

HUNGER IN A GLOBALIZING WORLD:  
INTERNATIONAL ORGANIZATIONS AND CONTESTATION IN THE GLOBAL  
GOVERNANCE OF FOOD SECURITY

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## ABSTRACT

Rising levels of food insecurity is currently one of the most pressing issues in global politics. While the United Nations (UN) system has traditionally been responsible for addressing world hunger, the World Trade Organization (WTO) has emerged as a major site of global food security governance. As a result, the UN system and WTO now share authority over the global governance of food security. There are major tensions between these two regimes, with WTO trade rules making agriculture and food increasingly subject to market forces, while, in sharp contrast, the UN advances a human rights approach to food and a greater role for states and deeper constraints on the market. The WTO's expanding authority over food security has prompted a counter-movement by the UN system, with UN institutions actively seeking to shape WTO trade rules in an attempt to limit the negative impacts of trade liberalization on world food security. This study develops a theory of international organizations as semi-autonomous actors that influence outcomes at competing institutional sites of global governance. This theoretical model, and its supporting empirical investigation, provide a novel contribution to the International Relations and International Political Economy literatures on the role of state and non-state actors in contesting global governance. In particular, this study demonstrates that international organizations: act behind the scenes and in hidden ways in inter-state negotiations; perceive and adapt to new hierarchical configurations of power at the global level; and, engage in transnational political action that is motivated by moral and ethical concerns.

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## ABBREVIATIONS

AoA	Agreement on Agriculture
CFS	Committee on World Food Security
CHR	Commission on Human Rights
CSSD	Consultative Sub-Committee on Surplus Disposal
FAC	Food Aid Convention
FAO	Food and Agriculture Organization of the United Nations
GATT	General Agreement on Tariffs and Trade
HRC	Human Rights Council
ICESCR	International Covenant on Economic, Social, and Cultural Rights
IMF	International Monetary Fund
IO	International Organization
IPE	International Political Economy
IR	International Relations
LDC	Least Developed Country
MDGs	Millennium Development Goals
NFIDC	Net-Food Importing Developing Country
NGO	Non-Governmental Organization
OHCHR	Office of the High Commissioner on Human Rights
SRRTF	Special Rapporteur on the Right to Food
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
WB	World Bank
WFC	World Food Conference
WFP	World Food Programme of the United Nations
WFS	World Food Summit
WTO	World Trade Organization

## INTRODUCTION: HUNGER IN A GLOBALIZING WORLD

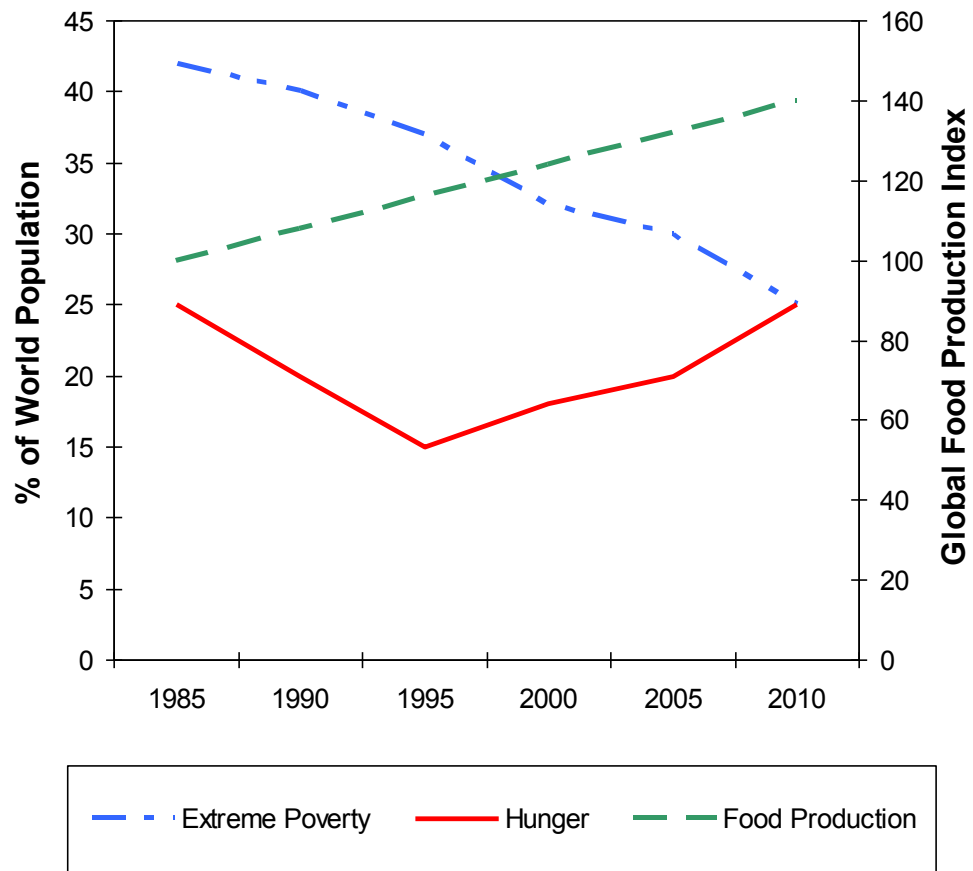
In 2009, the Food and Agriculture Organization (FAO) of the United Nations reported the number of hungry persons worldwide had reached over one billion. This figure represents the highest recorded level of world food insecurity. The international community appeared surprised by this development. It interpreted this record level of hunger as a direct consequence of the 2008 global food crisis with soaring food prices being the principal driver of the upward trend in world food insecurity.

The longer-term data show that world food insecurity had been increasing prior to the 2008 global food crisis. After achieving massive reductions in world hunger throughout the 1970s and 1980s, levels of food insecurity have been creeping upwards steadily since the mid-1990s. Whereas world hunger reached its nadir in 1995 at approximately 820 million persons, by 2007 the figure had jumped to 900 million persons (FAO 2009a, 1). The conventional explanation holds that food insecurity is caused by the lack of food. Surprisingly therefore, the increasing levels of world hunger appear all the more confounding because they have occurred during a period of significant and prolonged expansion of global food production. It has long-been self-evident that world agriculture production far exceeds that required to provide every person on the planet with an adequate intake of calories and nutrients. Rather, access to food is largely structured by geographical and market forces that shape the distribution of food on a global-scale.

Nor do other variables such as poverty provide adequate explanations for rising levels of food insecurity. Figure 1 below attests to these trends. Success in poverty

reduction, for example, has far outstripped that of hunger eradication (FAO 2006, 6). Even the long held assumption that economic growth always translates into improvements in food security has been severely challenged. India provides a case in point: it has experienced over a decade of robust economic growth and development, but food insecurity increased over the same period (FAO 2008, 15).

FIGURE 1. POVERTY, HUNGER, AND FOOD PRODUCTION, 1985-2010



Source: FAO, World Bank



Scholars and practitioners alike have slowly come to acknowledge that the problem of food security is far more complex and multidimensional than a question of simply producing more food. Although a production-focused approach to food security remains the dominant paradigm in global policy-making circles, there is a marked and growing acknowledgement that food security is deeply linked to developments in the global political economy. The 2008 global food crisis was particularly instructive in this regard. It marked the first time a food crisis was not the direct outcome of a shortfall in food production or supply in response to natural or human-made disasters (Margulis 2009). Instead, the soaring food prices that heralded the crisis were driven by a combination of political economy factors: the diversion of foodstocks into biofuel production, unilateral export bans by major food exporters, speculative investment in agricultural-based derivatives, and the depreciation of the US dollar (Cohen and Clapp 2009; McMichael 2009; Conceição and Mendoza 2009; Alexandratos 2008; Headey and Fan 2008). As states and international organizations moved to contain the crisis, they too acknowledged the role of global political economy considerations in their deliberations (G8 2008; High Level Task Force on the Global Food Security High Level Task Force on the Global Food Security Crisis 2008; FAO 2009a). Global talks thus far have failed to reach consensus on how to address the issue of biofuels or speculative investment in agriculture. Nevertheless, this new global attention to and discourse about food security suggests a profound change in the framing of food security away from being seen primarily as a national food production dilemma centered in developing countries to one of global scale encompassing the governance of the global food economy.

An approach that conceives of food security as an outcome influenced by global political and economic forces echoes contemporary scholarly research on the globalization of agriculture and food. The literature on agriculture and economic globalization identifies several major changes in the economic and political organization of the world food system in recent decades. The 1980s and 1990s saw states embark on significant privatization, liberalization, and deregulation of the agricultural sector. This era was marked by declining state provision of subsidies, agricultural credit, and extension services; the privatization of state-owned agricultural enterprises; and a shift towards private self-regulation in an effort to ‘rationalize’ agricultural production through market disciplines (Phillips 2006; Goodman and Watts 1997).

Multilateral agreements such as the World Trade Organization’s (WTO) Agreement on Agriculture (AoA) and regional agreements such as the North American Free Trade Agreement (NAFTA) were instrumental in deepening trade liberalization and rescaling the governance of agriculture and food policy to supranational organizations and the private sector (Coleman, Grant, and Josling 2004; Michelmann 2001). Liberalization of international trade and finance were crucial enabling factors for mergers of transnational agri-food corporations and increased consolidation within the sector. Through business practices such as vertically and horizontally integrated commodity chains, agri-business firms now have extensive supraterritorial operations and have emerged as powerful and influential actors in the global economy (Clapp and Fuchs 2009; 2006; Bonanno et al. 1994). According to Phillip McMichael (1993; 2009), the globalization of agriculture has sharply realigned the relationship between the state and

national agricultural sectors. The post-war compromise of “embedded liberalism” (Ruggie 1982), in which the state protected domestic industry from the vagaries of international markets, has been progressively dismantled. The state’s role has been redefined as one of aiding the restructuring of the agricultural sector in order to ensure its compatibility with the demands of the international market and transnational agri-food corporations (Friedmann 1982b; Friedmann and McMichael 1989).

This latter development is particular salient to food security, because many developing countries – encouraged by international institutions such as the International Monetary Fund (IMF), World Bank, and WTO – abandoned efforts to achieve national food self-sufficiency. Instead, they adopted free trade policies that favoured the specialization of production and reliance on international food imports to meet domestic demand. This decision by most developing countries to shift towards in favour of freer trade in food produced major changes in the global food economy, most notably transforming many African states from net-food exporters to net-food importers (FAO 2003a).

### **The Global Governance of Agriculture and Food Security**

One issue of particular relevance to International Relations (IR) and International Political Economy (IPE) scholarship is the shift in the governance of agriculture and food from the state to the transnational level, in particular to supranational institutions such as the WTO and to non-state actors. The delegation and rescaling of authority are now well entrenched in studies of global governance (Sassen 2006; Held and McGrew 2007; Held

1999; Scholte 2000; Cox 1996; Cutler, Haufler, and Porter 1999; Grande and Pauly 2005; Hall and Biersteker 2002; Higgott, Underhill, and Bieler 2000). Existing scholarship has documented how the emergence of a global corporate food regime has been successful in privatizing control over food production and distribution, ownership of genetic and productive resources, and regulatory functions in food safety and standard-setting (McMichael 1994; Clapp and Fuchs 2009; Van Der Ploeg 2010; Dreyer and Renn 2009; Pechlaner and Otero 2008; Tansey and Rajotte 2008). Whereas our knowledge of the evolving contours of the global food economy is particularly well advanced, our understanding of how these structural changes have affected the governance of the global food economy is comparatively underdeveloped.

Agriculture and food play a significant role in the global political economy: three billion people depend on farming for their livelihood; global food trade is the world's fourth largest export industry valued at over \$1.1 trillion (WTO 2009b); agriculture and food accounts for a significant and growing share of greenhouse gas emissions (Smith et al. 2007); farm programs account for over 40 % of the European Union's total budget (European Commission 2010); and the WTO Doha Round remains deadlocked because of North-South disagreement over agriculture policy. Somewhat surprisingly, however, food and agriculture have received considerably short shrift in the study of global politics. A cursory glance at the number of articles devoted to agriculture and food issues in the major political science journals yields a poor harvest.

The 2008 global food crisis was an important event that has propelled agriculture and food security prominently into policy debates about the global economy. The crisis

and its unresolved problems continue to figure prominently in the work of the UN agencies, the Group of Eight (G8), and the Group of Twenty (G20); and, it has revitalized the World Bank as a global player in food security governance (Coleman and Margulis 2010). In 2009 the G8/G20 announced the creation of a \$21 billion multi-donor agriculture fund signalling the renewed priority of agriculture and food. Moreover, the food crisis and its response have commanded extensive international media attention and transnational advocacy efforts. Despite these developments, the food crisis did not prompt a significant level of debate in mainstream IR and IPE scholarship (unlike that witnessed in the International Development, Economics and Sociological literature). By comparison, the recent global financial crisis, an event that transpired concurrently with the food crisis, resulted in the production of a vast literature and vigorous debate within the IR and IPE scholarly community. I suggest that these asymmetries reflect the current hierarchy of issues in IR and IPE (Murphy and Tooze 1991) where scholarship on security and finance continue to flood the field. In addition, the asymmetry of scholarship reproduces a Northern academic bias in IR and IPE: topics of importance to the world minority North received much less scholarly attention than many issues critical to the global South. This situation beckons for greater scholarly engagement on the global political economy of agriculture and food security.

I contend that agriculture and food are critical to understanding the contemporary global political economy. The relevance of agriculture to world politics has become increasingly important in the context of multilateral trade negotiations and North-South and South-South relations. In fact, agriculture has become a focal point for wider political

contests over global governance and development more generally. These political contests are significant because they have a major role in transforming the way in which agriculture is framed as a political and policy issue. Ultimately, they designate which actors and sites exercise authority over food and agriculture policy-making. Only quite recently have scholars begun to grapple directly with this issue; contemporary work has focused on the ability of corporate actors to influence the outcomes in specific global governance institutions (See Clapp and Fuchs 2009; Tansey and Rajotte 2008).

This study seeks to improve our knowledge of the global governance of agriculture and food. It does so by focusing on food security. Food insecurity is not simply a ‘natural’ or ‘scientific’ phenomenon: it is primarily caused by human-made actions. As such, it is a direct by-product of historically specific forms of social, economic, and political organization. Achieving world food security has long been a major objective of international cooperation and a focus of international and regional institution building. In the present era, there has been a renewed centrality of food security to global governance, especially in the context of agricultural trade liberalization, developments in biotechnology, climate change and most recently the global food crisis.

The objectives of this thesis are twofold. First, I seek to bring mainstream IR and IPE into greater dialogue with agriculture and food security. To date, the fields of Economics and plant and animal sciences have dominated scholarship on food security. With the exception of three earlier studies by Thomas Weiss and Robert Jordan (1976), Raymond Hopkins and Donald Puchala (1978), and Peter Uvin (1994), IR and IPE scholars have for the most part steered shy of the global politics of, and governance

institutions for, food security. To some extent, this situation reflects the dominant discourse and widely held view that food security is largely a technical and scientific problem and not a political one. In addition, agriculture has also been treated as “low” politics in many IR circles. However, critical IR and IPE scholarship has long challenged similar paradigms in the fields of money, trade, and climate change. This study takes inspiration from such work in its approach to analyzing food security from the perspective of politics and governance. Second, I suggest that IR and IPE has much to learn from the global governance of food security because it represents a significant but unexplored empirical field of global politics where distributive conflicts have profound impacts for human well-being on a planetary scale. Enhancing our knowledge about the governance of food security will broaden the fields of IR and IPE and enrich both theoretical and empirical debates.

### **Multiple Sites of Global Governance**

In the era of globalization, the global governance of agriculture and food security has undergone a major transformation. The creation of the WTO in 1994 and, in particular, the AoA and Sanitary and Phyto-Sanitary Measures (SPS), established the multilateral trading system as the major site of global governance of agriculture and food security. Prior to this development, the international governance of agriculture and food security was mostly under the UN system. The rise of the WTO and its newfound role as a site of food security policy-making resulted in a new form of linkages between agriculture, trade, and food security. These linkages have fundamentally reconfigured

global food security policy-making. At the same time, the WTO's new role raised major concerns, especially from the UN agencies, about whether the WTO, with its binding rules and dispute settlement system, was an appropriate forum for food security policy-making. It also led to questions concerning whether the WTO's trade liberalization paradigm was consistent with existing multilateral efforts to eradicate world hunger such as the Millennium Development Goals (MDGs). Whereas the WTO is making agriculture and food increasingly subject to global market forces, the UN agencies are promoting food as a fundamental human right and seeking to establish a greater role for state intervention in order to ensure food security.

I demonstrate how the creation of the WTO prompted a strategic but uncoordinated counter-movement by the UN system, in particular the FAO, the World Food Programme (WFP), and the UN human rights system. These organizations seek to adapt to, and challenge, the WTO's legal, normative, and political functions in the field of food security.

This study is informed by, and seeks to build upon, two major bodies of IR and IPE research: the autonomy of international organizations (IOs) and increasing institutional density in global governance. Following a long debate between realists and neo-liberal institutionalists in the 1980s and 1990s, there is a now broad consensus in the literature that international institutions matter in global politics (Martin and Simmons 1998). Neo-liberal institutionalists identify the delegation of authority from states to IOs as providing institutions with agency in global rule-making (Hawkins et al. 2006; Goldstein et al. 2001). In contrast, constructivists have emphasized that the rational-legal



authority of IOs provides them with power independent of states (Barnett and Finnemore 2004). Scholars have also identified rising institutional density and the increasing sharing of authority among multiple institutions as characteristic of this field (Raustalia and Victor 2004; Young 2002, 1999; Biermann et al. 2009; Rosendal 2001).

I show how institutional overlap in agriculture and food security has produced what I term a *global food security assemblage*. Unlike the established concepts of international regimes (Krasner 1982), overlapping regimes (Young 1999) and regime complexes (Raustalia and Victor 2004; Alter and Meunier 2009), the notion of an assemblage is distinct in several respects. First, not all actors share norms, principles, and rules; rather, these are deeply contested. Second, in contrast to regime complexity theory that assumes hierarchy does not exist among overlapping institutions in the absence of nested arrangements, I argue that *de facto* hierarchical relationships exist and that these matter greatly for global politics. Hierarchy can result from asymmetrical power relations among multiple actors that does not necessarily correspond with formal and legal conceptions of hierarchy. For example, the WTO is higher in the hierarchy of governance than the UN system, with the latter struggling against this development. Third, an assemblage as a heuristic device captures well that governance does not coincide with clearly delineated institutional boundaries between two or more institutions. Indeed, such boundaries are not fixed but are fluid and continuously contested by actors. Within assemblages, we can observe both formal and informal repeated patterns of interaction among different sub-components of IOs (e.g., member states, secretariats, and executive

leadership) that produces multiple and concurrent occurrences of cooperation and conflict.

I argue that the existing IR and IPE literature does not adequately capture the full complexity of institutional interactions that occur when IOs find their spheres of authority overlapping with those of others. As such, the existing literature underestimates the agentic role of IOs in global governance. I develop a new way of understanding the interaction of IOs within assemblages. I postulate that international institutions perform as autonomous actors in global politics and that they exercise agency in determining policy outcomes at competing sites of governance. This conceptual approach differs considerably from existing work on the autonomy of IOs that theorizes their agency solely vis-à-vis their constituent states. This study shows the operation of agency of IOs vis-à-vis *other IOs when IOs interact with each one another*. Greater analytical focus on IOs' autonomy and agency provides important insights into the dynamics of transnational and institutional interaction. This study emphasizes the importance of analyzing the multiple levels at which institutional interaction occurs (i.e., disaggregating IOs), the impact of hierarchy in shaping institutional interaction, and the role of macro-historical events and transformations (material and ideational) of the global political economy in driving patterns of institutional interaction over time.

In summary, this study develops an analytical toolbox to help advance the study of transnational political conflict within global governance systems. My use of historical analysis (covering a period of over 55 years) of institutional interaction demonstrates that this process is dynamic and evolving over time. A historically grounded study of

institutional interaction helps to explain how hierarchy develops (and changes) and why overlapping institutions choose to cooperate, compete, or conflict at different points in time. Moreover, exploring the emergence of, and changes to, hierarchical relationships is critical to understanding how an IO exerts different types of power in global governance.

### **Chapter Overview**

Chapter 1 more fully explores the literature on interactions between multiple sites of global governance. I reflect on some of the conceptual limitations of the existing literature in IR and IPE as well as International Law that also engages with the issue of overlapping authority. I demonstrate that these literatures cannot provide a satisfactory analysis of how IOs act in an autonomous manner to affect outcomes at competing sites of global governance. I then shift to a description of my theoretical approach to inter-institutional interaction. I outline an approach that more fully accounts for the role of international institutions as autonomous actors in shaping, and responding to, the increasing overlap of governance authority resulting from institutional density at the global level. My approach includes the systemic analysis of interaction between formal and informal institutions across space and time. Here I draw upon a differentiated concept of authority that emerges from unpacking institutional interaction across different levels of internal scale, and I argue that the social construction of real and perceived hierarchy between sites of governance shapes conflict and/or cooperation. The approach I develop to analyzing institutional interaction enables me to identify the contours of what I term the *global food security assemblage*. I map the principal international institutions, states,

and non-state actors, norms and paradigmatic frameworks, and key political conflicts and macro-historical events that have shaped, and continue to transform, the global governance of food security.

The emergence of the contemporary global food security assemblage is taken up in Chapter 2. Specific consideration is given to how agriculture and food security have been slowly integrated with the multilateral trading system. I show that whereas states initially chose to exclude agriculture and food security from coverage under the General Agreement on Tariffs and Trade (GATT) in order to preserve national sovereignty over food policy, this consensus broke down in the 1980s. The rise of neo-liberal economic ideas was particularly influential in reframing agricultural support policies from a national virtue to an international vice. This reframing, in turn, provided the impetus for inter-state negotiations to bring agriculture and food under greater market discipline.

This chapter also offers an alternative historical account of the Uruguay Round of multilateral trade negotiations and the establishment of the WTO and AoA. I emphasize the centrality of food security to developing countries' bargaining position and approach to the negotiations. The dominant narrative in the literature is that the AoA was the outcome of a grand bargain between the United States (US) and European Communities (EC). I show that developing countries' acquiescence to the agreement resulted from a commitment on the part of developed countries to compensate them for any negative effects of trade liberalization on food security. Food security has also been a critical issue in the ongoing WTO Doha Round negotiations on agriculture. Unlike the Uruguay Round, I argue that the Doha Round is marked by the integration of food security across

the agriculture negotiations rather than funnelled into a side bargain. For example, WTO members have been negotiating specific trade rules to address food security within the framework of a new agricultural agreement. The repeat of a scenario where developing countries accept a “side-payment” appears an unlikely outcome, despite the fact that North-South friction over how food security should be addressed by the international trade system is a key factor behind the protracted state of the Doha Round negotiations.

Chapters 3, 4, and 5 comprise the main empirical chapters and examine institutional interaction within the global food security assemblage. Chapter 3 speaks to how the FAO has responded to the WTO’s new role as the key governance institution in the field of agriculture and food. The FAO has repeatedly attempted to influence the outcome of multilateral trade negotiations in agriculture at the GATT/WTO. This kind of intervention takes place despite the fact that the two institutions do not exhibit overlap in the traditional sense: the FAO has no authority over the international regulation of agricultural trade or dispute settlement (it can, however, provide policy advice). The WTO has exclusive authority to set the rules for multilateral trade in agriculture.

Although it is normal for IOs to observe negotiations and provide technical assistance, it is qualitatively different for such organizations to seek to shape the rules established in other international fora. During the Uruguay Round, the FAO was active in organizing and supporting developing countries bargaining positions on food security. The FAO helped to cement a fragile developing country coalition on food security, and it assisted these countries to drive a hard bargain against developed countries in order to secure food security provisions in the final agreement. Moreover, I show that it was

primarily FAO officials, not developing country negotiators, who drafted the text that became the basis for a WTO ministerial decision on food security.

During the Doha Round, the FAO, led by the Director General's office, adopted an activist approach to support the interests of food insecure developing countries and to challenge the authority and legitimacy of the WTO negotiations. This challenge included public denouncements of the draft agreements at WTO ministerial meetings and other high-level international events. In short, the efforts of the FAO went beyond what might be considered typical intra-institutional consultation and information exchange; it has repeatedly attempted to influence outcomes at the WTO through multiple autonomous initiatives. Consequently, I argue that the FAO can be viewed as a "shadow" negotiator, operating informally yet effectively in what we typically understand to be an exclusive inter-state negotiating arena.

Chapter 4 examines the interactions between the WTO and the international food aid system. There has been a long-standing debate over whether international food aid is an effective instrument of development assistance or a hidden form of agricultural subsidy in the donor country. In earlier GATT rounds states saw to it that food aid governance was explicitly removed from the multilateral trading system. The AoA marked a different approach. It included trade rules that applied to international food aid thereby bringing food aid governance into the fold of the multilateral trading system. The AoA positioned the WTO as the final arbiter in determining what constituted legitimate international food aid. This issue-linkage between agricultural trade negotiations and international food aid rules has produced increasing inter-institutional conflict between

the WFP and the WTO. This conflict is particularly evident in the context of efforts to enhance the food aid rule-making capacity of the WTO during the Doha Round. The WFP has focused its efforts on challenging the legitimacy of the WTO itself, most notably in a 2005 advocacy campaign claiming that proposed WTO food aid rules would prevent the WFP from feeding starving people. The WFP's challenge to the WTO's authority proved successful in that it forced the WTO to backpedal and restart the negotiations on food aid rules to better reflect the WFP's concerns.

Chapter 5 examines the growing interaction, and resulting political conflict, between the international human rights and multilateral trading systems, with a specific focus on the human right to food. Since 2000, this interface has become more frequent and intense, characterized by a profound normative conflict framed in terms of whether international trade rules have a negative impact upon the realization of human rights. I begin the chapter by situating the right to food in the broader trade and human rights debate. I then examine two key areas of interface between the WTO and the right to food.

First, I examine the work of the Office of the High Commissioner for Human Rights (OHCHR) to establish a human rights-based critique of the WTO and to push the scope of trade rules in the direction of greater consistency with the principles of human rights law. I also show the WTO's response to these critiques, including its counter-discourse about the compatibility of trade liberalization and human rights and its efforts to prevent rights-based discourses from entering trade negotiations. Second, I examine the evolution of the relationship between the WTO and UN Human Rights Council (HRC), through the work of the UN Special Rapporteurs on the right to food. Successive

Rapporteurs have devoted a substantial portion of their mandates to challenging the authority of the WTO. In particular, they have argued that states and the WTO have obligations to respect, protect, and fulfill the right to food and they have evoked the principles of international law to suggest that human rights override trade commitments. I analyze whether transnational human rights actors have impacted the policies and work of the WTO, and vice versa. I suggest that the intervention of human rights actors in the international trade arena has been salient in producing cognitive dissonance at the WTO. In particular, the recognition by the international community that trade rules can result in the violation of human rights has undermined the WTO's claim to exclusive authority in international trade rule-making. These actions have shifted the burden onto the WTO to ensure that its agreements do not undermine states' human rights commitments under international public law.

The concluding chapter revisits the concept of a global food security assemblage and its evolution over time. An interesting insight from the study of the global food security assemblage is the unidirectionality of institutional interaction and conflict within the assemblage; the UN institutions have actively sought to impact the outcome of WTO negotiations, whereas the WTO has not attempted to directly influence developments at other institutions. I explore why these relationships have not been symmetrical and suggest that the social construction of real and perceived hierarchy is a key part of the explanation. I then turn to a discussion of the implications for IR and IPE theory that follow from conceptualizing international organizations as autonomous actors who can impact outcomes at competing sites of governance.



I discuss the research methods involved in undertaking this study in Appendix 1. I begin with an explanation and justification of my case selection, including the range of international institutions examined and the historical periods covered in the study. I show how these choices are consistent with the theoretical model of inter-institutional interactions developed in Chapter 1. I then discuss the components of my field research that included over eighty interviews with senior officials, archival and documentary research, and direct observation of inter-governmental meetings at the WTO, FAO, WFP, and UN human rights institutions.

## CHAPTER 1. THE GLOBAL GOVERNANCE OF FOOD SECURITY

In the introductory chapter, I argued that the era of globalization has led to a profound transformation of the world food economy, of which agricultural trade liberalization is a cause and consequence. A significant result of this transformation is that the governance of food security has increasingly shifted from the state to the global level and the market. In tandem with this shift, food security has been steadily elevated to a key issue in world politics throughout the 1990s and 2000s; it is progressively being fought out at the global level within and between international institutions. This phenomenon is most evident in two competing – and ever more conflictual – regimes that have emerged for the global governance of agriculture and food security: the WTO and the UN system.

The UN agencies, in particular the FAO, WFP, and UN human rights system, have sought to mitigate the negative impacts of economic globalization on food security. They have done so by advocating a global agriculture policy that prioritizes food security and the recognition of food as a fundamental human right. These policies have sought to provide a counter-balance to the dominant ethos of neo-liberalism, and have constructed and elaborated a normative challenge based on greater restraints on trade liberalization and trade adjustment measures in favour of food insecure developing countries. As world food insecurity has steadily increased since the mid-1990s, reaching an unprecedented over one billion persons in 2009, the UN agencies have successfully mobilized global political support for international efforts to reduce hunger. They have done so, for example, through international commitments set for the reduction of hunger at the World

Food Summit and in the Millennium Development Goals (MDGs). In short, the UN system has been seeking to halt the longer-term consequences of food insecurity on human development and social stability in the developing world.

While the WTO is considered a major institution in global economic governance, it is not traditionally thought of as a key institution in the governance of food security. Yet its AoA and SPS have increasingly important consequences for the structure of the global food economy and for food security. In addition, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) has been instrumental in setting up a legal regime supportive of mainstreaming biotechnology in agricultural production on a global scale and for the potential closure of a public commons for seed saving and distribution.

The WTO continues to pursue an aggressive agenda of trade liberalization, which significantly constrains the ability of states to intervene in agriculture markets, including the capacity to curtail the dumping of subsidized agricultural goods into developing countries that can displace local production. The dangers arising from WTO rules are that they may severely limit the ability of states to intervene to pursue national food security objectives. The effects of trade liberalization on food security remain far from clear, but there is considerable evidence that they can be highly negative, especially for the poorest and most vulnerable populations such as resource poor farmers (Harmon 2007, 301-302; WFP 2009). WTO rules treat agricultural commodities and food – fundamental necessities of human life and survival – as “goods” like any other (Rosset 2006) and render food production and distribution increasingly subject to market forces. This

approach stands in sharp contrast to efforts by the UN agencies to resist the total commodification of seeds, knowledge, and foods and to treat them as a common resource to which all people have an inalienable right.

It is striking that at the beginning of the twenty-first century, we see a paradox whereby efforts by states for collective action to reduce hunger (i.e., MDGs) are occurring at the very same time as these same states are collectively delegated authority over agriculture and food policy to supranational organizations and the market. Accordingly, food security is no longer simply a national matter; it is deeply embedded in transnational modes of governance and is highly influenced by exogenous developments in the global economy. The evidence suggests that eradicating hunger is most effective when states engage in concerted public interventions (Task Force on Hunger 2005; Rocha 2009). These findings suggest the importance of ensuring states maintain a considerable degree of regulatory capacity in agriculture and food. Yet the general pattern over the last few decades has been for states to limit and/or dismantle these very same regulatory capacities. They have done so by delegating authority to supranational institutions, particularly the WTO, and to the market, thereby constraining their own room for manoeuvre. This paradox sets the stage of the research puzzle that my dissertation seeks to address.

In this chapter, I more fully theorize IOs as semi-autonomous actors in world politics and conceptualize the global governance of food security as an assemblage. The concept of IOs as semi-autonomous actors and what I term a *global food security assemblage* provide the framework to analyze the contestation over agricultural trade

liberalization and food security between selected institutions in the UN system and the WTO. The chapter is organized as follows. First, I provide an overview of existing theories on the role of IOs in world politics. This overview is followed by an examination of more recent theories seeking to explain the causes and consequences of increased institutional density in global governance. Increased institutional density matters because it is leading to greater overlapping authority among international institutions. I then elaborate the concept of a global food security assemblage. This is followed by a discussion on how IOs act as semi-autonomous agents within assemblages, the specific institutional nodes that comprise this particular assemblage, and the politics of contestation within the assemblage. But first I want to address why I have chosen to focus on IOs and food security in this study.

### **Why Study International Organizations and Food Security?**

Admittedly, the globalization of the world food economy and the politics of agriculture and food security are sufficiently complex, cover such a large historical period and range of state and non-state actors, and are of considerable richness of detail that is beyond the scope of any single study to do this topic justice. For this reason, this study sets clear boundaries around specific areas of investigation on the role of IOs in the global governance of food security. IOs are key actors in world politics in their own right. I contend that IOs as actors at the transnational level have been underestimated in the existing literature. Although there is consensus in the literature that IOs matter, IR and IPE scholars have predominately focused on the role of states and non-state actors in the

study of global governance. IOs are often simply viewed as the instruments of states only. Greater attention to the roles of non-state actors, such as global civil society, transnational social movements, private actors, and networks has substantially enriched our understanding of global governance and IOs beyond the limits of state-centric analyses. However, I want to suggest that this development also marked a shift by scholars to pay less attention to specific IOs. As such, our knowledge of the roles of IOs as actors in global governance has not kept up pace with the general expansion of the literatures on states' international activities and those of non-state actors.

Indeed, the study of IOs as institutional actors has not been a prominent feature of contemporary IR and IPE scholarship. As Lisa Martin and Beth Simmons (1998) emphasize in their seminal review, the study of IOs as institutional actors went out of fashion in the 1970s as IR and IPE theory became increasingly abstract and formalized. By the 1980s, most of the literature on IOs was concerned with explaining the conditions for inter-state cooperation and their rational design (Keohane 2002). More recently, scholarship has revisited the roles played by IOs in global governance. These studies have analyzed the role of IOs in the production of ideas that have been influential in informing global governance practices (Emmerij, Jolly, and Weiss 2001; Jolly 2004; Berthelot 2004; Jolly, Emmerij, and Weiss 2009) and the importance of IO leadership, authority, and bureaucracies (Skjelsbaek 1991; Kanninen 1995; Barnett and Finnemore 2004; Gordenker 2005; Woods 2006; Chesterman 2007; Kille 2007; Weaver 2008).

I seek to expand our understanding of the role of IOs beyond the production of ideas, leadership, and bureaucratic cultures. I take as a starting point the body of

knowledge on non-state actors in global governance. This literature has demonstrated that the global governance system is not only governed by unitary states, but that there is a multiplicity of different actors, such as policy networks, corporations, global civil society organizations, and individuals, engaged in governing the global political economy (Cox 1981; Arts, Noortmann, and Reinalda 2001; O'Brien et al. 2000; Cutler, Haufler, and Porter 1999; Slaughter 2004). I am interested in expanding on these insights so as to demonstrate how IOs are actors that engage in transnational contests over the global political economy.<sup>1</sup>

I distinguish my approach from existing theories about IO autonomy such as principle-agent theory or IOs as bureaucracies. These approaches remain primarily concerned with explaining how IOs alter the behaviour of their constituent member states. In this study, I seek to shift the analytical focus “above” and “outside” the immediate sphere of authority delegated to IOs, that is, their traditional turf. I focus on the transnational political activities of IOs in global political domains. Whereas existing studies of IOs have tended to focus on the interactions between IOs and their member states, or between state and non-state actors within specific IOs, I wish to bring greater analytical focus over broad political issues relevant to two or more IOs at the global level.

### *Food Security*

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<sup>1</sup> In this study, I frequently use the term transnational. I associate my research with empirical and theoretical approaches that start from the position that states are not the sole units of contemporary social life. I understand social relations to consist of interactions among different types of state and non-state actors that occur across multiple scales (e.g., local, regional, global, etc.).

I seek also to expand our knowledge about the global governance of food security. As I alluded in the introduction, this empirical field has been understudied. My focus on the global political and governance dimensions of food security emerge organically from what I perceive to be the relative early stage of development of knowledge about this topic. The 2008 global food crisis and the continued prominence of food security as a global political issue has led to increased yet modest interest in this topic in IR and IPE. Yet our knowledge gap is most striking when it comes to the global governance of food security and contests over its rules and scope. As I will argue throughout this study, food security is at the core of the governance of agriculture and food, that is, food security is the basic aim and foundational norm of international cooperation and global governance of agriculture and food. To place food security as an afterthought in understanding the contemporary world politics is spurious; food security has been highly influential in nationalizing and de-nationalizing economic, social and, political processes. In the current historical moment, agriculture and food security is a key policy domain in North-South politics and international cooperation; it encompasses dozens of international institutions involved at various levels of regional, international, and global governance. It is also a major site of scientific innovation in digital, chemical, and bio-logical/genetic technology. And, of course, it is a major source of global economic activity and bio-labour with over two billion people dependant on agriculture for their livelihood and well-being (IFAD 2011).

Food security is a broad concept, which captures the range of micro- and macro-level factors that prevent individuals from accessing and consuming sufficient amounts of



food to live a healthy life. Although hunger is experienced by individuals and is generally associated with poverty (Drèze and Sen 1991), global political economy factors are also critical determinants of food security. For example, rapid changes in the structure of world food production and trade were driving factors behind the food crises in 1974 and 2008. Both these crises significantly increased the number of food insecure people worldwide (Friedmann 1982a; Margulis 2009). In era of globalization, global processes have a profound impact on which individuals and groups develop access to food as its production is increasingly deterritorialized from the nation-state and older forms of social organization (i.e., the breakdown of rural communities on a world scale), and as it becomes evermore commodified and financialized (Lind and Barham 2004; Friedmann 1982a; Goodman and Watts 1997; Colbran 2011; Clapp and Helleiner 2010).

Food security has been an organizing logic behind national and international forms of social organization. At the national level, many states have developed architectures to manage food production, including a mix of state and market-based practices. Achieving world food security has long been a major objective of international governance following the post-war and states continuously invested in scaling-up the international institutional capacity to address food insecurity. This activity has involved the introduction of new international institutions to address food insecurity, spurred by improved knowledge about the complex drivers of food insecurity (Shaw 2007). Table 1 lists selected key international institutions established over the last 60 years with a specific food security mandate. The table indicates continuity and change. That is, food security remains a key area of international cooperation. At the same time, institutional

proliferation reflects different articulations of food security in the global governance order over time. The proliferation of international institutions also reflects the complexity and multidimensionality of food security, spanning the fields of production, distribution, humanitarian assistance, development, crop and animal science, trade policy and food safety. I return to idea of transformation of global institutional forms for governing food security in Chapter 2.

TABLE 1. SELECTED INTERNATIONAL INSTITUTIONS IN THE FIELD OF FOOD SECURITY

<b>Year established</b>	<b>Institution</b>	<b>Mandate as it relates to food security</b>
1945	UN Food and Agriculture Organization (FAO)	<i>Eradicate world hunger and improve nutrition.</i>
1954	FAO Consultative Subcommittee on Surplus Disposal (CSSD)	<i>Establish rules to ensure international food transactions do not displace commercial trade.</i>
1963	UN World Food Programme (WFP)/ 1963	<i>Eradicate hunger and malnutrition; coordinate international food aid</i>
1967	Food Aid Committee (FAC) of the International Grains Council	<i>Contribute to world food security by ensuring a minimal level of international food aid.</i>
1974	UN Committee on Food Security (CFS)	<i>Coordinate a global approach to food security.</i>
1974	UN World Food Council	<i>Coordinating among national ministries of agriculture to help reduce malnutrition and hunger.</i>
1975	Consultative Group on International Agricultural Research (CGIAR)	<i>To reduce poverty and hunger, improve human health and nutrition through research.</i>
1977	UN International Fund for Agriculture Development (IFAD)	<i>Provide loans directed to eradicating rural poverty and hunger.</i>
1996	World Food Summit	<i>Affirmed the human right to food and established international targets to reduce world hunger.</i>

In addition to the studies on the governance and politics of food security discussed in the introduction, the IR and IPE literature has made important forays into agricultural

and food. Generally speaking, these studies have been limited to the politics of agricultural trade policy such as Europe's Common Agricultural Policy (CAP) and the negotiation of WTO agreements, including related disputes on intellectual property rights and productive resources. Such analyses are self-contained in that they do not address food security governance per se directly, but focus on the multilateral trading system and the role of international law and domestic politics, which is only one element of the broader global governance system for food and agriculture. Increasing the engagement of IR and IPE's scholars with the global governance of food security is both warranted and timely. It also offers an opportunity to complement the growing literature on private authority and transnational advocacy movements in the global governance of agriculture, food safety, and biotechnology, and food crises (Coleman, Grant, and Josling 2004; Konefal, Mascarenhas and Hatanaka 2005; Oosterveer 2007; Clapp and Fuchs 2009; Curran et al. 2009; Cohen and Clapp 2009).

My focus on the global institutional dimensions of food security also seeks to bridge research on agriculture and food across disciplinary lines. IPE scholars may wonder why this analysis chooses to emphasize the activities of IOs instead of the political economy of agriculture on a sectoral or commodity basis. I wish to clarify that by no means do I consider the economic changes associated with the globalization of food and agriculture merely as secondary to, or derivative of, the political. To the contrary, understanding the economic dimensions of the globalization of food is crucial to understanding institutional transformation at the international level, and throughout this study I draw from the rich and diverse sources of research available. Indeed, this study is

informed by, and employs key concepts from, the international food regimes<sup>2</sup> and global food restructuring literatures in Sociology and Geography (See Friedmann and McMichael 1989; Bonanno et al. 1994; McMichael 1994; Goodman and Watts 1997; Morgan, Mardsen, and Murdoch 2006; Weis 2007). These works have been at the forefront of the study of the globalization of food (See Phillips 2006). This literature provide key insights into the globalization process, especially the transformation of state-society and inter-state relations, which are distinct from the ways IPE and IR scholarship has examined structural changes in the global political economy. This study attempts to narrow the gulf across disciplinary boundaries by shedding greater light on the global governance dimensions of food and agriculture. Doing so can provide a basis for the examination of the coherence and/or contradictions between changes in the world food economy on the one hand and its international governance equivalents on the other. Such work may yield greater insights towards understanding the transformative dimensions of globalization (See Sassen 2006). In carrying out such an analysis, I hope to open a new space for empirical analysis and theorizing. I do not wish to suggest, for example, that my study on the global governance of food security and on international food regimes can be easily integrated. My aims are much more modest. Yet there are significant gains in knowledge possible through greater dialogue between IR and IPE research on the one side and sociologists' studies of international food regimes on the other when it comes to transformations of global governance in agriculture and food.

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<sup>2</sup> The concept of international food regime is different from the use of the term international regimes by IR and IPE scholars. International food regimes are defined as “rule-governed structure of production and consumption of food on a world scale” (Friedmann 1982a, 30-31)

## **International Organization and Global Governance**

The world polity faces many problems beyond the capacity of any state to resolve singlehandedly. Climate change is a classic example. Recent decades have seen the proliferation of new global governance institutions, as well as the reform of existing institutional arrangements, in order to foster greater cooperation among states to address an increasing array of global problems (Held and McGrew 2002; Scholte 2000; Young 1999). IOs remain the primary instruments of governance at the global level, serving as sites for rule-making, information sharing, and collective problem solving. Such institutions exercise authority in many fields – establishing international standards for communication technologies, controlling the flow of goods, people, and information across borders, and fostering cooperation on matters of war and peace – that are crucial to the ordering and functioning of the global political economy.

While the study of international institutions has a long tradition dating back to the pre- and immediate post-war era, it is only since the 1980s and 1990s that there has been a broad consensus across IR and IPE that international institutions matter (Martin and Simmons 1998). At the same time, how we understand the roles, efficacy, and relevance of international institutions in global governance is highly contested.

### *The Role(s) of International Organizations*

IOs as formalized bureaucratic structures created by states (and increasingly by non-state actors) have important roles in world politics. Though Neo-realist scholarship

has tended to regard IOs as primarily expressions and instruments of state power, particularly the power of hegemonic states (Mearsheimer 1995; Waltz 1993; Gilpin 2002; Gilpin and Gilpin 2001), or as completely irrelevant (See Keohane 2002), this position has not been dominant in IR for IPE for some time. There are several variants of IR and IPE theory working from the presumption that international institutions, either as policy arenas, agents, sets of rules, or governance processes, influence world politics (Martin and Simmons 1998; Axelrod and Keohane 1985).

Theories based on rational models of behaviour have been particularly influential in American IR theorizing about international institutions. The behaviouralist school of the 1950s has heavily influenced variants of thinking along these lines and, in particular, the later works of Robert Dahl, James March and Johan Olsen (Martin and Simmons 1998; Koremenos, Lipson, and Snidal 2001; Keohane 1988). The classic version of Neo-liberal institutionalism sought to explain why states choose to cooperate and create international institutions. This work is closely associated with the research of Keohane and Nye (Keohane and Nye 1977) and Keohane (1984), who emphasized the ways in which IOs reduced transaction costs and uncertainty, increased information, and thereby facilitated international cooperation and enhanced the credibility of states' international commitments. Similarly, Krasner's (1983, 1) works on international regimes, defined as "principles, rules, and decision-making procedures around which actors expectations converge in a given-issue area", sought to explain how international institutions affected the behaviour of states and why regimes were created, changed, and ended. This approach was primarily interested in explaining how international regimes (i.e., both rules and

formal IOs) influenced the behaviour of states and its outcomes on world politics, especially that of the great powers. Despite efforts to understand the role of IOs, the distribution of power in the international system remained at the fore of these studies. States, not IOs, were the key units of analysis and regime theory never engaged directly with the concept of IOs as autonomous actors.

Though regime theory is less influential today, it still informs other rationalist approaches to global governance such as the work on legalization and principal-agent theory. For example, scholarship on the legalization of world politics by neo-liberal institutionalist scholars such as Judith Goldstein has sought to explain why states delegate authority to IOs and comply with international commitments even if it is not in their rational self-interest to do so. This line of research has identified the importance of reputational costs for states as an explanation for treaty compliance (Goldstein et al. 2001).

Another approach is principal-agent theory that assumes IOs to be rational actors with their own preferences, and that these preferences are important determinants of outcomes. In this approach, relations between states (principals) and IOs (agents) are governed by a (formal or informal) contract where delegated authority is always conditional and revocable. This contract depends on how well agents perform their responsibilities such as implementing agreements, agenda-setting, dispute settlement, and budgetary allocations to the standards expected by their principles (Hawkins et al. 2006).

