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THE COMMITMENT



INTERNATIONAL DIMENSIONS OF THE RIGHT TO ADEQUATE FOOD

THEMATIC STUDY 7

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Foreword

To celebrate the 10th anniversary of the adoption of the *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security* (hereinafter “Right to Food Guidelines”), the FAO Right to Food Team has prepared seven thematic studies that document and highlight progress made over the last ten years, while also capturing the challenges ahead in relation to major issues covered by the Right to Food Guidelines (RtFG). The studies are helpful in reflecting upon current gaps and areas of improvement for future implementation of the guidelines and valuable for every person or organization that works in the context of national food security and is interested in realizing the right to adequate food by implementing the RtFG.

The thematic studies¹ cover the following topics:

- 1. THE CURRENT STATUS OF THE RIGHT TO ADEQUATE FOOD IN FOOD SECURITY AND NUTRITION POLICY DESIGNS**
Guidelines 2, 3, 5, 6 and 13
- 2. INSTITUTIONAL FRAMEWORK FOR THE RIGHT TO ADEQUATE FOOD**
Guidelines 5, 18
- 3. LEGAL DEVELOPMENTS IN THE PROGRESSIVE REALIZATION OF THE RIGHT TO ADEQUATE FOOD**
Guidelines 7
- 4. NATURAL RESOURCES GOVERNANCE AND THE RIGHT TO ADEQUATE FOOD**
Guideline 8
- 5. SOCIAL PROTECTION AND AN ENABLING ENVIRONMENT FOR THE RIGHT TO ADEQUATE FOOD**
Guidelines 8, 14
- 6. NUTRITION, EDUCATION AND AWARENESS RAISING FOR THE RIGHT TO ADEQUATE FOOD**
Guidelines 10, 11
- 7. INTERNATIONAL DIMENSIONS OF THE RIGHT TO ADEQUATE FOOD**
Guideline 19, Part III

¹ The views expressed in these thematic studies are those of the authors and do not necessarily reflect the views or policies of FAO. The conclusions given are considered appropriate at the time of preparation. They may be modified in the light of further knowledge gained.

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List of acronyms

AAA	Accra Agenda for Action
AAP	Accountability to Affected Populations
ACP	African, Caribbean and Pacific Group of States
ADB	Asian Development Bank
AfDB	African Development Bank
AFSI	L'Aquila Food Security Initiative
AoA	Agreement on Agriculture
CFA	Comprehensive Framework for Action
CFS	Committee on World Food Security
DAC	Development Assistance Committee
EBRD	European Bank for Reconstruction and Development
EIB	European Investment Bank
EPAs	Economic Partnership Agreements
ESAPs	Enhanced Structural Adjustment Programmes
EU	European Union
FAC	Food Aid Convention
FASC	Food Assistance Convention
FDI	Foreign Direct Investment
GAFFSP	Global Agriculture and Food Security Program
GATT	General Agreement on Tariffs and Trade
HIPC Initiative	Heavily Indebted Poor Countries Debt Initiative
HRBA	Human rights-based approach
HRMs	Human Rights Mainstreaming Mechanism
IASC	Inter-Agency Standing Committee
ICESCR	International Covenant on Economic, Social and Cultural Rights
IDB	Inter-American Development Bank

IFAD	International Fund for Agricultural Development
IMF	International Monetary Fund
LDCs	Least Developed Countries
MDGs	Millennium Development Goals
MDRI	Multilateral Debt Relief Initiative
OECD	Organization for Economic Co-operation and Development
PRAI	Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources
RtFG	Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security (Right to Food Guidelines)
SDGs	Sustainable Development Goals
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNDG	Development Group
VGGT	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security
WTO	World Trade Organization

1. INTRODUCTION

The *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security* (Right to Food Guidelines) provide practical tools that focus primarily on national responsibilities and actions for the implementation of the right to food. However, in recognition of the actual and potential national-level effects of international economic transactions and development and humanitarian cooperation, the Right to Food Guidelines (hereinafter RtFG) further lay down a human rights-based framework for relevant international measures, actions and commitments (FAO 2005: II, 19, III). They encourage the international community to take action in support of an enabling international environment for the realization of the right to food at the national level, by referring to Article 56 of the Charter of the United Nations (UN) that requires international cooperation for the universal respect for, and observance of, human rights. This Thematic Study takes stock of the progress made and challenges faced over the last ten years in the international dimensions of the right to food, as they relate to international trade and investment, development and humanitarian cooperation policies, and development loans and debts.

2. INTERNATIONAL TRADE AND INVESTMENT

International trade and investments can have direct or indirect as well as positive or negative influences on the progressive realization of the right to adequate food. In line with the RtFG, this section focuses on trade and investment in agriculture, as the sector is most directly related to the availability of and access to safe and nutritious food at all times at national, subnational and household levels.

2.1 What would a human rights-based approach to international trade and investment mean?

Trade and investment issues are covered by several provisions of the RtFG, notably in Guideline 4 on market systems, and Guideline 19 and part III on international measures, actions and commitments. The guidelines offer recommendations on how national trade policies can be made sensitive to the realization of the right to food, and how trade regimes can be designed in a way that secures the necessary policy spaces for a country to take actions towards the realization of the right to food. Trade negotiations and disputes particularly in the area of agriculture dominated the official trade agenda before, during and after the Uruguay Round that led to the establishment of the World Trade Organization (WTO) in 1994. Two important issues that found their way into the Agreement on Agriculture (AoA) are the problems of access to industrialized markets by developing countries due to tariff and non-tariff barriers, and their use of trade distorting (export) subsidies, which have adversely affected the incomes of producers in developing countries.

The AoA foresaw a substantial liberalization of agricultural markets through the adoption of stricter rules on the use of subsidies, tariffs, import restrictions and other agricultural policy measures, with exceptions made for least developed countries (LDCs) under special preferential treatment. The AoA rules and standards are contained in similar form in many bilateral or regional trade agreements: for example, in the Economic Partnership Agreements (EPAs) that the European Union (EU) has negotiated with developing countries. This new framework of rules and regulations can limit the policy choices of

states. It may constrain their ability to raise tariffs and limit certain imports as policy options, even if this could be reasonable or necessary to protect the right to food of a certain group. Granting a special and differential treatment to developing countries is considered to be one way of dealing with the problem of shrinking policy spaces, as in the Sao Paulo Consensus that is cited in the RtFG. In sum, a human rights-based approach (HRBA) to trade policies would require the following:

- Trade policies need to be organized in a fair manner so that all countries can benefit from trade, and so the income and the availability of resources for countries can grow. Fairer trading opportunities would allow not only for better outcomes for the producers but also increase the resources available for use in implementing state obligations under the right to adequate food (FAO, 2005: III.6 and III.7).
- Trade revenues do not automatically reach those people whose right to food is most violated and who are most in need of support. The RtFG therefore call for the adoption of measures at the national level that ensure that “the widest number of individuals and communities, especially disadvantaged groups, can benefit from opportunities created by competitive agricultural trade” (FAO, 2005: II.4.6).
- States are also urged to implement commitments expressed in several occasions to limit the potential negative impact of their own trade policies on other countries and their producers, particularly in relation to improvements in market access, the elimination of export subsidies, and the substantial reduction in trade distorting domestic support (FAO, 2005: II.4.8, III.9). The guidelines recognize the limits of separate state actions and the need for a supportive international framework where other states and the international community play an important role.
- States need to maintain an adequate policy space in international trade agreements in order to guarantee that all individuals and communities, especially disadvantaged groups, can benefit from opportunities created by agricultural trade as well as trade in other sectors (FAO, 2005: II.4.6). To achieve this goal, special and differential treatment for developing countries, as well as the recognition of “non-trade concerns”, shall be integrated into trade agreements by fully taking into account the development needs for food security and rural development (FAO, 2005: III.9). At the national level, “states should take into account the shortcomings of market mechanisms in protecting the environment and public goods” (FAO, 2005: II.4.10).

At the time when the RtFG were drafted, agricultural investment did not have the same prominence as it has today. Nevertheless, the guidelines encouraged states to create an economic environment supportive to investments, to promote productive investments that improve the livelihood of the poor and the hungry in a sustainable manner, and to improve the functioning of their markets (FAO, 2005: II.2.4, II.4.1, II.12.4). The issue received much more attention after the food price crisis of 2007/2008 and the accompanying increase in the prices of agricultural products. Since then, much investment has taken place, sometimes with negative effects on individuals or groups in the target countries, especially in cases of large-scale land acquisitions in countries with weak institutions and poorly protected tenure rights.² The need to regulate agricultural investments has become more and more apparent. Investment agreements that provide privileges and protection to investors and their dispute settlement mechanisms do not often take human rights into account. More human

2 For example, see CFS. 2011. Policy Roundtable: How to increase food Security and smallholder-sensitive investment in agriculture. 17–22 October, Item V, CFS:2011/4 (available at <http://www.fao.org/docrep/meeting/023/mc066E.pdf>).

rights-based frameworks have been adopted in recent years. The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT), adopted by the Committee on World Food Security (CFS) in 2012, address investments in agricultural resources. They elaborate further the provisions of the RtFG on the importance of guaranteeing secure access to productive resources for individuals and groups, especially disadvantaged groups (FAO, 2005: II.8).³ Currently, the CFS is negotiating principles for responsible agricultural investments that will address the relevant obligations of states and the responsibilities of other actors. When the RtFG were adopted in 2004, the international discussion about responsibilities of actors other than states, such as private national and transnational businesses, was not as advanced as it is today with the unanimous adoption of the UN Guiding Principles on Business and Human Rights in June 2011 by the Human Rights Council (OHCHR, 2011).

In a manner similar to trade policies, a HRBA to international investment and investment regulation frameworks would require the following:

- States need to guarantee that national policies respect their human rights obligations under the right to food and contribute to food security and rural development.
- At the same time, states need to maintain the necessary policy space in order to guarantee that all individuals and communities, especially vulnerable groups, can benefit from investments in agricultural resources and production.
- The negotiation, approval and implementation of investment agreements should take into account the obligations of states in human rights, including the right to food.

2.2 Overview of trade and investment issues relevant to the right to food

International trade can be beneficial to domestic food availability and access to adequate food in various ways, including lowering consumer prices for food products, generating additional income and purchasing power for producers of exportable products, increasing productivity through competition and market possibilities, and decreasing inflationary expectations.⁴ Trade in food products can also have potential negative influences, including dependency and supply vulnerability that are disruptive to domestic industry; increased influence of large transnational corporations resulting in the risk of abuse of market powers; and new environmental and health challenges, for example, through deforestation and changes in diets (to lower nutritional value products), respectively.

