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Planting the Rights Seed:

A human rights perspective on agriculture trade and the WTO



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I Introduction

Around 70% of the world's poorest people live in rural areas and are dependent on agriculture for their income, food supply and livelihoods.¹ If we are to improve the lot of the majority of the poorest people in the world then we must build up and promote the rural sector, putting people, rather than production, at the centre of agricultural policies.

This Backgrounder examines the global agriculture system from a human rights perspective. It explores the link between the rural sector, agricultural trade, and the realization of human rights. In so doing it highlights the limitations of the agriculture trade liberalization agenda that currently dominates policy-making, including in the World Trade Organization (WTO). This Backgrounder suggests ways to approach the global agricultural trading system with a view to making it more responsive to human needs.

Human rights law provides tools that can help define an agriculture system that guarantees human rights for all. Human rights are particularly relevant because most States, including all WTO Members, have ratified at least one of the international human rights instruments, thereby committing themselves to the realization of human rights.

II The Rural Sector, Food Systems and Trade Liberalization

If we intend to improve people's livelihoods then we have to focus on the rural sector. Around 2.5 billion people live in rural areas and are engaged in agricultural production as a source of livelihood.² Many of these are small-scale, subsistence farmers, and the vast majority produce food for local consumption. Agriculture is thus an activity of central importance, not only for producing and consuming food but also for broader elements of livelihoods including culture and tradition. Developing the farm sector, particularly in countries where a high percentage of the population is engaged in agriculture, is an effective way to generate employment and reduce poverty, as well as to increase levels of health, nutrition and education.

Box 1: Percentage of population engaged in agriculture

<i>Developing countries</i>	
Nepal	93%
Burkina Faso	92%
Rwanda	90%
Tanzania	80%
China	70%
Niger	88%
India	60%
Bangladesh	60%
Pakistan	53%
Thailand	52%

<i>OECD countries</i>	
Japan	5.3%
Australia	4.8%
USA	2.7%
Great Britain	1.7%

Sources: OECD, 1998 and FAO, 1999.

Yet agricultural policies today largely focus on increasing production and trade, rather than on the livelihoods of food producers. These aim at liberalization of the agriculture sector, and began under International Monetary Fund (IMF) and World Bank structural adjustment programmes (SAPs) in the 1980s. The liberalization policies pursued include reducing the role of the State in agricultural markets, for instance by cutting its support to the farm sector, and reducing barriers to international trade in agricultural products.

Its advocates claim that liberalization will bring the greatest efficiency and therefore the greatest welfare gains to rural sectors, making us all better off. Liberalization has indeed resulted in huge growth in agricultural production accompanied by huge increases in the volume of products traded. Large farmers can survive without State support. And whilst agribusiness thrives, liberalization has driven many small-scale farmers out of business.

Indeed, agricultural imports can complement local production, increase dietary choices and provide an alternate source of nutrition. Exporting local produce can also offer new markets and opportunities for employment and income. But not everyone benefits from the opportunities of increased trade – in many cases the livelihoods of small-scale farmers and agricultural labourers have worsened. The reality is that simply expanding or liberalizing trade does not automatically translate into poverty reduction, for a number of reasons.

- First, most food is produced for local consumption, and only a small proportion – about 10% – is traded internationally. Whilst export markets provide a useful secondary channel for some producers, and a vital primary channel for a few (such as coffee growers); the vast majority of small-scale farmers sell their goods to local consumers, which means that export markets are limited to a small number of large-scale farmers.
- Second, there is no guarantee that food produced for export to rich countries will be accepted. Access to developed country markets for developing country products depends on producers being able to meet specific international standards, such as on food safety or packaging. Many developing countries do not have the capacity or infrastructure to meet these standards, which are high and result in limiting developing country exports.

Box 2: Liberalization: the case of Ghana

In Ghana, agriculture is an important part of the economy, employing 65% of the active labour force. Even before the WTO was created, IMF and World Bank loan programmes required Ghana to dismantle subsidies that the State provided to small farmers producing tomatoes, rice and poultry. At the same time, Ghana had to open its markets to produce from abroad. Following this, cheap imports of poultry from the U.S. and Europe, tomatoes from the EU, and rice from the U.S. and Asia flooded the market. The lack of subsidies reduced local farmers' competitiveness, and consumers chose the cheaper, imported products, to the detriment of small-scale local producers.