One of the central issues that concern this body of theory is “agency problems”; when autonomous IOs act in ways and pursue objectives outside the preferences of their

agents (especially the most powerful states). States have recourse to several strategies to constrain and/or prevent such actions by autonomous IOs, including potentially re-delegating (e.g., altering the contract and scope of delegated powers) or de-delegating; populating IOs with senior bureaucrats more favourable to (powerful) principals, and/or; sanctioning IOs with budgetary contraction (Hawkins et al. 2006, 24-31). As such, principal-agent theory highlights persistent tensions in global governance; states and IOs are engaged in constant push and pull interactions where the boundaries of IO autonomy are perpetually tested. In this framework, it is posited that states are constantly recalculating the relative costs and gains of delegating authority to IOs to mitigate agency problems.

Social constructivism has highlighted the role IOs play in the processes of socialization and norm diffusion, and how these processes affect the identity, interests, and behaviour of actors engaged in world politics (Katzenstein 1996; Risse and Sikkink 1999; Barnett and Finnemore 2004; Wendt 1987; Ness and Brechin 1988). Unlike Neo-liberal institutionalism, constructivism has emphasized the role of IOs as sites of social interaction that can produce changes among actor's identities and interests. John Ruggie has specified how norms, not just material power, provide the basis for an intersubjective understanding of social purpose among states. This understanding was shown to be critical in the formation and durability of the post-war international order (i.e., embedded liberalism) (Ruggie 1982). In short, constructivism emphasizes that norms (through socialization and diffusion) can persuade states to changes their behaviour in the absence of the use of force and other forms of coercion (Finnemore and Sikkink 1998). The



literature has also shown that international institutions exhibit the capacity to adapt and change to external circumstances, thereby reshaping the contours of global governance alongside states and non-state actors (Betts 2009; Barnett and Finnemore 2004).

Michael Barnett and Martha Finnemore are prominent IR social constructivists who have taken the issue of IO autonomy seriously. In contrast to principal-agent theory's emphasis on the rational self-interests of IOs, Barnett and Finnemore advance a sociological approach to study IOs as bureaucracies in order to understand IO behaviour and how they constitute international relations. They contend that bureaucracy is a distinct form of social authority that provides IOs with the autonomy and ability to make personal rules, create new categories of actors, form new interests for actors, define new shared international tasks, and disseminate models of social organization (Barnett and Finnemore 2004, 3).

This social constructivist approach emphasizes that IOs are not just servants of states; authority provides IOs with autonomy vis-à-vis states and non-state actors. Barnett and Finnemore (2004) go further to assert that IOs do more than their principals intend; they actively transform broad mandates into specific ways of acting in the world that change the behaviour of state and non-state actors, and use knowledge and authority to regulate the social world. Authority itself is understood to be a social construction. It is defined as the "ability of one actor to use institutional and discursive resource to induce deference from others" (Barnett and Finnemore 2004, 5). This altogether different formulation of authority stands in sharp contrast to the "conditional grant" approach in principal-agent theory that views IOs occupying a typical position of deference to

principals. Barnett and Finnemore disaggregate four distinct types of authority: rational-legal, delegated, expert, and moral. These four forms of authority, exercised piecemeal or in conjunction, are argued to provide IOs with the capacity to promote global change (Barnett and Finnemore 2004; Oestreich 2007).

Critical IR and IPE approaches offer a different viewpoint on the role of IOs in the global political economy. Historical Materialism, especially its Gramscian version, offers a well established body of theory and research on the role of IOs in global governance. Historical Materialism, which distinguishes itself from Structural Marxism, emphasizes the interrelationship between “power in production, power in the state, and power in international relations” (Cox 1981, 135). According to Robert Cox (1981), analyzing the relationships between material capabilities, ideas, and institutions is necessary to explain both how specific forms of structures (including IOs) take form from preceding social conflicts, and to identify what are the likely sources of future conflict(s). A major contribution of this approach has been a framework to understand the role of state/society relations as a source of conflict within the global political economy. This approach brings greater attention to the role of non-state actors such as global civil society, private actors, and a transnational capitalist class, and to the existence of subordination and empire in world order and the power relationships that perpetuate them (Murphy 2000; Cox 1996; Gill 1993; Overbeek 2005; Murphy 1994).

Historical Materialism understands international institutions as historically contingent structures that reflect specific configurations of power, also referred to as *hegemony*. That is, international institutions are reflections of hegemony and they serve

the double purpose of resolving internal conflicts and preserving hegemony by presenting it as pluralistic/universal (and therefore legitimate) (Cox 1981). In a later essay, Cox (1993, 62) refers to IOs as the “mechanisms” of hegemony, stating:

“One mechanism through which the universal norms of a world hegemony are expressed is international organization. Indeed, international organisations functions as the process through which the institutions of hegemony and its ideology are developed.”

IOs embody the rules that facilitate the expansion of world orders; they are products of hegemonic world orders; they ideologically legitimate world order; they co-opt elites from the periphery; and, they absorb counter-hegemonic ideas (Cox 1993).

### **Increasing Sites of Proliferating and Competing Sites of Global Governance**

There is broad acknowledgement that contemporary global governance is increasingly complex. A growing number of governance problems no longer fall discretely under the remit of a single international institution; rather, they lie at the intersection of multiple institutions. At the same time, there has been a significant proliferation in the number and types of transnational institutions in recent decades. As a result, in contemporary global governance authority is increasingly shared by multiple institutions (Young 1999; Raustalia and Victor 2004). Increasing overlap among international institutions is recognized as a growing source of political conflict in global governance (Raustalia and Victor 2004; Pollack and Shaffer 2009; Rosendal 2001; Gehring and Oberthür 2009). Scholars of complexity in global governance are predominately concerned about whether institutional proliferation enhances or weakens the performance of IOs. Below I examine four existing theoretical approaches to

complexity in global governance: regime complexes, institutional interplay, global governance architectures, and global policy spaces that engage with increasing institutional density in global governance.

### *Regime Complexes*

One approach to the inter-institutional dilemma that has garnered significant attention in IR and IPE scholarship is the employment of the concept of *regime complexes* advanced by Kal Raustalia and David G. Victor. These authors seek to advance several arguments about regime interactions under conditions of rising institutional density. They contend that increasing institutional density is a common and increasing feature of the international system. Many issue-areas contain several relevant IOs. These are termed elemental regimes that taken together form a regime complex, which Raustalia and Victor (2004, 278) define as “an array of partially overlapping and non-hierarchical institutions governing a particular issue-area.” In regime complexes, legal agreements are created and maintained in distinct fora with participation of different sets of actors. Rules in each of these elemental regimes functionally overlap with one another. But there is no agreed upon hierarchy for resolving conflicts between such overlapping rules. The resulting disaggregated decision-making in the international legal system means that agreements reached in one forum do not automatically extend to or clearly trump agreements developed in other forums (Raustalia and Victor 2004).

Raustalia and Victor argue that in the 1990s there was a major shift towards intellectual property (IP) rights for worked genetic resources and that this marked a shift

towards an IP rules-based system. Yet because of significant normative conflicts between states, there continued to be flexibility in the implementation of this IP system. Based on this case study, Raustalia and Victor draw several insights into the effects of regime complexes on the creation of future rules. In order to avoid conflicts, the architects of regimes increasingly try to demarcate the boundaries between regimes. However, in practice, this is difficult to achieve. Second, forum-shopping (See Busch 2007) often occurs in regime complexes because when multiple sites of authority exist, states may pursue negotiations at a site where they perceive to be most aligned with their particularistic interests. Third, states seek to ensure legal consistency between elemental regimes by interpreting or implementing decisions to minimize inconsistencies. Conversely, they note that states sometimes engage in *strategic inconsistency* defined as when “states at times attempt to force change by explicitly crafting rules in one elemental regime that are incompatible with those in another” (Raustalia and Victor 2004, 301-302). In this case, conflict is a strategy for transforming global governance in favour of the interests of a particular state or group of states.

A growing number of IR and IPE scholars have taken up Raustalia and Victor’s call for greater empirical and theoretical research into regime complexes. For example, the academic journal *Perspectives in Politics* dedicated issues to international regime complexity covering a broad set of issues such as security, election monitoring, human rights, trade, and refugees. Most recently, eminent IR scholars such as Robert Keohane have taken up the approach in examining global environmental governance (Keohane and Victor 2011). There is increasing attention paid to regime complexity and its impacts on

inter-state negotiations. Alter and Meunier (2009) argue that regime complexes affect international politics in the context of negotiations. While most scholars using the regime complex approach assume hierarchy does not exist, some like Alter and Meunier (2009, 16) have emphasized the role of implementation phase of negotiations which can structure hierarchy:

“Because states can select which rules to follow and because each international venue allows a different set of actors to be part of the political process, implementation politics will end up defining which international agreements become salient, and the meaning of international agreements.”

Thus, regime complexity also encourages regime-shifting where states and non-state actors engage in “chessboard politics” to affect the domestic implementation of international rules (Helfer 2009).

### *Institutional Interplay*

A significant body of scholarship on *institutional interplay* comes out of the field of global environmental governance. Much of this research is rooted in functionalist traditions, in particular the global public goods frameworks from Economics, and has been pioneered by scholars such as Oran Young and those associated with the “Nordic School” at the Fridtjof Nansen Institute (Young 2002; Underdal and Young 2004; Young et al. 2008). Institutional interplay has several iterations but a useful definition of the concept is provided by Leslie King (1997, 3) who defines interplay as “the phenomenon where one institution intentionally or unintentionally affects another.”

Institutional interplay theorists tend to posit two main types of linkages between institutions. These consist of *functional* (substantive connection between the activities of

institutions) and *political* (when actors seek to actively link two or more institutions) linkages. These linkages operate vertically across levels of social organization or horizontally among institutional arrangements operating at the same level of social organization. Multiple combinations of linkages make analyzing overlap a messy business. To simplify matters, Oran Young provides a helpful way of organizing overlapping institutions. He does so by differentiating between interplay that occurs when institutional arrangements are: 1) embedded in, and informed by, overarching principles and practices; 2) nested by design within functionally and/or geographically broader regimes; 3) when arrangements are the result of deliberate clustering of several regimes across functional and/or geographical borders; and, 4) when arrangements simply overlap unintentionally (Young 1999, 165-172).

Many scholars of institutional interplay tradition have been particularly interested in the WTO and its interaction with environmental regimes. An early and influential work which I draw on is Rosendal's (2001) analysis of the consequences of overlap between the WTO TRIPs agreement and the UN Convention on Biological Diversity (CBD). She suggests that two potential outcomes from overlap, synergy and conflict, and argues that divergent norms between the CBD and TRIPS, in particular with respect to the patenting of genetic materials, is a key source of political conflict among states party to these agreements. Rosendal's study highlights the role of norm- and rule-based conflicts in institutional overlap. According to her, norms are distinguished into two categories. Those that "are the overall policy objectives and principles of a regime that tend to carry legitimacy among participating actors" that are important at the early stages of regime

development and norms as rules “that prescribe specified regulations for state behaviour” which are more crucial at the later implementation phase (Rosendal 2001, 97). The CBD advocates for national sovereignty and equitable benefit-sharing of genetic resources whereas the TRIPS seeks to enhance trade liberalization by strengthening and harmonizing IP rights. Conflicts among the norms and rules of each institution is high, with each regime explicitly introducing opposing rules to the other. She found that the TRIPs agreement hampered the implementation of the CBD (but not vice-versa). In addition, TRIPs with its home at the WTO, is recognized as a more powerful agreement than the CBD because TRIPs carries with it the credible threat of economic sanctions and dispute settlement (i.e., withdrawal of trade privileges). Rosendal emphasizes that both the WTO and CBD secretariats acknowledge this conflict is important to rectify and that they have undertaken collective work on finding operational convergence and institutionalizing representation in the others working bodies. However, Rosendal adds that such efforts will not minimize the fundamental contestation because of the clear presence of diverging norms and rules.

### *Fragmentation of Governance*

Another thread in the study of complexity in global governance examines so-called *global governance architectures*. These are defined as of clusters of norms, principles, regimes, and other institutions in an issue area (Biermann et al. 2009, 14). This approach seeks to provide greater precision to the scales at which governance operates and to identify the meta-level dimensions of governance (i.e., higher order principles that



shape actual governance institutions and practices). The concept of architectures seeks to be broader than an international regime but less so than the neo-Marxist concept of world order. The authors add the important caveat that architecture, in their view, is more neutral and accounts for dysfunctional and non-intended effects and does not presuppose a “normatively loaded understanding of global order” (Biermann et al. 2009, 16). They suggest that fragmentation is an ubiquitous feature of contemporary world politics. Several types of fragmentation are proposed: synergistic, cooperative, and conflictive. Unlike scholars of regime complexity and institutional interplay, the issue of institutional hierarchy is not directly addressed. Rather, meta-governance implies some sort of implicit hierarchy that structures the global legal order.

The global governance architectures literature draws heavily from the legal scholarship on international institutions and fragmentation (as well as earlier regime theory). Fragmentation has long been a major preoccupation of legal scholars (Dupuy 1998; Teubner and Fischer-Lescano 2004; Koskenniemi 1997). Indeed, legal scholars have noted the increasing proliferation of international legal agreements and institutions. Because international law is cumulative by nature and because existing and new legal regimes have developed over time, often independently and with increasingly specialized scopes, this has led to the perception that the global legal order is highly fragmented. Specialization has made the task of interrelating these diverse sets of law a highly uncertain enterprise (Simma and Pulkowski 2006; Lindroos and Mehling 2005; McLachlan 2005).

Fragmentation is also a practical concern for international legal jurists. According to the UN International Law Commission, which undertook a landmark study of fragmentation in international law, identified the challenge is as follows:

“The fragmentation of the international social world has attained legal significance especially as it has been accompanied by the emergence of specialized and (relatively) autonomous rules or rule-complexes, legal institutions and spheres of legal practice. What once appeared to be governed by “general international law” has become the field of operation for such specialist systems as “trade law”, “human rights law”, “environmental law”, “law of the sea”, “European law” and even such exotic and highly specialized knowledges as “investment law” or “international refugee law” etc. - each possessing their own principles and institutions. The problem, as lawyers have seen it, is that such specialized law-making and institution-building tends to take place with relative ignorance of legislative and institutional activities in the adjoining fields and of the general principles and practices of international law. The result is conflicts between rules or rule-systems, deviating institutional practices and, possibly, the loss of an overall perspective on the law.” (International Law Commission 2006, 11)

This quote reflects the perception among legal scholars that fragmentation diminishes the functionality of the existing global legal order. It does so because of gains in authority by specialized systems of law at the expense of general law, the concern being that such new specialized order will weaken and/or marginalize long-standing international law. This understanding differs from the problem identified by regime complex and institutional interplay approaches. These approaches argue the non-hierarchical nature of overlapping regimes is the source of conflict. In contrast, legal and systemically-oriented scholars have argued that meta-norms exist in the international system and that such meta-norms should be the true basis for organizing what may appear to be a loosely organized, non-hierarchical international legal order (Koskeniemi and Leino 2002; Pauwelyn 2003; Weiler and Paulus 1997; McLachlan 2005; Simma and Pulkowski 2006). In other words,

many legal scholars argue there is explicit hierarchy in the global legal system and the failure to recognize translates into a major source of real conflict in global governance.

The international legal literature on fragmentation has paid significant attention to the impacts of WTO trade law. In particular, the relationship between international trade law and human rights law (in particular economic, social, and cultural rights) is a major area of scholarship. This is critical for the study of the global governance of agriculture and food since the right to food has emerged as a contentious issue in global governance (see Chapter 5). The fundamental question has been what is the relationship between international trade law and human rights law?<sup>3</sup> Is there conflict, convergence, or hierarchy?

Although international trade and human rights law have common origins in the early 20th century concept of ‘world welfarism’ and individual freedom (Petersmann 2000; Dommen 2002; Kinley 2009), the two are understood to occupy separate spheres and specialized worlds of law. Powell (2004) has referred to this situation as one of “splendid isolation.” The implications of fragmentation between trade and human rights law have been particularly salient in the cases of health- and environment-related trade disputes, which brought the tension of trade and human rights together as never before. Yet IR scholars have emphasized that with respect to power, human rights regimes remain relatively weak to those international trade and global finance (Neumayer 2005). This is directly linked to the soft law versus hard law debate that seeks to determine

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<sup>3</sup> The UN International Law Commission worked on this legal question. Its conclusions were that the WTO is not a closed system therefore subject to international public law. The WTO has recognized that its law does not operate apart from other existing international law. This was first expressed in the decision by the WTO Appellate Body in the 1998 dispute panel (Shrimp-Turtle) in which the WTO recognized its rules should not be read in clinical isolation from public international law.

whether systems of international law can ensure states' compliance with rules (Abbott and Snidal 2000). The point of comparison is most often the WTO's dispute settlement mechanism, which has strong binding enforcement capabilities and risks (i.e., trade sanctions) for states that do not meet their obligations. The human rights regime, while recognized to have important normative functions, is characterized by weak and deficient, monitoring, compliance, and enforcement provisions (Bayefsky 2001).

For legal scholars, unlike IR scholars, the credibility of enforcement is not the whole story. Rather, how the two sets of international law interact with one another is of more importance. Critical procedural questions arise here, such as how should national and supranational judicial entities interpret their relationship? This question has become increasingly concrete as the WTO has had to undertake dispute panels on issues with cross-institutional implications, as well as when national judicial bodies have to reconcile international trade commitments and human rights obligations.

### *Global Policy Spaces*

A focus on agency has taken on increasing prominence in the IR and IPE scholarship on transnational networks comprised of state and non-state actors in global governance (Haas 1992; Slaughter 2004; Stone 2004). More rooted to globalization theory, Coleman (2005) introduces the concept of a *transnational policy space* to denote increasingly shared and dispersed authority within globalized policy-making. Whereas the starting point of the regime complex literature are specified legal institutions (i.e., rules, codes, law), the concept of transnational policy space emphasizes the role of global

epistemic communities in establishing the normative frameworks, institution-building, and the negotiations of international law. The transnational policy spaces approach highlights the role of agency. As such, the agency of actors, their structuring of transnational processes, helps to explain why normative, political, and legal conflict occur at the international and transnational levels.

Coleman (2005) argues that the transnational policy space governing agriculture and food has become ‘institutionalized’ in and through the WTO agreements and committee bodies which increase the extensity, intensity and velocity of global social relations. As a result, the Committee’s activities “signal an increasing *enmeshment* of local agricultural policies with the new global arrangements” where “WTO rules have become increasingly internalized in domestic policy-making circles” (Coleman 2005, 100). This approach denotes a greater reflexivity by participants in the policy space of agriculture and food. As the linkages between the WTO-based transnational policy spaces and other policy- and rule-making arenas deepen, these other sites can also operate as complementary or counter-forces to the WTO agreements. Coleman and Gabler (2002) predict conflicts between such linked institutions are unlikely to coalesce into new institutional arrangements such as single global governance regimes. This makes it more difficult to enclose policy issues, while also reinforcing the asymmetry of power between North and South, and leading to more disorderly global governance (Coleman 2005). The concept of a transnational policy space permits the analysis of how the agents involved in the everyday performance of global governance are affected by, and respond to,

increasing complexity. In addition, it also opens space to examine how ideational factors and power relations among these actors shape the practices of global governance.

### **Towards Theorizing the Autonomy of IOs in Complex Global Governance**

Thus far, I have discussed how IR and IPE have theorized the role of IOs and conceptualized increasing institutional density in global governance. I now turn to discussing how we might think about the role of IOs in the context of increasingly dense and complex global governance. A starting assumption for this discussion is that increased institutional density matters for the ways in which IOs engage in global governance. In particular, I am interested in situations of overlapping authority. Following King (1997, 3), I define overlapping authority as a situation where one or more IO-based actors perceive that events or outcomes at another IO intentionally or unintentionally affect their capability to fulfil their institutional objectives.

This definition takes as a starting point that IOs are autonomous actors in their own right. This position is consistent with several branches of IR theory. However, there are limits. I treat IOs as *semi*-autonomous actors. The “semi” is simply meant to recognize that IOs do not have a free reign to act at the transnational level. Like other actors, IOs face various constraints on their ability to act, including the limitations inherent in delegated authority and also the contingent nature of legitimacy, which is defined both by perception of “efficacy” of IOs held by states, non-state actors, and global publics regarding the social value of an IOs’ objectives and by particular actions.

I draw on Barnett and Finnemore's conception of IO authority, which emphasizes the importance of delegated, rational-legal, expert, and moral authority, as a starting point to think about the power of IOs to act and promote social change. I also recognize that the power and authority of IOs are not unproblematic; they can lead to undesirable outcomes or inaction, undermine democratic forms of governance, and perpetuate asymmetrical power relations between North and South (Barnett and Finnemore 1999; O'Brien et al. 2000; Coleman and Porter 2000; Held and McGrew 2002; Woods 2006). However, I deviate from the standard social constructivist and rationalist approaches in several ways. First, just because IOs have the capacity to act does not mean they necessary will. Therefore, it is important to understand their specific reasons and/or motivations for doing so, given that autonomous actions, especially those that may be perceived to be against the wishes of powerful states, entail certain risks for IOs. Existing scholarship has emphasized IOs' rational self-interest to pursue specific ends or to encourage states to change their practices and identities as key motives. However, there may be other reasons why IOs exert their authority. I argue that IOs' actions can also be motivated to civilize the global political economy, including contesting empire and subordination.

Second, IOs are complex institutions. Existing scholarship has tended to treat IOs like neo-realist treat the state, that is, as a unitary whole or black box. It is critical to disaggregate IOs and identify which actor or sets of actors are doing the acting. This analytical step is critical because certain parts of IOs are more directly under the influence of states while others may enjoy greater discretion and autonomy. I do not treat IOs as black boxes or as passive sites of inter-state negotiations. When thinking about the

autonomous role of IOs, there is also an analytical benefit to distinguishing between the different layers of organization within IOs (e.g., executives, secretariats, and deliberative organs). Different players are active at each layer and institutions vary in the relative authority they endow to actors at each of these layers. If we take IOs seriously as actors that respond to overlapping authority, then it is important to identify which actors within institutions are driving the actions. In this regard, the research on IO “executive leadership” and “invisible bureaucracies” provide a useful reference point to analyze these actors in shaping global governance (Cox 1969; Gordenker 2005; Mathiason 2007; Biermann and Siebenhüner 2009); it highlights the often hidden and underestimated roles of IO actors in global governance missed by much of IR and IPE scholarship.

Third, authority is indeterminate at the global level. The authority of IOs, as it has been theorized thus far, is framed as dichotomous and relational; authority is “something” transferred from states to IOs for the intended purpose to elicit changes in states’ behaviour. However, once we shift the level of analysis to the global level, authority becomes blurred. This is particularly problematic in cases of overlapping authority. If two unrelated IOs, with roughly the same membership, claim authority over a policy field, which one is more “authoritative”? Moreover, what if one of these IOs seeks to exert authority over the other to change its behaviour, even though it has not been delegated authority to do this by states? The indeterminate nature of IO authority at the global level is an important phenomenon that warrants further study and theorizing.

I argue that IOs act as semi-autonomous global political actors that seek to affect outcomes in other institutions in global governance. Indeed, a major objective of this



study is to bring attention to the role of IOs as autonomous actors in situations of overlapping authority in global governance. By doing so, I hope to improve our knowledge of the causes and consequences of overlapping authority and its implications for the behaviour of IOs in the context of increasing complexity in global governance.

I now return to the concepts of institutional interplay, regime complexes, transnational policy spaces, and the fragmentation of governance. These concepts provide important analytical tools for the study of interactions among IOs at the transnational level. Yet these approaches also exhibit limitations. I review some of these limitations and build on this critique to develop four claims, which I argue provide for a more comprehensive account of global political conflict arising from overlapping authority among IOs.

### *Formalism*

First, much of the literature understands conflict primarily as an outcome of diverging legal rules or issue-linkages among several formal treaty regimes. Regime theory assumes that governance implies a shared understanding of norms, rules, and principles. I suggest that governance regularly occurs without shared expectations of behaviour among actors or even agreement on basic norms and rules. I also do not limit the study of overlapping authority only to the formal dimensions of governance. That is, overlapping authority can occur among multiple institutions even when one or several of these institutions do not have a formal mandate for rule-making, monitoring, or enforcement in a given issue-area. A common feature among regime complexes,

institutional interplay, and global governance architectures is the prominence given to formal international law and agreements as evidence of formal authority. This is not surprising given the increased interest among IR and IPE scholars in the legalization of world politics (Goldstein et al. 2001), of which the WTO is the case par excellence. Yet such a legalistic perspective is limited. I suggest that IOs often engage in what appears to be conflicts over norms, principles, and rules, even in cases where there are no competing sets of legal agreements among them.

This position is also consistent with the idea that authority is not only rational-legal but can also be moral or expert (Barnett and Finnemore 2004). Hence, there is no reason to restrict ourselves to international formal legal rules. I contend that overlapping authority, and thereby norm- and rule-conflicts, can also occur with IOs that are not formal treaty regimes but which still none the less exercise authority. This includes many of the UN specialized agencies and informal institutions such as the G8 and G20. All of these institutions have the capacity to exert authority in global governance, even without specific rule-making authority. By only focusing on conflict or cooperation based on clusters of overlapping formal agreements, we may in fact be failing to capture a wider field of transnational political conflicts that do not conform to the typologies in the existing literature.

### *State-Centrism*

The predominant approaches to complexity in global governance are highly state-centric; they tend to focus on how states create and respond to overlapping rules.

Although in some of the regime literature non-state actors are acknowledged as influencing events at the margins (Alter and Meunier 2009), rule-making is regarded as the exclusive purview of states. Given most of the approaches discussed above are informed by regime theory, the privileging of states in their analysis is consistent with general research on international regimes (Krasner 1983; Hasenclever, Mayer, and Rittberger 1997). Yet the idea that rule-making is the exclusive activity of states is highly contested. The role of non-state actors in global governance is widely acknowledged in the literature (Arts, Noortmann, and Reinalda 2001; Higgott, Underhill, and Bieler 2000). Private actors and global civil society have been shown to play significant roles in rule-making at the global level (Sell 2003; O'Brien et al. 2000; Cutler, Haufler, and Porter 1999). I work from the assumption that states are not the only and not always the primary actors in global governance.

### *Autonomy of IOs*

Existing approaches to complexity in global governance fail to consider the autonomy of IOs. The regime complexes, institutional overlap, and global governance architecture approaches treat IOs as arenas where competing state interests is the main explanatory variable. IOs are treated in much of the existing literature as passive sites of inter-state negotiations and as agents that pursue their principals' policy preferences. The transnational policy space concept points to the importance of specific IO as sites that enmesh global and local policy, practices, and ideas, such as the WTO Committee on Agriculture. However, it too under-specifies the role of IO actors within such spaces.

The idea that IOs have authority and seek to shape outcomes in global governance is not a novel concept. In addition to the claims made by social constructivism and rationalist approaches, Robert Cox and Harold Jacobson wrote about the semi-autonomous role of IOs in global governance back in the early 1970s (Cox and Jacobson 1974). These scholars emphasized the importance of coalitions among IO officials, states and societal groups in forming international policy at the International Labour Organization.

According to Reinalda and Verbeek (2004), the autonomy of IOs is a factor that helps to explain global governance outcomes beyond the lowest common denominator of state preferences. However, IO scholars have not ventured to explore how institutions exert their autonomy when the issues they deal with reside outside their acknowledged realm of authority and spill into other spheres of governance. In such situations, IOs may not be able to claim exclusive jurisdiction. We need to see IOs also as global agents that act not only upon states, but also seek to act upon other international institutions. Taking IOs seriously as autonomous actors with a sense of social purpose suggests to us that IOs are unlikely to be indifferent to situations of overlapping authority or to wait silently in the wings for states to sort everything out on their own.

### *Hierarchy in Global Governance*

Hierarchy is a critical concept in the study of complexity in global governance. Institutional proliferation and overlap can transform hierarchy and thereby how actors understand their “place” in the global order. Overlapping authority among IOs raises the

issue of hierarchy, since IOs are conscious that they may possess more or less authority than the IOs they interact with and share authority in policy fields. IOs are extremely conscious of, and concerned about, hierarchy in global governance. IOs are more astute about the implications of hierarchy than scholars have assumed. The perception of hierarchical relationships on the part of IOs to others can be a major source of contestation, particularly when such relationships negatively influence the capacity of one IO to fulfil its objectives. Yet it is critical to distinguish IO conflicts over hierarchy from bureaucratic competition. Scholars have emphasized that overlapping authority can lead to bureaucratic competition for resources and regulatory power (Gehring and Oberthür 2009; Frey 2008). IOs can also engage in conflict over the (perceived) effects of institutional outcomes.

There are different approaches to understanding hierarchy between overlapping institutions in the literature on increasing institutional density. One approach is that there is no hierarchy at the global level; all supranational institutions are generally on an equal footing in the global order (Raustalia and Victor 2004). The claim that there is no hierarchy at the supranational level – assuming that interacting IOs are not part of nested arrangements – adopts the logic of the following argument: because there is no world government then there is no supranational authority to mediate conflicts between IOs. This claim of non-hierarchy at the transitional level is a defining feature of the burgeoning literature on regime complexity. In a similar way, global governance architectures suggest that hierarchy between IOs is not a significant issue because there are commonly held values among states actors that, in theory, should minimize the scope

for potential conflicts. Overlapping regimes and transnational policy spaces give greater attention to the role of state power in producing hierarchy; powerful states provide more power to the institutions that they perceive to reflect their interests, such as the WTO to promote economic liberalization through its binding hard law.

I suggest a complementary approach to understanding hierarchy at the transnational level. This involves considering explicit and implicit hierarchy in the global order. Hierarchy is explicit when it is formally written into the constitution of the global order. Formal hierarchy can shape governance outcomes, by making it clear where authority exists such as in resolving inter-state conflicts. At the same time, hierarchy can be implicit where power relations (e.g., inter-state, public versus private, etc.) shape governance outcomes. However, at the same time it is possible for hierarchy to be explicit in the formal sense but also producing global governance outcomes that do not match with corresponding formalized hierarchical order. In other words, institutional outcomes may not always match institutional design.

I argue that overlapping authority can be hierarchical, even when institutions are not organized in nested or clustered hierarchical arrangements or when there is no formal agreement defining what the hierarchical relationships between institutions should be. My reasons for doing so are the following. First, the claim that overlapping authority is non-hierarchical is highly debatable; legal scholars and international practitioners argue that there is an informal hierarchy at play in global governance with economic/hard law above public/soft law (International Law Commission 2006; Shelton 2006; Rosendal 2001). Second, hierarchy is not always a rational outcome of intentionally designed global

governance; it is often an outcome of asymmetrical power relations and therefore an inherently political outcome over which actors are in a constant struggle. In an era where authority is increasingly being delegated beyond the nation-state, the hierarchical organization of the global order is an ever more high stakes site of transnational political contestation. I am particularly interested in informal hierarchy in global governance, which I refer to as *de facto* hierarchy that takes transnational power relations into account. De facto hierarchy also enables us to distinguish from the *de jure* forms of hierarchy emphasized by other approaches to rising institutional density. Actors recognize hierarchy in global governance, whether formal or informal, and act accordingly.

### **The Global Food Security Assemblage**

This study seeks to offer a fuller account of overlapping authority in global governance and how IOs create, and respond to, this situation. I now turn to develop a framework for analysis that I term the global food security assemblage.

Perhaps a good place to start is with basic definitions. The *Oxford Dictionary* defines assemblage as the collection or act of gathering of things or people. In short, assemblages suggest the coming together and interaction of multiple things. Many scholars have turned to the concept of assemblages to theorize and study structural change in social relations and the global political economy. Scholars across disciplines have employed the term assemblage because of a recognition of the complexity, contingency and indeterminacy of social forms of organization. Assemblages do not

privilege specific units of analysis or pre-determined causal relationships. They also reject essentialist logics.

Critical social theorists such as Gilles Deleuze and Felix Guattari have used the term to describe complex systems of social relations. They argue that assemblages are fluid and continue to function even if their internal pieces change, which is applied in their work to explain the persistence of capitalism despite major changes in the organization of state/society relationships (Deleuze and Guattari 1987). Anthropologists Aihwa Ong and Stephen Collier (2008, 2) speak of global assemblages, defined as “territorialized articulation of global forms in specific situations that define new material, collective, and discursive relationships.” Their approach to assemblages has been applied to explain how globalizing processes take on specific social and institutional forms, ranging from the universalization of biotechnology to the increased deterritorialized nature of contemporary citizenship.

The prominent globalization theorist Saskia Sassen has applied the concept of assemblages to the study of historical processes of institutional transformation. Sassen (2008, 81) argues that:

“A key yet much overlooked feature of the current period is the multiplication of a broad range of partial, often highly specialized, global assemblages of bits of territory, authority, and rights (TAR) that begin to escape the grip of national institutional frames.”

And,

“that these developments signal the emergence of new types of orderings that can coexist with older orderings, such as the nation-state and the interstate system, but nonetheless bring consequences that may well be strategic for larger normative questions.”



Unlike other theorists, Sassen does not theorize the concept of assemblages. Instead, she emphasizes that assemblages are a useful heuristic device to capture the complexity of analyzing the interaction among fragments of institutional forms, ideas, and actors across historical periods.

Following Sassen (2008), I use the term assemblage as a heuristic device to describe the interaction and transformation of actors, institutions, and ideas. Also following Sassen, I use the term to denote a configuration of different actors, institutions, and ideas. This term provides a helpful way to understand changes in the organization of global order. Sassen argues that the current historical period is marked by the process of “deassembly” of existing national institutional forms and where we see the emergence of new global assemblages of territory, authority, and rights (Sassen 2008; Abrahamsen and Williams 2009). The concept of assemblages provides a critical entry point to understand how reconfigurations in global capitalism, national and international institutional forms, and private-public domains of social life have implications for transformation of global governance. As a heuristic device, global assemblages can better capture the complexity, fluidity, and multiplicity of actors and scales relevant to understanding the contestation of global governance.

Though the concept of assemblages can appear to be abstract and unwieldy, so is the real world. My view is that this open concept is preferable to reductionist approaches rooted in regime theory (e.g., regime complexes, institutional interplay, and global governance architectures) that would exclude *a priori* the analysis of informal overlap, perceived hierarchy, and the autonomy of IOs. In addition, the concept of assemblages is

helpful because it allows us to consider a multiplicity of actors and scales. This concept permits us to zoom in and out to different levels and units of analysis as appropriate to capture global transformations.

I use the concept of assemblages to provide a framework to study areas of transnational politics that are hidden by existing IR and IPE approaches. For example, a regime theory approach would not permit us to study contestation between the WTO and the UN human rights system. Regime theory only recognizes contestation between international institutions if there are divergences between official mandates or rule-making capacity, or formal issue-linkages. Admittedly, other approaches, such as regime complexity and global governance architectures provide key insights into the transnational conflicts between competing sets of states interests and forms of international law that more system-oriented approaches such as assemblages may miss. Although assemblages, like any framework, have their limitations, it provides a framework to analyze the contestation between IOs that is rendered invisible by state-centric theories concerned with rising institutional density in global governance.

I define the global governance of food security as an assemblage that includes overlapping sets of rule-making and other forms of international institutions, some of which, but not all, are linked through explicit legal arrangements or issue-linkage. In addition, the boundaries between different institutions – where the authority of one ends and another's begins – are not firmly fixed but continually undergoing transformation and contestation among state and non-state actors. Indeed, IOs are not the only actors that can operate in the assemblage. States, global civil society organizations and movements,

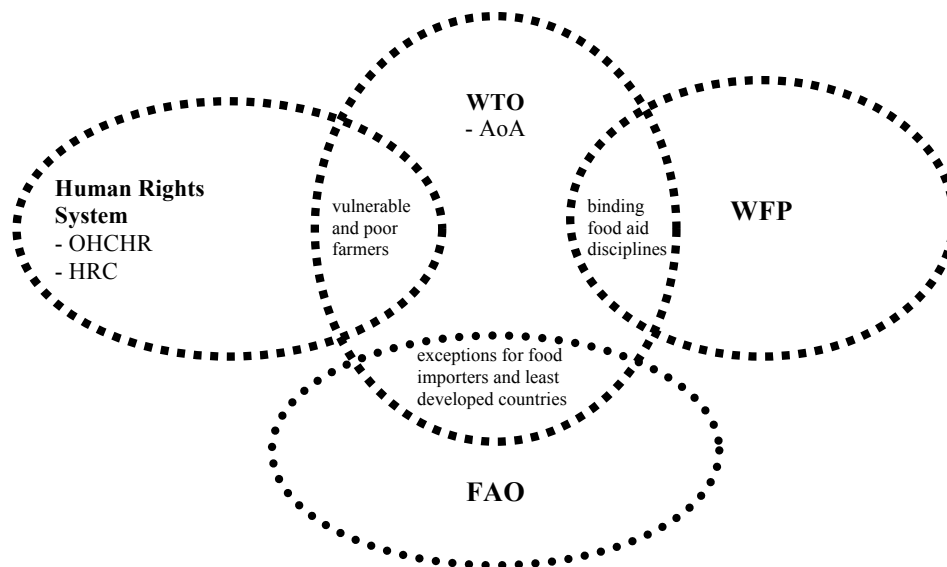
transnational peasant movements, private actors, experts, and individuals are also active in this assemblage. However, my aim is to improve our knowledge about the role of IOs and contestation among them. So I do not explicitly analyze this broader range of actors.

The international institutions that make up this assemblage operate at the transnational level of organization and are recognized authorities with regard to world food security. However, they still remain linked to, and interact with, national and local forms of social organization. These institutions in the assemblage have differentiated scope for autonomous action and face diverse constraints and opportunities to exercising their respective authority. I also recognize that these international institutions in the assemblage do not have exclusive authority in the global governance of food security: national ministries of trade, agriculture and development, international non-governmental organizations (NGOs), and transnational agri-food corporations all operate within and across these institutions. But all these actors become linked together in new ways with the emergence of the global food security assemblage.

This assemblage has become a site of transnational political conflict at the intersection of multiple domains, including agriculture, trade, food assistance, and human rights. This conflict takes place in and through specific IOs. The principal IOs in the food security assemblage include the following: the FAO, which is a specialized agency of the UN with the mandate to measure, monitor and make policy recommendations on food security and agricultural issues; the WFP, which is also a specialized UN agency but that coordinates and distributes international food assistance; the WTO, which monitors the implementation and enforces the AoA and is a forum for inter-state trade negotiations;

and the UN human rights system, namely the Human Rights Council (HRC [formerly the Commission for Human Rights]) and the OHCHR, which promote, monitor, and enforce the human right to food as set out in the International Covenant on Economic, Social and Cultural Rights (ICESCR). Figure 2 below provides a visual representation of the assemblage. Where institutions overlap, I have identified some the substantive issue around which political conflict occurs in an effort to be more concrete.

FIGURE 2. GLOBAL FOOD SECURITY ASSEMBLAGE



These international institutions are identified as primary nodes because of the significant and specialized role each plays in the governance of agriculture and food security at the global level. Each of these institutions undertakes a variety of functions in the governance of food security at the global level, ranging from rule-making, standard-

setting, information-sharing, program delivery, and settling conflicts between parties. The authority embodied in these institutions enable certain globalizing process, such as trade liberalization by the WTO and enforcement of human rights by the HRC. More importantly, these institutions also construct the issue of food security by, for example, defining food security as a global problem requiring collective action, and framing its causes and the range of solutions. In Figure 2, I placed the WTO in the center. This is not to suggest that the WTO is the most important or powerful institution. But the creation of the WTO was major tipping point in the global governance of food security because of this institution's critical role in deterritorializing authority over food security. As such, the WTO is also a key transnational space where the contestation of global food security occurs.

This figure is not an exhaustive list of all the international institutions in the field of food security. Indeed, many institutions have been purposely left out to focus this study on those institutions directly engaged in the global politics of agricultural trade liberalization and food security.<sup>4</sup> At the same time, examining the global governance of food security as an institutional assemblage is useful because it forces the analysis to examine institutions that extend beyond the “official” Rome-based food agencies (i.e., FAO, WFP, and the International Fund for Agriculture Development [IFAD]) and consider international human rights institutions.

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<sup>4</sup> Several other international institutions play key roles in the global governance of food and agriculture, such as the International Fund for Agricultural Development (IFAD), International Monetary Fund (IMF), United Nations Conference on Trade and Development (UNCTAD) Consultative Group for International Agricultural Research (CGIAR), the International Food Policy Research Institute (IFPRI), resource management agreements such as the Convention on Biological Resources (CBD), International Union for the Protection of New Varieties of Plants (UPOV), and international commodity agreements (e.g., coffee, cotton, etc.).

*Conflict and Contestation in the Governance of Food Security*

I now turn to examine conflict in the contemporary global governance of food security.<sup>5</sup> Contestation and conflict are key features of assemblages. The reorganization of political and economic institutions produces contestation among many actors at various scales. These actors seek to shape the direction of new systems of global order and also the impacts of these orders on equality (Sassen 2008). Similarly, Ong and Collier (2008, 2) identify that assemblages are the domains in which the forms and value of collective existence “are problematized or at stake, in the sense that they are subject to technological, political, and ethical reflection and intervention.” Assemblages can be therefore normative loaded because as globalizing processes they have direct impacts on human beings. These impacts of assemblages on people can be positive or negative.

I suggest that a major source of transnational conflict among IOs over food security is due to the existence of competing norms. Norms, defined as generally accepted standards of behaviour, are derived from what I refer to as *meta-norms*. Meta-norms are essentially equivalent as to what regime theory defines as “principles” (Krasner 1983), social constructivism as “prescriptive norms” (Katzenstein 1996; Finnemore and Sikkink 1998), and political philosophers as “moral agency” (Erksine 2003). Meta-norms are frameworks that shape how human beings understand and seek to construct the material and non-material world. This definition suggests deeply internalized moral and value-

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<sup>5</sup> Conflict is not new in the global governance of food security. The power struggles between the FAO bureaucracy and the “new” food institutions that emerged as part of functional specialization in food security governance during the 1960s and 1970s are well documented (See Watkins 1991, 43). However, I suggest that current conflicts are qualitatively different.

based beliefs about how the world should and should not to be. Meta-norms are not universally shared or fixed; they are filtered through (individual and collective) reflexivity, lived experience, socialization, and positionality in the global political economy.

There is an almost near universal agreement about the immorality of a situation when substantial numbers of people experience hunger in a world of material abundance. This consensus is reflected in many ways and scales, ranging from international declarations against hunger to the emergence of local food banks to simple everyday acts of human kindness when people donate money and/or time to feed the food insecure in their communities or globally. The generalized disapprobation of the experience of hunger in others is a meta-norm. However, there are diverging understandings on what the root causes of hunger are and how best to solve them that translates into specific norms and rules in global governance. Indeed, it is likely for there to be diverging norms in global governance, even when there is a shared root meta-norm. This position fits with other work of many scholars that have emphasized that power, interests, and ideas give rise to specific norms in global governance (Ruggie 1982; Krasner 1983; Katzenstein 1996; Epstein 2006). Norms are not always shared by participants in acknowledged policy field. What constitutes appropriate rules is highly contested.

More specifically, the assemblage under study is characterized by a key conflict between two norms: food self-sufficiency and free trade in food. Both norms include the desirability to reduce hunger; however, they reflect different understandings of appropriate behaviour and obligations of actors, and the desirability and efficacy of

specific rules. A primary source of conflict centers on claims that agricultural trade liberalization negatively affects world food security. Food self-sufficiency has long been a dominant norm in what we recognize as the modern international state system. Food self-sufficiency includes the obligation of states to organize the economy to maximize food production and food availability to its citizens. It has also been an organizing logic of many national and international institutional forms. The creation of the FAO in 1945 was an early international cooperation effort to increase agricultural production in the developing world to achieve greater food self-sufficiency. Even up until the late 1970s, even though the majority of states viewed international trade in food as a necessary mechanism to meet the shortfall between national food production and demand, when it occurred, it was highly managed and regulated to maximize price and supply stability.

The norm of free trade in food only began to retake greater prominence in the 1980s. Free trade in food assumes a greater role for market-based activity for meeting the food consumption demands of peoples. Intellectually, it was informed by the shift away from the ideology of embedded liberalism of the post-war era (Ruggie 1998) towards a new ideology of neo-liberalism, emphasizing a diminished role of the state in the economy, a transition toward greater privatization, liberalization, and financialization of the economy.

The establishment of the WTO was a major turning point in the global governance of agriculture and food security. The WTO launched a process of agricultural trade liberalization with the specific objective of reducing state intervention in agriculture and food and bringing agricultural policy under binding international trade commitments and



strong dispute settlement mechanism. The AoA has major implications for food security as it is part of a long-term project to reduce the capacity of states to intervene in markets to achieve food security objectives and has increased the vulnerability of countries to food price and supply volatility (Stevens, Greenhill, and Kennan 2000; Thomas 2006).

The potential negative impact of trade liberalization on food security has become a major issue in the politics of the multilateral trade system. Although food security is a minor concern for the minority of net-food exporters, the vast majority of WTO members are developing countries with high rates of food insecurity and where agriculture is the primary source of employment, exports, and foreign exchange. For these countries, the impact of trade liberalization has been their principal negotiating concern.<sup>6</sup> The centrality of food security to poor developing countries is often overlooked: the principal reason why developing countries agreed to the AoA in the first place is that they were able to secure a side agreement to address their food security concerns at the eleventh hour of the Uruguay Round negotiations.<sup>7</sup> The current protracted state of the Doha Round negotiations is also linked to disagreements over food security, with developing countries seeking additional forms of border protection to respond to agricultural price volatility.

The normative conflict between the UN system and WTO examined in this study is one of high stakes as it seeks to define the relationship between states and markets in an area with extremely high distributive costs, in particular the distribution of food insecurity

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<sup>6</sup> In the Tokyo Round (1973-79) of GATT negotiations Japan, South Korea, and many developing countries sought to include new global food security mechanisms as part of a new agricultural trade agreement. During the Uruguay Round (1986-1994) of GATT negotiations, food security was the major negotiating issue of the majority of developing countries. In fact, the first ever developing country coalition in the multilateral trading system emerged out of food security concerns (e.g., the Net-Importers Group).

