THE WORLD TRADE ORGANIZATION AND FOOD SECURITY AFTER THE GLOBAL FOOD CRISES[1]

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Abstract
This chapter examines the emergent global policy space for food security and its implications for understanding the World Trade Organization (WTO) in a changing global landscape. Despite the collapse of Doha Round negotiations in July 2008, the debate over food security and international trade has intensified at the WTO since 2008. This debate has significant implications for the WTO's role as an international institution as it takes on new governance duties such as participating in new global food security governance institutions. We can also observe shifts in the content of inter-state deliberations on food security at the WTO and the appearance of non-traditional policy actors in these deliberations. This includes for example the growing prominence of the human right to food in the new global food security policy consensus and the political contests between the UN Special Rapporteur on the Right to Food and the WTO. These developments illustrate conflicting visions about the role of international trade in addressing world hunger that are emblematic of the political contests driving the global policy space for food security.

Key words: Global Food Crisis, Food Security, WTO, Right to Food, Global Governance.

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Introduction

Following the 2008 and 2011 global food crises, the relationship between world food security and the international trade system has emerged as a significant issue in global governance. The global food crises, most closely associated with the end of cheap of food and the massive increase in the number of hungry people worldwide to over one billion people, have brought the relationship between food security and international trade and its implications for global food policy under much greater scrutiny. Although States and international actors have not called for a return to national food self-sufficiency or an end to free trade in agriculture, the new global food policy consensus, which emphasizes increased food production in developing countries, signals an erosion of confidence by policymakers in the status quo of international trade in food. The primacy of international trade as the crucial element of food policy is more deeply contested now than at any other point since the establishment of the World Trade Organization (WTO).

The food security-international trade debate is presently at the top of the global agenda. The WTO is only one site where this debate is played out and it is not the most important site; international forums such as the United Nations (UN), World Bank, and the G8/G20 have overtaken the WTO as key sites of international trade and food security policy deliberation. The food security consensus that is emerging from these deliberations is significant and already reshaping the contours of international cooperation, official development assistance flows and food security policy in the Global South. This new food security policy consensus is also rescaling the politics of food by opening new sites of participation for international NGOs and the transnational food sovereignty movement, which have been historically excluded from international policy-making processes.

This chapter examines the emergent global policy space for food security and its implications for understanding the WTO in a changing global landscape. Despite the collapse of Doha Round negotiations in July 2008, the debate over food security and international trade has intensified at the WTO since 2008. This debate has significant implications for the WTO's role as an international institution as it takes on new governance duties such as participating in new global food security governance institutions. We can also observe shifts in the content of inter-state deliberations on food security at the WTO and the appearance of non-traditional policy actors in these deliberations. This includes for example the growing prominence of the human right to food in the new global food security policy consensus and the political contests between the UN Special Rapporteur on the Right to Food and the WTO. These developments illustrate conflicting visions about the role of international trade in addressing world hunger that are emblematic of the political contests driving the global policy space for food security.

The Global Food Crises and International Trade

The causes and consequences of the 2008 and 2011global food crises have been exhaustively debated elsewhere in the scholarly and policy literature.[2] Rather than repeat these debates here, this section briefly discusses the drivers of the food crises, trade-related aspects of responses to the crises, and the emergent global policy space for food security.

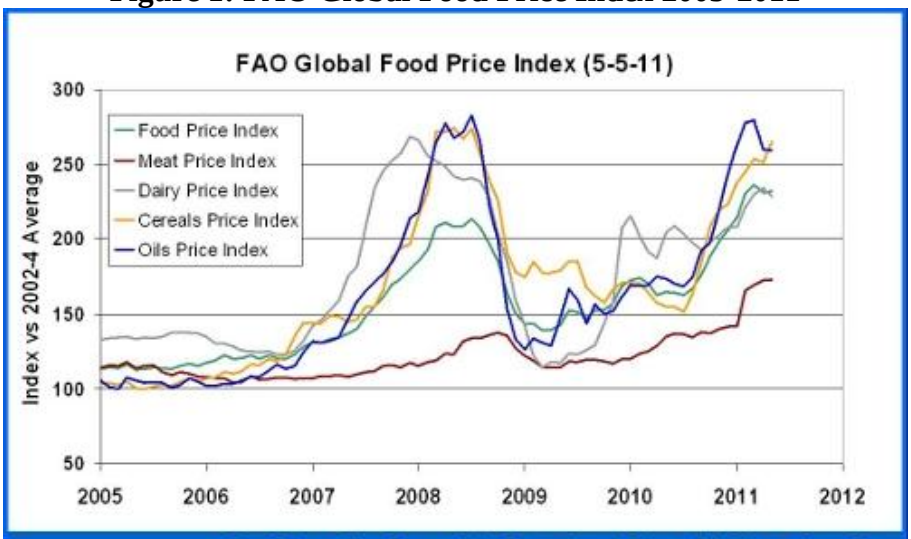
Drivers of the crises and the end of cheap food

There is no single smoking gun behind the recent global food crises. Instead, the crises were precipitated by a confluence of factors. The most commonly cited drivers are: biofuel policies in the North that

diverted major volumes of agricultural production (e.g., corn, oilseeds) away from food and feed markets into energy production; domestic policies of key agricultural producers encouraging the drawdown of buffer stocks (buffer stocks are crucial public instruments to insulate countries from price volatility); rising demand for agricultural goods from the emerging economies; increased financial activity and speculation in commodity and futures markets (especially after the 2008 global financial crisis); and, unilateral agricultural export restrictions (mostly enacted in response to rising world food prices).

