mechanism to monitor implementation of the right to adequate food can be guided by the following considerations and steps drawn from the what, how, who and institutional aspects of RBM described above.

- > **Institutionalization.** This would involve establishing RBM mandates, allocating resources and strengthening capacities. Another activity could be identification of an independent institution that takes the lead in interpreting the available information from a human rights perspective and perhaps also coordinating the assessment of other partners.
- > **Develop and test methods.** Methods for carrying out RBM, including use of indicators and information collection, analysis and dissemination, should be developed and tested.

- > **Identification of monitoring stakeholders.** Institutional and non-institutional stakeholders who would be contributing to the monitoring process should be identified.
- > **Identification of major vulnerable groups.** Criteria should be based on human rights principles of participation and transparency, and vulnerable (livelihood) groups should be identified and characterized.
- > **Baselines, benchmarks.** Baselines should be established and benchmarks set.
- > **Mainstream right to food principles.** An advocacy and communications strategy should be developed to integrate the right to adequate food into the broader range of the State's activities, including development and humanitarian action.
- > **Capacity development, including for data collection and disaggregation.** Institutional capacity and cooperation may need to be developed to carry out RBM tasks, including data collection and disaggregation at a level that captures the country's vulnerable population groups.
- > **Mainstream RBM.** Relevant policy and programme initiatives, local level projects and grass roots actions should be integrated into the RBM system.
- > **Reporting periodically, publication, access to information and followup.** The access by all stakeholders to relevant information and data on an ongoing basis is key for RBM.

89. These steps are not exhaustive, but may assist in developing the RBM mechanisms needed for monitoring, and in identifying specific capacity gaps that should be addressed.

## VIII. CONCLUSION

90. Human rights norms and values and right based approaches to development serve to develop and to strengthen the underlying rationale for human development and poverty eradication strategies.

91. Fundamentally, a human rights based approach to poverty is about empowerment of the poor. Empowerment is facilitated through the introduction of the concept of rights, which recognises the existence of the legal entitlements of rights holders - the hungry and malnourished in the case of the right to adequate food - and of legal obligations of duty bearers towards the former. For the right to food this is reflected through the Voluntary Guidelines, including in key areas such as policies, strategies, access to resources and assets, nutrition and support for vulnerable groups. This focus on the poor and the needy for their empowerment is amply reflected in calls for increased spending on the hungry and malnourished, for better targeting of those to be assisted, for those targeted to have a say in how services are provided, and for poor communities to be empowered to control the way money set aside for them is spent. In this context, it is clear that the design and

operation of an effective RBM system for the right to adequate food would be instrumental to the progressive realization of the right.

92. The value of the Voluntary Guidelines is that they have moved beyond the normative content of the right to adequate food to a more practical interpretation of the concept. They provide a framework to start operationalizing the right to food, including through the establishment of monitoring mechanisms. On a broader level, they also provide a rights based framework with which to address food security, and wider development goals and approaches. At each level, they offer the important advantages of defining goals, accountabilities and obligations, of protecting consistency of efforts to improve food security over time and of ensuring effective monitoring of progress. A rights based approach to food security empowers rights holders and duty bearers alike. Above all, it makes the commitment to get rid of hunger entirely unambiguous, and monitoring the implementation of the right is essential for the fulfilment of the commitment.

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**ANNEX I**

# INDICATOR DEVELOPMENT FRAMEWORK 1

Normative Principles		FOOD SECURITY				
		ADEQUATE FOOD			SUSTAINABLE SUPPLY OF ADEQUATE FOOD	STABLE ACCESS TO ADEQUATE FOOD
		Dietary adequate (Quantity, Nutritional Quality)	Safe for human beings to eat	Culturally acceptable	Environmentally and economically sustainable food systems	Physical and economic access to food within the household's livelihood
Level of State Obligations						
RESPECT						
PROTECT						
FULFIL	Facilitate					
	Provide					

## ANNEX II

# INDICATOR DEVELOPMENT FRAMEWORK 2

## I. FOOD ADEQUACY

ATTRIBUTE/ ASPECT OF REALIZATION	INDICATORS - STRUCTURE, PROCESS, OUTCOME
DIETARY ADEQUACY/ NUTRITION	<ul style="list-style-type: none"> <li>■ <i>Has the right to adequate food been ratified and incorporated in the national legal framework and regulations?</i></li> <li>■ <i>Is there a national nutrition policy and culturally sensitive norms on desirable nutrients for the population?</i></li> <li>■ Proportion of local governments implementing such a policy?</li> </ul>
	<ul style="list-style-type: none"> <li>■ Proportion of population not able to consume the desired normative calorie requirement of adequate diet</li> <li>■ Proportion of population suffering from malnutrition/ contextually relevant nutrient deficiency</li> <li>■ Average calorie intake of the bottom three-(income/consumption) deciles as a proportion of the top three deciles of the population</li> <li>■ Average calorie/protein intake of the identified vulnerable group of the population as a proportion to the total population</li> <li>■ Proportion of underweight children below age five years</li> </ul>
	<ul style="list-style-type: none"> <li>■ Proportion of vulnerable population (school going children, expectant mothers, non-working aged population or other social groups) covered under public/social programmes to supplement nutrition intake</li> <li>■ Proportion of population/females exposed to public information and education on nutrition</li> </ul>
FOOD SAFETY & CONSUMER PROTECTION	<ul style="list-style-type: none"> <li>■ Is there adequate national food safety (processing, distribution) and consumer protection legislation?</li> <li>■ Do the courts enforce consumer protection and food safety legislation?</li> </ul>
	<ul style="list-style-type: none"> <li>■ The disposal rate/average time for consumer protection cases to be heard</li> <li>■ Number of persons prosecuted under food safety and consumer protection laws</li> <li>■ Number of recorded deaths/incidence of food poisoning related to consumption of adulterated food.</li> </ul>
	<ul style="list-style-type: none"> <li>■ Proportion of social sector public expenditure devoted to consumer protection advocacy, education and implementation of laws and regulations</li> </ul>
CULTURAL ACCEPTABILITY	<ul style="list-style-type: none"> <li>■ <i>Are policies on agriculture production, food pricing and availability sensitive to local preferences and needs?</i></li> <li>■ Indicators to monitor changes in consumption patterns for factors other than affordability</li> </ul>