Source: Anna Antwi, presentation at 3D → THREE Workshop on Integrating Human Rights into the Future of Agriculture, November 2004, report available at: <www.3dthree.org/en/pages.php?IDcat=5>

Box 3: Liberalization: the case of Zambia

After liberalization of maize, the producer price fell and the consumer price increased. The consequence was a 20% drop in maize consumption between 1990/1 and 1996/7. The adverse human rights impacts of this have been documented. For instance, malnutrition and related mortality increased. Due to poverty, health indicators decreased and fewer families sent their children to school. Girls suffer disproportionately as household labour is perceived of greater benefit than education.

The IMF's evaluation of the situation, in 1998, was "While in the long term, [liberalization] will improve allocative efficiency and thereby income, in the short term, *it reduced food consumption.*"

Source: Sally-Anne Way, presentation at 3D → THREE Workshop on Integrating Human Rights into the Future of Agriculture, November 2004, report available at: <www.3dthree.org/en/pages.php?IDcat=5>

- Third, liberalization also means opening the domestic market to higher levels of imports. This can actually increase food insecurity because imported food can displace local production. Higher levels of imports are particularly damaging when developed countries maintain artificially high levels of production and then sell surpluses abroad at prices below their cost of production, a practice known as "dumping."³ Dumping can be caused by direct payments by a State to its exporters (export subsidies); or by transnational commodity traders and processors who use their market power to push down the prices they pay to farmers and so increase their profits. In 2003, for instance U.S. wheat was sold abroad at an average price of 28% below what it cost to produce it and cotton was sold abroad at an average price of 47% below what it cost to produce it.⁴
- Fourth, few people can benefit from international agricultural trade because a handful of companies dominate world markets. In 1986 it was estimated that 85-90% of global agricultural trade was controlled by five companies.⁵ Around 75% of global cereals trade is controlled by two multinational companies – Cargill and Archer Daniels Midland (ADM). And whilst approximately 50% of world coffee supply comes from small-scale farmers, 40% of global coffee trade is controlled by four companies.⁶ To intensify matters, many of these companies, particularly in the U.S., are the beneficiaries of billions of dollars of State subsidies, which enable them to maintain and increase their share of world agricultural markets. Transnational commodity traders and processors, predominantly from developed countries, have the means to invest in the production, processing, transporting and trading processes, giving them a massive advantage over small-scale producers.

The key to realizing human rights and improving livelihoods in the rural sector is to develop policies from a people-centred perspective rather than a narrow economic-centered perspective. A human rights framework can help us define people-centred policies.

III The Human Rights Framework

Human rights are legally binding on all States of the world. Some of these rules are set out in countries' national laws, others are set out in international human rights treaties. All States in the world have ratified at least one of these treaties, which include the *International Covenant on Civil and Political Rights* (ICCPR), the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) and the *Convention on the Rights of the Child* (CRC).⁷

Other recent international commitments affirming human rights relevant to agriculture include the Millennium Development Goals in which all States of the world emphasized their commitment to combat poverty, hunger and disease.⁸ In 2004, the 188 members of the Food and Agriculture Organization (FAO) adopted Voluntary Guidelines on the Right to Food.⁹

Many internationally-recognized rights are affected by agricultural trade policy, including the right to life, to food, to health, to work and to be free from discrimination. Human rights law requires States to respect, protect and fulfil human rights. In relation to the right to food, for instance, the obligation to “respect” means that the State should not take actions that deprive people of their existing access to adequate food. The obligation to “protect” means that the State should enforce appropriate laws to prevent third parties, including powerful people and corporations, from depriving individuals of their access to adequate food. Finally, the obligation to “fulfil” means that the State should identify vulnerable groups and implement policies to ensure their access to adequate food by facilitating their ability to feed themselves. As a last resort, the Government is also required to provide adequate food to those who cannot feed themselves. As the UN Special Rapporteur on the Right to Food has noted, it is also fundamental that participation, accountability and access to effective remedies be ensured at all times and at all levels of the implementation of the right to food.¹⁰

Box 4: International Human Rights Instruments (extracts)

Universal Declaration of Human Rights (UDHR) states that “everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care.” (Article 25)

International Covenant on Civil and Political Rights (ICCPR) guarantees the right to life and states that “in no case may a people be deprived of its own means of subsistence.” (Articles 1 and 6)

International Covenant on Economic, Social and Cultural Rights (ICESCR) guarantees an adequate standard of living, housing, work, food and health. (Articles 6, 11 and 12)

Convention on the Rights of the Child (CRC) recognizes the right of every child to an adequate standard of living, as well as the obligation of States to combat malnutrition. (Articles 24 and 27)

Convention on the Elimination of Discrimination Against Women (CEDAW) requires countries to take action to guarantee women's human rights, and focuses on the particular problems of rural women, including participation in development planning and access to adequate living conditions and health care. (Articles 3 and 14)

Some rights such as the right to life must be implemented immediately. Others, such as those to food and to health, can be realized progressively. Progressive realization means that States must move as expeditiously as possible towards the realization of the rights. To this end they must use “the maximum of available resources,” which refers both to the resources available within a State and those available from the international community through international cooperation and assistance.¹¹ States also have international and extraterritorial human rights obligations, for instance through ensuring that their own policies do not impact negatively on the enjoyment of human rights in other countries, and through ensuring that activities or decisions of an international organization of which they are a member are human rights-consistent. Human rights standards come with a range of procedures for their implementation and people are able to turn to the courts, or to international redress mechanisms, when they are not able to enjoy their rights.

