2010-2011 RETURN OF HIGH FOOD PRICES: IMPLICATIONS FOR THE FUTURE AND STEPS THAT ARE BEING OR COULD BE TAKEN TO REDUCE THE IMPACT

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This is a silent tsunami, and one [that’s] virtually hitting every developing nation on the earth.¹

Josette Sheeran
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April 23, 2008

[T]his time there will be no “silent tsunami.” The situation is different from 2008. The world is aware of the risks. The global community, the UN and Bretton Woods system, is fully engaged, more coherent and prepared to act . . . .²

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I. INTRODUCTION

For eight consecutive months, beginning in July 2010, global food prices steadily increased, reaching an all-time high in February 2011.³ The global food index, as reported by the Food and

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Agriculture Organization of the United Nations (FAO), averaged 238 points in February, the highest index since the FAO began tracking world food prices in 1990.\textsuperscript{4} Even more startling, the February 2011 index is thirty-eight points higher than the average index for 2008, during which time the world experienced a major food price crisis.\textsuperscript{5} Although decreasing, the index still remains high, averaging 215 points in February 2012.\textsuperscript{6}

There are clear humanitarian concerns given the estimated 925 million people who were undernourished in 2010.\textsuperscript{7} And, because increased food prices impact low-income groups to a greater degree given that they spend a greater portion of their income on food, with food representing “about 60-80 percent of consumer spending in poor counties in comparison to 10-20 percent in rich countries,” increasing food prices threaten to push millions of more people around the globe into extreme poverty. Similarly, even though substantial progress has been made in reducing global poverty, the same advancements have not been made in decreasing global hunger, which is likely due, at least in part, to higher food prices. In other words, the poorest populations still cannot afford sufficient food because food prices are increasing at a similar or greater rate than increases in income. Food price crises also implicate political stability, with evidence suggesting that there is a significant link between changes in food prices and political protests.\textsuperscript{9} In addition to the violence and destruction that can


\textsuperscript{5} Gronewold, supra note 4.


\textsuperscript{7} \textit{FOOD & AGRIC. ORG. OF THE UNITED NATIONS, THE STATE OF FOOD INSECURITY IN THE WORLD 8} (2010).

\textsuperscript{8} ANURADHA MITTAL, THE 2008 FOOD PRICE CRISIS: RETHINKING FOOD SECURITY POLICIES 1 (2009).

result, political instability can increase the size of vulnerable populations as well as make it more difficult for both domestic governments and the international community to provide food to those in need.

The 2010–2011 increase in prices has demonstrated the speed at which food prices can climb and has already had a devastating impact across the globe. This raises serious concerns for the international community regarding the importance of addressing, and the ability to combat, global food insecurity. This past decade has demonstrated that global food price crises may no longer be few and far between, and instead may be a major impediment to achieving global food security. Therefore, any efforts focused on ending world poverty and ensuring global food security must also address the causes of, and the need to prevent, spiking food prices.

II. BACKGROUND

With memories of the 2007–2008 food crisis still fresh, many fear that another food crisis of the same or larger proportions has arrived. Some believe that the current situation is an extension of the previous crisis, which was briefly stifled due to the global economic recession but which never truly ended, while others believe that a food price crisis is not on the horizon, or at least not one of the magnitude experienced in 2007–2008. Nonetheless, regardless of whether, and to what extent, another food price crisis is occurring, the global community is in agreement that food security and food price stability are pressing international issues.

A. The Recent Food Price Crises

1. The 2007–2008 Food Price Crisis

After the global food crisis in the 1970s, food prices began a steady decline, which lasted throughout the 1980s and 1990s, and reached an all-time low in the beginning of the new millennium.


Starting in 2003, food prices began to rise dramatically and quickly, with some commodity prices doubling in just a few months. The International Monetary Fund (IMF) estimated that, by March 2008, food prices had increased by an average of 43% compared to prices just one year prior. Moreover, prices of certain commodities increased much more drastically. For example, the U.S. Department of Agriculture estimated that during that same period, the prices of wheat and soybeans increased by 146% and 71%, respectively. The impact that such increases in food prices had on the world’s population was clear. U.N. Secretary-General Ban Ki-moon emphasized the magnitude of the problem by explaining that “in a single year, staple foods that feed half the world more than doubled in price.”

It was suggested that the increase in prices between 2005 and 2007 increased global poverty by 3%, with almost thirty million additional persons falling below the poverty line in Africa alone. Other estimates suggest that high food prices were the cause—or part of the cause—of an additional 115 million people falling into chronic hunger. To address the growing need for food aid resulting from the increase in food prices, it was estimated that an additional $25 to $40 billion was required in aid and that at least $10 billion would be needed to address the short term needs of the countries that were hit the hardest.