Reference is made on purpose here to the global food *crises* instead a *crisis*. This is in recognition that the rising food prices are not a singular event but indicative of broader changes to the world food system. Figure 1 clearly illustrates the "twin peaks" of world food prices that occurred in in 2008 and 2011. It also shows the volatility of prices, especially in the period between the 2008 and 2011 peaks but also since (recent data is limited). Figure 1 reminds us that food prices remain well above their pre-2008 levels. This latter development is now widely referred to as the "end of cheap food" in recognition that the 50-plus year trend of declining food prices that characterized the post-war era may have come to an end. Most experts agree that the food crises represent a structural shift in the world food economy instead of a momentary blip. Food prices are expected to stay at current levels and to likely increase over the medium-term as the effects of climate change and the meatification of diets on world food production become more pronounced. Higher and rising food prices are the "new normal" and one feature of a changing global landscape.

Figure 1: FAO Global Food Price Index 2005-2011



	Food Price Index	Meat Price Index	Dairy Price Index	Cereals Price Index	Oils Price Index	Sugar Price Index
5/5 as % of 2007-9 peak	109%	126%	85%	97%	92%	104%
%increase in April	0.5%	0.3%	-2.4%	5.5%	-0.3%	-6.6%
2007-9 Max Index	213.5	137.4	268.6	274.3	282.7	334.0

Source: FAO

The end of cheap of food is experienced unequally by people across and within countries. Price increases were felt less intensely in developed countries, where food does not make up a major proportion of household consumption. Rising food prices had profoundly negative income and nutritional impacts in the Global South. At the global level, the FAO has estimated that the global food crises pushed an additional 150 to 200 million people into a state of undernourishment. The World Bank most recently reported that over 44 million people were driven into poverty as a result of the food price spike of 2011.

It is difficult to translate these statistics into individual level effects given that undernourishment and poverty interact with a wider set of socioeconomic factors. But recent studies have confirmed higher world food insecurity worldwide captured by confirmed incidences of malnutrition and child stunting in the Global South since 2008 (Ruel et al, 2010).

National responses to the global food crises

States employed various policy tools to cope with rising food prices. At the national level these policies varied widely across developed and developing countries, between net-food importing countries and net-food exporting countries. In addition, policymaking was also influenced by the sensitivity of governments to public pressure to respond to food price inflation.

Most relevant to the theme of this book is the fact that trade measures were the principal form of national responses to rising food prices. Typical responses included lowering import tariffs and taxes on staple foods in net-food importers and least developed countries (LDCS). Several countries imposed unilateral export restrictions to increase the supply of food available in domestic market and to curb food price inflation. Export restrictions have been the most controversial of national responses, especially the restrictions placed by major grain producers such as Argentina, the Ukraine and Russia, who were singled out and blamed by Northern governments for exacerbating the crises. However, the politics of blame and the tendency to associate export restriction with these three countries does not tell the whole story. Some twenty-four countries introduced export restrictions. This group was diverse group and included many key food producers (but not net-food exporters) such as China, India, and Indonesia (Demeke et al, 2008).

Apart from trade measures, developing countries implemented social safety nets, provided consumer subsidies, and engaged in direct food purchases of food on international markets. Longer-term measures, such as support for domestic agricultural production, extension services and facilitating use of new technology/biotechnology are currently underway in many developing countries. International cooperation, for example, has focused on food marketing and distribution to minimize post-harvest losses and spoilage.

The global food crises have rekindled state activism in food policy and the agricultural sector. A growing number of developing country governments are taking steps to enhance their capacity to guarantee minimum levels of food access to their populations through novel forms of social protection. The various national responses to the global food crises suggests a partial break with decades of mainstream development policy and ideas that emphasized the role of markets and trade liberalization to secure food, a global project for which the WTO and structural adjustments policies were critical disciplining regimes, towards a more activist state.

Multilateral responses to the global food crisis

Multilateral responses to global food crises have been numerous. Emergency food aid was a crucial short-term response. In 2008 alone the United Nation's World Food Programme (WFP), the agency responsible with administering international food aid, delivered over $US 5 billion worth of food assistance to 102 million people in 78 countries (WFP, 2009). The volume of international food aid in 2008 was unprecedented. In addition, the global food crises marked the entry of non-traditional aid donors such as Saudi Arabia and philanthropies such as the Bill and Melinda Gates Foundations.

In addition to direct food assistance, multilateral interventions have spanned several medium-term measures. This included financial loans from the World Bank and IMF to countries experiencing balance

of payments related to rising food import bills. In order to support developing countries' efforts to increase food production, the UN Food and Agriculture Organization (FAO), World Bank, and regional development banks are providing aid bundles of financing, technical assistance, and technology targeting the agriculture section. The most visible support has come from the G8/G20 in 2008 in a $US 21 billion commitment to support food production in developing countries, primarily Africa.