## II. FOOD AVAILABILITY

ATTRIBUTE/ ASPECT OF REALIZATION	INDICATORS - STRUCTURE, PROCESS, OUTCOME
FOOD AVAILABILITY	<ul style="list-style-type: none"> <li>■ Per capita availability of major food items of local consumption</li> <li>■ Proportion of per capita availability of major food items met through domestic production</li> <li>■ Proportion of per capita availability of major food items met through international food aid</li> <li>■ <i>Does the State undertake or sponsor buffer-stock operations for major food items?</i></li> <li>■ Proportion of the average buffer-stocks to annual domestic production</li> </ul>
	<ul style="list-style-type: none"> <li>■ <i>Have necessary (contextually relevant) land and tenure reforms (land consolidation, titles to tillers, redistribution etc.) been undertaken to support improvement in domestic capacity for agriculture production?</i></li> <li>■ <i>Do property, inheritance and other regulatory laws support improvement in capacity for agriculture production</i></li> <li>■ Proportion of female headed-households with a clear title to agriculture land</li> <li>■ Coverage of publicly provided agriculture extension services, including to the allied sectors of livestock, forestry and fishing</li> <li>■ Proportion of public development budget allocated to agriculture extension, irrigation and marketing infrastructure</li> <li>■ Average availability of agricultural credit per unit of cultivated land</li> </ul>

## III. FOOD ACCESSIBILITY

ATTRIBUTE/ ASPECT OF REALIZATION	INDICATORS - STRUCTURE, PROCESS, OUTCOME
FOOD ACCESSIBILITY	<ul style="list-style-type: none"> <li>■ Incidence of hunger in the country/proportion of population not getting two square meals in a day</li> <li>■ Incidence of poverty in the country/proportion of population living below the national poverty</li> <li>■ Proportion of population with access to potable water</li> <li>■ Average household expenditure on food for the bottom three deciles of the population</li> <li>■ Proportion of average household expenditure on food of the bottom three deciles (or vulnerable group) to the top three deciles of the population</li> </ul>
	<ul style="list-style-type: none"> <li>■ <i>Is there a publicly funded programme for distribution to improve the accessibility of the population to food?</i></li> <li>■ Share of household consumption of major food items for vulnerable groups met through public distribution system</li> <li>■ Share of total public expenditure on food subsidy directed at food security</li> </ul>
	<ul style="list-style-type: none"> <li>■ Unemployment rate for the vulnerable segments of the labour force viz. unskilled workers and agricultural landless workers</li> <li>■ Average real wage levels (adjusted for inflation) for vulnerable segments of the labour force</li> <li>■ Work participation rates by gender and by vulnerable segments of the population</li> <li>■ <i>Is there a national policy to address food availability and accessibility during natural disasters and emergencies?</i></li> <li>■ Are movement in agriculture terms of trade at the national and international level monitored for their impact on the vulnerable groups of agricultural producers and consumers?</li> </ul>



## ANNEX III

# INDICATOR DEVELOPMENT FRAMEWORK 3

<b>INPUTS</b>	Allocation and availability of human, financial and other resources. Conditions under which resources are made available to implementing institutions.
<b>PROCESSES</b>	Procedures and operational mechanisms being applied in right to food actions, including resource management procedures, institutional linkages, stakeholder participation in decision making, mechanisms for accountability. Policy and regulatory environments.
<b>OUTPUTS</b>	Immediate results of right to food actions and activities, e.g. higher skill levels, increased food production, greater awareness of economic, social and cultural rights (ESCRs).
<b>INTERMEDIATE OUTCOMES</b>	Changes in income levels, better social and governance conditions, better access to higher quality public services, higher educational attainment, improved health and nutritional status, and other outcomes that directly affect the well being of the poor.
<b>FINAL OUTCOMES (IMPACTS)</b>	Improvements in peoples' well being. Fewer right to adequate food violations.