<sup>7</sup> The declaration is the 1995 *Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries*.

within and between countries. In a globalized food economy, trade liberalization is one of the principle mechanisms through which these distributive costs are transmitted.

## **Conclusion**

Existing approaches to complexity in global governance tend to see IOs as largely passive sites of inter-state negotiations. Drawing on the concepts of IO autonomy and assemblages to understand the global governance of food security as part of broader processes of social reorganization of the state, economy, and society, I argue that IOs act as semi-autonomous global political actors that seek to affect outcomes in other institutions in global governance. My objective in this study is to provide greater empirical understanding to the process of global transformation and specific attention to the role of IOs as actors in situations of overlapping authority in global governance. By doing so, I hope to improve our knowledge of the causes and consequences of transnational conflict in the context of increasing complexity in global governance. I analyze how the expansion of the authority of the WTO into the global governance of food security has prompted counter-efforts by several UN institutions to seek to limit the negative impacts of multilateral trade rules on world food security by exerting their agency on the WTO.

## CHAPTER 2. THE HIDDEN STORY OF FOOD SECURITY IN THE MULTILATERAL TRADING SYSTEM

This chapter elaborates on the alternative account of food security and international trade discussed in Chapter 1. The chapter provides a historically rooted analysis of the transformation of the global governance of food security since the post-war era. This transformation is captured by an earlier form rooted in a national institutional framework and logic of food self-sufficiency and later towards a deterritorialized global assemblage in which authority is rescaled to the supranational level and markets. I argue that the global governance of food security, particularly with regard to rule-making and institution-building, has been increasingly mediated through the multilateral trading system (MTS).

I acknowledge it is difficult to disentangle the treatment of food security and agricultural trade in the MTS. However, this task becomes easier when we remind ourselves that the analytical distinction between food security and agricultural trade is not a neutral one. It is a distinction that is part of the dominant discourse of powerful agricultural exporting states who are subscribers to neoclassical economic theory. They regard agricultural trade as a commercial issue and one of comparative advantage. In effect, this paradigm gives food insecurity a low priority. This paradigm is also predominant among Northern scholars that shape the intellectual and normative underpinnings of contemporary agricultural trade policy debates. In contrast, for the two-thirds of countries on Earth that are net-food importers, international agricultural trade is

viewed as a critical global public good that is necessary but not sufficient to achieve domestic food security.

In this chapter, I argue three interrelated points. First, hunger and food security have long been a trade issue in the MTS. Food security's comprehensive treatment during the GATT Uruguay Round did not come out of nowhere. Nor can it be reduced to a strategic issue-linkage in the context of the Single Undertaking or as unintended institutional mission creep. Rather, put in historical context, food-insecure developing countries have forward food security as a critical negotiation issue. It appears that economic and political conditions were far more amenable in addressing food security during the Uruguay Round compared to other GATT rounds. Food security is again at play during the current Doha Round of negotiations.

Second, the MTS has addressed food security in different ways at different historical moments. These differences are associated with the transformation in the global food economy and the very concepts of "hunger" and "food security". The global food economy has shifted from a state-managed international grain complex in the immediate post-war period to a value-added, globally integrated food system today (McMichael 1993, 23; 1994; Pechlaner and Otero 2008; Patel 2007; Ufkes 1993). This has prompted changes in governance arrangements in parallel to these transformations. Food security has evolved from a simple correlation between hunger and food supply to a multi-dimensional concept. As such, this chapter pays special attention to how political actors have framed food security vis-à-vis changes in the global food economy and when actors

have been successful in employing such frames in reshaping governance arrangements within the MTS.

Third, I argue that food security has been slowly but steadily integrated into the MTS. By integrated I simply mean that food security has become part of the everyday work of the MTS. I posit that the WTO is a significant institution in the global governance of food security, even if trade officials are loathe to admit this point. The WTO's rules govern a wide range of domestic and international food security policy. The continued resistance by powerful actors (read exporters) to recognize the WTO's role in food security governance creates ambiguities over the WTO's perceived and actual authority over food security policy-making and is a major source of transnational political conflict.

### **Existing Accounts of Food Security in the MTS**

Food security has not featured prominently in the IR and IPE literature on the MTS.<sup>8</sup> There is a substantial and highly specialized literature on food security and trade, however, this has been largely undertaken by agricultural and development economists and legal scholars. This literature has focused on several themes: the relationship between international food aid and the WTO (Clapp 2005; Heri and Häberli 2009; Cardwell 2008; Barrett and Maxwell 2005; Zhang 2004; Clay and Stokke 2000; Ruttan 1993) and the WTO's institutional design and its impact on world food security

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<sup>8</sup> I treat IR and IPE as separate but related disciplines. My view is that although contemporary narrative of IPE is that it developed as a critique of mainstream (i.e., neo-realist and liberal institutionalism), IPE also has roots in earlier Marxist political economy. In addition, IPE is not primarily the domain of political scientists but also by sociologists, heterodox economists, critical legal theorists and other social science disciplines.

governance (Raffer 1997; Desta 2006; Paarlberg 2002; Casabona and Epifanio 2010; FAO 2003b; Weis 2007). What these literatures lack is a systemic and historical account that addresses why food security issues are such a major source of political contestation in the MTS. In addition, there is a need to contextualize why certain food security issues are addressed in the MTS (and not others), and in relation to broader shifts in the structures and ideas that shape the global food economy. This is precisely a gap where IR and IPE approaches can make significant contribution. They can identify and analyze the role of power relations among states and non-state actors, the relative importance of material and non-material factors, and the impacts of legalization and IOs in global governance.

I do not wish to suggest that IR and IPE have completely ignored the study of food security and international trade. Several scholars have tackled the subject (Uvin 1994; Gonzalez-Palaez 2005; Cohen and Clapp 2009; de Haen, Johnson, and Tangermann 1985). This small number of studies suggests that food security continues to be seen as “low politics” in the jargon of IR and at the bottom end of what Murphy and Tooze (1991) identify as the prevailing hierarchy of substantive issues in IPE scholarship. Yet there is something curious about the relative lack of study on this topic. Food security has been a major area of international cooperation, diplomacy, and institution building in the post-war era. It has been also been a disproportionately large component of American foreign policy and international development assistance until quite recently. Long-standing commercial feuds between the US and other middle powers and between the North and Global South have been over agriculture and food security. In other words,

food security has been a significant issue in global politics for decades, even if the IR and IPE literatures have overlooked it.

I put forward several conjectures with respect as to why IR and IPE have been relatively silent on food security. Acknowledging that agriculture was only recently formally integrated into the MTS, and because agriculture and food security are intimately linked, one could argue that the time lag may help to explain food security's relative under-examination. But this is unsatisfactory given that food security was discussed in previous GATT rounds encompassing decades. Another reason related to this is that some IR scholars have argued that food security and trade occupy distinct international regimes (Puchala and Hopkins 1978; Hopkins and Puchala 1978) with the implication that they be studied as separate issue areas. This viewpoint is highly debatable (See Marlin-Bennett 1993; Wolfe 1995). My treatment of the MTS in this chapter suggests otherwise and views food security and trade as deeply linked by showing how food security has been repeatedly treated *within* the MTS.

A second conjecture is that IR and IPE studies have been largely fixated on transatlantic relations, especially the trade disputes between the US and EU. And to a lesser extent, the role of middle powers like Japan, Canada, and Australia that are often caught in crossfire of US-EU trade conflicts (Wolfe 1998; Higgott and Cooper 1990; Narlikar and Tussie 2004; Narlikar 2005; Tyers 1993). This goes some way to explaining the low import of food security in the study of the MTS; despite the fact the vast majority

of states in the MTS have traditionally been food insecure countries<sup>9</sup> and for whom food security was never easily isolated from their trade policy.

Helleiner (2006) argues that greater attention to the history of North-South relations is critical for a fuller understanding of the post-war international order. Following this, I examine the historical record. The historical record clearly shows that food security was on the official agenda of the past four rounds of multilateral trade negotiations. This also illustrates the active role of developing countries in the MTS, something that is often overlooked in the history of the GATT (See Wilkinson and Scott 2008). The historical record supports the claim that the MTS has been one of the key sites of transnational political contestation over food security.

Food security provides another focal point alongside the more established scholarship on commodity problems in the study of North-South relations. Commodity trade continues to be an unresolved issue for many developing countries. Research in this area has focused on the export and commercial interests of developing countries, often speaking to broader debates about globalization and development. Yet in such studies, food security is often in the background. Such studies often treat food security as a problem to be resolved by increasing the export-earning potential of commodity producers and less so on linkages between international trade and food security.

My third conjecture is that the dominant paradigms of IR and IPE such as neo-realism and neo-liberal institutionalism are less likely to be concerned with the

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<sup>9</sup> Of the original 23 GATT members, these included Brazil, Chile, Cuba, India, Myanmar, Pakistan, South Africa, Sri Lanka, and Zimbabwe. It can be argued that post-war European countries were in a relative state of food insecurity given the extent of economic dislocation. In the case of the WTO, the majority of members are developing countries that experience moderate to high levels of food insecurity.



distributional and normative concerns associated with food security. Food-insecure countries tend to be weaker and/or fragile states and therefore not likely the subject of scholarship on power in the international system. Neo-liberal institutionalism is primarily interested in explaining collective action but less concerned with the normative implications and distributional effects of such outcomes. In addition, people not states experience food insecurity, which is the primary unit of analysis for both. Even critical IR and IPE have been largely silent on food security even though food security has been taken up a major issue of alter-globalization movements such as the Via Campesina and Food Sovereignty movement.

### **Hunger and Food Security in the MTS**

Food security broadly defined has weaved its way in and out of the MTS since its earliest days. I start with identifying occurrences of when food security has entered the realm of international trade. I do so by exploring specific outcomes in the MTS such as specific trade rules or policy instruments. I also examine what can be termed as *non-outcomes*; developments which did not result in specific rules. I include negotiating proposals and agendas and other work related under the MTS. Non-outcomes are important because they not only tell us about what the key issues on the trade agenda have been (even if unsuccessfully addressed) but also because non-outcomes can influence the course of future events (i.e., can lead to path dependency). In addition, non-outcomes are often the source of unresolved political tensions within the MTS. These tensions can shape inter-state relations over longer time horizons. This is especially

important in the MTS given its iterative quality. Repeated interaction among actors over successive negotiations means that past events can have important influences in the future. The remainder of this section examines food security-related outcomes and non-outcomes in the MTS. First, I situate the evolution of the concept of food security in the international sphere as important context for the analysis I undertake below.

### *The Construction of Food Security*

A major research program in IR and IPE has explored the role of the intersubjective dimension of human action in constructing the global polity (Ruggie 1998). Norms, ideas, and identities play a critical role in structuring international relations alongside material factors. Drawing from these insights, I trace how food security has been constructed as an issue-area requiring international cooperation and institutions. This better permits us to understand the politics of food security in the MTS.

Eradicating hunger was one of the principal objectives of the post-war international system. Alongside the desire for peace and prosperity, the architects of the post-war system held a conviction about the international community's collective responsibility to fight hunger and belief in the vast potential for advances in nutrition and agricultural science to achieve this end. This belief drove the creation the FAO in 1945, the first UN specialized agency, tasked to raise world nutrition levels, improve food production and distribution, and ensure humanity's freedom from hunger. Early FAO efforts sought to address the food problem through the international coordination of grain

production and trade to redistribute surplus food produced in the West to meet the needs of the hungry in the developing world.

In the 1960s, rapid population growth combined with lagging food production in developing countries prompted Malthusian fears of an impending world food shortage. It was during this period that the WFP was created to provide food aid to developing countries. While this development served multiple humanitarian and trade objectives for donors, the evolving practice of international food assistance further concretized the norm and expectations of international cooperation on hunger (Shaw 2007). This was followed by donors agreeing to a new food aid burden-sharing system under the 1967 Food Aid Convention (FAC). In addition to food aid, nations scaled-up bilateral and multilateral assistance to foster food production in developing countries by financing technological transfers and the introduction of higher yield seed varieties, fertilizers and pesticides (i.e., the Green Revolution).

The term “food security” first entered the lexicon during the 1970s. An unexpected shortage of wheat caused panic on international food markets that drove grain prices skywards. Food importing countries desperately scrambled to secure food supplies. This was the first recognized “world food crisis” and led to severe hunger in many countries. This crisis revealed a new driver of hunger to policy-makers, price volatility, and the unreliability of food supply on international markets. The events of the 1970s challenged assumptions about how world food markets worked and drew attention to the need for new instruments of international cooperation to eradicate hunger. Several new international institutions came out of the 1974 World Food Conference, including

multilateral forums for inter-state cooperation and a new international financial institution to address the new drivers of food insecurity (United Nations 1974). Although the Conference produced political consensus about the need to address food security, the return of stability on international food markets soon after diminished the sense of urgency for major reform. Despite this, the Conference's longer-term impact was to establish consensus about the need for an "international agricultural policy" (Josling 1985, 274).

The concept of food security continued to evolve, incorporating advances in the understanding of the causes of hunger. In particular, the work of Nobel Prize winning economist Amartya Sen, which demonstrated that access to food, and not just food supply, was critical to averting famine reoriented international policies to look beyond traditional food production and supply issues (Drèze and Sen 1991; FAO 2003b). This new conception of food security recognized various dimensions – supply, availability, utilization, and access – and provided a novel understanding of the causes of hunger. In turn, it initiated a major rethink of international food security policies away from the old approach of traditional bulk transfers of food towards incorporating a set of interventions targeting various dimensions and scales, including a greater attention to economic, physical, and social access to food. This multifaceted understanding became the basis of the current international consensus definition of food security negotiated by states at the

1996 World Food Summit (WFS). This definition negotiated at the Summit remains the accepted basis for international and national food security policy-making.<sup>10</sup>

Taken together, these developments shaped the construction of food security as an issue-area and the formation of the international regime around it. The desire to eradicate hunger alongside an evolving understanding of food security was reflected in the institutional arrangements and practices of international society. The international food security regime was rooted in the principle of collective action to eradicate hunger and reduce the number of persons that suffer and die from hunger and malnutrition.

#### *Food Security and the International Trade Organization*

I start with examining food security in the GATT's predecessor, the International Trade Organization (ITO). Agriculture and food security concerns weighed heavily on the minds of the architects of the post-war order. An acute policy concern was the inability of Europe to feed itself and the threats this situation posed for peacetime reconstruction. In addition, the US needed Europe and other food importing countries to absorb surplus agricultural production. This was a source of growing commercial tensions between the US and other major food exporters such as Canada, Argentina, and Australia. These latter countries sought to maintain their European market shares and to assist in European (and Asian) economic reconstruction.

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<sup>10</sup> The current definition is: "Food security exists when all people, at all times, have physical, social, and economic access to sufficient, safe and nutritious food which meets their dietary needs and food preferences for an active and healthy life."

Competing visions for a world trade order were at play in the negotiations for the ITO. Establishing an open but managed trade order was regarded by states as critical to promote stability in international political and economic relations (United Nations 1948a; Ruggie 1982). Agricultural trade was a major part of the Havana Charter that set the rules of the ITO. In the 1940s, agriculture continued to be a significant economic sector and source of employment, production, and foreign exchange both for developed and developing countries. The vision for the ITO was to increase trade in agriculture but to retain many deviations, especially for developing countries (Onyejekwe 1993). The Havana Charter (United Nations 1948a, 18) explicitly recognized the right of states to enact protective measures for domestic industries such as agriculture and deviate from their trade obligations. This included the recognition of the legitimacy of direct governmental assistance to domestic sectors, including the processing of domestic agricultural commodities, in pursuit of economic development and reconstruction (United Nations 1948a, 23). This provided a normative and legal framework for policies that were in support of national food self-sufficiency.

The 1948 Havana Charter covered several food security matters. Its provisions included rules on the use of export restrictions. This was rooted in wartime experiences where food shortages and rations had been common. Although in the post-war era states sought to minimize quantitative restrictions, supply measures were to remain the primary policy tool available to states to regulate food prices and availability. In the case of export restrictions, these policies were utilized primarily by countries with export production capacity. The inherent volatility of agricultural production meant that the frequent use of

such policies could lead to critical shortages of food and non-food commodities on international markets. Such situations could be a source of significant international political tension (and had been during the war). Therefore, the desirability of international cooperation on export restrictions was popular among most states (and most acutely by importing countries).

The Havana Charter permitted export restrictions and prohibitions only on a temporary basis “for the period necessary to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting Member country” (United Nations 1948a, 34).<sup>11</sup> The rules on export restrictions recognized the principle that domestic food security came before international trade. However, such policies were to be temporary, and therefore, an aberration from normal trade policy practice. This approach to international food security was consistent with how food insecurity was understood during this period. Policy-makers regarded hunger as principally a supply problem. International cooperation worked to ensure the flow of food from surplus to deficit areas.

The Havana Charter was the first document that articulated the idea of international cooperation in the management of the world food supply. Among the multiple objectives of inter-governmental commodity agreements identified in the Havana Charter (e.g., promote economic development, reduce market volatility, and encourage sustainable use of the world's resources), one of these objectives was to increase the production of commodities “with advantage to consumers and producers,

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<sup>11</sup> The difference between export restrictions and prohibitions are as follows. Export restrictions occur when states limit the quantity of a particular product. Export prohibitions occur when states prevent entirely the export of a particular product.

including in appropriate cases the distribution of basic foods at special prices” (United Nations 1948a, 78). “Special” prices meant below market prices. This was an early articulation in international society of the *implied* obligation for food-producing countries to distribute food on non-commercial terms. This was an articulation of what was to become international food assistance decades later.

### *Food Security and the General Agreement on Tariffs and Trade*

The effort to establish the ITO failed after the US Congress’ reluctance to ratify the Havana Charter. Instead, states compromised by jettisoning the idea of an international organization with authority to govern international trade. They kept the basic agreement embodied in the Charter and adopted this in the General Agreement on Tariffs and Trade (GATT). The GATT became the basis for the post-war international trading order (Krueger 1998; Trebilcock and Howse 2005; Drache 2000).

There was continuity and change in how food security issues were treated in the GATT and the earlier Havana Charter. The GATT mirrored the provisions in the ITO, such as permitting governments to apply export restrictions and prohibitions. There was also significant differences. First, the GATT did not apply generally to agriculture. The ITO had applied to agriculture and industry. This resulted in the effective exclusion of agriculture from the GATT (GATT 1961a). The GATT did not include the regulation of international commodity agreements as had been outlined in the Havana Charter. Because of this latter difference, the idea that the MTS would be a key part of an international policy to make foodstuffs available at special prices became collateral damage with the



demise of the ITO. The general exclusion of agriculture in the GATT was interpreted by many states as also in support of food self-sufficiency whereby authority over food would continue to be under the exclusive authority of states.

### **Multilateral Trade Negotiations and Food Security**

I now turn to an analysis of how food security issues have been raised, framed, and negotiated in relation to agricultural trade in successive multilateral trade negotiations. We should expect to see very different articulations of this relationship between food secure and food insecure countries (i.e., exporters and importers). There is a general correlation between countries that are: 1) food secure; 2) agricultural exporters; and 3) powerful actors in the international system (and vice-versa although with some notable exclusions such as Japan). The analysis of food security in the MTS reveal some of the dynamics of power relations in the global political economy, and how these dynamics shape the forms and discourses of international cooperation in trade and food security. In addition, we should expect that food security frames that correspond to the dominant international consensus in economic policy are more likely to be successful than frames which are specific to the conditions of particular states. These issues are considered in four separate GATT round of negotiations (Dillon, Kennedy, Tokyo, and Uruguay) and in the ongoing WTO Doha Round.<sup>12</sup>

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<sup>12</sup> GATT contracting parties first attempted to address agriculture under non-tariff concessions in the Dillon Round and in the context of a growing GATT membership, including a higher number of developing countries. Therefore, I employ the Dillon Round as a starting point and leave out the previous Ancey, Tourquay, Geneva, an Ancey rounds, which did not seek to address agricultural trade issues, only addressed industrial tariffs, and predate significant expansion in the GATT Membership.

*The Dillon Round (1960-61)*

Agriculture, in addition to industrial tariffs and trade concerns of less developed countries, were the main negotiating items in a program to expand international trade in the GATT Dillon Round of multilateral trade negotiations.<sup>13</sup> On agriculture, the Contracting Parties identified the need to address non-tariff measures and their influence on levels and patterns of international agriculture trade (Hoekman and Kostecki 2001). The Dillon Round did not address hunger and food security-related issues directly. At this historical moment, the main concern of the Contracting Parties was how to accommodate the newly formed European Communities (EC) and less developed countries, including recently independent nations, into the GATT.

The round did not fully address its main stated objective with respect to agriculture, specifically non-tariff barriers (NTBs) to agricultural trade. However, the United States negotiated duty-free bindings on soybeans, linseed, flaxseed, oilseed meal, and cotton for shipments into the European Communities (EC) (USDA 1994; Finger 1974). What can be labelled contemporary food security concerns – access and availability – did enter the negotiations. In examining the agricultural policies of the Contracting Parties, the GATT secretariat noted the broader significance of farm income and price stabilization policies to address non-trade considerations including the, “protection of national security, social and demographic considerations, or balance-of payments: the pursuit of these aims generally results in the fostering of agricultural productivity or maintaining or expanding total production for home consumption, or even for export, irrespective of world price levels” (GATT 1961b, 3)

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<sup>13</sup> The Dillon Round was named after C. Douglas Dillon, US Undersecretary of State.

While not explicitly framed in food security terms here, the role of state intervention to ensure sufficient food production and supply for consumption at the national level corresponded to the basic tenets of food security policy during this period.

At the same time, the GATT's review of Contracting Parties' agricultural policies also began to articulate a criticism of production- and export-oriented subsidies, surplus production, and surplus disposal. According to the GATT (1961b, 5-6),

“Wheat provides the best example of the effect on international trade of price support measures causing export surpluses leading to pressures for disposal on subsidized or concessional terms...In its Review of the World Wheat Situation of April 1960, the International Wheat Council found that total wheat and flour exports covered by special governmentally assisted export programmes made up nearly 28 % of world wheat and flour exports. Indeed, since about 1953 a fairly important increase in the world trade in wheat and flour has been almost entirely due to non-commercial transactions which have made possible increased consumption.”

And,

“Where systems which necessitate restriction on imports into the market operate, wheat shipped internationally is sold in the country of import at a price higher, and frequently considerably higher, than the price paid to exporters. (This applies also to most surplus disposal transactions where wheat is paid for by consumers at the prevailing price in the recipient country.)”

Even by the early 1960s, we see the emergence of what I term the exporters' critique of surplus wheat production, the world's primary food grain. In the agriculture negotiations, agricultural exporters drove and shaped the agenda. Exporters' primary concerns were limited to the potential impacts surplus production had on international prices and the export markets of competing exporters. Notably, in this critique, there is little consideration of the non-commercial dimensions these policies entailed such as providing affordable food to less developed countries (i.e., at price below world market price). Nor is the impact on the production capacity of less developed countries specifically identified

as a concern. Although the Dillon Round did not result on the creation of new rules on surplus disposal, this particular critique would reappear in future trade negotiations and shape the international politics of food aid.

*The Kennedy Round (1963-1967)*

Food and hunger concerns were more prominent in the GATT Kennedy Round. However, GATT Contracting Parties differed in their concerns and positions over which, and how, world food problems might be addressed in the GATT and in the context of attempting linear tariff reductions across sectors (Rehm 1968; Norwood 1969). The world food problems in the 1960s were concerns about rapid population growth and declining per capita food production in developing countries. Policy-makers were legitimately concerned about the potential of widespread food shortages and political instability, especially in India (Koffsky 1967). This was also a period of major expansion of international food aid programs but also the tightening world grain supplies after years of gluts on international markets.

Another important consideration was that developing countries were largely disaffected with the GATT. Primarily through the work of the Group of 77 (G77), developing countries convened the UN Conference on Trade and Development (UNCTAD) in order to address developing countries' trade-related concerns, including the negotiation of international trade rules (e.g., Generalized System of Preferences) and international commodity agreements with the specific objective of addressing developing countries' trade priorities. The GATT was no longer the only game in town when it came

to international trade agreements. This was a historical moment of great uncertainty and contestation over the shape of the MTS and food and agriculture.

Agricultural talks during the Kennedy Round devoted considerable attention to non-tariff barriers to agricultural imports. According to Irwin Hedges (1967), who advised the US government during the negotiations, there were four main objectives of the round on agriculture: 1) increase grain exporters access to EC markets; 2) renegotiate an international floor price for wheat; 3) adjust global wheat supply in line with growing world commercial and non-commercial demand; and, 4) establish a multilateral food aid program. Contracting Parties also engaged in extensive discussions about the strategic use of grain surpluses with the view of better coordination of domestic policies to reduce volatility in international grain prices (GATT 1962). In short, there was consensus among the Contracting Parties about the need for better management of international markets.

In the negotiations, grain exporters moved forward to support establishing a multilateral food program. By 1964/5, states had already been discussing the creation of a permanent multilateral food aid program, with the idea of transforming the then experimental and temporary WFP into a full-fledged multilateral institution. During the Kennedy Round, Argentina had circulated a proposal that called for the establishment of a multilateral food fund made up of cash and in-kind food donations. The stated purpose of this fund was to expand multilateral hunger eradication efforts, but also to counteract the depressing effects of bilateral food aid on world prices (Argentina 1965). As scholars of food aid point out, the purpose of food aid programs have never been solely humanitarian objectives. Trade and foreign policy goals are also at play (Shaw 2007; Singer 1987; Clay

and Stokke 2000). This logic was at play at the GATT where the idea of a burden-sharing system meant,

“Food aid contributions were viewed primarily as one of the means of achieving the objectives of access and joint participation in supply management. A food aid program to which both exporters and importers pledge specific contributions would provide an outlet for excess production and help strengthen and stabilize commercial grain markets. At the same time it would represent a beginning toward a more equitable distribution of the burden of meeting the food aid requirements of developing nations.” (Hedges 1967, 1335)

Consensus on this matter resulted in significant changes in world food supply management. The Kennedy Round produced two interrelated agreements, the World Trade Convention (WTC) and the Food Aid Convention (FAC), which replaced an earlier international wheat agreement. This agreement did not apply to all GATT Contracting Parties but was limited to Argentina, Australia, Canada, Denmark, Finland, Japan, Norway, Sweden, Switzerland, the United Kingdom, the United States, and the EC (i.e., the main grain exporters and importers). The main elements of the WTC and FAC were negotiated in the GATT, including donors’ commitment levels, international standards and best practices, and reporting and monitoring of international food aid flows (GATT 1967). Other details were filled in later at the FAO before coming into force under international law.

The FAC’s importance for world food security is often underestimated. The round resulted in a minimum level of food aid commitments in the form of annual pledges by donors. It moved the food aid system toward greater predictability of supply and accountability of donors. The FAC provided (at least until quite recently) assurance of stable grain supplies that the WFP could draw on for its food assistance activities. In other words, without the FAC, and by extension the Kennedy Round agricultural negotiations,

the international food aid regime may have not come to exist in its current form. The pressing need to address problems in grains trade and associated political conflicts between exporters proved to be an important factor and policy rationale for an international food aid burden sharing system.

Indeed, for grain exporters establishing a world supply management scheme for grains was part of a broader strategy to discourage the United Kingdom (UK) and France from moving towards food self-sufficiency in the late 1960s (Hedges 1967). At this point in history, the UK and EC nations (then starting to operate under the new Common Agriculture Policy) were building up their support price schemes to expand domestic grain production. This had the effect of increasing competition among exporting countries over shrinking market access opportunities in these countries. However, this emphasis, and the exclusivity of the countries that participated in the negotiation under the “Wheat Group” excluded most developing countries (with the exception of Argentina), especially food importers. For example, India raised concerns about its exclusion from the Wheat Group discussions, and stressed its desire for the WTC and FAC to assist it to meet its long-term objectives to become self-sufficient in wheat (India 1967).

The GATT Kennedy Round was thus critical in creating and institutionalizing the framework that underpins the current international food aid system. In addition, the GATT negotiations proved to be a successful venue for inter-state negotiating on food security. The historical record from this period is less clear on what the general view of developing countries were. With the exception of Argentina, which was a party to the WTC and FAC, other developing country GATT Contracting Parties appear not to have

been active in this regard. On the other hand, the negotiating documents suggest that developing countries were supportive of the creation of a more stable international food aid system. This promised greater assurance of international food aid supply at or below commercial terms.

*The Tokyo Round (1973-1979)*

Agriculture was once again front and center on the negotiating agenda in the Tokyo Round, which called for the Parties to “take account of the special characteristics and problems in this sector” (GATT 1973b, 4). Substantively, the objectives of this round of negotiations were to further trade liberalization, address NTBs, and provide enhanced trade opportunities for developing countries.

The timing of the GATT Tokyo Round was inauspicious, as formal negotiations were just getting underway as the World Food Crisis struck. The Tokyo Round had begun prior to the crisis. As such, the world food security problem was not directly on the initial negotiating agenda. Once the magnitude of the World Food Crisis was apparent, it became a major item of discussion among the Parties in the negotiations. Concerns over tight international food supplies, and its implications for agriculture trade and food security, were a major item of discussion in the early stages of the negotiations.

At the very first meeting of the Trade Negotiations Committee in 1973, the Contracting Parties discussed the relationship between the round and upcoming FAO World Food Conference. In its first report to the Trade Negotiations Committee, the Chair of the group on agriculture had identified that “there may be special problems affecting



trade in certain commodities, such as those relating to food security, which may also require special attention” (GATT 1974d, 6). This implied that Parties were well aware of the linkages between trade in agriculture and world food security. At this meeting, the US, which was then a strong supporter of the FAO-led World Food Conference, clarified that the GATT was the only forum where trade commitments could be negotiated to address the trade-related aspects of the world food problem. It did not see the need for forum-shifting of agriculture trade issues into the UN per se. Rather, it regarded the work of GATT and UN as complementary and pressed for the GATT to address trade-related issues related to the food crisis (GATT 1973a).

Once the negotiations were underway, the Contracting Parties tasked the GATT Secretariat to study agriculture production, trade, and consumption patterns. This work sought to improve Parties’ understanding of the trade-related dimensions of world food supply and provide a basis for future decisions on agricultural trade liberalization (GATT 1974a, 1974c, 1974d, 1974b, 1974e). This work was a major element of the round’s early work on agriculture. Although this work was not limited only to food security issues, food security concerns significantly informed the GATT’s work on the world food problem.

In Geneva, trade negotiators largely saw the problems in terms of an undersupply of food even though the Rome-based discussion had broadened to discuss price volatility and speculation. Parties did not share a consensus view over the causes of the food crisis, which became an increasing point of tension in the negotiations. In order to facilitate discussions on agriculture trade and the world food problem, all delegations were requested by the GATT Secretariat to submit in writing their views on causes and

conclusions to be drawn from the “recent changes in world markets” (GATT 1974b). The reference to “recent changes in world markets” was shorthand for the food crisis.

Diverging views with respect to the role of the GATT and trade policy in addressing world food security crystallized over several meetings in 1974. The US was of the view that agricultural trade liberalization and greater interdependence were necessary to overcome the boom and bust cycles of agricultural prices, which it argued posed a threat to world food security (United States 1974). Other exporters identified the food self-sufficiency policies of the EC and other countries as having had depressed world agriculture in the years prior to the crisis and had made international markets less responsive. Take this unattributed statement (but which I may assume was made by either Canada, Australia, and/or Argentina) from the meetings,

“Among the contributory factors underlying and aggravating the present shortages were the policies which created uncertainties in the market. Without some certainty of access to markets, there was little incentive to increase production. Agricultural production cannot be turned on and off like a tap in response to stop-go measures taken by governments. While it might not have been possible to avoid shortages altogether, their impact might have been lessened had the supplying countries had security of access. The last few years had shown that when prices exceeded certain levels, protective devices became unnecessary and had in certain instances been relaxed or suspended by some major importers. Thus, if world prices were at or above remunerative levels, bigger trade flows resulted. On the other hand, account must also be taken of consumer reaction to high prices leading to decreased demand, and of rapid price fluctuations which generate uncertainties for producers.” (GATT 1974e)

During the negotiation sessions in 1974, Contracting Parties spent considerable time debating the causes and consequences of the food crisis. Parties disagreed on whether the crisis was temporary or likely to be long lasting and the feasibility of various proposals for increased international cooperation on food security.

Despite diverging positions among the Contracting Parties, there appeared consensus towards establishing international supply management for key grains such as wheat and rice. These echoed earlier proposals in the Kennedy Round to establish similar mechanisms. Canada, for example, proposed all Parties undertake substantive agricultural liberalization to ensure the “security of supply of agricultural products at reasonable prices” (Canada 1974, 2). A Sub-Group on Grains was formed that undertook work on the world supply management of wheat. Unlike the Wheat Group of the Kennedy Round that was limited mostly to developed country net-food exporters, the sub-group was more inclusive and included nominally forty Contracting Parties. These ranged from developed to developing countries and food exporters to importers. It also included UNCTAD as an official observer (GATT 1975a).

Two competing approaches to international food supply management dominated the work of Sub-Group on Grains throughout 1975 and 1976. Exporters stated their priority was liberalizing trade in grains. This met with some resistance from the EC, which highlighted instability in grain markets as the central world food problem (European Economic Community 1975). Developing countries, in contrast, wanted consistency between the GATT negotiations with the emerging world food security agenda coming out of UN. Developing countries in their intervention had, “emphasized the need for ensuring the security of supplies at reasonable, prices for importing developing- countries, taking specially into account the needs of the most seriously affected countries....including measures being discussed in the International Wheat Council and in the framework of the International Undertaking on World Food Security in pursuance of the, decisions of the [UN] World Food Conference ” (GATT 1975b, 1)

Hardening positions on grains trade become increasingly evident as the round progressed. A bloc formed between the EC, Japan, and developing countries pushing international grain management while the US pushed strongly for addressing market access, export subsidies, and safeguards (United States 1975). India expressed its preferences for measures to support agricultural production in developed *and* developing countries and the establishment of a system of international food reserves (India 1976). These statements point to the growing policy chasm between the Parties. By the Sub-Group's fourth meeting in May 1976, it became apparent that,

“Given the amount of work that remained to be done, and in light of the date now set for the completion of the Multilateral Trade Negotiations, it was noted, with regret, that little progress had been made since the Sub-Group's last meeting in narrowing the differences between some of the major trading countries.” (GATT 1976, 2)

After this meeting, the Sub-Group on Grains did not reconvene for the remainder of the Tokyo Round. The reasons were threefold. First, disagreement among the Contracting Parties over the basic parameters persisted and no suitable compromise emerged. Many governments supported a world supply management scheme for grains while others, notably the US, demanded that the negotiations focus on reducing tariff and non-tariff barriers. Given its pre-eminent role as the world's principal food supplier during this historical period, the US preferred not to support an outcome that would have been potentially burdensome. Its firm position was that an “international trading structure based on liberalized national trade policies is by far the most reliable and efficient basis for ensuring the availability of adequate grain supplies to meet world needs” (United States 1976, 1). As with agricultural issues more generally in the round, a deal was not in the making.

Second, to a significant extent, the work of the Sub-Group on Grains overlapped with, and was effectively absorbed into the work of the International Wheat Council. Later, the work was overtaken again by efforts of developing countries to incorporate wheat under commodity agreements through the UN Conference to Negotiate an International Arrangement to Replace the International Wheat Agreement of 1971 (O'Connor 1982; Lamond 1977; Weston 1977; Bergesen 1980; Cohn 1979). These developments further spread out work on international food supply management and eventually shifted the work out of the GATT into other forums.

Third, world food prices declined somewhat from their peak during the World Food Crisis and world supply conditions improved considerably. Though most prices of foodstuffs remained consistently high up until the early 1980s (FAO 2009b, 11). Relative improvement in world food markets eased the sense of urgency that had prevailed in the multilateral work on food security throughout 1973 to 1975. Many governments interpreted these improving conditions to mean that the necessity and rationale for investing the political capital on international coordination and cooperation on food security was no longer required. As a result, the GATT's work on food security came to a halt without a consensus on the linkages between trade and food security.

### **The Uruguay Round (1986-1993)**

The GATT Uruguay Round of multilateral trade negotiations was a decisive moment in the emergence of a global food security assemblage. The outcome of these negotiations formally integrated food security into the MTS. As such, the Uruguay Round

represented a tipping point both in the way food security was treated in the MTS but also the relations among the institutions involved in the global governance of food security. In particular, it marked a shift toward making food security a part of the rule-based framework of the MTS. I examine below how food security was treated in the round and the round's outcomes.

To appreciate the dynamics of the Uruguay Round and how food security was treated, the specific historical state of world agriculture needs to be considered. In contrast to the Tokyo Round that began during a historic episode of skyrocketing food prices, the Uruguay Round was launched amidst major declines in commodity prices. Falling food prices were the outcome of the agricultural export subsidy war that had been ongoing throughout the 1980s between the US and EU. Each government played one-upmanship in providing producers sitting on large structural surpluses with direct governmental assistance in order to better “compete” in world markets. This had the effect of flooding world markets and greatly depressed the prices of agricultural goods. These events contributed to what were regarded as farm crises (Wolfe 1998; Watkins 1991; Friedmann 1982a). Though these policies made food cheap on international markets, for many developing countries they had the effect of discouraging staple food production<sup>14</sup> and undermined the competitiveness of other grain exporters (e.g., Argentina, Australia, Canada, Brazil, Thailand, etc.). This so-called farm crisis occurred during radical transformations in development ideas and practice. The 1980s were the period when the “Washington Consensus” (i.e., neo-liberal market-led globalization) emerged as the new

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<sup>14</sup> For example, in the early 1980s, US and EC wheat entered Mali and Burkina Faso at prices 40% lower than local grains (GATT 1993).

dominant paradigm. This paradigm included a smaller role for the state in economic policy and a greater role for markets. Structural adjustment programs were by this time underway in many developing countries experiencing soaring national debt and balance-of-payments problems. These policies directly affected food security with fiscal austerity policies including the scaling back of agricultural extension services and subsidized inputs (e.g., seeds, energy, fertilizer, and water) for farmers and food subsidies for the urban poor. This economic, political, and ideational context pervaded the GATT negotiations on agriculture and discussions on food security.

*Early Food Security Debates: Free Trade Vs. Food Self-Sufficiency*

Right from the outset of the round, food security featured prominently in the negotiation proposals put forward by the Contracting Parties. The Committee on Agriculture and Trade undertook the task of elaborating the parameters of the future agriculture negotiations for ministerial approval. In addition to the general objective of “bringing trade in agriculture more fully into the multilateral trading system,” the Committee recognized the negotiations would need to consider a general declaration on the food deficits and development needs of developing countries (GATT 1986c, 7). This reference to food deficits acknowledged that difficulty developing countries experienced in producing adequate food and/or earning sufficient foreign exchange to purchase food on international markets.

One of the early ideas discussed by the Contracting Parties in advance of launching the round was of recognizing that food security could provide justifiable

grounds to invoke and maintain import restrictions and quantitative restrictions, as well as a basis for special and differential treatment in the round (GATT 1985). Indeed, once the round began, the Committee on Agriculture and Trade considered that guaranteeing food security should be a principal policy objective of the round and that it should be “taken as a point of departure in determining which rules should govern trade in agriculture” (GATT 1986c, 33).

Although there was a common consensus to bring some order to world agriculture markets, discussions over the specificity of agriculture exposed diverging views over the extent to which Parties were willing to pursue trade liberalization in agriculture and how this was to be linked to food security. Parties differed considerably on the extent of agricultural liberalization should take. The Chair of the agriculture negotiations identified what he saw as two schools of thought concerning the relationship between agriculture, food security, and international trade. The first school identified that in countries where less favourable production conditions prevailed,

“national policy objectives in the areas of food security, stability of domestic income and price support arrangements and regional development are seen by and large as taking precedence over broader international trade considerations.” (GATT 1986c, 26)

The other school regarded such concerns as incompatible with greater trade liberalization and called for domestic policies to be adapted gradually to “market forces and comparative advantage” (GATT 1986c, 26-27). This dynamic would inform debates between Parties supportive of food self-sufficiency and those that advocated free trade in food.



Food security was a key topic scheduled for discussion at the June 1988 meeting of the Negotiating Group on Agriculture (GATT 1988a). At this moment, the Parties were still clarifying their positions and the potential items for negotiation. Surprisingly, the US proved to be the first mover on the issue. This was less so to demand food security provisions but to put forward its position on why freer trade in agriculture, rather than food self-sufficiency, was more congenial to achieving food security. In its initial agriculture proposal, the US radically called for the elimination of *all* market access barriers and subsidies (United States 1988). Employing a staunchly neo-liberal discourse, the US argued food self-sufficiency represented an inefficient allocation of resources, distorted world markets, and were incongruent with the ‘reality’ of agricultural markets characterized by a growing number of reliable public and private suppliers (United States 1988).

In response to the US’s strong pro-trade liberalization position in relation to their food security concerns, developing countries stressed that the primary obstacle to achieving food security was their limited ability to purchase foodstuffs at prevailing world prices. Many developing countries were well aware of the hypocrisy in the US position given its obvious commercial interests as the world’s largest food exporter. Freer trade in food, and the food-import dependency this implied, was viewed by many countries as an impingement on national sovereignty. These countries called for the right to autonomously determine levels of national production and trade in the face of unpredictable international markets (GATT 1988c). Take for example the case of Jamaica, a net-food importer. Jamaica provided a direct rebuttal to the US proposal in its

statement to the negotiating group, in which it argued that food security could not be realistically divorced from ensuring a minimum level of food self-sufficiency. Jamaica further elaborated the idea for a future agriculture agreement to frame food security primarily from a developing countries' perspective and emphasized the need to for round to: satisfy the minimum food needs of the poor and undernourished; reduce instability in food supplies and prices; and, increase policy autonomy in food production at national, regional and sub-regional levels (Jamaica 1988).

Other developing countries such as Mexico, Egypt, Morocco, Nigeria, and Peru raised food security concerns. Indeed, these countries were allies and coordinated their positions. They put forward the idea of transitory measures to address the potential impacts of trade liberalization on world markets in a joint agriculture proposal. This proposal called for the round to address food security concerns and to cover several items, including food aid, commodity agreements (i.e., wheat), compensatory measures for food price increases, greater multilateral financing, investment for agricultural development in developing countries, and balance of payments support under the rubric of food security (GATT 1988b).

Middle-income and developed food-importing countries also weighed in on the food security debate. South Korea argued for the need to provide food-importing countries with the possibility to maintain a minimum rate of self-sufficiency for national food security alongside trade liberalization commitments (South Korea 1988). Japan's proposal called for the negotiations to address food security as a non-trade concern (NTC). It stressed the critical importance of net-food importing countries to maintain a

minimum level of production of basic food stuffs given their significant vulnerability to the dictates of market swings,

“Stable supply of such "basic foodstuffs" is essential for every country from the viewpoint of food security. For countries whose self-sufficiency rate of foodstuffs is particularly low, the need to maintain a stable level of domestic supply is indispensable to safeguarding the livelihood of their citizens. This is a political requirement which transcends a mere logic of economy.” (Japan 1988)

Japan’s view on food security, although against the grain of the neo-liberal paradigm, reflected its historical experience with food shortages and was informed by the important social and cultural roles of rice production. However, Japan’s arguments for agriculture did not fit with the new neo-liberal discourse of other developed countries at the GATT. Japanese officials were heavily criticized for taking this position by other developed countries. Many developing countries were also critical of Japan because they argued for the need to differentiate between their food security challenges and those of wealthy net-food importers that had the financial wealth to procure food easily on international markets. Indeed, some delegates went so far to claim Japan and Korea were “abusing the concept of food security to unnecessarily restrict trade” while others recognized that wealth did not guarantee that supplies would be available in times of international conflict or shortages (GATT 1988c, 2).

### *Negotiating Food Security*

Even though the Contracting Parties were highly divided on how to treat food security, they agreed that food security would be part of the negotiation on agriculture. The negotiation agenda for the round was formalized at the 1988 GATT Ministerial

Meeting in Montreal, Canada. The negotiation agenda included trade in goods (industrial and natural resources), textiles and clothing, agriculture, safeguards, and intellectual property rights. Although the term “food security” was not explicitly referred to in the official text of the Montreal ministerial declaration, ministers had agreed to address the possible negative effects on net food-importing developing countries as part of the agriculture negotiations (GATT 1988d, 13).

Once the formal negotiations were underway, food security took on greater substance. Developed countries demanded that the negotiations should address their food security concerns. For example, Switzerland, Japan, and Norway emphasized the need for food security to be taken into account as a non-trade concern in the agricultural negotiations (GATT 1989b). Non-trade concerns (NTCs) refer to the multiple functions of an economic activity, including its commercial and non-commercial aspects (Smith 2000). In the case of agriculture, food security, rural livelihoods, and environmental stewardship are most often cited as NTCs. Most Parties accepted this perspective and they agreed to address food security as a NTC in the round,

“Participants recognize that factors other than trade policy are taken into account in the conduct of their agricultural policies. In the negotiations to achieve the long-term objective, account will be taken of proposals aimed at addressing participants' concerns such as food security.” (GATT 1989a, 11)

In addition to already committing to address the impacts of trade liberalization on net-food importing developing countries, the inclusion of food security as NTC inserted a broader conception of food security into the negotiations that included consideration of its commercial and non-commercial qualities. This particular framing of food security,

alongside the debate between free trade versus food self-sufficiency would come to define the food security-related agenda during the Uruguay Round.

On the issue of possible negative effects for net-food importers, this issue became the basis for a developing country negotiation coalition that was nominally led by Egypt and referred to as the net-importers group (NIG).<sup>15</sup> This bloc represented a majority of states (see Table 2). The NIG pointed to the increase in world food prices between 1987 and 1989 as proof of the continued volatility in international food supply and the significant vulnerability net-food importers (Egypt 1989). The NIG demanded that the negotiations address rising food prices and the associated balance of payments problems this created for them. In addition, the NIG demanded financial assistance from the North to help increase their levels of agriculture production. Central American countries such as Honduras and El Salvador raised concerns about the unpredictable effects of trade liberalization on domestic foodstuffs that were critical to national food security but did not play a major role in international trade. Developed countries and exporters were partially sympathetic with the plight of food importers. This was due in no small part to several authoritative economic studies that predicted that reduced export subsidies and domestic support in the North would put upward pressure on world food prices (GATT 1990b; Ballenger and Mabbs-Zeno 1992; Onyejekwe 1993; Matthews 1994).<sup>16</sup> Indeed, it is important to recall that a stated objective of the round for exporters was to increase the price of agricultural exports on world markets to escape the farm crisis at home.

