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ANDREA BARRIOS

Food Security and WTO Obligations in the Light of the Present Food Crisis

Can the AoA Assist on its Amelioration?

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Fax: 5727•9800 ext. 6314
Correo electrónico: publicaciones@cide.edu
www.cide.edu

Abstract

Since 2005 food prices have increased drastically, reaching their peak in 2008 and leading to a world food crisis. Although prices have started to decline, they will remain at higher average level than the past decades because some of the causes for food inflation are permanent. Countries reactions have focused on short run policies that have not contributed to the alleviation of the world food crisis. Trade and trade policies have a vast impact on food security, still the AoA does not directly address the issue and most of its measures are designed in such a way, in which they favor developed countries. The December 2008 Draft Modalities address some of its shortcoming, however they still have important loopholes. In order to better address food security some changes to the Draft Modalities are proposed: a new country classification, policies that vary according to this new classification and an increase in international funding to develop agricultural industries in developing countries.

Resumen

Desde 2005 los precios de los alimentos se han incrementado drásticamente, alcanzando su pico en 2008, creando una crisis alimentaria mundial. A pesar de que los precios han empezado a bajar, permanecerán a niveles en promedio más altos que en las décadas pasadas porque algunas de las causas de la crisis alimentaria son permanentes. Las reacciones de los países se han centrado en políticas de corto plazo que no han contribuido al mejoramiento de la crisis alimentaria mundial. El comercio y las políticas comerciales tienen un gran impacto en la seguridad alimentaria, sin embargo, el AoA no trata directamente el asunto y la mayoría de sus medidas están diseñadas para favorecer a los países desarrollados. El Proyecto de Modalidades de diciembre de 2008 trata algunas de las limitaciones, sin embargo, todavía contiene importantes lagunas. Con la finalidad de tratar mejor la seguridad alimentaria se proponen algunos cambios al proyecto: una nueva clasificación de países, políticas que varíen de acuerdo a esta nueva clasificación y un incremento en el financiamiento internacional para desarrollar la industria agrícola en los países en desarrollo.

Introduction

Food is one of the most important elements for the stability and survival of a State. It is also a fundamental element of human survival. From 1960 to 2004 food supply was not threatened by prices; the food market was characterized by low prices which, on average, declined more every year. However, this trend started to change in 2005, when prices reached levels never before seen and peaked at the beginning of 2008.[1] Prices of foodstuffs began to decline from the peak prices they reached; this can be explained by the effects of the financial crisis, the decline in the oil prices and the appreciation of the US dollar. Nevertheless, some of the most important causes of price hikes and price volatility are systemic. Climate change is not reversible in the short run and it has contributed, among other things, to the loss of agricultural land and crops owing to droughts, frost or floods. The increased production of corn-based ethanol and biodiesel is also a systemic cause. In order to be less dependent on fossil fuels, the U.S. and the EC are implementing long-term policies, that for now will, seemingly, only increase in the future, in order to incentivize their farmers to produce crops for biofuels instead of for food.

The world food crisis has not been overcome, because even if prices have started to decline from their 2008 peaks, they will remain at higher average levels than in the past decades. Countries will have to learn to live with this scenario and implement adequate policies. The situation is more pressing for developing countries which are more vulnerable to food inflation and price volatility because agriculture represents, on average, 65% of their employment source, and 25%, on average, of their GDP. Since the majority of their agricultural production is destined for self-consumption, most of their urban and rural populations depend on imports in order to cover their food needs.

Trade has always played an important and complex role in the access people have to food. On the one hand it affects accessibility; if trade is restricted, consumers of the importing countries may not have access to certain kinds of food. On the other hand, it affects affordability because for trading countries domestic prices are determined in the world markets and if prices increase drastically and quickly, this can lead to unaffordable food for many families, especially those in developing countries that spend, on average, between 50 to 70% of their income on food. The AoA was established as part of the UR; it was the first time that agricultural trade and domestic policies were regulated at the international level: it established tariffs over quotas, regulated domestic support and export subsidies. In spite of these achievements, the agreement has been criticized for its shortcomings in not

[1] At the beginning of the 1970s, food prices also increase drastically. The reason behind this was the rise in fuel prices caused by the Arab embargo and some other short term causes such as regional droughts.

considering the situation and needs of developing countries that are the most vulnerable to food crises. The trade policies it established are blamed for making a negative contribution to the food crisis by allowing developed countries to impose huge export and domestic subsidies and protectionist measures. Article 20, establishes that countries should renegotiate the agreement. Although the Doha Development Round has aimed to address these shortcomings, so far, no agreement has been reached.

It is important that policies which address high food prices, shortages and volatility are implemented at the national and international level, because they can threaten the existence of the State. The current food crisis has led to riots and protests in several countries, and although they have not gone beyond that point, they could, eventually, result in a civil war or even the toppling of a regime. In Haiti, for example the Prime Minister was removed from office because of his inadequate to handling of the food crisis. Handling the food crisis has become a major concern for all countries, especially the more vulnerable and susceptible to social and political instability. However, it should be a major issue not only for countries in the midst of a food crisis, but also for the rest of the international community since it is putting thousands of people in danger of dying of hunger while threatening political stability in some countries that could lead to international wars.

This document is based on the most recent literature and, at the same time, puts together information which rarely appears together: the explanation of the AoA rules, an analysis of its impact on food security and case studies of some countries that demonstrate the relationship between the norms and their effect. It addresses the present world food crisis in a holistic way describing its causes and the reactions at a national level by showing how the AoA, at its current state, has affected the capacity of countries to face the crisis and how some of the changes proposed in the Draft Modalities can either ameliorate the food crisis or maintain the status quo. It also proposes a modification of the Draft Modalities, so that they may, more accurately, address food security and, particularly, the concerns and situation of developing countries. The proposal consists of a new classification of countries that considers not only their level of development, but also their food security situation. The new classification should include: NFIDCs; the developing countries that are net-food exporters; and, developed countries that are either net-food importers or net-food exporters. Secondly, according to these new classifications, policies that address the concerns of each group should be implemented. Finally, the international community should help countries to develop their agricultural sector by providing financial resources, which would allow them to enhance food security in the long term, instead of only food-aid that only alleviates the problem in the short-run and keeps receiving countries dependent on donor countries.

This document is divided into three chapters. The first two chapters describe the situation. In the first chapter, both the temporary and more permanent causes of the world food crises are examined by looking at the global context in general and the detailed cases of the situation in Haiti and India in particular. The second chapter describes the policies taken by some countries to ameliorate the impact of the crisis on their population, like the outsourcing utilized by developed-net-food importing countries, the reduction of tariffs by NFIDCs, and the export restrictions in Argentina and India. It also addresses the compliance of those policies with the WTO obligations, its impact on other countries, and the food crisis as a whole.

The third chapter is devoted to the analyses of WTO rules and is divided into two parts; the first section addresses how the provisions of the AoA have affected the capacity of developing countries to enhance food security and how they have either solved the issue or made it worse. It analyses the subsidies in the AoA, both domestic support and export subsidies; market access and the policy space granted particularly to developing countries. The second part addresses the most important features of the Draft Modalities for food security and how they can contribute or diminish the capacity of developing countries to enhance food security. The analyzed modifications are: market access and SsP; SP and SSM as the new SDT; and, the proposed cuts in domestic support as well as the elimination of export subsidies.

The conclusion elaborates the while the final conclusion states that, although WTO rules can be constructed and implemented in a way in which they can mitigate the food crisis, they cannot be seen as the sole solution. Countries have to invest in their agricultural sector and implement policies that will enhance their food security and the livelihood of their farmers, promote their rural development and eradicate poverty.

1. The current food crisis

1.1. Introduction

In the last 40 years food was cheaper every year, between "1974 and 2005 food prices on world markets fell by three-quarters in real terms".[2] This is not to say that food crisis did not occur over during the last decades; in fact, they did happen, but they were clear and localized. This time it is different; "it is occurring in many countries simultaneously", the bonanza era has come to an end.[3] In 2007/2008 prices increased drastically; between 2005 and 2008 corn prices increased 131%, wheat prices by 177% and rice rose by 62%.[4] Inflation in foodstuffs has lead to a world food crisis that has affected all the regions of

[2] The Economist, "Cheap food no more. Food Prices", *The Economist*, 8th December 2007.
[3] The Economist, "The new face of hunger. Food and the Poor", *The Economist*, 18th April 2008.
[4] James A. Paul and Katharina Whalberg, *A New Era of World Hunger? The Global Food Crisis Analyzed*, FES Briefing Paper, July 2008, p. 2.

the world. However, according to the OECD the impact on developed countries is modest, because "the agricultural commodity price component of final food product prices is relatively small (often 35% or less), as is the proportion of disposable income spent on food (10-15% for most OECD countries)".[5] The most affected are the developing countries and LDCs together with their poor populations. Food inflation has only benefited some farmers in some net-food exporting developing countries like Brazil that have the adequate financial and governmental support, but farmers in Africa and in East Asia have been hurt.

Developing countries are more vulnerable to food inflation and price volatility. In the first place, the majority of their population is employed in the agricultural sector, 65% on average, and as much as 92% in the case of Burkina Faso and 74% in Senegal.[6] Secondly, agriculture represents a high percentage of their GDP more than 25% on average, and as much as 50% in Cameroon.[7] According to the FAO, as of February 2009, there were 33 countries in crisis requiring external aid, of which 20 are in the African continent.[8] The food crisis has damaged consumers all over the world. Food inflation has pushed more people down into the poverty line and the FAO estimates that the undernourished population has risen by 75 million people in 2007 bringing the world total to 923 million.[9]

Rising food prices has emerged as a top political issue. In countries like Mexico, Egypt, Haiti, Philippines, Bangladesh, Argentina and Indonesia people have taken to the streets to protest against the high prices and have demanded that their governments implement policies to keep prices down. Even in London hundreds of pig farmers protested outside Downing Street. As we will see in the next chapter, the protests have achieved responses and governments have implemented certain policies to tackle the crisis, although some of them will, ultimately, cause more harm than good.

Although prices have started to fall from the peak they reached in the first half of 2008, cereals, rice and oilseeds are expected, in the forthcoming decade, to settle at 10-35% higher than in the past ten years. Since the food crisis has been worsened by the financial crisis, countries today invest less in the agricultural sector, producers face higher input costs and the purchasing

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5 OECD, *Rising Food prices: Causes and Consequences*, Paris, 2008, p. 8.

6 Philippe Cullet, "Plant Variety Protection in Africa: Towards compliance with the TRIPS Agreement", *Journal of African Law*, vol. 45, no. 1, 2000, p. 106.

7 *Ibid.*

8 The countries are: Kenya, Lesotho, Somalia, Swaziland, Zimbabwe, Eritrea, Liberia, Mauritania, Sierra Leone, Burundi, Central African Republic, Chad, Congo, Ivory Cost, Democratic Republic of Congo, Ethiopia, Guinea, Guinea-Bissau, Sudan, Uganda, Iraq, Afghanistan, Democrtic People's Republic of Korea, Bangladesh, Iran, Islamic Republic of Nepal, Myanmar, Sri Lanka, Tajikistan, Timor-Leste, Cuba and Haiti. FAO/GIEWS, *Countries in Crisis Requiring External Assistance,* Rome, http://www.fao.org/giews/english/hotspots/index_m.htm (Accessed the 9th February 2009).

9 FAO, *Crop Prospect and Food Situation,* no.5, Rome, December 2008 http://www.fao.org/docrep/011/ai476e/ai476e02.htm (Accessed the 5th February 2009).

power of households has been damaged, especially in developing countries which, on average, spend between 50-70% of their income on food.

1.2. Causes of the world food crisis

Some of the causes for the rise in agricultural prices are temporary. For example, agricultural yield stocks, which mitigate demand and supply shocks, were heavily reduced in 2007 when corn reached its lowest level since the 1970s. One of the reasons for this reduction was the adverse weather conditions in some countries like Australia where droughts reduced corn yields to 0%.[10] Stocks can be brought back to its pre-crisis level by an increment of 40% on 2008 production.[11] Reduction in stocks causes price volatility, which damages the livelihoods in net-food importing countries and of consumers, mainly in developing countries, and turns food into an unreachable commodity. Owing to its inherent uncertainty, price volatility complicates financial planning and environmental management, deepening food dependence and widening existing inequalities. As a result, Investors, producers and governments are incapable of anticipating their revenues and, therefore, cannot make investments or take decisions on production accurately; for governments, planning social and development programs becomes difficult and risky. Moreover, poor households can experience a fast shift in the way they spend their income from health and education to food and in rural households the expenditure on inputs for the next harvest may be reduced.