2. The 2010–2011 Food Price Crisis

Stories about the movement of global food prices in 2010 and 2011 echo those heard just four years ago. As food prices hit all-time highs, there are concerns that global hunger will surge as well. According to the FAO’s Food Price Index, prices for each basket of commodities—meat, dairy, cereals, oils and fats, and sugar—rose...
significantly during 2010 and 2011, and most experienced a consistent increase from July 2010 to February 2011. \(^{19}\) “The increasing costs of sugar, whose price recently hit a 30-year high, oilseeds and meat are the main reason behind the rise in the FAO food index.”\(^{20}\) While the export price of maize remained well above its 2008 peak for most of 2011, the export price of wheat remained below its 2008 peak.\(^{21}\) The export price in 2011 for the two types of rice monitored by the FAO—Thai 100% B and Viet 25%—exceeded the prices in 2010, but have remained well below the 2008 peaks.\(^{22}\) Nonetheless, while individual price changes are varied, there is still concern surrounding the overall effect that these increases will have on the world’s poor. Indeed, between June 2010 and February 2011, an estimated forty-four million people were pushed into poverty because of increasing food prices.\(^{23}\)

The first half of 2011 presented some factors suggesting that the changes in food prices might not have an effect of the same magnitude as the previous crisis. First, a number of African countries had good harvests, which kept prices relatively stable—at least in those areas—for key staples such as maize.\(^{24}\) For example, the largest maize grower in Africa—South Africa—harvested its biggest crop in three decades, and other African nations were experiencing food surpluses.\(^{25}\) As a result, it was noted that “[i]n most of the countries, we’re not seeing any meaningful food inflation.”\(^{26}\) Second, the price of rice has not been increasing to the same extent as other cereals and, as discussed above, has remained below its 2008 levels.\(^{27}\) A senior economist for the FAO has suggested that “[p]robably rice is the commodity which is separating us from a food crisis[].”\(^{28}\) Rice is an important staple food for over 50% of

\(^{19}\) See FAO Food Price Index, supra note 4.


\(^{24}\) Id.


\(^{26}\) Id.

\(^{27}\) See Ruitenberg, supra note 10.

the world’s population, and, therefore, less volatile rice prices reduces the pressure on many of the world’s poorest.

B. Consequences of Rising Food Prices

For the world’s poorest populations, higher food prices translate into an inability to buy sufficient amounts of food, which can have a tremendous impact even in a short amount of time. U.N. Secretary-General Ban Ki-moon highlighted this problem: “I am especially concerned about the poorest households that often spend three quarters of their income on food . . . . They have no buffer. When prices go up, they go hungry.” As prices rise, obtaining food becomes more difficult not only for vulnerable populations with limited incomes and access to food but also for the organizations that seek to provide food aid to those populations and are restricted by limited budgets. Moreover, even after food prices decline, price spikes can have long lasting effects.

The analysis of hunger during crisis and recovery brings to the fore the vulnerability to economic shocks of many poor countries. Lack of appropriate mechanisms to deal with the shocks or to protect the most vulnerable populations from their effects result in large swings in hunger following crises. Moreover, it should not be assumed that all the effects of crises on hunger disappear when the crisis is over. Vulnerable households deal with shocks by selling assets, which are very difficult to rebuild, by reducing food consumption in terms of quantity and variety and by cutting down on health and education expenditures – coping mechanisms that all have long-term negative effects on quality of life and livelihoods.

Thus, increases in food prices have serious, and long-lasting, implications for the global community in the fight against food insecurity and world hunger.

the 1970s food crisis, the largest increase in price was also seen in rice. Headey & Fan, supra note 11, at 10. Between 1970 and 1974 and between January 2004 and May 2008, the price of rice increased by 225.3% and 223.6% respectively, with the next largest increase in the price of food occurring with wheat at an increase of 182% and 107.9% respectively. Id.

29. Ruitenber, supra note 10. Ken Ash, the trade and agriculture director for the Organisation for Economic Co-operation and Development has noted that “two-thirds of the world’s hungry [are] largely reliant on rice as a staple” and that, because rice prices were remaining low, “[i]n developing countries the impact should not be as negative.” Id.


1. The Millennium Development Goals

The impact that increased food prices are having on global food security is illustrated through the pursuit of the Millennium Development Goals (MDGs). In 2000, the U.N. General Assembly affirmed that there are “certain fundamental values . . . essential to international relations in the twenty-first century . . . [i]nclud[ing] [that] . . . [m]en and women have the right to live their lives and raise their children . . . free from hunger.” In recognition of the importance of these values, the United Nations identified a number of objectives, which became known as the Millennium Development Goals. The MDGs encompass eight overarching goals—ending poverty and hunger, universal education, gender equality, child health, maternal health, combating HIV/AIDS, environmental sustainability, and global partnership—each of which have specific targets to reach by 2015.