The RtFG provide a frame of reference to discuss trade issues from the right to food perspective. They have been used successfully in some areas, while the right to food considerations still play a minor role in policy-making around trade policies in many areas. For example, the right to food discourse has played an important role in the reduction of export subsidies in the EU. The following trends can be observed when looking back at what has happened since the adoption of the RtFG:

3 See the Thematic Study *The Right to Food and Natural Resources: Taking stock of ten years since the adoption of the Right to Food Guidelines*.

4 Food items account for a significant share of the consumer price index in developing countries. Imports can therefore result in lower expectations for inflation (Brooks, Ferranini and Go, 2013).

1. Export subsidies have been substantially reduced, particularly in the EU. This can be linked to pressure from the agricultural products exporting countries (Cairns Group), and also to analysis of the negative impacts of the subsidies on farmers in other countries, including on their right to food.
2. According to the UN Special Rapporteur on the Right to Food, the AoA maintains and legitimizes structural imbalances between countries, despite the partial preferential treatment accorded to developing countries and LDCs (De Schutter, 2009). Some developing countries, especially in sub-Saharan Africa, rely more on agricultural commodities than on manufactured goods for their export revenues. Their average agricultural tariffs, especially for value-added agricultural products, remain at much higher levels than tariffs for non-agricultural goods. It is argued that the restriction against introducing new subsidies, while generally reducing existing ones, and the categorization of subsidies disproportionately benefits those (developed) countries which already have high levels and varieties of measures in place. While arrangements such as the “everything but arms” initiative of the EU have reduced the influence of trade distorting measures for LDCs by allowing them to make duty-free and quota-free exports, relatively high tariffs have been maintained on developing country export products such as cotton, sugar, cereals and horticulture (De Schutter, 2009).
3. It is widely agreed that a functioning smallholder agriculture is crucial for food security in many developing countries and for the realization of the right to food that is recognized in international agreements. On the other hand, while international trade has been recognized as a major driver of overall growth, the benefits it provides to smallholders in developing countries, who constitute the majority of the world’s hungry population (especially in rural areas), has not been fully clear. In this connection, some experts have called for more protection and positive support for the most vulnerable farmers in developing countries and, in this context, for granting more flexibility to developing countries in agricultural policy (see De Schutter, 2009).
4. Trade policy debates have been changing substantially since the food price crisis. According to an evaluation of The World Bank Group’s response to the crisis, “economists generally agree that the surge in food prices resulted from a combination of factors: higher fertilizer and fuel prices, diversion of agricultural land for feedstock crops driven by biofuel production, reduction of grain stocks in some OECD countries and China, adverse weather conditions in some countries, re-emergence of grain diseases such as wheat rust in major producing countries, and stagnation in investments to increase grain productivity in developing countries” (IEG, 2013).
5. The trade-based food security strategy promoted by the World Bank since 1986 has faced new challenges. The World Bank strategic recommendation to concentrate production on the most valuable products and to import staple food from the world market led to a substantial increase in net food importing countries, from 20–30 at the beginning of the 1980s to more than 100 in 2005. A large number of these are LDCs. These countries have been affected considerably by the price increase and the use of export restrictions following the food price crisis of 2007/2008 (Cardwell and Kerr, 2014). After the crisis, they voiced criticism of trade liberalization (for instance, through the Lesotho Communication) by emphasizing the importance of local production for food security and their right to introduce protective measures as a response to the food shortage they had endured (Lopez, 2012).

6. The call for more and better-defined special and differential treatment of developing countries has been on the agenda of the WTO negotiations and all other bilateral and multilateral trade negotiations.

2.3 Trade and investment trends during the past ten years with relevance to the right to adequate food

Mainly as a result of the trade-based food security strategy, many countries became net food importers and reduced investments in domestic food production over the last decades. Agricultural sectors in developing countries were restructured towards non-food exports. Food imports were regarded as a low-cost policy to ensure food security. Consequently, the value of world agricultural exports doubled, mainly driven by developed countries, between 1990 and 2004 (Ng and Ataman Aksoy, 2008). The change was especially noticeable in LDCs, where the average import level reached approximately 20 percent of total food consumption, with many countries experiencing much higher levels (UNCTAD, 2009).

During the world food price crisis of 2007/2008, those countries especially struggled because they were confronted with increasing prices for foodstuffs and could not rely on sufficient domestic production. As the food crisis unfolded, national governments responded with a range of different policies, including export restrictions (taxes and bans) and import barriers aimed at reducing domestic consumer prices, as well as social protection programmes to maintain consumers' purchasing power for commodities (see FAO, 2014). Due to trade restrictions, fewer commodities reached the international market, which further increased their prices (Cardwell and Kerr, 2014). Although export restrictions are generally banned by the General Agreement on Tariffs and Trade (GATT), Article XI 2(a) allows exceptions for temporary prohibitions or restrictions "to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting contracting party" (GATT, 1986). Populations of low-income, net food importing countries where people spend large shares of their expenditure on food, and those countries with high producer-to-consumer price transmission – as is the case for example in East Africa – were increasingly affected by high and volatile food prices, and struggled to meet their basic food needs during the crisis (FAO, IFAD and WFP, 2013). Governments of net food importing developing countries tried to mitigate the effects on the poorer segments of their populations, resulting in high national expenditures for agricultural subsidies. At the same time, the demand for food aid increased, but could only be partially met because of high commodity prices and limited financial food aid resources (Cardwell and Kerr, 2014).

So far, there has been limited substantive work and discussion on these issues at the WTO. Especially within the ongoing Doha Round, there is a call for greater research and debate on possible impacts of trade reforms in the post-crisis environment of tight grain supply, low global food stocks, and volatile prices (UNSR, 2011). The food crisis has galvanized the debate and disagreement on the impact of agricultural trade and trade liberalization on food and nutrition security, particularly the argument that agricultural trade liberalization hampers the ability of governments to ensure that the poor have adequate food.⁵ While there is a good degree of agreement on the need for functioning markets and

5 See http://www.wto.org/english/news_e/news10_e/agri_18nov10_e.htm
http://www.wto.org/english/forums_e/debates_e/debate18_e.htm

trade regulations that ultimately benefit food insecure groups, there is still considerable disagreement about the best way to achieve this, as well as the level of risk taking that is necessary. Evidence is scarce on the benefits of the liberalized agricultural trade and investment regime for people whose right to food is still not realized.

When addressing the WTO agriculture delegations and Secretariat staff in 2010, the UN Secretary-General's Special Representative on Food Security and Nutrition, David Nabarro, emphasized that "Trade is a fundamental part of the food security equation" while at the same time stressing that "trade policies need to increasingly be assessed in their impact on food security (and some would even say in their potential to favour the realization of the right to food of people): food security can offer a privileged perspective to appreciate the real cost of subsidies and bans in higher income and/or producing countries; or to frame the debate about (small) food emergency reserve, or to promote debate on coherence between agricultural and trade policies."⁶

The world food price crisis of 2007/2008 further marked a turning point in international agricultural investment trends. The decades before the crisis were characterized by under-investment, especially in developing countries. Agricultural investments as a global issue gained new momentum when wealthier, net food importing countries, reacting to escalating commodity prices during the late 2000s, aimed to increase the security of their long-term food supply through investments in resource abundant countries. This trend is expected to continue owing to a range of factors, including population growth, changing consumption patterns, growing food consumption rates, and an increase in the demand for biofuel. The large potential of the agricultural sector, the expectation of increasing land and natural resource prices, and poor market performance of more traditional assets during the financial crisis have attracted speculation on agricultural markets, further increasing the price volatility of commodities (FAO, 2012c).

The need for increasing investments in agriculture has long been recognized, and underinvestments (together with misinvestments) were seen as one of the major constraints to agricultural and rural development (World Bank, 2008). Following the food price crisis of 2007/2008, the importance of agricultural investments to enhance domestic production and reduce dependency on increasing and longer-term volatility of prices on international markets gained momentum on the international agenda. While still emphasizing the benefits of trade for food supply, stakeholders acknowledge that investment in domestic production and smallholder farmers is an important and effective strategy to ensure food availability and accessibility, especially in rural areas. In fact, studies show that farmers in low- and middle-income countries are the biggest (on-farm) investors in agriculture, and they must be central to any strategy aimed at increasing the quantity and effectiveness of agricultural investment (FAO, 2012b). Additionally, investment in agriculture has the potential to reduce the vulnerability of food supplies to shocks, such as price increases on the international market (World Bank, 2008; FAO, 2012c).

Foreign direct investment (FDI) in land for agricultural production might complement such domestic investment efforts. In many cases, large-scale investments in land, e.g., for the production of energy crops and/or food for export markets, may provide opportunities. But, they often compete with food production for the national market or with the interests and livelihoods of local smallholders (von Braun and Meinzen-Dick, 2009). Some have indicated cases where these deals have harmed local people,

6 See http://www.wto.org/english/news_e/news10_e/agri_18nov10_e.htm

arguing that the burden of proof lies on anyone who says that they are beneficial.⁷ Although reliable data are still difficult to compile, recent findings of the Land Matrix Initiative indicate that competition over land is increasing (Land Matrix Global Observatory, 2014), thus threatening to compromise the rural population's right to adequate food. Such competition is heightened by the increasing acquisition of land for midsize farms that are run by domestic investors.⁸

Consequently, the main challenge is to maximize the benefits of FDI in agriculture while minimizing the risks, possibly through inclusive business models with the participation of smallholders (FAO, 2012c). However, many developing countries (where the issue is most crucial) often do not have the necessary financial capacities to adequately invest in agriculture, and commercial bank lending in the sector only accounts for less than 10 percent in sub-Saharan Africa (FAO, 2012c). Additionally, the share of official development assistance (ODA) for agriculture fell from 10 percent to 4.9 percent in 2011 (OECD, 2013b). With all their risks, FDIs often remain to be the main source of investment in agriculture.

Several stakeholders have adopted, implemented or initiated processes towards the adoption of guidelines that regulate investments related to the right to food. These include: the Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources (PRAI) that have been adopted by World Bank, the UN Conference on Trade and Development (UNCTAD), the International Fund for Agricultural Development (IFAD) and FAO; the VGGT; the Food and Agriculture Business principles of the UN Global Compact Initiative; and the CFS Principles for Responsible Investment in Agriculture and Food Systems (CFS-RAI), which are being negotiated within CFS. All these initiatives are an expression of the fact that international frameworks still remain an important element of the realization of the right to adequate food. They are all based on or make reference to the RtFG as one of their foundational documents.

