

Rome, 3-5 June 2008

HIGH-LEVEL CONFERENCE ON WORLD FOOD SECURITY :
THE CHALLENGES OF CLIMATE CHANGE AND BIOENERGY

**ADDRESS BY THE UN SPECIAL RAPPORTEUR ON THE RIGHT TO FOOD,
OLIVIER DE SCHUTTER**

Chairperson,
Excellencies,
Ladies and Gentlemen,

Let me first thank you for the invitation to take part in this High-Level Conference At its Special Session of 22 May on the global food crisis,¹ the Human Rights Council invited the FAO to provide the High Commissioner for Human Rights, Ms Louise Arbour, and myself, an opportunity to convey a message to this Summit. This Special Session was the first one ever to focus on a thematic issue . Calling the worsening of the world food crisis a serious threat to the realization of the right to food for all, the 47 member governments of the Human Rights Council adopted by consensus a resolution affirming the importance of taking into account the right to adequate food, as recognized in international law,² in the current answers to the crisis.

International law firmly defines the right to adequate food as one which States must not only respect, protect and fulfil on their territory, but also as one which imposes extraterritorial obligations, incurred vis-à-vis populations outside the national territory. Indeed, this is why the States parties to the International Covenant on Economic, Social and Cultural Rights, recognizing the fundamental right of everyone to be free from hunger, have committed themselves to ‘take, individually and through international co-operation, the measures, including specific programmes, which are needed, [...] taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need’ (Article 11(2)). In addition, it follows from Article 56 of the Charter of the United Nations as well as from the International Covenant on Economic, Social and Cultural Rights that States cooperate in the identification and elimination of the obstacles to the full realization of the right to food.³ This is directly relevant, of course, in situations of crisis, such as that following a natural disaster: as a correlative to the obligation imposed on all States in need of assistance to request such assistance, States in a position to assist are under an obligation to provide such assistance. But the obligation of international assistance and cooperation also has a broader significance, which goes far beyond such emergency situations resulting from natural disasters : it requires that States cooperate in establishing an international environment which is conducive to the full realization of the right to adequate food at national level. This High-Level Conference on World Food Security represents a unique opportunity for States to make progress

¹ 7th Special session of the Human Rights Council on “The negative impact on the realization of the right to food of the worsening of the world food crisis, caused inter alia by the soaring food prices”, Geneva, 22 May 2008 : <http://www2.ohchr.org/english/bodies/hrcouncil/specialsession/7/index.htm>

² The right to adequate food is recognized under Article 25 of the Universal Declaration of Human Rights (G.A. Res. 217 A (III), U.N. Doc. A/810, at 71 (1948)), and under Article 11 of the International Covenant on Economic, Social and Cultural Rights (adopted on 16 December 1966, G.A. Res. 2200(XXII), U.N. GAOR, 21st sess., Supp. No. 16, U.S. Doc. A/6316 (1966), 993 UNTS 3), as interpreted by the Committee on Economic, Social and Cultural Rights (General Comment No. 12: The right to adequate food (1999), UN doc. E/C.12/1999/5). These prescriptions are complemented by the *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security* adopted by the Member States of the FAO General Council in November 2004, which are a set of recommendations addressed to States for the implementation of the human right to adequate food.

³ See also paragraph 34 of the Vienna Declaration and Programme of Action adopted at the Vienna World Conference on Human Rights of 14-25 June 1993 (UN Doc. A/CONF.157/23, 12 July 1993).

towards such an international environment, and thus to better comply with their undertakings under international human rights law.

The clear affirmation by the Human Rights Council that the right to adequate food should be placed at the centre of the efforts of the international community has much more than a purely symbolic significance. Nor does it mean only that governments should take into account their human rights obligations when discussing issues such as climate change, international trade, or development cooperation, in other fora than the Human Rights Council – a requirement of consistency and coherence which is too obvious to deserve further emphasis. Rather, the message of the Human Rights Council is that the right to food should guide the responses of States, individually and collectively, to the new situation created by the soaring prices of food.

This, in my view, has three implications. States should set up an appropriate institutional framework based on the right to food, as one means to better protect their population from the impact of the volatility of prices on the international food markets. It should guide us in our search for solutions a 'new deal' in agriculture which is called for. And it requires that we move along the causality chain from the situation of the hungry and the malnourished, to the actions and omissions which result in such violations of the right to food, without neglecting any of the factors which we can act upon.⁴ Climate change and agrofuels, the focus of this High-level conference, are among them ; but other factors, such as the imbalances of power in the food production and distribution chain and speculation on the agricultural commodity markets, should also be considered, and they should be acted upon. Let me address briefly each of these implications in turn.