The first of the MDGs, eradicating extreme poverty and hunger, includes as one of its targets to “[h]alve, between 1990 and 2015, the proportion of people who suffer from hunger[.]” From 1990 to 1992, 20% of the population in developing regions—approximately 828 million people—were undernourished. While this number decreased by 1995 to 1997 and again by 2000 to 2002, the proportion of the population in the developing world that was undernourished remained constant at 16% between 2000 to 2002 and 2005 to 2007. Although a reduction in the percentage of developing countries’ population that are undernourished from 20% to 16% (a 20% reduction) is significant, the percentage of the population in developing regions living on less than $1.25 a day decreased from 46% to 27% (a 41% reduction) from 1990 to 2005. The progress that has been made in reducing extreme poverty suggests that there should have been greater progress in reducing the percentage of the population that was undernourished.

In a 2011 report, the United Nations noted that, based on the trend of decreasing poverty but minimal changes in undernourishment, “and in light of the economic crisis and rising food prices, it
will be difficult to meet the hunger-reduction target in many regions of the developing world.” 38 Indeed, the most recent data available to the United Nations suggests that, while the MDGs target has already been met or is expected to be met by 2015 in northern Africa, eastern and south-eastern Asia, and Latin America and the Caribbean, progress has been “insufficient to reach the target if prevailing trends persist” in sub-saharan Africa and Caucasus and central Asia, and there has been “[n]o progress or deterioration” in southern and western Asia. 39 Moreover, the United Nation’s findings regarding undernourishment are based on data from 2007; therefore, the increases in food prices that have occurred since 2007 have likely increased the percentage of the population that is undernourished and made it less likely that the MDGs target will be met.

2. Political Instability

An additional concern raised by high food prices is that drastic increases in food prices can also prompt actions, such as protests and riots, within those countries severely impacted by rising food costs. 40 “As the Tunisian dictator Zine el Abidine Ben Ali discovered in January [2011], there is no surer route to political oblivion than to deny people access to affordable food.” 41 Increases in food prices have often been a catalyst among populations to spur political change, and “[t]he phenomenon of people taking to the streets to protest hunger has a very long history.” 42 Evidence suggests that increases in global food prices cause “significant deterioration” to democratic institutions in lower income countries and “significantly increase” occurrences of domestic conflict. 43

Food riots often reflect dissatisfaction with the political status quo beyond simply the desire to have access to affordable food.

38. Id. at 11.
42. Patel & McMichael, supra note 40, at 12, 22 (“Northern officials view the food crisis as a security issue, with food riots as 'stark reminders that food insecurity threatens not only the hungry but peace and stability itself.’”).
“[N]ot only is the food riot one of the oldest forms of collective action, it is also the moment in which economic and political injustice reaches a tipping point—arguably because food is the most elemental material symbol of the social contract.”44 Political instability is particularly likely as a result of price shocks, opposed to consistently high prices, because, while populations may suffer from consistent hunger, they may not act out until there is a change in the status quo.

Riots express something other, or more, than the depth of poverty. . . . [Riots are related to] a gap between what people believe to be their entitlement and what they can in fact achieve. Food inflation has meant that people believe they ought to be able to feed their families at a certain level, which is significantly lowered when food inflation hits.45

The connection between food prices and political instability has perhaps been demonstrated most clearly by the actions of the Egyptian people in response to rising bread prices. In Egypt, which is among the world’s largest consumers of bread,46 the government has been subsidizing bread since the 1940s.47 However, in an attempt to liberalize the Egyptian economy, in 1977 then-President Anwar Sadat ended subsidies of bread, as well as flour and cooking oil, as part of an agreement with the World Bank and IMF.48 In reaction, hundreds of thousands of Egyptians protested for two days, stopping only after the subsidies were restored.49 President Sadat expanded the subsidy program, and “[f]ood subsidies came to be seen as both a safety net to protect the poor, as well as an important tool in the promotion of social equity.”50

While the government had been able to maintain low bread prices in the intervening decades, the food price crisis that began in 2007 was a force beyond the government’s control. Not only did the increase in food prices make bread more expensive, the