## ANNEX IV

# USERS AND USES OF RIGHTS-BASED MONITORING INFORMATION

INFORMATION USERS (DUTY BEARERS AND RIGHTS HOLDERS)	USES OF RIGHTS-BASED MONITORING INFORMATION
<b>Individuals, Families and different Social Groups (Rights Holders)</b>	<ul style="list-style-type: none"> <li>■ Reaffirmation of their rights</li> <li>■ Basis for claiming non-realized rights</li> <li>■ Inform civil society representatives of participation in social control mechanisms</li> <li>■ Effective participation in public debates on rights issues</li> <li>■ Grass roots political and social mobilization and control</li> <li>■ Greater awareness of the relation between food, nutrition, rights and broader development issues</li> </ul>
<b>Civil Society Organizations (Non-governmental and community organizations, Labour Unions, Professional Associations, Consumer Protection Agencies)</b>	<ul style="list-style-type: none"> <li>■ Formulation of projects and action plans</li> <li>■ Policy advocacy <i>vis-à-vis</i> central and local authorities and technical cooperation agencies</li> <li>■ Social mobilization</li> <li>■ Informal education and training</li> </ul>
<b>Public Sector Technical Staff (National and sub-national [province, district, local] levels)</b>	<ul style="list-style-type: none"> <li>■ Reaffirmation of their obligations as duty bearers</li> <li>■ Recognition of existing capacity gaps in the service</li> <li>■ Orientation for technical action</li> <li>■ Preparation and monitoring of action plans</li> <li>■ Analysis and formulation of policy and programme options</li> <li>■ Monitoring of local and targeted programmes and projects</li> <li>■ Advocacy <i>vis-à-vis</i> central authorities and technical cooperation agencies</li> </ul>
<b>Local Government Authorities</b>	<ul style="list-style-type: none"> <li>■ Identification of capacity gaps and training needs in local public services</li> <li>■ Formulation and monitoring of local policies and plans</li> <li>■ Administration and allocation of financial resources</li> <li>■ Advocacy <i>vis-à-vis</i> central authorities</li> </ul>
<b>Public Policy and Programme Decision Makers</b>	<ul style="list-style-type: none"> <li>■ Monitoring the fulfilment of State obligations – goals, benchmarks, etc.</li> <li>■ Budget planning</li> <li>■ Formulation and monitoring of sector plans and programmes</li> <li>■ Formulation of development strategies and plans</li> <li>■ Planning of public services</li> <li>■ Periodic reporting on the realization of ESCRs - nationally and internationally</li> </ul>
<b>Legislators</b>	<ul style="list-style-type: none"> <li>■ Formulation of legislative bills – social and economic policy</li> <li>■ Allocation of public resources</li> <li>■ Monitoring public policies and programmes</li> <li>■ Monitoring the effective utilization of public funds</li> </ul>
<b>Legal System Operators</b>	<ul style="list-style-type: none"> <li>■ Monitoring the access to justice and rights by different social groups</li> <li>■ Monitoring the impact of judicial decisions on rights promotion</li> </ul>
<b>Mass Media</b>	<ul style="list-style-type: none"> <li>■ Preparation of print articles, and radio and television reports on food security and nutrition issues, policy debates and current events</li> </ul>
<b>Researchers/Analysts</b>	<ul style="list-style-type: none"> <li>■ Studies and analysis of food and nutrition issues and policies</li> </ul>
<b>Training Institutions</b>	<ul style="list-style-type: none"> <li>■ Training needs assessments</li> <li>■ Preparation of capacity building initiatives</li> </ul>
<b>Donors</b>	<ul style="list-style-type: none"> <li>■ Formulation and monitoring of technical co-operation projects</li> <li>■ Resource allocation</li> </ul>

# RIGHT TO FOOD PRINCIPLES AND INTERNATIONAL TRADE AGREEMENTS

# 3

## I. INTRODUCTION

1. Part of the debate in the Inter-Governmental Working Group (IGWG) for the Elaboration of Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the context of National Food Security has focused on the question of whether and how international factors influence or determine the progressive realization of the right to adequate food within national jurisdictions.<sup>1</sup>

2. This paper addresses only one aspect of the international environment, namely international trade agreements. Its purpose is to discuss how these agreements influence policies governing agricultural production and trade, food security and ultimately policies necessary for the realization of the right to adequate food.

3. The Uruguay Round Agreements, concluded in 1994, are the most important source of multilateral trade rules governing domestic agricultural and trade policies. Although almost all World Trade Organization (WTO) agreements influence agricultural policies to some extent and have an impact on food security, the following four agreements are most relevant: Agreement on Agriculture (AoA); Agreement on the Application of Sanitary and Phytosanitary Measures (SPS); Agreement on Technical Barriers to Trade (TBT); and Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

4. The paper is divided into four sections. Following this introduction, Section II provides an overview of relevant international agreements and covenants, and the concepts of right to food and food security. Section III, the substantive part of the paper, examines the main question posed in this

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<sup>1</sup> Right to food is in this paper taken to encompass both the right to adequate food and the fundamental right to be free from hunger.

paper, namely how various international trade rules influence domestic policies in the area of agriculture and food security, and thus have consequences for the realization of the right to adequate food. Section IV concludes the paper.

## II. INTERNATIONAL AGREEMENTS AND THE RIGHT TO ADEQUATE FOOD

5. The right to adequate food is recognized in Article 25 of the Universal Declaration of Human Rights (UDHR) and Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), among several other instruments of a binding and non-binding nature.<sup>2</sup> The World Food Summit Declaration reaffirms “the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger”. The Declaration of the World Food Summit: *five years later*, and several United Nations General Assembly resolutions have reaffirmed the same right.

6. Article 11 of the ICESCR recognizes the right of everyone to an adequate standard of living, including food, for themselves and their families. A first explicit link between the realization of the right to food and international trade, although not exclusively limited to it, is expressed in Article 11 (2), which states that “the States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international cooperation, the measures, including specific programmes, which are needed, taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need”.

7. In response to the invitation of the World Food Summit Plan of Action (objective 7.4), the Committee on Economic, Social and Cultural Rights (CESCR) adopted General Comment 12,<sup>3</sup> in which it developed the normative content of the right to adequate food reflecting the core minimum obligations of states as well as obligations of the international community. As indicated in General Comment 12, the right of everyone to adequate food is realized when everyone has physical and economic access at all times to adequate food or to the means for its procurement (para. 6). Enjoyment of the right implies:

<sup>2</sup> FAO. 1999. *Legislative Study 68, Extracts from international and regional instruments and declarations, and other authoritative texts addressing the right to food*. Rome. Available at [www.fao.org](http://www.fao.org).

<sup>3</sup> *General Comment 12, The right to adequate food (Article 11 of the Covenant)*, Committee on Economic, Social and Cultural Rights, UN Document E/C.12/1999/5, 5 May 1999.

- > The availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals (free from adverse substances). Availability refers to the possibility for people to feed themselves directly from the land or other natural resources, or from well-functioning distribution, processing and market systems that can move food from the site of production to where it is needed (paras. 8 and 12);
- > The access to food in ways that are sustainable and that do not interfere with the enjoyment of other human rights. Access implies both economic and physical access. Economic access implies affordability and that financial costs related to food are not so great or high as to threaten the enjoyment of other basic rights. Physical access implies that adequate food must be accessible to everyone, including physically vulnerable individuals, such as infants and young children, elderly people, the physically disabled, victims of natural disasters, and other people living in isolated areas and situations that require special attention. (paras. 8 and 13).