I. An institutional framework based on the right to adequate food

The implementation of the right to adequate food requires the adoption of measures which, at national level, might better shield vulnerable segments of the population from inability to obtain sufficient food – the net food buyers, whether or not they are agricultural producers, and particularly the urban poor and landless labourers. The Committee on Economic, Social and Cultural Rights, has insisted on the need for States to work towards 'the adoption of a national strategy to ensure food and nutrition security for all, based on human rights principles that define the objectives, and the formulation of policies and corresponding benchmarks'.⁵ Such a national strategy should comprise the establishment of appropriate institutional mechanisms, particularly in order to : (i) identify, at the earliest stage possible, emerging threats to the right to adequate food, by adequate monitoring systems ; (ii) improve coordination between the different relevant ministries and between the national and sub-national levels of government ; (iii) improve accountability, with a clear allocation of responsibilities, and the setting of precise timeframes for the realization of the dimensions of the right to food which require progressive implementation ; and (iv) ensure the adequate participation, particularly, of the most food-insecure segments of the population. As part of such a national strategy, States should adopt a framework legislation ensuring that the right to food is justiciable before national courts or that other forms of redress are available, so that in situations such as the current one when the prices of food undergo a sudden increase, the other branches of government will not be allowed to remain passive.

We have the normative guidelines for the implementation of such national strategies for the realization of the right to food. We also may seek inspiration from certain existing good practices, for instance the adoption of Famine Codes in India and reliance on those codes by courts, or, in Brazil, the recent national system of food security (SISAN) based on the Law on Food Security in 2006, or other programmes such as the Fame Zero or the Bolsa-familia programmes.

The current food crisis vividly illustrates the need for all States to adopt measures which will better shield the most vulnerable segments of the population, in the future, from shocks which may affect

⁴ For an analysis of the factors behind the global food crisis, see the Background note presented by the Special Rapporteur on the Right to Food, 2 May 2008 : <http://www2.ohchr.org/english/issues/food/index.htm>.

⁵ General Comment No. 12, para. 21.

either the availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals ; or the accessibility of such food, both economic or physical, in ways that are sustainable and that do not interfere with the enjoyment of other human rights. The soaring of the food prices will affect most severely the population of countries which have no such national strategies in place, and which are net food-importing countries without stockpiles allowing them to mitigate the rapid increase of prices on the international markets. The adoption of a national strategy, including a framework law implementing the right to food, should therefore be identified as a priority for all States which have not taken steps towards developing such a strategy, in line with the recommendations States agreed upon under the FAO Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security. In that respect, I cannot but emphasize that the Declaration to be adopted at the conclusion of this High-Level Conference on World Food Security, should highlight the need for such national strategies as part of an overall strategy to contribute to food security.

II. A New Deal for Agriculture

The right to adequate food should also be placed at the centre of the medium- to long-term responses to the current crisis. Agriculture has been a neglected sector for many years, in the definition of priorities both of official development assistance and of national governments, and in the lending policies of development banks. All actors now agree on the need to massively reinvest in agriculture, in order to make up for the short-sighted policies of the past. Indeed, investing in agriculture is the most effective way to combat extreme poverty, particularly in agriculture-based countries : in China, GDP growth originating in agriculture has been estimated to be 3.5 times more effective in reducing poverty than growth outside agriculture, and for Latin America 2.7 times more ; according to the World Bank, cross-country comparisons show that on average, GDP growth originating in agriculture is at least twice as effective in reducing poverty as GDP growth originating outside agriculture.⁶ At their Fourth Summit held in Maputo in June 2004, the Heads of State and Government of ACP countries noted that ‘since agriculture is the main source of livelihood for the populations in ACP countries, poverty eradication and the elimination of hunger hinge upon agriculture development’.⁷

While the current increase of prices of agricultural products on international markets may present an opportunity in this regard, by attracting investment to the agricultural sector, the price signals will not suffice. Supply is relatively inelastic, due to the difficulty for agricultural producers to rapidly shift crops or to raise their productivity : it is estimated that global agriculture supply increases by 1 to 2 percent when prices increase by 10 percent. More importantly, while certain agricultural producers may be able to benefit from the increase in prices in certain countries farmers in Sub-Saharan Africa may be denied the same opportunities, in the absence of strong infrastructure (particularly irrigation and communications infrastructure) and access to credit.⁸ Therefore, while the call to the private sector to invest in science and technology for agriculture is welcome, this will not be sufficient : official development assistance, and sovereign wealth funds, should also be mobilized in this effort.