44. Patel & McMichael, supra note 40, at 23.
45. Id. at 25.
46. Egyptians Riot over Bread Crisis, Telegraph (Apr. 8, 2008), http://www.telegraph.co.uk/finance/economics/2787714/Egyptians-riot-over-bread-crisis.html (noting that Egyptians eat 400 grams a day per person).
47. See Michael Slackman, Bread, the (Subsidized) Stuff of Life in Egypt, N.Y. Times (Jan. 16, 2008), http://www.nytimes.com/2008/01/16/world/africa/16iht-bread.4.9271958.html.
49. See id.
increased cost of unsubsidized food made the population even more reliant on subsidized bread. To ensure an adequate source of affordable bread, the government sold subsidized flour to bakeries so that the bakeries could sell bread at subsidized rates. The result was long waits and outbreaks of violence at bakeries while people fought to receive their primary food source; moreover, rampant corruption and a thriving black market made cheap bread and flour even scarcer and harder to come by for the poor. With concerns of bread shortages and the deaths of six people waiting in a bread line—some due to exhaustion, others due to violence—then-President Hosni Mubarak eventually ordered the Egyptian army to begin baking and distributing bread for the public. This did not occur soon enough, and in April 2008, tens of thousands of Egyptians protested high food prices, widespread unemployment, and police brutality.

The steep increase in food prices during 2007 and 2008 sparked political protests across the globe, including in Italy, Haiti, Uzbekistan, Senegal, India, Cameroon, Mexico, and Argentina. It is estimated that during the 2007–2008 food crisis, rioting occurred in forty-eight countries, affecting nations with various types of regimes, including those that have a history of stability as well as those that have been plagued with political problems. The dramatic increases in food prices seen in the past year have sparked similar problems, with political upheaval occurring in multiple countries and threatened in many more. For example, while many of the stability concerns in the Middle East and Africa are attributed to political problems, “it isn’t just about politics . . . . This is about hunger, about poverty, about food production[,] about a

51. See Slackman, supra note 47.
52. Michael Slackman, Egypt’s Problem and Its Challenge: Bread Corrupts, N.Y. Times (Jan. 17, 2008), http://www.nytimes.com/2008/01/17/world/africa/17bread.html. For example, the government would sell bakeries a twenty-five pound bag of flour for about $1.50, with the expectation that the bakery would sell the resulting bread at a subsidized rate. Id. While selling bread at the subsidized rate could result in a $10 profit, the bakery could sell the bag of flour on the black market for $15. Id.
change of world economy.\textsuperscript{57} The protests in Tunisia and Egypt, which resulted in their leaders being overthrown, have been attributed in part to the increase in food prices.\textsuperscript{58} Food price increases also contributed to protests held in Algeria, which resulted in the government decreasing taxes associated with basic food products.\textsuperscript{59} And in order to prevent protests, the government of Jordan placed price caps on sugar and rice and decreased fuel taxes.\textsuperscript{60}

Similarly, in early 2011 the United Nations warned that Latin American and African countries that are heavily reliant on food imports are at the most risk for riots motivated by increasing food prices.\textsuperscript{61} For example, Mozambique experienced brief protests in 2010 in response to government plans to increase the price of bread,\textsuperscript{62} and Bolivia has already experienced protests due to food shortages and government intervention in domestic food production.\textsuperscript{63} Furthermore, there are concerns that government actions taken to subdue potentially discontented populations may not be sustainable, creating risks of future instability in those nations.\textsuperscript{64}

\section*{III. CAUSES}

Many people believed that the "surge in crop prices to near record highs in [2007–2008] was due to the contemporaneous occurrence of a panoply of contributing factors, which [were] not likely to be repeated in the near term."\textsuperscript{65} Yet, just two years after that crisis, food prices spiked again, with some commodity prices

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\item \textsuperscript{57} Mark John, \textit{Arab Protests Show Hunger Threat to World - Economist}, REUTERS (Feb. 12, 2011), http://in.reuters.com/article/2011/02/12/idINIndia-54852720110212 (quoting development economist Jeffrey Sachs).
\item \textsuperscript{60} \textit{Id.}
\item \textsuperscript{62} \textit{Id.}
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exceeding their 2008 peaks. Food prices are affected by a number of factors impacting both demand and supply, and as long as these factors continue to fluctuate, food prices remain vulnerable to volatility.

A. Factors Affecting Supply

1. Weather

Weather-related factors can have a significant impact on the amount of food produced in any given season and thus can have a major effect on food prices. Weather-related factors have two sets of considerations. First, the impact of a weather-related event can significantly reduce the amount of food available due to single, “one-off” events, such as a flood or a drought, which can affect the harvests for that particular season or year. Second, the long-term effects of climate change can cause extreme weather in any given year as well as cause changes in long-term weather patterns. While no individual incident of severe weather can be specifically attributed to climate change, the effects of climate change on global weather patterns increase the probability that such extreme weather will occur. Indeed, some data show that “the number of extreme weather events like windstorm[s] and floods has tripled since 1980.” Additionally, the Intergovernmental Panel on Climate Change predicts that during the twenty-first century “[i]t is very likely that hot extremes, heat waves and heavy precipitation events will become more frequent” and “likely that future tropical