8. In General Comment 12, the CESCR identified minimum essential levels of the right to food which states have the obligation to ensure. They comprise, at the very least, the fundamental right to be free from hunger and the right to have access to food without discrimination. Although the principal obligation is to take steps to achieve *progressively* the full realization of the right to adequate food, with states having to move as expeditiously as possible towards that goal, every state should ensure for everyone under its jurisdiction non-discriminatory access to the minimum essential food which is sufficient, nutritionally adequate and safe, to ensure their freedom from hunger. States should respect, protect, promote and provide the right to food for their people and should also ensure that existing levels of enjoyment of access to food and adequate nutritional status are not rolled back. This imposes the obligation to carefully assess any policy measure that is likely to have an impact on the realization of the right to food in the country, in particular of the most vulnerable.

9. The CESCR also considered that states have responsibilities with respect to the realization of the right to food in other countries. States should take steps to respect, protect and fulfil this right in other countries (para. 36); facilitate access to food and provide necessary food aid where required in a way that does not threaten sustainable local food security; and take into account their obligations regarding the right to food when negotiating and concluding international agreements. This would seem to require states to bear in mind the effects of their national agricultural and food policies, including food aid, on the enjoyment of the right to food in other countries.

10. The most widely accepted definition of food security is articulated in the 1996 World Food Summit Declaration as follows: “*Food security 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*". Some defining features of this concept are the emphasis placed on food security at the level of both individuals and households; the three dimensions of availability, access and stability; and nutrition and quality aspects of food. Amartya Sen's entitlements approach to food security is another widely accepted analytical framework for food security. The four entitlements in his framework are production-based entitlement, trade-based entitlement, entitlement based on the exchange of labour, and transfer-based entitlement. In view of the emphasis on multiple pathways to food security, the latter framework is also useful for assessing the linkage between multilateral trade rules and food security.

11. A human rights approach to food and nutrition problems is considered fundamentally different from basic needs-oriented approaches to development.<sup>4</sup> The former introduces a normative basis which is obligatory at the state level. It also implies that the "beneficiaries" of development are active *subjects* and "right holders" and stipulates the duties or obligations of those against whom such claims can be made. By placing strong emphasis on the equal rights of everyone without discrimination, a rights-based approach focuses on national and household food security and helps to ensure food security at the individual level (men and women, boys and girls included). Finally, such an approach introduces an accountability dimension not present in basic needs strategies whereby rights holders are able to bring their concerns and interests to their authorities and hold the latter accountable for the policies and actions they take.

12. Thus, while the dimension and causes of food insecurity vary from country to country, leading to different solutions in different settings, it is increasingly recognized that legal recognition and protection of the right to food could be used to further food security in all countries.<sup>5</sup>

13. The adoption of a human rights and, in particular, a right to food perspective to international trade rules and policies implies the application of the above principles of participation, accountability, equality and non-discrimination and recognition of legal rights to the process of elaborating and enforcing those rules and implementing policies.

<sup>4</sup> This paragraph draws from the Introduction chapter, *The Right to Food in Theory and Practice*, by Mary Robinson, former United Nations High Commissioner for Human Rights. FAO, Rome, 1998. Available at [www.fao.org](http://www.fao.org).

<sup>5</sup> Consolidated report of six case studies, *Implementing the Right to Adequate Food: The Outcome of Six Case Studies*, document IGWG/RTFG INF/4. FAO, Rome, June 2004.

### III. ANALYSIS OF SELECTED WTO AGREEMENTS IN THE CONTEXT OF FOOD SECURITY AND RIGHT TO FOOD

14. To the extent that trade contributes to increased economic activities that generate employment and incomes for food-insecure population groups, almost all WTO Agreements have an impact on food security to a varying degree. For example, both the Agreement on Textiles and Clothing, and the Services Agreement are important for economic growth, employment and income generation for many developing countries. However, because of the nature of the topic, and in view of the overwhelming importance of the agricultural sector for food security, this paper covers only four WTO Agreements (AoA; SPS; TBT and TRIPS) and the Marrakesh Decision.<sup>6</sup>

#### Agreement on Agriculture

15. The long-term objective of the AoA is to establish a fair and market-oriented agricultural trading system through substantial progressive reductions in subsidies and protection. Food security is mentioned in the preamble of the AoA in connection with the way in which commitments under the reform programme should be made, but underlying the various WTO Agreements is the objective of raising standards of living which implicitly should benefit food security. Other international declarations and agreements also reflect this common understanding among the international community, i.e. that trade is not an end in itself but a means to development.<sup>7</sup>

16. The main issue addressed here is how and to what extent AoA rules promote or restrain the ability of states, in particular food-insecure ones, to pursue food security policies at the national level, including from a rights-based perspective. States meeting at UNCTAD XI recognized that “increasing interdependence of national economies in a globalizing world and the emergence of rule-based regimes for international economic relations have meant that the space for national economic policy ... is now often framed by international disciplines,

<sup>6</sup> The Marrakesh Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries, as agreed as part of the Uruguay Round Agreement.

<sup>7</sup> “Trade is not an end in itself, but a means to growth and development. Trade and development policies are an important instrument inasmuch as they are integrated in national development plans and poverty reduction strategies aiming at goals such as growth, economic transformation and production, diversification, export value-added, employment expansion, poverty eradication, gender equity, and sustainable development. Coherence and consistency among trade and other economic policies being pursued at the national, bilateral, regional and multilateral levels by all countries are important for maximizing the contribution of such policies to development.” Sao Paulo consensus, United Nations Conference on Trade and Development, doc. TD/410, 25 June 2004, para. 63.

commitments and global market considerations.” While it is left to each government to strike the right balance between international disciplines and commitments, and national policies, it is also recognized that it is particularly important for developing countries to take into account the need for such a balance.<sup>8</sup> States should, however, safeguard adequate policy space to be able to carry out policies and strategies aimed at realizing progressively the right to adequate food for their people.