The human rights framework provides useful tools for approaching economic and trade policy-making. Human rights’ emphasis on the needs of the most vulnerable members of society, and on prevention of discrimination, provide a people-centred yardstick against which proposed policies can be measured. Moreover, human rights require that States, at the very least, have a policy in place towards the realization of human rights. This means that any proposed policies must be measured against the likelihood of improving the lot of the poorest and most vulnerable. In other words, the human rights framework provides support for the view that there must be assessment of the likely impacts of trade policies, something many public-interest and development advocates have been consistently calling for in recent years. The international mechanisms for implementation and supervision can be seized by groups, States or individuals, and are further tools for holding economic actors accountable when domestic processes fail to promote or protect human rights.

IV The WTO and Agricultural Trade Liberalization

The WTO Agreement on Agriculture (AoA), which came into force as part of the WTO Agreement in 1995,¹² does not adopt a people-centred approach to agriculture trade policy-making. Instead it has entrenched liberalized, export-oriented agricultural trade policies, which benefit large-scale producers and food traders. The AoA does contain provisions that would allow WTO Members to institute a fairer and more people-centred agricultural trading system, but these provisions are largely undefined and underused.

This backgrounder focuses on the AoA. But the AoA must be looked at in conjunction with other factors, such as IMF and World Bank policies, and bilateral and regional trade agreements that many countries are now engaged in. These are all part and parcel of a broad agenda promoting liberalization and forsaking people and their rights.

1. The Agreement on Agriculture – main obligations

According to the Marrakesh Agreement establishing the WTO, the institution’s aims are to raise living standards, ensure full employment and increase incomes.¹³ As part of the WTO, the AoA is meant to further the WTO’s aims by “establishing a fair and market-oriented agricultural trading system.”¹⁴ The AoA is structured around three “pillars:” market access, domestic support and export subsidies.

- **Market Access:** The AoA aims to increase international trade of agricultural produce by reducing border obstacles to trade such as taxes and duties, commonly known as tariffs. This pillar also requires countries to abolish restrictions on the quantity of agricultural goods entering their markets, known as “quantitative restrictions.” During the negotiations that led to the AoA, all “non-tariff” barriers to trade, such as health standards and packaging requirements, had to be converted into tariffs, a process known as “tariffication.”
- **Domestic Support:** The AoA defines domestic support as all types of government support to farmers, ranging from subsidies for producing specific products or guaranteed prices, to agricultural infrastructure and research. Developed countries are the major providers of domestic support and pay their farmers billions of dollars each year. The stated objective of the AoA’s domestic support pillar was to reduce the amount of money going into production of farm goods; in other words, to reduce subsidies that distort farmers’ decisions about what and how much they will produce. The AoA divides domestic support into three categories, set out in three so-called “boxes,” each of which is subject to different WTO requirements.

Amber Box subsidies are considered to be the most trade distorting. Their amount is measured on the basis of an “Aggregate Measure of Support” (AMS), which attempts to calculate all the financial factors that influence a farmer to produce a certain product. The AoA required industrialized country Members to reduce their amber box subsidies by 21% by 2003, and developing country Members to reduce them by 13.3% by 2005.

Blue Box subsidies are allowed, permitting countries to make direct payments to farmers if the payments are linked to programmes that limit the amount of production. These subsidies do not need to be reduced and can be increased.

Green Box subsidies are assumed not to affect production levels. The box includes payments linked to environmental programmes, pest and disease control, infrastructure development and domestic food aid. It also includes direct payments to producers if those payments are not linked to current production and prices, known as “decoupled payments.” The WTO does not require reduction of green box subsidies, and allows them to be increased.

- **Export Subsidies:** These are government payments that cover some of the cost of doing business for firms that export produce. The AoA lists export subsidies that WTO Members have to reduce, and bans the introduction of new subsidies.