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<sup>15</sup> Egypt has traditionally been a leader of developing countries in the UN system, most notably in the Group of 77 (G77) and Arab Group.

<sup>16</sup> A study by the GATT at the time predicted that reducing OECD support would lead to a 4.4% increase in food prices (WTO 1994a, 1). The World Bank and academic economists came to similar conclusions.

TABLE 1. NET EXPORTERS AND IMPORTERS BY INTERNATIONAL FOOD TRADE

Country Group	No. of Countries in Raw Food Trade		
	Net Exporter	Net Importer	Total
Industrial Groups	13	20	33
Middle Income, all	36	69	105
Low-income, all	16	42	58
World, Total	65	131	196

*Source:* Adopted from Ng and Askoy (2008); UN COMM Trade Statistics

However, exporters did not agree on how best to address the concerns of food importers in the context of new trade rules on agriculture. In particular, exporters were uncomfortable with locking-in any commitments to assist the NIG countries. Over subsequent negotiation sessions in 1989 and 1990, the talks noticeably shifted from an emphasis on monetary compensation towards address rising food bills through a GATT administered policy framework (Egypt 1989; GATT 1989c, 1990c).

Negotiations on food security as a NTC fell under discussions about categorizing the distorting effects of specific national agricultural policies on international trade and markets. Without going into too much detail here, a major element of the negotiations was the establishing of criteria for the measurement and categorization of the trade impacts of specific national agricultural policies. A divide remained over the extent to which NTCs were grounds to exempt Parties from reforming so-called “restrictive” trade policies, such as import controls and other tariff and NTBs. Grain exporting countries, such as those in the Cairns Group, took a hard line and iterated their position on non-trade concerns as follows,

“The Cairns Group recognizes that proposals related to non-trade concerns such as food security need to be taken into account in negotiations to achieve the long-term objective [establishment of a fair and market-oriented agricultural trading system]...However, proposals which contemplate the long-term retention of restrictions and distortions clearly would be inconsistent with that objective....The aim therefore should be to identify means to meet non-trade concerns which are not trade-distorting in nature.” (Cairns Group 1989, 2)

The food security versus food self-sufficiency debate simmered throughout the negotiations. Positions in favour of locking-in food self-sufficiency ratios as international trade commitments were strongest from Korea, Japan, and India, as well as many net-food importers that wanted to preserve state capacity to intervene and support domestic food production. Exporters, including the US and the Cairns Group, argued against the very idea of food self-sufficiency stating such policies were inappropriate, ineffective and would directly damage the interests of trading countries (Cairns Group 1989). They stressed that open trade best achieved food security. The idea for safeguards to protect food security and staple crops was introduced by the Central American countries, but this proposal did not gain much traction (GATT 1990b). Although GATT rules allowed Parties to protect infant industries, an argument that could have logically applied to domestic production for food security, the negotiations progressed in a direction that curtailed the rights of developing countries to seek protection on dumping grounds (Watkins 1991, 49).

International food aid too became part of the wider discussion of food security during the round. However, the central concern here was to ensure that reductions in export subsidies would not lead to the misuse of food aid. As such, the US put forward a proposal to distinguish bona fide food aid from surplus disposal or market development.

As in previous GATT rounds, the impacts of food aid on commercial flows was the central issue. Though Parties were concerned about the potential effects of reduced domestic support and export subsidies would have on international food aid supply, this concern did not translate into concrete discussions on this topic in the negotiations. Indeed, with the exception of discussions of food aid in relation to measures to assist net-food importers, there was little, if any, substantive discussions about the broader food security implications of international food aid. In other words, the negotiations on food aid were bracketed and in fact undertaken among competing grain exporters. As a result, food aid recipients and their concerns were largely excluded (Hopkins 1992).

#### *Food Security Outcomes*

The results of the Uruguay Round in agriculture are well known. Its main output, the Agreement on Agriculture (AoA) notably brought agriculture under international trade rules for the first time after the failed attempts in earlier rounds (Hoekman and Kostecki 2001; Stewart 1999; Croomes 1999). As part of the neo-liberal project to reform agriculture trade and unleash the power of markets, the agreement included reductions of subsidies and tariffs and special and differential treatment for developing countries. The AoA initiated a longer-term process of trade liberalization in agriculture, largely focused on reducing developed countries' subsidies and other forms of protectionism that were deemed to distort markets and prevent free trade. Moreover, the AoA was also critical in setting the course towards policy convergence in agriculture between developing and developed countries. There is a wide debate on the impacts, fairness, and effectiveness of



the AoA. I acknowledge this debate but will not repeat it here. Instead, I focus on how food security figured in the outcomes of the round.

Several provisions of the AoA set out rules and commitments that applied directly to food security. Indeed, we find food security issues spread out across the three pillars of the AoA: domestic support, market access, and export competition. Food security was recognized as an NTC in the preamble<sup>17</sup> and made operationally effective under the Green Box category of domestic support measures. For example, the Green Box category of minimally trade-distorting support measures included rules on domestic food aid and the provision of agricultural services in support of food security. Though such policies were determined to be a form of direct government support and therefore distorted the functioning of self-correcting markets, these policies were made permissible under specific conditions and limits. Other provisions in the AoA that directly applied to food security are listed in Table 5 below. The range of provisions is quite broad. It included policies undertaken by food insecure countries themselves, most notably support to resource poor farmers, direct food subsidies and domestic food assistance programs (e.g., Articles 15.2 and Annex 2 of the AoA). Provisions in the AoA also apply to international cooperation in food security. Under export competition, Article 10.4 specifies which types of international food aid and food assistance are hidden export subsidies and therefore prohibited under WTO rules. These provisions effectively provide the WTO

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<sup>17</sup> The AoA preamble stated “Noting that commitments under the reform program should be made in an equitable way among all Members, having regard to non-trade concerns, including food security and the need to protect the environment; having regard to the agreement that special and differential treatment for developing countries is an integral element of the negotiations, and taking into account the possible negative effects of the implementation of the reform program on least-developed and net food-importing developing countries.” (WTO 2001a)

with a significant level of authority over the food security policies of developing and developed countries.

Another specific food security related outcome of the Uruguay Round was a side-agreement to address the concerns of net-food importers and least developed countries (LDCs). This took the form of a ministerial decision called the *Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Net-Food-Importing Countries* (a.k.a. the Marrakech Decision). In the Marrakech Decision, WTO ministers formally recognized that trade liberalization could lead to higher world food prices. To address the concerns of these countries WTO ministers committed to reviewing the level of international food aid, to provide credit and favourable financing for food purchases, and technical assistance to affected countries (WTO 1994c).

TABLE 2. SELECTED FOOD SECURITY PROVISIONS IN THE AoA

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

The legal status of the Marrakech Decision was left somewhat vague because it was referenced in, but not technically a part of, the AoA. Yet the Marrakech Decision is part of the legal framework that established the WTO. As such, it is a founding legal text of the WTO although it is not part of the commitments taken by WTO Members in the AoA. This reflected a preference by developed countries to keep this decision “in-house” and not delegate it to another international institution such as the UN, even though implementing the decision indirectly meant the involvement of other international institutions (e.g., such as the FAC and WFP on food aid and the Organization for Economic Cooperation and Development [OECD] and IMF on credit financing). But

taken together, the food security provisions in the AoA and the Marrakech Decision marked a significant event by inserting food security into the rules of the MTS. This had the effect of formalizing the authority of the WTO in the global food security assemblage.

### **Food Security in the Doha Round**

At the time of writing this study (August 2011), the Doha Round that began in 2001 was deadlocked following the latest breakdown of negotiations in July 2008. Food security has been a prominent negotiation issue in the Doha Round. Several trade measures with implicit food security objectives have been under serious negotiation during the round. In addition, food security-related concerns have been a significant source of friction among WTO members and has contributed to the protracted state of the negotiations. In this section I examine how food security has been treated in the Doha Round from 2001-2010.

To understand the dynamics of the Doha Round it is imperative to distinguish food security aspects related to unresolved implementation issues from the AoA and “new” food security issues in the current negotiations. Implementation-related issues are items that WTO Members have identified as outstanding issues related to the adoption of Uruguay Round commitments. Many WTO Members identified the Marrakech Decision as an unresolved implementation issue. Following the establishment of the WTO in 1994 there were several episodes of high food prices (FAO 1999a; Sharma and Konandreas

2008). During these episodes, net-food importers<sup>18</sup> called for the implementation of Marrakech Decision in reference to the various commitments for assistance during times of high food prices. A shared view among many developed and developing country WTO Members was that the Marrakech Decision was not adequately implemented thereby becoming a “paper tiger.”<sup>19</sup> The US, Canada, and Australia have resisted efforts to fully implement the Marrakech Decision. Their stated reasons were that it was impossible to prove food prices were directly related to trade liberalization and distinguishable from other market factors.

In response to these arguments, net-food importers argued this represented a broken promise by developed countries to meet the spirit of the Uruguay Round agreements and wanted the item included in the Doha Round negotiation agenda (WTO 2001d; FAO 1999a). Developing countries viewed the failure to implement the Marrakech Decision as a major disappointment and further evidence that the MTS has failed to meet their interests. One senior developing country official, who was part of the agricultural negotiations in the Uruguay and Doha rounds, argued that the failure of developed countries to implement the Marrakech Decision was tantamount to unmaking the compromise that garnered net-food importers’ support for the Uruguay Round

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<sup>18</sup> This is a category specific to the WTO. This includes least-developed countries as recognized by the Economic and Social Council of the United Nations which are WTO members; Angola, Bangladesh, Benin, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Congo, Democratic Republic of the Djibouti, Gambia, Guinea, Guinea Bissau, Haiti, Lesotho, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Myanmar, Nepal, Niger, Rwanda, Senegal, Sierra Leone, Solomon Islands, Tanzania, Togo, Uganda, Zambia (32) and net food importers established by WTO. Barbados, Botswana, Côte d'Ivoire, Cuba, Dominica, Dominican Republic, Egypt, Gabon, Honduras, Jamaica, Jordan, Kenya, Mauritius, Mongolia, Morocco, Namibia, Pakistan, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Senegal, Sri Lanka, Trinidad and Tobago, Tunisia and Venezuela.

<sup>19</sup> Confidential interviews with state developed and developing country officials, October 2008 to May 2009.

agreements.<sup>20</sup> Many other WTO Members expressed similar sentiments thus illustrating the continuing importance of the Marrakech Decision to net-food imports and LDCs. These countries repeatedly pressed this interpretation of the Decision's meaning at key WTO bodies, including at the Committee on Agriculture, Special (negotiating) Sessions on agriculture, the General Council, and Ministerial conferences.

Discussions prior to and during the Doha Round have attempted to clarify mechanisms to provide assistance to net-food importers. This has even included mandated technical cooperation with the FAO, International Monetary Fund, and World Bank.<sup>21</sup> However, this work has not led to any further agreement on how implement the Marrakech Decision. Following the 2008 global food crisis, there has been renewed interest in the Decision. Indeed, the multilateral responses to the global food crisis have renewed calls to implement the Decision (High Level Task Force on the Global Food Security Crisis 2008; FAO 2009a). However, to date, this has not translated into any significant policy outcomes.

New food security issues have also emerged in the Doha Round. Most notably, these include the politically contentious Special Safeguard Mechanism (SSM) and Special Products (SPs). These proposed mechanisms would permit developing countries to increase tariffs beyond the final bound rates they agreed to in the AoA. These actions would be permitted to safeguard food security, rural livelihoods, and rural development (WTO 2008). In theory, this provision would provide additional flexibility to developing

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<sup>20</sup> Confidential interview with developed country official, April 2009.

<sup>21</sup> WTO members agreed to the establishment of an inter-agency panel with participation of the WB, IMF, UN Food and Agriculture Organization (FAO) and UN Development Programme (UNDP) to assist with short term difficulties in financing normal levels of commercial imports of basic foodstuffs (2009)

countries compared to what is available in the AoA to provide border protection to key food crops and tackle import surges and volatile prices. It is critical to recall that many developing countries did not negotiate for access to these types of agricultural safeguards in the AoA. Given that the AoA required the “tarrification” of all border measures, safeguards became a key policy tool that provided WTO members with flexibility for controlling import flows. Other policies such as price bands are no longer permissible under the WTO since the policy space to maintain quantitative restrictions on agricultural goods is significantly constrained under the AoA. The 2008 draft of agricultural modalities contained a sketch of how the SSM and SP may operate. This document continues to be the basis for negotiations. The SSM, in particular, has been a major source of friction in the Doha Round and widely acknowledged as one of the principal sources of deadlock in the round (Wolfe 2009).

In addition to the implementation issues and new food security issues, food security issues have been discussed in all three pillars of the agricultural negotiations (i.e., market access, domestic support, and export competition). For example, this includes demands by developing countries to reform Green Box to be more coherent with their domestic food security programs (Melendez-Ortiz, Bellmann, and Hepburn 2009). Food security figures significantly in the export competition pillar. Work on international food aid rules and export restrictions are key examples. I return to some of these issues in detail in later chapters.

### **The GATT/WTO as a Food Security Institution**

The AoA continues to define the horizon for agriculture and food security policy. Even if the future direction of the MTS remains uncertain, we can draw several conjectures about the role of the WTO in the global governance of food security.

First, the WTO is the only international organization with binding and enforceable rules related to food security. No other international organization has a comparable depth of policy-making authority. Admittedly, the WTO's purview over food security is not comprehensive since it self-identifies only policies related to international agriculture trade. However, as many scholars have argued, the WTO's policies extend beyond the border ensuring it has a major effect on domestic policy-making. With respect to food security, the AoA includes very specific rules and defines the range of food security policies states may undertake and that are permissible under international law.

Second, we observe significant differences between how food security problems were addressed in different periods in the MTS. Before the Uruguay Round, the GATT system was generally open to the concept that food security required the maintenance of managed world agricultural trade and state intervention in national food economies. The main objective of GATT talks on food security in the 1960s and 1970s, were to a considerable extent, premised on the desirability of food self-sufficiency policies and accommodating export markets accordingly. It is during the period of the Uruguay Round, by which time neoclassical economic ideas had come to prominence in international policy-making, that we observe a marked shift in the content of the discussion of food security. In current discussions, food-self sufficiency is increasingly criticized and framed as protectionist. This framing is partially institutionalized in the



AoA, which categorizes many food security policies as subsidies, even if they are critical to achieving food security.

Third, the history of the MTS shows that agricultural trade cannot be separated from food security. To a certain extent, the deep linkage between the two has been acknowledged by the MTS, for example in the framing of food security as a NTC. In addition, the relationship between trade and food security is recognized as very complex. Whereas the public relations message of the WTO, consistent with the neoclassical economics paradigm, is that international trade “has played a key role in enhancing food security” (Moore 2003, 72), in fact the reality at the negotiation table is different with actors recognizing that variegated effects trade liberalization can have on food security at the national and world level.

## **Conclusion**

Hunger and food security issues have been slowly but steadily integrated into the MTS. To some extent, this development has paralleled the inclusion of agriculture into the MTS, but with some important differences. In the Kennedy Round of negotiations, the Contracting Parties decided to address agriculture and food security outside the GATT negotiations. Instead, the Contracting Parties delegated policy-making authority to new international institutions, the International Wheat Agreement, under which the FAC was established as a rule-making and burden-sharing mechanism for international food aid. The Tokyo Round, launched just as the 1970s world food crisis erupted, reintroduced the debate over how to manage international food supply under the GATT. Even though

Contracting Parties did make considerable progress to negotiate for new international supply management mechanisms, as well working in close coordination with the UN system, a final agricultural agreement was not forthcoming. This was influenced by factors such as diverging national interests over who would pay for new international mechanisms and exogenous factors such as when food prices returned to their downward historical trajectory thus alleviating concerns about impending world food crises. Nevertheless, this indicated a greater acceptance by GATT Parties to deal with food security issues inside the MTS.

The conclusion of the Uruguay Round and the establishment of the WTO in 1994 marked a deeper institutionalization of the MTS and the expansion of the system's authority over a broader range of trade and food security issues. Food security figured significantly in the UR negotiations and the outcome. Most notably, this included the Marrakech Decision as well as several provisions in the AoA that formally linked the MTS with national and international food security. For example, this outcome resulted in a new form of issue-linkage between agricultural trade liberalization and international food aid, with the WTO as the centralizing institution because of its binding international law that hardened these other "soft" agreements.<sup>22</sup> It also marked a reverse from earlier patterns in the GATT to delegate food aid out of the MTS towards an integrative strategy. During the Doha Round, there has been a noticeable shift in the way food security is addressed in the MTS. Food security in the Doha Round is being negotiated extensively across all three pillars of the agriculture. Taking the longer-term view, this diffusion of

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<sup>22</sup> Kelly and Karmel (2009) argue that in a similar way, soft law is becoming increasingly hardened for securities regulation.

food security across the negotiations marks the transition of food security from being addressed outside the main trade rules to that of being part of the general rules. Food security is no longer an exception or distant concern. Rather it has been integrated into the work of the WTO. A significant result of this transformation has been to make the WTO a central global governance institution for agriculture and food security.

The integration of food security in the MTS has been critical in the development of a global food security assemblage. The WTO is part of a process that is disassembling the state's capacity to intervene in markets to promote food security and shifting authority from the state to the WTO and the market. Though the WTO acknowledges its predominant role in agriculture trade policy, it has shown itself a reluctant player in global food security governance. I argue that this reluctance hinges less on the WTO's limited competence in the field of food security and more on its normative orientation. Trade officials still regard food security with sceptical eyes as back-door mercantilism. But arguments that the WTO does not "do" food security are not supported by the reality of its expanded and significant authority over agriculture and food security policy-making.

### CHAPTER 3. THE FAO: NEGOTIATING FROM THE SHADOWS

In the preceding chapter, I demonstrated that food security has been integrated into the multilateral trading system (MTS). As a result, the WTO has emerged as a major site of global governance of food security. In this chapter, I examine how the rise of the WTO has shaped the interactions and relationship between the FAO and the MTS. This analysis is critical because, historically, the FAO has been the institution charged by the international community to govern food and agriculture and eradicate world hunger.

The analysis here focuses primarily on events during the Uruguay Round and Doha Round. The establishment of the WTO after the Uruguay Round is associated with emergence of a global food security assemblage composed of overlapping institutions with authority over food security. The assemblage signals the rescaling of authority over food security away from national forms towards globalized forms, such as the WTO and the market. The rescaling of authority and normative conflicts between competing normative orders are a source of contestation among actors in the assemblage. This chapter examines how such contests play out at transnational level.

The FAO has formally cooperated with the MTS for decades. I argue that alongside this cooperation we observe greater political conflict between the FAO and WTO and, notably, the emergence of the FAO as a shadow negotiator in the MTS. Although trade negotiations are principally understood as an inter-state process, especially in a self-styled “member-driven” organization such as the WTO, I demonstrate that the FAO has acted in an autonomous and influential actor in in the inter-state negotiations. This has sometimes been in a formal way and at other times behind the

scenes in order to affect outcomes at the negotiations in the WTO. These activities go beyond formal, technical cooperation or other activities common to epistemic communities and transnational networks operating at the multilateral level. Instead, the FAO's agency in the MTS is evidence of the new type of engagements and contests that arise as assemblages reorder national and global spaces.

As I will illustrate in this chapter, the FAO's motives do not correspond with existing rationalist explanations of inter-institutional conflict or bureaucratic competition. Indeed, the FAO has responded to the WTO's ascendance in multiple ways, including summit diplomacy to gain political support and to increase the legitimacy of its own mandate to work on agriculture, trade, and food security issues. Notably, it embarked on a major independent project of advising developing countries in the WTO agriculture negotiations, and strategically invoking its expert and moral sources of authority. But most critically, the FAO has affected outcomes in multilateral trade negotiations by engaging informally as a shadow negotiator.

### **The FAO and the MTS**

Eradicating hunger is a long-standing objective of the post-war international system. This sentiment and a strong belief in the power of scientific management of food security (Phillips and Ilcan 2003), drove the creation of the FAO to raise world nutrition levels, improve food production and distribution, and ensure "humanity's freedom from hunger." (FAO 1945) The main functions of the FAO include deliberation on international agriculture and food policy, acting as an information clearinghouse for

agriculture and trade-related statistics and information, and monitoring world food security (including a global early warning system).

The post-war architects had intended that the food and agriculture system and the MTS work in concert. Article 67 of the Havana Charter called for cooperation with the FAO in the matters relating to inter-governmental commodity agreements, including providing it observer status, cooperation on research, and the capacity for the FAO to make recommendations to the ITO (United Nations 1948a).<sup>23</sup> Indeed, the Havana Charter did not identify any other IOs directly other than the FAO as a natural partner for the future MTS. The GATT, which replaced the ITO and was not a formal international organization, did not have formalized linkages with the FAO.

The FAO interacted with the GATT with irregular frequency. This was most often during the preparations for, and during, negotiations on agriculture with the FAO continuing in its capacity as an official observer. For example, the FAO provided studies and information to the GATT on surplus disposal activities in the 1960s, technical advice on phytosanitary measures in the 1970s, and made regular statements and updates to high-level GATT meetings (e.g., ministerial meetings, trade negotiations, committee, etc.). These types of technical cooperation and information exchanges are par for the course. There is nothing striking about FAO and GATT interactions through most of the life of the GATT.

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<sup>23</sup> This became a mute issue in the 1960s to early 1980s when the UN Conference on Trade and Development (UNCTAD) had the role of negotiating and implementing commodity and preferential trade agreements.

### **The FAO and the GATT Uruguay Round**

The FAO, as an institution, welcomed the launch of the GATT Uruguay Round of multilateral trade negotiations. The FAO had been a strong advocate of trade liberalization in agriculture since the 1970s. It had played a leading role in the early development of economic models to estimate the negative impacts of Northern subsidies on trade flows.<sup>24</sup> In particular, the FAO's leadership and staff were positive about trade liberalization in agriculture and the prospect of disciplining the agricultural policies of the Northern countries, which they saw as the primary cause of economic hardship for the agricultural sectors and economic prospects of developing countries. The FAO's support for the GATT round is captured in the following statement by then FAO Director General (DG), Edward Souma, to the FAO Council<sup>25</sup>,

“...the GATT talks have given us a slender ray of hope. For the first time ever the contracting parties agreed to review some basic problems regarding raw materials, and in particular to discuss the restrictions and distortions affecting agricultural commodities. I welcome this move and have already committed FAO to providing all the assistance, in the form of information and statistics, that may be required to further the discussions.” (FAO 1986b, 3)

As this statement indicates, the FAO welcomed the negotiations. It did not take an anti-trade stance as is often incorrectly attributed to the institution.

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<sup>24</sup> The Producer Subsidy Estimate (PSE) concept was initially an FAO idea. Tim Josling, an agricultural economist from the UK and later the US presented the idea to it in 1973. Josling raised the idea again in 1984 at a meeting of the GATT where it gathered political support (Coleman 2001; Deeb and Marcus 2011). The concept was later taken up and further elaborated by the Organization for Economic Cooperation and Development (OECD) and later inserted into the GATT Uruguay Round negotiations on agriculture. The PSE became the basis for current measures of trade distortion as captured by the Overall Trade Distorting Support (OTDS) in the Agreement on Agriculture. This background on the PSE was communicated in an email from William D. Coleman.

<sup>25</sup> The FAO Council is an executive organ dealing with the world food and agriculture situation and related administrative matters of the FAO.

The FAO voluntarily offered its expertise and services to the GATT Contracting Parties to support the work of the round on agriculture. At the start of the round, the FAO made a direct request to the GATT Parties for official observer status to all meetings, including official negotiation sessions. At this point, the FAO had observer status at the GATT but the GATT had no formal policy that permitted observers to attend formal negotiating sessions and Council meetings. Some IOs had been permitted to attend certain negotiation sessions in the past on an *ad hoc* basis but were not accorded rights to intervene or be involved in formal decision-making (GATT 1986a, 1986b, 1990a).

The FAO's direct request for official observer status and wide access to GATT meetings was framed in terms of its capacity to provide information, statistics, and policy advice to the Contracting Parties. In this case, the FAO was explicit that it possessed unique specialized knowledge to aid Contract Parties in their decision-making. The basis of this request is distinct from requests rooted in reciprocal treatment (i.e., when IOs accord one another reciprocal status) or simple courtesy requests for observer status. The FAO's request rested on a broad international acceptance of its expert authority in agriculture and food, its monopoly on international agricultural statistics, and its direct field experience in agriculture policy reform in many developing countries.

The benefits of observer status for IOs are often underappreciated. In general, IOs with observer status in other forums benefit from multi-directional information flows and being in the loop of events at other sites, which may have impacts on their activities. Particularly in the context of multilateral trade negotiations that tend to move at a quick pace (i.e., much faster than official reports are released) and with much of the work being



informal or off-the-record given the political sensitivities, observer status is more critical to interested IOs. Not only do the GATT and Contracting Parties benefit from external expert advice and information, IOs with observer status also benefit significantly. In addition to serving a source of expertise in the negotiations, observer status offered the FAO a space to be an insider to what are inter-state negotiations. These are some of the reason other non-state actors such as NGOs have sought access to international institutions (Willetts 2000; McKeon 2009). The broader objective of the FAO's request was gaining access to official meetings of the trade negotiation committee, receive information (formal and informal), and official documents, be present at meetings in order to be consulted by the GATT and/or Contracting Parties, and be positioned to actively monitor developments in the agricultural negotiations in real time. In sum, observer status afforded it to "be in the game" and "in the know" during the negotiations. Observer status would prove critical to the FAO and allowed it to identify opportunities to intervene and seek to influence events.

Interestingly, the FAO Director General (DG) initiated the request. It was not a task delegated by the FAO governing bodies. Nor was the DG instructed to do so by any particular state. When the request was made to the GATT, the DG emphasized that this action had the full support of FAO members (FAO 1986a). At no moment did the DG actually table this idea to FAO members. The DG just simply went ahead and did it. In this case, FAO leadership clearly acted autonomously. This autonomous action is striking because the FAO leadership could have simply asked member states to make this as an action item in one of the FAO governing bodies. Or the FAO leadership could have asked

a state that was a member of the FAO and GATT to have transmitted such a request on the FAO's behalf to one of the GATT governing bodies and/or GATT Secretariat. In other words, FAO officials could have chosen less direct routes. The FAO was eventually granted with observer status in 1987. From that point on, it provided technical support and inputs into the negotiations on agriculture, tropical products, and phytosanitary issues. In the early stages of the negotiations, the FAO provided technical support to the GATT secretariat as well. This included a discussion paper on the impact of agricultural policies of the Northern countries on world food security and calculating the trade-distorting impacts of developed countries' agricultural policies

The FAO made it clear it would assist poorly resourced states in their preparations for the negotiations, including the African, Caribbean, and Pacific Group (ACP) countries. This work included regional workshops for developing country officials on the potential impacts of trade liberalization on preferential trade agreements for Eastern and Southern African countries (FAO 1989). This work was consistent with the FAO's early thematic focus on market access issues in the round. The FAO, like most economists, believed increasing market access to developed country markets was likely to have the biggest potential pay-off for developing countries.

The FAO's mission to combat food insecurity and advance the agricultural interests of the world's poorest countries made it a natural supporter of developing countries' interests in the round. In addition, the FAO could provide developing countries a broader analysis of the round's developments. As individual states, developing countries are primarily concerned about narrow national interests. The FAO was best

positioned to undertake systemic analysis and to identify issues and challenges that applied to groups of countries because of its capacity to evaluate large volumes of data and make projections. Through this work, it could identify issues not immediately apparent to Contracting Parties or the GATT secretariat.

Although the FAO described its activities during the round as typical IO business, such as information sharing and technical support, it took an increasingly active role in assisting developing countries to develop and formulate their negotiating proposals. The FAO's Economic and Social Development Department (ESD), the bureaucratic unit within the organization responsible for agriculture development and trade issues, did much of this work. At first, the FAO's work sought to respond to developing countries' requests for assistance. Developing countries' request for assistance reflected their relative lack of technical capacity compared to the Northern countries in the negotiations (Srinivasan 1998; Kim 2010; Narlikar 2006). These countries often lacked the human and financial resources required to fully participate in the negotiations and were at a major disadvantage in evaluating the impacts of different proposals on their agricultural sectors and food security of their populations. Indeed, many developing countries did not have any dedicated staff on international agricultural trade policy, let alone permanent representation in Geneva during the Uruguay Round (Blackhurst 1998; Blackhurst, Lyakurwa, and Oyejide 2000; Michalopoulos 1998), whereas developed countries enjoyed significant bureaucratic units devoted to working on such issues.<sup>26</sup> Technical

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<sup>26</sup> It is important to recall the poor state of developing countries technical capacity during the Uruguay Round. Most developing countries did not have centralized and digital records of all their agricultural policy and trade data. This is partly why developing countries had difficulty with process of tariffication. Few had the human and financial resources to run complex agricultural models as this was prior to the

capacity is a critical resource in trade negotiations that operate on a high a level of legal and technical detail.

During the round, the line between requests for the FAO to undertake analysis and the organization providing independent recommendations to developing countries on their negotiation proposals was increasingly blurred. According to a senior FAO official who worked on the negotiations noted,

“Developing countries initially requested us [FAO] to do analytical work and provide technical assistance...but over time it was inevitable that we [FAO] would feed ideas and informally comment on countries negotiation texts, including doing some of the drafting.”<sup>27</sup>

This quote indicates that the FAO offered specific ideas and contributed to the drafting of developing countries negotiation proposals. FAO officials also took ownership of the ideas and content of these proposals. Indeed, FAO officials hinted that technical capacity was a continuum and they interpreted this loosely.<sup>28</sup> They felt a professional and moral obligation to assist developing countries. FAO officials stressed that the demands on the FAO during the round were significant. The organization made efforts to increase its capacity in Rome and in Geneva too, including the establishment of the FAO Liaison Office in Geneva with a full-time team dedicated to work on the GATT negotiations. The FAO made a strategic decision to deploy its limited resources in Geneva to focus on trade negotiations and less so on the broader UN work that takes place there. The primary goal

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broad dissemination of computers. Only large research centers such as IOs and Northern universities and ministries could afford and had the trained staff to run complex simulation models. While some developing countries have increased their technical capacity since the Uruguay Round, the asymmetries between North and South remain significant.

<sup>27</sup> Confidential interview, February 2009.

<sup>28</sup> Confidential interviews, November 2008 and February and April 2009.

of scaling up its work on trade issues and negotiation was to ensure that developing countries did not literally give away the farm during the negotiations.

As the round progressed, the FAO would make critical contributions on food security. While the FAO as an organization supported the development of strong agricultural sectors and greater food self-sufficiency in developing countries, senior officials were not averse to supporting trade liberalization in principle.<sup>29</sup> In the early stages of the round, the FAO had largely devoted its technical resources to running econometric models to determine benefits of new market opportunities for developing countries, which most observers expected to be largely positive. As the FAO began to further explore the impacts that reductions in government supports to agriculture would have on food stocks in the US, EC, and Japan, the models pointed to significant declines in these countries' level of grain stocks. Because the US's grain stocks in particular, but also the EC and Japan, essentially are *de facto* world food stocks, a fall in these countries' stocks would lead to tighter food markets and higher prices.

The concern over tight food markets is why food security issues become a critical concern for the FAO in the round, and to a certain extent shifted the focus away from market access, and offensive interest for developing countries, to food security, a defensive interest.<sup>30</sup> As a result, senior FAO officials, including the office of the FAO DG and ESD team were highly concerned that many of the initial proposals could harm net-food importing countries. Most economic projections pointed to higher food prices as an

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<sup>29</sup> This was consistent with the consensus view that OECD countries' farm support programs imposed significant costs on developing country producers.

<sup>30</sup> Confidential interview, February 2009.

outcome of liberalization. In addition, there was a natural fit for the FAO to work on food security issues given that the existing rules for international food aid were discussed in the round. These discussions related directly to the activities of one of the FAO bodies, the Consultative Sub-Committee on Surplus Disposal (CSSD).

One area where the FAO's input into the negotiations is partly hidden in the official record was its work in supporting developing countries around food security issues. This was work done to support the Net Importers Group (NIG), a developing country coalition that coalesced around food security in the round (Narlikar 2005; Rolland 2007). The FAO provided significant support to the NIG, much of it behind the scenes, in order to help cement what was an experimental and fragile coalition. According to several interviews, the ESD team worked as an informal secretariat for the NIG, helping to draft several negotiation proposals the NIG brought to the GATT agricultural negotiations. The NIG proposals on food security focused on the potential negative impacts of the reform program and suggested several mechanisms that could be explored to address these concerns (Egypt 1989). The initial proposals were followed by even more detailed versions, including assessments of world agricultural markets and concepts to measure the impacts on developing countries' food security (GATT 1989c, 1990c).

In addition to assisting in the formulation of the NIG proposals, the FAO used its expert and moral authority in support of these countries. Developing countries requested the FAO DG to express support for the position that the Uruguay Round needed to take into account the interests of developing countries. This included an emphasis on the importance of addressing the possible negative impacts of the agricultural reform process

on net food-importers. This resulted in a direct intervention by the FAO supporting the NIG position in a statement given directly to the GATT Trade Negotiations Committee (FAO 1992). By intervening in this way at the GATT, the FAO also provided external political backing to the NIG and legitimizing its position in the talks.

It is important to recall that NIG countries were in relatively weak bargaining positions in the round. The NIG had to walk a fine line given they had primarily defensive interests. They had little negotiating leverage because these countries already had fairly open markets making them dependent on food imports. And in many cases these same countries were dependent on development assistance and food aid from Northern countries with whom they wanted to maintain good political relations. Therefore, the NIG was under a lot of diplomatic pressure, as it needed to avoid repercussions from pushing too hard. To a certain extent, support from the FAO legitimized the NIG's claims by assisting in formulating evidence-based rather than polemical arguments. Polemics would not have been tolerated in the context of trade negotiations. At the GATT, states are "all business" and there is a very little appetite among trade officials for the political theatre more common in the UN system.<sup>31</sup>

Admittedly, it is difficult to distinguish and separate the extent of the FAO's fingerprints from those of the Contracting Parties' in the food security proposals. The available documentary evidence is not sufficient to re-construct a full picture of all the informal discussions between the FAO and NIG during this period. Such a record does not exist. Yet upon closer inspection of the NIG proposals, we can observe that the

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<sup>31</sup> This is based on my observation of many GATT/WTO and UN high-level meetings.

language and content of these proposals (especially the later versions) read very much like documents prepared by trade and commodity experts (GATT 1988b, 1989c, 1990c). These proposals made extensive reference to market data; including detailed annexes showing food price and trade projections and the impacts of OECD policies. It is unlikely that such technical work was undertaken by developing countries because of these countries' limited technical capacity. It suggests that these proposals were likely written with FAO officials. This assistance would have included both running the numbers but also contextualizing the data.

Another example of the FAO's fingerprints in negotiation documents is that several proposals called for flexible use of Usual Marketing Requirements (UMRs) to permit greater flows of food aid to net-food importers (GATT 1989c). UMRs are a concept used to measure the impacts of food aid on domestic production and commercial trade. Notably, this concept was established by the FAO and was used almost exclusively in the context of the FAO's work in the CSSD. It is very unlikely that anyone other than a FAO official would have inserted a reference to UMRs; it would have had little or no significance to a trade negotiator.

Based on the existing textual evidence and corroborating interviews with officials active during the round, it is plausible to suggest that the FAO played a significant role in drafting these proposals. Without the FAO's input, the NIG's proposals would likely have been less comprehensive, well researched, and, therefore, less authoritative and convincing. What distinguishes the NIG proposals from other general statements by developing countries on food security is their conceptual clarity and evidence-based



approach. This gave these arguments merit and credibility, and when combined with the NIG acting as a developing country bloc, proved critical in keeping food security concerns on the agriculture negotiations agenda.

My interpretation of events is corroborated by the FAO's own assessments of its contributions to the Uruguay Round negotiations. In its internal reports and among current and former FAO officials, there is a narrative that the FAO played a significant role. The FAO's own assessments have focused on its technical inputs, in particular, its many in-depth studies. FAO officials noted they had examined the, "implications of trade liberalization for food security, particularly food aid and for food stocks. These contributed in part to the exclusion of food security stocks from domestic support reduction commitments and to an acknowledgement that food aid could be affected by the reform process." (FAO 1994b, 4)

This statement alludes to a key impact of the work of the FAO; it used its technical expertise to demonstrate that the GATT trade liberalization agenda would have direct impacts on food security through affecting structural changes in world food supply and trade flows. The Uruguay Round was projected to produce food security winners and losers. It would not be a neutral outcome. This potential outcome further reinforced the position of the NIG and FAO officials.

Less visible was the critical role the FAO played in keeping food security concerns on the table during crisis moments in the negotiations. By 1990, the agriculture negotiations reached a major stumbling point. A wide gulf between the US and EC positions on agricultural reform threatened to derail the negotiations. This was a concern because previous similar disagreements had occurred in previous multilateral trade negotiations and eliminating the prospect of reform on agriculture. The dynamics of the

negotiations changed considerably once they focused on seeking a US-EC compromise. This had the effect of pushing developing country concerns into the background as efforts moved to bridging the US and EC positions to keep the round alive. Concerns that these developments in the negotiations would gloss over the concerns of food insecure countries spurred the FAO to ghost draft a proposal for a global food security safety net. The FAO also moved to work in concert with the NIG to push this new proposal forward. At that point, the draft agriculture agreement had little of substance to offer developing countries likely to experience greater food import bills. The proposal drafted by the FAO reflected many of the ideas on the NIG proposal but consolidated them into a short document framed as a declaration of intent for ministers to adopt. This text was included in the 1991 Dunkel text<sup>32</sup>, which embodied a full final draft of the Uruguay Round negotiations. Upon conclusion of the round, this text became the *Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries* (a.k.a. the Marrakech Decision) as part of the Final Act establishing the WTO. In short, the FAO proposal became one of the founding documents of the WTO.

The intent of naming this a Decision rather than a Declaration was to give greater authority to the document. Although the Marrakech Decision did not commit developed countries to provide specific levels of financing or food aid as the NIG had originally demanded, the Decision did unequivocally recognize that trade liberalization *could* have

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<sup>32</sup> The 1991 Draft Final Act Embodying The Results of the Uruguay Round of Multilateral Trade Negotiations, is commonly referred to as the “Dunkel text” named after then GATT Director General Arthur Dunkel who was responsible for overseeing the agriculture negotiations.

negative impacts on food security in developing countries and *obligated* developed countries to:

“...review the level of international food aid to meet the legitimate needs of developing countries during the reform programme; adopt guidelines to ensure that an increasing proportion of basic foodstuffs is provided to least-developed and net food-importing developing countries in fully grant form and/or on appropriate concessional terms, and; give full consideration in the context of their aid programmes to requests for the provision of technical and financial assistance to least-developed and net food-importing developing countries to improve their agricultural productivity and infrastructure.” (WTO 1994c)

The understanding among the Contracting Parties was that the Decision would provide the basis for establishing food security mechanisms within the MTS and in other multilateral forums. In short, the Decision spelled out obligations in general terms and left the specifics of the mechanism, whether food aid, international finance, and agricultural development assistance, to be further developed by Contracting Parties and in consultation with the relevant IOs (WTO 1994b).

The assumption has been that the Marrakech Decision was an idea and outcome driven by developing countries themselves. However, the Decision was a result of behind the scenes efforts by the FAO, where its officials, not developing countries, drafted the text of Marrakech Decision.<sup>33</sup> The FAO’s acknowledgement of this role has not been generally expressed in public. But it has taken credit for the success of the Decision noting in its internal reports that,

“The Uruguay Round draft Final Act, as put forward in December 1991, substantially reflected FAO’s assistance in its provisions dealing with the effects of the possible increases on net food-importing countries.” (FAO 1993, 2)

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<sup>33</sup> This was confirmed by several former GATT-negotiators and IO officials in confidential interviews.

In other words, its role behind the adoption of the Decision meant that the FAO was able to shape the final text of founding WTO agreements.<sup>34</sup> Whereas general accounts of Uruguay Round have attributed the Marrakech Decision as an outcome of efforts on the part of developing countries, I can show that the FAO played an instrumental role by inserting ideas and text that became part of the WTO agreements. In this way, the FAO was a shadow negotiator; it participated informally in the negotiation of the final WTO agreements behind the scenes as it was outside the negotiation table reserved for states only.

The significance of the Marrakech Decision to the success of the round is underappreciated. For developing countries, the Marrakech Decision was regarded as a food security safety-net and guarantee of future compensation (See Chapter 2) in exchange for signing onto the AoA (WTO 2001d).<sup>35</sup> Without the Marrakech Decision, the outcome of the Uruguay Round may have played out differently and likely would have encountered greater resistance from food-importing developing countries and least developed-countries.

### **FAO's Post-Uruguay Round Activities**

Upon completion of the round and the shift to implementing the WTO agreements, the FAO's shifted its work in parallel. It would play a key role in this regard, including greater formal cooperation between the FAO and WTO.

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<sup>34</sup> There has been continued debate over the legal status of the Marrakech Decision as it was intended to be short-term and a decision and not an agreement. Developed countries argue that the Decision has no legal status while food-importing developing countries have argued to the contrary.

<sup>35</sup> Several developing country delegates reiterated this view in confidential interviews.

*Formal Cooperation between the FAO and WTO*

The WTO Committee on Agriculture, upon recommendation by developing countries, approved observer status for the FAO for its regular meetings for it to provide information and data on agriculture trade. On food security, the relationship between the FAO and WTO was made routine. The FAO, as an official observer, began to make formal annual reports to the WTO Committee on Agriculture on the trends in the food import bills of least developed countries (LDCs) and net-food importing developing countries (NFIDCs) (WTO 1995b). These reports were combined with official notifications provided by Members on their assistance to the countries (e.g., deliveries of food aid, financial credits and other forms assistance) to become the basis for monitoring the Marrakech Decision. The November meetings of the Committee on Agriculture became through practice the annual meeting when the Decision is reviewed and where Members would discuss technical and policy issues related to implementing the decision.

*Implementation of the AoA*

The GATT Uruguay Round Final Act called for technical assistance to developing countries in order for them to implement effectively the agreements. The FAO, citing its expertise and extensive experience in providing assistance to developing countries, argued it was “especially well-qualified to provide appropriate advice, technical training and other technical information” to the WTO membership (FAO 1994b, 1). Developing countries had requested that the FAO – not the WTO, UNCTAD, or World Bank – assist

them with implementing the UR agreements on agriculture. Based on my research, I believe that developing countries took this position because the FAO had earned the trust and respect of developing countries with the significant amount of work it put in to assist them during the Uruguay Round. At this point in time, UNCTAD was focused on commodity agreements and preferential trade agreements, the latter of which were shifted to the WTO. In addition, developing countries remained suspicious of the World Bank because many of these countries viewed their experience under structural adjustment programs as not having solved economic problems and as having magnified social crises. Moreover, these countries also felt that the World Bank had put them in a disadvantage in the round because of previous unilateral reforms taken under structural adjustment policies were not taken into account or credited in the negotiations (i.e., this was a contentious issue in the negotiations with regards to measuring tariff reductions).

Support for the FAO to be given a mandate to assist developing countries in future multilateral trade negotiations was strengthened in the 1996 Declaration of the World Food Summit. The summit was convened by the FAO DG in order to bring attention to rising levels of world food insecurity. Although the final summit declaration is best known for establishing the international commitment to reduce world hunger by half in 2015 that was signed by over 190 states, it also spoke to international trade issues. These included mandating a role for the FAO to monitor closely and inform member nations of developments in world food prices and stocks as they affected food security of NFIDCs and LDCs. In addition, it tasked the FAO to assist developing countries in preparing for multilateral trade negotiations by preparing studies, analysis, and training in order for

such countries to be "to be well informed and equal partners" (FAO 1996a). The Declaration echoed ongoing requests by developing countries at the WTO for greater FAO involvement and support. The FAO, especially the ESD team that was responsible for trade issues, had sought to expand the organization's support of developing countries in trade negotiations in response to the highly uneven playing field at the WTO. The FAO was also very clear that increasing its technical cooperation would require resource commitments, meaning additional contributions from developed countries, even if many of them, especially exporters, were lukewarm to the FAO's deeper involvement on WTO agricultural issues.

The FAO's technical assistance to developing countries had two important phases. This work was led by the ESD unit. This included FAO's officials that were the organization's most respected trade and WTO experts. The first phase of this work focused on implementation of the WTO agreements, including assessing their impacts on countries' trade opportunities and food security. Even before the ink was dry on the WTO founding agreements, the FAO had already undertaken several regional consultations in Africa, Latin America, South East Asia, and Southern Europe to analyze the impacts of the AoA on trade prospects and food security (FAO 1994b). The FAO sent its senior staff to meet with various national agricultural authorities to discuss the implications of the AoA on domestic policy options.

The FAO also undertook significant global research, including econometric model simulations of the impacts of the agreements on production, supply, trade, and prices of the main agricultural commodities. In addition, assessing the impacts of the Uruguay

Round was integrated into most of the FAO's working divisions and governance bodies. All this research was made public and published in several formats, including a 147 page book entitled *The Implications of the Uruguay Round Agreement on Agriculture for Developing Countries: A Training Manual* (Healy, Pearce, and Stockbridge 1998) directed at policy-makers to dozens of studies, research reports, and monographs.

The FAO also initiated two major training programs (known as Umbrella 1 and Umbrella 2) to train developing country officials. This was a significant undertaking for the FAO. It meant that the FAO redirected a significant amount of its institutional – financial and human – resources to studying the impacts of the UR agreements on developing countries. These programs amounted to \$US 2.3 million on the training of 846 individuals from over 150 countries (FAO 2002a). This figure is not insignificant given that the majority of the FAO's technical assistance has been oriented historically towards plant and animal management, supply-side constraints, scientific cooperation and other hard forms of training. This represented a major shift in focus of training towards international trade issues and scaling up its own analytical support capacity on trade and food security issues. This aspect of the FAO's work notably contrasted in scope and emphasis compared to that done by other IOs. The World Bank focused primarily on econometric analysis or encouraging countries to reduce trade barriers as part of structural reforms. UNCTAD's work remained focused on commodities and preferential trade agreements. The FAO established a niche in terms of focusing its work to address food security-related concerns.