17. The relation of the AoA to food security is examined by means of the following questions:

- > Is the AoA as a whole conducive to food security, i.e. does it contain elements that contribute to food security in food-insecure countries?
- > Do the AoA rules limit the ability of food-insecure states to adopt measures aimed at the realization of the right to adequate food and to pursue rights-based approaches to food security?

**(a) Is the AoA as a whole conducive to food security, i.e. does it contain elements that contribute to food security in food-insecure countries?**

18. In brief, the dominant view is that the AoA is conducive to food security. This conclusion is based largely on analyses that compare a counterfactual scenario (the continuation, in the absence of the AoA, of distortions to world agricultural markets that existed prior to the Uruguay Round) with the post-AoA situation when distortions are disciplined and reduced. The majority of these studies conclude that distortions have negative effects both on countries that subsidize and, more importantly, on other countries. Thus, the reforms initiated by the AoA could make positive contributions to agricultural development and food security. The following two paragraphs summarize the importance of the reform process in general and the need for some pro-active agricultural development and food security measures for food-insecure countries.

**19. Trade distortions introduced by trading partners have an impact on food security in other countries.** Understanding how food-insecure countries are affected by policy distortions of trading partners is important, especially from a rights-based perspective. Many of the negative effects of these distortions, such as depressed and unstable world market prices, reduced access to markets in the distorting countries, and unfair export competition in third-country markets, are well known. It is also well known that while developed countries account for most domestic and export subsidies (about 90 percent),

<sup>8</sup> Ibid. para. 8. In relation to the need for an appropriate balance between international commitments and national policy space it is also noted that in increasing the participation of developing countries in global export growth their specific needs should be taken into account, considering further that there is no one-size-fits-all trade and development strategy. Paragraph 66.



both developed and developing countries contribute to high tariff-induced distortions. A counter argument often advanced is that these distortions have also made some positive contributions to food security by supplying food to world markets at lower prices, thus making food more affordable to the needy. Similar arguments apply to the availability of food aid. These benefits must be assessed against the costs that such distortions create. Given that a majority of developing countries, including both food-insecure countries and those that are large-scale importers of basic foods, have taken a position in the WTO negotiations to reduce these subsidies, it seems that they expect net positive gains from continuing the reform process as a whole.

20. Moreover, distortions, especially of food markets, make it difficult for non-subsidizing countries to achieve reform. Thus, for example, depressed world market prices reduce farm incentives which may lead governments to raise tariffs that can have other economic costs. Similarly, export subsidies are often associated with import surges. The distortions also make non-subsidizing countries less competitive in third country markets.

21. Thus, these distortions may have negative effects on production and trade and make it harder for food-insecure countries to implement sound food security policies. While the Uruguay Round subjected these distorting policies to the rules-based system, it did not reduce the level of distortions to any great extent.<sup>9</sup> The latter is being attempted under the Doha Development Agenda negotiations which could thus have important implications for non-subsidizing, and largely food-insecure, countries.

**22. *Similar or identical trade rules often lead to dissimilar outcomes when there are imbalances in economic conditions across countries.*** Experience since 1995 shows that most developing countries have not been able to take full advantage of the “policy space” provided by the AoA (see (b) below) due to lack of financial resources and institutional capability. Thus, even if the AoA were balanced in terms of “policy space”, the outcome could vary from one country to another because some countries utilize this space fully (e.g. in supporting agriculture), while others cannot afford to do so.<sup>10</sup> Similarly, while some countries have the capability to resort to general trade remedy measures, others do not. Another example is the often vast difference in technical standards (e.g. food quality in the context of the SPS Agreement) between rich and poor countries. This difference often leads to an asymmetric response to trade liberalization in that, given the same degree of market opening by

<sup>9</sup> See *The Uruguay Round Agreement on Agriculture: An Evaluation of its Implementation in OECD Countries* for the analysis and this conclusion. OECD, Paris, 2001.

<sup>10</sup> Financial constraints aside, it is also possible that support to agriculture could be delayed because governments do not give adequate priority to this sector.

both parties, an exporter with higher domestic SPS standards (notably rich countries) would not face market access constraints on SPS grounds, while an exporter with lower standards (notably many poorer countries) may face binding access constraints. As a result, trade response to liberalization becomes asymmetric.

23. The main point made here is that, even where multilateral trade rules are similar, various asymmetries across rich and poor countries make the outcomes dissimilar. While imbalances in the AoA can for example be addressed through multilateral negotiations, this is not enough to reduce or eliminate the asymmetries in outcomes without several pro-active measures targeted at lower-income, food-insecure countries, e.g. investment in agriculture, technical standards, institutional capability etc, that will assist them to improve their capacity to use the opportunities and mechanisms offered by international trade rules.

24. This asymmetry has implications for states' compliance with obligations on the right to food. States parties to the relevant agreements have a duty to take all appropriate measures to progressively realize the right to adequate food, including by using all possibilities, flexibilities and/or policy space allowed under trade agreements within the limits of their available resources.

25. Recognition of differences across countries in their capacity to respond to trade liberalization has been reflected in international trade agreements and arrangements. For example, during the 70s, an additional chapter was introduced in the General Agreement on Tariffs and Trade – which was the only agreement at the time regulating multilateral trade on goods - on differential and special treatment of developing countries. The same years saw the birth of the Generalized System of Preferences whereby developed states extended additional tariff preferences to developing countries without demanding reciprocal concessions. Special and differential treatment was also inserted in the various Uruguay Round Agreements, giving developing countries longer periods of implementation and allowing them to undertake lower levels of commitments. One of the main criticisms of these provisions is that they have not always been implemented and are not as effective as expected. In general, special and differential treatment, which has also found an important place in the Doha Declaration, raises problems in deciding which group of countries deserves more special and differential treatment than others and on what account.