2.4 Bilateral trade and investment agreements and regional partnership agreements

Bilateral trade and investment agreements and regional partnership agreements support international efforts to strengthen imports and exports among countries and country groups. Concentrating on the example of EPAs, this section identifies some major issues related to the RtFG that also arise in the overall trade and investment discourse. The EPAs are trade and development agreements negotiated between the EU and six regions of the African, Caribbean and Pacific Group of States (ACP) engaged in a regional economic integration process. EPAs go beyond conventional free trade agreements, focusing on ACP development, taking into account their socio-economic circumstances, and including cooperation and assistance to help ACP countries implement the agreements. They opened up EU markets fully and immediately (unilaterally by the EU since 1 January 2008), but allowed ACP countries 15–25 years to open up to EU imports while providing protection for the sensitive 20 percent of imports.⁹ Without directly referring to the RtFG, EPAs take up some of their provisions, such as the acknowledgement that trade can play a major role in the promotion of economic development and in the alleviation of poverty (FAO, 2005: III.6), and the aspect of “less than full reciprocity” (FAO, 2005: III.9).

7 See <http://insights.ifpri.info/2012/10/land-rush/#sthash.RarEYBrg.dpuf>

8 For example, see Muyanga, M., Jayne, T., Chapoto, A. & Sitko, N. 2014. Under the radar screen: The rapid rise of emergent farmers in Africa. Annual World Bank Conference on Land and Poverty, Washington DC, 24–27 March, 2014 (available at <https://www.conftool.com/landandpoverty2014/sessions.php>).

9 See <http://ec.europa.eu/trade/policy/countries-and-regions/development/economic-partnerships>

From the start of the negotiations, EPAs were considered to be controversial; even now, 17 ACP countries have yet to ratify or implement the agreements that were concluded with the EU in 2007. The current EPA exempts beneficiary countries from customs duties and quotas, thus improving the competitiveness of their products on the EU market. The deadline of 1 October 2014 has been fixed for all ACP countries to switch to new, interim economic partnership agreements with the EU. Many stakeholders see important risks associated with EPAs, including significant tariff revenue losses, loss in policy space, threats to local industries, unemployment, serious disruption of existing or planned customs unions, and the displacement of existing regional trade and production capacities.

In any case, an excessive focus on trade policy has distracted attention from the more important question of the domestic initiatives that ACP governments should take to ensure that agriculture can play its role as an engine of growth and poverty reduction. The potential of EPAs to improve food security can only be realized by focusing on greater agricultural investment and improved institutions (Matthews, 2010). Other debates, such as the ones at the WTO Forum,¹⁰ confirm that agricultural productivity as well as issues of access to food and utilization of food need similar attention. This underlines the importance of national policy spaces and a comprehensive approach to achieving the progressive realization of the right to food, as already stipulated by the RtFG.

2.5 State obligations and regime conflicts: potential conflicts between human rights obligations and legal obligations under other international treaties

The right to adequate food is protected in international human rights treaties, including the International Covenant on Economic, Social and Cultural Rights, under which states undertake some obligations. The RtFG refer to the Covenant and describe in more detail what State Parties should do to respect, protect, promote and fulfil their obligations relating to the right to food (FAO, 2005: I.17). States further undertake obligations under treaties in other areas of international law, such as international environmental law and international trade and investment agreements. Obligations assumed under treaties in different policy areas may be in conflict with each other, and the question arises as to which obligation prevails. Political scientists call such conflicts “regime conflicts” – based on the definition of the term “regime” in international relations as a set of norms, standards and institutions that govern a particular policy field. The consideration of human rights as sources of the primary obligations of states arguably under the UN Charter and other international instruments¹¹ may provide guidance on how to solve actual and potential conflicts between competing obligations. Nevertheless, the dispute on regime conflicts continues. The following examples illustrate conflicts in different policy fields:

- Trade policies implemented by one state might infringe upon the enjoyment of the right to food in other states. For example, the use of export subsidies can adversely affect and sometimes destroy the access of farmers, in particular smallholders, to local or national food markets and therefore destroy their key income source.

10 See http://www.wto.org/english/forums_e/debates_e/debate18_e.htm

11 Charter of the UN, arts 55, 56 and 103. See also the Vienna Declaration and Programme of Action, World Conference on Human Rights in Vienna on 25 June 1993; UN Guiding Principles on foreign debt and human rights (A/HRC/20/23), Principles 6-9 and 81-83.

- Trade agreements limit the policy choices of countries. For example, they influence rules for supporting farmers or certain products. They also regulate food safety provision. They might thus come into conflict with policies vital to implementing the right to food. One recent example is the discussion at the Ninth Ministerial Conference of the WTO in Bali in December 2013 on whether subsidizing the procurement of food products for use in developing countries' public distribution schemes is in compliance with the relevant trade rules. The Conference agreed on a provisional (four years) "peace clause", under which member states agreed not to initiate WTO disputes against those breaching the subsidy limits as part of a food security programme; but the dispute is likely to reopen in the future. Such conflicts may also arise in relation to policies for consumer protection or the use of tariff measures to protect domestic food production.
- Bilateral or multilateral investment treaties may create similar problems. They often restrict the policy options of countries because investors may threaten to take cases against the countries to arbitral tribunals, such as the International Centre for the Settlement of Investment Disputes (ICSID), which are routinely provided for in the treaties. One example is the case of the indigenous community Sawhoyamaxa versus Paraguay, which went to the Inter-American Court of Human Rights in 2006. It involved an indigenous community claiming access to parts of their traditional land. This land was owned by a foreign citizen and could have been distributed to the indigenous community under Paraguayan agrarian reform law, because the land had not been used for several years. However, the government could not implement the law because it was warned that expropriation of the land would be a breach of the Germany-Paraguay bilateral investment treaty. Thus Paraguay could not expropriate the land as this could have led to international arbitration (Oxfam, 2011).
- In the case of debt policies, states have had to meet conditions that adversely affected their potential policy choices to implement the right to food. The structural adjustment programmes (see section 4.1) are often designed in such a way that support to vulnerable or marginalized groups is not possible.

To date, the design of macroeconomic policies and the negotiations of trade, investment and loan agreements seldom take human rights obligations seriously. In order to accord human rights obligations the importance they deserve, they need to be taken into account when other policies are designed, adopted, implemented and monitored. The UN Special Rapporteur on the Right to Food and the Independent Expert on foreign debt and human rights have applied such human rights-based approaches to trade, investment and debt policies and demanded their application in the design and negotiations of international business and loan agreements (UN Human Rights Council, 2011a; UN Human Rights Council, 2012).

The link between trade and investment agreements has clearly been made by the UN Guiding Principles on Business and Human Rights. The unanimous adoption of the Guiding Principles represents a global consensus that states must shape their trade and economic policy in a way that consistently protects human rights. They must take "appropriate steps to prevent, investigate, punish and redress" human rights violations caused by economic activities. The Guiding Principles explicitly deal with international trade and investment agreements and make clear that states are expected to consistently fulfil their obligation to protect human rights across all these areas. The Guiding Principles call on states not to enter trade or investment agreements that prevent them "from fully implementing new human rights legislation, or put them at risk of binding international arbitration if they do so."

The Guiding Principles caution states to reserve and maintain “adequate policy and regulatory ability to protect human rights under the terms of such agreements”.¹² This clear formulation has been agreed to by states seven years after the adoption of the RtFG. Nevertheless, the same problems of “regime conflicts” already existed during the formulation of the RtFG, which encouraged states to ensure, *inter alia*, that “food, agricultural trade and overall trade policies are conducive to foster food security for all” (FAO, 2005: II.4.7, III). Over the years, efforts have been made to address some aspects of the conflicts through commitments made in various fora and the adoption of guidelines in some areas. Last but not least, the conflicts between human rights and trade and investment undertakings also happen in more ad hoc or diffuse arrangements that are not supported by formal agreements between states, or in agreements between states and companies. The need to make sure that human rights obligations are not affected by trade and investment agreements should apply to such undertakings as well.

3. DEVELOPMENT AND HUMANITARIAN ASSISTANCE POLICIES

The RtFG lay down human rights-based practical tools that consider the achievement of food security and nutrition (FSN) to be an outcome of the realization of the right to food. They are based on the principles of equality and non-discrimination, participation and inclusion, accountability and the rule of law, as well as the universality, indivisibility, interrelatedness and interdependence of all human rights (FAO, 2005: pp 1-7). As part of their requirement to create an international enabling environment for the realization of the right to food, the RtFG specify that states should undertake international (financial and technical) cooperation to support the progressive realization of the right to food (FAO, 2005: III). FSN have occupied an important place in international cooperation, especially since the 2007/2008 food price crisis. In a human rights-based approach (HRBA) to international cooperation, human rights inform the goals and processes of the cooperation, which should seek to develop the capacities of “duty-bearers” to meet their obligations and/or of “rights-holders” to claim their rights (UNDG, 2003). The approach may be implemented through human rights mainstreaming, human rights-based dialogue, and support to specific human rights.

The integration of a HRBA in the policy and practice of development and humanitarian assistance is quite valuable for the realization of the right to adequate food. The implementation of the approach can improve targeting and the effectiveness and sustainability of interventions against food insecurity and malnutrition by addressing critical governance issues. With this hypothesis, and based on the relevant provisions of the RtFG, the present section examines the extent to which the global agenda and donor policies on international development and humanitarian cooperation have integrated the HRBA or the right to food perspectives over the last ten years.

3.1 Human rights-based approach in the global discourse on development cooperation

The RtFG call on donor states not only to take action to support and refrain from impeding the realization of the right to food, but also to improve the quality and effectiveness of aid (FAO, 2005: II.19, III). They require that human rights become a legitimate concern and priority objective of the international community and the UN in the context of international cooperation. These requirements have been

12 See also UN Guiding Principles on foreign debt and human rights (A/HRC/20/23), Principles 81-83.

progressively reflected in various international cooperation commitments that have been made within donor circles, as well as within the broader UN platform.

In the 2005 Paris Declaration on Aid Effectiveness, donors and developing countries entered partnership commitments around the key principles of ownership, harmonization, alignment, managing for results and mutual accountability, some of which are enshrined in the RtFG (FAO, 2005: III.12). However, the declaration focused on the mechanics of aid delivery and failed to explicitly address human rights, despite their importance in guiding policy dialogue and shaping the contents of development cooperation programmes based on globally agreed normative frameworks (OECD, 2007). The 2008 Accra Agenda for Action (AAA) responded to this gap by explicitly recognizing the fundamental importance of human rights for achieving enduring impact on the lives and potential of poor women, men and children, and for designing and implementing development policies and programmes. This brought the aid effectiveness agenda in line with the rights-based aid effectiveness requirement of the RtFG, although the AAA retained the progress indicators and targets of the Paris Declaration that were not directly linked to human rights. The Busan Partnership for Effective Development Co-operation of 2011 further cemented the commitments to using a HRBA by recognizing human rights as commonly shared and foundational principles for a multi-stakeholder cooperation. However, it is not so obvious how the inclusion in the Busan Partnership of new donors and the private sector, some of which do not have clear human rights positions and obligations,¹³ respectively, will affect the human rights commitments. The practical implementation of the “aid effectiveness” principles that integrate a HRBA can facilitate the progressive realization of the right to food by providing developing states with the policy spaces to set their own priorities, and by taking the rights of target populations into account. While there have been improvements over the years in terms of paying attention to the policies and strategies of partner countries, more has to be done in terms of coordination of donor actions and transparency and accountability, especially towards “beneficiary” rights-holders.