Speculation is also an important source of price volatility and has played an important role in the world food crisis. During the last year, capital shifted from real estate and stock markets towards the food market, particularly the grain market. The Chicago Board of Trade states that in the first quarter of 2008, the volume of globally traded grain futures and options increased by 32% compared to the same period in 2007.[12] Speculative operations were encouraged by the U.S. dollar devaluation. Between January 2003 and July 2008, the dollar depreciated against the euro 35%, which also translated into higher prices for commodities as they are traded in dollars.[13] It is expected that speculation in food commodities will be reduced as prices go down and financial markets lose their interest in food markets.[14]

However, some other causes are systemic, and will not be solved in the short run, as their assessment and possible amelioration will need

[10] OECD-FAO, *Agricultural Outlook 2008-2017*, Paris-Rome, 2008, p. 40.
[11] FAO, *The State of Food Insecurity in the World 2008*, Rome, 2008, p. 61.
[12] Joachim von Braun *et al*., *High Food Prices: The What, Who, and How of Proposed Policy Actions Policy*, Policy Brief IFPRI, May 2008, p. 6.
[13] Mitchell Donald, *A Note on Rising Food Prices*, Policy Research Working Paper 4682, Development Prospects Group, The World Bank, July 2008, p. 15.
[14] WFP, *Financial Speculation and Food Crisis*, 6th February 2009, http://beta.wfp.org/stories/dr-timmer (Accessed the 9th February 2009).

international cooperation. Among the permanent causes of the world food crisis, mostly in emerging economies, are population growth and a change in consumption patterns. The World Bank predicts that world population will grow to three billion by 2050, giving a total of 9 billion and that food demand will double by 2030.[15] The majority of population growth will take place in developing countries and LDCs, which are the most vulnerable to inflation and food insecurity. The fastest population growth is expected to take place in Africa, with an annual average above 2%.[16]

China and India have experienced a rapid and sustained economic growth in the past decade, which has been translated into an expansion of the middle class that demands more food in general and, in particular, more meat and dairy products. These new diet needs require the production of more inputs other than cereals; for example, in order to produce one kilogram of meat, livestock requires seven kilograms of feed and vast quantities of water.[17] In the case of China, the household consumption of meat has grown from 22 kg in 1990 to 24 kg in 2006, in the urban areas, and from 11 kg to 17 kg in the rural areas.[18]

In July 2008 oil prices reached a peak of $147 USD per barrel, figures that have not been seen since the oil price shock of the 1970s, when prices peaked at $95.28 per barrel.[19] The increment in the price of fuel had two negative effects on the food crisis. On one the hand, high oil prices increased the cost of production. Transportation and some input prices, such as irrigation and fertlizers which depend on fuel prices have increased.; On the other hand, high oil prices have caused the transfer of land and agricultural resources for food to biofuel purposes. The U.S. and the European governments have incited farmers, through heavy subsidization, to shift their land-use. In the United States, in spite of a special import duty of 54 cents per gallon on imported ethanol, motor-fuel blenders receive a 51 cents subsidy for every gallon of corn-based ethanol they use. Corn crop has been diverted by 33% to the production of ethanol for biofuels, up from 5% ten years ago.[20] This has put a great deal of pressure on the food security of countries like Mexico,

[15] Kate Smith and Rob Edwards, "2008: The year of global food crisis", *Sunday Herald*, http://www.sundayherald.com/news/heraldnews/display.var.2104849.0.2008_the_year_of_global_food_crisis.php (Accessed the 9th February 2009).
[16] OECD-FAO, *Agricultural Outlook*, p. 15.
[17] Spiegel Staff, "Global Food Crisis. The Fury of the poor", *Spiegel Online International*, 14th April 2008.
[18] Joachim von Braun, *The World Food Situation. Driving Forces and Required Actions*, Food Policy Report No.18, IFPRI, December 2007, p. 2.
[19] The New York Times, "Oil and Gasoline", *The New York Times,* http://topics.nytimes.com/topics/reference/timestopics/subjects/o/oil_petroleum_and_gasoline/index.html (Accessed the 11th February 2009) and Paul Maidment, Tania Puell and Shlomo Reifman, "Crude Oil Prices 1861-2008", *Forbes*, http://www.forbes.com/2008/05/13/oil-prices-1861-today-real-vs-nominal_flash2.html (Accessed the 11th February 2009).
[20] von Braun *et al*., *High Food Prices*, p. 3.

whose main staple is corn and which imports 25% of its total corn consumption from the U.S.[21]

The EU has a specific tariff of €0.727 per gallon and an ad valorem duty of 6.5% on biodiesel, but their State Members are allowed to exempt or reduce excise taxes on biofuels. Moreover, an EU Directive passed in 2001 established that EU countries must undertake policies that enable them to replace 5.75% of all transport fossil fuels with biofuels by 2010. This has been translated into an increment in biodiesel production, which is based on vegetable oil extracted from rapeseed, soybean and sunflower, from 0.28 billion gallons in 2001 to 1.78 billion gallons in 2007.[22]

Although Brazil has increased the use of sugar cane crops for the production of ethanol, this has not been translated into an increment of prices in sugar. Brazil has been capable of increasing its sugar production in order to fulfill the demand up from 17.1 MT in 2000 to 32.1 MT in 2007, and exports from 7.7 MT to 20.6 MT.[23] Therefore, the production of sugar-based ethanol as a source for biofuels, has not greatly contributed to the food crisis.

A diminishment in biofuels production is not expected in the short run, especially since U.S. President, Barack Obama has established, as part of his agenda, the energy independence of the U.S. which includes investments in the next generation of biofuels.[24] With the subsidies provided by the U.S. and the EU governments, farmers have no incentive to produce corn for human consumption and, as we will see, even if the Draft Modalities were implemented, the U.S. will not suffer a real cut in its agricultural domestic support. Moreover, most of the support provided for agricultural biofuels is through Green Box that will not be reduced at all. The deviation towards corn-based and oil-seeds biofuel production raises food prices and reduces supply; according to the World Bank increasing this kind of biofuel production is responsible for a 70 to 75% increase in food prices.[25] The damage of biofuels to food security becomes more starkly evident if we consider that a person could be fed for an entire year with the same amount of grain that is utilized to produce just one tank of fuel for a sport utility vehicle (SUV).[26]

Biofuels production also increases price volatility in the food market because of the perverse link that has been created between oil and food prices. Joachim von Braun, calculates that under the 2007 U.S. biofuels investment plan, there will be an increase of 26% on corn based and 18 of oil seeds based biofuel production, which I think after the peak oil prices that

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21 Cámara de Diputados XL Legislatura, Comisión de Desarrollo Rural, *Datos de Medios Impresos del Tratado de Libre Comercio con América del Norte en su Capítulo Agropecuario,* p. 5.
22 Donald, *A Note on Rising Food Prices*, pp. 9-10.
23 *Ibid.*, p. 9.
24 Barack Obama and Joe Biden, *New Energy for America*, http://www.barackobama.com/pdf/factsheet_energy_speech_080308.pdf (Accessed the 26th February 2009).
25 Donald, *A Note on Rising Food Prices*, p. 17.
26 Smith and Edwards, "2008: The year of global food crisis".

occurred in 2008, will most certainly exceed what was originally calculated by von Braun.[27] Supporters of biofuels as an alternative source of energy argue that it can help to face the global warming challenge, as fuel produced through ethanol is environmentally friendly. However, recent studies have "concluded that greenhouse-gas emissions from corn and even cellulosic ethanol 'exceed or match those from fossil fuels and therefore produce no greenhouse benefits'".[28]

Climate is always an unstable factor in agricultural production. From time to time unexpected droughts, storms or frosts occur. However, in the last years there have been systemic weather variations which are considered consequences of climate change and not merely accidental disasters. For example, in 2006 a heat wave hit California's San Joaquin Valley which killed large numbers of farm animals; in 2008, in Kerala, India, swathes of grain were destroyed by unseasonal rain; in May 2008 Cyclone Nargis on Burma caused a spike in the price of rice. Climate change, then, has started to affect agricultural production and will continue to do so in the long run.

Von Braun states that by 2020, global warming will cause the decrease of the world agricultural GDP by 16%. The impact will be stronger in developing countries where agricultural output will decline by 20%, while in developed countries it will only reach 6%.[29] Climate change creates more unexpected weather and disasters such as droughts and floods, which increases uncertainty in yields and therefore price volatility.

Although agriculture, for the majority of developing countries, represents the main source of employment and a high percentage of their GDP, the U.S. and the EU are the biggest agricultural exporters even though agriculture employs only a small fraction of their population. The majority of agricultural production in developing countries is for self consumption and, therefore, most of their urban population depends on food imports in order to cover their needs. Trade affects accessibility since, if trade is restricted, consumers of the importing countries may not have access to certain kinds of food and also affects affordability because, through trade, countries can earn enough money to pay for their food import bill.We will see in the next section that trade policies can be used either to tackle or to worsen the world food crisis.

1.3. Impact of the food crisis on countries: The paradoxical case of India and the extreme case of Haiti

Countries have been affected differently by the world food crisis. As we have seen so far, the impact of the crisis in developed countries has been modest. Developing countries, on the other hand, have been touched deeper In general, if they do not impose export bans, net-exporter countries can benefit

[27] von Braun, *The World Food Situation*, p. 8.
[28] Steven Mufson, "Siphoning Off Corn to Fuel Our Cars", *The Washington Post*, Wednesday, 30th April 2008; A01.
[29] von Braun, *The World Food Situation*, p. 3.

from higher prices and can improve their terms of trade. In particular, even in these countries self-subsistence farmers have been hurt because they face higher inputs and energy costs and because they barely benefit from the higher prices since they produce for their own consumption or for local markets that tend to be insulated from world markets and, therefore, from higher agricultural prices.

India, a net-exporter country, is an interesting case because, although 35% of its population suffers structural hunger and nearly 50% of the world's hungry live in the country, it has been able to insulate its economy from world food inflation; for example, wheat prices increased only by 12% between 2006 and 2008. A World Bank report states that there are three factors behind this phenomenon; in the first place, India had a good wheat and rice harvest in 2007 and 2008: 96,430 (1000 MT) and 75,810 (1000 MT), respectively. Secondly, it built up grain stocks of 8 million MT for wheat and 15 million MT for rice for the 2008/2009 period, and provides food through public distribution to approximately 600 million consumers when necessary; and in the third place, it imposed export restrictions, which will be addressed in next chapter, in order to protect its domestic consumers.[30] However, and on the other hand, India has more people suffering hunger, above 200 million, than any other country in the world.[31]

NFIDCs and the urban poor face more difficulties to meet their domestic demand and household needs, respectively. According to the OECD, an increment of 10% in the prices of all cereals (including rice) adds nearly $4.5 billion USD to the aggregate cereals import bill in NFIDCs.[32] Some NFICDs have been more affected than others; for some, like Haiti, the crisis started many years before and the increase in world food prices only aggravated the dire situation. In 1995, due to conditionality on a loan by the World Bank and the IMF, rice tariffs where cut from 50 to 3%. This tariff reduction negatively affected local farmers unable to compete with the cheap-subsidised rice imports from the U.S. which destroyed the local market.[33]

In the short run, consumers benefited from cheap rice, but helpless farmers facing the import surge ran out of business and "Artibonite valley, the country's breadbasket, [was] atrophied".[34] Like many Caribbean countries, Haiti went from almost self-sufficiency to importing 82% of the rice it consumes. The FAO estimates that Haiti's food import bill leaped 80% in 2008,

30 Sadiq Ahmed, *Global Food Price Inflation. Implications for South Asia, Policy Reactions, and Future Challenges*, Policy Research Working Paper 4796, The World Bank, December 2008.

31 BBC News, "Hunger in India states 'alarming'", *BBC*, 14th October 2008, http://news.bbc.co.uk/2/hi/south_asia/7669152.stm (Accessed the 17th February 2009).

32 OECD, *Rising Food prices*, p. 8.

33 It is worth noticing that it is not liberalization in itself which lead to the food crisis in Haiti, but the bad designed liberalization that did not considered the particularities of Haiti and its institutions or lack of them.

34 Rory Caroll, "Haiti: Mud cakes become staple diet as cost of food soars beyond a family's reach", *The Guardian*, 29th July 2008.

the fastest in the world.[35] The negative impact has been greater among the rural population that cannot sell its agricultural production because it cannot compete with the subsidised imports; their production has declined because they can no longer afford fertilizers and other inputs and their crops are now insufficient to feed their families.[36] The extreme dependence on food imports has made Haiti more vulnerable to price volatility and has left its food security in the hands of market forces.

The 2008 increment on prices aggravated the food situation in Haiti since imported food became unaffordable. From December 2007 to April 2008, the country, already affected by extreme poverty, saw a 50% increase in the price of staple food.[37] The minimum wage in Haiti is 70 goud ($1.76 USD), which does not even come close to the cost of 1,500 goud ($37.78 USD) for a sack of rice; a single cup of rice costs 19 goud (47 cents), a cup of beans 25 goud (62 cents), and a cup of sugar 25 goud.[38] Inflation of foodstuffs has led the poorest families to eat "mud cakes" which are prepared with mud, margarine and salt.[39] These cakes are not free, baking 100 of them costs around 190 goud ($5 USD) and the price is rising because of the increment on margarine and salt prices. The situation has become so desperate that in April 2008 riots occurred all over the country with the most violent ones taking place in Port-au-Prince. Outside the Presidential Place, Haitians demanded that the President, Rene Préval, provide solutions. Protests in the capital ended with 6 causalities, including a UN peacekeeper, and with the resignation of Prime Minister, Jacques Edouard Alexis, after the Haitian Parliament accused him of mishandling the government's response to the food crisis.

As a response, President Préval has used international aid money and price reductions by importers to cut the price of a sack of rice by about 15%. But these, along with cuts in the salaries of some top officials, are only temporary measures. To tackle the food crisis in Haiti will take years. The Haitian government will require huge amounts of money and strong investment in order to rescue its agricultural industry. Internationally, Haiti's food security could be greatly benefited from the elimination of subsidies by developed countries, especially those provided by the U.S. for rice.

35 *Ibid.*

36 OXFAM, *Rigged Rules and Double Standards*, Oxfam International, 2002, p. 141.

37 Daniel Shepard, *The Food Crisis and Latin America. Framing a New Policy Approach*, The Oakland Institute, 2008, p. 5.

38 Mark Schuller, "The Food Crisis the Media Ignored", *Americas Program Special Report*, Center for International Policy, 28th April 2008.

39 Mud cakes have heinous effect on health; they cause malnutrition, intestinal distress, and other lethal effects from toxins and parasites.

1.4. A look around the world

Although Haiti is the extreme case of a country deeply hurt by the world food crisis, the majority of countries have been affected as well. Prices have rapidly increased all over the world. In the Middle East, for example, Lebanon and Syria have suffered food price inflation of 145 and 120% respectively and in Jordan, prices increased by 60% last year. Foot shortages have also occurred in Yemen, Dubai and Egypt.[40] The situation has been aggravated because Iraq and Sudan, which used to be the "bread basket" of the Arab world, are now net-food importers and dependent on the World Food Program.