26. A final point on the question of whether the AoA contains elements that contribute to food security is the new WTO dispute settlement system. To some extent, the system has been effective in strengthening the capability of the developing countries to defend their rights. These countries have been able to bring complaints to defend their rights and have indeed been successful in

several cases. In the context of the AoA, recent examples include successful challenges to *inter alia* domestic and export subsidies given by developed countries to cotton and sugar.

**(b) Do trade rules limit the ability of food-insecure states to pursue rights-based approaches to food security?**

27. Having noted some of the effects of the AoA, including the issue of asymmetry in outcomes, this sub-section examines the AoA rules in terms of the “policy space” available for pursuing food security policies, including from a rights-based perspective. A number of key concerns expressed both by governments and non-governmental stakeholders in the context of food security are dealt with.<sup>11</sup> The main conclusion is similar in each case – that the AoA does not, in general, at this stage, limit the policy space to implement food security programmes, and that the main constraints are lack of funding and institutional capability, and, to some extent, political will.

28. **The AoA rules and the “right” to produce food and other agricultural products.** The AoA is concerned with reducing distortions such as protection and subsidies; it does not call for limiting production itself except in some specific contexts. Where food production was maintained by virtue of subsidies, reforms could lower production. However, this is not a characteristic of food-insecure countries.

29. Agricultural production is influenced by many trade and domestic policy instruments. Thus, the rules in all “three” pillars of the AoA (domestic support measures, market access and export subsidies) do play a role. Nevertheless, policy instruments that fall under domestic support measures are particularly relevant. The main question asked is to what extent the rules limit the range of support measures as well as the level of financial support provided for agricultural production.

30. Firstly, regarding trade-distorting subsidies that are disciplined by the AoA, relatively few developing countries applied these subsidies to a significant extent in the Uruguay Round base period (1986-88), and so they do not have any reduction commitments. The upper limit of subsidies for them is set by the so-called *de minimis* level - i.e. all developing countries

<sup>11</sup> There is a large and growing amount of literature on the linkage between the AoA reform process and food security. See for example “Some issues relating to food security in the context of the WTO negotiations on agriculture”, and “Incorporating food security concerns in a revised Agreement on Agriculture”, both published in *FAO Papers on Selected Issues relating to the WTO Negotiations on Agriculture*, FAO, Rome, 2001. The linkage is also analyzed in *The Medium-term Impacts of the Trade Liberalization in OECD Countries on the Food Security of Non-member Countries*, Document COM/AGR/TD/WP (2001) 74/FINAL, OECD, Paris, 2002. There is also a chapter on this subject in *The State of Food Insecurity in the World, 2003*, FAO, 2003.

can grant subsidies up to 10 percent of the value of production of specific products (e.g. price support for rice, cotton, etc.) and additional non product-specific subsidies (e.g. on fertilizers, seeds, etc.) up to 10 percent of the value of total agricultural production. Experience with the implementation of the AoA since 1995 has shown that most developing countries were able to utilize only a small part of the 10 percent limits.<sup>12</sup>

**31.** Secondly, AoA's Article 6.2 exempts some subsidies applied by developing countries from the above discipline, e.g. input subsidies to low-income or resource-poor producers, thus further expanding the room for trade-distorting subsidies. Despite this, Article 6.2 has been little used.

**32.** Thirdly, the AoA does not place any limit on all other subsidies that are considered to have no or minimal production and trade distortions. Commonly known as Green Box measures, these include, for example, research and extension, pest and disease control, training, various infrastructural services (electricity, roads, market and port facilities, etc.), insurance, regional development aids and so on.<sup>13</sup>

**33.** In addition, production is supported indirectly by tariffs and other barriers to trade that, in the case of importing countries, raise the domestic price to producers above world market prices. Though not a subsidy, this is frequently the most powerful instrument used to support production. Typically most developing countries have retained rather high bond tariffs for food products so that they have a considerable margin with which to help protect domestic production under the AoA.

**34.** The overall conclusion is that the AoA provides ample policy space for raising food and agricultural production. As already indicated, the binding constraint lies elsewhere, namely in the lack of support to agriculture rather than in the AoA rules.<sup>14</sup> The issues of imbalance and asymmetry discussed above apply equally to domestic support measures.

<sup>12</sup> This is based on *Developing Country Experience with the WTO Agreement on Agriculture and Negotiating Issues*, Ramesh Sharma, 2002. Paper presented at the International Agricultural Trade Research Consortium (IATRC) summer symposium on *The Developing Countries, Agricultural Trade and the WTO*, Vancouver, Canada, 16-17 June 2002. FAO country case studies also discuss these issues for 23 developing countries that were the subject of the study, *WTO Agreement on Agriculture Implementation Experience: Developing Country Studies*. Rome. 2003. Available at [www.fao.org/trade](http://www.fao.org/trade).

<sup>13</sup> Three Green Box measures that are directly relevant for food security-oriented programmes (stockholding, subsidized food distribution and employment generation) are discussed below.

<sup>14</sup> Note also that almost all the measures for reducing hunger in the FAO Anti-Hunger Programme are those that fall under the Green Box category, i.e. they are not disciplined by the AoA.

**35. Safeguarding domestic markets from disruptions such as import surges.** This is an important food security objective, especially for many food-insecure countries where small farmers predominate, and price and income safety measures are lacking. The phenomenon of import surges, which have increased particularly since the mid-1990s for basic foods, is often linked to trade liberalization.<sup>15</sup> From a rights-based perspective to food security, it can be argued that farmers have a right to be safeguarded from these shocks. This requires governments to have access to appropriate instruments, which in the WTO framework include the following:

- > Raising applied tariffs up to the limit set by WTO bound rates;
- > Resorting to the Special Safeguard (SSG) of the AoA; and
- > Resorting to general trade remedy measures, i.e. anti-dumping, countervailing and emergency safeguards.