The WTO and AoA became an increasing focus of the FAO's organization-wide work agenda, even though it did not hold specific delegated authority in international trade governance. Indeed, the WTO and agricultural trade-related issues were the subject of the FAO's flagship publications, the *State of Food and Agriculture* in 1995 and 1996 (and again in 2005, 2006, and 2007 during the Doha Round).

The second phase prepared developing countries to engage in future rounds of WTO agricultural negotiations. Agriculture was unique in the WTO because of Article 20 of the AoA that provides a "built-in-agenda" that required Members to start discussions for new trade negotiations in 1999, well before the agreement was fully implemented. The FAO saw the need to increase its activities in order to assist developing countries prepare for future trade negotiations and go beyond the implementation of the UR agreements (FAO 1999c).

Then FAO DG Jacques Diouf called for the institution to make assisting developing countries in preparing for the negotiations a priority. The DG linked this call to the official mandate expressed for the FAO in this capacity in the Declaration of the World Food Summit (FAO 1997). In turn, the FAO membership acted to support this call and identified technical capacity for multilateral trade negotiations as one of the key priorities. They called for greater budgetary resources and allocations to be devoted to such work. At the time, FAO members made official requests in its governing bodies to take on this work to assist developing countries to participate effectively in the multilateral trade negotiations (FAO 1999b, 2001b).

The FAO's approach to advising states on the future negotiations was not neutral or depoliticized. It took a strong position on what should be on the table in the future round. The FAO was transparent in its criticism of the North's agriculture policies and supported the argument that the AoA failed to deliver substantial benefits to most developing countries (FAO 2001a). It also stressed that the asymmetries of the rules in the AoA were unfair to developing countries, many of which continued to depend heavily on agriculture for employment and foreign exchange. In contrast, agriculture made a marginal and declining share of the economy in Northern countries. From early on, the FAO had stressed the AoA was "a partial liberalization agreement" that imposed great costs on developing countries and did not fully address their economic and food security prospects (FAO 1994a).<sup>36</sup> The FAO was clear in that it supported agricultural reforms that would more fully address the needs of developing countries. This was, in part, a reflection of the FAO's mandate, bureaucratic culture, and internal political struggles, all of which strongly oriented the organization to be a defender of poor, agrarian-based developing countries.

The FAO itself took a strategic position on several implementation-related issues for developing countries that would be critical in future trade negotiations. On food security issues, especially concerning the Marrakech Decision, the FAO noted,

"The implementation of the Marrakech Decision has remained unsatisfactory and a matter of concern for all, both donors and beneficiaries, despite the political commitment that has been stressed from time to time at major international conferences, such as the World Food Summit, UNCTAD and the Ministerial sessions of WTO." (FAO 2011)

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<sup>36</sup> The FAO's general assessment of the UR was moderately higher food prices (necessitating special consideration of food importers), reduced work food stocks, and, new direction of agricultural policy instruments towards greater precision and harmonization.

The FAO raised several other key trade issues of interest to developing countries in a future trade round. Considerable focus and analytical work was devoted to the need of developing countries to have access to a Special Agricultural Safeguard (SAS). Safeguard measures permit countries to raise tariffs to address import surges or other wild swings in prices and trade flows. Although the GATT/WTO contained several special safeguard provisions, the AoA resulted in asymmetrical access to such measures. Many developing countries failed to negotiate for access to the agricultural safeguard provisions in the AoA and did not have recourse to one. The FAO noted that agricultural prices had become more volatile after the Uruguay Round and safeguards were an effective policy tool for addressing these conditions. In general, the FAO's position by the late 1990s on the surface appeared to be more critical of free trade. But this position was a reflection of its view that the potential gains from trade were exceeded by potential risks to food security, particularly to domestic food production and food-import dependency (FAO 1999d).

Again, the FAO was active in preparing materials to assist developing countries to formulate their positions. These included a 1,000 page, four-part manual on multilateral agricultural negotiations disseminated to developing country officials, primarily targeting those working in ministries of agriculture. This manual was supplemented by a series of regional symposiums and workshops in Rome and Geneva (33 separate events over a 9-year period) intended to help increase the capacity of developing countries to prepare for the upcoming trade negotiations. The purpose of all this work was to specifically target and train agricultural officials on the ins and outs of the AoA and WTO, not the Geneva-based trade officials. The reasons for this step was to address the general lack of technical

capacity in developing countries but also to ensure that those officials best placed to assess their countries' agricultural sector and food security problems were engaged. These tended to be agricultural officials, often agricultural economists and not trade officials or diplomats. Country-based agriculture policy-makers have limited access to the content of the multilateral trade negotiations because of 1) distance and 2) national bureaucratic structures that tended not to promote cooperation across government departments (i.e., the silo mentality of national bureaucracies). Given that nationally agricultural officials would ultimately be the officials with the responsibility to align domestic policies to meet WTO obligations, the FAO sought to involve these officials in trade policy debates. These actors would be best to contribute to the formulation of national negotiation positions most closely aligned with real agriculture and food security problems. In this way, the FAO took on the task of both "coaching" developing country officials but also closing the gaps between developing country agriculture officials at home and their Geneva-based counterparts.

### *Knowledge Production and Agenda-Setting*

Generating knowledge was only one dimension of the FAO's objectives in their technical capacity activities. The sheer volume of the research and publications the FAO produced is significant considering these were produced by a small team of individuals; the ESD trade unit has roughly six full time officers. Another indirect objective of this work was for the FAO to better define the impacts on developing countries in order for them to better comprehend and recognize their "interests." By assisting developing

country states in such a way, the intention was to make them more effective negotiators at the WTO. At the WTO, these countries required a deep knowledge of the technical ins and outs of the agreements, how the agreements affected their specific economies and what alternative policies may be more desirable to their specific circumstances, as well as learning the craft of international negotiations. To a certain extent, the FAO partially filled the capacity gap many developing countries experienced during the Uruguay Round. The FAO's activities were clearly designed to ensure the technical gap was less wide going forward, however, the gulf between developed and developing countries in terms of technical capacity remained significant.

These efforts can be interpreted through a constructivist lens as follows. The FAO was not simply socializing developing countries into the logic of appropriateness in the MTS. Instead, the FAO's assistance in preparing for the round was a direct effort to enhance the capabilities of developing countries to challenge the status quo in the WTO, which primarily served and benefitted Northern agricultural policies. In other words, it was socializing developing countries how to better challenge the inequity and hypocrisy of the MTS. The FAO is not the WTO; its training efforts were independent from the WTO and it identified the rules of the WTO as posing problems for developing countries. Its training efforts sought to challenge the content of these rules by assisting developing countries to negotiate for pro-food security policies. This is very different from the technical assistance provided by the World Bank and IMF because these institutions were not critical of the WTO rules. Unlike other forms of inter-agency cooperation that are based on some common denominator of shared norms, rules or interests, we observe a

stark difference is positions on trade and food security. The FAO viewed state intervention as necessary and desirable in order to achieve food security whereas the WTO regards free markets as the solution to the world food security problem through its wealth generating effects. While the FAO supported a rules-based MTS, it sought to ensure such an order benefitted, not harmed, developing countries. The WTO, which regards itself as neutral, tends to reinforce the status quo in favour of powerful developed countries.

Scholars have argued capacity-training for developing countries can depoliticize issues and advance a neo-liberal agenda (Phillips and Ilcan 2004; Essex 2008). However, the FAO's programs also sought to challenge the status quo at the WTO and assist developing countries to claw back some policy space. This suggests that technical capacity can also be used as a pragmatic tool of resistance in situations of highly asymmetric power relations.

The FAO's mission was to ensure that food security concerns were taken seriously in the WTO. It worked towards the idea that food security should be identified as an explicit principal objective of the AoA. The FAO's view had been that this required developing countries to push very hard on this issue but recognized these countries also needed to be convinced of the value of this approach to gather sufficient political will. The FAO hoped that by convincing developing countries to prioritize food security in the negotiations (this does not happen automatically since countries must choose to focus on some but not all defensive and offensive interests) and reinforcing the importance of the

issue through training, consultation, and advocacy, it could generate a pro-food security outcome at the WTO.

### **The FAO and the WTO Doha Round**

The FAO has been active during the Doha Round. It has continued to seek to influence the agricultural negotiations, especially on food security-related issues. However, there are marked differences in its approach across this and the previous round. Similarities include a focus on potential impacts of trade liberalization on net-food importers and its continued support to developing countries in the negotiations. Some differences include a less obvious role for the FAO as a shadow negotiator in the Doha Round. Instead, the FAO has made more frequent use of its expert and moral authority in a more publicly-oriented manner during the Doha Round.

#### *Implementation of the Marrakech Decision*

Food security continued to be one of the high priority issues for the FAO in its WTO-related work, in particular, the implementation of the Marrakech Decision. Prior to the launch of the Doha Round, the Marrakech Decision was extensively discussed by members in the Committee on Agriculture (WTO 2000b, 2001b, 2001a) and in work undertaken by WTO Secretariat in advance of the ministerial. The WTO membership was divided over whether there was a demonstrable need for the implementation of the Decision, with many exporters citing that world food prices had not increased by as much as earlier estimates had projected. There was also disagreement on how to operationalize

the Decision in concrete terms. The FAO was an active participant in these debates. It not only provided the basic information on food price trends to the WTO membership but its own research into the Uruguay Round implementation experience demonstrated that the WTO had failed to respond when the food import bills rose sharply in 1995 and 1996.

The work by the FAO on the Marrakech Decision helped keep food security-related implementations on the agenda. The FAO's strong interest in the implementation of the Marrakech Decision was not surprising. As a key actor behind the adoption of the Decision, the FAO ESD team demonstrated a strong sense of ownership over it and its implementation.<sup>37</sup> More critically, however, was the perception by ESD officials that the Decision provided the only food security safety-net within the MTS. The concern was that if not fully implemented immediately, the Decision, would cease to have any normative or operational value and developing countries would lose a critical foothold in the negotiations.

The Marrakech Decision was included in the official negotiation agenda at the Doha Ministerial in 2001. It was under the implementation-related issues. However, this meant the Decision would not be negotiated as part of the agriculture talks. This concerned many developing countries, who continued to argue the Decision needed to be on the table in the talks. At the Doha ministerial, trade ministers approved the recommendations to convene an inter-agency panel to make recommendations on how to implement the Marrakech Decision.<sup>38</sup> The task of the inter-agency panel was to assess the

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<sup>37</sup> Confidential interviews November 2008 and February 2009.

<sup>38</sup> Its specific mandate was to “an inter-agency panel of financial and commodity experts be established, with the requested participation of the World Bank, the IMF, the FAO, the International Grains Council and the UNCTAD, to explore ways and means for improving access by least-developed and WTO net food-



feasibility of a special financing mechanism for food security. This panel produced a proposal for a so-called revolving fund that was proposed after a series of informal meetings with exporters, including a special consultation among the FAO with the IMF, World Bank, and International Fund for Agriculture (IFAD) to determine how such a mechanism might be established and operate (FAO 2002b). The main objectives of the revolving fund were to ensure adequate financing at concessional terms in times of high world market prices and a component to provide technical and financial assistance for specific projects linked to improving agricultural productivity and infrastructure (WTO 2001d). Support for an inter-agency panel reflected the substantial technical work undertaken by the FAO on the issue and which made a strong case for the establishment of a revolving fund.

The mandate for the inter-agency panel was very specific and time-bound. The panel was to file its recommendations within six months. Previous informal consultations by the FAO did ensure much of the legwork was undertaken in advance, and that a working relationship among IO-based experts was already in place. One casualty of this rushed process was that it provided little time for developing countries to provide substantive input. Of the ten WTO Members who provided information to the panel, six were developed countries. Of these six, Canada and the EC did not support the idea of a revolving fund and argued that no causal link existed between food prices and the Uruguay Round reforms or that that such work should be restricted to the IMF and not

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importing developing countries to multilateral programs and facilities to assist with short-term difficulties in financing normal levels of commercial imports of basic foodstuffs, as well as the concept and feasibility of the proposal for the establishment of a revolving fund in G/AG/W/49 and Add.1 and Corr.1.”

carried out in the WTO (WTO 2001b). The US indicated some willingness to explore the option but stressed that it felt that the debate on whether the reform process had a negative effect on the LDCs and NFIDCs had “probably gone on long enough” (WTO 2001b, 12). In general developed countries were not supportive of creating any new financial mechanisms nor interested in committing additional resources (the basic operating capital of the fund was estimated to be at minimum \$US 1 billion). Developing countries, which have, in general, lesser Geneva-based representation and resources might have been more engaged had more time been permitted. Notably absent were views from African and South Asian countries, the most food insecure countries. As a result, this limited the number of views to IOs, aid donors and a very small and unrepresentative sub-set of developing countries.

The final panel report on the revolving fund provided exhaustive analysis of existing and potential financing mechanisms to assist developing countries with (public and private) financing of food during periods of high prices. Notably, the FAO’s contribution in this regard, was one of providing a comprehensive plan of how such a fund could be set up, governed, and financed. The other IOs did not offer such detailed interventions. While the report concluded that there was in fact a need for enhanced financing mechanisms to address both short and long-term food purchases, the panel did not come to a consensus on a concrete policy proposal. Whereas the FAO and to a lesser extent UNCTAD were in favour of establishing a revolving fund, the IMF and World Bank were not. The latter two argued for other instruments (e.g., such as commodity price risk insurance) of financing or the possibility for altering some of their current

programming. However, they did not support the creation of a new, and therefore, competing fund. The panel did recommend further research and on an ex-ante financing mechanism aimed at food importers (WTO 2002).

In the following years, political support for a revolving fund lost momentum at the WTO. Donors and the international financial institutions were clear in their position that they were neither convinced of the need nor willing to commit resources. The FAO, working in concert with UNCTAD, attempted to restart the discussion on the revolving fund and tabled the proposal for a Multilateral Export Credit Facility in May 2003. The proposal was discussed by experts at a roundtable organized by the FAO in Geneva (since IOs cannot submit proposals to the WTO). This proposal was unique because private actors such as food traders and marketers from the developed and developing world were consulted in its drafting. However, the idea for this new credit facility did not advance beyond technical consultations.

The dynamics of the Doha Round went under significant change in 2003 with the events at Cancun WTO ministerial and the emergence of the G20 developing country coalition on agriculture. This event and other key developments, such as the Cotton and Sugar cases before the Disputes Settlement body, reoriented the politics of the agriculture negotiations. Given the frustration with many developing countries on the lack of progress on the Marrakech Decision, attention and energy shifted to other pressing negotiation issues such as agricultural safeguards. As a result, work on the Marrakech Decision receded into the background as other trade issues came to the fore. The FAO continued to support action on the Marrakech Decision but was also cognizant that other

trade issues were coming on the agenda that were taking precedence and also shifted its attention in turn.

### *Agricultural Safeguards*

Agricultural safeguards have been one of the most contentious issues in the Doha Round. During the round, developing countries, in particular the G20 agricultural group and Group of Thirty-Three (G33), have advanced proposals for two new agricultural safeguards, the Special Safeguard Mechanism (SSM) and Special Products (SPs) (Narlikar and Wilkinson 2004). Wolfe (2009) argues that the breakdown in the Doha Round has largely been a result of major North-South disagreements on the SSM. The FAO played a key role in the development of the policy and political debate over safeguards in the Doha Round. Indeed, the FAO was an early voice on the issue of agricultural safeguards. In its evaluation of the Uruguay Round agreements on developing countries, it had begun to make the case that poor developing countries needed additional protection in the form of safeguards. In addition, it argued that the existing safeguards in the AoA were primarily used by developed countries and not very applicable to the situations developing countries faced. The FAO did agree with the position that the existing agricultural safeguard be eliminated for developed countries as called for many developing countries. But the FAO called for a *new* forms of agricultural safeguard to be made available to developing countries in order to protect food security in future trade negotiations (FAO 2000). Indeed, the FAO made the point that new types of safeguards would need to be established for developing countries that were simpler to use and

appropriate to their domestic legal and institutional frameworks. The original agricultural safeguard permitted in the AoA was modelled after developed countries' responses to, and experiences with, import surges and low market prices. This was the so-called Special Safeguard (SSG) in the AoA. The SSG was intended to address, and make it easier for, developed countries' specific import-related concerns. However, it did not provide a helpful model for developing countries at very different stages of economic development and with different bureaucratic structures and institutional capacities to manage trade. As a result, very few developing countries took the option of negotiation for access to the SSG during the Uruguay Round.

In addition to calling for an agricultural safeguard to protect domestic food security in developing countries, the FAO also played a critical role in establishing the evidentiary case for it. The FAO's assessment of developing countries' implementation of the AoA revealed several key findings. These included that ordinary tariffs alone were not sufficient to achieve domestic stability with regard to sensitive food products. Tariffs were often the only instruments for stabilizing domestic markets and safeguarding farmers' interests in the face of sharp swings in world prices or a surge of imports due to the lack of other safety-net measures or access to agricultural safeguards. And tariffs played a key role in developed countries since as a group most of them lacked the resources/capacity to provide additional non-tariff instruments to cope with price or other risks (FAO 2000). The FAO's final analysis noted,

“Some attempts were made to initiate anti-dumping measures but were dropped for lack of legislation and institutional capability. In sum, one important conclusion is that there is need for an appropriate safeguard mechanism, which also seems essential for furthering the process of trade liberalization without incurring high social costs” (FAO 2000)

The FAO's work on safeguards provided evidence-based arguments as to why developing countries needed this policy, even if this policy had limitations. But the FAO's analysis highlighted the potential long-term costs to developing country farmers from repeated dumping on local markets. Therefore, the FAO had begun to articulate the rationale and analysis for an agricultural safeguard to protect food security in developing countries. This work was underway in advance of the Doha Round, and notably, before the concept of the SSM and SPs entered the lexicon of the Doha Round in the 2002.

In addition, the FAO undertook extensive analytical work to track import surges for a range of key food products across many developing countries. Building on its earlier assessments, the work was more detailed and rigorous in order to contribute to analytical approaches and methodologies to assist developing countries respond to import surges and inform the debate in the WTO. In other words, this was knowledge production with a political purpose: to support developing countries call for a SSM and SPs. To a significant extent, this work fed into global public discourse and counter claims by Northern countries and the World Bank, which had taken a strong position against the idea of an SSM and SPs in the negotiations and within trade policy circles.

The analysis provided here will not expand on the various iterations of the technical proposals for the SSM and SPs. While recognizing that the negotiations on the SSM and SPs is steeped in political controversies and technical complexity, the conjecture that the FAO played a critical role in this debate is well supported by its years of knowledge production and advocacy for these policies. In addition to the FAO, other actors have emerged as key interlocutors on the SSM and SP debates, including the South

Center, an inter-governmental body of developing countries, and the International Centre for Trade and Sustainable Development (ITCSD), an influential Geneva-based NGO working on agriculture and trade issues. Indeed, the global policy space surrounding the WTO has become increasingly crowded and it is not always straightforward to determine which actors outside the negotiating table have influence on the outcomes and to what extent.<sup>39</sup> One way of distinguishing their impact is to differentiate between the focus of their work and depth of this work. In terms of focus, the bulk of the FAO's work has been to provide analytical and technical work that demonstrates the extent and impact of import surges, provides comparative and historical data, and assesses how different trigger mechanisms might work. The FAO also played a major role in developing the indicators for SPs, which provide both the technical and normative basis for exempting certain foodstuffs critical to food security from deep tariff cuts.<sup>40</sup> The indicators are what justify the whole idea behind SPs. By comparison, analysis by ICTSD and the South Centre focused on the elements of different negotiating proposals and negotiation texts. ITCSD's work is most comparable with that of the FAO's in terms of total outputs and technical depth. The South Center produced substantially less work, but it was more targeted to supporting developing country's political positions. Nevertheless, the FAO was involved much earlier (starting 1999) and more heavily than the South Centre (2002 on) and ITCSD (2005 on). The FAO has been an early source of ideas and political

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<sup>39</sup> I thank Matthew Eagleton-Pierce for pointing the key role the South Center and ICTSD have also been influential in the SSM and SP policy debates.

<sup>40</sup> Confidential interview with IO official, April 2009.

supporter of the work on agricultural safeguards and has helped shaped the debate around them in the WTO Doha Round.

*FAO's Authority in the Global Public Sphere*

During the Doha Round, the FAO adopted a more direct and overt position as an advocate for food insecure countries. This position was influenced by the general perception that the AoA had not benefitted developing countries to the extent promised by developed countries during the Uruguay Round. The years following the AoA saw an increase in the level of food import-dependence and exposure to food price volatility in developing countries. Senior officials at the FAO, with support from the FAO DG's office, decided to take a more activist approach at the WTO agricultural negotiations to ensure food insecure developing countries could bargain for a better deal, including obtaining greater flexibility and exceptions from rules to address food security concerns.

Part of this work included increased efforts to shape the WTO negotiation process. These included undertaking technical reviews of each draft of agricultural modalities and then circulating these assessments to developing countries, NGOs, and the media. These assessments were critically important since the WTO and other IOs were wary of providing such analyses and weighing in publicly on the long-term impacts of potential deals. Moreover, this analysis provided many developing countries a basis from which to claim the draft deals were not sufficiently addressing their interests.

The FAO also produced and circulated technical studies on specific agricultural issues and made recommendations for new rules in order to steer negotiations to address



issues of interest to developing countries (with food security a key issue). This work, in addition to its evaluation of draft negotiation texts became increasingly an irritant to the major exporting countries. These countries viewed these interventions by the FAO as undermining their efforts to gain greater market access in developing countries. Indeed, many developed countries expressed displeasure with the FAO's activist role and its views on agricultural trade issues, which contradicted the more favourable views of the World Bank and OECD on the benefits of a potential Doha trade deal.

Once the Doha Round negotiations appeared to reach a possible conclusion, the FAO DG and senior officials also began to publicly denounce, at the WTO ministerial meetings and other high-level events, elements of the draft agricultural agreements, which they regarded as harmful to food insecure countries. For example, at the 2005 Hong Kong ministerial, the FAO Assistant DG stated,

“The gains from freer trade are neither automatic nor universal. Not all developing countries would necessarily gain from either reduced levels of protection by their trading partners or from opening up their own markets. Therefore, multilaterally agreed trade rules need to be crafted in a way that is conducive to development and food security. Poorer countries will need assistance to overcome problems that limit their ability to take advantage of improved trading opportunities.” (FAO 2005, 2)

This and similar statements were picked up by the media, giving greater credence to the positions of developing countries and NGOs critical of the draft agricultural modalities.

While these statements always contained the caveat that the FAO supported trade liberalization in principle, the FAO nevertheless decided to take political positions on the desirable scope of trade-rules. According to one senior official, this reflected the belief

within the FAO that it had to be “courageous and provocative” in order to prevent a deal that would further disadvantage food insecure countries.<sup>41</sup>

## **Conclusion**

The actions of FAO during the Uruguay and Doha round have been above and beyond what can be considered typical intra-institutional cooperation, information exchange or policy transfer. The FAO has repeatedly attempted to exert its expert and moral authority to influence outcomes in multilateral trade negotiations. In the Uruguay Round the FAO was a shadow negotiator. Its efforts were critical to acceptance of the Marrakech Decision and the recognition that trade liberalization could have negative impacts on food security. During the Doha Round the FAO continued to push food security issues to be taken seriously and addressed in a comprehensive manner. It also defined an advocacy role for itself by critiquing the draft texts and utilizing their impacts on food security as the yardstick.

The actions of the FAO have been predominately autonomous. These actions stem from a real sense of concern among senior FAO officials that the trade liberalization agenda of the WTO may lead to undesirable food security outcomes and also diminishing the capacity of developing countries to intervene to support pro-food security policy objectives. A rationalist interpretation is not satisfactory to explain the FAO’s motives. The FAO has never sought a mandate to take over functions of the WTO on agricultural trade issues; there was never bureaucratic competition between the WTO and FAO. In

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<sup>41</sup> Confidential interview with IO official, April 2009.

fact, the conflict is rooted in normative conflicts where the WTO is limiting the capacity for state action in agriculture while the FAO seeks to retain such capacities for food insecure countries and to establish greater constraints on markets. The fact that the FAO's interventions were targeted at the WTO illustrated the way in which the MTS has become a transnational site of contestation. This creates a new transnational space and opportunities for interventions by transnational actors, such as the FAO. The autonomous interventions of the FAO in the emerging global food security assemblage are part of the contest between food self-sufficiency and free trade in food.

#### CHAPTER 4. CONTESTING THE BOUNDARIES OF INTERNATIONAL FOOD AID GOVERNANCE

This chapter examines the politics of the governance of food aid that occur within and around the MTS. Food aid and the MTS are deeply intertwined. In addition to the historical origins of the current international food aid regime as a solution to past problems of the international supply management for grains, developments in the MTS continue to be a source of seismic shifts in the governance and practices of international food aid.

In Chapter 1, I examined how the GATT Kennedy Round resulted in the creation of the FAC, which became a key pillar of the international food aid system. The GATT Uruguay Round provided the WTO with authority over food aid rule-making by including new disciplines on international food aid in the AoA. Food aid re-emerged as a contentious trade issue in the WTO Doha Round negotiations with Members seeking stronger disciplines on food aid. Although the outcome of the Doha Round remains uncertain, Members have made significant efforts to increase the authority over international food aid more deeply into the WTO.

This rescaling of authority over the governance of international food aid has produced significant political conflicts between states but also notably between the WTO and the WFP. This chapter focuses on this underexplored transnational dimension of contestation of food security. In particular, I examine how the WFP has exercised its authority to try to shape the negotiation of food aid rules at the WTO.

### **The Old and New Politics of International Trade and Food Aid**

It is useful to divide the politics of international trade and food security into two categories: old and new. The old politics of international trade and food aid refers to interstate efforts to manage surplus disposal of agricultural commodities. These politics predominated from the 1950s to the 1980s. These political debates were premised on two key ideas: 1) that international food aid displaced commercial trade and 2) food aid could have negative impacts on domestic food production in recipient countries (Schultz 1960, 30; Ruttan 1993; Singer, Wood, and Jennings 1987). These ideas interacted with other general concerns related to food aid and its political-economy context during this historical period: US foreign policy during the Cold War, efforts to better coordinate international development assistance, and international efforts to find a compromise on grey food assistance transactions (i.e., transactions perceived to be somewhere in between legitimate humanitarian assistance and commercially-oriented activities). The key actors in these political contests were a small sub-set of donors that also happened to be the world's main grain exporters such as the US, EC, Canada and Australia. Food aid recipients rarely, if ever, had a strong voice in these matters. The politics over food aid and related attempts to resolve them occurred in very specific institutional contexts strongly linked to the trade regime such as the FAO Consultative Sub-Commodity on Surplus Disposal (CSSD) and the FAC.

The new politics of international food aid and trade were spurred by two critical developments. First, the establishment of the WTO brought agriculture, including food aid under the authority of the MTS and its system of binding international law. This

change partially shifted authority in food aid rule-making into the WTO arena. This change was part of the emergence of the global food security assemblage. There was an attempt to subject food aid to broader processes of trade liberalization thereby deferring some elements of food security policy to the power of market forces instead of state activism. In a very concrete way, this development produced new constraints and uncertainties for food aid donors and recipients alike by shifting decision-making on food to the supranational level (Christensen 2000). For other actors, such as the international organizations and NGOs charged with delivering food assistance, this development created uncertainty with respect to how supranational rules would affect the everyday practices of food aid delivery (Shaw and Singer 1996; Clay 2003). The main consequence of this development has been that the WTO's binding enforcement mechanism has given rise to new costs for states and other actors whose food aid practices may contravene international trade rules. In particular, association with the WTO has hardened the pre-existing voluntary, soft law approach of the international food aid system.

Beyond the threat of dispute settlement, the WTO's reform program on agriculture has had direct impacts on international food aid supply. The AoA program of liberalization sought to reduce national surplus production. Given that international food aid was established based upon the existence of national surpluses, the WTO reform package has sped up the decline of surplus stock levels and thereby reducing available food aid supply. This retraction in supply has driven indirect reform of international food aid practices as programmers seek new and diverse sources of food aid supply (Clay and Stokke 2000).

A second, novel dimension of the new politics of international trade and food aid are related to genetically modified organisms (GMOs). Recently, some recipient countries have refused to accept US food aid, which contains GMO crops, fearing the possible genetic contamination of local crops. Contamination could lead to such countries losing market access for their exports to Europe. For context, the transatlantic debate over GMOs has been played out at the WTO (Pollack and Shaffer 2009). This has been a contentious issue among donors and recipients and is linked to debates about the standard setting authority role of the WTO (Clapp 2005, 2004; Zerbe 2004).<sup>42</sup>

### **Food Aid, Agriculture, and International Trade**

Food aid cannot be fully understood outside of its roots in the political economy of national agriculture policies. Cathie (1982, 11) states that the emergence of international food aid policy is an “indirect and secondary outcome of the policy of agricultural protection and that this relationship is clear and undisputed.” International food aid programs originated as a solution to maintaining agriculture policies and internal market stability in the North in the post-war era by promoting the disposal of surplus production (Schultz 1960; Barrett and Maxwell 2005; Talbot 1979). The links between domestic agriculture and food policies have been very strong in most donor countries with domestic procurement requirements. Such donations are referred to as *tied aid*. The durability of tied food aid is impressive. Only quite recently have many donors

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<sup>42</sup> This chapter will focus on the politics of rule making on international food aid. It does not address the GMO food aid debate as analysis here. I would argue the GMO food aid debate is primarily a bilateral US food aid issue even though it is influenced by the transatlantic politics at the WTO. GMO food aid has been less of a concern in multilateral food aid compared to key issues such as those related to food aid untying and monetization.

unilaterally moved to untie their international food aid from the purchase of domestic commodities and move to financial grants. Food aid has been the exception to the general rule of untying of official development assistance (Clay 2006). Food aid remains the only category of development assistance that was exempt from international codes on aid untying at the Organization for Economic Cooperation and Development (OECD 2001). Diverging views about the benefits and costs of tied aid continue to shape the global politics of food aid (Clapp Forthcoming).

Consideration of which commodities have been traditionally preferred for food aid also reveals domestic political economy dynamics at play. Bulk cereals and grains, and in particular wheat flour, have accounted for the majority of food aid flows over time. Wheat flour is not a “traditional food” in many recipient countries, where local food practices have been based on other staple crops, notably rice and maize. Food aid’s influence on consumer food preferences and negative impacts on domestic food production of traditional crops are well established (Ruttan 1993). The explanation for this linkage lies not just in food aid’s success as a humanitarian tool but also in the fact that decades of wheat-based food aid practices established domestic constituents in donor countries that supported the status quo. This political economy dimension was initially strongest among farmers and processors but over time shifted with marketing and shipping interests becoming more influential than traditional farm lobbies (Barrett and Maxwell 2005). Programmatic shifts to ensure that recipients receive culturally appropriate foods are relatively recent in food aid policy-making. This change has been in response to better knowledge about food utilization practices in recipient countries. It is



no longer taken for granted that recipients will be familiar with the food commodity in question and have the knowledge, technology, and necessary inputs (e.g., fuel and clean water) to prepare it. The importance of the establishment of the norm that food aid must be culturally appropriate to local conditions was a critical outcome of the multidimensional approach to food security that occurred in the 1990s.

Another clear link between food aid and agricultural trade is in the relationship between international commodity prices and donors' food aid levels. Despite the abundance of cereal production in donor countries, cereal food aid has been highly variable resulting in unpredictable aid patterns. Clay and Stokke (2000) demonstrated that when international commodity prices spike upwards there is a corresponding decline in global food aid levels. The perversity of this inverse relationship between commodity prices and food aid levels is that in times when food needs are at their greatest – when many developing countries are likely to experience increased difficulty in financing food imports – food aid becomes an increasingly scarce resource. Moreover, it reinforces the argument that food aid flows are driven by donors and not recipients' needs.

### **Fragmentation and Coherence in the International Organization of Food Aid**

A long-standing theme in the study and politics of food aid is the fragmented nature of its governance, and the impacts this fragmentation has on its efficacy as international development assistance. To a significant extent, the fragmentation of food aid governance has to do with the interactions it creates between two sets of policy objectives that sometimes find themselves at odds: development and trade.

Fragmentation of international food aid governance is not new. The food aid system has been characterized by progressive institutional proliferation over time. Many institutions make up international food system. The key ones include the FAO Consultative Subcommittee on Surplus Disposal (CSSD), the WFP to coordinate and deliver international food aid multilaterally; and, the FAC that established a system of minimum annual food aid commitments for donors in 1967. More recently, the WTO became part of this international governance structure. Article 10 of the AoA required that international food aid not be used to circumvent export subsidy commitments and more specifically, not be tied directly or indirectly to commercial agricultural exports, and carried out in accordance with the FAO Principles of Surplus Disposal. Such aid was to be provided to the extent possible in fully grant form or on terms no less concessional than under those established in the FAC (WTO 1994a).

Although international food aid rules were a small element of the AoA, Article 10 had major implications for international food aid governance. Simply put, the AoA has changed the architecture of food aid governing because it legally links the WTO, CSSD, and FAC rules in a new way. In institutional design terms, it has nested these agreements under the broader system of WTO law. Doing so created new tensions between states and institutions; the global food security assemblage has reinforced older political economy dynamics between food aid and trade. As a result, this rescaled legal authority over food aid governance to the WTO, in other words, centralizing the international food aid system under the MTS.

The inclusion of the food aid into WTO system of hard law had several effects. First, it hardened international food aid governance. Historically, international food aid governance has been based on soft, voluntary codes. The WTO made existing soft law approaches into hard law because of their new linkages under binding international trade law. This resulted in a rescaling of the authority in the global food security assemblage. Second, this recombined food aid order came into conflict with longer-term patterns of efforts to reform international food aid. Reforms undertaken by many national and international development agencies since the 1980s had sought to break the links between trade and food aid in order to remake food aid into an exclusively humanitarian activity. The increasing authority of the WTO over food aid has more deeply subsumed food aid in the contests over global trade and food security. Third, the rescaling of authority to the WTO introduced new ambiguities for national and international food aid programmers as to how to interpret the rules. For example, there are different benchmarks for what defines legitimate food aid in different institutions. In a more profound manner, the AoA has altered the governance of international food aid with the outcomes of trade negotiations an ever greater determining force over the future of the international food aid (Shaw and Singer 1996; Zhang 2004).

Many actors support the greater centralization of food aid governance under the WTO. For example, many states have long argued that institutions such as the FAO CSSD are out-dated and not effective in preventing commercial displacement. The assumption that certain types of food aid, in particular *project food aid* (i.e., when food aid is provided and sold by recipient governments for balance of payments problems) is

not sufficiently regulated under existing arrangements. Exporters in particular regard the rules-based system of the WTO as a more credible and effective institution to prevent commercial displacement. However, it should be noted that there is limited evidence to support the claim that food aid significantly displaces commercial trade (Lowder 2004). Existing empirical evidence suggests minor contemporaneous displacement effects and that these tend to be distributed roughly equally between donor and other commercial suppliers (Mohapatra et al. 1999; Barrett and Heisey 2002; Lowder 2004; Awokuse 2011). In short, there is no obvious and potentially significant market advantage to donors or disadvantages to other exporters.

The belief that food aid displaces commercial exports is deeply internalized in the minds of officials from agricultural exporting countries. Indeed, most trade negotiators assume food aid's impact on trade to be significant and they tend to use anecdotal evidence to support their position. Much of the evidence trade negotiators use in their arguments is either based on reference to neoclassical economic theory or examples from the 1960s and 1970s. Yet stronger food aid disciplines have been part of a key demand by exporting countries in the Uruguay and Doha rounds. In addition, exporting countries, most NGOs, and IOs also support centralization of food aid under the MTS in order to prevent negative impacts of domestic food production in developing countries. Here the empirical data does not indicate a direct relationship (Barrett 2002). In short, the food aid and international trade debate is constructed upon discourses and ideas from earlier eras (and that do not fit with the current state of knowledge) about the relationship between food assistance and markets. Indeed, as one senior official WFP noted, the content of the

debates on food aid at the WTO is “stuck in the worldview of the 1970s and 1980s” but that does not “reflect the current reality of international food aid.”<sup>43</sup>

The preference of many actors to centralize food aid under the WTO echoes what Lowder (2004) identifies as the “Schultzian” view that dominates agricultural and development economics circles. In 1960, the American agricultural economist Theodore Schultz argued that food aid displaced domestic production in recipient countries. This theory continues to be widely accepted among scholars and policy-makers even today even though this claim is not supported by subsequent decades of research. This research does not mean international food aid cannot and does not have negative consequences on domestic food production. Indeed it does, however, under very specific circumstances depending on the type of food aid provided, its targeting, world market conditions, and the causes of domestic food insecurity. However, these effects are much less straightforward than the prevailing discourse on food aid admits.

Another effect of the AoA food aid rules is the shifting of the locus of multilateral activity on food aid. The provisions of AoA required that the WTO to take on a greater monitoring role. Indeed, food aid transactions have ever more frequently been scrutinized at the regular meetings of the WTO Committee on Agriculture (the body responsible for implementation of the AoA). Historically, food aid monitoring has occurred under the UN system at the FAO and WFP. Part of this shift is also the manner in which food aid flows are monitored at the WTO. For example, at the CSSD, donors are only required to provide *ex poste* notifications of food aid transactions. At the WFP, members report the

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<sup>43</sup> Confidential interview, March 2009.

quantity and type of food aid delivered and how beneficiaries were reached. In these forums, the legitimacy of food aid is assumed among officials. It is very different at the WTO. There, trade officials scrutinize food aid in detail, and in many cases, they challenge other members to prove the legitimacy of specific food aid transactions. In addition, the institutional environment at the WTO raises the political stakes of such lines of questioning. States can ignore questions about their specific food aid donations or refuse to answer them fully in other multilateral forums. At worst, such actions may be regarded as poor behaviour, but they have little political consequence. However, at the WTO a state are obligated to provide answers to other parties and in as much detail until the other party is satisfied with the answer. At the WTO, the practice of members scrutinizing one another is far more aggressive than in other multilateral forums. Indeed, WTO members pride themselves on how “serious” they are when it comes to procedures and formal practices, often deriding the informality and lack of seriousness at UN institutions.<sup>44</sup>

At the WTO Committee on Agriculture, questions are supposed to signal to members that their practices are being closely monitored (i.e., we know what you are up to!). In addition, the questions are often posed in a way to gauge the suspect states’ practices with the letter of WTO law. This is part of efforts by members towards clarifying whether a certain state’s practices follow the spirit and letter of the WTO agreements. As such, this is part of a situation where states signal to another that they are searching for probable grounds for a trade disputes. This is supposed to signal a threat to

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<sup>44</sup> Confidential interviews with officials, October 2008-March 2009.

offending parties and incentivize them to alter their practices. The WTO is a much more adversarial institutional environment. As such, the politics of food aid monitoring take on a very different significance at the WTO.

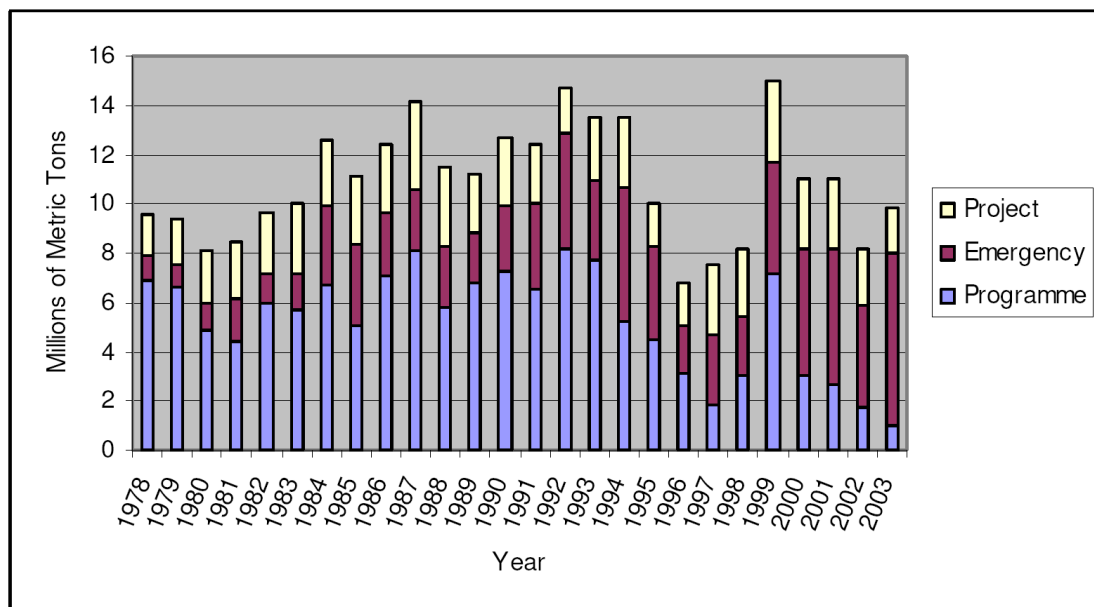
### **Transformative Changes in International Food Aid**

The changing governance of food aid and international trade are occurring in the midst of major changes in food aid practices. Bilateral food aid, from donor to recipient, was predominant until the 1990s, after which food become increasingly channelled through the WFP and later on by NGOs. By the mid-1990s, the WFP was delivering more than half of international food aid (Clapp Forthcoming). Recently the WFP has provided up to an estimated 70% of international food aid (Lowder and Raney 2005). This transformation is also part of changes in the types of food aid (see Figure 3). Most importantly, food aid has gone from being a resource for recipient states to address balance of payments problems, namely by selling food aid in the domestic market (i.e., *project* food aid), to a tool to address emergencies such as natural and human-made disasters.

This wider transformation in the international food aid regime has been attributed to the importance of development ideas that inserted new norms into the food aid system. These norms prioritize the humanitarian dimension over the other competing objectives of food aid (Hopkins 1992; Ruttan 1993; Hasenclever, Mayer, and Rittberger 1998). This change has also been driven by the absolute and relative decline in food aid in official development assistance; a fall of about 20% to 3% since the 1970s to the present (Lowder

and Raney 2005). According to the WFP, overall international food aid levels have dropped precipitously from an average of 8 million tons in the early 1990s to less than 5 million tons in the past several years as donors have switched to other forms of assistance and with declining surpluses available for food aid. Food aid has become an increasingly rare resource, giving rise to further pressure to ensure its efficacy in the face of growing food insecurity (Clay and Stokke 2000).

FIGURE 2. CEREAL FOOD AID BY DISTRIBUTION MODE 1978-2003



Source: Lowder and Rainey 2005

These changes have had a profound effect on international food aid. In many respects, today's international food aid is very different from its original programs. Yet international food aid has been, for better or for worse, the most consistent and durable form of multilateral food security policy. The WFP continues to be the principle IO



responsible for providing food aid. Indeed, world food security policy is often equated with the WFP in the mind of many publics. Food aid continues to enjoy a privileged form of political and public support and continues to be a highly valued form of international cooperation in food security (Ross 2007). Feeding the hungry echoes many moral, ethical, philosophical, and religious positions and these complementarities has contributed to the WFP's legitimacy and moral authority.

### **WFP and Multilateral Trade Negotiations**

I now turn to examining the role of the WFP in multilateral trade negotiations with respect to food aid. Food aid has been part of the agriculture trade negotiations for two successive rounds. Prior to these rounds, food aid and the implications of surplus disposal had also been discussed at the GATT, most notably in the Kennedy Round. However, it was really with the emergence of the AoA that food aid was formally linked with the MTS and that contestation over its governance has become a regular feature.

#### *The WFP and the GATT Uruguay Round*

The WFP's role in the Uruguay Round is ambiguous. The WFP was not an official observer to those negotiations. Unlike the FAO, it did not appear to request observer status even though food aid was on the negotiation agenda in the UR by the fall of 1988. There is no record of any official communication by the WFP to the GATT Secretariat. The WFP was undoubtedly aware that the GATT negotiations sought to reduce surplus production thereby shrinking one of its key resource sources. In addition,

by 1991, it was also evident that food aid disciplines would be part of a reform package on agriculture. Moreover, food aid was a key issue in the Marrakech Decision. These developments were all public knowledge and there is no possibility that WFP officials were unaware of these developments. Yet there is no formal record of its participation even though the WFP had officials based in Geneva during this period. Rationalist theory of IO behaviour would have suggested the WFP would have favoured maintaining the status quo over the possibility of losing part of its key resource base. Following this line of logic, one could have hypothesized that the WFP had good reason to comment on the Uruguay Round negotiations or at least it might have expressed its views on the food aid negotiations. Yet there is no evidence to suggest it did.

Why was the WFP not active in the Uruguay Round given that the negotiations had potential impacts on its resource base? I argue part of the explanation lies in the WFP's institutional evolution. The WFP was a relatively weak institution during the 1980s compared to its present state. During this earlier period, the WFP's policies and budget were under the strong influence of then FAO Director General who steered the WFP's work in line with the FAO's policy objectives. This resulted in the WFP operating as an extension of the FAO (Shaw 2007). As such, it had less autonomy and capacity for agency. Although the WFP today is often regarded as an instrument of US policy, during that period the FAO leadership imposed its will on the WFP. It was only in the mid-1990s that the WFP governance architecture was reformed and the institution was given greater autonomy and independence from its two supervisory institutions, the FAO and UN Economic and Social Council (ECOSOC) (Faaland, Mclean, and Norbye 2000; Schuthes

2000; Ross 2007). Therefore, the lack of the WFP's formal presence is partially explained by the fact that that it had yet to develop its current identity and lacked the institutional structure that would have allowed it to exert strong leadership at the top needed to engage with the GATT.

Edward Clay (2003) argues that the WFP is a highly adaptive institution. It was already undertaking internal reforms in response to the dwindling provision of food aid since the 1980s and the volatility of the types of food aid resources it was provided by donors. It was during the late 1980s and 1990s that the WFP shifted the bulk of its work away from traditional development activities to focus on emergency relief. This is important because food aid resources for emergency relief are less linked to surplus availability. Indeed, emergency relief relies on voluntary cash donations instead of in-kind commodities. During this period, the WFP diversified its donor base by engage non-traditional aid donors, such as middle-income developing countries, private actors, and individual contributions from global publics, in addition to its traditional donor base. To a certain extent, the WFP's operational shift initiated a process of minimizing its reliance on food aid donations based surplus disposal stocks. In theory, this better positioned the WFP to respond to future scenarios of less food aid available from surplus production. This may also help explain the why the WFP did not ring alarm bells during the round.