Africa is the region that has been hit the worst, not only because, in general, they are NFIDCs, but also because of their systemic poverty. For example, Mauritania produces only 30% of its total domestic consumption and with the world food crisis, imports have skyrocketed and farmers have had to sell their seed stocks to be able to buy food.[41] The situation is the worst in the horn of Africa. In Kenya, 1.2 million people urgently need food supplies: 707,000 in Uganda, 80,000 in Djibouti, 2.6 million in Somalia and 10 million in Ethiopia.[42]

The Latin American region is a net-food exporter, with the exception of the Caribbean Islands, Mexico, Venezuela and El Salvador. However, this has not prevented its poorest population to be negatively affected by the crisis. Brazil for example, "is the world's top exporter of beef, third-highest exporter of soy, and one of the world's biggest food producers, and yet 14 million of its 188 million habitants are hungry, while another 72 million do not have regular access to meals".[43] Even in the U.S., corn prices have increased by 50% during 2008 and "food banks have seen a 20 to 25% spike in the number of people seeking help".[44]

1.5. Conclusions

This chapter has shown that high prices on foodstuffs and price volatility are here to stay and that they have affected all countries in the world, though the situation is particularly worrying for NFIDCs, like Haiti, which are more vulnerable. This situation is considered permanent because some of the causes of the world food crisis are systemic and, although they are clearly

[40] Spiegel Staff, "Global Food Crisis".

[41] Anthony Faiola, "Where every meal is a sacrifice", *The Washington Post*, 28th April 2008; A01.

[42] BBC News, "Food crisis looms in East Africa," *BBC*, 22nd July 2008, http://news.bbc.co.uk/2/hi/africa/7520286.stm (Accessed the 17th of February 2009).

[43] Instituto Brasileiro de Geografia es Estadistica, *Food Security*, 17th May 2006. http://www.ibge.gov.br/english/presidencia/noticias/noticia_impressao.php?id_noticia=600 (Accessed the 24th February 2009).

[44] Kent Garber, "The Food Cost Crisis Hits the U.S. The impact of price hikes on American consumers and the food industry", *U.S. News and World Report*, 1st of May 2008, http://www.usnews.com/articles/news/national/2008/05/01/the-food-cost-crisis-hits-the-us.html (Accessed the 16th February 2009).

identified, they have no real solution in the short run. We have seen that the most important cause is the production of corn and vegetable oil- based biofuels which are responsible for the about 70 to 75% increase on food prices. Even so, the U.S. and the EC have no intention of changing their policies that incite farmers to produce corn and vegetable oils for biofuel purposes. These policies have not damaged their population in the short run, but they have hurt the population of developing countries, LDCs and NFIDCs, that are the most vulnerable.

Foodstuffs inflation and volatility is extremely costly for developing countries because they can render food out of reach for many families, make inputs unaffordable for many producers, and drive governments to implement urgent policies that will not solve the situation in the long run. Trade policies can help or hinder countries to enhance food security which is why it is so important that the rules developed by the WTO are consistent with the needs of the countries. The next chapter analyzes some of the WTO's consistent policies that countries have implemented in reaction to the world food crisis and their impact on other countries, on the trading system and on themselves.

2. How have countries reacted to the world food crisis?

2.1. Introduction

In order to cope with the world food crisis, international coordination and cooperation is necessary. Some steps have been taken in this direction like the High Level Meeting on Food Security held in Madrid, Spain on 26th and 27th of January of 2009 with the participation of UN food agencies, the UN Secretary-General and 126 countries. However, countries face the immediate challenge of giving a prompt response to their population and enhance their food security. They have responded to the world food crisis in a variety of ways with the intention of insulating themselves from the high prices and potential food shortages. The reactions have depended on the characteristics of each country; in general, if they are net-food importers and they have enough money like Japan, they purchase grains at any price in order to maintain domestic food supply. If they are unable to afford it, like most African and South Asian countries, their only choice is to lower tariffs. Net-food exporters have imposed export restrictions, which create more speculation in the food markets and more volatility. Both net-food exporters and net-food importers have imposed price controls and provided domestic support. According to the World Bank, 50 countries have reduced tariffs, 31 have imposed export restrictions and 46 price controls and consumers subsidies.[45]

[45] The World Bank, *Country Policy Responses*,

2.2. Seeking food security through increasing demand and outsourcing

Japan, South Korea and Taiwan are developed countries with small territories and small extensions of farmland. Although, for example, Japan is the second biggest economy in the world, it is a net-food importer that only produces 39% of its food requirements. In order to face the food crisis and avoid shortages, these countries "began to stockpile, (…) to put in orders on U.S. grain exchanges two to three times larger than normal (…) and no matter how high prices go they keep[t] on buying".[46] The purchasing capacity of these countries, which are able to increase their demand in spite of the escalating food prices, has increased preassure on prices, aggravating food inflation, damaging especially NFIDCs that lack similar purchasing power.

Developed net-food importing countries have also sought to invest in foreign farms. In order to alleviate their dependency on food imports, South Korea, through Daewoo Logistics, negotiated to "lease 1.3 million hectares of farmland —about half the size of Belgium— from Madagascar's government for 99 years".[47] They planned to harvest corn and palm oil and send it back directly to South Korea. However, the new President, Andry Rajoelina, who arrived after a coup d'état, canceled the contract arguing that "in the constitution, it is stipulated that Madagascar's land is neither for sale nor for rent".[48] Saudi Arabia, the United Arab Emirates and Libya are also planning to invest abroad.This strategy can help reduce their food dependence on imports, but it may not benefit receiving countries. For example, Sudan is the most appealing country for investment by the Gulf powers, and yet, it is one of the countries with the worst food crisis. According to the FAO, about 1.3 million vulnerable people, 32.5% of the population, will require food assistance amounting to about 96 000 tones in 2009.[49]

2.3. Tariff reductions

NFIDCs have no choice but to lower their tariffs on food imports in an attempt to diminish the impact of high food prices on their consumers. The World Bank estimates that of the 50 countries that have reduced food tariffs, 19 are African and 16 Asian countries. For example, Morocco reduced tariffs from 130 to 2.5% on wheat imports. Nigeria did the same for rice imports with a reduction from 100 to 2.7% and, Senegal removed duties on cereal imports. In

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http://siteresources.worldbank.org/NEWS/Resources/risingfoodprices_chart_apr08.pdf (Accessed the 24th February 2009).

[46] Anthony Faiola, "The New Economics of Hunger", *The Washington Post*, Sunday, 27th April 2008; A01.

[47] Javier Blas, "Land leased to secure crops for South Korea", *The Financial Times*, 18th November 2008.

[48] BBC News, "Africans reject Madagascar Leader", *BBC*, 19th March 2009.
http://news.bbc.co.uk/2/hi/africa/7953617.stm (Accessed the 28th April 2009)

[49] FAO/WFP, Special Report, *FAO/WFP Crop and Food Security Assessment Mission to Southern Sudan*, Rome, 6th February 2009, p. 6.

Asia, Afghanistan cut import duties on wheat from 2.5 to 0%; the Philippines eliminated the 35% import tariff on corn in order to prevent shifting wheat and corn-eaters to rice. Even some countries that are not NFIDCS eliminated imports tariffs; in Latin America, Peru eliminated wheat tariffs and also reduced them for rice and corn[50] The success of these policies depends on the characteristics of the trade policy of each country, they will be more successful where there are high tariffs, but the majority of NFIDCs are characterized by low applied tariffs in foodstuffs, on average 8% for wheat, 13% for rice, 12% for corn and soy oil and 14% for palm oil in 2006.[51] According to a calculation made by the FAO, the tariffs that would have been needed to stabilize domestic prices in 2007-2008, would have been negative.[52]

Unilateral tariff cuts are not only allowed under the WTO agreements, but they are also encouraged. At first glance, these policies seem the perfect solution: they are perfectly compatible with WTO principles and encourage free trade, which is expected to increase global welfare; however, they do have some negative effects. Tariff cuts diminish the revenue of governments, some of which obtain an important part of their budget from customs duties. We have already seen how, in the case of Haiti, tariff reduction, in the short run, helps national consumers avoid food price hikes but has heinous effects over domestic production, discouraging it and making the country dependant on imports and, therefore, more vulnerable to price volatility and food shortages. Internationally, tariff reductions increase national demand, and when implemented by several countries at the same time, the result is upward pressure on prices.

2.4. Quantitative export bans and export taxes

The general prohibition of quantitative restrictions as trade barriers is a cornerstone of the GATT/WTO system. It is established in the first paragraph of Article XI of the GATT; however, the system considers certain exceptions. Regarding food security, paragraph 2(a) of the same article establishes that Members are allowed to impose temporary export prohibitions or restrictions “to prevent or relieve critical shortages of foodstuff or other products essential to the exporting contracting party”.

The AoA in Article 4, paragraph 2 eliminated quantitative import restrictions that used to be a popular policy in agricultural products.[53]

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[50] FAO/GIEWS, *Policy measures taken by governments to reduce the impact of soaring prices* (as of 15 December 2008), http://www.fao.org/giews/english/policy/index.asp (Accessed the 26th February 2009).

[51] The calculations of the FAO are over what they classify as Low Income Food Deficit Countries (LIFDCs) which are comparable to the WTO's classification of NFIDCs. Ramesh Sharma and Panos Konandreas, WTO provisions in the context of responding to soaring food prices, FAO, *Commodity and Trade Policy Research Working Paper no. 25*, August 2008, p. 29.

[52] *Ibid.*, p. 4.

[53] Country Members can still impose quantitative import restrictions under certain circumstances that are established in Article 5 of the AoA.

However, quantitative export restrictions on foodstuffs are not prohibited and only regulated by Article 12 of the AoA. Under paragraph 1(a) Members are required to "give due consideration to the effects of such prohibition or restriction on importing Members' food security". Also, Members are required to fulfill certain requirements before the implementation of an export restriction. First, they shall notify in writing to the Committee of Agriculture; the notification shall include information regarding the nature and duration of the measure. Second, other Members, which have a substantial interest as an importer, can require consultation with the implementing Member which has the obligation to provide to the requesting member all the necessary information.[54] Furthermore, under the General exceptions of Article XX (j) of GATT, provided that the conditions established in the chapeau are met, countries cannot be prevented from imposing measures "essential to the acquisition or distribution of products in general or local short supply".

In sum, Members are allowed to impose quantitative export restrictions if there is a shortage on foodstuffs. In doing so, they have to consider the impact of the measure in importing countries and notify the Committee of Agriculture before implementation. Therefore, under certain circumstances, which can be applied to the current world crisis, export restrictions are justified under WTO law.

Developing countries and LDCs rely on export taxes that are mostly imposed on raw materials such as agricultural products, fishery products and forestry products which seek to promote domestic processing industries. Although export taxes are considered to be trade-distorting because they provide national industries with cheaper inputs, they are not regulated nor prohibited under the WTO covered agreements; they can be considered as part of Member's policy space. It is not until recently that some newly added Members such as Vietnam, China and Ukraine have been requested to make binding commitments in their Accession Protocol to eliminate some export taxes.

Export bans, implemented more frequently between April 2008 and October 2008, are the most recurrent restriction.[55] For example, India, South Asia's largest grain producer for both rice and wheat with 71 and 76% production respectively, was one of the first countries that imposed a ban on rice exports in April 2008 (except for basmati rice, for which a $200 USD export duty applied).[56] India's measure was almost immediately followed by countries such as Vietnam and the Philippines. The majority of non-basmati

[54] These conditions do not apply to developing countries under Article 12 of the AoA, unless they are net-food exporters. However, there is not a definition of net-food exporter country under the WTO.

[55] For example countries as Brazil, Cambodia, Egypt, Indonesia, Pakistan, Thailand and Vietnam have banned rice exports to supply their own markets. Others like Malawi, Tanzania, and Zambia have done the same with corn. Argentina cut exports on wheat and wheat flour and Ethiopia and Tanzania banned mayor cereals, FAO/GIEWS, *Policy measures taken by governments*.

[56] Ahmed, *Global Food Price Inflation. Implications for South Asia*, p. 8.

rice that India exports goes to Sub-Saharan Africa. The ban damaged the capacity of the poorest region in the world to enhance food security and added uncertainty to the market because of the increment in price volatility, especially in the thinly traded rice market. It also damaged rice exporters in India who could have profited from the increment in prices.[57]

India removed the ban on aromatic rice in mid-October but imposed a minimum export price of $1,200 USD per ton. India's decision was followed by Vietnam, Ukraine and Russia, but some other countries, like Pakistan, have not removed the ban yet.[58] Although the removal of this measure had a positive impact in terms of price reduction in the specific products and in the alleviation of the food crisis, the fact is that while the bans were in force, they worsened the situation for the importing countries and also, damaged the domestic producers.

Export taxes have been imposed by about one third of the WTO Members with the intention to improve their terms of trade, reduce price volatility and inflationary pressures; however, like the bans, the crisis increased their use.[59] Argentina, for example, has always used export taxes as part of its governmental budgetary policies. However, with the food crisis, export taxes increased exponentially. In March 2008, in order to force domestic producers to sell to the domestic market and keep soaring prices down, the executive imposed taxes of 95% on the export of soybeans and of 59% on sunflower exports; it also imposed the same measures on corn (53.8%), wheat (46.3%) and beef.[60] Argentina is a net-food exporter, agriculture represents 18.5% of its GDP and employs 35.6% of its population; it is the world's third largest producer of soybeans, the fifth of corn, the eleventh of wheat and the twelfth of beef.[61] Argentinean farmers complained that these policies prevented them from profiting from the high world prices and acted as a disincentive to expand or maintain production levels. They started a series of strikes in March which led to food shortages in the stores. It is estimated that the country stopped exporting around 4.7 million tons of grains and their derivatives such as vegetable oils, a move that caused further increase in world prices of soybean and corn for which Argentina is the world's second and third largest

[57] *Ibid*., p. 30.

[58] Javier Blas, "Top Exporters Ease Restrictions", *Financial Times*, 4th September 2008.

[59] Roberta Piermartini, *The Role of Export Taxes in the Field of Primary Commodities*, WTO, Geneva, Switzerland, 2004, p. 2. From February to July 2008 the Russian Federation, quadrupled wheat export taxes up to 40% and barley up to 30%. Russia is the sixth world exporter of wheat and the first barley producer. On January 2008 China, the first world wheat producer, imposed among others a 20% export tax on wheat and a 25% on wheat flour and starch. Some of these measure where reduced on December 2008, wheat export tariff was cut to 3%. Nation Master Agricultural Statistics- *Grains. Wheat exports and barley production*, http://www.nationmaster.com/red/graph/agr_gra_whe_exp-agriculture-grains-wheat-exports&ob=ws and http://www.nationmaster.com/graph/agr_gra_bar_pro-agriculture-grains-barley-production (Accessed the 26th February 2009).