**36.** Experience since 1995 shows that many developing countries resorted to the first option when faced with import surges, partly because they did not have access to the SSG<sup>16</sup> and partly because they lacked capability to resort to general trade remedy measures. A proposal has been made in the ongoing negotiations for a Special Safeguard Mechanism for developing countries that is expected to be similar to the SSG. Access to this safeguard would be valuable for them from the standpoint of a rights-based approach to food security. At the same time, it is equally important for governments to develop capability in general trade remedy measures.

**37. Stockholding food for stabilizing domestic prices and for emergency food security needs.** The former, i.e. releasing stocks when domestic prices are high and *vice versa*, used to be a popular policy in developing countries; however, this form of market intervention is no longer common. By contrast, maintaining food security stocks for emergency needs is fairly widespread. From the standpoint of a rights-based approach, the question is whether the AoA limits these options.

**38.** The answer is no. Firstly, the AoA places all expenditures (or revenue foregone) in relation to the accumulation and holding of stocks of products that are part of a food security programme in the Green Box category, i.e.

<sup>15</sup> Several cases of import surges were reported in country case studies. See *WTO Agreement on Agriculture Implementation Experience: Developing Country Studies*. FAO. Rome. 2003. Available at [www.fao.org/trade](http://www.fao.org/trade). Several national and international civil society organizations have also documented cases of import surges based on field work. See also *Some Trade Policy Issues Relating to Trends in Agricultural Imports in the Context of Food Security*, Document CCP/03/10, 64th Session of the Committee on Commodity Problems, 18-21 March 2003, FAO, Rome.

<sup>16</sup> Access to SSG was made conditional on “tariffication” of non-tariff barriers, which many developing countries did not resort to. As a result, only 21 of them have access to the SSG.

there are no limits to the outlay. This also applies to government aid to private storage as part of such a programme. There is a requirement that the volume of such stocks correspond to predetermined targets related solely to food security, which should not be a difficult condition to meet. Moreover, for developing countries, subject to meeting these criteria, stocks of foodstuffs for food security purposes can be acquired and released at administered prices, provided that the difference between the acquisition price and the external reference price is counted as trade-distorting subsidies (measured as Aggregate Measurement of Support or AMS). Given the considerable scope for raising AMS levels up to the 10 percent level, this is unlikely to be a constraint.

**39. Implementing subsidized food distribution programmes.** This is a fairly common food security programme. In the AoA, it is called “domestic food aid” and falls under Green Box measures. It is stated that the eligibility to receive food aid shall be subject to clearly-defined criteria related to nutritional objectives, and that such aid should be in the form of direct provision of food to those concerned or the provision of means to allow eligible recipients to buy food either at market or at subsidised prices. It is explicitly stated that the provision of foodstuffs at subsidised prices with the objective of meeting the food requirements of the urban and rural poor in developing countries on a regular basis at reasonable prices shall be considered to be in conformity with the AoA. Thus, the AoA does not prevent developing country governments from providing such assistance, including food free of cost to the most needy.

**40. Implementing guaranteed employment schemes for food-insecure population groups.** These are also effective measures to combat hunger, especially seasonal food insecurity. Being guaranteed by law, they are good examples of a rights-based approach to food security. One widely cited rights-based scheme is the Maharashtra Employment Guarantee Scheme of India which came into operation in 1997. Many food-for-work programmes also fit into this category, albeit belonging to the non-guaranteed category. However, probably for budgetary reasons, there are relatively few examples of *guaranteed* schemes in developing countries, despite their attraction both for reducing hunger and for creating rural infrastructure. In the context of this paper, what is important is that neither the AoA nor other WTO agreements restrict this type of scheme.

### **The Marrakesh Decision – safeguarding against some food insecurity risks through a multilateral transfer mechanism**

**41.** During the Uruguay Round, negotiators were concerned that agricultural reform could have negative effects on least-developed and net food-importing developing countries (LDCs and NFIDCs) in terms of the availability of

adequate supplies of basic foodstuffs from external sources on reasonable terms and conditions, including short-term difficulties in financing normal levels of commercial imports. Several analyses had shown that the reform process was likely to increase food import bills as world prices of basic foods were expected to increase, and that these countries could be more dependent on food imports as they also open their economies, while at the same time food aid would probably decline. The response was the Marrakesh Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries. The *Decision* included four response mechanisms: food aid; short-term financing of normal levels of commercial imports; favourable terms for agricultural export credits; and technical and financial assistance to improve agricultural productivity and infrastructure.

42. The *Decision*, however, has not been implemented. Even during 1995-96, when world prices of basic foods soared, none of the response mechanisms was triggered within the framework of the *Decision*. The Doha WTO Ministerial Conference included the *Decision* as one of the implementation issues, and subsequently the WTO formed an inter-agency panel to examine this matter. Some analyses have been conducted by FAO (on a Revolving Fund considered there), but little progress has been made since then.

43. The *Decision*, if it had been implemented, would have been a good example of Amartya Sen's "transfer-based entitlement" to food security at the multilateral level. Having the *Decision* in place as intended would have contributed to food security as this would help developing countries to reform their agriculture by providing an effective safeguard for difficult times.

### **Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS)**

44. Three aspects related to the TRIPS Agreement are important in the context of food security in general and for a rights-based perspective in particular. These are: protection of plant varieties (Article 27.3b of the TRIPS); right of protection of traditional knowledge; and the public's access to genetic resources and benefit sharing.<sup>17</sup>

45. Article 27.3(b) of the TRIPS requires all WTO Members to provide Intellectual Property Rights (IPR) protection to plant varieties, either by patents or by an effective *sui generis* system or by any combination thereof.