2. The Agreement on Agriculture – people-centred provisions?

The AoA contains provisions that could protect particular countries, or groups of people within countries, from the harmful effects of liberalization. These include Non-Trade Concerns, Special and Differential Treatment, the Special Safeguard (SSG), and the Marrakesh Decision on Net-Food Importing Developing Countries. Although these are not implemented in a way that ensures protection of livelihoods and human rights, they do offer openings within the existing structure of trade rules through which WTO Members can meet their human rights obligations.

- In its preamble, the AoA states that it should be implemented with regard for “**Non-Trade Concerns,**” including food security, rural development, rural livelihoods and the need to protect the environment. However, what non-trade concerns mean in practice, how they should be implemented into the AoA or what the human rights dimensions of these could be, has not been developed or implemented by WTO Members.
- **Special and Differential Treatment (SDT)** is an important feature of all WTO agreements including the AoA. SDT is intended to grant developing countries more flexibility in how they implement WTO rules, in recognition of the disadvantages they face in the world trading system. The AoA, for example, exempts developing countries from domestic support reduction commitments for low-income farmers, to encourage rural development. At the Fourth WTO Ministerial Conference, in Doha, Qatar in 2001, Members agreed that: “SDT for developing countries shall be an integral part of all elements of the negotiations (...) so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development.”¹⁵ However, developed countries consistently fail to honour SDT commitments and aggressively fight to weaken such provisions in WTO agreements. The resulting mechanisms are often weak, such as longer implementation periods and lower reduction rates on agreed commitments, or useless, such as unlimited spending allowances for countries that face unsustainable debt levels and chronic budget shortfalls. Moreover, developing countries that have joined the WTO in recent years have been given only limited access to SDT.
- **The Special Safeguard (SSG)** is a mechanism open to countries that underwent tariffication to provide temporary protection to domestic farmers when there are sudden surges of imports or falls in world prices. This could be a vital mechanism to protect local farmers because it provides domestic markets with some protection from dumping, even if it does not protect from chronic dumping. A major shortcoming of the SSG though, is that it is only available to 21 developing countries: many developing countries did not have as many non-tariff barriers as developed countries, and therefore did not undergo the tariffication process.
- **Special attention to food needs of least developed countries (LDCs) and net food-importing developing countries (NFIDCs).** The negotiators that crafted the AoA acknowledged that the AoA would have negative impacts on LDCs and NFIDCs. They therefore adopted the 1994 *Marrakesh Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least Developed and Net Food-Importing Developing Countries*, as part of the WTO Agreement. This Decision provided for compensation for LDCs and NFIDCs should they be negatively affected by higher food prices or reduced food aid following implementation of the AoA. Many studies concurred that after the AoA was adopted, LDCs and NFIDCs were increasingly forced to buy food on commercial terms, while their incomes were declining.¹⁶ Nevertheless, Members have failed to properly implement the Decision.

V How Does the AoA Affect Human Rights?

From a human rights perspective the AoA has four key failures: first, its export-oriented approach puts the emphasis on expanding production and exports rather than improving the livelihoods of those involved in agricultural production; second, the AoA fails to tackle the market power of transnational commodity producers and traders; third, the inadequacy of the rules legitimizes and institutionalizes dumping; and fourth, the AoA locks developing countries into an unlevel playing field.

1. Promotes exports rather than livelihoods

The AoA's approach to agriculture is based on the ideology of trade liberalization. It entrenches the "right to export" rather than human rights. The AoA is designed to open markets worldwide and expand trade. This export-oriented approach does not guarantee improvements in people's livelihoods. In fact, it benefits the privileged minority that have access to resources, infrastructure, credit and foreign markets.

2. Fails to tackle corporate control

Trade liberalization has increased the market power of transnational commodity traders and processors, while taking power away from the producers. The AoA contributes to the consolidation of corporate power by ignoring the dominant role that a handful of large companies play at all levels of the food system.

Companies gain an increased share of the market by consolidating and acquiring productive resources and by extending their activities beyond simply producing. Cargill, for example, runs a huge financial services unit, a seed and fertilizer business, is one of the top three beef producers in the U.S. and runs a worldwide transportation business. With a business like this, known as a vertically integrated business, Cargill is more interested in high sales volumes and in keeping inputs cheap for its more profitable livestock and grain processing operations. The market power of companies such as Cargill leave producers as price-takers, forced to accept whatever price Cargill and companies like it are willing to pay. Farmers, the weakest link in the chain, are left accepting prices below their cost of production year after year and cheap produce is dumped on world markets, whilst corporate profits rise.

Box 5: Farmers, the weakest link in the corporate chain

Farmers in Mexico and the Philippines who depend on maize for their livelihoods, do not compete with U.S. farmers but with the companies that export the maize to their countries.