[60] FAO/GIEWS, *Policy measures taken by governments*.

[61] Julio J. Nogués, *The Domestic Impact of Export Restrictions: The Case of Argentina*, IPC Position Paper-Agricultural and Rural Development Policy Series, July 2008, p. 4.

exporter, respectively.[62] In July, the senate rejected the floating-rate tax system that the executive had already imposed and, together with the farmers protests, as a result, the export tax on soybeans went down to 52.7%, on sunflowers to 52.7%, on corn to 45% and on wheat to 41%.[63]

The Argentinean and Indian cases exemplify the domestic and international costs that export restrictions and taxes can cause. If the Member which imposes restrictions has a large size of the world market, as in the case of both these countries, the measure results in increasing world prices.[64] Export bans and taxes diminish world supply, increase prices and volatility, and raise food shortages, not only because of the drop in supply on world markets, but also because, for domestic farmers, producing for the local markets might not be as profitable. These measures erode the confidence of export partners and of the trading system and damage market certainty and food security for net-food importers.

Although economically quantitative export restrictions do not make sense, GATT provides country Members with a legal alibi for imposing them; it gives Members policy space to ensure the domestic food supply. However, it is not clear that countries have complied with the conditions for their implementation, especially in giving “due consideration” to the effect their policies might have on the food security of other Members. It would be for the DSB to define what “due consideration” means in the AoA, as well as “temporary” and “critical” in GATT Article XI. Since rules are not clear for quantitative export restrictions and non-existing for export duties, countries stay away from disputes above all else. Another reason for Members not to challenge these measures is that an important number use both as part of their trade policies.[65] Until now, there has been no challenge to agricultural export restrictions imposed by any country Member.

When the Doha Round negotiations started, some countries like Switzerland and South Korea proposed the prohibition of export restrictions.[66] However, it seems that the Draft Modalities, at the time of writing, will not improve market certainty for net-food importers or redress the imbalance between the rules applied to importers which cannot impose import restrictions, and exporters which can freely impose export duties and have wide exceptions available to impose quantitative export restrictions. Export bans are not forbidden when meeting GATT exceptions and under the Draft Modalities, Members are only required to give notice within 90 days after –not

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[62] *Ibid.*

[63] FAO/GIEWS, *Policy measures taken by governments*.

[64] The price increment is even higher if several countries impose them at the same time as occurred.

[65] It has been suggested that export restrictions could be challenged through the SCM Agreement, since they act as subsidies on inputs for domestic industries, but although the AB has not pronounce itself in this respect, the Panel in the United States- Measures Treating Exports Restrains as Subsidies case stated that export restrains do not satisfy the "entrusts or directs" standard to be considered a subsidy. (para. 8.44, WT/DS194/R, 29th June 2001).

[66] Siddharta Mitra and Tim Josling, *Agricultural Export Restrictions: Welfare Implications and Trade Disciplines*, IPC Position Paper Agricultural and Rural Development Policy Series, January 2009, p. 17.

before, as with the current AoA– their implementation. Quantitative export restrictions should not last for more than one year or 18 months with the agreement of the affected importing Member.[67] Although the loophole of the implementation period is fulfilled, a year or a year and a half seems to be too much time, mostly because, as we have already seen, export bans had a significant negative impact on world trade and on both exporting and importing countries, even when some of these measures were in force for only a few months. Finally, although export taxes are still under negotiation, it seems that they will continue to be outside of WTO regulation.

2.5. Price controls and inputs subsidies

Both net-food exporters and net food importers have imposed consumer price controls and domestic support. Mexico froze prices for 150 processed food products from June to December 2008. Similar measures have been implemented by many other countries like Belize, Benin, China, Costa Rica, Malaysia, Russia and Senegal. Price controls may have a positive impact on net-consumers in the short run, but in the long run, they will damage them because they distort the consumer price index which is calculated by using the average price of goods and services, which is then used to calculate minimum wage, social benefits and pensions. They will also limit farmers' incentives to increase the production of food crops.

China and India, have also implemented domestic support to increase productivity along with export restrictions. China has increased subsidies for inputs like seeds and has incremented the funds available for natural disasters and infrastructure. India provides input subsidies to farmers, in general, for fertilizer, electricity, irrigation, and seeds.[68] African countries such as Algeria and Angola have also provided input subsidies to face the food crisis. Algeria allocated $6.36 billion USD for irrigation construction and/or rehabilitation, it exempted fertilizers and pesticides from VAT, and provided governmental credits for agricultural inputs with a zero interest rate. Angola distributed agricultural inputs to farmer associations and small holder farmers.

Input subsidies, which are exempt from reduction commitments for developing countries, have been criticized as an agricultural development policy.[69] In the first place, owing to their cost, subsidies can only be implemented by countries with certain budgetary capacity. Secondly, because of their lack of target, beneficiaries often end up being rich farmers. Although public expenditure is necessary, a more efficient way of allocating them

[67] WTO, *Revised Draft Modalities for Agriculture*, Committee on Agriculture Special Session, TN/AG/W/4/Rev. 4, 6 December 2008, pp. 171-180.

[68] Munisamy Gopinath, *India: Shadow WTO Agricultural Domestic Support Notifications*, IFPRI Discussion Paper 00792, September 2008, p. 24.

[69] Article 6.2 of the AoA states that "…agricultural input subsidies generally available to low-income or resource-poor producers in developing country Members shall be exempt from domestic support reduction commitments that would otherwise be applicable to such measures…"

would be in the form of infrastructure, development and research and extension services. Therefore food security concerns would be better addressed by focusing on farm productivity rather than through subsidized inputs.[70] For example, Brazil has incremented farm credits, which reached a record in 2008 of $48 billion USD, 12% more than the previous year, with the intention of giving an incentive to its farmers to raise production and, thus, profit from the prices increases.[71] The Brazilian economy, which has not imposed export restrictions, will benefit from this policy and, at the same time, will increase food supplies in the world markets.

2.6. Conclusions

As we have seen, the majority of countries have implemented a combination of these policies, for example, Indonesia and Vietnam lowered custom duties at the same time as they imposed exports bans. India lowered import tariffs on edible oils, wheat flour, semi/wholly milled rice, maize and butter and, at the same time, imposed an export ban on wheat and non- basmati rice and high taxes on basmati rice exports.[72] Mexico reduced tariffs on wheat rice, corn sorghum and fertilizers, and also imposed price controls.

The effect of these policies depends on the political, economic and social characteristics of each country. In general, all of them, except for inputs subsidies, are directed to alleviate pressure on consumers. In the short run, these may be welcome policies but, in the long run, although they are consistent with WTO obligations, they will not enhance food security. Domestically, all of them are disincentives for domestic production making countries more dependent on imports; price controls distort future calculation of salaries and pensions damaging, in the long run, the purchasing power of consumers. At an international level these policies increase pressure on prices and damage the capacity of other States to face the crisis. They aggravate the global situation, by escalating prices, reducing supply, and increasing volatility and distrust in the markets and in the trading system.

More coordination and cooperation is required among countries in order to implement policies that can help them face the food crisis while not affecting other nations negatively. Brazil, whose policies are achieving food security and benefiting from the high prices, can be taken as an example by other countries. Brazilian policies include credits that provide an incentive for agricultural production, safety net programs like Bolsa Familia, based on cash transfers, and the non establishment of export restrictions.

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70 Ahmed, *Global Food Price Inflation. Implications for South Asia*, p. 31.

71 Andrew Downie, "As food prices Soar, Brazil and Argentina React in Opposite Ways" *The New York Times*, 27th August 2008.

72 Ahmed, *Global Food Price Inflation. Implications for South Asia*, p. 22.

3. The impact of WTO rules on food security: The AoA and the Negotiated Draft Modalities

3.1. The impact of the AoA in countries' capacity to enhance food security

Since the AoA was established during the UR it has been criticized for not addressing the concerns and circumstances of developing countries and LDCs. Oxfam, for example, states that for these countries, it has not "produced the dramatic improvement in the agricultural trade that many had hoped for".[73] This is, in part, because the AoA was created to address overproduction and cheap food problems which is the situation of most developed countries. Developing countries, in general, pose the opposite situation because, although agriculture is an important element of their economy, they lack the necessary infrastructure and support for this sector.

In the text, food security is only mentioned twice in the AoA, in Article 12, as a condition for imposing export restriction (see Chapter I) and in Annex 2 (Green Box), in which public stockholdings for food security reasons is an exception to domestic support reduction commitments. In an indirect way, it can be said that food security concerns are addressed through the flexibilities of the SDT: developing countries are granted bigger implementation periods and smaller reduction commitments, and LDCs are not required to undertake reduction commitments at all. Also, the Decision on Measures Concerning the Possible Negative Effects of the Reform Program on Least Developed and Net Food-Importing Developing Countries recognizes that these countries may suffer some negative effects from trade liberalization, and will be unable to provide foodstuffs from external sources. Country Members agreed to provide these countries with adequate levels of food and technical aid. However, the Decision was never put into operation. Neither the AoA nor any WTO Declaration mentions the negative impact that trade liberalization could have on LDCs and NFIDCs capacity not to import but to produce their own food, to improve their agricultural development and to better the livelihood of their farmers.

Notwithstanding this scant reference to food security in the AoA, it is clear that its provisions have had an enormous impact on countries' capacity to deal with it. There is a real concern that the commitments established in the AoA do not address the problem of developing countries and their challenges to enhance food security. The description of the three pillars of the AoA: market access, domestic support and export subsidies and the provisions they

[73] ICTSD, "Trade Rules and Global Food Crisis", *Bridges Weekly Trade News Digest*, vol. 12, no. 32, 2nd October 2008, p. 4.

establish, have been mentioned in other analysis; this thesis will only address their impact on the capacity of countries to enhance food security.[74]

3.1.1. Subsidies under the AoA

When the AoA was signed, an increase in agricultural prices was expected. However, prices actually declined owing to the increase in productivity in developed countries driven by the vast subsidies provided to their farmers. In reality, the AoA provided a classification of subsidies and a framework for reductions in future negotiation rounds rather than an actual reduction. Subsidies were differentiated according to whether they were given to stimulate production, domestic support or if they were contingent on export performance, export subsidies. Domestic support was differentiated according to their level of distortive impact on trade and production: Amber Box was the most distortive, followed by Blue Box and Green Box was non-distortive.

Using 1986-1988 as base period for the Base Total AMS levels, countries were allowed to set high ceilings for domestic support; for the U.S. it was $23 billion USD and for the EC 73 billion ECU which meant that, by the end of the implementation period, 2000, they were authorized to provide only as a total AMS $19 billion USD and $61 billion ECU, respectively. These figures are far above what they really provided; in 2000 the U.S. notified a total AMS of $16.8 billion USD and the EU of €43.7 billion. In both cases, total AMS has been decreasing: in 2005 the notification was of $12.94 billion USD and €32.9 billion making the gap between commitments and provided support wider.[75] The reason for the decrease is not that less domestic support was provided but that it was done through the Green Box, which has dramatically increased in the last years and which is not subject to reduction commitments.[76]

Export subsidies can only be applied by 25 country Members, which specified them in their Schedule of Concessions. Its major user is the EC with about 90% of the total export subsidies notified to the WTO. Since the conclusion of the Round, there has been a decline in export subsidies. The EC export subsidies, for example, have drop from €7.7 million in 1995 to €3.7 million in 2003.[77] The reason behind this reduction is that world prices for

[74] For a full explanation of the AoA and its three pillars see Melaku Geboye Desta, T*he Law of International Trade in Agricultural Products. From GATT to the WTO Agreement on Agriculture,* Kluwer Law International, 2002.

[75] David Blandorfd, David Laborde and Will Martin*, Implications for the United States of the May 2008 Draft Agriculture Modalities*, ICTSD, IPC, IFPRI, 2008, Table 1, p. 25 and Tim Josling and David Laborde, *Implications for the European Union of the May 2008 Draft Agricultural Modalities*, ICTSD, IPC, IFPRI, 2008, Table 1, p. 16.

[76] In the U.S. Green Box support has gone from $46.04 billion USD in 1995 to $71.83 in 2005. In the EC it has gone from €18.7 billion in 1995/1996 to €32.5 in 2005/2006. *Ibid.*

[77] Pierre Boulanger, *Les subventions à l'exportation: une espèce en voie de disparition. Au-delà de la Ministérielle de l'OMC à Hong Kong*, Groupe d'économie mondiale, Science Po, 19 décembre 2005.

wheat and rice started to increase after 2000 and export subsidies are used to fill the gap between low world prices and high domestic prices.[78]

3.1.2. The effects of subsidies on food security

Domestic support and export subsidies have a distortive effect on food security in developing countries. On the one hand, NFIDCs benefit from cheaper prices, but in the long run their dependency on food imports and vulnerability to price volatility increases. "Heavy dependence on imports of subsidized food, can lead to serious financial difficulties, due to a more vulnerable balance-of-payments situation, regardless of the price of food".[79]

On the other hand, net-food exporting developing countries are hurt because subsidies depress world prices by increasing production and lowering prices for developed-country farmers, which exacerbate volatility and damage the capacity of exporting developing countries' farmers to compete in the world markets and even in the domestic markets. A study carried out by Sumner established that U.S. subsidies might have depressed the world prices of corn, wheat and rice by 10%, 8 and 6% respectively.[80] In this sense, the net impact of the AoA has been highly adverse to countries like Bangladesh whose agricultural exports fell from $128 million USD in 1991-1994 to $108 in 2003-2004 and whose net trade effect resulted in a trade deficit that rose by more than 38% with the implementation of the AoA. India, Nepal and Pakistan suffered from an adverse net impact and in the region, only Sri Lanka presented a favorable net impact.[81] Although it is true that these countries became more dependent on food imports and grew farther from self-sufficiency, this is not, in itself, a threat to food security as long as they can have enough export gains to pay for their food bill, in other words, as long as they are self-reliant. However the study also concludes that the only country that was able to improve its self-reliance was Sri Lanka.[82] This seems to be the general consequence for developing countries. In Sub-Saharan Africa, a study established that the AoA has had a negative impact on self-reliance; of the 43 countries in the region, 31 saw an increase in their food import capacity ratio, which captures "change in food import requirements for a

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78 Bernard Hoekman and Patrick Messerlin, "Removing the Exception of Agricultural Export Subsidies" in Kym Anderson and Will Martin (Ed.), *Agricultural Trade Reform and the Doha Development Agenda*, Palgrave Mc Milan and The World Bank, 2006, p. 200.