67. See Tim Woollings, Winds of Change?, PLANET EARTH, Winter 2010, at 18, 19. The connection between climate change and incidents of severe weather has been analogized to having a loaded dice:

Imagine you have a loaded dice that comes up with a six more often than it should, then imagine you roll the dice and it comes up six. Now ask yourself, did you get that six because the dice is loaded or would it have come up anyway? By loading the dice you have changed the statistics of how it behaves over many rolls – if you roll it 1000 times and get a six on 500 of those rolls, you know that's because the dice is loaded but you can't attribute any individual six to that fact. That's the equivalent of the question about climate change – by adding greenhouse gases to the atmosphere we are effectively loading the dice, so that the statistics of climate are changed.

Id.

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Cyclones (typhoons and hurricanes) will become more intense, with larger peak wind speeds and more heavy precipitation.  

With regard to the 2007–2008 food price crisis, “it is quite possible that the Australian drought had a particularly sharp effect on prices, especially given that the United States also experienced a poor harvest . . . and more modest declines also characterized Russian and Ukrainian production.”

Similar patterns can be seen today. Beginning in 2010, and continuing through 2011, there were multiple weather-related incidents that have seriously impacted the cost of food. In particular, four of the six largest wheat exporters had wheat crops damaged by severe weather.

For example, Russia, which accounts for about 17% of the global trade in grain, experienced a severe drought, affecting millions of acres of wheat production. Similarly, a drought in Argentina—along with government-imposed export restrictions—led the nation to export the smallest amount of wheat since 1981.

Additionally, floods damaged wheat harvests in other major wheat producing and exporting countries, such as Australia and Canada. Nonetheless, as of December 2011, the FAO forecasts that wheat

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70. Headey & Fan, supra note 11, at 46–47.


production in 2011 will be about 6.5% above production in 2010, exceeding the previous high from 2009.\textsuperscript{75}

Longer-term changes can also have a significant impact on food prices due to the potential of permanent changes to certain environments.

The [Intergovernmental Panel on Climate Change] forecasts . . . that agricultural yields in some African countries . . . may be reduced by up to 50 percent by 2020. Crop yields may increase up to 20 percent in East and Southeast Asia but decrease by 30 percent in Central and South America by 2030. . . . Drier regions of Latin America are expected to see desertification of agricultural land, and Southern Europe is projected to see higher temperatures, more frequent droughts, and decreases in water availability, [and] agricultural productivity . . . .\textsuperscript{76}

Moreover, an International Food Policy Research Institute (IFPRI) paper estimates that, while global food prices would increase even without changes to the climate, the effects of climate change will cause further increases in food prices from 2000 to 2050, with the additional increases ranging from 32%–37% for rice, 52%–55% for maize, 94%–111% for wheat, and 11%–14% for soybeans.\textsuperscript{77}

2. Trade-Related Policies

Government policies related to international trade can have a dramatic impact on food prices because it can affect the distribution of and access to the global food supply.\textsuperscript{78} Trade policies such as subsidies, export restrictions, and trade barriers, which can be implemented by both food-exporting and food-importing countries, influence the food supply because they can create additional incentives and disincentives to food production, exportation, and importation. “Policies that distort production and trade in agricultural commodities potentially impede the achievement of long run food security, by stimulating or conserving production in areas where it would not otherwise occur and by distorting, obscuring or impeding the transmission of price signals to competitive produc-


\textsuperscript{76} Brinkman & Hendrix, supra note 56, ¶ 89.


\textsuperscript{78} Terence P. Stewart, The Food Crisis: A Survey of Sources and Proposal for Preventing a Global Catastrophe 8 (2008) (noting the argument by free trade advocates that market forces can better ensure the right amount of production and distribution whereas trade barriers can prevent agricultural trade).
Thus, these trade-distorting policies function as an additional factor upon which supply is dependent.

From 1961 to 2006, “many developing nations went from being net food exporters to net food importers. In 1960, developing countries were net exporters of food, with an overall agricultural trade surplus of almost $7 billion per year; by 2001, this surplus had been transformed into a deficit of more than $11 billion.”80 The transition of developing countries from net food exporters to net food importers is considered to be partly a consequence of developed countries—with the support of subsidies and other governmental policies—sending large quantities of low-priced commodities to developing markets. While these countries provided low-priced supplies to populations that could not afford higher food prices, many domestic producers were unable to compete sustainably with low import prices.81 Thus, many developing countries became dependent on international food supplies, and therefore more vulnerable to international food price fluctuations.82