As part of the work of coordination, harmonization and alignment of UN development activities, the UN Development Group (UNDG) adopted the 2003 Common Understanding on HRBA to Development Cooperation and Programming, which accepted human rights as the goals and guides of cooperation and the bases of capacity development (UNDG, 2003). At the time of the adoption of the RtFG, the HRBA was getting increasing attention although this was not adequately reflected in key policy and resource decisions (UN General Assembly, 2005a). The 2005 World Summit committed to address national food security in participatory ways, and also resolved “to support the further mainstreaming of human rights through the UN system” (UN General Assembly, 2005b). The UNDG human rights mainstreaming mechanism (HRM), established in 2009 to further strengthen system-wide coherence, collaboration and support for countries, began serving as a good platform to address the challenges of integrating the HRBA. As an active member of the UNDG, FAO works on mainstreaming the right to food and engages in common initiatives and experience sharing with other participants in the HRM.

13 This is, however, not to ignore the fact that the human rights responsibilities of private actors such as transnational companies have received increasing attention also in the context of international cooperation. For example, see OHCHR. 2011. *Guiding Principles on Business and Human Rights. Implementing the United Nations “Protect, Respect and Remedy” Framework*. New York and Geneva; and OECD. 2012. *Recommendation of the Council on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence*. Paris.

Although human rights occupied an important place in the Millennium Declaration of 2000, the Millennium Development Goals (MDGs) were not explicitly aligned with the HRBA, despite their close relationship with the rights to food, education, health, etc. (UN General Assembly, 2000). However, in a way that reflects later developments including the RtFG, the implementation of the MDGs has been related to the fulfilment of human rights. The 2010 UN Summit on the MDGs, for example, reaffirmed the right of everyone to have access to safe, sufficient and nutritious food as part of the commitment to accelerate progress towards eradicating hunger (UN General Assembly, 2010).

The 2007/2008 food price crisis led to the launching of a number of international governance and financing initiatives relating to food security. The UN High-Level Task Force (HLTF) on the Global Food Security Crises brought together the UN System, the Bretton Woods institutions, the Organisation for Economic Co-operation and Development (OECD) and the WTO. It agreed on the Comprehensive Framework for Action (CFA) that laid down a twin-track approach combining immediate and long-term responses to the crisis. While the CFA clearly recognized the effect of the crisis on the right to food, the particular importance of the right to food in the global food security architecture was highlighted by the UN Secretary-General's appeal to add the right to food as a third track – as a basis for analysis, action and accountability (UN, 2009). The HLTF's recommendation to increase investment in FSN was embraced by the 2009 World Summit on Food Security, which further adopted the Rome Principles for Sustainable Global Food Security including country ownership, strategic coordination to improve governance, a comprehensive twin-track approach, including the right to food, and transparency and accountability (FAO, 2009).

The HLTF can further serve as a global governance platform to promote coherence of norms, policies and practices relating to FSN among the participating institutions. This would supplement other structures that contribute to the creation of an international enabling environment for national food security. These include: the reformed (in 2009) CFS, which became an inclusive multi-stakeholder platform for greater policy convergence, with a vision of a world free from hunger where countries implement the right to adequate food; the Global Partnership for Agriculture and Food Security that was launched as a multi-stakeholder network at the meeting of the HLTF in January 2009, with the objectives of ensuring coherence among policies that have an impact on food security as well as promoting research and funding for food security; the 2010 multi-stakeholder Scaling-Up Nutrition movement founded on the principle that all people have a right to food and good nutrition; and the Global Food Security Cluster created in 2010 within the Inter-Agency Standing Committee (IASC) on the coordination of humanitarian assistance to support country-level clusters to respond to food security challenges in humanitarian crises. Such global initiatives complement regional frameworks such as the Comprehensive African Agriculture Development Programme, the food security pillar of which is based on principles that include protecting the right to food and focusing on the most vulnerable (NEPAD, 2009).

The strategic focus of the CFS on the right to food has been carried into later consensus instruments that it adopted through consultative processes. In 2012, the CFS adopted the VGGT, which aims to improve the governance of tenure towards achieving food security for all, with an emphasis on vulnerable and marginalized people, and to support the progressive realization of the right to food. In 2013, it adopted the Global Strategic Framework for Food Security and Nutrition in order to improve coordination and guide synchronized action by a wide range of stakeholders based on a HRBA, including in the implementation of the RtFG. As indicated in section 2, it is currently conducting negotiations

on guidelines on responsible investment in agriculture and food systems that support the progressive realization of the right to food.

The G8 and G20 groupings have also made FSN-related commitments that are of particular relevance to the right to food in terms of improving governance systems and availing resources. The G8 Summit of 2009 announced the L'Aquila Food Security Initiative (AFSI), which integrated the Rome Principles for Sustainable Global Food Security and helped raise US\$22 billion for investment in agriculture and FSN over a period of three years (AFSI 2012 Report). The AFSI pledges also led to the creation of the Global Agriculture and Food Security Program (GAFSP) trust fund, which is a World Bank-run, multilateral financing mechanism for food security that has helped raise US\$1 billion as of March 2013 (Page, 2013). The AFSI and GAFSP have reportedly benefited people in countries such as the People's Republic of Bangladesh, the Plurinational State of Bolivia, the Republic of Haiti, the Republic of Kenya, the Republic of Mozambique, the Togolese Republic and the Socialist Republic of Vietnam with investments that build capacity in areas that are pertinent to the realization of the right to food.¹⁴ In 2011, the G20 adopted the Action Plan on Food Price Volatility and Agriculture, which is committed to strengthening food security by improving global and national agricultural policies and coordination mechanisms, based on a clear recognition of the right to adequate food. The plan led to the launch of the Agricultural Market Information System, which is coordinated by FAO and the International Grain Council. The integration of the right to food perspective in the foregoing initiatives and frameworks is in line with the HRBA requirements of the RtFG. Their implementation contributes to the realization of the right to food at the national level.

The 2012 UN Conference on Sustainable Development (Rio+20) further reaffirmed the commitment of states to the right of everyone to adequate food and to be free from hunger and to enhancing FSN in accordance with the Rome Principles for Sustainable Food Security (UN General Assembly, 2012). The attention to the right to food in the Conference was boosted by the launch by the UN Secretary General of the Zero Hunger Challenge, with the aim of ensuring that every man, woman and child enjoy their right to adequate food. The Conference established an Open Working Group to prepare a set of sustainable development goals (SDGs), which identified focus areas that include human rights together with FSN (OWG, 2014). Human rights and the HRBA principles of participation, accountability, non-discrimination, empowerment and the rule of law are also an integral part of the discussions on the post-2015 development agenda (OHCHR, 2012b). Specialized agencies contribute to this process: FAO, WFP and IFAD have jointly proposed five targets and 22 indicators that are closely related to the right to food, especially the targets of ending malnutrition and ensuring that all people have access to adequate food (FAO, IFAD and WFP, 2014).

The increasing integration of the HRBA and the right to food in the global development discourse and the buildup of global governance and financing mechanisms after the 2007/2008 crisis are all important developments pertinent to the international dimensions of the RtFG. There is clear interdependence among many of the governance mechanisms in which FAO plays a central role. For instance, the CFS enables the CFA, which was updated to better reflect the interaction among stakeholders and to deal with long-term structural issues, whereas it provides the political and scientific arm to the GAFSP

14 See AFSI, 2012. Report (available at <http://www.state.gov/documents/organization/202922.pdf>); information on the GAFSP (available at <http://www.future-agricultures.org/other-news/7446-global-agriculture-and-food-security-program#.U4cu6nKS7k>).

(Page, 2013). The HLTF members have committed to the implementation of the Zero Hunger Challenge, and FAO coordinates the work on technical and policy issues. However, more has to be done in terms of ensuring effective coordination among national and international stakeholders as well as rationalizing the global level efforts to create an international enabling environment that can efficiently support the realization of the right to food at the national level. The integration of HRBA and the right to food perspectives in the post-2015 development agenda is invaluable because global development goals that are based on universally accepted human rights standards help move away from the dominant narrow focus on economic growth to an approach that aims to advance equality and non-discrimination and to ensure accountability and coherence in different policy regimes.

3.2 The integration of a human rights-based approach in bilateral and multilateral development cooperation policies and practices

The implementation of the RtFG would require that the increasing global understanding on the importance of HRBA to development cooperation and food security governance be translated into more specific international cooperation policies and operational frameworks. A review of donor approaches and experiences over the past decade shows that most bilateral and multilateral donors have adopted, or were in the process of adopting or refining, policies that integrate a HRBA or human rights principles as either binding requirements or aspirational goals (OECD and World Bank, 2013). Many of these agencies, including those of the Republic of Austria, Canada, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Finland, the Kingdom of the Netherlands, New Zealand, the Kingdom of Norway, the Kingdom of Spain, the Kingdom of Sweden, and the United Kingdom of Great Britain and Northern Ireland, as well as the European Commission and a few UN agencies, have adopted, re-issued or refined their human rights policies or policies based on HRBA in the years since 2004.¹⁵ Among international financial institutions, human rights form part of the overall mandates of the European Bank for Reconstruction and Development (EBRD) and the European Investment Bank (EIB).

The mode of articulation of the HRBA in development policies ranges from general reaffirmation of commitment to human rights to making them part of the objectives or preconditions of development cooperation.¹⁶ Moreover, some donor policies define human rights as subcategories of broader governance objectives while others identify human rights, including the right to food, as separate

15 For example, see Federal Ministry for Economic Cooperation and Development. 2011. *Human Rights in German Development Policy: Strategy*. Bonn, Germany; Netherlands Ministry of Foreign Affairs. 2011. *Responsible for Freedom: Human Rights in Foreign Policy, April*. The Hague, Netherlands; Ministry for Foreign Affairs of Sweden. 2010. *Change for Freedom: Policy for Democratic Development and Human Right in Swedish Development Cooperation, 2010–2014*. Stockholm; Norwegian Ministry of Foreign Affairs. 2011. *Norway and the United Nations: Common Future, Common Solutions*. Meld. St. 33 (2011–2012). Oslo; Ministry for Foreign Affairs of Finland. 2012. *Finland's Development Policy Programme*. Helsinki; Austrian Development Cooperation. 2006. *Human Rights Policy Document*. Vienna; Ministry of Foreign Affairs and Cooperation of Spain. 2005. *The Master Plan for Spanish cooperation 2005–2008*. Madrid; Ministry of Foreign Affairs of Denmark. 2012. *The Right to a Better Life: Strategy for Denmark's Development Cooperation*. Copenhagen; New Zealand Agency for International Development. 2009. *NZAID Human Rights Mainstreaming Guidelines*. Wellington; European Commission. 2011. *Increasing the impact of EU Development Policy: an Agenda for Change*. COM(2011) 637. Brussels; UNFPA. 2010. *Integrating Gender, Human Rights and Culture in UNFPA Programmes*. Policy Guidance Note. New York, USA; UNICEF. 2010. *The Approach of UNICEF to Capacity Development*. E/ICEF/2010/CRP.20, New York, USA.