79 WTO, Export *Subsidies–Food Security of Food Independency? A Discussion Paper presented by Argentina, Brazil, Paraguay and Uruguay (MERCOSUR), Chile, Bolivia and Costa Rica*, Committee On Agriculture, Special Session, G/AG/NG/W/38, 27th September 2000, para. 7.

80 Daniel. A. Sumner, *Boxing in: Conflicts between U.S. Farm Policies and WTO Obligations*, Trade Policies Analysis No. 32, Center for Trade Policy Studies, CATO Institute, Washington D.C., December 2005.

81 Ramesh Chand, "International Trade, Food Security, and the Response to the WTO in South Asian Countries" in Basudeb Guha-Khasnobis, Shabd S. Acharya and Benjamin Davis (Ed.), *Food Security. Indicators, measurements and the impact of trade openness*, Oxford University Press, 2007.

82 *Ibid.*, p.275.

particular country and its ability to finance these from its own resources”.[83][84] Gambia, for example, increased its food import capacity radio from 157% in 1990-1992 to 606% in 2000-2002.[85]

Self-reliance does not seem to be the best policy to attain food security in those developing countries in which agriculture represents the main livelihood of the population. These countries need to develop their own agricultural industry to guarantee access to food for their population, for those that work in the agricultural sector and for those in the urban areas that might be more affected by price volatility. This is not to say that countries should look for self-sufficiency, which not only does not make sense in a free-trade globalized world, but also is an unreachable goal. The goal should be to look for a balance between self-reliance and self-sufficiency which allows developing countries to be less vulnerable to price volatility and food shortages.

Most developing countries and LDCs lack the means to provide their farmers the same support to enable them to compete with the cheap prices of the developed countries’ exports. In order to develop their agricultural industry, developing countries should specialize in products in which they have a comparative advantage, such as tropical products, which include tobacco, coffee, sugar and some fruits and vegetables, and export them to developed countries. At the same time, they should develop an agricultural industry for their domestic market to harvest staple food. Tariffs in developed countries are important for developing countries, because they can either guarantee access for their food products to these markets or they can block them from entering.

3.1.3. Market access and the barriers to the markets of developed countries

One of the most significant achievements of the AoA was tariffication. Before the UR, most countries had non-tariff barriers such as quantitative restrictions. However, the way tariffication was implemented has prevented developing countries to fully access developed countries markets and it impacts negatively on the development of their agricultural export industry. First of all, as was the case with subsidies, the years 1986-1988 were selected as a base period for calculating tariffs, which were established using the difference between internal and external prices; these years were a

83 Samuel K. Gayi, “Does the WTO Agreement on Agriculture Endanger Food Security on Sub-Saharan Africa?” in *Ibid.,* p. 295.

84 The increment in the Food import capacity radio cannot only be attributed to the AoA, factors such as wars, corruption, HIV/AIDS, refugees are factors that need to be considered, as well as the fact that they have a different impact in each country.

85 The study consider world food prices that have been reduced, the daily energy supply that has increased, the calories per capita in a day that have increased and therefore have a positive impact on food security; the food import capacity and the under 5 mortality rate that have increased and life expectancy that has been reduced and that have a negative impact. Gayi, “Does the WTO Agreement on Agriculture”, p. 304.

'generous' choice because, at the time, countries had the highest internal prices and the lowest external prices in decades.[86] This was aggravated by what is known as "dirty tariffication", the conversion process from non-tariff barriers to their ad valorem equivalents, which was left to each country which set tariffs as high as possible by exaggerating domestic prices.[87] A study by Ingco, has found that the overall effect of tariffication was that country Members imposed binding tariffs that were higher than their pre-Uruguay levels.[88] Although applied tariffs might be much lower, high binding tariffs guarantee countries that, in case of need, they can impose tariffs as high as their ceiling, but not beyond that.

Finally, some countries were allowed to keep some TRQs that were specified in their Schedule Commitments. TRQs have been applied by developed countries in such products in which developing countries have comparative advantage, like fruits and vegetables, to which more than one quarter of all TRQs apply.[89] In the U.S., for example, even if they cover only 9.5% of agricultural tariffs lines and 19.1% of agricultural imports, "the average bound tariff rate on these commodities is six times that for agriculture as a whole… with rates of 137% on oil seeds; 71% on tobacco and 57% on sugar", which are products in which developing countries have a comparative advantage.[90]

3.1.4. Policy space in the AoA

The AoA provides some policy space for developed and developing countries. For example, SDT provides developing countries with a 10% de minimis AMS under Article 6; and under paragraph 2 of the same article, measures to encourage agricultural and rural development, investment subsidies and agricultural inputs subsidies to low-income or resource-poor producers are exempt from reduction commitments.[91] Both developing and developed countries can provide Green Box support without limits, which has no or minimal trade and production-distorting effects. These include, among others, public stockholding for food security purposes, domestic food aid, and direct payments to farmers.

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86 Desta, *The Law of International Trade in Agricultural Products*, pp. 72- 73.

87 This practice was used not only by developed countries as the EU and the U.S., but also and mostly by developing countries.

88 Merlinda D. Ingco, *Agricultural Trade Liberalization in the Uruguay Round: One Step Forward, One Step Back?*, supplementary paper prepared for the World Bank Conference on "The Uruguay Round and the Developing Countries", Washington D.C., 26-27 January 1995.

89 WTO Secretariat, Market *Access: Unfinished Business. Post-Uruguay Round Inventory and Issues*, Special Studies 6, Geneva, 2001, p. 52.

90 Blandorfd, Laborde, and Martin, *Implications for the United States of the May 2008 Draft Agriculture Modal*ities, ICTSD, 2008, pp. 11-12.

91 As opposed to developed countries that only have a 5% de minimis and cannot provide support under paragraph 2 of article 6.

The problem with these flexibilities and policy space is not what the AoA allows developing countries to do, but what they can actually do. Most developing countries cannot benefit from them, because they lack the necessary budget and sometimes even the technical knowledge to use them. Between 1995 and 2000, only 11 developing countries notified non-product specific de minimis AMS with an average of 1.3%; the closest to 10% was Peru with 6.23, and only 25 countries used the provision of Article 6.2.[92]

3.1.5. Conclusions

This chapter has addressed how, in spite of the scant mention by the AoA of food security, its provision still has a huge, mostly negative impact. The AoA has several shortcomings regarding food security. In the first place, it was created to respond to a situation that was not predominant in developing countries. The way domestic support, export subsidies and market access are regulated by the AoA and the way policies are implemented, mostly by developed countries, have limited the capacity of most developing countries to enhance both self-sufficiency and self- reliance, and find a balance between them. However, some damage has been done also by some developing countries to other developing countries as was seen with the quantitative export restrictions and the export taxes imposed by India and Argentina analyzed in Chapter I. In the second place, the manner in which countries are classified (developed, developing and LDCs) do not consider their food security situaton. The WTO developed the category of NFIDCs in order to address food security concerns, but we have seen that the Decision regarding this was never implemented. In the third place, although the AoA provides policy space for developing countries, most of them lack of the sufficient capital, human and technical resources to implement it. Moreover, as a consequence of the lack of a good classification, SDT and the other provisions do not correctly address the food security concerns of each country.

The Doha Round represents a unique opportunity for the WTO and its country Members to fill the loopholes of the AoA and implement rules that can benefit the poor, enhance food security for developing countries and help them to develop their agricultural industry. The next section examines if the Agricultural Draft Modalities of December 2008 will help or hinder these goals.

92 Ramesh Sharma, "Developing countries experience with key policy issues of the Uruguay Round Agreement on Agriculture" in Alex F. McCalla and John Nash (Ed.) *Reforming Agricultural Trade for Developing Countries*, The World Bank, 2007, Vol. I, pp. 78-79.

3.2. Will the Draft Modalities improve the countries' capacity to face the world food crisis?

The Doha Development Round was established in 2001 as the result of the Fourth Ministerial Meeting. Following Article 20 of the AoA, country Members started negotiations to further liberalize the agricultural sector; the December Draft Modalities, which will modify the AoA, are the result of the negotiations that have been taking place since then.[93] Although no agreement has been reached, as yet, and even though the last meeting, the Mini-Ministerial of July 2008, "ended in deadlock on some issues, gaps [have been] narrowed on several others".[94] Ambassador Falconer, former chairperson of the agriculture negotiations, considers that the December Draft Modalities that incorporate small changes and further negotiations that took place between July and September might be the final package. In any case, the December Draft Modalities represent a huge improvement from the July Package of 2004 since it establishes formulas for tariffs and domestic support reduction and the complete elimination of export subsidies by the end of 2013. However, there are still important disagreements like the one between China and India, supported by the G-33 on one side and the U.S. on the other, regarding the SSM triggers and remedies, in particular, if pre-Doha ceilings can be applicable or not.

3.2.1. The possible benefits of improved market access and the overshadowing effect of exceptions

As we have already seen, in order to boost their agricultural industry, developing countries need access to the agricultural markets of developed countries. This access may be constrained by high applied tariffs and tariff escalation in products in which developing countries have comparative advantage such as sugar, tobacco, cotton, fruits and vegetables.[95] Other important constraining measure are TRQs, which in most cases, remain unfilled; among OECD countries, on average, for example, only 36% of each TRQ is filled.[96]

Two studies have found that tariff reductions, as established by the Draft Modalities, will have a positive impact in the access that developing countries have to the U.S. and the EC markets in dairy products, sugar, tobacco and meat.[97] Improved market access could stimulate the production of these

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[93] The Draft Modalities can be found in the WTO webpage. WTO, *Revised Draft Modalities for Agriculture*, Committee on Agriculture Special Session, TN/AG/W/4/Rev.4, 6 December 2008.
[94] WTO, *Chairperson's texts 2008*, (Accessed the 5th January 2009) http://www.wto.org/english/tratop_e/agric_e/chair_texts08_e.htm
[95] Blandorfd, Laborde, and Martin, *Implications for the United States*, and Sébastien, Josling and Laborde, Implications *for the European Union*.
[96] Desta, The *Law of International Trade in Agricultural Products,* note 79, p. 79.
[97] Blandorfd, Laborde, and Martin, *Implications for the United States*, and Sébastien, Josling and Laborde, *Implications for the European Union*. The Draft Modalities propose a tiered formula in four bands. For developed countries the

agricultural products and help them develop an export-orientated industry, and improve their self-reliance. In the case of the U.S., the estimation is that the applied rate for developing countries would fall from 6.4 to 2.4% and for LDCs from 14.5 to 4.9%.[98] On average, the tariff cut would decrease from 8 to 3.1%.[99] In the case of the EC, they will go from 22.9 to 8.4%, so that tariffs in sugar, for example, will diminish from 129 to 39.2 %.[100] Another study calculates that the cut without exceptions in the EC would be from 15.2 to 6.2%, in the U.S. from 4.8 to 2.1% and in Japan from 28.9 to 14%.[101]

There is an agreement among scholars that tariff cuts are the greatest source of potential benefits from trade liberalization because they will force reductions in domestic price supports, used primarily by developed countries, and induce world price reductions.[102] The Economic Research Service of the USDA estimates that tariffs account for 52% of market distortions in agriculture, compared with 31% accounted by domestic support and 14% by export subsidies.[103] The biggest impact would come from tariff simplification, the conversion of TRQs into its ad valorem equivalents, mostly in the EC where fruits and vegetables have complex tariffs.[104]

However, MFN-based tariff cuts will also translate into GSP erosion for LDCs, mainly in the EC and in products such as rice, sugar, meat and meat products, where the preferential margins for these countries would fall from 14.1 points to 5.2.[105] This negative effect in LDCs is exacerbated because of their lack of economic resources, infrastructure and export capacity to compete with developing countries that are important agricultural exporters like Brazil and Argentina. According to a study, "exports to Europe from all LDCs [would] decline in the range of 1.6% for Mozambique to 9.8% for Bangladesh" which will damage their agricultural export production and their capacity to enhance self-reliance.[106] The Draft Modalities address this problem

tariff cut would be of 70% when the bound tariff is greater than 75%; of 64% when it is between 50 and 75%; of 57% when it is between 20 and 50% and of 50% when is lower than 20%.WTO, *Revised Draft Modalities for Agriculture,* TN/AG/W/4/Rev.4, para. 61.

98 Blandorfd, Laborde, and Martin, *Implications for the United States*, Table 18, p. 24.

99 *Ibid*., Table 20, p. 24.

100 Sébastien, Josling and Laborde, *Implications for the European Union*, p. 9. The estimations of both studies are constructed using the MAcMaoH56 methodology and the USIYC data base for the U.S. and the TARIC for the EC, tariffs are considered at 6 digit level. Since they use the Draft Modalities version of 19 May 2008, they use in their calculations the mean of the bracket numbers, which was 69.7%. Also their calculations do not consider the impact of SsP.

101 David Laborde, Will Martin and Dominique van der Mensbrugghe, *Implications of the 2008 Doha Draft Agricultural and NAMA Market Access Modalities for Developing Countries*, IFPRI and The World Bank, July 2008, p. 14.

102 The limited effect of tariff escalation provisions comes from the fact that Annex D of the Draft Modalities has a restrictive list of products, excluding for example, orange juice and chocolate products.

103 USDA, *The road ahead: Agricultural policy reform in the WTO – Summary Report*, Economic Research Service, USDA, Washington, D. C., 2001.

104 However, this benefit may be overshadowed if countries resort to 'dirty tariffication' as they did during the UR. Sébastien, Josling and Laborde, Implications for the European Union, pp. 9-10.

105 *Ibid*., p. 10.