#### *The WFP and the AoA*

The outcomes of the Uruguay Round were significant for the WFP. Clay and Singer (1996) argue that AoA defined two major features of a changing international food

aid system. These included the ministerial commitment to provide an adequate level of food aid to meet the needs of food insecure developing countries and creating a mechanism to ensure that food aid does not circumvent disciplines on export subsidies (WTO 1995). The WFP began to scale up its work on international trade issues after the establishment of the WTO. This included the WFP participating in formal technical cooperation with the WTO and Geneva-based trade officials. The WFP's statistical arm, INTERFAIS, increased its sharing of information with the WTO and became the central provider of food aid statistics to the organization. This information was used in the work of the WTO Committee on Agriculture's annual monitoring exercise on the Marrakech Decision. The WFP also joined an informal working group, alongside the FAO, World Bank, and IMF tasked to design food safety net programmes during the WTO reform period. During this time, the WFP requested and was granted observer status to the WTO in 1995.

It was during this period that the WFP more fully developed into an independent institution. When it came to its work at the WTO, the WFP identified that it actively promoted the idea for new multilateral safety net programmes for food insecure countries (WFP 1995). This role included increasing its participation in formal and informal food aid deliberations at the WTO, where WFP officials gradually came to occupy the position of experts regularly consulted by trade officials and becoming part of Geneva-based policy networks.

The WFP started to raise concerns about the impact of AoA on international food aid *after* the Uruguay Round deal was done. In particular, the central concerns were the

impacts of the reform package on international food aid supply and food markets. Prior to the conclusion of the round several studies estimated reductions in food aid. For example, Taylor (1992) predicted that as much of 30% of total food aid would need to be reallocated in order to meet the WTO's new rules. In 1995/1996, international food aid levels dropped to their lowest levels in twenty years, falling by almost 40% in volume from the preceding year (FAO 1996b). The FAO (1996b) reported that food prices rose to record levels during that period. The WFP was very alarmed by the scale of this drop in food aid donations because demand for food aid remained high. It also began to link this drop with the effects of the AoA and associated the WTO with potentially negative impacts on the world food situation. The WFP Executive Director argued that,

“...there is also little doubt that [WTO] policy reform measures have led to drastically reduced surpluses in the USA and the EU [European Union]. The 1995/96 ratio of world cereal stocks to annual global consumption is expected to fall to its lowest level in 20 years...The abrupt decline in world cereal stocks has contributed to the substantial increases in world prices for major cereals during 1995. Greater volatility of world cereal prices during the next few years cannot be excluded.” (WFP 1995)

This statement by the WFP echoed arguments made by the FAO (see Chapter 3). Yet arguments that food supply and price shocks were rejected by the World Bank and exporting countries. These argued that other market and weather-related factors, not WTO-induced agricultural policy reform, were the cause of tight supplies and rising food prices.

Another new concern for the WFP during the implementation of the AoA was the new yet ambiguous role of the WTO in the international food aid governance. The concern had less to do with the food aid disciplines in the AoA and more to do with the Marrakech Decision. The Decision included a commitment to ensure the availability of

sufficient levels of food aid during the implementation period. The WFP was concerned by the lack of thought given at the time “to what the reform programmes mean for the poorest households in low-income, food-deficit countries and what the international community can concretely do to respond to the challenge” and how such levels should be determined (WFP 1995). The WFP became critical of the lack of concrete proposals by WTO members on how to address these impacts of the reform package and to ensure sufficient levels of food aid in light of tightening world food markets at the time were its pressing concerns. In this particular moment in time, the WFP faced rapidly declining international food aid donations, rising food prices, and increasing demand for international food aid assistance. These events constrained its operations. It also raised alarm bells within the organization’s leadership, which interpreted these developments as tied to the effects of the WTO’s trade liberalization agenda, and in turn pushed it to press for concrete proposals at the WTO to address what appeared to be a significantly worsening world food security situation.

#### *The WFP and the Doha Round*

International debate over the competing objectives of food aid and agricultural trade policy resurfaced with the launch of the Doha Round of WTO negotiations in 2001. One of the round’s objectives is to establish new food aid disciplines in order to expand and strengthen the rules previously negotiated in the AoA. In 2004 WTO ministers agreed to treat food aid as a form of export subsidy and called for, “Provision of food aid that is not in conformity with operationally effective disciplines to be agreed. The objective of such disciplines will be to prevent commercial displacement.

The role of international organizations as regards the provision of food aid by Members, including related humanitarian and developmental issues, will be addressed in the negotiations. The question of providing food aid exclusively in fully grant form will also be addressed in the negotiations.” (WTO 2004, 8)

This negotiating agenda was the result of significant efforts by net-food exporting WTO Members. These countries argued that food aid could distort commercial trade and created food aid dependency among developing countries. The Cairns Group and EC in particular argued that the disciplines under the AoA had been too weak to prevent the US from *de facto* circumventing its export subsidy commitments through food aid. Most Northern trade negotiators felt that the AoA rules were too weak to adequately govern international food aid. They argued that there was “unfinished business” on food aid and that the Doha Round would provide the opportunity to strengthen food aid disciplines at the WTO. This intensified the stakes for food aid in the round, as many exporters began to demand a strong outcome on the issue as a political requirement. This elevated food aid to prominence in the agricultural negotiations. Again, these efforts were driven by the adherence to the Schultzian view of food aid held by Northern trade and agriculture officials rather than any specific concern with food aid’s humanitarian objectives.

Another reason that the argument that food aid displaces commercial sales is so strongly held by negotiators is because it fits well with the discourse of neoclassical economic theory. Many trade and agriculture policy officials have educational backgrounds in economics, agricultural economics, or political economy.<sup>45</sup> In these fields, neoclassical economics is the dominant framework for understanding how markets

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<sup>45</sup> This conclusion about trade officials’ educational backgrounds is based on my interview data and general discussion with officials. However, I do not have extensive life history data. To my knowledge, there are no studies on the life history of international trade officials. And only recently have anthropologists taken an interest in international trade officials (Deeb and Marcus 2011).

function. This engenders a certain way of thinking about the impacts of policy interventions in terms of their relative distorting effects on self-correcting markets. As many scholars have argued, this concept of perfect markets is an intellectual abstraction, not a real phenomenon of the real world. The mythology of markets has been a significant factor to shift towards free trade, and the creation of institutions such as the WTO (Chang 2008). The WTO's identity and rules were part of the shift towards neo-liberalism during the globalization of the world economy (Gill 1995; Harvey 2005; Chorev 2005). In this context, food aid was inserted into an ideational framework that is highly problematic. There is significant theoretical, empirical, and ethical difficulty in framing food aid as a type of market-related activity. To treat economic welfare gains and reduced hunger and malnutrition among food insecure individuals as comparable units is fallacious reasoning.

Several critical developments during the early years of the Doha Round resulted in a bright spotlight on food aid. These events would inflame debates about its impacts on commercial trade and elevate the food aid talks at the WTO beyond what trade negotiators would have imagined possible at the start of the Doha Round. The first development related to the dynamics of the negotiations on export subsidies. A primary objective of the Doha Round was to achieve substantial reductions in agricultural export subsidies (WTO 2001c). This included the *possible* complete elimination of all export subsidies.

Export subsidies held a special significance. The GATT had prohibited export subsidies on industrial goods since 1956. Agricultural export subsidies were an exception to the rule. Limits on agricultural export subsidies had not previously been addressed at



the GATT in a systemic fashion until the Uruguay Round. Economists have long argued that export subsidies significantly distort international trade by favouring the terms of trade for subsidizing countries.

In 2004, the EC offered to eliminate all of its agricultural export subsidies. The EC accounted for 80% of the total of agricultural export subsidies used by all WTO members (de Gorter, Ingco, and Lilian 2002). As such, the EC regarded its move to eliminate its export subsidy as a major concession in the negotiations. In exchange, it made it clear to the WTO membership it expected “parallel” and “equivalent” concessions from other key exporters in other export competition issues, especially from the US on its food aid programs. This reflected the long running US-EC feud on export subsidies where the EC had long claimed that US food aid, although not technically defined as export subsidies and subject to the same disciplines under the AoA, had equivalent negative effects on international markets.

The EC’s negotiation position had little to do with humanitarian considerations and more to do with its need to secure a political victory in the export competition pillar as a condition for selling export subsidy reductions to its own members, in particular Germany and France. Given that the US provides more than half of total international food aid (Hanrahan and Canada 2011). With several of its food aid programs explicitly linked to market development objectives, such as the Title 1 food aid program, the concern for many WTO members has been that food aid could be used by the US in future to circumvent its export subsidy commitments.

The changed dynamics in the export competition pillar all of sudden made food aid a significant offensive target for EC trade negotiators. It also galvanized other exporters to support the EC's position because they believed that eliminating EC export subsidies would have significant economic benefits to them. The consequences on food aid supply were not given as much consideration by WTO members. This new negotiating environment combined with the already sceptical disposition among exporters towards food aid and its assumed commercial displacing effect raised the bargaining stakes of food aid in the MTS to new heights.

Second, during the early years of the round there was a spike in US skim milk food aid. In the early 2000s, the US found itself with massive dairy surpluses and started providing skim milk powder food aid. These donations were often at volumes equal to their total commercial exports of skim milk powder during those years (Marchione 2002; Margulis 2005). Much of this was provided as project food aid and sold to countries at below market rates. As this occurred during a tense period of the agriculture negotiations, the US' food aid donations set off a wave of recriminations by other agricultural exports such as Australia, Canada, New Zealand, and the EC. These food aid donations were the subject of several heated exchanges at the WTO Committee on Agriculture at which the legitimacy of these food aid donations was challenged (ICTSD 2004, 7). Moreover, the fact that such food aid was a dairy product inflamed the controversy. On one side, many Northern exporters had experienced significant difficulties with WTO limits on subsidized dairy exports. This was a particularly sensitive issue and had led to several WTO disputes (e.g., Canada-US, Canada-New Zealand). In addition, dairy food aid was

subject to highly vigilant monitoring at the WTO under the plurilateral 1994 International Dairy Agreement, which included reporting of dairy food aid (WTO 1995a). In this charged climate, members expressed concerns that US donations were breaking the spirit, if not the letter, of the AoA. Members question the legitimacy of US food aid because skim milk powder had a controversial status as a food aid commodity.

Skim milk powder also has a dubious reputation in food aid policy circles. This is primarily because of its association with many infant deaths in the 1980s, when food aid rations were improperly prepared with unclean water when used as substitutes for breast milk. Following this, many countries stopped providing skim milk powder food aid. All these considerations set the WTO negotiations on food aid on a specific path. A disproportionate amount of negotiating energy focused on: 1) limiting in-kind food aid; 2) disciplining monetized food aid (i.e., food aid sold on markets) and 3) greater clarification of what constituted “legitimate” food aid. Draft sets of food aid rules were agreed to in early 2003 as part of the first set of agriculture modalities, which included provisions that emergency aid could only be provided after recognized international appeals and that development food aid (e.g., food for work and child-feeding programs) be provided primarily in untied financial grants and stripped off any commercial linkages.

The highly polarized environment in which the food aid negotiations occurred had immediate ramifications for the international governance of food aid. The negotiations signalled the intent to increase the centrality of the WTO in the governance of food aid. They also had direct yet variegated effects on other IOs. The scope of the WTO food aid talks indicated that the FAO’s CSSD could become redundant. WTO members already

had a negative view of this body and viewed it as ineffective because of its basis in soft law. Trade negotiators from the Cairns Group and EC had privately expressed support for dismantling the CSSD and incorporating these functions into the WTO.

The future of the FAC also became a pressing concern. During this period, the FAC expired and was due to be renegotiated. Parties to the FAC, the main aid donors, agreed to postpone the renegotiations until the WTO negotiations were finalized in order to prevent forum-shopping by the US. This position was advocated by trade ministries. However, the decision was controversial among national and international food aid policy-makers because trade interests were seen to trump development concerns. Hodinott, Cohen, and Barrett (2008) argue that the outcome of this decision by states derailed the previously existing political momentum within the development community to modernize the international food aid system to address rising global food insecurity. Instead, the future of the FAC was tied to outcomes at the WTO. As I demonstrated in Chapter 2, this was not the first time that outcomes in the MTS impacted the international food aid system. This occurred in the GATT Kennedy Round when efforts to manage international wheat led to the creation of the FAC. However, in this case, the WTO negotiations produced a chilling effect on the FAC renegotiation and thereby undermined an opportunity for development agencies to more completely sever the links between food aid and agricultural trade. Here, the Doha Round produced a stronger link between the food aid and trade but at the same time limit the FAC's capacity to serve as a hunger-eradicating tool.

The increased polarization on food aid and greater uncertainty for the existing international food aid system were the negotiation dynamics the WFP encountered in the Doha Round. From the onset of the round, the WFP used its observer status and ensured its Geneva-based representatives were available to consult with the WTO members in drafting new rules. The WFP's representative was regularly consulted by the WTO secretariat and members during the agriculture negotiations. Although the WFP is not involved in formal food aid rule-making to the same extent as the FAC and CSSD, it plays a key role in developing norms and supporting practices to maximize food aid as a hunger-eradicating policy tool. The WFP is the public face of the international food aid system. More significantly, it enjoys considerable moral authority because of its long experience and organizational efficacy in addressing emergency and crisis situations and because it is the backbone of a global food safety net, feeding tens of millions of people.

Geneva-based WFP officials expressed certain reservations with the 2004 draft food aid rules. In particular, their concerns lay with what appeared a disproportionate insistence by negotiators for extensive disciplines when food aid was in decline. In addition, the WFP was concerned that the negotiation of rules was largely left to a small group of exporters and did not include perspectives from recipient countries.<sup>46</sup> The WFP could formally respond to requests for advice or clarifications but there was no process for it to submit negotiating text to be considered. In 2004, it was not prepared to publicly evaluate the merit of the draft rules. It expressed its concerns informally in bilateral or

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<sup>46</sup> From confidential interviews in 2008-2009 and personal notes (2003-2005).

plurilateral consultations with WTO members. However, these concerns remained private and confidential.

In 2005, the WFP shifted its approach to the negotiations and began to state its concerns in a more direct manner to WTO members. First, it more strongly began to express its concerns to food aid recipient countries that were WTO members. Although these countries were often not active in the food aid negotiations (at negotiation sessions it was primarily exporters present) these countries were assumed a receptive audience. The top WFP officials, its Executive Director James T. Morris travelled to Geneva in May 2005 to meet with LDCs. At this meeting, Mr. Morris stated he was “absolutely opposed” to a requirement that food aid be provided only in cash form (Williams 2005). This statement was targeted primarily at the EC, which had made a formal proposal that called for all international food aid to a cash-only grants form and would prohibit in-kind donations of food.<sup>47</sup> I suggest that the decision for the WFP Executive Director to meet directly with the LDCs was intended as a signal to WTO members to illustrate how serious a concern the draft food aid rules were becoming for the WFP. The WFP would continue to iterate its position on a more frequent basis privately and publicly. These statements marked the beginning of efforts by the WFP to influence WTO members’ position on the food aid talks and the media.

In addition, the WFP scaled up its efforts to voice its reservations about the WTO’s potential increased authority over international food aid, especially the

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<sup>47</sup> This particular EC proposal was considered too “extreme” by most trade officials and development practitioners. There is no international consensus on the desirability of an exclusively cash-based system of international food aid.

implications of having a trade-oriented institution such as the WTO serving as the final arbiter of what is legitimate (and by extension legal) food assistance. In 2005, the WTO organized an expert's seminar on food aid as part of the official Committee on Agriculture in order to finalize work on draft food aid rules. The objective of the meeting was for a formal consultation with food aid experts from multilateral institutions, NGOs, and academia to provide their views on the draft WTO rules. At this meeting, which was attended by the WFP's Deputy Executive Director, its second most senior official, the WFP further spelled out in detail its concerns about the draft WTO rules. The WFP was careful to emphasize that it supported the objectives of the Doha Round. But it warned WTO members about the consequences of expansive food aid disciplines without any commitment to ensure international food aid levels did not decrease in turn as they had in 1995/1995. The WFP conveyed to WTO Members its desire for a more limited purview for the WTO when it came to international food aid. The WFP's Deputy Executive Director stated that,

“WFP feels that the most workable solution for WTO is not to focus on the source of food aid -- cash versus in-kind, surplus versus non-surplus -- but on its use. The question then is: Is this food aid donation being used to address bona fide emergencies or to assist vulnerable groups with clearly defined food security problems? Is food aid to a rural community where half the children are chronically malnourished and suffering from micronutrient deficiencies commercial displacement? Obviously not. These children and their families are not real participants in the commercial market.” (Powell 2005, 6)

This statement was intended to alert trade negotiators to the fact that determining what is legitimate food aid and commercial displacement were not straightforward issues.

The WFP noted that it disagreed with certain elements of the draft WTO rules on food aid developed at that stage. In particular, it did not support hard and fast rules that

would limit the sources of food aid such as in-kind commodities. While the WFP expressed its preference for untied financial grants, it argued that in a world of increasing food aid emergencies and demand and dwindling food aid resources, it had to be pragmatic and flexible in how it sourced food aid. The WFP reminded trade negotiators that donor countries were not always quick in delivering financial grants and that the WFP was experienced enough to know how to deploy in-kind donations in the least harmful way to commercial flows. The WFP also emphasized it was seeking to diversify its base of food aid donors. It was primarily concerned that the new rules may discourage donations from middle-income developing countries that were most likely to provide in-kind food aid rather than financial grants (Powell 2005). The WFP further stressed it had its own disciplines and relied on other food aid codes of conduct that assured food aid was used to maximize its nutritional impact and minimize negative impacts on domestic and international trade. Indeed, new regional and international codes of conduct for food aid were already in advanced stages of development among donors and recipients at this time (Jackson 2000; Mourey 2008).

From the WFP's perspective, there was no strong case for new operational rules to be created, especially at the WTO which was an institution far removed from the real world of multilateral development assistance. In other words, though the WFP supported the idea of binding disciplines, it preferred the benchmark to be based on increasing nutritional outcomes and other evidenced-based mechanisms rather than creating what appeared to it a very burdensome architecture that was detached from real food security concerns. Food aid was becoming a minor proportion of total international development assistance and a



miniscule percentage of world grain trade (less than 2%). Despite this, WTO members appeared hell-bent on creating a highly complex and detailed governance architecture for food aid disproportionate with food aid's role in development assistance (Clay 2007; Murphy 2005). The WFP was strongly against the WTO taking on greater monitoring of international food aid. It argued that the WTO lacked the expertise to do so and pointed to the fact that this work was already being done by the Rome-based agencies and questioned the need for duplication.

The political implications of the draft WTO rules were also raised at the Committee on Agriculture. The WFP Deputy Executive Director warned WTO members that if the rules were not significantly oriented to hunger eradication, it would undermine the credibility of the WTO. He stated,

“Disciplines on food aid can be helpful and we support the idea, but we must ensure they do not come at the expense of the hungry poor. The hungry need more than the assurances of help they received in the Marrakech Agreement – they need real help. Given recent history, a Doha Round Agreement on Agriculture that inadvertently undermines assistance to the needy would be both a moral and public relations disaster.” (Powell 2005, 2)

The last part of this statement had a clear political message to trade negotiators: the WFP was signalling the possibility that trade rules could reduce international food aid flows. The WFP (and many NGOs) regarded this scenario as moving in the opposite direction compared to multilateral hunger reduction efforts such as the MDGs. In this statement, the WFP warned trade negotiators that their actions could have significant consequences for world food security if the rules were too restrictive or overreaching.

The WFP's intervention was not well received by many WTO Members. Exporting countries in particular admitted to concerns that the WFP's position was

political and unbiased, tending to view it as supporting the US's position in the negotiations.<sup>48</sup> Indeed, the WFP tends to be regarded as an instrument of US foreign policy due to the fact its Executive Director is always a US citizen and because it the US is the main donor to the WFP. This is equated with the capture of the organization by US interests (Ross 2007). To equate the WFP's position as a proxy for the "American" position was one tactic often employed by the EC and Cairns Group to discredit the WFP's statements. Though the WFP's position could certainly be read to support the status quo, it itself was critical of US food aid policy. For example, the WFP did not support monetization – a key element of US food aid policy – and had largely stamped out this practice in international food aid. It sought to avoid monetization whenever possible. The WFP was also critical of the US's decision to reduce its level of food aid in the mid-1990s. It responded by courting other countries, including developing countries, the private sector, and public donations to fill this gap. In other words, to equate the WFP's position as derivative of US interests is too reductionist and dismisses the nuances of the WFP's position and its own institutional interests. The WFP had its own legitimate concerns about the potential impacts of food aid rules in light of the trend of declining food aid resources. The WTO rules presented a great deal of uncertainty and without any indication of a commitment by trade negotiators to push their countries to providing a minimum level of international food aid as a global safety net in future years, the WFP's response reflected its primary objectives to provide food and nutrition assistance.

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<sup>48</sup> This is from my personal notes from the Doha Round 2003-2005 and discussions with Cairns Group officials.

Following these interactions, WTO members continued to work on a text on international food aid in advance of the December Hong Kong Ministerial scheduled for December 2005. Trade negotiators had hoped to complete a set of agricultural modalities, including a final compromise text on food aid disciplines. However, the food aid talks would prove to be increasingly divisive between the EC supported by other food exporters and the US with support from developing country food aid recipients (e.g., African and LDC group). The main battle was between the US and EC; the EC continued to demand “parallel” movement by the US on its export programs, including food aid, in exchange for its promise to eliminate all of its export subsidies. Legitimate food security concerns remained secondary to these trade politics.

Among the thorniest of technical issues were whether new WTO disciplines should apply to all types of food aid (e.g., emergency, development, and program) and whether rules should determine which types of food modalities were to be encouraged or prohibited (e.g., fully grant form, in-kind aid, and monetized food aid). The broader implications of these rules were not lost on WTO members. In his report to the Trade Negotiations Committee in the fall of 2005, the Chair of the agricultural negotiations, New Zealand Ambassador Tim Groser, noted,

“There are proposals on the table that aim to change fundamentally the existing food aid system via WTO disciplines. If there were agreement to do this, it would not be the first time that the WTO had deeply refashioned disciplines and institutional machinery in areas of international cooperation — even in agriculture.” (WTO 2005a, 12)

There was an understanding within the WTO of the wide reaching implications of the rules and that this would imply that the WTO would in fact take on significant and greater authority in global food security governance.

Tensions between the WFP and the WTO negotiations over food aid disciplines reached a fever pitch at the Hong Kong ministerial. On the eve of the Ministerial, the WFP took out an advertisement in the international business newspaper, the Financial Times, in which it claimed WTO rules would limit international food aid. This ad was the focal point of a new media campaign by the WFP entitled, “Don’t Play with Our Food.” The ad depicted emaciated African children saying: “Will WTO’s trade negotiators take food out of our mouths?” (WFP 2005) In addition to the ad, the WFP coordinated a joint press conference at which the heads of the WFP and UNICEF accompanied by the UN Special Rapporteur on the right to food, Jean Ziegler, gave statements echoing the ad’s central message that WTO rules might lead to greater world hunger. The ad garnered significant international media attention and dominated press coverage of the first day of the ministerial. Indeed, international headlines painted the Hong Kong ministerial as a major fight over food aid. NGOs and activists, on both sides of the food aid debate, also weighed in generating additional news coverage. Heri and Häberli (2009) write that the ad came as a total surprise and shock to trade negotiators. Negotiators had not foreseen such a significant and public intervention by the WFP. For negotiators, this was a nightmare start to the ministerial given the major divisions on members on several key negotiation issues (Heri and Häberli 2009).

There was significant confusion among trade ministers at Hong Kong over why food aid had erupted into such a large political issue. Most negotiators regarded food aid as a relatively minor issue in the grand scheme of the Single Undertaking because it amounted to little, if any, commercial consequence.

The WFP's media action resulted in a significant public relations problem for the WTO. The WFP had challenged the perceived legitimacy of the draft WTO food aid rules and to a certain extent undermined the WTO's credibility because of the media furor on the issue and subsequent shifts in the position of certain WTO members. Public perception was important; if the UN's agency that fed tens of millions of people was concerned about the WTO draft rules, then in the public's eye these concerns appeared to be legitimate. Indeed, the WFP's message to global publics was that the WTO had overreached its sphere of expertise and the consequences of this over-reach could be grave, and that the WFP provided a voice for the food insecure. Moreover, the WFP also encouraged recipient countries and NGOs to increase their resistance to the proposed rules, which in fact occurred once the issue was out in the public domain.

A rebuke to the WFP's action came swiftly in the form of an op-ed by the EC's Trade Commissioner and Agriculture Commissioner in the following day's *Financial Times*. The op-ed, entitled "UN Agencies' Advert is an Insult to all WTO Members" categorized the WFP's actions as "cynical." The EC commissioners were adamant that WTO rules would not restrict humanitarian food aid. They labelled the WFP as part of a group of "entrenched interests" who were not ready for a change to a cash-only food aid regime and characterized its actions as deviating from the UN's humanitarian objectives (Mandleson and Fisher Boel 2005). WFP Executive Director responded to the EC letter in *Financial Times* in a diplomatic but firm tone stating that its ad had not supported any particular WTO member's position (read US). Instead, he asserted the objective of the ad

was to prevent that the “humanitarian needs of our [WFP’s] beneficiaries would be diminished in the quest for a trade agreement” (Morris 2005).

In spite of this public rebuke from powerful countries, there was a noticeable shift in the way food aid rules were finally addressed at the WTO by the end of the Hong Kong Ministerial. In the Ministerial Declaration, WTO Members included a message that they would commit to maintaining an adequate level of food aid and to take the concerns of recipient countries into account. They also made reference to a food aid "safe box" – a Canadian proposal to distinguish between the types of food transaction potentially subject to disciplines – in order to set some ground rules to ensure that WTO rules did not impede assistance in emergency situations (WTO 2005b). WTO members modified their approach to the food aid negotiations when negotiation resumed in early 2006. This change is evident by comparing the two full draft texts on food aid that developed at the WTO, the 2003 Harbinson Text and the 2008 July Framework (i.e., the most current draft modalities at the time of writing). Both these documents reflect full articulations of WTO food aid rules, each of which includes annexes on food aid that are to replace the existing provision in Article 10.4 of the AoA. The main differences included the following. First, the 2008 July framework refers to the commitment by WTO Members to maintain an adequate level of international food aid (WTO 2008). The 2003 Harbinson text only acknowledged that food aid was important to reduce hunger but did not refer to specific commitments or intentions to ensure levels of food aid (WTO 2003). In addition, the Harbinson text rules applied to all types of food aid, including emergency and non-emergency food aid loosely defined. In contrast, the July framework excluded emergency

food aid in the so-called “safe box”. Another major difference is evident when it comes to the role of other institutions in determining what is legitimate and what an emergency is. The Harbinson text defined explicitly what could be deemed as an emergency situation to include only natural disasters and further specified the types of food aid that could be provided in each situation. In contrast, the 2008 July Framework left the definition of emergency completely to the UN and other multilateral and regional institutions. The current draft modalities also removed language that would specify what type of food aid was appropriate in each of these circumstances. Lastly, the July Framework referred to the benchmarks conducted by the WFP (i.e., needs assessments) as a way to measure the legitimacy of food aid. In short, the changes are significant because it suggests that WTO members backpedalled and proposed less authority for the WTO in food aid governance. The post-Hong Kong rules implied a diminishing role for the WTO as the arbiter of what is legitimate food aid by further delegating the standard setting to the UN system, especially the WFP.

#### *The Implications of the WFP’s Interventions in the MTS*

The current WTO draft food aid rules are difficult to explain without considering the WFP’s interventions at Hong Kong. There was a noticeable shift in the content and scope of WTO food aid rules following the WFP’s engagement in global advocacy against the WTO. According to Heri and Haberli (2009) the July Framework document reflected the post-Hong Kong political compromise as a response to the concerns introduced primarily by the WFP, as well as those of other food aid actors. It is

remarkable that these interventions occurred in the court of global public opinion. In this case, the WFP exerted its moral authority in the WTO negotiations using advocacy approaches. With no formal channel to have an impact on the content of negotiations at the WTO (because IOs are excluded the inter-state bargaining process) the WFP resorted to an approach often utilized by NGOs.

I liken the impact of the WFP's intervention in the Doha Round as a *moral veto*. The WFP's principle source of authority is its moral authority. It was able to deploy this moral authority to change the course of the WTO food aid negotiations. However, its tactics were somewhat unusual in that its international media activities proved to be a more effective strategy than lobbying individual WTO Members. It is important to recall that the WFP never intended to kill WTO rules and stop negotiations on food aid all together. Nevertheless, it sought changes that minimized the chance that food aid supply might be carelessly or unnecessarily restricted by the political machinations at the negotiations. The WFP was successful in terms of realigning the rules to adopt benchmarks and standards that matched its own practices. This success was not simply a matter of achieving coherence; it was a strategic effort to limit the intrusion of the WTO in global food aid governance. At the same time, the WFP was critical in pushing donor countries to commit to maintain levels of international food aid. This result was also not simply a matter of a bureaucratic turf war. There was no threat that the WTO would displace the WFP from its work – feeding the hungry. The WFP's actions were driven by the perception that if the WTO took on too much authority over food aid, this would privilege trade policy-oriented perspectives which did not fully grasp how food aid works



and more likely to promote unhelpful restrictions on existing food aid practices. The WFP's tolerance for less than ideal rules was greater because its primary normative orientation was to ensure the food insecure were food secure and it was more willing to accept risks of potential market distortions if the ends were justified.

In summary, the WFP sought to prevent that the international food aid system would not be a passive victim of international trade politics. WFP officials were concerned that trade negotiators were too worked up on disciplining a world of food aid practices that no longer matched with reality. In other words, the WTO was negotiating rules to discipline the ghosts of the international food aid system. The WTO rules attempted to establish a complicated, elaborate rules-based architecture that was completely out of proportion with the levels of food aid in the 1990s and 2000s.<sup>49</sup> The draft rules may have made sense in a time where food aid was predominately project food aid, which by the early 2000s was a small and shrinking total of international food aid. Here the role of ideas and the timing of US skim milk powder food aid played a key role in shaping the parameters of the food aid negotiations.

The WFP did achieve its objective of protecting international food aid. The WFP has expressed its satisfaction with the current WTO rules noting it does not see this as a problem or concern for its day-to-day operations. It has not interjected into the negotiations in a noticeable manner in recent years. Then again, the negotiations have been in stasis too. Yet the WFP's moral victory came at a political cost to its senior leadership. The WFP Executive Director was heavily reprimanded by the EC for what it

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<sup>49</sup> Interview with WFP official, March 2009.

saw as the WFP's actions compromising its negotiation position at the WTO. The EC made it clear that it would not support the reappointment of the Executive Director for a second term. This position broke with the established practice of WFP Executive Directors serving two terms and forced Mr. Morris out of the position earlier than was routine. There was, however, no visible attempt by the EC to limit or curb its aid to the WFP. This step would have been very politically damaging for the EC's international reputation as the second most important food aid donor..

## **Conclusion**

Food aid and international trade have been intertwined since the 1950s. Though early food aid programs were a convenient release valve for Northern surplus production, they also institutionalized international cooperation on hunger eradication. The establishment of the WTO and the AoA were a key event. Whereas in earlier GATT rounds, food aid governance was purposefully taken out of the international trade system, such as in the Kennedy Round, the Uruguay Round moved in the opposite direction. The AoA included trade rules that applied to international food aid thereby centralizing legal authority over food aid into the WTO. The food aid rules in the AoA were not especially robust and because they referenced existing international rules on food aid, they were not initially interpreted as having significant impacts on the international food aid system. However, this perception altered in the mid-1990s when major declines in international food aid donations were attributed by food aid actors to the effects of the AoA's liberalization program in agriculture.

The concerns about WTO's authority over food aid came to a head in 2005 when a set of draft food aid rules positioned the WTO as the final arbiter in determining what constituted legitimate international food aid and threatened to restrict traditional sources of food aid supply. At this moment, the WFP emerged as a new actor that sought to influence the Doha Round negotiations. The linkage between export subsidy elimination and disciplines on food aid led to expectation for a strong outcome on food aid in the negotiations. This development was perceived by WFP senior officials as the over-politicization of food aid at the WTO. They interpreted events at the WTO as trade officials going too far in their efforts to discipline international food aid. In the context of a general decline in food aid donations and shift towards food aid practices less linked to trade interests, the attempt to create a strong fence around food aid at the WTO appeared to WFP's officials as more likely to hinder international food aid than improve it. This prompted the senior leadership at the WTO to act autonomously and attempt to rectify what it perceived as a situation in which international food aid would end up as collateral damage of the Doha Round.

The WFP initially targeted its interventions directly at WTO Members in the hope its expert authority in international food aid would prompt trade officials to soften their position in the negotiations. This strategy did not work largely because of the political dynamics of the negotiations on export subsidies. Once food aid was linked to the demand for parallel disciplines by the EC, food aid was reframed in terms of the historic US-EC trade feud on export subsidies. The political dynamics of this feud were akin to a war of attrition on trade measures. This highly charged political context was less

amenable to expert/technocratic approaches in which the WFP's expert authority might have been more influential. In addition, the WFP association with US foreign and trade policy interests in the minds of many trade officials ensured that its comments on draft rules were taken with a large grain of salt. In other words, the WFP's credibility was questioned because of political alignment in the politics of food aid disciplines at the WTO. Unlike the FAO, the WFP was considerably less successful in influencing the shape of WTO rules through policy debates.

Instead, the WFP shifted its strategy and focused its efforts on challenging the legitimacy of the WTO negotiations, most notably in a 2005 advocacy campaign claiming that proposed WTO food aid rules would prevent the WFP from feeding starving people. The WFP's challenge to the WTO's authority proved successful in that it forced the WTO to backpedal and restart the negotiations on food aid rules to better reflect the WFP's concerns. The WFP exerted its moral authority and its action influenced events at the WTO. Admittedly, the WFP is not the only non-state actor working on food aid rules. The FAO and NGOs also closely monitor the talks and consult with negotiations. However, the WFP has been the principle actor in this field and its efforts to influence the WTO are extraordinary in terms of both the strategy it employed and its outcome.

It is premature to fully assess the long-term implications of the WFP's interventions at the WTO. The Doha Round is not complete and may be abandoned. However, the overall shape of future WTO food aid rules are largely agreed upon and are unlikely to change much barring a major reform of the international food aid system. This outcome should not be discounted with the FAC renegotiations restarted in 2011. But we

can draw a few points about the role of the WFP in the MTS. First, the WFP perceived the WTO rules to be a threat to both the supply of international food aid and the governance of food aid. The conflict was not simply about actual or potential future resources, it was also about governance. The WFP's main concern was that the WTO was taking on too much authority for international food aid. This position may look like the WFP and WTO are competing over a specific functional mandate. However, the mandates never overlapped or never threatened to do so. The WFP's concern was that the greater integration of food aid governance into the MTS would rescale authority in food aid governance in a way that might have weakened support for international cooperation on food aid. It would have brought two very diverging normative orientations, with one institution that prioritizes reducing hunger and another that prioritizes reducing commercial displacement. However, the hard law of the WTO would have put this on less than an equal footing, and the contentiousness of trade politics could threaten global hunger eradication efforts.

These outcomes also suggest that the WFP perceived conditions of potential hierarchy with potential new and tougher WTO food aid rules. Even though the architects of global governance never intended for such hierarchies to exist, the asymmetrical power relations between the WTO and WFP in terms of rule-making would have engendered a de facto hierarchical relationship. In sum, the WFP resorted to moral authority as a check on the WTO's legal authority in global governance.

## CHAPTER 5. THE HUMAN RIGHT TO FOOD: NEW NORMS AND ACTORS CONFRONT THE WTO

This chapter examines the growing interactions between the international human rights and multilateral trading systems, with a focus on the right to food as an emerging site of interface between them. Interactions between the UN human rights system and the WTO have become ever more frequent and intensified between 2000 and 2009. Unlike other areas of inter-institutional contestation at the transnational level examined in this study thus far, the case of the right to food and trade liberalization in agriculture exhibits a strong and continuous transnational conflict between the WTO and UN human rights system. This includes conflict over perceived and existing hierarchy, where trade rules are seen to trump the right to food at the international and national levels. This transnational political conflict is characterized by multiple and repeated efforts by UN human rights actors to influence WTO rules, including the Doha Round agriculture negotiations. I argue that the core of this conflict is rooted in *perceived* normative incompatibility between these two systems of international law. This conflict is not based on strategic inconsistencies between the two sets of law or competing policies and functions among their authoritative institutions; instead, actors within each site interpret the principle aims of each system as corrosive of the other. The interventions by the UN human rights system at the WTO, and their efforts to influence its project of trade liberalization, illustrates the way in which the rescaling of authority in global governance creates opportunities and political spaces for new actors in the global food security assemblage.

Scholars are increasingly attentive to the importance of the right to food in the politics of international trade and economic globalization. Existing research has approached the nexus between international trade and the right to food as either a consequence of the fragmentation of international law that can be potentially remedied through the cooperation of ‘international society’ (Dommen 2002; Gonzalez-Palaez 2005; Kent 2005), or claiming that human rights concerns are seeping in slowly into international trade with policy-makers seeking to reconcile the tensions between these two systems of law (Aaronson 2007; Petersmann 2001; Hafner-Burton 2005; Harrison and Goller 2008). As such, studies of international trade and the right to food have been explicitly or implicitly normative, arguing for how international law should operate versus its actual practice at the hands of international and state actors. Driving this research is a concern over a crystallizing global legal hierarchy, where international trade objectives appear to ‘trump’ human rights norms in the every-day workings of world politics and policy-making. This view recognizes that asymmetrical power relations in the global political economy (and not solely institutional design) can result in hierarchy.

Yet contemporary scholarship on the right to food and international trade has lacked an assessment of the role of transnational actors, particularly the UN human rights bodies and officials, which have been delegated authority by states to promote and monitor the realization of human rights. The objective of this chapter is to bring the role of these transnational actors into sharper focus by analyzing the intersection of international trade and the right to food as a new space of global politics.

The first section maps the origins and evolution of the right to food in international law. I then examine the interface between the WTO and UN human rights system relevant to the right to food. By the UN human rights system, I refer to several types of actors. I look at two sets of actors. First, I analyze the work of the OHCHR, the organization mandated to administer and promote international human rights law, on trade and human rights. I focus in particular on the OHCHR's work on agricultural trade liberalization. Second, I examine the interface between successive UN Special Rapporteurs on the Right to Food (SRRTF) and the WTO. The Special Rapporteurs represent a new type of transnational actor. However, Rapporteurs are delegated authority by states and exercise moral and expert authority, their role in global politics is located somewhere in between an international functionary and a part of global civil society. The chapter then shifts to an assessment of the main features and dynamics of the interaction between the international trading system and the right to food, providing an assessment of the impacts of human rights actors on the policies and work of the WTO, and *vice versa*. The chapter concludes by discussing the right to food as part of the emerging global food security assemblage.

### **The Human Right to Food**

Just barely a decade ago, it would have been rare to hear or read about the human right to food in academic and popular publications. Yet in a remarkably short span of time, the right to food has taken on significant normative presence at the national and international level. The body of right to food instruments has proliferated swiftly since the



middle 1990s. The ever-greater institutionalization of the right to food into international law and practice is leading to a mainstreaming of the right to food in discussions about food security. Indeed, the UN Secretary General Ban Ki-moon and national leaders have increasingly called for right to food to serve as a central pillar in the global governance of food security.<sup>50</sup> This shows that the right to food has taken on major significance in contemporary food security discourse.

The latter decades of the twentieth century were marked by a major proliferation and acceleration of the consolidation of human rights regimes (Simmons 2009; Bayefsky 2001; Ishay 2004; Risse, Ropp, and Sikkink 1999), in particular civil and political rights. However, the trajectory of the right to food has been distinct from the general proliferation of human rights. The human right to food lay dormant for over fifty years only to materialize as a major policy concern at the end of the twentieth century. This section maps the ascendancy of the right to food from relative obscurity to ubiquity as a sphere of global politics. I show that the rapidity and intensity of the efforts to give shape to, and consolidate, the right to food have been primarily a result of a concerted strategy to tame economic globalization, especially trade liberalization in agriculture under the WTO agreements.

Like most other human rights, what is now referred to as the ‘right to food’ reflects decades of a cumulative process of definition and interpretation. The first articulation of a human right to food was stated at a very general level in Article 25 of the *Universal Declaration on Human Rights* (UDHR). Article 25 outlines social and

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<sup>50</sup> Since early 2009, the UN Secretary General has repeatedly discussed the right to food as the third track for achieving world food security.

economic rights and referred to the right of individuals to “a standard of living adequate for the health and well-being of himself and of his (sic) family, including food” (United Nations 1948b). The human right to food was given greater precision and substance in the subsequent international negotiations that produced the *International Covenant on Economic, Social and Cultural Rights* (ICESCR). Article 11 of the ICESCR reaffirms the right to adequate food and goes several steps further by explicitly recognizing the international dimensions of this right, noting the obligations of all states to “take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent” (United Nations 1966).

International cooperation was identified early on as a necessary element of the right to food. The rationale for international cooperation to achieve the human right to food not only explicitly recognized the asymmetry of natural resource endowments between states, it pointed to the importance of international food trade and assistance flows to make attaining the right to food possible in states experiencing food deficits.

This political economy dimension of the right to food in the ICESCR was expressed in the second half of Article 11 that specifies:

“The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed: (a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources; (b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.” (United Nations 1966)

In this way, the ICESCRs alluded to growing importance of international trade in bulk grains in post-war bilateral relations, that in the 1950s and 1960s had been critical for managing surplus production in the US, rebuilding war torn Europe, and, at that time, a key foreign policy tool during the Cold War (See Friedmann 1982a).

Despite the fact that the right to adequate food was reaffirmed in subsequent human rights treaties and international declarations – including the 1974 *Universal Declaration on the Eradication of Hunger and Malnutrition*, the 1989 *Convention on the Rights of the Child*, and the 1979 *Convention on the Elimination of All Forms of Discrimination against Women* – there was little agreement among states about the obligations and appropriate policies associated with this right. As a result, with the exception of certain isolated political debates about the use of food as a political weapon, the right to food was relegated to a relatively low profile, if not utter obscurity, during the explosion of human rights advocacy work of the 1970s and 1980s.

International interest to the right to food only resurfaced concretely in the mid-1990s. The 1996 FAO World Food Summit (WFS) would prove to be the catalyst. The summit's most notable outcome was an international commitment to reduce world hunger by 2015 (this would later serve as a cornerstone of the MDGs. The summit put agriculture on the international political agenda<sup>51</sup> and the final declaration also notably called for the international community to examine how to implement the progressive realization of the right to food. Getting the right to food into the WFS Plan of Action was the direct outcome of significant advocacy efforts by international NGOs, especially Foodfirst

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<sup>51</sup> See Chapter 3.

Information Action Network (FIAN) and the Rome-based International Jacques Maritain Institute. These organizations succeeded in enlisting support from influential Western European, Scandinavian, and Latin American states during the summit's preparatory meetings to put the right to food on the official agenda.<sup>52</sup> By the time of the summit meetings, there was a broad consensus among states that the right to food and the issue of access to food, not just production issues, needed to be part of new international food security efforts.

While a consensus emerged at the WFS that the right to food was central to global hunger eradication efforts, states expressed a lack of sufficient clarity with respect to the standards and obligations linked to the right to food. In order to rectify this abeyance, the WFS Plan of Action requested that the right to food be given a more 'concrete and operational content' as the basis to achieve world food security. To accomplish this task, it directed states to work in tandem with civil society organizations to fully implement, comply, and monitor compliance with Article 11 of the ICESCR. It also tasked the UN system as a whole to examine how to implement the right to food in its work and the OHCHR in particular to better define the rights related to food and work towards establishing an international right to food standard (FAO 1996c).

This clarity-seeking work program was tasked to the Committee on Economic, Social, and Cultural Rights (CESCR), not the OHCHR. At the time, the OHCHR, a relatively new institution argued it lacked the expertise and capacity to define social rights. The ICESCR was established by ECOSOC and is a committee of independent

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<sup>52</sup> Confidential interview, April 2009.

legal experts that monitors the implementation of the ICESCR. In 1999, the CESCR produced its legal analysis of the right to food in the document, *General Comment 12 on the Right to Adequate Food*. The General Comment found a ‘disturbing gap’ between the standards set in Article 11 of the ICESCR and the state of world food insecurity, identifying the root problem of hunger and malnutrition to be the lack of access to available food caused by poverty (United Nations 1999). The General Comment went on to define the right to adequate food as follows:

“The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement. The *right to adequate food* shall therefore not be interpreted in a narrow or restrictive sense that equates it with a minimum package of calories, proteins and other specific nutrients. The *right to adequate food* will have to be realized progressively. However, States have a core obligation to take the necessary action to mitigate and alleviate hunger as provided for in paragraph 2 of Article 11, even in times of natural or other disasters.” (United Nations 1999, original emphasis)

In addition, the General Comment framed the right to food as an objective to be progressively realized. This was an explicit recognition that achieving the right to food was a distant objective for many developing countries. But the document was careful to emphasize states’ obligations to respect, protect, and fulfill the right to food. In addition to setting out national obligations, the General Comment defined the obligations of international institutions (e.g., UN agencies and the Bretton Woods institutions) to ensure that the right to food is protected in their programs and activities, largely in response to criticisms of structural adjustment policies that were equated with undermining state’s ability to meet their human rights obligations. Today, General Comment 12 is one of the remains an influential international text that has shaped the concept of the right to food.

## **The OHCHR and the WTO**

Although located just a few city blocks from each other, the OHCHR and the WTO have had limited interaction. In recent years, officials of these two institutions have met more frequently to discuss crosscutting issues, however, there is little to suggest this change has produced any meaningful dialogue (Aaronson 2007). In addition to their geographic proximity, these institutions share several features. Both are products of the economic and political currents under way in the 1990s after the collapse of the Soviet bloc (Kinley 2009; Mechlem 2004). Not surprisingly, these institutions reflect liberal democratic ideals and their most sacred institutions – democracy and the market.