The implementation of the General Agreement on Tariffs and Trade (GATT), its successor, the World Trade Organization (WTO), and the agreements spawning from subsequent negotiations have resulted in large reductions of tariffs and other trade barriers in many areas of trade.83 Agriculture has always had a unique role, and therefore fewer obligations with regard to tariffs and other disciplines have been imposed on agricultural trade.84 Efforts have been taken, starting with the Uruguay Round and the resulting Agreement on Agriculture (AoA), to cap and reduce trade-distorting policies and to expand liberalization in agricultural trade, but these changes are still in their early stages.85 While there is potential to make significant progress in the Doha Development Round, as of the writing of this Article the negotiations are

80. Hendrix et al., supra note 9, at 2.
81. Mittal, supra note 8, at 11 box 2, 12 box 3.
85. See id.
deadlocked, and whether and when there will be forward movement is unclear.\textsuperscript{86}

Additionally, short-term government policies can exacerbate the problems associated with price increases, as they can further aggravate supply shortages and price pressures. Faced with the prospect of domestic shortages, governments seeking to protect their populations may impose export restrictions or other trade mechanisms to maintain or increase domestic supply. “In the short run, such measures can be helpful domestically, but have significant negative effects on neighbouring and other importing countries. In the long run, they are not very effective because they are a disincentive to production and trade.”\textsuperscript{87} Article XI of the GATT allows member countries to impose “[e]xport prohibitions or restrictions temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting [Member].”\textsuperscript{88} While the AoA requires that members considering utilizing the exception in Article XI “give due consideration to the effects of such prohibition or restriction on importing Members’ food security,”\textsuperscript{89} the interplay between Article XI and the AoA highlights the challenges that exist for national governments that are faced with choosing between supplying the international community and maintaining domestic supply during a time of high food prices. While governments take these steps during a crisis to protect domestic prices and supplies, export bans and other restrictions can distort supply and demand, making it difficult for other populations to access sufficient food supplies. The imposition of export restraints can also cause food-importing countries to become wary of dependence on food imports and emphasize maintenance of domestic supply even if they are not internationally competitive.\textsuperscript{90}

During the 2007–2008 food crisis, agricultural export restrictions were put in place by around forty countries.\textsuperscript{91} It was observed that “[t]he case of wheat is striking because of the important interplay between weather shocks and trade restrictions.”\textsuperscript{92} After the


\textsuperscript{87} Brinkman & Hendrix, supra note 56, ¶ 53.


\textsuperscript{89} Agreement on Agriculture art. 12, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, 1867 U.N.T.S. 410.

\textsuperscript{90} STEWART, supra note 78, at 10.

\textsuperscript{91} MITTAL, supra note 8, at 15.

\textsuperscript{92} HEADEY & FAN, supra note 11, at 46.
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drought in Australia, countries such as India, Ukraine, Argentina, Russia, and Kazakhstan all imposed export restrictions, which both further reduced global supply and increased demand for wheat from markets that remained open.93 Similarly, the IFPRI attributed about three-quarters of the increase in the price of rice in 2008 to government policy responses like export restrictions.94

Recognizing the way in which export restrictions exacerbated the previous crisis, there has been a push to inform countries of the negative impact of such actions. The Director-General of the WTO emphasized this problem while speaking to a conference of agriculture ministers in January 2011, noting that “[c]onstraints lead to panic in markets when different actors see prices rising at stellar speed.”95 Preventing a large number of countries from taking such actions could help ameliorate, or at least not exacerbate, the repercussions of the current price surge. While Russia, Ukraine, Macedonia, and Moldova had imposed export bans or restrictions on wheat in the wake of the current increase in food prices,96 governments have not been implementing export restrictions on the scale seen during the previous crisis.97 Additionally, in the summer of 2011 Russia and Moldova lifted their bans on wheat exports and Ukraine suspended its export quotas, which has helped push wheat prices down.98 Instead, Ukraine has imposed, and Russia has considered imposing, export duties on...
wheat in order to both supply the international market and prevent a surge in domestic prices.99

3. Energy Prices

As with any other product, an increase in the cost of inputs will increase the cost of food. Because of the high energy intensity of agriculture production, the increase in energy prices—fuel, in particular—has led to food prices increasing.100 As input costs increase, producers may increase prices to cover the increases in costs and/or decrease overall production. The U.S. Department of Agriculture estimated that doubling of prices of energy intensive components of production, including fertilizer and fuel, increased production costs for the United States corn, soybeans, and wheat by around 21.7 percent between 2002 and 2007. This rise in the cost of production increased the export prices of the major United States food commodities by about 15–20 percent between 2002 and 2007.101

Increases in the cost of oil not only affects the production cost of food through an increase in the cost of inputs, but can also further affect prices due to increased transportations costs.102 It was estimated that the increase in the cost of fuel between 2002 and 2007 added up to 10% to the cost of U.S. exports of corn and wheat compared to the domestic price due to increased transportation costs alone.103 Because “[a]griculture is second only to transport in the oil intensity of its energy usage,” it is not surprising that dramatic increases in the cost of fuel coincide with increases in the cost of food.104 The increase in transportation costs may also impact the distribution of food, resulting in additional pressures on price based upon the distribution of supply.