106 Valdete Berisha-Krasniqi, Antoine Bouët, David Laborde, and Simon Mevel, *The Development Promise: Can the Doha Development Agenda Deliver for Least-Developed Countries?*, IFPRI Note 14, 2008, p. 5.

by requiring developed countries to provide DFQF market access for all products originating in all LDCs. However, developed countries can argue that they "face difficulties" and provide DFQF access to merely 97% of their products.[107] DFQF will only have a significant positive impact if countries provide 100% access and if it is also provided by Brazil, China and India.[108]

Overall, tariff reduction would have a positive effect on food security in developing countries; it would lower prices of imported products in developed countries' markets which would translate in an increment of exports from developing countries. This could help enhance food security in developing countries by incentivizing an increment in their agricultural production, increase their revenues and allow them to buy imported food. Indirectly, a major domestic production, even if it is primarily export-oriented, may also increment production for the domestic market and reduce dependence on imports. Tariff reduction will improve both self-reliance and self-sufficiency. Still, we should not forget that not all developing countries will be impacted in the same way –net-food exporters will benefit more– and that it is not clear what the overall impact on LDCs will be, or if the positive impact of DFQF can balance the negative impact of preference erosion. Before the benefits for developing countries of improved market access are exalted, the impact of SsP introduced by the Draft Modalities shall be addressed.

The price that developed countries set to accept deep cuts in tariffs was the creation of SsP, which are a deviation from the otherwise applicable tiered reduction formula that can be of one-third, one-half or two-thirds. Developed countries would be able to self-designate, without any established criteria, 4% of their tariff lines as sensitive and up to 6% if 30% or more of their tariff lines are in the top band. SsP are conditioned to provide new access opportunities in the form of TRQs at a lower tariff. Developing countries would be able to designate one third more of their products as sensitive, *i.e.* 5.3%.

Several studies, using different calculation methods, agree that even if SsP were only provided to 2% of the tariff lines, that would be enough to offset the benefits from tariff cuts. In the study elaborated by Sébastien, Laborde and Martin, the authors demonstrate that with a 2% tariff lines of SsP and with one-half deviation, the tariff cut, on average, in developed countries, fell from 8.5%, without any exception, to 4.3%, and if increased to 4% tariff lines, as established by the Draft Modalities, the tariff cut, on average, is reduced to 3.8%.[109] SsP have such a negative impact because 63% of all agricultural trade is concentrated in 5% of tariff lines.[110]

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107 WTO, *Revised Draft Modalities for Agriculture*, TN/AG/W/4/Rev.4, para. 152.

108 Berisha-Krasniqi, Bouët, Laborde, and Mevel, *The Development Promise*, p. 5.

109 Jean Sébastien, David Laborde and Will Martin, *Choosing Sensitive Agricultural Products in Trade Negotiations*, IFPRI, Discussion Paper 0788, August 2008, p. 22.

110 David Vanzetti and Ralf Peters, *Do Sensitive Products Undermine Ambition?*, paper presented at Australian Agricultural and Resource Economic Society 52nd Annual Conference, 5-8 February 2008, Canberra, Australia, p. 9.

SsP will also diminish developing countries projected exports. It is highly possible that the SsP chosen by developed countries would be products in which developing countries have a comparative advantage such as a sugar cane; cereals like rice, wheat and corn; dairy products, bovine meat and some tropical products on which there is still no agreement on whether they should be declared SsP.[111] Their exports would be negatively affected either because they are the main exporter, like Thailand that exports 69% of the world total of manioc starch, or because one of the SsP represents a high percentage of its total agricultural exports, as Botswana where their bovine exports represents 21% of its total agricultural exports.[112] Therefore, this would damage developing countries' capacity to enhance food security through self-reliance.

There is a low probability that these negative effects will be balanced trough TRQs expansion, because countries can manipulate them to provide import licenses to whomever they want, and they can leave the quota unfilled.[113] The situation may become worse if it is accepted that products that were not under a TRQ system previously can become SsP and, therefore, affect new products and exporters.[114]

The figures above show that SsP would completely circumvent the market access improvement granted by tariff cuts and all the ensuing benefits that have already been discussed above. In sum, Ssp would hinder developing countries from accessing developed countries markets and boost their export-oriented agricultural industries, preventing them from enhancing food security through self-reliance and self-sufficiency. However, no matter how damaging SsP are for developing countries, developed countries will never accept the Draft Modalities without them.[115] Since SsP will not be eliminated, developing countries should look for formulas that are less damaging to their interests; for example, Sébastien et. al., propose to change how SsP are allocated by using the share of imports instead of the number of products which would have a smother impact on tariff cuts because they consider the importance of the tariff lines for the exporter.[116] By using the share of imports, tariff cuts would only be reduced by one–third if 5% of initial imports are used to define SsP, instead of 2.5 if the number of products as established in the Draft Modalities is used.

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[111] Ariel Ibañez *et al*., *Implications of the July 2008 Draft Agricultural Modalities for Sensitive Products*, pp. 15-17. Jean Sébastien, David Laborde and Will Martin, *Sensitive Products: Selection and Implications for Agricultural Trade Negotiations*, TRADEAG, Working Paper 05/02, pp. 26-27.

[112] Ibañez *et al*., *Implications of the July 2008 Draft Agricultural Modalities for Sensitive Products*, p. 19.

[113] Even if tariff rate quotas where established under a MFN requirement during the UR, so far they have been allocated in a country-specific base and rarely filled. See, Desta, The *Law of International Trade in Agricultural Products*, pp. 78-86.

[114] WTO, *Revised Draft Modalities for Agriculture*, TN/AG/W/4/Rev.4, para. 83.

[115] Actually, Canada and Japan are striving for having a bigger percentage of tariff lines that could be SsP.

[116] By using the share of imports the number of tariff lines are defined as that accounting for a specified volume of trade in each country. Sébastien, Laborde and Martin, *Sensitive Products*, p. 18.

3.2.2. Special and Differential Treatment as a tool to boost domestic production

As has already been mentioned, since the UR developing countries and LDCs were granted SDT. With the negotiations of the Draft Modalities they have pushed for a more proactive SDT that better addresses their needs and enables them to enhance food security. Developing Countries have succeeded in establishing SP and SSM. These new SDT, if designed and used correctly, would help developing countries to promote domestic food production, to protect the livelihood of their poor farmers against unfair competition, and against the surge on imports and low world prices; in this way, food security can be enhanced because a strong domestic food industry makes developing countries less dependent on imports and, therefore, less vulnerable to price volatility.

In all the Modalities, SP are the only ones that are explicitly designed to address the food crisis and to "provide targeted protection for the rural population of developing countries", through three criteria: food security, livelihood security and rural development.[117] The capacity to protect certain products from the negative effects of trade liberalization will allow developing countries to protect their farmers' livelihood, which, in the majority of cases, are small-scale subsistence farmers; to stimulate rural development and provide food security by domestic food production, basically in staple food. It is important for developing countries to produce a significant share of their staple food, mainly grains, to avoid the transmission of higher price volatility from world markets, particularly grain markets, to domestic ones. For example, Egypt imports 40% of its domestic consumption of corn and wheat, its staple food, from the United States. By declaring both cereals as SP, it could enhance self-sufficiency and be less vulnerable to price volatility and shortages.

Developing countries would be able to self-designate, according to the established criteria, 12% of tariff lines as SP. A study by the FAO establishes that less than 15% of tariff lines considered as SP would provide enough policy space for developing countries.[118] However, the elimination of the two-tier SP in the last version, whereby one-tier could have a 0% cut, is an important constrain. Now, countries can have a 0% cut in no more than 5% of SP, but they have to make smaller cuts to other products in order to achieve the overall average cut of 11%. As a consequence, the policy space of developing countries would be narrowed because most of them have minimal, zero or

[117] Cristián Espinosa *et al.*, *Special products and Special Safeguard Mechanism strategic options for developing countries*, Issue Paper no.6, ICTSD, December 2005, p. 4.

[118] J. R. Deep Ford, *et al.*, "Special products: a comprehensive approach to identification and treatment for development", in Jamie Morrison and Alexander Sarris, *WTO rules for Agriculture compatible with development*, FAO 2007, p. 173.

negative overhang tariffs in products such as beef, pork, dairy products, milk, potatoes, sugar, rice, chicken, tomatoes and onion.[119]

Much of the positive effect that SP could have in enhancing food security will depend on the good use developing countries make of this policy space, which products they designate as SP, and their capacity to balance the interest of the big producers that exercise political pressure and those of subsistence farmers and poor populations. In general, allocating to the first group the SsP quota and to the second one the SP quota seems the adequate policy to balance both interests and prevent food crises.

Because most developing countries did not resort to binding commitments during the UR, they do not have access to the SSG, and the only way in which they can face import surges and price depression is using their tariff overhangs. However, with the cuts proposed in the Draft Modalities this option will be rather limited. SSM would allow developing countries to face some of the negative effects of further liberalization such as increased vulnerability to world market price fluctuation and import surges of products for which prices have been lowered through subsidies and domestic support.

It is important that the SSM is flexible enough so that developing countries can trigger it easily during unexpected import surges or price depressions and obtain effective remedies, but also that it does not "undermine the liberalization it is supposed to facilitate".[120] While some of the characteristics of the proposed SSM in the December Draft Modalities seem to address these concerns, some others place doubt on whether the SSM will be an efficient mechanism.

Some of the positive characteristics of the SSM are that the volume trigger is not calculated as a percentage of domestic consumption of imports, but as basis of rolling averages of imports. This is important because most LDCs are less open than developed countries and the SSM's goal is to protect competing sectors and domestic agricultural production.[121] Also, the lowest volume trigger has been settled as a volume surge of 110%; that is, an increment of 10% above normal imports in the preceding three-year periods.[122] The low trigger addresses the concerns of developing countries that, according to the FAO, have seen a drastic increase in import surges, since the UR, that has affected mostly wheat, rice, corn, vegetable oils, bovine meat, pig meat, poultry meat and milk.[123] In chapter I we have already seen, in the case of

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[119] The list of products has been obtained from a study made on 30 countries to determine which and how many products from the SP list should be excluded from tariff cuts. Riza Bernabe, Treatment *of Special Products: Implications of the chair's May 2008 Draft Modalities Text*, ICTSD, Issue Paper No. 14, June 2008.

[120] Jean-Jacques Hallaert, *Special Agricultural Safeguards: Virtual Benefits and Real Costs-Lessons for the Doha Round*, IMF Working Paper 05/131, July 2005, p. 12.

[121] Espinosa *et al.*, *Special products*, p. 52.

[122] WTO, *Revised Draft Modalities for Agriculture*, TN/AG/W/4/Rev.4, para. 133.

[123] In the FAO's study import surge is defined as a 20% increase of imports during a five year moving average. FAO, *Some Trade Policy Issues Relating to Trends in Agricultural Imports in the Context of Food Security*, (CCP 03/10) 64th Session of the Committee on Commodity Problems, Rome, 2003.

Haiti, the dreadful consequences that an unattended import surge can have; low triggers will allow developing countries to face them adequately and, so, avoid the displacement of their farmers.

As far as negative characteristics are concerned, remedies were less than what developing countries expected. In the December Draft Modalities, the highest remedy available is 50% of the current bound tariff, or 50 percentage points when the volume of imports exceeds 135%. Using 50% as the lowest remedy established as an option in May Draft Modalities, Montemayor calculates that during a twelve month period, 6 months were, on average, "problematic"; SSM could only be imposed, on average, over 2½ months of the 6 months, and it was only effective in 1½ of the total amount of months.[124] It is very possible, then, that the effectiveness of the new remedies will erode even further.

For developing countries it is imperative that remedies go beyond Doha bound tariffs because, if they do not, there is a risk that the effectiveness of SSM will drop from addressing 27% of the "problematic" months to only 1% a year.[125] An effective and useful SSM should have higher remedies and allow countries to go beyond Doha commitments. Although China and India have argued that they will not accept less than 30% over pre-Doha Round bound rates and only up to 7% of tariff lines, developed countries are opposed.[126] Although further negotiation should address these flaws, it is very improbable that developed countries will accept the changes that developing countries are asking for.[127]

[124] For details over the two proposals in the May Draft Modalities see: WTO, *Revised Draft Modalities for Agriculture*, Committee on Agriculture Special Session, TN/AG/W/4/Rev.2, 19 of May 2008, p. 124.

[125] The study was carried out using data on imports of 27 agricultural commodities in six developing countries from 2000 to 2005. Problematic is understood as those months during which import prices plus bound tariffs fell below domestic prices by more than 10%. Raul Montemayor, *How will the May 2008 "Modalities" text affect Access to Special Safeguard Mechanism and Effectiveness of Additional Safeguard Mechanism?*, ICTSD, 2008.

[126] WTO, *Unofficial Guide to Agricultural Safeguards*, (Accessed 12th of January 2009) http://www.wto.org/english/tratop_e/agric_e/guide_agric_safeg_e.htm

[127] In order to achieve an agreement, Ambassador Falconer proposed that when both the price is declining and there is an increase on imports, developing countries could implement tariffs beyond the bound ones, for a maximum of [4-8] months. This would be conditioned to a surge between 120 and 140% volume of imports, in which countries may impose a maximum additional duty of no more than one-third of the current bound tariff or eight percentage points, whichever is the higher. If it exceeds 140%, the maximum additional duty shall not exceed one-half of the current bound tariff or 12 percentage points. This is still under negotiation. WTO, *Revised Draft Modalities for Agriculture. Special Safeguard Mechanism*, Committee on Agriculture. Special Session, TN/AG/W/7, 6 December 2008.

3.2.3. Subsidies: The gatopardist cut of domestic support and the possible elimination of export subsidies[128]

The Draft Modalities propose cuts in the Amber Box and, in a new modality, the OTDS.[129] Final Bound Total AMS will be reduced by 70% when it is $40 billion USD or higher and, for developing countries, two-thirds of that. Blue Box would have a ceiling limited to: direct payments under production-limiting programs or direct payments that do not require production. Green Box criteria will be revised in order to allow more development programs for developing countries and to tighten the criteria for developed countries. Finally, it proposes to completely eliminate export subsidies by 2013 for developed countries and by 2016 for developing ones.