This threatens livelihoods of farmers all over the world, leaving them either impoverished or dependent on subsidies to earn a living.

This situation would not raise human rights concerns if governments were able to discipline corporate behaviour and ensure that farmers who sell to large companies are able to negotiate a fair price. However, many governments are simply unwilling or unable to control the activities of companies, and WTO rules do not help them do this.

3. Allows dumping to continue

The WTO does have rules designed to prevent dumping. The AoA for instance aims to address dumping by decreasing State subsidies that affect production and prices, but this does not stop dumping for a number of reasons. On the one hand, the complex box system has enabled developed countries to keep a large portion of their State subsidies. On the other hand, the AoA rules do not address the root causes of dumping, namely excess production and the market power of corporations.

In addition, it is complicated and time-consuming for countries to take action against dumping. For instance, a country must have domestic anti-dumping laws in place in order to impose import duties on dumped products, and many developing countries have no such laws, and their only recourse is then to turn to the WTO dispute settlement system, which can take up to four years to issue a ruling. This is further complicated by the fact that WTO Members are still struggling to define which payments to farmers should be allowed by WTO rules.

Dumping is a human rights issue because farmers in developing countries are unable to protect themselves against dumping. Coupled with the lack of social safety nets, this has caused serious human rights concerns since the implementation of the AoA, particularly for small-scale farmers who lose their livelihoods due to competition from subsidized, dumped imports.

The human rights framework calls for governments to implement safety nets, and requires of States that they implement policies that pay particular attention to the needs of the poor.¹⁷ Whilst there are certainly cases where governments are simply unwilling to implement such policies, liberalization commitments made at the WTO (and at the World Bank and the IMF), also prevent countries from being able to design and determine their own national policy strategies which might address the problems at the border, for instance through raising tariffs, or imposing import quotas to protect against import surges.

Box 6: Volumes and value of imported products

A 1999 FAO study of 14 countries showed that all experienced a rise in food imports, and therefore of food import bills between 1995-98 compared with previous years. The cost of food imports more than doubled for India and Brazil and increased by 50-100% for Bangladesh, Morocco, Pakistan, Peru and Thailand. In India, the volume of vegetable oils imported increased almost seven-fold during the 1995-98 period as compared with 1990-94, and palm oil imports increased 646% from 249 000 to 1 609 000 tonnes. The volume of cereals imported into India increased by 332% during the same period. In Brazil, wheat and wheat flour imports increased by 43.3% between 1990-94 and 1995-98. Dairy product imports increased by 194.6%. As a result, the share of domestic production in the consumption of these products decreased, and dependency on imports intensified.

Source: FAO, *Agriculture, Trade and Food Security, Vol. II*, Rome: FAO, 2001.

4. Locks developing countries into an unlevel playing field

Since the 1980s World Bank and IMF structural adjustment programmes have pressured developing countries to reduce most of their trade barriers. This has created the situation existing today, which sees many developing countries with low border protection measures, little scope for domestic price controls and little possibility to provide subsidies due to their limited resources. Conversely, developed countries are not subject to World Bank and IMF liberalization requirements to reduce and eliminate trade barriers and they have the financial means to provide support to their farmers.

Instead of seeking to redress the imbalance, WTO rules have locked all countries into the existing unfair system, which is characterized by many developing countries having few trade barriers, leaving them little space to re-introduce trade policies to support their agriculture sector.

From a human rights perspective, this situation is problematic, as it deprives developing countries of the policy space they need to implement policies to protect their people, for instance to take steps to manage the flow of imports, to prevent dumped products from abroad or to maintain domestic price controls. In particular, it can hinder developing countries' ability to take steps to respect, protect and fulfil human rights.

Countries' obligations to cooperate internationally for the realization of human rights means that richer countries have an obligation to ensure that practices within their jurisdiction do not prevent other countries from taking the steps necessary to respect, protect and fulfil human rights.

Another dimension of this obligation is that through their membership and influence over the policies of organizations such as the IMF and the World Bank, developed countries must take steps to ensure that IMF and World Bank policies are not undermining countries' ability to fulfil their duties in the area of human rights. UN human rights treaty supervisory bodies have recognized this on several occasions. In 2000, for instance, the Committee on Economic, Social and Cultural rights encouraged "the Government of Italy, as a member of [the] IMF and the World Bank, to do all it can to ensure that the policies and decisions of those organizations are in conformity with the obligations of States parties to the Covenant, in particular the obligations [...] concerning international assistance and cooperation."¹⁸

Box 7: A UN human rights body's view of IMF and World Bank programmes human rights effects

"...some aspects of structural adjustment programmes and economic liberalization policies introduced by the Government of Egypt, in concert with international financial institutions, have impeded the implementation of the Covenant's provisions, particularly with regard to the most vulnerable groups of Egyptian society."