The "New" Global Food Security Policy Consensus

From the start of the 2008 food crisis, international institutions and donors cooperated to coordinate global food security interventions. Coordination was prompted by wide agreement among international institutions and key States about the severity of the food crisis and urgency for a global response. The focal point for this coordination is the UN High Level Task Force on the Global Food Security Crisis (HLTF), which was established by the UN Secretary General in 2008 with the mandate to coordinate across the UN system and Bretton Woods organizations.[3] At present, the HLTF includes over twenty international institutions. The HLTF is primarily a deliberative body but enjoys significant political legitimacy. It is personally chaired and directly overseen by the UN Secretary General who enjoys a good measure of moral authority and institutional power. The HLTF is networked to and works closely with two new key global food security policymaking bodies - the G8/G20, in particular the new deliberative groups of development cooperation and agriculture ministers that report to the Leaders, and the recently reformed UN Committee for World Food Security (CFS), a deliberative body that includes UN member states, international organizations, global civil society, philanthropic organizations, and the private sector as participants in its activities. The WTO is both a member of the HLTF and also a participant at the CFS.

The WTO secretariat's role in these new bodies has not received a lot of attention. Looking back, it is often missed that the WTO was among one of a handful of international institutions that was active in shaping the global food security policy consensus. The WTO actively participated in setting up the HLTF and in the negotiations of the *Comprehensive Framework for Action* (CFA), which was the major outcome of the HLTF's work and is the international policy document that articulates the new consensus on food security policy. The basic elements of the new consensus on global food security can be summarized as follows[4]:

- Increasing food production/investment in developing country agriculture;
- Expanding social protection/assistance to increase the access to food to the most vulnerable;
- National ownership and accountability of food security programs;
- Supporting small-scale farmers, especially women farmers; and,
- Recognizes the human right to food as a central normative and operational basis for national food security policymaking.

Since 2008, the CFA has played an important role in global food security governance. As a policy document, the CFA provides an authoritative benchmark by which all multilateral and national food security interventions are measured against. The CFA has been repeatedly recognized and articulated as an overarching global food security policy framework by international institutions ranging from the World Bank, development agencies, regional bodies such as the African Union, and global civil society. It is now difficult to speak about global food security without reference to the ideas articulated in the CFA.

Global policy space for food security

Developments such as the HLTF and the new global food security policy consensus are indicative of an emergent global policy space governing food security. The concept of a global policy space is different than the concept of policy space that is often used in the literature to refer to idea of a country's range of flexibility to pursue policies under its WTO commitments.

According to Coleman (2005, pgs. 94-98), a global policy space is a concept that describes well many of the new governing arrangements that have emerged in response to globalizing processes. These new forms differ significantly from traditional forms such as formal brick and mortar international institutions. The idea of space refers policymaking that take places across territorial boundaries. Global policy spaces are inhabited by interconnected groups of state and non-state actors, who are self-aware that they are participating in the governance of global scale problems as opposed to particular, national problems. Another important feature of global policy spaces is that they display significant political contestation and bids for power among actors. Coleman (2005, p. 98) reminds us that, "[i]n charting the contours of such a space, we must keep in mind that nodes of power congealed in institutions give structure to flows." Applying the concept of a global policy space to food security helps capture the visible, formal nodes such as the CFS, HLTF and the G8/G20 but also the variegated sets of networks of state and non-state actors that orbit one or several of these nodes. It is not feasible in this chapter to address all the actors and bids for power that drive the space. Analysis is limited here to the role of the WTO.

The WTO is one key actor in this global policy space. The WTO is on the one hand a formal international institution that enjoys delegated authority to enforce trade agreements. This is how the WTO is conventionally understood in much of the international trade literature. On the other hand, the WTO is now also a member of the HLTF. WTO secretariat officials are very active at this site of global food policy-making. WTO secretariat officials are also active in inter-agency collaboration such as developing policy recommendations on food price volatility for the G20. And as mentioned above, the WTO is now involved in policy deliberations at the CFS. As a result, the WTO is both a site and actor in the global policy space. However, as an actor, the WTO enjoys a significant degree of autonomy because its activities in the space because its interventions here are not directly overseen by WTO member states.[5]

The WTO's new and prominent role in global food security governance is contested. This contestation was visible, for example during, the intra-agency negotiations of the CFA. According to Dr. David Nabarro, the HLTF coordinator, there were disagreements among the WTO and other key HLTF members, as well as with international NGOs consulted during the negotiations, about how trade policy should be framed in the CFA.[6] At the CFA negotiations, the WTO took a strong position that pushed for the CFA to echo its official position: to promote free trade in agriculture, ban export restrictions, and emphasize the importance of a concluded Doha round. Institutions such as the FAO and UNCTAD, which have called for greater safeguards for developing countries, and international NGOs, many of which blamed WTO rules for (indirectly) creating the global food crisis, sought to limit the WTO framing of trade issues in the CFA. Also at play were concerns among some actors that the WTO, along with the World Bank with which it shares a neoliberal policy orientation, were becoming too influential in shaping the multilateral response.

The CFA's final message on free trade could be described as moderate. Although the CFA alludes to the importance of concluding of the Doha Round and envisages significant trade policy reforms, such as *limiting* the use of export taxes and restrictions, it also calls for greater policy flexibilities for developing

countries. However, it is evident that its overall position on trade policy fits well with the WTO's position. Concern over the WTO's role is not limited to the HLTF. At the CFS, transnational peasant organizations such as the Via Campesina (that participates in this forum) and whose call to arms is "Get the WTO out of agriculture" symbolizes have challenged the WTO's official position. These are some of the ideological tensions and power asymmetries driving the global policy space.