Although in numbers the proposed cuts in OTDS and the Amber Box seem deep, developed countries will not suffer a real cut in their trade-distorting provided support. The highest cut in the Base OTDS will amount to 80% of $60 billion USD or more; and the smaller cut will reach 55% of $10 billion USD. After this cut the applied OTDS of some countries will still be far from the ceilings and some other have already modified their legislation in order to comply with the future WTO's obligations. In the case of the U.S. the cut of 70%, from $48 billion USD to $14.4 billion will not have any effect on their applied OTDS which is calculated at $7.8 billion USD. This means that the OTDS provided by the U.S. can almost double without exceeding its bound rate.[130] The same applies for Japan, whose applied OTDS will be of ¥1,635.2 billion and whose projected total value of its Blue and Amber Box for 2013 is only ¥469 billion.[131]

The cut of 80% will leave the EC with a ceiling of €22 billion OTDS. If we consider that in 2004/05 its total AMS alone was of €34.8 billion, it seems that the cut will restrain its policies. However, the overhang could be avoided if the EC notifies direct payments as Green Box, as the the Fischler reform to CAP that entered in force in 2004-2005, has planned: by decoupling direct payments from production they are eligible to be notified as Green Box support.The cuts to the Amber Box will not significantly affect the support provided by developed countries since it seems to only affect the EC in the short run.[132] To avoid this, the EC has shifted some of the Amber and Blue Box

[128] Expression derived from the novel "Il gattopardo" of the Italian writer Guiseppe Tomasso di Lampedusa (1896-1857), that expresses the paradox of changing everything so that nothing changes.

[129] For developed countries the base period is 1995-2000 and developing countries can choose either 1995-2000 or 2000-2004. Base OTDS is composed of the Final Bound Total AMS, plus 10% of total value of agricultural production (20% for developing countries) and the highest average Blue Box payments. WTO, *Revised Draft Modalities for Agriculture,* TN/AG/W/4/Rev. 4, para. 1.

[130] South Centre, *The WTO's July 2008 Mini-Ministerial*, para. 68.

[131] Yoshihisa Godo and Daisuke Takahashi, *Japan: Shadow WTO Agricultural Domestic Support Notifications*, Discussion Paper 00822, IFPRI, November 2008, p. 21.

[132] With the Draft Modalities the ceiling after the implementation period of five years for the U.S. will be of $7 billion USD, because of the reduction in the second tier of 60%; for the EU of €20.14 billion and Japan ¥1,314 billion both with a reduction in the first tier of 70%. David Blandorf and David Orden, *United States. Shadow WTO*

support to the Green Box, which is expected to increase further with the implementation of the new modalities. The shifting may have a negative impact in developing countries because even though Green Box is supposed to be non-trade distortive, distortive support has been provied through it.

In sum, developed countries will be barely affected by the cuts in OTDS and trade-distorting domestic support. Furthermore, they have shifted most of the support they provide through Amber and Blue Boxes to the Green Box which, as has already been mentioned, has no limits. The gatopardist cuts will not change the situation: developing countries will continue to face an unfair competition and displacement of their exports in the world markets, both in the countries that provide the domestic support as well as in third markets. We have already seen that developing countries need to provide domestic support to their farmers in order to boost their agricultural production and help them compete in food markets. Cuts in the Amber Box will not deeply affect developing countries because from the 34 state members that are allowed to provide trade-distorting support, less than half could be considered developing countries. The cut in de minimis will not affect them either, since it is calculated using the average value of production: the de minimis that countries can provide increases as the value of production increases. As a result, it is expected to grow over time, 23% between 2002-2023 for developed countries; and, more, 52%, for developing ones.[133] This policy space will benefit some developing countries which, according to Brink, will provide more support to agriculture as their income increases.[134] The Draft Modalities, as they stand, will not impose future constrains on those developing countries and will provide them with policy space to enhance their food security by providing trade-distorting support such as "direct input subsidies for emerging farmers and long-term welfare transfers to the rural poor and specifically those smallholders unable to achieve household food self-sufficiency".[135] However, the problem is that, currently, few developing countries are able to benefit from this policy space because of their lack of resources and technology. The Draft Modalities modification of the Green Box has important improvements like the extent of the scope of application for developing countries. For example, through "General Services", developing countries can provide support to policies and services related to rural development and rural livelihoods, like infrastructure services, drought management, food control, and nutritional security.[136] In the case of developed countries, the

Agricultural Domestic Support Notifications, IFPRI Discussion Paper 00821, November 2008, Josling and Swinbank, *European Union*, and Godo and Takahashi, *Japan*.

133 Lars Brink, "WTO Constraints on Domestic Support in Agriculture: Past and Future", *Canadian Journal of Agricultural Economics,* 57, 2009, p.14.

134 *Ibid*., pp.17-18.

135 James Hodge and Andrew Charman, "An Analysis of the Potential Impact of the Current WTO Agricultural Negotiations on Government Strategies in the SADC Region" in Khasnobis, Acharya and Davis (Ed.) *Food Security*, p. 260.

136 WTO, *Revised Draft Modalities for Agriculture*, TN/AG/W/4/Rev. 4, p. 39.

criteria for the base period for the eligibility of payments, is tightened. However, there are still important loopholes. In the first place, Green Box may have trade distorting effects, because “giving a sum of money to a farmer, even unconditionally, necessarily influences the amount produced”.[137] Marita Witggerthale has proved that EU investment aids in France, Wales, Flanders, Sweden and Germany are used to increase the production of surplus products.[138] The AB found in the *U. S.-Cotton* case that the support provided by the U.S. to the cotton industry, through “the production flexibility contract payments and direct payments, […] are not green box measures”.[139] It is not clear how the new modalities will prevent the misallocation of domestic support, mostly when the U. S. and EU are increasing their Green Box support and shifting to it from the Amber and Blue Boxes.[140] This is aggravated by the fact that there is no cap on the Green Box. In order to tackle the limitation of the AoA the Cairns Group and the G-20 suggested moving some sort of direct payments to the Amber Box, but this was not reflected in the Draft Modalities.

Secondly, although state Members are obliged to notify their domestic support to the Agricultural Committee, and the latter has, under Article 17 of the AoA, the mandate for reviewing the implementation of the commitments, it has not resulted in an increment of transparency. According to Blandford and Josling, the delay in reporting makes the information a question of historical interest by the time it is discussed.[141] The Draft Modalities propose some modifications, like an annual notification that shall include, “information on support measures; the details of the calculation of support for each measure; the monetary value of such support; and, where appropriate, the value of production by product; the total value of agricultural production; and sources for the information and data included in the notification”. However, it does not “set a time limit to notifications or define new obligations in terms of delays and for lack of full information” as proposed by the G-20.[142] If there is no consequence for not notifying on time, it is probable that countries will notify, as has been the case so far, four or more years late.

[137] Jean-Pierre Butault and Jean-Christophe Bureau, *WTO Constraints and the CAP: Domestic Support in EU 25 Agriculture*, Discussion Paper 171, IIIS, July 2006, p. 16.

[138] Marita Wiggerthale, Trade: Surveys show EU's Green Box subsidies are trade-distorting, Briefing Paper 41, Third World Network, October 2007.

[139] WTO, *Report of the Appellate Body, United States-Subsidies on Upland Cotton*, WT/DS267/AB/R, 3 March 2005, para. 343. For the full discussion see paras. 310-342.

[140] In the U. S. the Green Box now represents 80% of its total support ($71.83 billion USD) and in the EU 54% (€36.6 billion). Blanford, Laborde and Martin, *Implications for the United States*, Table 1, p. 25 and Sébastien, Josling and Laborde, *Implications for the European Union*, Table1, p. 16.

[141] David Blandford and Tim Josling, *Should the Green Box be modified?,* Discussion Paper, PC, 2007, p. 21.

[142] G-20, *Improving Monitoring and Surveillance Mechanism*, 19th October 2005 http://www.g-20.mre.gov.br/conteudo/proposals_monitoring.pdf. (Accessed 21st January 2009).

Another important issue is that even if Green Box is important for developing countries and LDCS so they can provide "assistance in the form of infrastructure, development, research, extension, insurance and market development" in order to "ensure a remunerative price environment that would lead to the adoption of improved technology", it is not clear how some of them can exploit these flexibilities.[143] For example, countries like Burkina Faso, despite the need to help poor farmers and to promote the agricultural industry, "does not have the means to profit from these arrangements in the short term. [... In cases] of disaster situations producers have not benefited from any support other than food aid".[144]

Developed countries do not have an economic justification to keep their subsidies, mostly because their agricultural industries are highly competitive and capable of operating without governmental support. The negative effects of subsidies in the world market prices and in the capacity for developing countries to compete and enhance food security have already been stressed in the previous section. There is a risk that developing countries will not get rid of these effects and that the overall changes introduced by the Draft Modalities will be nothing else but superficial changes. However, this might be ameliorated by two trends, which are not necessarily detached from the Modalities themselves. In the first instance, some real reduction will be made in specific products, such as cotton and sugar for the U.S. and cheese, poultry, sugar and wine for the EC.[145] In the second place, countries have learnt, through the *U.S.-Cotton* case, that 'mis-boxed' support can be successfully challenged. Brazil and Canada have already challenged U.S. subsidies and have requested the establishment of a Panel that determines, as part of the dispute, if some of the payments that the U.S. provides to its corn producers, is misallocated.[146] Also, in the March 2009 meeting of the Agricultural Committee, Australia, Brazil and Japan questioned the U.S. 2006/2007 notification submitted in January, because they continued to classify direct payments as Green Box.[147]

The Draft Modalities establish the complete elimination of export subsidies by 2013 for developed countries and by 2016 for developing countries. We have already seen that developing countries have, since 2000, unilaterally cut their export subsidies and that although this seemed to be a permanent trend, there have been important setbacks. In January 2009, the EC reintroduced export subsidies to dairy products and, although it was classified as a

[143] Chand, "International Trade, Food Security, and the Response to the WTO in South Asian Countries", p. 278.
[144] Abdoulaye Zonon, *Implications for Burkina Faso of the July 2008 Draft Agricultural Modalities*, ICTSD, 2008, p. 2.
[145] Blanford, Laborde and Martin, *Implications for the United States*, p. 8 and Josling and Swinbank, *European Union*, pp. 27-28.
[146] WTO, United *States -Subsidies and Other Domestic Support for Corn and Other Agricultural Products*, http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds357_e.htm (Accessed the 6th April 2009)
[147] ICTSD, "US, EU, Quizzed on Farm Subsidies, Other Trade Measures", *Bridges Weekly Trade News Digest*, vol. 13, no. 10, 18th March 2009.

'temporary' measure, it sends is a negative signal to the Doha Round, mostly because the EC is the largest provider of export subsidies. Since the Draft Modalities are not yet binding, the EC is not violating any rule of the AoA, as long as it does not provide export subsidies above its ceiling.[148] Still, this measure will continue to damage milk producers in other parts of the world as those in India and Jamaica that have been already displaced by cheap European milk powder.[149] Following this decision, the U.S. also reintroduced, in May, its export subsidies to dairy products.[150]

According to study by Hoekman and Messerlin, poorer countries tend to be disproportionally hurt by export subsidies, "because more than half of the exports from Benin, Burkina Faso, Burundi, Chad, Ivory Cost, Malawi, Mali, Rwanda, Tanzania and Uganda are affected by exports subsidies in some WTO country Member".[151] Unexpectedly, most of this damage comes not from the Quad Members, but from other developing countries (middle-income countries) like Mexico, China and Brazil. Still, the Cairns Group, which is mainly composed by exporter countries, will benefit the most from the elimination of export subsidies, with the exception of Indonesia, Malaysia and Philippines.[152] If the elimination of EU subsidies is achieved, it will particularly benefit Australia, New Zealand, Brazil, Argentina and China in products like sugar, dairy products, cereals, rice and meats.[153]

Globally, one of the mayor benefits obtained from eliminating export subsidies is that "price fluctuations would be reduced, as more adjustment would occur in the subsidizing countries and less would be pushed on to the residual world market".[154] The reduction of price volatility will equally benefit NFIDCs, LDCs and net-food exporting developing countries, as well as their producers and consumers. Producers would be able to anticipate their revenue more accurately and, therefore, better plan their investments. Consumers can also plan their expenses more adequately as they are less exposed to unexpected price shifts that render food out of their reach, and can push them down the poverty line.

148 ICTDS, "EU Dairy Export Subsidies Draw Fire from Cairns Group", *Bridges Weekly Trade News Digest*, vol. 13, no. 3, 28th January 2009.

149 Faoutoma Jawara and Kwa Aileen, *Behind the Scenes of the WTO: the Real World of International Trade Negotiations*, 2003, Zed books p. 29, quoted by Tim Anderson "Globalization and Agricultural Trade: the Market Access and Food Security Dilemmas of Developing Countries" in B. N. Ghosh and Halili M. Guven, *Globlaization and the Third World: A Study of Negative Consequences*, Palgarave MacMillan, 2007, p. 258.

150 ICTDS, "US Export Subsidies Condemned by Developing Countries' Exporters" *Bridges Weekly Trade News Digest*, vol. 13, no. 20. 3rd June 2009.

151 Hoekman and Messerlin, "Removing the exception of Agricultural Export Subsidies" in Anderson and Martin (ed.), *Agricultural Trade Reform*, p. 202.

152 *Ibid.*

153 Piero Conforti and Beatriz Velázquez, "The Effects of Alternative Proposals for Agricultural Export Subsidies in the Current WTO Round", *The Estey Centre Journal of International Law and Trade Policy*, vol. 5, no. 1, 2004, p. 20.

154 Ralf Peters, *Roadblock to Reform: The Persistence of Agricultural Export Subsidies,* Policy Issues in International Trade and Commodities, Study Series No.32, UNCTAD/ITCD/TAB/33, 2006, p. 3.

However not everyone will benefit from the elimination of export subsidies, the most damaged will be the producers that benefitted from this support previously and that will have to face the world market without price support. Consumers in the non-subsidizing countries will not feel the benefits immediately because without the recent high volatility, they have benefitted from access to cheaper food. In the short run, they will be negatively impacted as well. According to Peters, the elimination of export subsidies will increase world prices by around 2.6%, the exports in the subsidizing countries will decrease and consumers in developing countries will suffer a loss of about $16 billion USD. In the short run, LDCs and some developing countries will have losses, but which can be overturned, in the long run, with the increment in their supply capacity.[155] Since Peters' study does not consider the high agricultural prices that we are witnessing, it is possible that the extra 2.6% will have an even more negative impact.