### *Globalization and Human Rights Analysis*

At the dawn of the new millennium, the Commission on Human Rights (CHR), an executive inter-state body on human rights of the UN, and the UN General Assembly commissioned a series of reports examining the impacts of globalization on the enjoyment of human rights. These reports considered the newly established WTO, in part due to the watershed events surrounding the protests at the 1999 WTO Seattle ministerial meeting that reflected a significant and growing apprehension among civil society and many policy-makers of potentially negative social consequences of freer trade. For many actors in the human rights community, the WTO was viewed as a leading agent of economic globalization and responsible for spurring a competitive race to the bottom and weakening the role of the state in regulating the national economy. The commissioned reports found the much expanded WTO mandate (compared to its predecessor the GATT)

encroached significantly on developing countries' capabilities to make major strides in the economic and social arena, thus posing a significant threat to the realization of human rights (Oloka-Onyango and Udagama 2000, 2001). These reports were highly controversial as they were very critical of the WTO. The WTO responded to these reports. In a letter written by the deputy Director General addressed to the UN High Commissioner the WTO challenged the negative claims made about its rules. In particular, the WTO disagreed with the idea the multilateral trade agreements were unfair and detrimental economic development and human rights in developing countries (Raghavan 2000).

By the time of the successful launch of the Doha round of negotiations in 2001, concerns among member states and UN bodies about the potential impacts of new WTO rules on human rights had increased considerably. The CHR requested the OHCHR to produce a comprehensive report on the impacts of trade liberalization on human rights with the assistance of the UN Conference on Trade and Development (UNCTAD), given the latter's expertise in trade policy. A request for the UN human rights system to develop a position in order to weigh in on the emerging trade and human rights debates was controversial (CHR 2001a). Support for this was not unanimous. At the CHR the US initiated a public vote count on this recommendation rather than agree by consensus to signal its displeasure with this idea. The vote was split was on North-South lines with all

developing countries voting in favour and all developed countries voting against and most developed countries voting against (CHR 2001b).<sup>53</sup>

In requesting the OHCHR to produce reports and shifting the work on globalization and human rights out of the CHR and into the OHCHR, member states in effect delegated responsibility to the UN system and sought an official ‘UN voice’ to speak to these issues. Put in historical context, this was a significant development. Previously states viewed the OHCHR as primarily an administrative body and not as an expert authority with the capacity to make policy pronouncements. Despite the lack of consensus among states in the CHR on the extent of delegating this work to the OHCHR, the OHCHR had one thing in favour of it. This was the high level of respect accorded to its then High Commissioner, Mary Robinson (a former president of Ireland) by nearly all states. This provided the OHCHR with a significant level of credibility and a degree of confidence from its member states. This trust was important because many Western states, especially the US, were highly dissatisfied with the CHR in general and constantly sought to limit the scope of the UN human rights system. These factors were critical in the task for the OHCHR developing an authoritative ‘UN position’ on the issue. Moreover, in the context of the UN reforms of the late 1990s, the reports marked a shift in the work of the OHCHR from one of merely supporting the functioning of the UN human rights bodies to one of acting as a human rights advocate within the UN system and the multilateral system more generally.

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<sup>53</sup> The resolution was introduced by the representative of Pakistan. The US called for a vote on the matter, in which all the developing country members of the CHR voted in favour. Voting against were Belgium, Canada, Czech Republic, France, Germany, Italy, Japan, Latvia, Norway, Poland, Portugal, Romania, Spain, UK, and the US.



The reports took the form of three specialized studies on the WTO Agreement on Agriculture (AoA), Agreement on Trade-Related Intellectual Property Rights (TRIPS), and General Agreement on Trade in Services (GATS), and their impact on human rights. The 2002 report produced by the High Commissioner on agriculture and human rights was significant in that it was the first substantive articulation of a human rights-based approach to analyzing agricultural trade liberalization. The right to food, along with the right to development, was at the centre of this report. The High Commissioner anticipated resistance and scepticism from trade officials, particularly from the major agriculture exporting countries about pronouncements on trade policy from the human rights community. In response to trade officials' inherent hostility to the UN system's view on the relationship between trade liberalization and economic, social and cultural rights, the High Commissioner made certain to emphasize in the report that the majority of UN members had specifically tasked the OHCHR to better define the right to food (OHCHR 2002). This was an important reminder to trade officials that there was significant support for the international community for this work.

From the outset, the High Commissioner's report acknowledged the fragmentation of international law and sought to clarify the fundamental differences between the perspectives on trade liberalization contained within human rights law and trade law. In recognizing that the process of agricultural trade liberalization produces winner and losers, the High Commissioner explained the role of a human rights-based approach as it related to the concept of non-discrimination:

“Human rights law concerns itself in particular with the situation of the individuals and groups who might suffer during the reform process. Indeed, this is one of the key issues

concerning globalization and human rights. Even where the net social benefit from trade liberalization favours the majority in a certain country, the principle of non-discrimination under human rights law requires immediate action to protect the human rights of those who do not benefit. In the case of the AoA, this means that States should use existing flexibilities in the Agreement where they exist, and WTO members should consider improving or adding flexibilities where appropriate.” (OHCHR 2002, 13)

The report’s assessments were that the WTO program of agricultural trade liberalization had some negative consequences that merited redress. For example, the report noted that increased competitive pressures in agriculture, encouraging the consolidation of farms further marginalized resource poor farmers and agricultural labourers, and that reduced border protection had negative impacts on domestic food supply and increased populations vulnerability to market volatility (OHCHR 2002, 13-15). In the report’s conclusions, the High Commissioner called for special and differential treatment for specific communities of persons such as low-income and resource-poor farmers, labourers, and rural communities – *not just for countries*, as was the common approach in the MTS. The report made several important intellectual leaps by putting human rights norms into dialogue with the highly specialized and technocratic world of trade policy. Among other things, it proposed specific changes to the AoA, including special and differential treatment for food security by revising to the WTO’s rules to permit greater domestic support for staple food crops.

Observed from a global governance lens, the report by the High Commissioner on the AoA and human rights is significant in two key respects. First, it broke with the traditional method and arguments employed by UN agencies to analyze the policies of the WTO. For example, there was much less emphasis on the supposed deficiencies of specific WTO rules for developing countries’ agriculture sectors or the structural

inequalities in WTO negotiations. Instead, the report's emphasis turned away from referring to aggregate measures of welfare and posited an alternative yardstick with which to measure the impacts of trade policies. By placing the emphasis of the ways in which *individuals* experience the negative impacts on their right to food because of trade liberalization. As such, the report's point is less concerned with specific economic sectors than with ensuring non-discrimination against vulnerable food insecure groups such as peasant and small-scale farmers. Second, its critique of WTO trade policies is distinct from the other specialized UN agencies such as the FAO and WFP in that the OHCHR did not simply suggest modifications to existing rules. Instead, the High Commissioner's critique invoked and appealed to a higher order of international law and norms. Instead of characterizing WTO rules and negotiations as merely the outcome of a competitive contest between states, the OHCHR pointed to the responsibilities of all states, developed and developing, to pursue policies consistent with their pre-existing international human rights obligations, which includes respecting, protecting, and fulfilling the right to food. The message to states and the WTO was that the negotiations on agriculture could not proceed as if the right to food did not matter. Doing so, the report suggested, would be against established international norms.

The report opened a window of opportunity for the OHCHR to engage in the global politics surrounding international trade in agriculture. The fact the OHCHR attempted to influence the WTO negotiations was even more notable, and potentially risky, because at the time of these reports, the WTO negotiations were moving into full swing. Indeed, many states did not fully support the High Commissioner's foray into the

world of trade. The High Commissioner, who acknowledged the political risks for the OHCHR of this engagement, confirmed this observation. Several developed states, particularly the US, were wary of the developments that were taking place with regard to the right to food in the broader context of the WTO trade talks.<sup>54</sup> Indeed, states were concerned that human rights discourses could contaminate the negotiation and give support to the protectionist policies considered against the ethos of the WTO's liberalization project.<sup>55</sup> Other OHCHR and WTO officials confirmed this view and added there were strong messages of a potential cost to the OHCHR if these reports led to a greater "politicization" of trade issues at the UN, or if threatened to prejudice the outcome of the WTO negotiations.<sup>56</sup>

#### *OHCHR Interventions at the WTO*

The OHCHR continued to work on international trade and human rights, this time shifting its work outside the borders of the UN human rights system to engage directly with the WTO. Although its 2002 report was tasked by states, the OHCHR also engaged in autonomous and direct engagement with the WTO. This shift came in the form of a series of detailed submissions on the relationship between trade and human rights and recommendations provided to WTO member states in preparations of the 2003 Cancun and 2005 Hong Kong WTO ministerial meetings. In the months leading to the 2003 WTO Cancun ministerial, there were strong indications that an EU-US compromise deal on

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<sup>54</sup> Personal communication with Mary Robinson, April 2009.

<sup>55</sup> Confidential interview with trade officials, October 2008 to April 2009

<sup>56</sup> Confidential interviews, October 2008 to April 2009.

agriculture would set the terms of the new agreement. This echoed the earlier Blair House Accord between the EC and US that ended the Uruguay Round (see Chapter 2 for details); many developing countries and NGOs criticized this as a strategy to strong-arm developing countries into agreement. Moreover, many observers decried the deal as not supportive of the food security objectives of poor developing countries. Driven by such concerns and particularly fearful of the human rights outcomes of such an agreement, the CHR requested the OHCHR to produce a ‘comprehensive submission on human rights, trade, and investment’ for the WTO ministerial (OHCHR 2003).

The OHCHR interpreted this request in an interesting way. It prepared a special document for the 2003 ministerial, titled *Human Rights and Trade*. The document was unique in several respects. First, it was prepared for a non-UN agency and aimed at the WTO. It is uncommon, perhaps even unheard of, for one IO to make a submission or text for consideration to another without some sort of official request. Furthermore, the document was distributed directly to WTO Members, rather than through the WTO secretariat, as conventional practice would dictate. Second, the document was not a regular report that summarized the findings of existing research on trade and human rights, or simply rehashed the previous reports by the High Commissioner. The report started with an explanation of how trade and human rights were linked, written for, and targeted to trade officials (not human rights experts). It explicitly reminded WTO members that the majority of them were parties to the ICESR or International Covenant on Civil and Political Rights (ICCPR), and thus had pre-existing human rights obligations. To illustrate this point, the document emphasized that “WTO Members

should promote and protect human rights in the processes of negotiating and implementing trade law and policy” and recognize that “areas of human rights law recognized as customary international law take on universal application, which means that trade rules should be interpreted as consistent with those norms and standards whatever the treaty commitments of States in trade matters” (OHCHR 2003, 4). The message to WTO negotiators was unmistakable: an ignorance of international human rights law on their part could result in trade agreements that violated human rights standards.

Third, the document illustrated for trade negotiators how the UN human rights system perceived trade and human rights as interlinked. This analysis included a specific focus on two key issue areas in the agriculture negotiations. The document asked trade negotiators to consider cases where agricultural trade liberalization could impair the access to food, citing that such a phenomenon was evident among smallholder farmers (often the primary economic group in least-developed countries) as food import dependency increased or in the case of dumping by developed countries. The document also asked trade negotiators to consider specific mechanisms to help countries adjust to market volatility as they opened their agricultural markets to international competition in order to safeguard the right to food (OHCHR 2003, 10-11). Rather than making specific policy recommendations, the report directed trade negotiators to the existing human rights agreements and relevant UN and OHCHR reports on trade and human rights relevant to agricultural negotiations. It also urged that they consider human rights issues in WTO negotiations. This way, the OHCHR avoided getting into the technical detail of

agricultural policy (in which it had no expertise) and placing the responsibility for due diligence on states.

Two years later in advance of the 2005 WTO Hong Kong Ministerial, the OHCHR published a booklet titled *Human Rights and WTO Trade Agreements*. Again, this was distributed directly to WTO Members. However, unlike the 2003 document, the booklet received input from the WTO secretariat, which was consulted in the drafting process. This booklet was notable in that it shifted from explaining the relationship between human rights and trade law to providing specific legal recommendations on how states could reconcile cases of conflicting obligations. It proposed the use of general exception clauses under the WTO system of law. Exception clauses are critical because they define when states can deviate from their international trade obligations. In other words, they are possible exit strategies from the WTO agreements. While the book was general in scope and cited several exception clauses, it noted that with respect to the AoA, the use of exception clauses while potentially applicable, remained unclear since there was little legal WTO precedent to inform decision-makers (OHCHR 2005). This suggested that states would have difficulty using exception clauses to deviate from their commitments under the AoA.

As a whole, these special submissions by the OHCHR to the WTO ministerial were designed to make trade negotiators aware of their ‘blind spot’ with respect to the relationship between human rights and international trade law. The OHCHR was deploying its legal and expert authority to bring greater attention to human rights issues at the WTO. The 2005 booklet went a step further to suggest a set of corrective tools. Both

documents highlighted how trade liberalization in agriculture could have negative consequences for the right to food. However, these works, unlike the earlier reports, withheld human rights-based critiques of draft WTO rules. Apart from the political sensitivity of such work, it was also not practical either. A robust methodology for doing such work *ex ante* was not sufficiently developed yet. In this regard, the CHR and OHCHR had made earlier calls for states to conduct human rights impact assessments (HRIAs) before concluding the WTO negotiations, but it was a very different matter for the OHCHR to conduct such an exercise under its own authority without an established methodology. The inability of the OHCHR to conduct such assessments are made difficult due to the lack of technical expertise within the OHCHR functional staff in the area of agriculture and trade. Yet, by highlighting the lack of knowledge about human rights by trade official, the OHCHR was successful in identifying the limits of the WTO's competence, something that was held in the highest regard by states at the time. Furthermore, the OHCHR affirmed that the UN human rights system had an important role to play in the area of international trade by keeping states informed, and thus honest, to their international human rights obligations.

### **UN Special Rapporteur on the Right to Food**

During the last decade, the nexus between the international trading system and the right to food has been a major focus of the UN Special Rapporteur on the Right to Food (SRRTF). Over the years, the holders of this mandate have emerged as high profile and forceful critics of WTO rules and trade liberalization in agriculture.



*Special Procedures*

“Special Rapporteurs” are one category of extraordinary mechanisms that form part of what are referred to as the Special Procedures of the UN human rights system. The special procedures were established to authorize the CHR, now the Human Rights Council (HRC), to monitor and debate human rights practices in specific countries. Although special procedures were agreed to as early as 1967 to examine racial discrimination in South Africa, they were little used because of Cold War politics and the general discomfort of states with international oversight over domestic affairs (Alston 1992; Nifosi 2005; Gutter 2007). In fact, special procedures did not really come into full effect until 1980 when a Working Group on Enforced or Involuntary Disappearances was established in response to the Dirty War in Argentina. The Working Group was generally regarded by states and NGOs as highly effective and its work critical in expanding to international legal norms, in addition to the thawing East-West relations, encouraged a wider use of special procedures from the 1990s forward.

Mandate-holders fall under various titles (e.g., Special Rapporteur, “Independent Expert, Working Group, and Special Representative of the Secretary-General) but all encompass the same duties and responsibility. The main functions of these mandates are analyzing the human rights situation of a thematic issue or country situation, undertaking country missions; advising governments and other relevant actors on human rights situations, and alerting the UN and the international community of specific human rights situations (OHCHR 2008). Mandate-holders are often prominent experts or scholars.

They are elected by and accountable to the HRC. Mandate-holders receive limited administrative support from the Office of the High Commissioner for Human Rights (OHCHR) and enjoy certain legal privileges and immunity from prosecution and detainment when conducting country missions. However, these are voluntary and honorary positions and do not include re-numeration.

Mandate-holders under the Special Procedures have scope for political agency by acting as extraordinary surveyors and critics of states' actions. In essence, they are delegated authority by states to fulfill the key functions. However, this poses an interesting analytical dilemma for scholarship as mandate holders are a unique type of transnational actor. They are not UN officials in the literal sense and cannot speak for the UN or for states. Yet they are also not private citizens either or proxies for social forces. They enjoy delegated authority from states yet this authority is mostly symbolic. However, mandate-holders are in a position to influence international norms and law. Their reports and interventions feed into inter-governmental meetings and permits them to inject ideas into global debates, especially when they are perceived as credible actors by states and NGOs.

Establishing a mandate for the human right to food SRRTF was a direct recommendation of a major expert report on the right to food commissioned by the CHR in 1999 (Eide 1999). The report had noted that while the UN human rights bodies were just beginning to monitor violations of the right to food at the state-level, the UN system still lacked in its monitoring of economic and social rights and such monitoring and promotion of the right to food would be greatly enhanced by an CHR-appointed

Rapporteur. ECOSOC formally established the position when it adopted Decision 2000/291 (“the right to food”) on June 16, 2000. UN member states defined the role of the mandate holder as follows,

“11. *Requests* the Special Rapporteur on the right to food, in the fulfillment of her/his mandate, to accomplish the following main activities:

(a) To seek, receive and respond to information on all aspects of the realization of the right to food, including the urgent necessity of eradicating hunger;

(b) To establish cooperation with Governments, intergovernmental organizations, in particular the Food and Agriculture Organization of the United Nations, and non-governmental organizations, on the promotion and effective implementation of the right to food, and to make appropriate recommendations on the realization thereof, taking into consideration the work already done in this field throughout the United Nations system;

(c) To identify emerging issues related to the right to food worldwide.” (ECOSOC 2000)

*First Mandate Holder: Jean Ziegler (2000-2008)*

Dr. Jean Ziegler was appointed by the CHR as Special Rapporteur on the right to food in September 2000 and held the mandate until April 2008 (being re-appointed twice). Ziegler, a former sociology professor at the University of Geneva and the Sorbonne in Paris, and former elected Member of the Swiss Parliament (1981-1989), was initially considered a very controversial choice, largely because of his socialist political background and as a public intellectual known for his passionate critiques of capitalism and inequality between North and South.

From the beginning of his mandate, the Special Rapporteur identified trade liberalization as an issue of utmost importance. Although the Special Rapporteur’s scope of work included official missions to states and explored other thematic issues, such as water, gender, and land reform, international trade was a considerable personal priority

issue for Dr. Ziegler. He regarded the WTO agreements as the major structural challenge in implementing the right to food.<sup>57</sup>

In his first set of reports presented to the CHR and the UN General Assembly, Dr. Ziegler set out to define the right to food and the role of international trade (Ziegler 2001a, 2001b). He argued the WTO had “created an unlevel playing field in which subsidies of developed countries act as a disincentive to agricultural production in developing countries” and in which “it is almost impossible to reverse liberalization measures, even if they have had a disastrous impact on local-level food security” (Ziegler 2001b). In addition, he identified “agricultural policies of developed countries, as sanctioned by the World Trade Organization (WTO), which perpetuate malnutrition and hunger in the South” (Ziegler 2001b, 3) and recommended “the decisive negotiations on agriculture and other issues currently under way at WTO take food security into particular account and ensure that trade rules do not conflict with international human rights law” (Ziegler 2001b, 25).

Dr. Ziegler’s subsequent reports in 2002 and 2003 also addressed the WTO. These took a more targeted and forceful approach to addressing the potentially negative impacts of the WTO agreements on the right to food. These reports suggested a considerable reframing of the mechanisms available to individuals to address violations of their right to food. Dr. Ziegler made an intellectual break with the work of the OHCHR on general exception clauses. He sided closely with what were ongoing lobbying efforts of civil society directed at the national level. In these reports, the SRRTF argued that states

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<sup>57</sup> Confidential interviews, February and May 2009.

should consider the “justiciability”<sup>58</sup> of the right to food at the international level, in effect, suggesting that states establish domestic legal procedures to challenge existing (and potentially to overturn) WTO agreements if they were found to undermine the right to food. This was a call for developing countries to re-assert national sovereignty and not respect their trade obligations if these threatened the right to food. In the report, Dr. Ziegler emphasized,

“If the right to food is not taken up by the WTO, we must search for other means of integrating human rights and the right to food into the rules of international trade. For example, it is important to look at the extension of human rights obligations to non-State actors. Unlike their member States, international organizations such as the WTO and the Bretton Woods institutions are not subject to international human rights law as such, because they are not parties to the international human rights treaties. However, this understanding is changing (as the understanding of justiciability has changed), as new work is being done on the obligations of non-State actors, including multinational companies.” (Ziegler 2002, 34)

Introducing the concept of justiciability of the WTO agreements marked a radical shift with respect to the trade and human rights debates. In fact, the concept of justiciability turned the table upside-down in terms of how the issue was commonly discussed at the time.

The 2002 report clearly shifted away from positions calling for greater coherence of law at the international level and placed greater onus on states and other actors to enforce the WTO’s international legal responsibility to respect and protect the right to food. The significance of this shift in approach is that it was not limited to the scope of actions of WTO members, or to juristic concerns about the relationship between the WTO and other sources of international law. Instead, this shift started from the premise that the

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<sup>58</sup> The term justiciability refers to mechanisms available to individuals and groups experiencing human rights violations to seek actionable measures against their violators.

WTO is a legal person with international obligations. As such, the focus shifted to ensuring the WTO itself would act in ways to support the right to food, and if not, highlighting the ways in which it was not respecting it. This approach was supported by the members of the Commission on Human Rights in a 2002 resolution stating,

“[E]ach State must adopt a strategy consistent with its resources and capacities to achieve its individual goals in implementing the recommendations contained in the Rome Declaration and Plan of Action of the World Summit and, at the same time, cooperate regionally and internationally in order to organize collective solutions to global issues of food security in a world of increasingly interlinked institutions, societies and economies, where coordinated efforts and shared responsibilities are essential.” (CHR 2002, 122-123)

In his 2004 report to the CHR, Dr. Ziegler examined the failure of the 2003 WTO Cancun Ministerial and contextualized the international political currents surrounding agriculture trade liberalization. This was arguably his most radical report. Not only did the report provide a scathing critique of the WTO's continued neo-liberal approach to agricultural trade liberalization, it went further to claim that such a model was intellectually and morally bankrupt. Dr. Ziegler cited increased food-import dependency and unfair trade rules in undermining agricultural production in developing countries. These were argued to have had the effect of fuelling poverty and hunger.

Furthermore, Dr. Ziegler took a highly controversial political position by siding with the food sovereignty movement and supporting it as an alternative model to trade liberalization. According to the Rapporteur, “Food sovereignty offers an alternative vision that puts food security first and treats trade as a means to an end, rather than as an end in itself” (Ziegler 2004, 13). A key platform of the food sovereignty movement, which involves farmer and peasant organizations, is to get the “WTO out of agriculture”. It

seeks to undo the AoA and reject the WTO. In this report, Dr. Ziegler essentially signalled his belief to states that the right to food and the WTO were incompatible.

In the same report, the Rapporteur made two strong recommendations regarding the WTO. He recommended that state parties to the ICESCR “consider their obligations to respect, protect and fulfill the right to food, within the context of international trade negotiations at the World Trade Organization” and that WTO members “resolve the current inequities and imbalances in the WTO Agreement on Agriculture to reflect the needs and rights of both developing, as well as developed countries, in order to ensure that the right to food is not threatened by global trading rules” (Ziegler 2004, 19). In these recommendations, Dr. Ziegler was urging parties to the WTO negotiations on agriculture to consider the human rights implications. Notably, the CHR adopted this as a formal recommendation in 2004. While the final resolution did not mention the WTO outright, because of strong resistance by developed countries during the drafting session, the intent was clear in the resolution text. In it, the CHR,

*“Requests all States and private actors, as well as international organizations within their respective mandates, to take fully into account the need to promote the effective realization of the right to food for all, including in the ongoing negotiations in different fields.”* (CHR 2004, p. 68)

As more often than not when it comes to trade issues at the CHR, the resolution did not pass unanimously. The United States voted against this resolution while Australia abstained. This action marked an increasing effort by the US, Australia, Canada and New Zealand – all major agricultural exporters and champions of the WTO – to thwart initiatives by the Special Rapporteur (and the CHR) that in their view were critical of the

multilateral trading system. These efforts would only serve to intensify the already simmering North-South split on the right to food and the WTO.

The SRRTF expanded his work on the human rights responsibilities borne by the WTO in his 2005 report that took up the legal concept of extraterritorial obligations. This legal concept had been steadily gaining acceptance in international human rights law and referred to the idea that non-state actors also have human rights obligations (for example, the UN Global Compact recognized the responsibility of transnational corporations to respect human rights). The report made the argument that all international organizations, including the WTO, were bound (i.e., accountable and responsible) to international human rights treaties (Ziegler 2005a, 2005b). Extraterritorial obligations implied that states could be held accountable if their agricultural policies had negative impacts on the efforts of their trading partners or third countries to respect, protect, and fulfill the right to food.

With respect to the WTO, the Special Rapporteur highlighted the major lack of coordination and coherence between trade and development policy making at the national and international levels. He described this as ‘schizophrenia’ at the global level that was exacerbating the challenge of realizing the right to food. In its recommendations, the report urged states to recognize their extraterritorial obligations towards the right to food and to incorporate a ‘do no harm’ approach to their trade policies to avoid negative effects on the right to food of people living outside their borders. The report added that states could only achieve coherence between national and international policies if human rights were a unifying principle in all government policy-making (Ziegler 2005a). Again,



this effort by the Special Rapporteur drew stiff criticism from developed agricultural exporting countries that opposed extraterritorial obligations on the WTO.

The emphasis on the extraterritorial obligations was a strategic move by the Special Rapporteur. At this point in time, a multi-stakeholder negotiation had been completed for Voluntary Guidelines on the Right to Food. These guidelines were designed in order to assist states implement the right to food at the national level and further specify the normative basis of the right to food (FAO 2004). The negotiations on the guidelines, in which Dr. Ziegler participated, attempted to include provisions that would clarify that states could deviate from international trade commitments to protect the right to food and impose extraterritorial obligations on the WTO. These provisions were highly controversial and attempts to address international trade issues almost derailed the negotiation of the guidelines completely (Germann 2008). The final version of the guidelines contained weak provisions relating to the potential obligation of the WTO and its members to ensure their policies did not undermine the right to food. In his subsequent work, Dr. Ziegler used his reports to affirm the importance of the guidelines. By doing so, the Special Rapporteur, working loosely with a coalition of NGOs and FAO officials, attempted to keep extraterritorial obligations as a political tool to affect the WTO negotiations. In other words, the Guidelines, which were soft law, were used to challenge the hard law of the WTO.

In order to address the increasing friction between the WTO and the UN human rights system, Dr. Ziegler requested a meeting with WTO Director General, Pascal Lamy, in early 2006 in order to discuss how to make the two systems operate in a coherent

manner.<sup>59</sup> In addition, the Special Rapporteur suggested topics for discussion based on exchanges with developing countries and NGOs, such as the WTO panel decision on GMOs against the EU and also the ‘untransparent and undemocratic nature of WTO decision-making in relation to agricultural trade policy and the ways in which WTO rules may result in violations of economic, social and cultural rights, specifically the right to food.’<sup>60</sup> An official request for a meeting was the only mechanism available to the SRRTF, as the position does not include observer status to the WTO. In fact, neither the OHCHR nor CHR has observer status at the WTO. According to the OHCHR Special Procedures Division, which forwarded the letter to the WTO on behalf of the SRRTF, despite multiple follow-up efforts, the WTO refused to officially respond to the request but communicated verbally to the OHCHR that the request remained indefinitely “under review.” Using this as a stalling tactic, the WTO secretariat apparently did not intend to arrange an official meeting between Lamy and Ziegler. Even though the two had met previously and spoken informally, they had never done so in their official capacities. The reason was the negative perception and hostile attitude of many trade officials had towards Dr. Ziegler.

According to several well placed observers, the WTO secretariat wanted to avoid such a meeting at all costs because they feared Dr. Ziegler would use the event as a ‘publicity stunt’ to ‘vilify’ the WTO to what they perceived as his ‘political constituents’ (i.e., developing countries and NGOs). They also noted that several developed WTO

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<sup>59</sup> The letter remains confidential. I am paraphrasing from the letter based on a confidential interview, April 2009.

<sup>60</sup> Confidential interview, April 2009.

members expressed to the secretariat that the Director General should steer clear from meeting officially with the SRRTF in order not to legitimize his ‘unreasonable and uninformed views’ and set a dangerous precedent.<sup>61</sup>

Even though Dr. Ziegler was not permitted to directly engage at the WTO negotiations on the right to food, his work as Special Rapporteur notably articulated a strong critique of the AoA and the impacts of trade liberalization on the right to food. In particular, the concepts of justiciability and extraterritorial obligations provide injected new ideas into the transnational politics of trade and human rights. In addition, Dr. Ziegler’s work provided opportunities, especially a transnational political platform, for very radical critiques of the WTO. For example, his support of the principle of food sovereignty movement provided this movement with new opportunities to establish networks with other NGOs and official networks based in Geneva.

*Second Mandate Holder: Olivier De Schutter (2008-present)*

Dr. Olivier De Schutter, a Belgian legal scholar and former Secretary General of the International Federation of Human Rights, was appointed as the Special Rapporteur on the Right to Food in 2008, replacing Dr. Ziegler. International trade featured considerably in De Schutter’s first reports to the Human Rights Council (HRC) and UN General Assembly. In his first official report, the SRRTF defined the role of human rights in international trade in the following manner:

“First, the human rights perspective is concerned with who are the losers when countries specialize in commodities in which they have a comparative advantage as a result of the

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<sup>61</sup> Confidential interviews, October 2008-May 2009.

lowering of trade barriers and whether the losses can be avoided under alternative national and international policies ...Second, a human rights perspective helps to identify the risks of countries being locked into the production of certain commodities in which they have established a comparative advantage." (De Schutter 2008, 10-11)

In defining his mandate's approach to the WTO, Dr. De Schutter noted the complex nature of trade liberalization and the effects of WTO trade rules. He affirmed the responsibility of WTO member to respect, protect, and fulfill the right to food. In this context, he defined his task as:

“[T]o provide guidance to States about how they can maximize benefits from the existing framework and ensure that further steps towards trade liberalization do not have a negative impact on the right to adequate food, but instead contribute to its realization. Ultimately, upholding the right to adequate food is a responsibility of States, which are obliged under international law to take this right into account in the conclusion and implementation of trade agreements. The Special Rapporteur can contribute to this by highlighting the risks that accompany trade liberalization and by identifying possible solutions. But whether or not the right to food is observed will depend not on the World Trade Organization agreements alone, but on the combined result of those agreements and the domestic policies of the States concerned.” (De Schutter 2008, 12)

This statement signalled a shift from the framework of previous Rapporteur, in that Dr. De Schutter did not initially regard the WTO as unfixable and that his expertise could assist states to develop coherence between national and international law to implement the right to food.

The WTO would prove to be not only a significant area of focus for the new Special Rapporteur, it would be a defining feature of the first two years of his mandate. Scarcely a month after taking up the mandate, Dr. De Schutter undertook a mission to the WTO. This event was an important development in the history of the WTO-human rights system interface. Never before had any UN or CHR appointed independent expert conducted a mission that was not at the state level, let alone to one of the most powerful

institutions in global economic governance. De Schutter's mission was an official one. Two sets of expert consultations were organized over a period of three months, including meetings with WTO member-states, secretariat officials and the Director General. This appears extraordinary when compared to the refusal of the WTO to meet with Dr. Ziegler during his term as SRRTF.

The willingness by states and the WTO to meet with Dr. De Schutter is explained by several factors, including the generally favourable views among Geneva-based officials of Dr. De Schutter's work (in particular his report on the 2008 global food crisis) and the impression held by trade officials that he was a "serious" and "rational" person (always in comparison to Dr. Ziegler) with whom they could fruitfully engage with.<sup>62</sup> The crux of Dr. De Schutter's mission was to explore the relationship between the WTO agreements and the obligation of WTO members to respect the human right to food. In addition, the objective of the mission was not just fact-finding but to,

"assist States in the negotiation and implementation of their commitments under the multilateral trade framework, in order to ensure that their commitments under trade agreements will support, rather than undermine, their efforts to realize the right to food at the domestic level" (De Schutter 2009, 4)

The report highlighted three impacts of the AoA on the right to food: increased vulnerability to food insecurity due to greater dependency on international trade that undermined agricultural producers in certain developing countries; the reshaping of the global food supply chain in a way that favoured transnational agribusiness, and limited the regulatory options of states. In addition, the report argued the trade in agricultural commodities had negative impacts on the environment and nutrition and health.

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<sup>62</sup> Confidential interviews, October 2008-April 2009.

Dr. De Schutter made several controversial recommendations in the report that directly challenged how WTO member states and the WTO secretariat regarded the right to food. Among the most significant recommendations was that WTO Member states undertake transparent, independent, and participatory human rights impact assessments. He also called for WTO Members to define their positions in trade negotiations in accordance with national strategies for the implementation of the right to food and encouraged national parliaments to hold regular hearings about the positions adopted by the government in trade negotiations. He also stressed that such work should include participation from civil society. In addition, he called for states to limit excessive reliance on international trade in the pursuit of food security and build capacity to produce the food needed to meet consumption needs, with an emphasis on small-scale farmers (De Schutter 2009). With respect to the WTO secretariat, Dr. De Schutter called for deepening the dialogue with the OHCHR, and for the OHCHR to encourage WTO members to conduct human rights impact assessments prior to the conclusion of trade agreements or to accepting new schedules of commitments (De Schutter 2009).

While trade officials had welcomed the SRRTF to conduct his mission, they would prove to be quite hostile to this report when it was presented to the Human Rights Council in March 2009. Although the report was strongly welcomed by the majority of developing countries and official observers from global civil society, it was severely criticized by Brazil, Canada, and Australia. In particular, Brazil, which had been a long time ally of Dr. Ziegler's during his tenure as Special Rapporteur on the right to food, was surprisingly one of the most aggressive critics of the report. The statement was made by a

Brazilian trade official (not its regular human rights representative) and argued the report's analysis was incorrect and its recommendations, with respect to lessening food import dependency, were "dangerous" to the food security objectives of developing countries.<sup>63</sup> Also attendance at the HRC meeting was a representative WTO (the first appearance of a WTO official at the HRC), who too made a statement disagreeing with the Dr. De Schutter's recommendations.

Inter-state disagreements about the report's recommendations spilled over into the separate working level meeting to draft the HRC resolution on the right to food. At the meeting, there was a terse exchange between the Canadian and US delegations on the one side and the Indian and Mauritian delegations on the other over how the text of the draft resolution would refer to the report. The Canadian and the US delegates did not want the resolution to welcome or approve of the report's recommendations, but rather just to "take note" (to mean, in UN parlance, a cold reception). The meeting took over three hours and tensions ran so high the Cuban chairperson had to repeatedly curtail the delegates' interventions, at one point even calling the Canadian delegate "disruptive" and claiming the official was "breaking with the norms of these types of meetings."<sup>64</sup> According to the Chairperson and several delegations, the Special Rapporteur's report on the WTO prompted an unusual amount of disagreement between developed and developing countries and the tone of the HRC session was much harsher than standard practice. This illustrated how emotive the human rights and trade debate is for officials in Geneva and the deep divergence in positions among states.

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<sup>63</sup> From personal field notes from the meeting.

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Although somewhat shell-shocked from the reception to his WTO mission report at the HRC, which he had expected to be positive, Dr. De Schutter pursued his work on the WTO and increased his efforts to engage with WTO trade policy-makers. Most notably during late 2008 and early 2009, Dr. De Schutter increasingly interacted with the WTO Director General, Pascal Lamy. De Schutter and Lamy attended a special panel at an NGO organized conference on human rights and agriculture trade and investment in November of 2008 in Geneva to debate trade and human rights.<sup>65</sup> Interactions between the Special Rapporteur and the WTO increased over time, leading the WTO secretariat to organize a public debate between Lamy and De Schutter on trade and human rights in Geneva in the summer of 2009. While these meetings were not official WTO or UN events, and could be criticized as merely a public relations exercise by the WTO, it can also be argued that they reflected an increasing willingness on the part of the WTO, and in particular Mr. Lamy, to engage in a more substantive manner with the SRRTF. In addition, these efforts by the WTO Director General corresponded with greater attention to human rights in the WTO's official discourse. This indicated the WTO was willing to engage with human rights actors, even if it was to mostly disagree with them.

Not all WTO member states or secretariat officials supported the Director General's engagement with the SRRTF. Several trade officials indicated their discomfort with these developments and argued that by meeting with De Schutter, Lamy had "overstepped" his authority and helped to legitimate the Special Rapporteur as a credible

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<sup>65</sup> Confidential interview, June 2009.



actor.<sup>66</sup> A developing country trade official described his unease, noting that the SRRTF's report reflected "old fashioned ways of thought, like food sovereignty" and tried to make the WTO "which is a global public good the culprit instead of poor national policies."<sup>67</sup>

One WTO official was also concerned that the WTO was legitimizing De Schutter's arguments, noting,

"The problem is that he is calling for things that developing countries themselves do not want... De Schutter is limited by a Western perspective... he comes from a country of subsidies, oversupply, and butter-mountains. Consumers are in need of lower prices, and history has shown that trade helps to bring down prices, therefore, saying we need to limit trade, this argument embedded in pushing for self-sufficiency is all wrong."<sup>68</sup>

The concern for many trade officials was that Dr. De Schutter had become an advocate of food self-sufficiency and by association, anti-free trade and anti-WTO

For several months after the meeting, Dr. De Schutter attempted but was unsuccessful in convincing the WTO to allow him to present his findings at a WTO meeting. Even though several developing countries offered to initiate the process for holding such a meetings at the WTO, they did not follow-up. After much behind the scenes exchange between Dr. De Schutter, trade officials, and the WTO secretariat, he was invited to present his report to the WTO member states on July 2, 2009. This was to follow the regular meeting of the Committee on Agriculture.

Although given the impression by the WTO Secretariat that the meeting would be an official WTO meeting and therefore lead to an official policy debate, when Dr. De Schutter arrived in Geneva, he learned the meeting would be an unofficial side event

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<sup>66</sup> Confidential interviews, October 2008-April 2009.

<sup>67</sup> Confidential interview, March 2009.

<sup>68</sup> Confidential interview, March 2009.

chaired by the WTO Director of Agriculture and Commodities Division, not by the WTO Member from Uruguay who acted as Chair the Committee on Agriculture.<sup>69</sup> Because the meeting was not official, there would be no report or record of the meeting. The unofficial meeting lasted over three hours (several more than the official preceding committee meeting) and well attended by WTO members. In fact, according to several sources, it was much better attended than a typical meeting of the Committee. This indicated the high level of interest in the issue, or at least admission of its unresolved status.

Those who attended the meeting and media reports reported there was a very intense and lengthy debate between WTO members and Dr. De Schutter. The harshest criticism came from the members of the EC and the Cairns Group, in the form of Brazil, Uruguay, and Australia, that according to one official at the meeting reflected a “clearly organized and orchestrated attack” on the Special Rapporteur.<sup>70</sup> In addition, Paraguay, Pakistan, Argentina, Costa Rica, South Africa, and Ecuador were also critical of the report’s call for food self-sufficiency and called for stronger criticism of the distortions caused by high trade barriers and Northern agriculture subsidies (WTO 2009a). Yet, the report’s findings were supported by interventions from numerous developing countries, most notably India, Tanzania, Mauritius, and the African Group, which welcomed a discussion on human rights at the WTO. While some members stated the SRRTF’s position went so far that “he had lost credibility by speaking out so harshly against the status quo,” other officials noted that using the right to food to define the agenda of

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<sup>69</sup> Confidential interview, August 2009.

<sup>70</sup> Confidential interviews, August 2009 and November 2009.

negotiations on agricultural trade was an “important shift” in thinking that the WTO needed to consider (Quoted in ICTSD 2009).

### **A Decade of Interaction between the WTO and the UN Human Rights System**

Having examined the interaction between two UN human rights actors, the OHCHR and the Special Rapporteurs, I now turn to analyze the impacts this interface has produced on the WTO and these actors themselves. In particular, I seek to gauge whether increasing interaction produced a conflictive, cooperating or neutral relationship between the WTO and UN human rights system.

Before proceeding to the analysis, it is imperative to comment on the unique characteristic of the international trade-right to food nexus compared to other lines of inquiry into trade and human rights. The case of the right to food is distinct in comparison with the other two key cases in the literature on the conflict between international trade and human rights: health and environment. First, the right to food has not been the subject of a WTO dispute. This is a distinguishing feature, because our conventional understanding of human rights and international trade conflicts has been almost exclusively informed by trade disputes. Key examples in this regard are the tuna-dolphin and genetically modified food disputes in the environment and public health respectively. By contrast, the right to food is not associated with a specific trade dispute and thus the politics surrounding it have operated in a distinct manner.

Another difference between the case of the right to food and those of public health and the environment is the type of actors involved. In the case of public health, developed

countries were the main demanders for changes to the WTO agreements. When it came to the environment, the global environmental movement led the charge. However, the most influential actor in this field of struggle has been the UN human rights bodies themselves. The right to food-WTO conflict is also more ‘personalized’, with the role of human rights advocates embodied in the SRRTF and the High Commissioner, although states and NGOs have also been important players. Of note in this case is how this personalization of the mandate holder suggests the emergence of new and important actors in global politics.

A third difference between the right to food and health and environment is that the right to food-WTO interface has been addressed in a sustained manner during both the implementation of the AoA and the current Doha Round negotiations. We do not find such sustained forms of interaction between trade and the cases of health and environment. Distinct to the TRIPS waiver or environmental dispute panels, the WTO and UN human rights system interaction in the area of agriculture trade liberalization has been primarily about human rights. Whereas human rights were part of the politics surrounding the trade and public health and environment debates, they were not foundational to them. Although we find health and environmental NGO presence in Geneva, they are more peripheral (and arguably less interested) in the day-to-day negotiations compared to their efforts in the context of dispute settlements. In addition, the politics of the right to food at the WTO have been increasingly framed as a challenge to economic globalization more broadly rather than specific instances. For health and environment, because these issues were largely addressed in the context of WTO panels

or very specific issues (e.g., compulsory licensing in the case of public health) they can be said to be more limited and narrow in scope, whereas the right to food includes a much more expansive set of interpretative and normative challenges to the WTO.

The right to food has been a driving force explicitly bringing into frequent and regularized contact two diverse sets of networks, human rights, and international trade. The nature of the interaction has been conflictual. This conflict is primarily normative and contests have been rooted in competing norms rather than specific legal provisions. We increasingly find greater interaction between the human rights and international trade communities in the area of the right to food. While the work of the OHCHR has contributed the most intellectually to this growing dialogue, the majority of the more overt political conflict is between trade officials and the Special Rapporteurs. While the OHCHR has been critical of the WTO to a significant extent, it has not directly confronted the WTO on the right to food as overtly as the Special Rapporteurs. Moreover, OHCHR has been a very measured and cautious critic and has yet to exercise its full discretion to engage more deeply with the WTO, such as by requesting observer status at the WTO or by the High Commissioner formally requesting meetings or to participate in work programs with the WTO.

Increased interaction between the WTO and UN human rights system has resulted in the constitution of a new transnational political space. Arguably, prior to the proliferation of the right to food, there was no concrete interaction between the WTO and the UN human rights system. This situation has changed fundamentally and these two systems have come increasingly into contact at various levels, including between senior

IO officials such as the High Commissioner and the WTO Secretariat or the Special Rapporteur with WTO Director General and the senior trade officials. This has resulted in new configurations of political interactions that previously did not exist. In particular, the work of the Special Rapporteurs is important, as it is a new type of transnational actor that can interface with the WTO. This may be important long-term as the Special Rapporteurs can serve as an intermediary between the WTO and global civil society, the latter of which have limited capacity to interact with the WTO.

The development of the UN human rights system's work on the right to food has been largely framed as a response to trade liberalization associated with the AoA. While the international human rights regime has expanded and been consolidated in the last decades of the twentieth century, the development of the right to food is distinct in that it has increasingly been informed and shaped by the ascendancy of the WTO and the perceived impacts of the AoA on food security in developing countries. This is evident in that the bulk of the intellectual and political work around the right to food has been directed at the consequences of economic globalization and the WTO in particular. As such, the right to food has developed in a way that it has become regarded as a counter-balance or strategy of resistance against the forces of agricultural trade liberalization.

The development of the right to food has given WTO members new normative tools to challenge agricultural trade liberalization. Since the launch of the Doha Round, there have been two cycles where the right to food has been prominent in the agriculture negotiations. In the early phase of the Doha Round both the Government of Norway and a joint submission by seventeen WTO members called for the agriculture negotiations to be

coherent with existing international law, including an explicit recognition of the right to food (Norway 2001; WTO 2000a). The OHCHR reports and submissions provided a model and rationale for a human rights/right to food-based analysis of international trade and a referential framework for future work by the UN, governments, and global civil society. The second phase has been specific to the recent work of the second SRRTF on the relationship between the right to food and the AoA. Most recently, developing countries have used the right to food to defend a set of new proposed food security mechanisms in the draft agriculture agreement during the Doha negotiations in their public discourse (but interestingly, not in their official discourse *at* the WTO).

The mandate of the Special Rapporteurs has laid normative groundwork for extraterritorial obligations and possibly human rights impact assessments of future WTO trade deals. While the issue of extraterritorial obligations was more central to the work of Jean Ziegler, the introduction of the concept into the politics of the right to food challenged pre-existing ideas about the relationship between the WTO agreements and international law more generally. The work on extraterritorial obligations has the potential to become more central in trade policy circles because of the way it echoes existing concepts ingrained to trade policy analysis concerned with the unintended effects of policy instruments (i.e., economic distortions and border adjustment). In theory, it is a short intellectual leap for trade policy makers to link how distorting effects have impacts on specific individuals and groups, not just competing producers outside their borders. As impact assessment methodology continues to be improved and increasingly mainstreamed in trade policy (e.g., the EU now requires social impact assessments in its trade deals),

there is increasing scope for such assessment to take place in the context of WTO trade talks. This would most likely be *ex poste* rather than *ex ante*. But this would certainly further monitoring and accountability of trade deals. The Special Rapporteurs, and the OHCHR, are likely to be pivotal actors in advancing human rights impact assessments at the WTO.

The High Commissioner has deployed the expert and legal authority of the UN human rights system to challenge the WTO on agriculture. It provided counter-policies on agricultural trade based on its expertise on the impacts of economic globalization on specific communities on persons, which it could link to its capacity of monitoring human rights violations. The OHCHR also displayed its legal authority by alerting trade officials that the agricultural negotiations were encroaching and potentially diminishing international human rights law. In addition, it signalled to trade officials that if this encroachment was too great, there were credible exit options for states at the WTO. The presentation of exit options was a direct challenge to the WTO's Single Undertaking that sought to lock in Members to all the agreements.