The WTO is one actor in the new global policy space. By no means is it the most important actor. The WTO remains a powerful player within the global policy space because of its legal and expert authority. At the same time it is exposed to political interactions within the space that are distinct from its typical work as an inter-state negotiating forum and settling trade disputes. Given the plurality of approaches to food security within the space, the WTO will find itself under greater and unfamiliar pressure to defend its neoliberal policy orientation.

The WTO and Food Security after the Global Food Crisis

The impacts of international trade rules on domestic food security have been a long-standing debate at the GATT/WTO ever since the establishment of the AA. During the Uruguay Round (1986-1994) the central objective was to end the export subsidy trade war, stabilize international food markets, and achieve higher world food prices. According to the conventional economic theory of that time, it was assumed that by reducing Northern farm subsidies that agricultural prices would increase.

GATT members also acknowledged that higher food prices could have adverse effects on net-food importing countries and LDCs' food import bills and lead to balance of payments problems. In response to these concerns, the Uruguay Round agreements included a political compromise on food security, the *Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Net-Food-Importing Countries* (hence the "Decision"). Under the Decision, donors pledged to assist developing countries facing rising food import bills resulting from the Uruguay Round reforms. Despite several mini-food price crises during the implementation of the AA, the Decision was never implemented. Northern countries made it difficult to do so by requesting that developing countries present an airtight case showing a direct causal relationship between higher food prices and the AA reforms. Building this argument, essentially excluding all other potential factors, was impossible even with the most sophisticated statistical techniques. This impossible standard of proof was an effective way for donors and the international financial institutions (IFIs) to resist demands for additional food and financial assistance from developing countries. To this day, most developing countries view the failure to implement the Decision as Northern hypocrisy and bargaining in bad faith.

The AA has spurred policy, academic and political debates over whether free trade in food is compatible with achieving food security. Although the WTO is only one link in the chain of the world food system, its legally binding framework and neoliberal orientation are significant to the structuring of the current world food system. International trade rules not only constrain governmental action but have been crucial to creating an "enabling environment" for the deepening of the corporatization of food, seeds, and productive resources (McMichael, 2009). More specifically, the WTO exerts significant influence over developing countries' food policy through the provisions in the AA. The AA defines what mix of public action and market-based solutions are available to states across a series of food security policy issues. The AA's wide remit on food security is summarized in Table 1.

Table 1: Selected Provision in the AA and their relevance to food security policy

Article	Description	Relevance
Article 5	*Special Safeguard Provisions*	Allows countries to limit the importation of the quantity of agricultural goods by imposing additional duties (to prevent dumping of goods).
Article 6	*Domestic Support Commitments*	Describes permissible forms of government assistance to agricultural and rural development, including investment subsidies and agricultural input subsidies to low-income or resource-poor producers in developing countries.
Article 10.4	*International Food Aid*	Establishes the criteria for differentiation between legitimate international food and disguised government export subsidies.
Article 12	*Disciplines on Export Prohibitions and Restrictions*	Sets out consultation process for implementation of export restriction or prohibitions permitted to relieve critical shortages of foodstuffs or essential products.
Article 15.2	*Special and Differential Treatment*	Establishes lesser obligations and longer implementation periods for developing countries. Exempts LDCs.
Article 16	*Least-Developed and Net Food-Importing Developing Countries*	Specifies obligations of WTO members to provide assistance to LDCs and NFIDCs in the event of higher food prices linked to trade liberalization.
Annex II, Paragraph 2.	*General Government Services*	Specifies the types of government services to farmers (permissible and/or classified as non-trade distorting).

Source: Author

In addition to legal text, power asymmetries significantly influence the degree of policy flexibility developing countries enjoy under the AA. Even if developing countries have room to manoeuvre on paper, the power hierarchy at the WTO, especially the ability of powerful countries such as the US and EU to exercise informal influence through persuasion and coercion, can greatly determine developing countries policy decisions. The WTO's legal culture, in which net-food importing and LDC have limited capacity to defend their interests through litigation tends to encourage conformity to the status quo. As such, poor developing countries are far less likely to exploit the loopholes or push the envelope of trade rules like powerful WTO members do. This is not to suggest that other domestic and international constraints are not significant in shaping developing countries' policy choices. Clearly these are. But it must be recognized that food security policy is also made in a global context, at the WTO through the AA and not solely at the national level. Power dynamics and the WTO's legal culture have produced chilling effects in the areas of environment and health in the past. The potential chilling effects on food security policy should not be underestimated.

Food security has been a prominent issue in the Doha Round negotiations. Although food importers remain concerned about the food price effects from further reductions of Northern farm subsidies these concerns have been eclipsed by those about the impacts of Northern dumping on the livelihoods and food security of producers in the South. This is why in the proposed Special Safeguard Mechanism and Special Products, new policy tools proposed by developing countries to address Northern dumping, which would provide developing countries with greater flexibility than they enjoy under the AA and thus potentially also reduce the North's access to markets in the South have became the most contentious issue in agriculture. Indeed, North-South disagreement about these two new policy tools have been instrumental to Doha's collapse (Eagleton-Pierce, 2012; Wolfe, 2010).

A matter of timing

The last major breakdown in the Doha Round occurred in July 2008. It was at this very same moment that the international community was being alerted to the first global food crisis, which was not predicated by anyone and took the global policy community unawares. Doha remains on life support and political conditions appear unfavourable for a resolution in the immediate future. In Geneva the day-to-day consultations and negotiations at the officials level continues. The global food crises have been discussed at the WTO, for example, at the Sub-Committee on Least Developed Countries and to a lesser extent at the Committee on Agriculture. At the 2011 WTO Ministerial, members identified food security as one issue requiring further attention. The global food crises has been most prominent in the WTO's outreach activities. Food security was a major theme at its public forums in 2009, 2010, and 2011, which is the WTO opens its door to media, global civil society, and academia to discuss trade issues. And as discussed above, the WTO secretariat is active in the emergent global policy space for food security.