Source: UN, Committee on Economic, Social and Cultural Rights, *Concluding Observations: Egypt*, E/C.12/1/Add.44, 2000.

Finally, more and more people are arguing that international organizations themselves have obligations. Thus, the IMF, the World Bank and the WTO would be considered to bear responsibility for sustaining such an unequal and inequitable pattern of liberalization worldwide.

VI Some Simple Steps Towards Ensuring Fair Agricultural Trade Rules

1. Support stronger and simpler rules to prevent and counter dumping

The WTO should improve and strengthen the definition of dumping so that products are considered dumped when they are sold below their cost of production. In addition, importing countries should have the ability to immediately impose countervailing and anti-dumping duties where goods are sold abroad for less than the cost of production.

Groups working on agricultural policy also advocate the publication of annual full-cost of production estimates for OECD countries. They are also calling on governments to develop a more thorough and transparent methodology to measure the extent of dumping, and make the relevant data publicly available in a timely way. Human rights advocates can support efforts to this end by recalling governments' obligations relating to freedom of information, and participation in policy-making, as well as bringing to bear the human rights arguments that plead against dumping itself.

2. Take non-trade concerns into account and use safety nets

Reflecting and incorporating non-trade concerns into agricultural trade policy can change the economic-centered perspective of the WTO and bring in social, environmental and cultural concerns. A people-centred approach can help distinguish between non-trade concerns that serve to protect already powerful interests and those that promote livelihoods and human rights.

Some countries have attempted to include non-trade concerns in agriculture negotiations.

Industrialized countries like Japan, Norway and Switzerland have called for protection of the domestic agriculture sector to be allowed, on the grounds that agriculture is “multifunctional,” i.e. plays a cultural and environmental role in addition to serving food protection.

Developing countries, grouped in the “Alliance for Special Products (SP) and a Special Safeguard Mechanism (SSM),” known as the G33, advocate WTO recognition of SPs and the SSM. The SSM would allow developing countries to protect their domestic markets against volatility and sudden import surges. They would be exempt from new tariff reduction commitments on SPs. SPs have not yet been defined but would probably be determined according to criteria of food security and rural development needs. Although it is still unclear what the SSM and SPs will look like, they could be a welcome mechanism through which to promote fairer and more people-centred agriculture rules.

Gender groups are looking at how gender considerations can be reflected in the definition of SPs and the SSM. This is an approach human rights advocates could usefully learn from and support.¹⁹

3. Make Special and Differential Treatment provisions more meaningful

Developing countries have long insisted that existing SDT mechanisms are insufficient to address the disadvantages they face. In response, they have tabled 88 proposals at the WTO to improve SDT, which are currently under review. Human rights advocates could usefully support these efforts, for instance through contacting their trade ministry or trade negotiators in Geneva to ensure that the July 2005 deadline is met.

4. Conduct Impact Assessments

Article 20 of the AoA calls for the current WTO agriculture negotiations to be informed by a review of how the AoA had worked by the end of 2000. Assessment of the effects of the AoA subsidy reduction commitments was to be central to the review. The review was also to focus on experience with non-trade concerns including food security, rural development and protection of the environment. Although an “Analysis and Information Exchange” process took place at the time in the WTO, its approach was narrow and is generally considered not to have fulfilled the Article 20 review requirement.

Human rights law requires States to monitor the enjoyment of human rights in their country, and to ensure that policies contribute towards the realization of human rights. Given that liberalization, as defined and implemented through the WTO, has caused retrogression from the enjoyment of human rights, it is essential that the human rights impacts of any new negotiations be assessed before entering into new commitments. National governments, as well as on the WTO, IMF and World Bank, should be called upon to ensure that such assessments take place.

Given that WTO Agreements, including the AoA, primarily regulate relations between States and not within them, a human rights approach to assess agriculture trade liberalization would be of particular value, since it would deal with questions of how resources are allocated within a country. Human rights can support efforts to ensure that any countries’ trade policy commitments do not result in discrimination between groups within the country.

5. Tackle corporate control

Trade and development organizations are calling for better management of the power of transnational corporations (TNCs). Meanwhile, an increasing number of human rights advocates are focusing on the human rights obligations of private business. The human rights framework is indeed a powerful tool for holding private corporate actors accountable for the harmful human effects of their activities.