A notable development is that the Special Rapporteur has been accepted as a legitimate policy actor by the international trade community that must be engaged by the WTO. While successive Rapporteurs have been critical of WTO rules and recommended radical reform of the multilateral trading system, the relationship between the Special Rapporteurs and the WTO has evolved drastically over time and between mandate holders. This is demonstrable in the more normalized interaction between Dr. De Schutter with the WTO Secretariat and trade policy officials. Dr. De Schutter's mission to the



WTO and his presentation to the WTO, albeit a source of disagreement among WTO members, illustrated the WTO's increasing willingness to consider a human rights critique and an implicit acknowledgement of the legitimacy of Special Rapporteur as an interlocutor. As a result, Dr. De Schutter has enjoyed privileged access to senior WTO and national trade officials, something that few human rights actors have. Indeed, Dr. De Schutter's access has been comparable to that enjoyed by heavyweight trade ministers, heads of state or World Bank, IMF and OECD senior management.

One noticeable outcome on the WTO is that there is increasing reflection on the part of its officials about the relationship between international trade law and international human rights law. Since the middle of the decade, the WTO has showed various signs of trying to address the tension between trade and human rights law, most recently in the discourse of the WTO Secretariat. Pascal Lamy has gone on the public record stating that trade and human rights law can no longer be seen as existing in clinical isolation. We should note that such activities are substantively different from typical calls for greater coherence in global governance, which is about non-duplication and efficiency between different international organizations. In contrast, the issue of legal hierarchy is more specific to asking what the fundamental norms that should inform global governance should be. However, this openness is not institutionalized. Nor it is generalized across the WTO secretariat and member states, but appears at this moment limited to the office of the Director General.

Direct impacts of the human rights system on the WTO Dispute Settlement Understanding (DSU) and Doha Round agriculture negotiations are unclear. Determining

substantive impacts of the human rights system on the WTO's DSU and negotiating work is a much more difficult issue to address. There is little guidance in the literature to establish how to measure such impacts. Although existing neo-liberal and constructivist scholarship explain the role of norms in influencing states' behaviour, they explain less well how the international norms of one IO affects other the behaviour of other IOs. In addition, it is difficult in the context of international trade to assess what constitutes a large from a minor impact. It is well known that in WTO negotiations or dispute panels, very few WTO members have the power and resources to have significant impacts on the outcome. So when assessing the human rights system impact on the WTO, the point of comparison is critical. Do we compare human rights actors to a powerful WTO member like the US or Brazil or to a weaker player like Mali?

Susan Aaronson (2007, 415) has argued that in fact we can observe a change in WTO members' behaviour, noting they,

“Increasingly seek to reconcile their trade and human rights objectives. Trade policy-makers have introduced human rights concerns in trade policy reviews and trade disputes, negotiated waivers of WTO obligations to protect human rights, and discussed human rights issues during both the Doha and Uruguay Rounds of trade talks.”

However, Aaronson's substantive analysis is limited to civil and political rights, in particular labour rights. Yet Aaronson notes that while many developed countries use human rights to argue for flexibility for food security, the argument has focused on the rights of their citizens and not the need of hungry citizens abroad (Aaronson 2007, 444). The use of human rights and the right to food in such a way is often criticized by free traders as a poorly veiled form of protectionism. However, such a response to the right to food also ignores the core definition of the right to food in the ICESR and General

Comment 12, which emphasizes the international obligations at the core of the right to food.

One way the human rights system is affecting WTO negotiations is that it has instilled doubt among trade negotiators about whether their positions on trade are consistent with their human rights obligations. Although such concerns have not resulted in major policy shifts yet, by comparison, such concerns did not exist at all in the Uruguay Round, when the primacy and desirability of the logic of agricultural trade liberalization was never questioned. An increasing number of negotiators are looking much more closely at the potential impacts of trade policies on the right of food of their citizens and those abroad, but still note there are few commonly accepted tools to achieve this objective.<sup>71</sup> This indicates that the OHCHR and Special Rapporteurs have been effective in exerting their legal and moral authority at the WTO by continuously highlighting the way in which trade liberalization can undermine the right to food.

## **Conclusion**

Unlike other areas of inter-institutional conflict at the transnational level, the case of the right to food and trade liberalization in agriculture exhibits a high and sustained degree of political conflict between the WTO and the UN human rights system. However, this conflict is characterized by perceived normative and potential impacts of future WTO rules being negotiated at the Doha Round. Conflict does not emerge from a case of legalistic inconsistency as defined in the traditional sense by diverging rules and policies;

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<sup>71</sup> Confidential interviews, March and April 2009.

the WTO and UN human rights systems do not have competing policies and rules specific to agriculture trade liberalization. Yet these two systems have diverging interpretations about what such policies and rules should be. This lack of competing rules makes the case of the right to food-international trade not only distinct from other trade and human rights issues, but also qualitatively different from other fields of competing regimes in the cases of plant genetic resources, biosafety, food safety or environmental regulation that are characterized by overlapping rules in an issue-area.

The WTO-UN human rights system conflict is unidirectional. The WTO does not criticize the UN human rights system or recommend changes to international human rights law. On the other hand, the UN human rights system has been a forceful critic of the AoA, the WTO's trade liberalization paradigm and neo-liberal orientation, and of the power asymmetries facing developing countries. Nevertheless, the conflict between the UN human rights bodies and the WTO is characterized by both a perceived and existing hierarchy, where trade rules are seen to trump the right to food at the international and national levels.

The OHCHR, Special Rapporteurs, states, and more recently the WTO Director General, are the key actors in this transnational contestation in assemblage. States play an important role and we find key evidence of transgovernmental coalitions. However, it appears in the case of the High Commissioner and particularly the Rapporteurs have a significant degree of autonomy from states and have exercised this autonomy to advance the right to food in their engagement with the WTO. This high level of agency does not map well with existing theories of regime complexes, institutional interplay, or

transnational policy spaces, which do not theorize the role of these new actors. In the case of the Special Rapporteur, the issue of agency is most critical, as is the mandate's status, because it blurs the lines of public and private and international, national and transnational. The Special Rapporteur may represent a new type of actor specific to globality, which plays both the role of a norm entrepreneur, but is also an autonomous agent endowed with traditional political capabilities such as legal and expert authority. These latter capabilities are most associated with international institutions, not individuals.

With respect to the effects of this conflict, although the conflict appears to be one way, we find multidirectional yet highly differentiated impacts on these institutions and actors. The establishment of the WTO created not just a new right to food work program at the OHCHR and other human rights bodies, but also likely helped to solidify the arguments for the establishment of the mandate for a Special Rapporteur on the right to food. The creation of the SRRTF may be characterized as an unintended, but indirect effect of the inclusion of the WTO to the global governance of agriculture and food, although other key factors were at play in addition to the WTO-related concerns in establishing this mandate (such as strengthening the UN's work on social and economic rights). The impacts of the conflict on the WTO are more ambiguous but we find an increasing need by the WTO to engage with the UN human rights bodies and undertake intellectual work to clarify the jurisdiction of WTO law and its relationship with human rights law.

## CONCLUSION: TOWARDS COMPLEX FOOD SECURITY GOVERNANCE

The preceding chapters have analyzed how the WTO became a central institution in the global governance of food security and, in response, how several UN institutions responded to this development. These cases demonstrate how overlapping authority among several institutions in a field of governance produces transnational forms of political conflict that have been under-estimated in the existing literature.

This study suggests the importance of taking IOs seriously as autonomous actors in global governance. The efforts by the UN institutions to affect negotiation outcomes at the WTO point to a new form of transnational political contestation that has been overlooked in the IR and IPE literature. This study provides a first attempt to theorize and empirically study this type of transnational conflicts in global governance. In the context of a globalizing world and the rescaling of authority to the transnational level, combined with an increasing array of non-state actors assuming, by choice or accident, greater roles in the everyday governance of the global economy, suggests further analysis of IOs as autonomous actors is warranted. Doing so would complement recent shifts by IR and IPE scholars to make prominent the role of global civil society and private actors alongside states in their analyses of contemporary global governance. However, bringing IOs into closer relief should not simply just add them into the mix. This research focus requires a critical analytical lens because as this study has illustrated, IOs operate at the formal and informal transnational levels. In the case of food security, the novel aspects of the UN institutions' actions occurred in both informal and formal spaces. Therefore, analyses of IOs limited only to formal interactions, such as in the context of inter-institutional bodies

or policy networks, may fail to reveal the full range of actions IOs (and possibly other actors) undertake. Informal actions are often hidden from view, such as role of the FAO as a shadow negotiator, but these can have major influences in the contestation over global governance. This informality hides many of the complexities of global governance. These complexities should not be ignored, as they are critical to understanding potential transformations in global governance.

### **Global Governance and Assemblages**

I termed the global governance of food security as having the characteristics of an assemblage. This concept recognizes the inherent complexity and diversity of the constellations of actors and forms of political agency in global governance. The global food security assemblage features multiple IOs sharing authority in governance, in which there are overlaps across norms and rules, and where hierarchy, even if not formally established under existing international institutional arrangements, is perceived by IOs to exist nonetheless (i.e., *de facto* hierarchy). IOs' perception of asymmetrical power relations between them shapes how these actors see the likelihood of success of their efforts to govern or achieve global policy outcomes. These asymmetries, in turn, spur a variety of transnational political forms of actions.

These actions are part of strategies by IO-based actors to influence outcomes at other international institutions with which they are co-habitants in the assemblage. Institutions need not be formally linked in the assemblage by legal or formalistic means. This linking can also happen informally when governance practices result in institutions

sharing authority and/or being perceived by institutional actors as such. In other words, hierarchy is also intersubjective, not just the product of intentional or accidental institutional architectures. Actors in the assemblage include the whole gamut of state and non-state actors. In the assemblage, states are key actors but not necessarily the only primary actors. The cases presented in this study have provided evidence to support this claim with each of the UN institutions examined being able to impact outcomes at the WTO agricultural negotiations. They have been key actors, even though they are not states, and not even formally part of the inter-state negotiations at the WTO.

Even among the UN institutions there are significant differences among the types of institutions and which actors from these institutions were involved in transnational political contestation. The WFP and OHCHR are very different types of IOs; one is primarily engaged in delivering food assistance around the globe, the other is involved in promoting human rights and servicing inter-governmental treaty bodies. The specific actors involved in contesting food security from these organizations varied as well. In the case of the FAO, senior management officials were highly involved whereas in the UN human rights system, this work was undertaken by individual persons (e.g., High Commissioner for Human Rights and the SRRTF). This finding also suggests that international secretariats are not the only IO-based actors engaged in world politics, which is the level of analysis of much of the current literature on IO leadership (Muldoon et al. 2010). This alerts us to the importance of not treating IOs as monolithic organizations. Instead, there is a need to identify which specific subsets of actors are most involved. Each institutional actor faces different opportunities and constraints to engage



in transnational political contestation, including recourse to variegated sources of authority. This structures the range of institutional interactions available to actors.

Conceptualizing global governance as assemblages contributes to our knowledge of transnational politics and policy-making. The assemblage for food security demonstrates that the politics of global governance extend beyond rule overlap and regime complexity. Assemblage in global governance also highlights the normative dimension that underpins the motivation of institutional actors to engage in transnational politics and policy-making, and the sources of authority to justify such actions. Assemblages also point to the role of IOs as autonomous actors in global politics. This differs from existing theories that regard IOs predominately as inter-state forums, passive/deferential to the preferences of states, and/or rational bureaucratic actors in global governance.

Not all spheres of global governance will necessarily have the properties of an assemblage. However, increasing institutional proliferation at the global level makes it more likely that overlapping authority will become evermore ubiquitous in global governance (Shaw 2007; Abbott 1992). But to date scholarship has underestimated the role of IOs in complex and crowded global governance environments. However, the features of assemblages may exist and operate much more frequently than current scholarship suggests. As global governance has become ever more complex and as the lines ever more blurred between institutional domains of authority and issue-areas, we can predict an increasing frequency of rules and norm conflicts to occur. Looking beyond rule-conflicts in complex global governance and taking into account the role of norms and

non-state actors more seriously already starts to move us beyond the analytical territory offered by existing global governance scholarship. It also opens space to examine these new types of transnational political activity that occurs within assemblages.

The remainder of this concluding chapter addresses these developments in greater detail. It also shows this study's findings reveal some new dimensions of politics in global governance and the implications these have for the study of global governance.

### **The Global Food Security Assemblage**

I argue that the global governance of food security takes place through an assemblage. The concept of an assemblage brings into sharper focus certain dimensions that are underdetermined or made hidden in the current literature on increasing complexity and coherence in global governance. An assemblage approach to the study of authority in transnational governance takes into the account the following dimensions: 1) formal and informal elements of transnational interaction; 2) the persistence of normative foundations and identities; and, 3) IOs as semi-autonomous actors.

#### *Formal and Informal Elements of Transnational Interaction*

There is a pronounced emphasis in the existing literature on complex authority in global governance on the formal elements of transnational interaction. The formal appears in two key ways. For scholars of regime complexity, the analytical focus is on rules and the impact of overlapping rules on the coherence of global governance. The level of analysis is formal rules, such as international treaties, codes, and standards. In the context

of increasing legalization of world politics, overlapping rules take on greater significance because rules are regarded as ever more constraining on states' policy space. The implication is that states, rather than ignoring the roles and not respecting rules, are in fact deeply invested in rule-making outcomes and will therefore seek to steer rules towards coherence or incoherence, whichever is most closely aligned to what they judge as in their interest broadly defined. As such, rules matter because they matter to states. It follows that political conflicts over rules are the result of state-driven activities within international institutions to shape rule-making (or rule changing) through the formal processes of negotiation, consultation, and dispute settlement in formal inter-state structures

The other focal point for studies of formal transnational interaction is epistemic communities, transgovernmental networks, and global policy spaces. These groups can be both formal and informal. They are formal when they are mandated either by inter-state decisions or under the umbrella of international institutions. Such groups can include a mix of state officials and non-state actors (i.e., IO officials, academics, NGO officials, private sector representatives, citizens, etc.) that tend to be assigned to work together to coordinate inter-state activities or provide policy proposals. Informal groupings of actors are also common, especially when transnational policy actors form groups based on shared educational or professional backgrounds and meet in settings not mandated by states. Formal and informal groups play key roles in socializing individuals into what is the logic of appropriateness in a particular field. However, such groupings need not always simply reproduce existing paradigms. Repeated interaction also provides

opportunity for social learning and reflexivity that may also challenge dominant paradigms, especially when marginal actors become influential in these group settings. But there is a also tendency for group think, especially in closed small-group environments.

Transnational interactions in the assemblage for food security do not map on very well to these formal sites of global governance. The FAO, WFP, and UN human rights actors are not active in the formal inter-state negotiations. Even though the FAO and WFP have official observer status at the WTO, they are not physically in the room when decisions are made. In this way, they are not available to speak when the formal inter-state activity of rule-making takes place.

However, the FAO and WFP are part of formal and informal groups/networks that revolve around the WTO agricultural negotiations. As official observers, the FAO and WFP participate in information exchange with states and the WTO. They are also members of epistemic communities working on international agriculture and trade policy issues (perhaps the FAO much more the WFP). The FAO and WFP are considered authoritative experts and are regularly consulted by states. The UN human rights actors are part of a complementary network working on food security and human rights. While this latter network is not directly part of the epistemic community on agriculture and trade, there is some overlap because many Geneva-based state and NGO actors belong to both. Nevertheless, the latter networks are more removed from the work on trade issues.

With respect to networks, the UN institutions are part of networks and engage in regular interaction and formal cooperation with the WTO and WTO member states. The

preceding chapters illustrated that UN officials are part of policy networks and engage in typical cooperative work and information sharing. Yet they are also engaged in types of transnational interactions that occur at the margins of or outside these formal and informal networks as well, but which are targeted to contesting the status quo. This kind of role makes the UN institutions insiders/outsideers. They engage in formal cooperation at the technical level yet engage in a critical political and policy sense too by challenging and seeking to reshape the rules as well. Yet these specific activities happen outside the formal spaces of the WTO and in parallel to them.

This kind of activity does not fit well with existing conceptions of transnational interactions and points to complex, and what may appear on the outside, contradictory actions by IOs. The global food security assemblage poses an analytical quandary because the actions of the UN institutions occur in multiple spaces and in different ways that are not fully captured by existing theories. These institutions are engaging in the political sense of the term in inter-state rule-making even though there is no official channel for their participation. The UN institutions also provide expertise to support the negotiations at the official level. They simultaneously challenge the direction of trade liberalization through political engagement and are reliant on moral, legal, and expert authority to do so. Sometimes political contestation happens through the backdoor such as when the FAO acted as shadow negotiator in the Uruguay Round or when the WFP launched an international media campaign on the eve of the 2005 Hong Kong Ministerial.

These actions should not be interpreted as attempts to sabotage the MTS nor were they cynical actions by IOs to increase their power. Instead, the wide range of actions

taken by IOs points to the different approaches available within the assemblage when faced with limited formal opportunities to engage in global rule-making, particularly when they perceive the consequences of such rules to have high social costs on a global-scale.

To summarize, the UN institutions appear to operate in multiple formal spaces and outside them as well. These types of transnational interactions do not square easily with existing explanations of who acts where and in which ways in contemporary global governance. This finding suggests that in the assemblage, actors engage in transnational activities within and outside defined formal institutional boundaries in response to existing opportunities and constraints, and in efforts to overcome the latter.

#### *The Persistence of Normative Foundations and Identities*

Current scholarship on the complexity of global governance has focused primarily on overlapping rules. Rule consistency/inconsistencies and policy coherence/incoherence and the efforts by states to resolve or promote such conditions, are the main subjects of analysis in these studies. To the extent that norms are considered in rule-oriented analysis, norms are reduced to principles in the founding articles or mission statements. Norms are taken literally and reduced to differing principles that frame rules in each constituent institution.

Special consideration must be paid to the normative dimensions of global governance in order to understand the transnational politics of the assemblage for food security. The normative dimension is critical because it helps to explain why IOs have

engaged in the transnational political activities over food security. In addition, norm-based conflicts appear to be at the core of the political contests over food security. I have emphasized the importance of norms as a driving force in the transnational politics of food security throughout this study. Norms are a tricky if not unruly concept. Norms are used in the literature to describe the mission statements of IOs, the basis of identities and preferences, and as the socio-physiological frameworks that permit individuals to make meaning of the world “out there.” Admittedly, this understanding makes norms an elusive and ambiguous concept to work with, analyze, and measure. For the purposes of this study, we do see that norms in the broadest sense play a key role in the assemblage for food security. Moreover, the study suggested correlations between norms, asymmetries in power, and interests. For example, Northern net-food exporters support free trade whereas Southern net-food importers support greater constraints on the market. IOs are active in the spaces in between extremes and contesting the norms and rules of the global food economy.

The desirability of eradicating hunger as a meta-norm of the international community is self-evident. In concrete form, this is expressed in the various institutions created to pursue this aim. However, at a deeper human and agency level, eradicating hunger is a societal good that is immediately understood as a desirable and noble course of human action. This is generally true across peoples, cultures, ethical and moral codes, and time. A bulk of human activity historically has been to prevent deprivation and hunger. In short, eradicating hunger is not an abstract norm such as those as “sovereignty” and “reciprocity.” All human beings, even those who do not experience hunger, can relate

to, and grasp the desirability of eradicating hunger. To a certain extent, this immediacy makes hunger eradication a powerful meta-norm. That is not to say all actors in the international community behave accordingly to this norm. Many do not such as governments or groups that deliberately starve their people. But there is a broad consensus in global society that hunger eradication is a desirable collective objective. Moreover, this objective is generally regarded as a feasible one; humankind has reached sufficient technological, social progress, and material abundance to achieve such an end.

Hunger eradication as a norm provides a powerful sense of identity and social purpose for actors working on global food security. There is an implicit understanding, even among those most cynical veterans, that international cooperation on hunger eradication saves human lives, especially those of the marginal and dispossessed. These actors are not naïve; they are acutely aware of the limits of these actions and the brutal impacts of hunger on large proportions of humanity. The (global) social purpose of IOs in this field and the deep internal integration of this purpose by institutional actors in their everyday identities about their work and its value should not be discounted (as more rationalistic explanations might suggest).

The efforts by the UN actors to impact the WTO negotiations were significantly driven in response to what they believed to be a veritable threat to world food security and ongoing multilateral efforts to eradicate hunger. Here, the scope of WTO rules was interpreted by IO actors as a likely cause of greater food insecurity by negatively affecting world food supply and availability, or by limiting the capacity of states to intervene to protect food security by rendering certain policy options untenable. In other



words, there is a strong belief among IO actors that a market-driven global economy will not necessarily result in hunger-eradication. International and national policy interventions continue to be seen by these actors as necessary (but imperfect) actions to achieve food security. The specific concern for the UN-based actors is that agricultural trade liberalization may stifle the capacity of states and IOs to make the necessary policy interventions.

At no point did the FAO, WFP, OHCHR, and HRC see its functions, budgets, or rule-making authority directly threatened. There was no forum-shifting as the literature suggests being the traditional drivers of tensions between IOs. The actions of the IOs cannot be satisfactorily accounted for by rationalist theories; IOs were not out to just protect turf and resources. In fact, these IOs took on actions that carried great risks to their institutional resources by challenging the status quo. This is not say the WTO was seen as an outright threat; rather, the specific shape of the agricultural agreement at particular points in time was deemed by these institutional actors as not sufficiently favourable to hunger eradication thereby necessitating transnational political interventions.

This perceived need for transnational political actions alludes to the norm-conflict in the assemblage. There is considerable transnational political contestation surrounding the impacts of trade liberalization on food security and the appropriate global policies required to mitigate any negative consequences. This contest is played out within the assemblage for food security, with the WTO and UN institutions being influential actors in this struggle. As international bureaucracies, they contribute to the framing of global

discourse and policy. Diverging norms between the WTO and the UN institutions over the state-market relationship and its role in world food security frame this high-level policy debate.

The WTO and powerful exporting states view free trade as supportive of world food security. The WTO views its mission to be one of gradually phasing-out subsidies, border protection, and other forms of state intervention deemed critical to freeing international markets from distortions. By establishing a market-based trading system, the WTO contends, poor countries can benefit from agricultural specialization and more reliable supplies of food on international markets.

The FAO and UN human rights system acknowledge the potential of trade liberalization to improve rural livelihoods. However, this position is tempered with the recognition of asymmetrical power relations in the global food system and that the behaviour of powerful food exporting countries and transnational agri-food companies disproportionately shape market outcomes. Because of this reality, UN institutions have pushed for rules that they perceive to be in interest of food insecure peoples and countries, which includes the access to policies that may “distort” markets such as subsidies and border measures, policies that the WTO is seeking to restrict. The UN institutions are primarily driven to meet the needs of food insecure people and they contend free trade does not necessarily address the needs of the poor or ensure access to adequate food. The UN institutions have sought to reshape international trade rules to support the obligation of states to protect the right to food under international law and

ensure states have recourse to a wide set of policy measures to regulate national and international markets to achieve food insecurity objectives.

*IOs as Semi-Autonomous Actors*

By looking at food security using the lens of an assemblage, I am able to highlight the ways in which IOs can and do act as semi-autonomous actors in global governance. IOs are key agents in the transnational political struggles over authority in global food security governance. The analysis confirms that senior leadership of IOs matters. In the all three cases, senior UN officials were instrumental in turning the UN agencies' work to WTO issues and in strategically deploying moral, expert, and legal authority to impact the outcomes at the WTO. Although each of the UN institutions differ significantly with respect to their mandates, normative orientation, internal power dynamics, and degree of legalization, they each expressed significant concerns about and reacted to the WTO's authority in global food security policy. However, the interventions by the Special Rapporteurs also suggest the importance of other types of IO-based actors but which are not IOs. The semi-autonomy signalled by the actions of various UN institutional actors to engage with the WTO point to transnational activity without explicit delegation from states.

The UN institutions have been successful in influencing outcomes at the GATT/WTO negotiations at which they are not formal participants. These impacts vary in type and degree, ranging from writing the rules to reframing the debates to strategic blocking of key issues. The success of some of these interventions suggests a multiplicity

of actions and motives across these actors and reflects specific constraints and opportunities they face in assuming the role of global political actors. What makes these efforts by institutions particularly interesting for scholarship is that these actions have occurred concurrently with formal cooperation between IO officials and states. While these officials are part of networks or policy communities revolving around the WTO agricultural negotiations these IOs also engage in transnational political action beyond formal cooperation as experts. These actions speak to some of the limits of transnational policy networks, especially at the WTO where decision-making, while officially consensus-driven, is still reflective of asymmetries in power.

To sum up, IOs as global political actors that seek to influence outcomes at other sites of global governance have been underestimated. To the extent IOs are studied, existing scholarship has done so often in the framework of IO officials operating within demarcated epistemic communities and transnational networks to influence states' behaviour. This study has demonstrated that in addition to engagement in global policy-making and its implementation, IOs also engage in direct global political action outside the frameworks of networks or formal spaces in order to affect the outcomes of global rule-making in contexts where final decision-making is traditionally understood to be the exclusive remit of states.

### **Reflections on Directionality and Transnational Counter-Movements**

The AoA was a major tipping point that began to reconfigure global food security governance, most notably by bringing food security into the sphere of the MTS. The

interpretation of the evolving global governance of food security I offer is that the intentional efforts by powerful developed countries to bring agriculture and food security under the multilateral trading system spurred an autonomous counter-movement by international institutions.

While many countries, mostly developed and some developing, have expressed support for the positions taken by the FAO, WFP, OHCHR, and the Special Rapporteurs against the WTO, they did not drive the actions of these institutions. These institutional actors were never ordered directly by states to undertake specific actions to challenge the authority of the WTO. Instead, in all these cases, it was autonomous decisions made by these IOs (and the mandate holder in the case of the special Rapporteur) to take on the global politics of international trade and food security.

#### *Directionality in the Assemblage*

An interesting insight from the global food security assemblage is the different type and direction of impacts from institutional interaction. The institutional interaction between the UN system and the WTO appears unidirectional; the UN institutions have actively sought to impact the outcome of WTO negotiations, whereas the WTO has not attempted to directly influence developments at other institutions.

Part of the explanation for this is that although the WTO may be a powerful institution in terms of dispute settlement, its members designed it to have a fairly weak executive and limited secretariat in order to minimize the scope of activism more common in the UN system. That is the WTO may have strong enforcement powers and

delegated legal authority but this is combined with a relatively constrained secretariat. The WTO has been considered powerful and enjoys considerable political and ideological support from Northern states. UN institutions target the WTO and its negotiations in particular because of perceptions about de facto hierarchy in global governance. Trade rules are binding on states, especially food insecure ones. Binding international trade law creates uncertainty for states on how to reconcile trade and human rights obligations as well as commercial and social policy interests. This occurs under conditions of highly asymmetrical power relations between food secure and food insecure states. In short, the UN agencies monitor and seek to influence trade negotiations with an eye to ensuring food security concerns are not lost to horse-trading in the final deal.

However, the *impacts* of institutional interaction between the WTO and UN system are not unidirectional. The WTO and the AoA have had a significant impact on the UN agencies. This impact has been unintentional but the creation of international trade rules in agriculture required the UN agencies to invest significant human and financial resources to create the technical capacity to work on WTO issues and make adjustments to their overall work programs (all of it bearing significant opportunity and potential political costs) in order to engage with the WTO. The WTO has not had to undertake significant scaling-up of resources to engage with the UN institutions. The WTO secretariat remains sceptical of the UN's intentions and dismissive of their claims.

The FAO, WFP, and OHCHR all have faced some form of political censure for their actions, especially from developed countries. In the case of the WFP, the executive director was eventually replaced and the successive WFP leadership has been discrete

about weighing in on WTO issues. The Special Rapporteurs have seen trade officials attempt to attack their credibility and expert authority. The FAO and the OHCHR in general enjoy a high level of legitimacy among large groups of countries, but both received veiled and not so-veiled threats from powerful Northern countries. For these two actors, it is difficult to state unequivocally if their work on trade issues further eroded or enhanced their legitimacy.

Yet, there is coherence and a thread weaving together the action of all the UN agencies. Although each UN actor has focused on different issues at different times over course of successive trade rounds, they share the normative orientation in terms of prioritizing hunger eradication above all else. Moreover, these actors shared the belief and understanding that food insecurity was deteriorating and trade liberalization in its neo-liberal form was more likely to increase food insecurity in the future without major checks and balances in the multilateral trade system. As such, they have pressed for new rules that fit more closely with the norm of food-self sufficiency rather than free trade in food. The broader political context also mattered, especially during the early years of the Doha Round. At this point, the global political consensus on reducing hunger established at the World Food Summit and in the Millennium Development Goals (MDGs) was interpreted by the UN institutions to be the will of the international community and they oriented their work to challenge the WTO in order support this end.

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There is no evidence to suggest that the work of the FAO, WFP, and UN human rights system was strategically orchestrated to impact the work of the WTO. There is overlap on specific issues, such as food aid and the Marrakech Decision, but attention to specific issues varied widely among UN institutional actors. The FAO worked on implementing the Marrakech Decision and ensuring maximum food security policy space for developing countries. The WFP pushed back on WTO food aid rules deemed to be too expansive and discouraging food aid donations. The UN human rights system pointed to conflicts between trade commitments and the right to food. In addition, each of these parts of the UN system varied by when they entered the debates, duration, and frequency of engagement, and strategies to influence trade negotiations.

These parts of the UN system did not act as a transnational coalition. Each pursued its own objectives in relative isolation. The UN system was also “not out to get” the WTO. None of the UN agencies, in principle, rejected the WTO. All the UN institutions supported the multilateral trade regime. Their concerns centered on the asymmetries of power and potential negative impacts trade liberalization without proper checks in place may have on food security. Even the former Special Rapporteur Jean Ziegler, who was the WTO’s fiercest critic, still supported the main objective of the WTO to reduce rich country subsidies and barriers to trade.

Even though the institutions seeking to impact the outcome of the WTO agriculture negotiations all fall under the UN system, their efforts do not represent a coherent, coordinated action by the UN system. Instead, each institution examined here (i.e., FAO, WFP, OHCHR and Special Rapporteurs) was guided by a distinct



interpretation of the underlying source of intra-institutional conflict, whether such conflicts manifested themselves at the level of norms, rules, or institutional responsibilities and capacities.

The institutional conflicts observed in the assemblage for food security suggest the importance of the negotiation phase. The strategic actions of the UN agencies were mostly targeted during the negotiation phase of the WTO agricultural agreements.<sup>72</sup> However, the focus on the negotiations phase may be over-determined by the fact that the WTO has been in negotiating mode for much of the period under study and is further complicated by the fact that WTO negotiations take an ever greater number of years to conclude with each successive round. It is difficult to speculate what the global politics of food security may look like during the implementation phase given that the WTO Doha Round negotiations are in their tenth year without a clear end date in sight. But based on the experience of Uruguay Round, in which the FAO assisted developing countries with formal implementation and the WFP worked on designing global food safety nets, suggests that these actors are likely to be active in the future during implementation. Also, there has not been a food security-related trade dispute to date so it is not possible to comment on trade dispute settlement may impact the conflicts over trade liberalization and food security.

## **Final Remarks**

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<sup>72</sup> The FAO has been involved at all stages though agenda setting, negotiation and implementation.

This study has argued that the analysis of IOs as semi-autonomous global actors can provide significant insights to the study of overlapping authority. As such, this analysis represents a departure from the existing literature, which takes states and international legal agreements as the main objects of study when regimes overlap. It illustrates how IOs are transnational actors that seek to impact outcomes at other sites of global governance. By taking international organization seriously as autonomous actors in global governance, instead of simply passive negotiating forums, I provide a fuller account of contemporary global politics. Furthermore, this study introduced a set of analytical guiding points to study the role of international organizations in the context of overlapping authority

The case of the global governance of food security demonstrates how the creation of the WTO prompted a strategic but uncoordinated counter-movement by the UN system, in particular by the FAO, WFP, and UN HRS, seeking to both adapt to and challenge the WTO's role as a major institution in the global governance of food security. These institutional actors did so by exerting their legal, expert, and moral authority directly to shape multilateral trade negotiations.

## APPENDIX 1. RESEARCH DESIGN AND METHODS

This appendix outlines the research design and methods I employed during my field dissertation research covering the period between September 1, 2008 and November 30, 2009. In conducting my dissertation research, I employed a mixed set of qualitative methods.

### **Case Selection**

I identified several international organizations as important nodes in the global governance of agriculture and hunger. The organizations selected are not exhaustive but, in my view, are the most relevant for the study of the global governance of agriculture and food. This included the WTO, FAO, WFP, OHCHR, and HRC. Each plays an important role in the global governance of agriculture, trade, food security and human rights, the three fields of global governance that this study addresses. These institutions have been the most active in promoting and researching agricultural trade liberalization, hunger, and the human right to food. All except the FAO are headquartered in Geneva, Switzerland; the FAO is located in Rome, Italy.

There are other important institutions that I do not address in the study including the UN Conference on Trade and Development (UNCTAD), UN Development Programme (UNDP), World Bank, International Monetary Fund (IMF), International Food Policy Research Institute (IFPRI), Consultative Group on International Agricultural Research (CGIAR), and International Fund for Agriculture Development (IFAD), and Organization for Economic Cooperation and Development (OECD). The decision to not

include these institutions was based on preliminary analysis that suggested these organizations were less engaged in the global politics of food security over the period of study than the others. Given the space limitations of this study, I decided the analysis would be more robust with a focused consideration of the institutions most involved in the global politics of trade and food security.

Nevertheless, some of these latter institutions do appear in the study but not in a comprehensive manner. I will comment on two of these, UNCTAD and the World Bank, briefly here. UNCTAD was active on providing policy advice on agricultural issues (i.e., commodities) and a range of items of concern to LDCs, such as market access and non-tariff barriers during the Uruguay and Doha round. Yet it has not been significantly active in political action on food security issues. At a distance, this may be somewhat surprising given UNCTAD's historical role in agricultural trade issues and as a competing institution to the GATT, especially during the era of the New International Economic Order (NIEO). UNCTAD's authority in international trade went into retreat (Taylor and Smith 2007) in the 1980s and 1990s when states decided to no longer utilize that institution as a trade negotiating forum. At present, UNCTAD and the GATT/WTO cooperate extensively on technical capacity. This includes joint-administration of the International Trade Centre, an agency that advises firms on trade opportunities in developing countries.

The World Bank was active on the margins on food security politics at the WTO. It has been a strong advocate in support of trade liberalization in light of its focus on poverty reduction and promoting market-led economic development. World Bank

officials were critical of negotiating proposals by developing countries that supported greater policy flexibility on food security. World Bank officials have expressed concerns that such proposals are counter to the objective of trade liberalization. But on the whole, food security has been a low priority issue for the World Bank during the period of study and it focused on issues under the framework of its cooperation agreements with the WTO (WTO 1996).

### **Time Period of Study**

With the concept of global food security assemblage emphasizing the importance of a historicist approach, I sought to carefully select a historical period that would permit me to obtain a full understanding of the evolving relationship between and around international organizations working on agriculture and food security. I also had to select periods, which were both critical to the evolution of the assemblage while at the same time feasible objects of study.

I chose to focus primarily on the period between 1986 and 2010. The logic for this decision is as follows. This period allows me to analyze two rounds of successive trade negotiations (i.e., Uruguay and Doha).<sup>73</sup> Agriculture and food security were key issues during these rounds. This period thereby allowed for ample comparative work between and within rounds. In addition, this period also overlaps closely with major changes in the global political economy of food, capturing the shifts from a wheat complex in early

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<sup>73</sup> Obviously my analysis of the Doha Round is incomplete, since the Round was still officially ongoing when I wrote the dissertation. For the purposes of my study, I include events in the Doha Round up to and included January 2010.

1970s to the establishment of global food value chains by the 1980s and moving into the biotech/processed food complex of the late 1990s to the present (McMichael 1994).

Though the bulk of the analysis is from the 1980s forward, the study makes frequent historical references further back. For example, I contextualize the origins of the GATT and the FAO in the 1940s and the evolving concept of hunger and food security from the 1940s to the present. This historical analysis provided me with the basic knowledge and economic and political contexts for analyzing great changes in world perceptions of global hunger and agriculture. In 1973, there was a world food crisis, which led to a significant period of international institution building in the field of agriculture and food security. In particular, the famines in Ethiopia and global events like the Live Aid music concerts to fight famine in the early 1980s changed Northern consciousness around hunger and food security, leading hunger to become a highly emotive issue in global politics. In the 1990s on, three UN world food security summits (1996, 2001, and 2009) and transformation of the UN human rights system increased the advocacy on the human right to food, such as the creation of Special Rapporteurs on the right to food were taken into consideration (Shaw 2007).

### **Research Area**

The research focuses primarily on those actors within, and operating closely to, the key IOs covered in this study, including international bureaucrats and government representatives to these institutions. The IOs I focused on were the WTO, FAO, WFP, and UN human rights system, the latter of which is a proxy for the OHCHR and HRC.

Others actors that hover around these institutions such as non-governmental organizations (NGOs) and transnational social movements and private actors were also considered (though these are less prominent in the analysis).

Another important site of institutional governance is at the nation-state level. Although the governance of food and agriculture has shifted upwards to the global level, the nation-state still plays an important role in policy-making in these issue areas (albeit under new constraints), including mediating between global and local forces and interests. If it is the case as many argue that the globalization of agriculture and food challenges the viability of domestic food security programs, then a closer look at states is warranted. Some states are more key than others in the global politics of agriculture and food security and in my research I sought to capture the perspectives of a variety of countries including net-food exporting developed countries, middle-income net-food exporters, net-food importing middle-income developing countries, and net-food importing least developed countries. Though I weave states into my analysis, however, greater consideration is given to IOs because the main objective of this study was to develop a theory about the semi-autonomous role of IOs in global politics.

### **Archival and Primary Documents**

A significant part of my pre-field and field research consisted of archival and textual analysis. This research fits into two broad categories: mapping of the global governance of agriculture and hunger and a comparative historical case study of key actors and events in global agriculture and hunger policy. To examine the increasingly

conflicting relationship between the WTO and UN institutions with respect to food security policy-making and global efforts to reduce hunger, I relied on official documents to map the different mandates and objectives, ideational frameworks, and domestic government linkages of these institutions. This mapping exercise is crucial to forming a deeper understanding of scope and depth of the operations of these institutions and to assessing where institutional overlap in fact occurs. I sought to identify whether certain organizations have been accorded new policy-making authority over a certain time-period and whether other organizations have lost or experienced diminishing policy-making authority.

I believe it is appropriate to use the establishment of the WTO and the 1994 AoA as an important tipping point (Sassen 2006) in order to see the shifts in global governance that occurred after its implementation. I classify the different types of policy-making/authority mechanisms associated with these institutions, such as: making and enforcement of international law or rules; program implementation; funding sources; research and policy advice; and conference diplomacy/declarations. Mapping the sites of authority over food and hunger and classifying the mechanisms that provide the source of authority needed to be complemented with an analysis of the ideational models that drive these institutions. A significant amount of information such as official mandates, organizational architecture, and key areas of work and projects of the international institutions were found on their websites. However, my research sought to go deeper and discern whether new responsibilities have been taken on and if others have been



discarded. I also sought to identify failed or partial efforts to change mandates and scope of work.

Through this research I have been able to identify the ideational models supporting these institutions' mandates and scope of work as well as changes of models over time. Such information (especially interim and draft documents) might not always be readily available on the Internet. In these cases, this information needed to be located from a variety of sources such as archival records, media reports, and documents from actors who worked on such issues and through interviews.

The other part of the archival and document research was dedicated to the comparative historical case study. Here I was interested in finding under what circumstances global efforts to reduce hunger become concrete or fail to happen. For this set of questions I found it important to consider both historical and more recent cases. Two examples of global hunger eradicating efforts are the establishment of the UN World Food Programme (WFP) in 1965 and the 1996 World Food Summit (WFS) where the global goal of reducing hunger in half by 2015 was first declared. I also looked at several efforts to bring agriculture under the MTS over several negotiating round. Archival research was very crucial to understanding the international political dynamic in the case of the creation of the WFP, the 1970s world food crisis, and 1996 WFS, if I was to understand why in some cases international action was taken to address food security and in other cases it was not.

I spent considerable time at the WTO archives in Geneva and the UN archives in Geneva and Rome. In the case of the WTO archival research, this work was greatly

facilitated by the wealth of documents available on-line at the GATT Digital Library at Stanford University. Declassified WTO documents were available on the WTO website. However, many recent WTO internal documents remain restricted and there were some documents for which I was not able to gain access through their digital archives. In some cases, I was able to obtain several of these documents through well-placed informants who shared copies. In other cases, I relied on interviews with state and inter-governmental officials to obtain information about the contents of such materials. Some documents were not obtainable.

Archival research at the UN had mixed results. At the FAO archives in Rome, I was able to get very good access to official and restricted documents. However, the archives at the FAO were in very poor condition and the institution lacks an organization-wide archival system, so much of its historical record is not physically in the archives but spread out rather chaotically across functional divisions. None the less, I was able to secure most of the documents I was looking for. In addition, I consulted a wide variety of media reports and secondary literature to support my research and have background on key events.

## **Interviews**

I conducted eighty-two in depth semi-structured qualitative interviews during my research. The majority of the interviews were confidential and the identity of participants is protected. The rationale for confidential interviews is that nearly all officials indicated they would be able to provide more pertinent information off the record. I knew this to be

true given my previous experience working as an international trade official. In addition, the sensitive nature of the politics of trade and food security, this is a small community of officials that know each other well. Because interviewees were likely to work professionally in this field for many years this made conducting confidential interviews a prudent decision. Even NGO and private respondents preferred off the record interviews.

To emphasize the importance of confidential, off the record interviews several interviewees related to me they were glad and relieved the interviews were conducted in this manner, otherwise, they indicated they would have only been able to provide me with the official positions of their government or institutions. This would have likely omitted a lot of information and personal interpretation of events.

These interviews proved to be an invaluable source of data. Initially I had identified thirty individuals to interview for the project and expected to conduct some fifty interviews in the best-case scenario with a positive snowball effect. I also expected to utilize my past work in international trade to obtain relatively good access to officials and non-state actors. However, once in the field and as my research progressed and new questions arose, I increased the number of interviews. In particular, I was able to triangulate and locate several interview subjects who had worked on issues and attended inter-governmental bodies during the 1970s world food crisis and earlier GATT rounds. These interviews turned out to be crucial to providing context to those earlier periods. I was also able to locate and contact individuals that were involved in the Tokyo Round and Uruguay Round for greater comparison, which combined with my experience in trade negotiation during the Doha Round and other interviews, provided me with broad

historical scope on the trading system. I was able to find several recently retired officials from the FAO and WFP to provide me with historical perspectives as well. I also interviewed many actors from NGOs, the private sector representatives, and transnational social movements to get as many different perspectives on international trade and food security.

In total, I contacted 96 individuals and I had a 90% success response rate. Of the 82 interviews I conducted 74 were face-to-face interviews, five were phone interviews and one was conducted by email correspondence. Nearly all the interviews were conducted in English but I also conducted two interviews in Spanish and one in French when respondents were not fluent or comfortable in English.

In my dissertation proposal, I had targeted senior officials as my main interview subjects. Senior officials play greater leadership roles in global governance. These officials have the best access to information and are witness to key political events. It also helps that at the UN institutions it is less common for officials to change jobs as regularly as state-level counterparts do (especially Geneva-based trade diplomats, which serve on a two to three year rotational basis). This provides IO officials a lot of institutional memory and longer-term experience working on specific files. Junior officials often may have more technical expertise but rarely the sufficient work experience to see the big picture and historically contextualize their work. I subdivided respondents into four types of rankings:

1. Head of an international organization, ambassador and heads of delegation (most senior level)
2. Executive level positions such as assistant heads of organizations, assistant minister level position, vice president of firms (second most senior level)

3. Director level positions such as senior officials which manage key divisions and have more than 15 years experience (third most senior level)
4. Officer level positions (least senior level)

In this respect, I achieved my targets. I interviewed 12 individuals at the head of organization/ambassador level (rank 1), 14 at the Executive level (rank 2), 28 at the director level (rank 3), and 27 at the officer level (rank 4). In total 67% of my interviews were with senior officials. Among these, I was able to interview seven current and former WTO negotiation chairs (i.e., senior officials of member states official such as ambassadors or heads of mission that take responsibility for chairing a specific negotiation). I interviewed officials from all the IOs under investigation and a broad range of developed and developing states. Table 2 below summarizes interview subjects by affiliations and developed/developing country status.

TABLE 3. SUMMARY OF INTERVIEWS

<b>Affiliation</b>	<b>Total number of subjects</b>	<b>Percentage of total interviews</b>
International Organizations	40	49%
State – developed	9	11%
State – developing	11	13%
Global civil society	22	27%

### **Direct Observation**

Once I started my field research, I also gained the opportunity for direct observation of interaction between IO officials, states, and NGOs. I had not included direct observation in my research proposal. This opportunity proved to be a key source of data as I was able to watch institutional conflict play out in person at various fora. I took detailed field notes from these events in addition to informal discussions with state, IO,

and NGO officials. Below in Table 3 I list the events I attended. Events with the designation “closed” refers to inter-state meeting that were not open to the public and required official access. For such events, I obtained access with assistance from organizers and/or by invitation from state, IO, or NGO officials with access on the condition of anonymity.

TABLE 4. INTERNATIONAL MEETINGS OBSERVED, 2008-2009

<b>Institution</b>	<b>Event Description</b>	<b>Date</b>
WTO	Public Forum	September 2008
NGO	Conference on Right to Food and Agriculture Trade (closed)	November 2009
Academic and WTO	Conference on Trade Issues (closed)	January 2009
FAO	Committee on Food Security (closed)	February 2009
HRC	10th Session (closed)	March 2009
UNCTAD	Expert Consultations on Commodities (closed)	April 2009
UNCTAD	Open Forum	June 2009
FAO	World Food Summit (closed)	November 2009

In addition, I observed several inter-governmental meetings through web-based broadcasts. These included the FAO High Level Summit on World Food Security (June 2008), UN High Level Food Security Summit (January 2009), and G8 Agriculture Minister meeting (May 2009). I supplemented direct observation with my personal notes and correspondence between 2003 and 2005 on the WTO agriculture negotiations, inter-governmental work on food aid, and related UN meetings during my tenure as a trade policy analyst for the Government of Canada.

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