What is less clear is whether WTO members have considered the appropriates of WTO rules in the new global landscape for food security. The one exception is export restrictions, which has elicited a reaction from WTO members and is further discussed below. But in general, there is little evidence the lessons of the global food crises have permeated to every day work of the WTO. There may be strong reasons to revisit the AA, especially with new agricultural problems overtaking the global agenda such as biofuels, financialization of agriculture, and land grabbing. All these issues have trade-related dimensions (Margulis and Porter, 2013). Because of the unresolved status of Doha, most countries have chosen to stick to their official position on agriculture most of which are years old (agricultural negotiations began in 1999). WTO members have dug in their heels and appear reluctant to further expand the Doha negotiating agenda to include new food security issues.

To summarize, it is clear that WTO members nor the secretariat have yet to fully appreciate the effects of the global food crises on the world food system, and what these effects may mean for the international trade regime and its governance. This new normal consists of: higher food prices; increased global competition for land and agricultural resources for food, feed, and fuel; shifting global consumption patters (i.e., the meatification of diets on a global scale), and; heightened risks and vulnerability to food insecurity because of financialization and climate change.

The current dynamics shaping the world food system depart considerably from earlier times. Recall that the current international trade architecture was constructed in the 1980s when the key dynamics were declining agricultural prices and oversupply. The WTO was created in response to these dynamics. Moreover, the WTO emerged in a historical moment that espoused trade liberalization and limited state intervention as virtues. This no longer fits neatly with renewed interest in state-led food security interventions. If past assumptions about the world food system no longer hold in the present it begs the question if the current international trade system is fit for purpose?

Inter-state deliberations on export restrictions

One area where the international community has sought to reaffirm the WTO's importance is by creating new rules on export restrictions. Export restrictions remain controversial and their impact on food prices has been debated across multiple fronts. Not lost to policymakers is the fact that export restrictions are governed under Article XXII of the AA and Article XX of the GATT. Currently, WTO members are permitted to adopt export restrictions on a temporary basis to ensure sufficient availability of foodstuffs domestically. The rules are quite loose but WTO members are required to notify and consult trading partners before adopting export restrictions.

In 2008, Switzerland and Japan introduced a proposal at the WTO to tighten the rules around export restrictions. In particular, this proposal requires that WTO members only enact export restrictions under extraordinary circumstances and that they take into account the potential impacts on food importing countries. In addition, export restrictions are not to apply to food destined for humanitarian assistance. The Swiss-Japanese proposal has been added to the draft agricultural modalities (WTO, 2008). Interestingly, they were included despite objections from some developing country WTO members that this proposal goes beyond the Doha negotiating mandate, which specifically excluded export restrictions. More recently at the 2011 WTO ministerial, members further agreed in principle to ensure that export restrictions do not negatively effect international food aid flows; members were urged "to commit to remove and not to impose in the future, food export restrictions or extraordinary taxes for food purchased for non-commercial humanitarian purposes by the World Food Programme" (WTO, 2011, p. 5). Governing export restrictions should logically fall under the WTO. However, with Doha in suspended animation, it is unlikely that new rules on export restrictions would be negotiated in isolation to agriculture. Yet unbundling export restrictions from the agriculture negotiations goes against the entire logic of the WTO's single undertaking approach to multilateral trade negotiations.

The G8 called for food exporters to eliminate the use of export restrictions in 2008. At the G8, the discourse about export restrictions this policy option as "irresponsible" and "exacerbating" global food insecurity. Such discourse is highly political because it sought to place blame on some countries and not others. While export restrictions certainly exacerbated the food price volatility so too did the biofuel mandates of the North. The G8 has not condemned biofuels, which most experts agree was the primary driver of the 2008 global food crisis and also driving land grabbing in developing countries. At the height of the 2008 global food price crisis, the Washington-based International Food Policy Research Institute (IFPRI) called for an outright prohibition of export restriction and suggested that new rules be placed outside the WTO framework. Despite repeated condemnation of export restrictions, new rules have not been forthcoming and the issue remains unresolved.

Revisiting Agricultural Trade Rules

The adequacy of the international trade regime to address food insecurity is once again the subject of political contestation. This is of course a highly polarized struggle, one that goes far beyond the particulars of the WTO or the AA or the disagreements between different sets of WTO members. This section examines this issue from a technical perspective. This is not in order to obscure the political. Rather the politics of the food security-trade debate can be better understood through a grounded analysis of WTO's rules.

Policymakers have focused on the question of whether the AA provides developing countries with sufficient "flexibility" to address food security (see Karapinar and Häberli, 2010). A second and related question is whether the draft modalities on agriculture negotiated thus far in the Doha Round provide more food security friendly options than the AA. Although there is no consensus answer to these questions, many practitioners tend to agree that the current draft modalities are an improvement on the AA with respect to food security. But this is a speculative answer. The fate of the draft modalities is bound up with the highly uncertain fate of the Doha Round and it is unclear whether the draft modalities can adequately address current food security challenges.