16 See Finland's Development Policy Programme 2012; DFID. 2005. *Partnerships for Poverty Reduction: Rethinking Conditionality, a UK Policy Paper*. London; Minister of Justice of Canada. 2008. Official Development Assistance Accountability Act, S.C. 2008, C. 17. Quebec; EBRD. 2008. *Environmental and Social Policy*. London; and Council of Europe Development Bank. 2010. *Loan and Project Financing Policy*. Paris.

dimensions of development. The Master Plan for Spanish Cooperation (2005–2008, 2009–2012) identifies the right to food as a strategic perspective to the fight against hunger. Finland analyses the coherence of Finnish and EU policies that impact on food security and the right to food in developing countries under the objective it has clearly set in its 2012 development policy (OECD, 2013a). The 2013 Norwegian strategy on “food security in a climate perspective” is based on a clear recognition of access to adequate food as a human right, and aims to support the promotion of the right to food at the national level.

Some donor states justify the avoidance of human rights in development cooperation by their non-subscription to some binding human rights treaties, while others do not have clear positions on human rights. Some agencies, including The World Bank Group, the International Monetary Fund (IMF) and the African, Asian and Inter-American development banks, do not explicitly engage in human rights because of the alleged restrictions of their mandates against interference in and consideration of political issues. Nevertheless, human rights including the right to food are often affected by development cooperation programmes, and they are universally agreed standards that are not the same as politics. What HRBA requires in some cases is building on the principles of participation, non-discrimination, accountability, transparency, due diligence, do no harm and attention to vulnerable populations that are enshrined, for example, in the safeguard policies, performance standards and other operational documents of development banks.¹⁷ In practice, while some of the policies and standards relating to HRBA have been valuable, some evaluations have raised concerns about their effective implementation and “beneficiary” ownership (IEG, 2010).

As envisaged under the RtFG, the integration of HRBA in development cooperation policies is valuable for the progressive realization of the right to food. The commitments to the approach and the specific reference to the right to food in some policies are congruent with the requirements of the RtFG. The practical implementation of HRBA often raises challenges that may be difficult to capture in the relatively general policies and even in the more specific guidelines issued by some agencies. Monitoring and evaluation of the HRBA and right to food components of policies, in a manner that takes the views of “beneficiaries” into account, is quite important to improve the results of international cooperation and also to meet the largely unimplemented requirements of the RtFG (FAO, 2005: II.17, III.16). Post-2004 reviews of HRBA policies and practices identify gaps in terms of binding and systematic mechanisms of implementation, important institutional arrangements and resources, staff capacity, and external cultural and political context.¹⁸ These challenges need to be addressed for the effective implementation of HRBA in development cooperation related to FSN as well as other development issues.

17 See MIGA. 2013. *Performance Standards on Environmental and Social Sustainability*. Washington DC; IFC. 2012. *IFC Performance Standards on Environmental and Social Sustainability*. Washington DC; World Bank. 2005. *Environmental and Social Safeguard Policies*. Washington DC. See also Asian Development Bank. 2009. *Operational Plan for Sustainable Food Security in Asia and the Pacific*. Manila; Inter-American Development Bank. 2013. *Sector Framework Document on Agriculture and Natural Resources*. Washington DC; World Bank. 2010. *Demanding Good Governance: Lessons from Social Accountability Initiatives in Africa*. M. McNeil and C. Malena, eds. Washington DC.

18 For example, see UNICEF. 2012. *Global Evaluation of the Application of the Human Rights-Based Approach to UNICEF Programming*. Final Report – Volume I. New York, USA; Ministry for Foreign Affairs of Finland. 2014. *Reducing Inequalities: A human rights-based approach in Finland’s development cooperation with special focus on gender and disability – A case study on Ethiopia and Kenya*. Commissioned study conducted by H. Katsui, E. Ranta, S. Yeshanew, G. Musila, M. Mustaniemi-Laakso and A. Sarelin. Institute for Human Rights, Abo Akademi University; Norwegian Agency for Development Cooperation and Swedish International Development Cooperation Agency. 2011. *Supporting Child Rights: Synthesis of Lessons Learned in Four Countries*, by A. Tostensen, H. Stokke, S. Trygged and K. Halvorsen. Joint evaluation 2011:1, Sida, Stockholm.

3.3 Human rights-based approach in the policy and practice of humanitarian assistance

The discussions in the previous sections largely apply to humanitarian assistance. The RtFG further require food aid policies to follow HRBA and to take into account immediate and long-term national efforts to ensure food security, the needs of especially vulnerable groups, and the importance of food safety and local capacity, benefits and cultures (FAO, 2005: II.15, III.13). This section briefly examines the extent to which these requirements have been integrated in international agreements, policies and standards relating to food assistance and food crises.

The right to food or HRBA was not integrated in the 1999 Food Aid Convention (FAC). With its limited but important membership in terms of the volume of global food aid, the FAC was criticized for its failure to be primarily oriented toward those most impacted by hunger, as well as its failure to guarantee the participation of and transparency towards recipients and civil society. In addition to recognizing all forms of food assistance, the successor Food Assistance Convention of 2012 (FASC) clearly reaffirms the primary responsibilities of states for the realization of the right to food under the RtFG. Stressing its objective of addressing the food and nutritional needs of the most vulnerable populations, the FASC reiterates the requirements of the RtFG relating to food aid and adopts principles of food assistance that reflect a HRBA. How these changes affect the implementation of the FASC is yet to be seen as its enforcement began in 2014, but the advances in terms of alignment with the right to food and HRBA may comfortably be connected to the RtFG.

Similarly, the 1990 Food Aid Charter, adopted by a club of donor and partner states with the aim of minimizing the adverse effects of food aid, did not incorporate a right to food approach. In line with the developments over the years, the revised Charter for Food Crisis Prevention and Management in the Sahel and West Africa of 2012 included the right to adequate food as part of the strategic framework for food crisis prevention. While this provides a good starting point, whether the envisioned evaluations on the implementation of the Charter will flesh out the HRBA perspective is yet to be seen.

The HRBA has also been increasingly integrated in bilateral and multilateral humanitarian assistance policies and programmes in the last decade. A number of policies and strategies commit to either contributing to or ensuring respect for the human rights of affected populations.¹⁹ While HRBA perspectives do not often feature in monitoring and evaluation of humanitarian assistance, some evaluations show that human rights are difficult to apply in humanitarian response phases and conflict situations (due to the ad hoc nature and multiplicity of applicable frameworks) and that donors have made little progress towards promoting beneficiary participation.²⁰

The HRBA has further formed part of humanitarian standards and principles to which many agencies that implement humanitarian assistance policies and programmes subscribe. A good example is the commitment to “accountability to affected populations” (AAP), which was endorsed by the IASC in 2011

19 For example, see Australian Agency for International Development. 2011. *Humanitarian Action Policy*. Canberra; WFP. 2012. *WFP humanitarian protection policy*, WFP/EB.1/2012/5-B/Rev.1. Rome; European Commission. 2008. *European Consensus on Humanitarian Aid*, 2008/C 25/01. Brussels.

20 See European Commission. 2012. *Annual Report on the Implementation of the European Consensus on Humanitarian Aid*. Brussels; UNICEF. 2012. *Global Evaluation of the Application of the Human Rights-Based Approach to UNICEF Programming*. New York, USA; OECD. 2012. *Towards Better Humanitarian Donorship: 12 Lessons from DAC Peer Reviews*. Paris.

and includes the HRBA principles of accountability, transparency and participation. The AAP builds on the 2010 HAP Standard in Accountability and Quality Management, which is based on a human rights-based conception of accountability, and the 2004 Sphere Project: Humanitarian Charter and Minimum Standards in Disaster Response, under which the minimum standards in food security, nutrition and food aid are clearly based on the right to adequate food. FAO is one of those agencies which implement the AAP in their work in emergencies (FAO, 2012a). The application of the underlying principles in the above internationally agreed standards, which are congruent with the requirements of the RtFG in relation to humanitarian assistance, can go a long way in improving targeting, the effectiveness of programmes and projects, and the sustainability of their results.

4. DEVELOPMENT LOANS AND DEBTS

As part of their provisions on international cooperation, the RtFG require that developed and developing countries act in partnership to support efforts to achieve the progressive realization of the right to food, through technical cooperation, debt relief measures and ensuring the sustainability of debts, and development and humanitarian assistance (FAO, 2005: III). The relevance of these forms of cooperation to the right to food is significantly affected by the extent to which HRBA is pursued in international development and humanitarian policies. Like international trade and investments, development loans and debts can have direct or indirect, positive or negative influences on the progressive realization of the right to adequate food. This section analyses the trends over the last ten years in development loans and debt relief that are relevant to the progressive realization of the right to food.

4.1 Human rights issues in development loans and debt relief

The issue of development loans and debt relief is an issue of resources linked to the progressive realization of the right to food. This progressive realization is the third level of state obligations, i.e. the obligation to fulfil the right to food. The ICESCR also sets standards that qualify the obligation to fulfil. It requires states to use the “maximum of available resources” to progressively implement the right to food. Moreover, it requires focusing the use of resources primarily on the most vulnerable and marginalized groups in society. The obligation to fulfil can be further differentiated. At the first level, states should facilitate access to productive resources so that people can help themselves by using these resources (such as land for farming or pasture) or by finding work. In case someone is unable to provide for him- or herself, the state nevertheless has the obligation to directly provide either food or income through safety nets, inter alia for elderly or for orphans. The RtFG describe this obligation in a language very close to the understanding developed in General Comment No. 12 of the UN Committee on Economic, Social and Cultural Rights as “States Parties should promote policies intended to contribute to the progressive realization of people’s right to adequate food by proactively engaging in activities intended to strengthen people’s access to and utilization of resources and means to ensure their livelihood, including food security. States Parties should, to the extent that resources permit, establish and maintain safety nets or other assistance to protect those who are unable to provide for themselves” (FAO, 2005: I.17). In that sense, the progressive realization of the right to food depends on (i) using, securing and creating access to productive resources (FAO, 2005: II.8); (ii) support for vulnerable groups (FAO, 2005: II.13); and (iii) safety nets (FAO, 2005: II.14). Guideline 12 dictates that states use national financial resources

in a transparent and accountable manner in order to ensure that they are used in an adequate manner to fulfil the state obligations.