6. Ensure coherence between governments’ economic and human rights obligations

States’ human rights obligations cannot be discarded when countries are negotiating at the WTO or with the IMF or World Bank. Whilst the WTO is now paying more attention to the question of policy coherence, it focuses almost exclusively on coherence between countries’ trade, finance and economic policies. This view of coherence needs to be broadened to ensure

that countries do not enter into trade or financial agreements that undermine their social policies or their ability to meet their human rights obligations.

Human rights, trade and development advocates could contact their ministries responsible for trade, as well as their negotiators in Geneva and call on them to ensure that human rights obligations are upheld in any new trade agreements. Human rights advocates could usefully increase efforts to share information and coordinate activities with those working to promote development to put pressure on States to share information and coordinate activities across ministries, in order that trade rules do not forsake people and their rights.

VII Conclusion: A Vision for a Global Food System

The majority of poor people in the world live in rural areas. To promote true development and fulfil human rights, States must implement policies that have an explicit focus on the needs and capabilities of these people. This does not preclude the expansion of trade, as trade can be a valuable tool for development. It does however, require that trade policy be clearly people-centred. Trade seen as an end in itself will not improve enjoyment of human rights or contribute to lasting economic or social development.

As it stands, the WTO Agreement on Agriculture fails to provide an adequate framework for agriculture that is consistent with human rights. Instead, its focus on liberalizing the agriculture sector worldwide and has led to an agreement that risks displacing poor farmers who have no other options, and leaving them prey to the behaviour of commodity traders and agribusinesses.

Trade and development NGOs as well as farmers groups have started their quest to develop and advance their vision of a fairer global food system, one that promotes human rights and guarantees food security, livelihoods and sustainable development. Human rights groups should join this process. In the meantime, this Backgrounder offers an initial approach to understanding the main problems with the agriculture trade system, and ideas for steps to improving it.

Notes

¹ FAO, *Some Issues Relating to Food Security in the Context of the WTO Negotiations on Agriculture*, Discussion paper, Geneva, July 2001.

² Bill Vorley, *Food, Inc. – corporate concentration from farmer to consumer*, UK Food Group, 2003. <www.ukfg.org.uk>

³ There are various definitions of dumping in the WTO. We use the definition that compares costs of production with sales price. The one most commonly used in the WTO compares domestic sale prices with world prices.

⁴ See Institute for Agriculture and Trade Policy (IATP), *United States Dumping on World Agricultural Markets*, 2004. <www.iatp.org>

⁵ Although the UN is no longer empowered to keep track, estimates suggest that the number is similar today. Nick Butler, *The International Grain Trade: Problems and Prospects*, New York: St Martin's Press, 1986.

⁶ Bill Vorley, see Note 2 above.

⁷ United Nations (UN), *International Covenant on Civil and Political Rights*, 1966, *International Covenant on Economic, Social and Cultural Rights*, 1966, *Convention on the Rights of the Child*, 1989. For the full text of these and other treaties, and the list of States parties, see <www.ohchr.org/english/law/index.htm>

⁸ UN, *Millennium Development Goals*, 2000. <www.un.org/millenniumgoals>

⁹ FAO, *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security*, 2004. <www.fao.org/righttofood>

¹⁰ See UN, *Report submitted by the Special Rapporteur on the right to food to the General Assembly*, A/59/385, 2004.

¹¹ UN, Committee on Economic, Social and Cultural Rights, *General Comment No. 3 (1990), The Nature of States Parties' Obligations*. <www.ohchr.org/english/bodies/cescr/comments.htm>

¹² For the text of the AoA, as well as details on WTO negotiations and disputes relating to agriculture, see the WTO website Agriculture section, at <www.wto.org/english/tratop_e/agric_e/agric_e.htm>. For a presentation from a human rights perspective, see 3D/FORUM-ASIA, *Practical Guide to the WTO*, 2004. <www.3dthree.org/en/complement.php?IDcomplement=36&IDcat=4&IDpage=14>

¹³ WTO, *Marrakesh Agreement Establishing the WTO – Preamble*.

¹⁴ WTO, *Agreement on Agriculture – Preamble*.

¹⁵ WTO, *Doha Ministerial Declaration – paragraph 15*.

¹⁶ Panos Konandreas, et al., *Continuation of the Reform Process in Agriculture: Developing Country Perspectives*, 1998.

¹⁷ See UN, Committee On Economic, Social and Cultural Rights, *Poverty and the International Covenant on Economic, Social and Cultural Rights*, E/C.12/2001/10, 10 May 2001.

¹⁸ UN, Committee on Economic, Social and Cultural Rights, *Concluding Observations: Italy*, E/C.12/1/Add.43, 2000.