Estimates suggest that the rise in the price of oil from 2002 to 2007 increased the cost of food production in the United States


101. MITTAL, supra note 8, at 4 (citations omitted).


104. See HEADY & FAN, supra note 11, at 25.
somewhere between 11% and 40%.

From the beginning of 2003 to June 2008, the cost of a barrel of oil increased from $30 a barrel to $140 a barrel, approximately 35% above the previous record high in real terms; by September 2008, the price of oil had dropped to $100 a barrel, but was still double the prices seen in 2006. Similarly, as of January 2012 the U.S. Department of Energy forecasts that between 2009 and 2011 certain crude oil prices would increase from an average of $61.65 per barrel to $94.86 per barrel, and increase again to $100.25 per barrel in 2012. Indeed, crude oil prices in early 2011 climbed toward the record highs seen in 2008. Given the extent to which food costs are reliant on energy prices, a continued high level of oil costs will keep food prices at very high levels.

4. Agricultural Research and Development

Given factors such as changes in weather and the availability of land and other resources, agricultural research is becoming an increasingly important factor in ensuring that supply can match the growth in demand. In prior decades, when the global population was growing much faster than the supply of food, developed countries recognized the need to invest in agricultural development and improve crop yields in order to feed the expanding pop-
ulation and fight global hunger and higher food costs. After the food price crisis in the 1970s, food prices, along with global hunger, began to wane and the perceived need for investment in agricultural aid decreased as well. Increasing and consistent investment in agricultural research and development remains important as it can help ease upward pressures on price and reduce the likelihood of price fluctuations by increasing the global supply. In particular, developments in technology regarding increases in crop yields can have a significant role in increasing crop production, which is especially important given a growing population and a finite amount of resources. The FAO has estimated that increases in crop yield per acre accounted for over 70% of the increase in crop production from 1961 to 1999. Similarly, the effects of climate change make it necessary to explore the ability to continue production in certain regions, as well as the opportunity to develop supplies in regions that were previously not suitable for crop growth.

Investment in agricultural research and development can also help minimize the gap between gross food supply and net food supply. For example, it is estimated that 30% to 40% of food globally is lost to waste. Although waste rates are similar in developed and developing countries, the cause of waste is very different. In developed countries, most food waste occurs in the retail or post-retail stages when, for example, a grocery store may discard edible but blemished food or a consumer may discard a product based on its “use by” date. In contrast, in the developing world, waste typically occurs in the pre-retail stages, with losses often resulting because of things like pests and poor storage and transportation technologies. Post-harvest losses in Africa alone can reach 25% of the total cereal harvest. Similarly, in southeast Asia, more than 30% of the rice harvest can be lost due to factors like pests and spoilage. Greater research into new technologies

111. See Keith Bradsher & Andrew Martin, World’s Poor Pay Price as Crop Research Is Cut, N.Y. TIMES (May 18, 2008), http://www.nytimes.com/2008/05/18/business/worldbusiness/18focus.html.
114. Id.
115. Id.
116. UNITED NATIONS ENV’T PROGRAMME, supra note 112, at 32.
117. Godfray et al., supra note 113, at 816.
aimed at minimizing pre-retail losses can help reduce price pressures by reducing the gap between food production and net food supply.

By 2008, support and donations for agricultural development had decreased by more than half since 1982; the United States alone cut agricultural support from $2.3 billion to $624 million during that time. Interestingly, during the same time period overall commitments to development aid greatly increased, suggesting that donors recognized the need for increased aid, but simply no longer prioritized agricultural aid. Similarly, during this time, domestic public expenditures decreased, with one study revealing that, in forty-four countries, total government expenditure on agriculture decreased from 11% to 7%. Moreover, since 1990, both national and international agricultural research institutes have faced declining budgets.

A 2010 report reviewing agricultural aid donations in recent years highlights the changing emphasis on agricultural research. The United States has been by far the largest bilateral donor to agricultural aid, contributing an average of over $1.016 billion per year and accounting for over 31% of all bilateral agricultural aid from 2005 to 2008. As a percentage of total agricultural aid donations, contributions to agricultural research decreased from 9% during 2000–2003 to 2.9% during 2005–2008. The next largest bilateral donor—Japan—contributed an average of $506 million per year, accounting for 15.6% of all bilateral donations, but contributions to agricultural research accounted for only 0.8% of donations in 2000–2003 and decreased to 0.1% by 2005–2008.