While the implementation of the obligation to progressively realize the right to adequate food is dependent on the use of national financial resources, it also depends on the availability of external resources. It is not an issue of national policies only. Under the RtFG, states are requested to “pursue external debt relief measures vigorously and expeditiously in order to release resources for combating hunger, alleviating rural and urban poverty and promoting sustainable development” (FAO, 2005: III.11). The RtFG further define a shared responsibility: “Creditors and debtors must share the responsibility of preventing and resolving unsustainable debt situations.” The text thus implies co-responsibilities by other states that are creditors, by international financial institutions and private banks, or by financial institutions.

To sum up, while the implementation of the state obligations to respect and protect require financial resources to a limited extent, the implementation of the obligation to fulfil does require the use of substantial resources. Moreover, it can require the use of certain policy measures which are of a distributive nature, such as safety nets. States should have adequate policy space to choose those policy measures most adequate to deal with situations where people cannot provide for themselves. Debt policies have often limited available resources, but their impact is even larger because conditions of debtors often severely restrict the policy options of states to implement their human rights obligations.

The high debt burden of many developing countries during the 1980s and 1990s was the background to the formulation of the pertinent provisions of the RtFG. As described earlier, the high debt burden was on the one hand limiting the possibility of states to pursue needed policies, e.g. maintaining safety nets. On the other hand, states were often forced to make substantial budget cuts, and were guided by debtors on how to spend their money through Structural Adjustment Programmes (SAPs). The first SAPs were very strict in their conditionality. Indebted states often lost many policy options because they were forbidden or excluded in the design of national budgets. The huge social impact of the first types of SAPs soon led to the formulation of Enhanced Structural Adjustment Programmes (ESAPs) already in 1987. These allowed for a more flexible use of the money in national budgets, particularly in allowing the use of public expenditures for spending on safety nets. Some years later, the ESAPs were further adjusted and called “adjustments with a human face”. Still, expenditures on safety nets were limited to being used only as interim measures until affected persons got back to work. The international financial institutions learned only gradually that they were being too prescriptive for state policies, forbidding the use of certain policy measures and thus hindering states from complying with their human rights obligations under the right to food or other rights (e.g. health or education). As a result, for example, the understanding of safety nets within international financial institutions had changed already during the drafting of the RtFG. This made it possible to draft the provisions of the RtFG on safety nets with a human rights-based understanding (FAO 2005: II.14).

The Heavily Indebted Poor Countries Debt Initiative (HIPC Initiative), which was on the agenda while the RtFG were being negotiated, tried to take up these concerns by focusing on decreasing the debt burden of highly indebted poor countries. The initiative is considered to have been partially successful in helping to reduce unsustainable debt burdens (see section 4.4). The debate about debt conditionality at several levels as well as in the RtFG contributed to a change in debt conditionalities. In the meantime, high debt burdens continue to be a major problem in some countries. Other countries became highly indebted

during the financial crisis in Asia in 1997/98 and more recently in the EU, where austerity measures are rigorously limiting the rights of recipient countries to fully implement their human rights obligations (German Institute for Human Rights and European Network of National Human Rights Institutions, 2014; UN Human Rights Council, 2014). Again and again, it can be observed that new debt conditionalities – such as those of the EU-Troika in Europe – are not taking into account the implementation needs that states have under human rights obligations. They do not even build on lessons learned from experiences of unsustainable debt burdens in developing countries. In that respect, Part III of the RtFG on international measures, actions and commitments can help to promote understanding on the interlinkages between resource availability and policy choices. Debt and austerity measures need to be designed in such a way that their implementation does not arbitrarily or disproportionately affect certain groups of the societies in question.

4.2 Overview of relevant issues

The long-standing and oft-repeated target of donor states to provide 0.7 percent of their gross national income as ODA (FAO, 2005: III.12) remains an unfulfilled promise for many Development Assistance Committee (DAC) members. According to official OECD statistics, the average for 27 donors ranged between 0.25 and 0.32 percent during the period 2006–2013. Only five of them achieved the 0.7 target in 2013: Denmark, the Grand Duchy of Luxembourg, Norway, Sweden, and the United Kingdom of Great Britain and Northern Ireland (the latter for the first time during the period 2006–2013).²¹ The Netherlands, which had always been above this threshold during the period 2006–2012, fell behind in 2013 (0.67 percent).

Most ODA for FSN is allocated to agriculture (61 percent for 2008–10), the second largest category being devoted to food aid (22 percent). Compared with 2005–2007, there has been little change in the composition of ODA for FSN, despite the growing recognition of the persistence and severity of the problem as well as a better understanding of the comprehensive nature of the causes of food insecurity and malnutrition, which include but extend well beyond agriculture. ODA for nutrition, for example, has remained at 3 percent of ODA for FSN despite it being increasingly recognized as a critical factor. This is, however, not to ignore the overall support for nutrition as it does not include sizeable amounts channelled through humanitarian budgets. Similarly, agricultural research for development (AR4D – CRS code 31182) accounts for only 4.6 percent of total ODA for FSN despite renewed interest, but this is also likely to underestimate total support.²² A recent analysis of the OECD Development Co-operation Directorate (OECD, 2012) provides detailed figures about the overall evolution of DAC donor's ODA relevant to the realization of the right to food.²³

21 See <http://stats.oecd.org/Index.aspx?ThemeTreeId=3#>

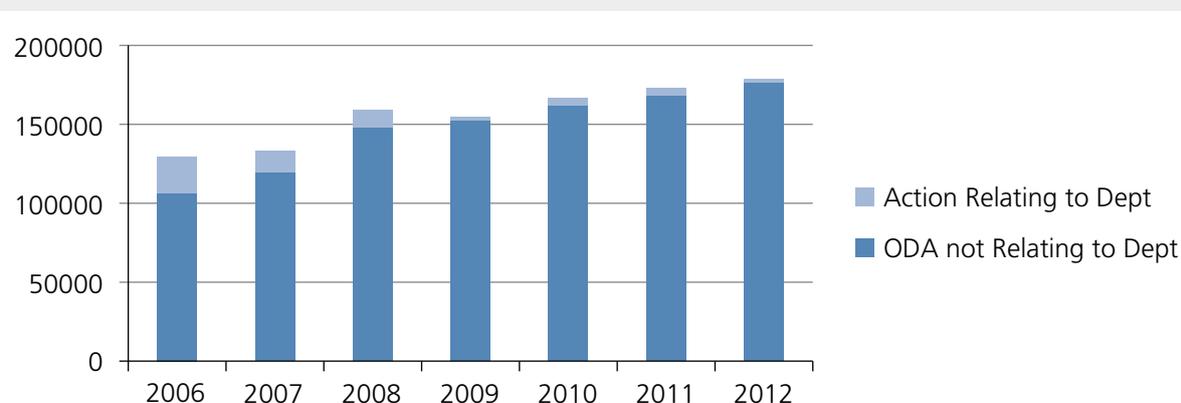
22 Some DAC donors may be reporting ODA for AR4D under other sector codes. Therefore, when taking a broader definition of AR4D that covers the wider “agricultural education/research/services grouping,” total ODA expenditures averaged US\$ 1.3 billion per annum in 2009–2010, representing 11 percent of total ODA for FSN.

23 In the absence of a specific classification for food security and nutrition in the DAC's Creditor Reporting System, this includes all aid reported under agriculture, agro-industries, forestry, fishing, nutrition and development food aid/food security assistance. While this approach includes some aid that is not specifically targeted to food security and nutrition, and excludes some which is (e.g. humanitarian food aid), it applies as closely as possible the working definition of aid for food security and nutrition used by the L'Aquila Food Security Initiative. The authors of the report consider that this approach provides a reasonable picture of trends in aid in this area.

It is, however, important to note that ODA is only one source of global financing for development. In 2010, an estimated EUR7,129 billion of public and private finance was available in developing countries, potentially contributing towards poverty eradication and sustainable development, with the share of public international finance amounting to only EUR158 billion (ODA grants 92 billion, concessional loans 7 billion, other official development finance 54 billion, and UN-sanctioned international security operations 5 billion). In a changing global landscape for development financing, other types of development finance are more important in many contexts (EC, 2013).

The shares of debt relief as part of ODA showed a significantly declining trend between 2006 and 2012 while overall ODA was increasing (see Figure 1).

Figure 1: ODA debt relief action* as share of total ODA, 2006–2012 (in US\$ million)**



* CRS Code 600; ** Most recent data available

Source: OECD/DAC (available at <http://stats.oecd.org/Index.aspx?ThemeTreeId=3#>).

Comparable to international investments, **development loans** can provide financial resources for public investments and for improving the productive capacity and efficiency of a country's agricultural and food sector. Lending might therefore benefit domestic and (in combination with trade) international food security, and also might increase resilience through the various mechanisms depicted in section 2 (IEG, 2013). Contrary to private investments, however, public lending proposes less interference with national agricultural policies and possibly less unwanted direct side-effects, such as land grabbing. Rather, it can provide a mechanism for governments to use resources from lending for public investments in agriculture and food and nutrition security complementary to their respective national policies.

Lending, however, bears the risk of a resulting debt trap or debt overhang situation, with presumed direct (reduced incentives for undertaking structural reform) and indirect (through impacts on public investment) deleterious effects on economic growth. The effects of debt stock and debt service payments are assumed to be different in low-income countries compared with the effects in emerging markets. "External debt service (in contrast to the total debt stock) can also potentially affect growth by crowding out private investment or altering the composition of public spending" (Clements, Bhattacharya and Nguyen, 2003), therefore possibly drawing away resources which could otherwise be used for

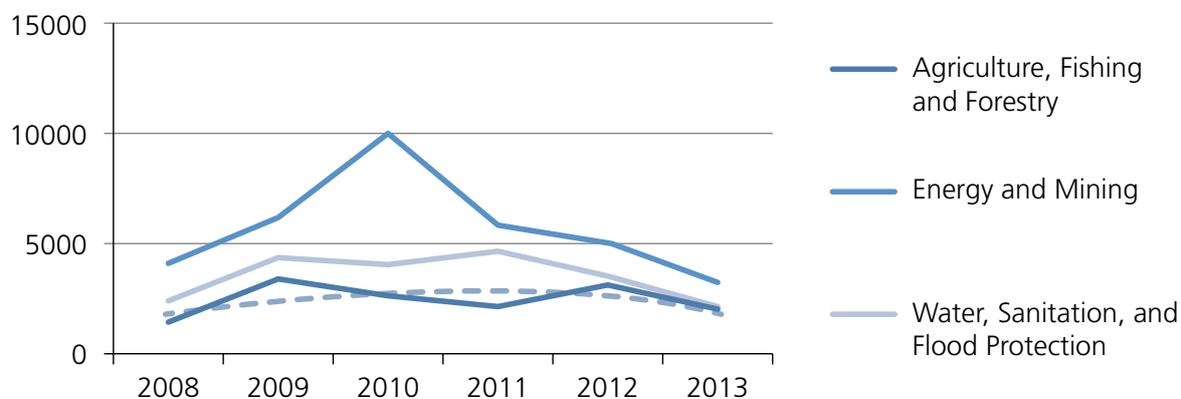
the realization of the right to adequate food in highly indebted low-income countries. In lending as well as in debt relief, developing countries have to cope with comprehensive conditionalities imposed by debtors within the scope of SAPs or, in the case of the HIPC Initiative, measures similar to SAPs. These include public sector reforms, deregulation, the removal of subsidies, the promotion of exports and foreign investment, or trade liberalization. Consequently, the debtor countries' flexibility in agricultural and food and nutrition policy design and implementation may be limited.