The fact remains that the policy orientation of the AA diverges considerably from several aspects of the new global consensus on food security. To recap, the AA seeks to limit state intervention in agriculture

whereas current thinking recognizes that agriculture and food policy require a more activist state. On the ground this means that it is not fully clear if new types of food security policies countries are implementing are technically WTO consistent. Many provisions in the AA are ambiguous and open to subjective interpretation, indeed often on purpose because it is this grey area that provides States with room for manoeuvre. However, achieving WTO consistency is much more difficult than commonly acknowledged, especially for poor developing countries whose policymaking is subject to serious technical capacity and resource constraints.

WTO rules and support to small-scale farmers

The central pillar of the new consensus on global food security policy is increasing support to small-scale farmers. Put simply, this means increasing the productive capacity of small-scale farmers that make up between two and three billion people, and as a group are generally poor, work small plots of land, and are vulnerable to food insecurity. Policies recommended by the new consensus include improving the access of small-scale farmers to productive inputs, extension services, and credit. These inputs are to be supplemented with public and private investments into basic infrastructure, storage, processing, and transportation. These recommendations are slowly translating into higher levels of public investment and international aid to developing countries' agricultural sector.

Most of these policies fall under the Domestic Support rules in the AA. More specifically, recommendations fall under: 1) the Green Box that includes policies and programs classified as non- or minimally- trade distorting support and thus not subject to spending limits; and, 2) the Blue and Amber Boxes, trade- and production-distorting support, respectively, that are subject to spending limits (WTO, 1995). Of the three "boxes", most policies to support small-scale farmers should fall under the Green Box. Green Box spending accounts for some nearly 60% of developing countries total agriculture spending. At first glance, spending under the Green Box appears unproblematic. However, in the years preceding the Doha collapse and global food crises, developing countries negotiated for revisions of the Green Box to increase its "development friendliness". This included a new blanket provision to update the Green Box to be more coherent with typical agrarian reforms, rural development and poverty policies, and nutritional food security programs in developing countries (WTO, 2008). The blanket provision covers policies that were hardly earth shattering; they merely sought to codify what developing countries were already doing. Yet securing these revisions required tough bargaining during Doha. The current Green Box was initially designed around the historical experiences and expected future needs of the North's agricultural sector. Developing countries' domestic agricultural policies were not central concerns in the Uruguay Round. The Doha the negotiations have sought to make the Green Box more universal in scope.

This blanket provision under the Green Box may in future ensure post-crises national food security programs will be WTO-consistent. Under WTO rules, unless a domestic policy meets the specific criteria set out in the rules, it is considered trade-distorting support (this is regardless of whether the policy actually distorts trade). In this case, policies would thus fall under Blue or Amber Box depending on the particulars. This is the crux of the matter. The vast majority of WTO developing countries members do not have recourse to the Blue and Amber boxes. Most developing countries did not negotiate for them since in the 1980s these countries were in the midst of structural adjustment and fiscal restraint. Increasing state spending on agriculture went against the grain of policymaking at the time and most countries did not consider access to the Blue and Amber boxes significant.

Many developing countries may be unwittingly implementing new food security policies that may be fully coherent with the new global food security policy consensus but my turn out to be WTO

inconsistent. This will not be fully appreciated until the policies are fully rolled out and subject to monitoring under the trade policy review mechanism. Although it remains unlikely that developing countries would be disciplined for deviating from the AA in the short-term (this would be politically costly for any WTO member that forwarded such a complaint), the fact remains that the WTO's institutional power rests on everyone following the rules. Any gap between developing counties' commitments and food security policies creates serious systematic concerns (at least from the WTO's perspective). If precedents are established to deviate from the rules, this will slowly start to unravel the core logic of the multilateral trading system.

WTO rules and food reserves

The global food crises have renewed interest in national and international food reserves to address price volatility and facilitate emergency food distribution. Indeed, food reserves are a major issue within the global policy space and it has been discussed at several forums including the WTO, HLTF, CFS and G8/G20.

WTO rules are highly significant to the global discussion on food reserves and their governance. The Green Box, for example, sets out criteria conditions under which States may maintain public food stockholding for food security under the following conditions: 1) the level of stocks must correspond to predetermined levels – these levels must also be explicitly set out in national legislation; 2) they must be financially transparent; and, 3) food purchases by governments or their agencies must be made at prevailing market prices and sales of food security stocks cannot be made at less than the prevailing market price for the product in question (WTO, 1995). Conditions 1 and 2 are fairly straightforward and serve to assure WTO members that stockholding programs are legitimate and transparent.

Developing countries have some extra policy flexibility as they are permitted to acquire and release food stocks at administered prices (i.e., prices set by national authorities) instead of market prices. However, they must report any losses as part of their agricultural support spending (WTO, 1995). Developing countries have called for changes to these provisions to ensure that foodstocks acquired from low-income or resource-poor producers for stockholding (and resold to the general population at subsidized prices) meet the standard of non- or minimally-trade distorting support (WTO, 2008). This potential change to the AA would be a significant deviation from existing rules and provide a more enabling policy environment for food reserves.