Although there will be negative impacts if export subsidies are completely eliminated, consumers in the subsidizing countries will benefit as well as producers in non-subsidizing countries because they will be able to compete under fairer and more equal circumstances owing to the fact that the majority of subsidized products are those in which developing countries have comparative advantage.[156] Developing countries will enjoy benefits of around $15 billion USD. Even in countries that are net-food importers, the elimination of export subsidies may be an incentive to substitute imports with domestic production and invest in the agricultural sector.

3.2.4. Conclusions

The Draft Modalities represent a unique opportunity to fulfill the loopholes of the AoA and establish agricultural trade rules that help developing countries enhance food security. The Draft Modalities are more accurate and take more into consideration the concerns of developing countries than the AoA. Still, there are some modifications that will not make any real change and rules wich details will only hinder the expected benefits. There is an agreement among scholars that there will be no real benefit unless the three pillars are reformed simultaneously.

A benefit is expected if the complete elimination of export subsidies is achieved, though this seems more complicated now because dairy exports subsidies have been reintroduction by the EC and the U. S.. The elimination of export subsidies will allow developing countries to compete under fairer conditions and to develop an agricultural industry that will help them achieve self-sufficiency and self-reliance. However, domestic support cuts are clearly only written measures, in practice, developed countries will not suffer any real cuts as they will compensate for any reduction by shifting to the Green

155 *Ibid.*, p. 24

156 These products include sugar, dairy, beef, fruits and vegetables, rise, wheat and coarse grains.

Box; the effect will be an actual increment in the provided support that will, however, not ameliorate the situation or help developing countries enhance food security. Finally, deep tariff cuts have been established and they will improve the access that developing countries have to developed countries markets and make their products more competitive because of the fall in prices. Nonetheless, the Modalities also establish SsP that will completely circumvent the benefits of tariff cuts. It seems that there will be no real benefit because of the gatopardist character of some of these modifications.

Policy space has been granted to developing countries in the shape of SP and SSM as part of their SDT. SP truly address food security concerns and, depending on how they allocate them, it will be an important tool for protecting farmers and stimulating rural development. However, SSM will not always be an effective tool to protect competitive industries from import surges because remedies cannot go beyond Doha bound tariffs which are low.

The Draft Modalities have not improved some of the shortcomings of the AoA mentioned in the last section. First of all, even if more policy space is granted to developing countries like the extent of application of Green Box and the de minimis support that would increase in tandem with production, the same limitations apply. Developing countries lack the budgetary, human and technological resources to implement them.

Secondly, countries continue to be classified in a way in which their food situation is not reflected. This has consequences for the efficiency of the Draft Modalities itself, because, as we have already seen, the concerns of countries vary according not only to their level of development, but also to their food security situation. In order to be truly efficient, rules in the AoA should reflect these differences and contain different stipulations for the different groups of countries.

It is very important that the AoA as modified by the Draft Modalities address food security because it is essential for the political and economical survival of any State and of the human being. We have already seen that riots in Haiti led to the resignation of the Prime Minister, and that a food crisis situation could lead to civil wars. A country with a severe food crisis, unable to nourish its population, will be incapable of eluding the poverty and education trap, leading to economic and growth stagnation.

Although the Draft Modalities are an improvement on the AoA, they continue to have important flaws. It seems that the situation for developing countries will continue to be as it has been so far; because even if export subsidies are eliminated, they will continue to face market barriers for agricultural products in which they have a comparative advantage and unfair competition.

Conclusions

This thesis has shown several aspects of the current world food crisis which is characterized by high prices —never before seen— and high price volatility. The case of Haiti has shown the perverse effects that cheap imports can have over the national agricultural industry of a country and how high world prices and volatility can push people down the poverty line, in this case, forcing them to eat mud-cakes. Although Haiti represents the extreme situation, all countries have been touched in one way or another. However, developing countries are more vulnerable to the food crisis, especially those who are more dependent on food imports, the so called NFIDCs.

Chapter I described the causes behind this crisis and concluded that since the most important causes, biofuel production and climate change will always be a constant preoccupation; countries need to learn how to implement policies that guarantee affordable and accessible food to their population in the long run. So far, reactions have been centered on short term policies such as price controls, tariff reductions and export restrictions, described in Chapter I. Although these measures, if implemented correctly, are consistent with the AoA, they have not contributed to the solution of the world food crisis.

Trade and trade policies have a vast impact on food security; even so, the AoA does not directly address food security. This can be explained by two reasons. In the first place, the AoA was not designed to do that, but to liberalize trade in agricultural products. Secondly, it was created to address cheap prices and an over production situation which prevailed in the 1990s. These two characteristics of the AoA have created a perverse effect. On the one hand, although the AoA makes little mention of food security, the rules it establish do have a huge impact on countries' capacity to enhance food security. On the other hand, the rules are designed in such a way that they favor the interests of developed countries while damaging those of developing countries. For example, export subsidies can only be implemented by those countries that have specified them in their Schedule Commitments; that is, the ones that were providing them before the UR, which, in their majority, were developed countries. This means that even if developing countries could raise the necessary resources to provide export subsidies, they are not allowed to do it under the AoA.

During the negotiations of the Doha Round and the Agricultural Draft Modalities developing countries have had a more proactive participation than they had during the UR. The Draft Modalities have filled some loopholes of the AoA and protect the interests of developing countries better. Chapter II describes the reforms and evaluates their possible impact over food security. In order to have a positive impact on food security it is necessary that the three pillars —market access, domestic support and export subsidies— are reformed simultaneously. However, the analysis concludes that the only pillar that would be really reformed, and only if the export policies reintroduced by the EC and the U.S. can be reversed, is export subsidies. Domestic support and market access will only suffer superficial changes since developed countries will be able to provide the same domestic support they have provided so far, and even more; OTDS and AMS reductions will not affect their provided domestic support except for the EC that has already imposed policies to address this situation. Furthermore, they will increase the support provided through Green Box which may have trade and production distortive effects. All the benefits granted by tariff reductions will be completely circumvented by SsP. Developing countries need access to developed countries markets so that agricultural production for their farmers and the investment of the government and private companies in the sector is a profitable business. Without any improvement in market access and only the elimination of subsidies, NFIDCs will face even higher prices because they will have to import more expensive food which could jeopardize their food security. In sum, developing countries will continue to face unfair competition and limited access to developed countries markets and third markets that buy cheap imports from developed countries.

Chapter II also shows that another important limitation of the Draft Modalities is that, although they provide policy space for both developing and LDCs, some of which is exclusive for them, it is designed in such a way in which they cannot take advantage of it. In this regard, the main issue for these countries is not necessarily the lack of policy space for the implementation of efficient and equitable policies, but the need for financial, human and technological resources, at the national and international levels, to be able to implement them.

In order to address food security in a more efficient way, some changes should be done to the Draft Modalities. Some of the needed changes seem impossible to achieve, as it is hard to imagine that developed countries will renounce SsP or implement real cuts in their provided domestic support. Even if economically they have no sense, the governments of these countries are not willing to assume the political consequences of imposing measures that will damage the interests of powerful groups. This document proposes some changes with which agreement by all Members seems achievable.

1. A new country classification. It is clear that the country classification established by the AoA: developed countries, developing countries, LDCs and NFIDCs, and adopted by the Draft Modalities with the inclusion of Small, Vulnerable Economies, does not adequately address the food security concerns of Members. The proposed classification considers not only the level of development of each country but also its

food security situation. The new classification would include NFIDCs and three new groups: NFEDCs (Net-Food Exporting Developing Countries), NFIDdCs (Net-Food Importing Developed Countries), and NFEDdCs (Net-Food Exporting Developed Countries).

2. Following this new country classification, policies that address the concerns of each group would be developed at the same time that the wellbeing of the agricultural trading system is considered; *i.e.* some countries may have to invest more or make some sacrifices to help guarantee food security for the most vulnerable and to ensure stability for the trading system.
3. Once policy spaces and flexibilities are addressed to face the concerns of each group of countries, it is essential that they are able to actually implement them (especially developing countries, both NFIDCs and NFEDCs). This could be guaranteed if, together with WTO's negotiation, financing international organizations and developed countries recognize that countries need international funding to invest in their agricultural industry, alleviate poverty and enhance food security and not only food-aid.

TABLE 1. PROPOSAL FOR A NEW COUNTRY CLASSIFICATION IN THE AOA

CLASSIFICATION	COUNTRIES WITHIN THIS GROUP	MAIN CONCERNS	NEEDED POLICIES
NFIDCS	MOST AFRICAN COUNTRIES, SOUTH ASIAN COUNTRIES AND THE CARIBBEAN ISLANDS WOULD BE IN THIS GROUP. HAITI IS THE BEST EXAMPLE[157]	THEY HAVE BOTH, ACCESSIBILITY AND AFFORDABILITY PROBLEMS. THE ALLEVIATION OF POVERTY AND HUNGER AMONG THEIR POPULATION, LARGELY EMPLOYED IN THE AGRICULTURAL SECTOR.	THOSE THAT HELP THEM TO BE LESS DEPENDENT ON FOOD IMPORTS, ABLE TO ALLEVIATE POVERTY AND HUNGER, AND THEREFORE, BE LESS VULNERABLE TO PRICE HIKES AND VOLATILITY. THEY NEED TO DEVELOP A DOMESTIC FOOD INDUSTRY TO PRODUCE MAINLY STAPLE FOOD, FOR WHICH THEY NEED FINANCIAL RESOURCES. ALSO TO BE ABLE TO FACE IMPORT SURGES AND PROVIDE SUPPORT TO THEIR LARGELY SELF-SUBSISTENCE FARMERS
NFEDCS	COUNTRIES LIKE INDIA, BRAZIL	THEY ALSO HAVE POVERTY AND HUNGER ALLEVIATION	THEY NEED LOW TARIFFS IN DEVELOPED COUNTRIES IN

157 So far the WTO consider separately NFIDCs and LDCs, by eliminating the last category most of them will become NFIDCs giving as result a list composed by those countries.

CLASSIFICATION	COUNTRIES WITHIN THIS GROUP	MAIN CONCERNS	NEEDED POLICIES
	AND ARGENTINA	PROBLEMS SO THEY ALSO NEED TO SUPPORT THEIR SELF-SUBSISTENCE FARMERS HOWEVER, THEY ARE NOT DEPENDENT ON FOOD IMPORTS TO GUARANTEE THEIR FOOD SUPPLY, THEY ARE LESS VULNERABLE TO PRICE HIKES AND VOLATILITY.	ORDER TO ACCESS THEIR MARKETS SO AGRICULTURAL PRODUCTION AND INVESTMENT FOR THE GOVERNMENT AND PRIVATE COMPANIES IS A PROFITABLE BUSINESS. THEY WILL ALSO PROFIT FROM FAIRER EXPORT COMPETITION.
NFIDDCS	JAPAN AND SOUTH KOREA	THEY HAVE MORE ACCESSIBILITY THAN AFFORDABILITY PROBLEMS.	ALTHOUGH LIKE NFIDCS, THEY ARE DEPENDENT ON IMPORTS, THE MAJORITY OF ITS POPULATION IS NOT EMPLOYED IN THE AGRICULTURAL SECTOR AND, THEREFORE, IT IS LESS IMPORTANT TO SUPPORT THEIR DOMESTIC INDUSTRY. THEY NEED POLICIES THAT DO NOT CONSTRAIN FOODSTUFF EXPORTS AND THAT ALLOWS THEM TO BUY THEIR FOOD SUPPLY FREELY.
NFEDDCS	U.S., SWITZERLAND AND EC MEMBERS	HIGH INTERNAL PRICES VERSUS LOW WORLD PRICES. HOWEVER, THE CURRENT WORLD FOOD CRISIS HAS NARROWED THIS GAP. ALSO, THE NUMBER OF FARMERS HAS DIMINISHED OVER TIME.	THESE COUNTRIES HAVE FULLY BENEFITED FROM THE PROVISIONS OF THE AOA AND PROVIDE HUGE SUPPORT TO THEIR AGRICULTURAL INDUSTRIES WHICH ARE HIGHLY COMPETITIVE. HOWEVER, THEY NEED POLICIES THAT WILL HELP THEM KEEP THE SMALL PERCENTAGE OF THEIR POPULATION THAT WORKS IN AGRICULTURE IN THAT SECTOR.

These suggested provisions can improve the way in which food security is addressed in the WTO. WTO's rules and provisions can help eliminate unfair competition and facilitate market access that damages mostly developing countries, both NFIDCs and NFEDCs, and their poorest population. Even so, WTO rules cannot be held solely responsible for the food crisis and they cannot be held as the only solution. It is necessary for governments to commit to invest in the infrastructure of their agricultural industries, carry out reforms that promote production, such as access to credits; and enhance the livelihood of the rural communities. Food security would be attained by a balance between imports –self reliance– in which countries have enough exports to pay for their food bills and domestic food production –self sufficiency– in which countries develop their own agricultural industries to produce a high percentage of their staple food requirements in order to guarantee access to food for their population, both, those who work in the agricultural sector and those who might be more affected by high prices and volatility.

ABBREVIATIONS AND ACRONYMS

AB	Appellate Body
AMS	Aggregate Measurement of Support
AoA	Agreement of Agriculture
CAP	Common Agricultural Policy
DFQF	Duty Free and Quota Free
DSB	Dispute Settlement Body
EU	European Union
FAO	Food and Agriculture Organization
GATT	General Agreement on Trade and Tariffs
GDP	Gross Domestic Product
GSP	General System of Preferences
IMF	International Monetary Fund
LDCs	Least Developed Countries
MFN	Most Favored Nation
MT	Million Tons
NFIDCs	Net-Food-Importing Developing Countries
OECD	Organization for Economic Cooperation and Development
OTDS	Overall Trade-Distorting Domestic Support
SCM	Agreement on Subsidies and Countervailing Measures
SDT	Special and Differential Treatment
SP	Special Products
SSG	Special Agriculture Safeguard
SSM	Special Safeguard Mechanism
SsP	Sensitive Products
TRQ	Tariff Rate Quota
UN	United Nations
UR	Uruguay Round
US	United States of America
USDA	United States Department of Agriculture
WTO	World Trade Organization

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