<sup>17</sup> Extending "Geographical Indications" to products other than wines and spirits, especially to traditional products of developing countries, is also relevant to food security as the benefits often extend to marginal and disadvantaged areas.



This *sui generis* option provides valuable policy space for most developing countries because, under a system of patents, farmers would be prohibited from using seeds from patented varieties without the consent of the patent holder. As seeds saved by farmers and exchanged among themselves can account for up to 80-90 percent of the total seed requirements in developing countries, a patent system could severely constrain subsistence farming and food security.

46. Many developing countries are in the process of formulating *sui generis* legislation. In doing so, they need to take advantage of provisions in other treaties and conventions. For example, the International Treaty on Plant Genetic Resources for Food and Agriculture recognizes farmers' rights, including the protection of traditional knowledge, the right to equitably participate in sharing benefits arising from the utilization of plant genetic resources, and the right to participate in the decision-making process concerning their management. In addition, no limits can be imposed on the rights that farmers have to save, use, exchange and sell farm-saved seeds and propagating material.

47. Looking ahead, the Doha Declaration has directed the TRIPs Council to review Article 27.3(b) in order to examine the relationship between the TRIPs and the Convention on Biological Diversity (CBD), the protection of traditional knowledge and folklore and other relevant new issues raised by WTO Members. Pursuing this in the WTO is very important for developing countries, particularly in view of possible substantive implications for food security and for rights-based approaches.

## The SPD/TBT Agreements

48. The relation between the SPS/TBT Agreements and food security from the rights perspective has two aspects. First, according to the World Food Summit definition, food security requires "safe and nutritious food to meet dietary needs and food preferences". Thus, consumers have a right to safe food, and the SPS Agreement is the main multilateral framework for this. Second, the SPS/TBT Agreements contribute to food security by facilitating trade and thereby raising incomes.

49. Regarding the first point under the SPS Agreement, governments have the right to implement effective legislation and other safeguards to ensure food safety and quality, providing they do not discriminate arbitrarily or unjustifiably among WTO members nor act as a disguised restriction on trade. Such measures are essential for food security from a rights-based perspective, and therefore there are no apparent conflicts between the Agreements and food security.



50. It is an entirely different matter that many developing countries face enormous challenges in meeting food standards in export markets, notably in developed countries, and thus fail to take advantage of trading opportunities. Upgrading the levels of standards can be a very costly undertaking. The SPS Agreement includes non-binding provisions which recommend technical assistance for developing countries in this regard. FAO has been providing considerable amounts of technical assistance in these areas but there is still a large unmet need because of a shortage of finance.

#### IV. CONCLUDING REMARKS

51. The purpose of this paper is to discuss the likely implications of multilateral trade rules for food security in general and for a rights-based approach in particular, as a background paper in the context of the elaboration of draft Voluntary Guidelines on the right to food at the national level. Although all WTO Agreements impact on food security, the paper focuses on four of them with the most direct bearing on food and agricultural policies and trade - the AoA, SPS; TBT and TRIPS – as well as the Marrakesh *Decision*. The main question addressed in the paper was whether and how multilateral trade rules limit the ability of states to pursue the realization of the right to adequate food (within a rights-based approach to food security).

52. The following main points were noted in the analysis of the AoA. The reforms initiated by the AoA have the potential to make positive contributions to food security by limiting trade distortions which would have been more damaging in the absence of the Uruguay Round. Secondly, the Agreement provides sufficient “policy space” for all countries, including those that are food insecure, to pursue a right to food approach. That policy space, however, has not been used well. A few countries failed to do so because of their own policy choices and despite having resources, and thus neglected their obligations under the right to adequate food. However, in the vast majority of cases, they are constrained in taking advantage of the policy space by a lack of financial resources and weak institutional capability. The implementation experience since 1995 shows that, by contrast, countries with ample financial resources and capability have taken advantage of the policy space. The overall result is an asymmetry in *outcomes*, despite the same or similar *policy spaces*. A sharp divide in income levels between poor and rich countries has led to similar asymmetries in a number of areas, in terms of the ability to take advantage of the Agreements. The ongoing agricultural negotiations provide an opportunity to redress some of these imbalances, and thus to contribute to the “development” objective of the Doha Development Agenda.

53. It is worth noting in these negotiations that the CESCR, in General Comment 12, calls on states to be responsible with respect to the realization of

the right to food in other countries. Ensuring that damaging export subsidies and dumping do not occur are examples of such obligations.

54. In the case of the TRIPS Agreement, the main concerns from a food security point of view are the protection of plant varieties, the right to protection of traditional knowledge and the public's access to genetic resources and benefit sharing. The *sui generis* option to protect plant varieties is a valuable provision for most subsistence-oriented, food-insecure countries. It is, however, important for countries in the process of formulating *sui generis* legislation to take advantage of the provisions in other international treaties where the primary concern is with food security and agricultural development.

55. As regards the SPS/TBT Agreements, the main conclusion was that countries have the right to take measures to protect human life or health, and the SPS Agreement provides a framework for this. By also preventing arbitrary protectionism in trade, these Agreements help states to guarantee the rights of traders and farmers to engage in and gain from export trade. Currently, the majority of the developing countries face enormous challenges in meeting international technical standards, but there is little else that can be done here other than upgrading the standards.

56. Overall, it is a fact of life that trade liberalization produces both winners and losers, across countries and within countries. The across-country imbalances and asymmetries should be tackled through appropriate multilaterally negotiated trade agreements while individual states can make a difference in minimizing within-country imbalances. On the whole, the current multilateral trade rules provide considerable space for states to pursue rights-based approaches to food security at the national level, although the majority of these countries are constrained by lack of resources in taking advantage of the policy space. Lastly, the discussion throughout this paper has also stressed the importance for food-insecure countries in particular to participate effectively in the ongoing WTO negotiations so that the new Agreements are more balanced and development-friendly than at present.