In addition, this unanimous view about the need to massively reinvest in agriculture, leaves open the question about the nature of agricultural development we require. The FAO Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security recognize the need to reinvest in agriculture in developing countries.⁹ But they go further. They emphasize the need to support smallhold farmers; and rightly insist on the need to develop

⁶ The World Bank, *World Development Report 2008: Agriculture for Development*, 2007, p. 6.

⁷ 23 and 24 June 2004, ACP/28/010/04, Maputo, 24 June 2004 (para. 25).

⁸ International Food Policy Research Institute, ‘High Food Prices: The What, Who, and How of Proposed Policy Actions’, May 2008, p. 4.

⁹ See para. 3.7. of the Guidelines (encouraging States, ‘in a sustainable manner, to increase productivity and to revitalize the agriculture sector including livestock, forestry and fisheries through special policies and strategies targeted at small-scale and traditional fishers and farmers in rural areas, and the creation of enabling conditions for private sector participation, with emphasis on human capacity development and the removal of constraints to agricultural production, marketing and distribution’).

means of agricultural production which are sustainable.¹⁰ The soundness of this judgment was confirmed by the conclusions of the International Assessment of Agricultural Science and Technology for Development (IAASTD), the result of 3 years of research and consultations involving 400 experts, which over 50 governments approved at a Johannesburg meeting held in April 2008.¹¹ It is important to realize that agriculture is not only about producing food. It is about combating poverty. It is about preserving the livelihoods of some 1.3 billion smallholders and landless workers.¹² And it is about providing environmental services : today, agriculture is by far the largest consumer of fresh water, and the current methods of production have led to a situation in which, according to certain estimates, 16% of the land currently under cultivation is threatened by exhaustion – a path which is simply not sustainable.

The IAASTD insists on the need to redirect agricultural science and technology to address the needs of smallscale farmers, and that meet the challenge of sustainability, particularly in the context of climate change. Agricultural science and technology hitherto has mainly benefited largescale enterprises and has not focused on the specific needs of the rural poor in developing countries. Availability and cost of good-quality seed, soil degradation, and post-harvest losses, could all be tackled with relatively simple technologies and investments, provided the diffusion of such technologies and such investments are redefined as a priority. The IAASTD therefore insists that investors ‘focus investment on local priorities identified through participatory and transparent processes, and favor multifunctional solutions to local problems.’¹³ It is in this context for instance that the current focus on the adoption of patented seed should be carefully examined. The report states that ‘in developing countries especially, instruments such as patents may drive up costs, restrict experimentation by the individual farmer or public researcher while also potentially undermining local practices that enhance food security and economic sustainability.’¹⁴ In this context, similarly, governments should have the flexibility required to balance the needs of poor consumers against those of smallhold farmers.

III. The contribution of the private sector

The Declaration adopted by this High-Level Conference should refer to the contribution of the private sector. We should move further in this direction. Farming is one of the few businesses that pays retail prices for inputs and sells its products at wholesale prices. At both ends of the chain (intrants producers and retailers) and in the middle (the food processing sector), the degree of concentration is particularly high, and this may, if it goes unchecked, create imbalances in power which are a major obstacle to an efficient functioning of the food chain. Indeed, the role of multinational corporations in the agribusiness sector was noted by the World Bank in its latest *World Development Report 2008*, which imphasized that the concentration of market power in the agribusiness sector is particularly important, as measured by the share of market of the 4 dominant actors (CR4). High market concentration rates, the Bank noted, result in widening the spread between world and domestic prices in commodity prices for wheat, rice, and sugar, for instance, which more than doubled between 1974 and 1994.¹⁵ The end result is that developing countries’ claim on value added declined from around 60

¹⁰ See para. 8.13 : ‘States should consider specific national policies, legal instruments and supporting mechanisms to protect ecological sustainability and the carrying capacity of ecosystems to ensure the possibility for increased, sustainable food production for present and future generations, prevent water pollution, protect the fertility of the soil, and promote the sustainable management of fisheries and forestry.’

¹¹ www.agassessment.org

¹² According to figures of the World Bank, 3 billion people in developing countries live in rural areas; of these, 2.5 billion are in households involved in agriculture, and 1.5 billion are in smallholder households, living on 2ha of land or less (The World Bank, *World Development Report 2008: Agriculture for Development*, 2007, p. 3).

¹³ *Executive Summary of the Synthesis Report of the International Assessment of Agricultural Knowledge, Science and Technology for Development (IAASTD)*(Johannesburg, South Africa: International Assessment of Agricultural Knowledge, Science and Technology for Development, 2008), at p. 15.