WTO rules may still pose significant constraint on the ability of countries to establish food reserves. A recent study by Institute for Agriculture and Trade Policy (ITAP) identified several provisions in the AA and in other WTO agreements, including those on state-trade enterprises (STEs), public procurement, and price bands as significant impediments to making reserves operationally effective (Murphy, 2010). The IATP study highlighted that current WTO rules prohibit members from establishing price bands, which are central to the operation of many food reserves and a key mechanism to respond to swings in world food prices. In addition to the rules, the idea of food reserves faces ideological and political opposition at the WTO. Earlier in the Doha Round, WTO members considered proposals to establish international food stockholding to respond to higher food prices (Sharma and Konandreas, 2008). The US, Canada and Australia were vehemently opposed to this so-called non-market mechanism and the idea was pushed off the negotiations despite many years of advanced technical work prepared by states and international institutions. The tide of global opinion is now clearly in favour of food reserves. Yet it is unlikely that if the issue were to be put back on the WTO agenda whether it would produce a different outcome since the official positions of WTO members remain unchanged. This suggests that the WTO

may not be the most suitable forum for food reserve policymaking (even if WTO rules themselves may require significant changes).

The Human Right to Food and the WTO After the Global Food Crises

A recent development in global food security governance is the prominence of the human right to food. In retrospect, this development was surprising because the human right to food has long been on the periphery of global food security governance. It is now much closer to its center. The human right to food features prominently in the updated CFA and has been the normative basis of many international declaration and cooperation efforts to address the global food crises. In addition, the human right to food is increasingly incorporated into food policy at the national and multilateral levels.[7] The global advocacy work undertaken by the UN Special Rapporteur on the right to food, Dr. Olivier De Schutter, who has become an influential policy entrepreneur in the emergent global policy space for food security can be credited with the salience of the human right to food.[8] Indeed, the human right to food provides a crucial source of legitimacy to many of the food security ideas and policies emanating from global policy space.

The UN Special Rapporteur on the right to food and the WTO

Despite the prominence of the right to food in the post-global food crises landscape, the idea of the human right to food and its policy implications remains controversial at the WTO. Efforts to include the idea of the right to food at the WTO (attempted by Norway in 2000) have been repeatedly repulsed by the WTO's powerful members.

The friction between international trade and human rights law is a decades old debate that does not need to be repeated here. Despite this long-stand tension, the reality is that formal cooperation between the WTO and the UN human rights system remains rare (Aaronson, 2007). Significant normative differences between international trade and human rights practitioners, as well as deep feelings of mistrust, continue to reinforce this divide (Howse & Teitel, 2007).

The rising prominence of the human right to food in global food security policy has been marked by increased interactions, and political contestation, between the UN Special Rapporteur on the right to food and the WTO. Although the same basic normative conflicts between international trade and human rights play out in the interactions between Dr. De Schutter and Mr. Lamy, the context is different. Their interactions have been frequent instead of rare and have led to extensive debates within and outside the WTO.

The beginning of this political contest started with Dr. De Schutter's mission to the WTO in 2008. This event marked the first official mission by any Special Rapporteur to an international organization. It also signalled a notable shift in the WTO's attitude to the UN human rights system by agreeing to this mission. Previously, the WTO had refused to meet with the De Schutter's predecessor Dr. Jean Ziegler.[9] De Schutter's mission to the WTO included consultations with WTO members and the WTO secretariat, including Mr. Lamy. The mission's findings were controversial as they were highly critical of the WTO, emphasizing that there was a serious conflict between the WTO agreements and the goal of achieving world food security. In particular, De Schutter (2008, pp. 11-18) argued that WTO agricultural rules increased food import dependency of developing countries, marginalized small-scale farmers at the expense of transnational agribusiness, and supported production and consumer practices that lead to negative ecological, health and nutritional outcomes.

De Schutter's critical report was instrumental to refocusing attention on the right to food-international trade debate. This occurred in parallel to De Schutter's rising profile and role as influential figure in the

global policy space, most evident in the revised CFA's emphasis on the right to food and his prominence in the deliberations on food security policy at the CFS, UN General Assembly, Human Rights Council, and the FAO. As De Schutter's moral and expert authority was recognized, his criticism of the WTO carried increasing weight among global policymakers. It also energized global civil society actors seeking a human rights-based approach to addressing hunger.

De Schutter's ascendance in the global policy space has prompted the WTO to take his criticism seriously. This confirmed by the extent of the WTO's extraordinary efforts to engage the Special Rapportuer. After De Schutter's mission to the WTO, the WTO organized a web streamed video debate on the right to food, it accepted organizing a human right to food panel at its public forum in 209 (which it had resisted for years previously), and permitted Dr. De Schutter to present his WTO mission report directly to the Committee on Agriculture. More recently the WTO created a dedicated "food security" webpage much of it filled with content related to its interactions with Special Rapporteur. Outside the WTO, Dr. De Schutter and Mr. Lamy have debated food security at several forums. The global food crises, and new global policy consensus on food security, have provided the backdrop for the interactions between De Schutter and the WTO and Lamy.

Thus far, De Schutter and Lamy have presented opposing positions about the role of the WTO and agriculture trade liberalization as a response to rising world hunger. De Schutter has repeatedly argued for breaking with the WTO's neoliberal orthodoxy, stating,

"Globalization creates big winners and big losers. But where food systems are concerned, losing out means sinking into poverty and hunger. A vision of food security that deepens the divide between food-surplus and food-deficit regions, between exporters and importers, and between winners and losers, simply cannot be accepted" (OHCHR, 2011).