The UN Guiding Principles on foreign debt and human rights acknowledge the positive impact of debt financing on economic development and the realization of human rights under certain conditions. But, at the same time, they point out that debt service payments in low-income countries are "often undertaken at the expense of social investment, including investment in services that contribute to the realization of human rights. In addition, excessive debt burdens and harmful conditions linked to loans and debt relief often limit investment in and undermine the positive impact of accessible public services." The aim of the principles is therefore to assist all relevant stakeholders related to issues of external debt²⁴ in the protection and fulfilment of human rights, especially economic, social, and cultural rights, including the right to adequate food, with the main underlying principle being to put human rights first in international financial relationships (UN Human Rights Council, 2011b).

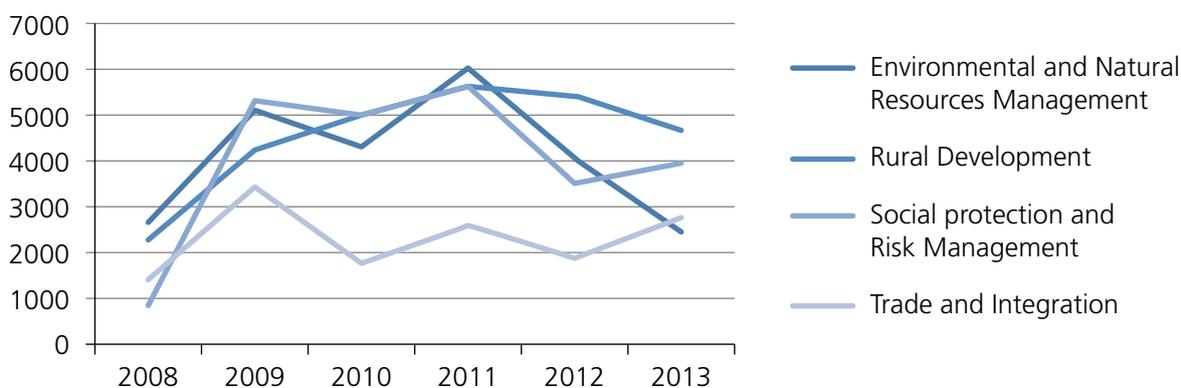
4.3 Trends in lending portfolios of the World Bank and the regional development banks in sectors relevant to the realization of the right to adequate food

In its most recent Annual Report, the World Bank highlights, among other topics, its engagement in addressing its investment in agriculture with the special focus on reducing food insecurity and on the challenge of climate change (World Bank, 2013a). Figures 2 and 3 indicate that World Bank lending in relevant sectors and themes has generally increased since 2008, although to different degrees and with annual fluctuations.

24 In detail, the "principles apply to the lending and borrowing decisions of States and other actors such as international financial institutions and private institutions as appropriate, the negotiation and execution of loan agreements or other debt instruments, the utilization of external loan funds, debt repayments, the renegotiation and restructuring of external debt, the provision of debt relief when appropriate and to all policies, strategies and activities related thereto" (UN Human Rights Council, 2011b).

Figure 2: World Bank lending commitments by sector 2008–2013 (in US\$ million)

Source: World Bank, 2013a: own selection of sectors with relevance for the right to adequate food.

Figure 3: World Bank lending commitments by theme 2008–2013 (in US\$ million)

Source: World Bank, 2013a: own selection of themes with relevance for the right to adequate food.

In line with the overall international response to the food price crisis of 2007/2008, the World Bank's strategy addressed high and volatile food prices through an expansion of its agricultural lending and investment portfolio. The World Bank Group substantially increased its investment in agriculture by 48 percent after the crisis, from US\$8.8 billion in the period of 2006–2008 to US\$13 billion in 2009–2011 (IEG, 2013). This trend has, however, flattened in recent years (see Figure 2). More than half of the Bank's agricultural lending went to Africa and South Asia and a significant share is directed to low- and lower-middle income countries. The World Bank Group's response focused on "raising agricultural productivity, linking farmers to markets and strengthening value chains, risk and vulnerability, facilitating agricultural entry and exit and rural nonfarm income, enhancing environmental services and sustainability" (IEG, 2013).

In addition, as indicated in section 3, the World Bank administers the GAFSP that aims to promote long-term food and nutrition security through increased agricultural productivity and development, via more and better public and private agricultural investment in low-income countries. The GAFSP picks up where emergency funding leaves off and is country-led, supporting countries' priorities as reflected in their national agriculture and food security investment plans. Its portfolio is concentrated on funding national and regional strategic investment plans in agriculture and food security. By the end of 2013, ten donors²⁵ had committed a total of US\$1.3 billion to the GASFP, setting the main focus on the Public Sector Window of the programme (GAFSP, 2014a and 2014b).

Responding to more frequent and extreme weather conditions, such as droughts or flooding, and their negative impacts on food security, the World Bank rearranged its emergency response in 2012. An Immediate Response Mechanism, channelled through the International Development Association's Crisis Response Window, is meant to allow greater portfolio flexibility in times of exceptional economic crisis or natural disaster (World Bank, 2013a). Despite this extensive engagement in the food-related agricultural sector, The World Bank Group has been criticized in the past for private sector lending towards the production of plants for biofuel or for the carbon credit market.²⁶ African countries, with relatively good land and water resources and low population density, are especially viewed as future emerging exporters following the examples of Southeast Asia and South America. The World Bank predicts their growth in the production of food, but also non-food agricultural products such as sugarcane, palm oil, cassava, and jatropha for the production of biofuel (World Bank, 2013b).

Regional development banks

Over the last three years, the **African Development Bank (AfDB) Group** has constantly increased its private and public loan and grant approvals in the Agriculture and Rural Development sector. With 426.7 million Units of Account, it reached the second highest approvals in 2013, following infrastructure (AfDB, 2014).

Agriculture and Food Security is one of the three areas of special emphasis for the AfDB's 2013–2022 strategy (AfDB, 2011). In this context it aims to support its member countries through a variety of mechanisms, including the removal of trade barriers, the development of an adequate rural infrastructure, supportive infrastructure, long-term agricultural research, development of human capacities, improvement of land and property rights, and the introduction of incentives for private investment (AfDB, 2011).

The **Asian Development Bank (ADB)** provided finance for the agriculture and natural resources sector amounting to US\$694.62 million in loans, US\$183.32 million in grants, and US\$36.48 million in technical assistance in 2013. The bank adapted its agricultural and natural resource strategy with an operational plan for the period 2014–2020 aiming at inclusive growth and food security, in view of volatile food prices, resource scarcity, climate change issues, and growing population on the continent (ADB, 2013). The ADB has supported biomass, biofuel, and biogas technologies through its Clean Energy Financing

25 Australia, Canada, Gates Foundation, Ireland, Japan, the Republic of Korea, the Netherlands, Spain, United States of America, United Kingdom.

26 See for example press reports by the Guardian and the Huffington Post: <http://www.theguardian.com/global-development/2014/may/01/world-bank-loan-honduras>; <http://www.theguardian.com/global-development/poverty-matters/2014/jan/13/world-bank-ethics-scrutiny-honduras-loan-investigation>; http://www.huffingtonpost.com/2014/01/10/world-bank-honduras_n_4577861.html

Partnership Facility (ADB, 2012). However, it states that energy from biological matter, including biofuels and animal waste, is only considered under the Clean Energy Program if its production does not conflict with food security.²⁷

The **Inter-American Development Bank (IDB) Group** saw two spikes in agricultural approvals during the last decade, the first one during and after the food price crisis of 2007/2008, and the second in 2011 when food prices reached a new peak (see Figure 5). In its 2009 Annual Report, the bank highlights the importance of including small producers and the need for an increase in returns from productive investment as well as for a more efficient use of public funds for agriculture (IDB, 2010). In its support for private sector development, the IDB engaged in new agribusiness and biofuel opportunities, including exploration for potential investments in fuel alternatives, and stepped up its assistance on mitigation through involvement in agribusiness in 2010. Additionally, it supported the access of public and private institutions to the carbon market. Possible effects of biofuel production and the involvement in the carbon market on the regions' food security were not discussed in the report (IDB, 2010), but can be an issue of concern. However, in 2008 the IDB introduced the Biofuels Sustainability Scorecard based on criteria of the Roundtable on Sustainable Biofuels (RSB) as a tool for the private sector on a project level, with the possibility of being extended to a conceptual tool for project assessment in biofuel development. The aim of the Scorecard is to encourage higher levels of sustainability in the production of biofuels. Local, national, and global food security, combined with access to natural resources and land ownership, is one of the categories to be assessed in the Scorecard (IDB, 2008).

A report from FAO and IDB on the relationship between biofuels and food security finds that “[s]imulations show that negative impacts of biofuels on food security and malnutrition will likely happen in those countries where the feedstock used for biofuel production is a critical subsistence crop for a large share of the population” (FAO and IDB, 2010).

4.4 Trends in debt relief measures during the past ten years with relevance for the right to adequate food

Debt relief measures that applied during the past decades have been taken with the hope that highly indebted low-income countries will save resources otherwise spent on debt servicing and use them for poverty alleviation and the achievement of MDGs, which among other things includes the progressive realization of the right to adequate food.