¹⁹ For descriptions of this work, see the website of the International Gender and Trade Network, at <www.igtn.org/Research/GenderTrade.htm> For other papers on how SPs and SSMs can be defined in a people-centred way see the website of the International Centre for Trade and Sustainable Development <www.agtradepolicy.org>

Further Contacts and Sources of Information

ActionAid <www.actionaid.org.uk>

Agribusiness Accountability Initiative www.agribusinessaccountability.org

Bilaterals.org <www.bilaterals.org>

Catholic Agency for Overseas Development (CAFOD) www.cafod.org.uk

Christian Aid <www.christian-aid.org.uk/indepth/trade.htm>

Food First Information Action Network <www.fian.org>

International Gender and Trade Network <www.igtn.org>

Oxfam International <www.oxfam.org>

Southern and Eastern African Trade Information and Negotiations Institute (SEATINI)
<www.seatini.org>

Third World Network (TWN) <www.twinside.org.sg>

UN Food and Agriculture Organization <www.fao.org>

UN Special Rapporteur on the Right to Food, Research Unit on the Right to Food
<www.righttofood.org>

Via Campesina <www.viacampesina.org>

World Trade Organization <www.wto.org>

WWF International <www.panda.org/trade>

Further Reading

3D → THREE, Integrating Human Rights into the Future of Agriculture, Report of a Workshop, 2004. <www.3dthree.org/en/page.php?IDpage=21&IDcat=5>

ActionAid, *WTO Agreement on Agriculture, Briefing Paper*, 2003.
<www.actionaid.org.uk/index.asp?page_id=794>

ActionAid, *Power Hungry: Six reasons to regulate global food corporations*, 2005.
<www.actionaid.org.uk/wps/content/documents/power_hungry.pdf>

FAO, *Agriculture, Trade and Food Security: Issues and Options in the WTO Negotiations from the Perspective of Developing Countries*, Volume 1, 1999.

Bipul Chatterjee, *Trade Liberalisation and Food Security*, 1998. <www.cuts-international.org/1998-6.htm>

FIAN and Via Campesina, *Violations of peasants' human rights: A Report on Cases and Patterns of Violation*, 2004.

Hiramani Ghimire and Ratnakar Adhikari, *Agricultural Trade Liberalization and its Impact on South Asia*, SAWTEE and CUTS-CITEE, 2001.

Institute for Agriculture and Trade Policy, *World Trade Organization Agreement on Agriculture Basics*, WTO Cancun Series Paper No 2, 2003.

Sophia Murphy, *Managing the Invisible Hand – Markets, Farmers and International Trade*, Institute for Agriculture and Trade Policy, 2002. <www.tradeobservatory.org/library.cfm?RefID=25497>

James R. Simpson and Thomas J. Schoenbaum, 'Non-trade Concerns in WTO Trade Negotiations: legal and legitimate reasons for revising the "box" system,' *International Journal of Agricultural Resources, Governance and Ecology*, Vol. 2, Nos. 3/4, 2003.

UN, Commission on Human Rights, *Report of the UN Special Rapporteur on the Right to Food to the Commission on Human Rights*, 2004. <www.ohchr.org/english/issues/food/annual.htm>

Bill Vorley, *Food, Inc. – corporate concentration from farmer to consumer*, UK Food Group, 2003. <www.ukfg.org.uk>

This publication is the first in a series designed to analyze the World Trade Organization (WTO) Agreement on Agriculture from a human rights perspective. As a Backgrounder it focuses on the main characteristics of agricultural trade, and the relevant global rules. It points out what the main human rights concerns are, and suggests some possible actions human rights advocates can undertake. Future publications in this series will focus on specific issues in the agriculture trade negotiations.

The **THREAD** [*Trade Human Rights and the Economy: Action upDates*] series is a topical information and action-alert series on trade, designed for people concerned with human rights. Thread publications are designed to provide human rights groups with the information tools to enable them to ensure that trade and trade rules promote and protect human rights.

3D → Trade - Human Rights - Equitable Economy promotes collaboration amongst trade, development and human rights professionals, to ensure that trade rules are developed and applied in ways that promote an equitable economy.

The Institute for Agriculture and Trade Policy promotes resilient family farms, rural communities and ecosystems around the world through research and education, science and technology, and advocacy.

3D → Trade
→ Human Rights
→ Equitable Economy

Maison des Associations
Rue des Savoises 15
1205 Genève - Switzerland
T +41 22 320 21 21 – F +41 22 320 69 48
www.3dthree.org – info@3dthree.org

Institute for Agriculture
and Trade Policy
2105 First Avenue South
Minneapolis MN 55404 USA
Phone (612) 870-0453
Fax (612) 870-4846
iatp@iatp.org
www.iatp.org