In sharp contrast to De Schutter, Lamy has argued that international trade and the right to food are perfectly compatible. According to Lamy (WTO, 2012) "International trade plays an important role in global food security. By fostering greater competition, trade allows food to be produced where this can be most efficiently done." Lamy has also gone on the record several times to declare the WTO is the solution to global food crises. Although addressing food price volatility caused by export restrictions should not be treated lightly, Lamy's call to arms are politically self-serving as these are clear attempts to use of the idea of crisis to justify the resumption of the Doha. Yet these engagements are not limited to the confines of the WTO but is diffused across the global policy space. The role of trade policy to respond rising food insecurity is also a topic of interest at the CFS and the HLTF, where there is notable scepticism about of the idea of Doha as a solution to the current global food insecurity situation.

Friction between the Special Rapporteur on the right to food and the WTO was evident again in December 2011 following the release of a new report by De Schutter on international trade rules. This report, *The World Trade Organization and the Post-Global Food Crisis Agenda* (a document this author was involved in drafting), echoed De Schutter's earlier recommendations in his report on the mission to the WTO but was augmented by proposed changes to the AA, including the establishment of an international protocol to monitor future impacts of trade liberalization on world food prices and a food-security waiver for developing countries (De Schutter, 2011). The WTO responded very publicly to the report, including a letter of response by Lamy and a set of extensive criticism of the report prepared by the WTO Secretariat. The fact that the WTO prepared such an extensive and public response, this is unprecedented in GATT/WTO history, confirms that De Schutter is taken very seriously as a legitimate interlocutor on international trade policy issues by the WTO.

Conclusion

The 2008 and 2011 global food crises have led to the emergence of a global policy space for food security. The WTO is a key institutional actor in this new space alongside states, other international organizations, new transnational actors such as the UN Special Rapporteur on the right to food and global civil society. This chapter focused on the WTO and agricultural trade rules because their role in food security policymaking is often underappreciated and misunderstood. WTO rules and their effects on world food security have recently come under scrutiny within the global policy space. However, this contest is at an early stage and is likely to intensify as the post-global food crises landscape becomes clearer to policymakers. First, it is clear the global food crises have resulted in major structural changes in the world food system. These changes present very new types of challenges for food security policymaking. WTO's rules remain fixed to respond to the problems in a world of cheap food and clealry privileges Northern agricultural policy. As such the current international trade regime may not be well suited for challenges of 21st century that are entirely different. Second, the new global consensus on food security policy emphasizes increasing food production in developing countries. This suggests a subtle shift in the big ideas driving agriculture and food policy. Although the extent to which this new policy orientation may displace the long-standing agenda of agricultural trade liberalization in the South is not clear, there are signals to suggest that faith in free trade in food may be at a low point. This may expose the status quo at the WTO to greater reformist pressures. The interactions between the UN Special Rapporteur and the WTO already to point to the pluralism of food security ideas in the global policy space that are challenging existing agricultural trade rules.

The emergence of a global policy space for food security makes it less certain which international institutions and actors are legitimate authorities in global food security governance. Although key food security-related trade rules remain housed within the WTO agreements, such as export restrictions and support for small-scale farmers, there have already been efforts by policymakers to explore option to reform rules outside the international trade regime. The collapse of Doha Round and deadlock in the agricultural negotiations also make the WTO a less attractive option as a food security rule-making body. The renewed interest in the CFS as a transnational food security policy forum, for example, may become an attractive alternative site to explore new global governance arrangements. This is not unimaginable. This is already the case with global land grabs. The negotiation of new international voluntary guidelines has been incorporated into the mandate CFS. A less universalistic option is the G20, whose new sub-body of ministers of agriculture and development is taking on greater authority in global food security policymaking. These developments suggest that although the WTO is a powerful institution in the context of global trade governance, it is a less central and powerful institution within the global policy space for food security.

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[1] The author acknowledges his active role in these global policy debates. Parts of this chapter draw from a briefing note prepared by the author under the auspice of the UN Special Rapporteur on the Human Right to Food, *The World Trade Organization and the Post-Global Food Crisis Agenda*, available at: <http://www.srfood.org/images/stories/pdf/otherdocuments/20111116_briefing_note_05_en.pdf>

[2] There is a significant body of literature, for example, see FAO (2008); Trostle (2008); Heady & Fan (2009); Cohen & Clapp

(2009).
[3] For background information on the HLTF, see: < http://un-foodsecurity.org/>.
[4] This summary is based on both the original 2008 CFA and its updated version in 2009.
[5] For a discussion on delegated and expert authority see Barnett and Finnemore (2004).
[6] Interview with David Nabarro, 5 June 2009.
[7] According to the FAO over 23 recognize the right to food explicitly as a human right including Brazil, India and Mexico.
[8] "Special Rapporteurs" are part of the special procedures mechanisms of the UN Human Rights Council (formerly Council for Human Rights) to permit the Council to monitor and debate human rights practices in at the country and global level. Mandate-holders are elected by the Council, are often prominent human rights experts and/or individuals of high moral standing. Mandates fall under various titles (e.g., Special Rapporteur, Independent Expert, Representative of the Secretary-General, etc.) but all encompass the same basic duties and responsibilities: analyzing the human rights situation of a thematic issue or country situation; undertaking country missions; and, alerting the United Nations and the international community to specific human rights situations. The Special Rapporteur on the Human Right to Food is a thematic mandate in existence since 2000. Dr. De Schutter was elected in 2008. He was preceded by Dr. Jean Ziegler who served as the Special Rapporteur between 2000-2008.
[9] This fact is confirmed by official correspondence between the WTO and Dr. Jean Ziegle obtained by the author.