¹⁴ *Executive Summary of the Synthesis Report of the International Assessment of Agricultural Knowledge, Science and Technology for Development (IAASTD)*, cited above, at p. 14.

¹⁵ The report notes in this regard (at p. 136): ‘The high concentration in multinational agribusiness is evident in coffee, tea, and cocoa. Coffee is produced by an estimated 25 million farmers and farm workers, yet international traders have a CR4 of 40 percent, and coffee roasters have a CR4 of 45 percent . There are an estimated 500 million consumers. The share of the retail price retained by coffee-producing countries—Brazil, Colombia, Indonesia, and Vietnam account for 64 percent of

percent in 1970–72 to around 28 percent in 1998–2000. Small and unorganized farmers, in particular, facing large corporations both as suppliers of intrants and as buyers of their produce, are in such a weak bargaining position that they may hardly benefit from the increase of prices on the global markets. This only underscores the importance of supporting smallholder farmers and their organizations, including in the poorest and most remote areas, to enable them to play an effective role in meeting the rising demand for food ; and of exploring with the agribusiness sector which contribution it could make to this objective. In the fulfilment of my mandate, I will seek to enter into a dialogue with these actors in order to identify the forms such contribution could take.

One specific concern, also related to the role of the private sector, is the potential obstacle strong patent rights may represent for the availability of quality seed. Many developing countries are facing a critical shortage of quality seed. Wherever necessary, consistent with Article 15 of the International Covenant on Economic, Social and Cultural Rights and General Comment n° 17 (2005) of the Committee on Economic, Social and Cultural Rights, a balance may have to be struck between the intellectual property rights of corporations holding patents on seeds, and the need to ensure that agricultural inputs remain affordable for smallhold farmers and that they receive a fair remuneration from their work.

Finally, one factor which needs to be addressed is the role of speculation on the markets of primary commodities, particularly food commodities, in the current increase in prices. The impact of speculative investment in agricultural futures markets is well documented, for instance in the recent *OECD-FAO Agricultural Outlook 2008-2017*, presented on 29 May 2008.¹⁶ It has been reported that total index-fund investment in corn, soybeans, wheat, cattle and hogs has increased in 2007 to more than 47 billion USD, from 10 billion USD in 2006.¹⁷ This has contributed to push the international prices of such commodities upwards on specialized boards, such as the Chicago Board of Trade. More attention should be paid by the international community to this phenomenon, for despite certain attempts, States acting unilaterally may find it difficult to effectively tackle this problem. The large influx of funds from financial investors into agricultural futures and options markets has raised concerns that this may have driven up prices and contributed to the volatility of prices – a volatility which is in the interest neither of consumers, which pay higher prices as a result, nor of producers, for whom credit may become unaffordable as a result, nor of governments, whose social programmes may have to bridge the gap between the incomes of the poorest and their needs. While market mechanisms may have a useful role to play, the harmful impact of speculation on food commodities must be addressed, and this should be a component of any plan of action adopted by the international community to tackle the current crisis.

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In closing, I would like to restate here my conviction that the human right to adequate food has an important role to play in identifying the responses needed from the international community to the crisis. This crisis calls for urgent action. It calls for improved coordination between States, who cannot ignore the impact the measures they take, even when they are well-intended, on the ability of other States to ensure domestic prices are affordable to their population. But this crisis is also an opportunity to rethink the global food policy system, which has exhibited many weaknesses. I will report back to the Human Rights Council, at its 8th session, on the results of the High-Level Conference. I will again report to the 9th session, and identify then, as requested by the Human Rights Council, a set of

global production—declined from a third in the early 1990s to 10 percent in 2002 while the value of retail sales doubled. Similar concentrations are observed in the tea value chain where three companies control more than 80 percent of the world market. Cocoa has a CR4 of 40 percent for international traders, 51 percent for cocoa grinders, and 50 percent for confectionary manufacturers.’

¹⁶ *OECD-FAO Agricultural Outlook 2008-2017*, 29 May 2008, at p. 36.

¹⁷ This figure is provided by AgResource Co., an agriculture research firm. See David Kesmodel, Laurent Etter and Aaron O. Patrick, ‘Grain Companies’ Profits Soar As Global Food Crisis Mounts’, *The Wall Street Journal*, 30 April 2008, pages A1 and A14.

recommendations on which I shall consult broadly both with governments and with other actors. In fulfilling my mandate, I will seek to ensure that the soaring food prices are seen not purely as a humanitarian issue, nor only as requiring macro-economic policies aimed at combating poverty – but that the impact on the right to adequate food is monitored, and that our responses are guided by the need to prevent further violations of this most important of human rights.