Debt relief has been addressed through the HIPC Initiative, and the Multilateral Debt Relief Initiative (MDRI) by the World Bank and the IMF, facilitating relief on debts with multilateral, Paris Club, and non-Paris Club creditors. Additionally, many Paris Club members have voluntarily committed to engage in further bilateral debt relief measures beyond the HIPC Initiative (IMF, 2013). Under the Paris Club, reductions and/or renegotiations of developing countries' debts with its 19 developed country members²⁸ have been undertaken (Weiss, 2013). It has proven difficult, however, to motivate non-Paris Club creditors to engage in further voluntary debt relief (IMF, 2013). The HIPC Initiative was implemented

27 See <http://www.adb.org/sectors/energy/programs/clean-energy-program>

28 Permanent members of the Paris Club are Austria, Australia, the Kingdom of Belgium, Canada, Denmark, Finland, the French Republic, Germany, Ireland, the Republic of Italy, Japan, Netherlands, Norway, the Russian Federation, Spain, Sweden, the Swiss Confederation, United Kingdom, and the United States of America.

since 1996 and supplemented by the MDRI in 2005. Several rounds of revision have meanwhile adapted the specific modes of operation of the initiatives. The framework was altered in 2009 to allow highly indebted countries a more flexible reaction to the global economic downturn, and was revised again in 2012 (UN Human Rights Council, 2013). There are various forms of reorganizing debt under the HIPC Initiative and the MDRI, which include cancellation, restructuring, or rescheduling. Neither form of debt relief entails completely extinguishing the debt of a country. The measures rather aim at reducing debt to a “sustainable” level, that is a threshold of 150 percent of present value of exports or, in some cases, 250 percent of government revenue (UN Human Rights Council, 2013).

By the end of 2013, 35 low-income, highly indebted countries²⁹ had already completed all phases of the HIPC Initiative, with the Republic of Chad being the only country still remaining in the interim phase, and the State of Eritrea, the Federal Republic of Somalia and the Republic of the Sudan not having started the qualifying process of the Initiative yet. The total estimated costs of the HIPC Initiative to creditors amount to US\$74.3 billion; MDRI raised additional costs of US\$39.7 billion (end-2012 present value terms). According to the IMF, “debt relief under the Initiatives has substantially alleviated debt burdens in recipient countries and has enabled them to increase their poverty reducing expenditure by almost three and a half percentage points of GDP between 2001 and 2012” (IMF, 2013).

However, broader empirical evidence on the impact of debt relief under the initiatives is inconclusive and a causal relationship between debt relief and poverty reducing expenditure is difficult to establish. Debt relief does not necessarily result in immediate cash flows, as these may occur with a time shift. Benefiting countries often do not have mechanisms to track spending from debt relief savings. Furthermore, it is hard to distinguish the effects of the initiatives on decreased debt payments from other possible causal factors, such as “higher prices for commodity exports, robust economic growth and increased government revenue” (UN General Assembly, 2013). One of the intensively debated controversies of the Initiatives involves the conditionalities attached to debt relief. The case of Malawi depicts the adverse impacts of the policies on the right to adequate food. The restructuring and privatization of the national agricultural marketing agency, combined with the removal of price controls and a reduction of subsidies for smallholder farmers, has resulted in hoarding of grain and price increases. The measures have made food less affordable for the poor and undermined domestic food security for a majority of the population (UN Human Rights Council, 2013).

A further criticism to the HIPC Initiative and the MDRI is that debt service costs of some countries rose through their engagement with the initiatives, as it required that they clear all arrears to multilateral creditors before joining (UN Human Rights Council, 2013). Some countries refinanced the arrears by grants or bridging loans, thereby raising their debt payments. In addition, the sustainability of debt reduction is questionable. One-fifth of the countries who completed participation in the HIPC Initiative are currently at high risk of debt distress. While the reduction of debt payments has freed resources

29 The Islamic Republic of Afghanistan, the Republic of Benin, the Plurinational State of Bolivia, Burkina Faso, the Republic of Burundi, the Republic of Cameroon, the Central African Republic, the Union of the Comoros, the Democratic Republic of the Congo, the Republic of the Congo, the Republic of Côte d'Ivoire, the Federal Democratic Republic of Ethiopia, the Republic of the Gambia, the Republic of Ghana, the Republic of Guinea, the Republic of Guinea-Bissau, the Republic of Guyana, the Republic of Haiti, the Republic of Honduras, the Republic of Liberia, the Republic of Madagascar, the Republic of Malawi, the Republic of Mali, the Islamic Republic of Mauritania, the Republic of Mozambique, the Republic of Nicaragua, the Republic of Niger, the Republic of Rwanda, the Democratic Republic of São Tomé and Príncipe, the Republic of Senegal, the Republic of Sierra Leone, the United Republic of Tanzania, the Togolese Republic, the Republic of Uganda, and the Republic of Zambia.

for social spending, conditionalities that accompany debt relief under the initiatives have in some cases resulted in substantial social costs. Initiatives are entirely creditor-driven; debtor countries therefore have no choice but to accept the conditionalities. Certain conditionalities might be beneficial; however, many view them as harmful, especially such conditionalities as privatization, deregulation, cuts in public spending, or removal of subsidies (including pro-poor subsidies). Contrary to pledges by creditor countries, debt relief has partially subsidized, instead of supplemented, ODA.

5. CONCLUDING REMARKS

The RtFG provide important tools for the implementation of the right to adequate food through a human rights-based approach to food security, including nutritional considerations. While they mainly focus on national legal, policy, institutional and operational frameworks in areas relevant to the right to food, the integration of the international dimensions into the RtFG was a ground-breaking step. The international dimensions have been integrated in recognition of the influence of international frameworks and measures on states' capacity to implement the right to food at the national level, and also the importance of international support for states to have the capacities and resources for the full implementation of the right to food. While important steps have been taken under the international measures, actions and commitments related to the right to food, there are still gaps in some areas. The changing international context, especially after the food price crisis of 2007/2008, comes with additional challenges such as large-scale land acquisitions that need to be addressed through a human rights-based approach to food security and nutrition.

In the area of trade, the RtFG address the concerns raised by developing countries in the contexts of the Uruguay Round and the Doha Round of trade negotiations. Some of the subsidy regimes and trade support programmes, such as export credit schemes, have hampered other countries' ability to implement the right to food. The overall debate on trade distortive measures and the implementation of the right to food has moved the trade discourse considerably. The RtFG have played an important role in this context. The trade debate in the Doha Round has also highlighted the importance of special differential treatments for developing countries and for safeguard measures. The positions of states have changed considerably, from an aggressive stance against domestic support towards more positive support and protection, especially after the food price crisis of 2007/2008. The safeguard measures are important to allow countries to have the policy space needed to implement the right to adequate food.

International investment and its relevance to food security and nutrition were not high on the agenda when the RtFG were negotiated; the issues received increased attention after the 2007/2008 food crisis. This led to the discussion on the importance of investment for food security and the ongoing negotiation on guidelines for responsible agricultural investments within the CFS.

Over the last decade, multilateral and bilateral development and humanitarian policies and global governance initiatives for food security and nutrition have progressively integrated the human rights-based approach. Many international cooperation agreements, declarations, policies and standards that have been adopted since 2004 have integrated the approach, often by making specific reference to the right to food. This progress is also reflected in the discussion towards the post-2015 development goals. However, some donors/agencies, especially international financial institutions, do not explicitly engage

with the human rights-based approach, despite the effects of their work on human rights and the importance of the approach for efficient targeting and sustainable results. Nevertheless, some policy and strategic guidance documents of multilateral development banks support many provisions of the RtFG without explicitly using a human rights-based approach to development. The implementation of the approach in international cooperation faces challenges that relate to institutional culture, staff capacity, resource constraints, transparency and accountability towards rights-holders, and external political and cultural contexts. These require systematic and context-sensitive mechanisms of implementation that are supported by sufficient resources; tailored training to the relevant staff of donors and their partners; improved attention to structures and processes as well as outcomes; and monitoring and evaluation that take into account the views of recipient states and “beneficiary” rights-holders.

The study further shows the importance of the contribution of development loans and debt relief to fulfilling states’ obligations related to the right to food, even as other types of financing for development have become more and more important. They have availed funds for investment in rural areas, in agriculture and on particular vulnerable groups. The HIPC Initiative, which was very prominent at the time of negotiating the RtFG, has become less important today. Since the 2007/2008 food crisis, investment in rural development and agriculture has gained more attention. Similarly, official development assistance to agriculture and rural development, after going down to its lowest level in 2005/2006, has come back up since the crisis.

The global context of food security and nutrition has changed quite significantly since the adoption of the RtFG in 2004. The provisions on international food aid and debt relief under the HIPC Initiative may not be as important as they once were, whereas issues that were insufficiently addressed, such as foreign direct investments in agriculture or business and human rights, have grown in importance. New guidelines, principles and tools that complement the international dimensions of the RtFG have been developed or are currently being elaborated. Examples include: the VGGT, the UN Guiding Principles on Business and Human Rights, the CFS-RAI (which is currently under negotiation at the CFS), and the OECD Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence, as well as expert principles, such as the guiding principles on extreme poverty and human rights (OHCHR, 2012a) and the guidelines for human rights impact assessment of trade and investment agreements (UN Human Rights Council, 2011a). These instruments can be related to the provisions of the RtFGs which provide for the national- and international-level measures that should be taken in different policy areas to implement the right to food. The complementarity among these instruments creates opportunities to mutually strengthen potential synergies in all relevant international and regional processes and actions to achieve food and nutrition security. They also help to address the very dynamic and volatile food and nutrition security context for the benefit of the people whose right to food is at risk of being violated.

The following are some of the more specific conclusions that come out of this study:

1. The RtFG are an important guiding framework for achieving the eradication of hunger and improving food security and nutrition through relevant international and regional policy and strategic processes. They are relevant to the formulation of the post-2015 development goals, the international trade agenda, development and humanitarian policies, the mechanisms of international financing for development, and the climate change agenda.

2. People and their livelihoods need to be placed at the centre of all international policy and development efforts. The right to adequate food, including nutritional considerations, should be part of the overall goal and policy of all institutions regulating or deregulating international trade, investments, development loans and external debt relief.
3. The RtFG should be used in complementarity with other, more recent human rights-based guidelines, principles, and tools that are relevant to the progressive realization of the right to food.
4. In the formulation and implementation of their food security and nutrition strategies, states should apply a human rights-based approach and adequately address the international dimension of the right to food. They should ensure the coherence of policies in different areas that can impact on food security and nutrition, including in trade, investment, and development and humanitarian cooperation.
5. Support should be provided to food and nutrition insecure people whose right to food is affected by trade, investment and international cooperation policies and practices, including loans and debts. States should also be encouraged to make use of the RtFG and complementary guidelines and principles in providing and receiving international assistance to fulfil the right to food.
6. The design, implementation, monitoring and evaluation of trade and investment agreements, development and humanitarian cooperation policies, and loan and debt relief arrangements should take into account the views of partner countries and “beneficiary” rights-holders, the right to food of individuals and communities, and the lessons learned from previous frameworks and practices.

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