118. Food Aid Hearing, supra note 110, at 48 (prepared statement of Nicholas Minot).
119. S STEWART, supra note 78, at 11.
122. Food Aid Hearing, supra note 110, at 49 (prepared statement of Nicholas Minot).
123. See COPPARD, supra note 121, at 16. Agricultural aid was defined as support to agricultural sector policy, planning, and programs; agricultural land and water resources; agricultural development and inputs; crops and livestock production; agricultural credit; cooperatives; agricultural education; training and research; institutional capacity building and advise; and alternative agricultural development to displace narcotics cultivation. Id. at 7–8.
124. Id. at 11 tbl.1.
125. Id. at 11 tbl.1, 45 tbl.7.
126. Id.
“Agricultural aid” encompasses contributions to a large variety of agricultural areas, with the largest portion of overall agricultural aid contributions from 2000 to 2008 going to agricultural policy and administrative management. Nonetheless, contributions to agricultural research have “risen in prominence from 6% to 10% of all agricultural assistance” when comparing the 2000-2003 period to the 2005-2008 period, and “2005-[2008] levels . . . are almost double those of 2000-[2003].” This appears to be largely the result of a few bilateral donors making significant increases in the percentage of agricultural aid going to agricultural research. For example, between the 2000–2003 period and the 2005–2008 period, contributions to agricultural research as a percentage of agricultural aid increased from 3.2% to 66.0% from France, from 23.0% to 50.0% from the United Kingdom, from 0.0% to 14.4% from Switzerland, and from 11.9% to 22.6% from Sweden.

B. Factors Affecting Demand

1. Consumers and Preferences

While an increase in population at a rate faster than the increase in food production may appear to be a simple cause of increased food prices—the increase in supply is outpaced by the increase in demand—the reality is much more nuanced. In particular, food prices have increased not just because of an increase in demand, but because of an increase in demand of certain products. As populations gain affluence, their demand for food transforms as well; in particular, there is increased demand for meat and dairy products. For example, “[t]he World Bank estimates that food production will need to grow by another 50 percent by 2030 (and 85 percent for meat) to fulfil [sic] projected demand.” In China alone, per-capita meat consumption increased about 20% per year from 2005 to 2009, and the IFPRI projects that from 1997 to 2020, global meat demand will increase from 208 million tons to 326 million tons. Although the demand for meat in developing countries is expected to stay well below the demand in developed countries, the majority of the increase in global demand is

127.  Id. at 16 fig.9.
128.  Id. at 16.
129.  Id. at 44–45 tbl.7.
expected to come from developing countries, with an increase in demand of 92%.\textsuperscript{133}

The changes in global food demand patterns have a two-part impact on food prices. First, the increase in the demand for meat means an increased need to feed animals that will go on to serve the rising demand. It is estimated that to produce one pound of meat, 2.6 to 7 pounds of feed is needed.\textsuperscript{134} For example, China’s largest livestock feed producer stated that it will likely use an additional 1.5 million tons of corn in 2011 to accommodate the increasing demand for meat and dairy products.\textsuperscript{135} Second, the increased need to raise food animals means an increased need for land on which to raise these animals, resulting in less land that can be used to grow crops.

While it has been estimated that global increases in income could account for up to half of the increase in food prices seen during 2007 and 2008,\textsuperscript{136} changes in consumption patterns resulting in higher demand for grains are more likely a contributing factor to the overall increase in the price of food seen today and in 2008.\textsuperscript{137} In looking at agricultural market projections over the next decade, it was noted that “[s]tronger demand, with an anticipated return to higher growth following economic recovery and from increasing populations, should outpace production growth, on average, over the projection period [of 2010 to 2019] to maintain all commodity prices on a higher plateau.”\textsuperscript{138} Additionally, even though growth in cereal production is anticipated to match growth in demand, prices are expected to remain highly volatile, particularly given the increasing role in production of developing countries.\textsuperscript{139}

2. Financial Markets

Given that farmers must plan output for a given harvest well before crops will be sold, they face the dangers of producing

\begin{footnotesize}
\begin{enumerate}
\item \textsuperscript{133} See id. at 65–66.
\item \textsuperscript{134} Ronald Troostle, Global Agricultural Supply and Demand: Factors Contributing to the Recent Increase in Food Commodity Prices 12 (2008).
\item \textsuperscript{136} See Evans, supra note 130, at 2.
\item \textsuperscript{137} Cf. Headey & Fan, supra note 102, at 377 (“[I]t seems unlikely that rising soybean demand from the early- to mid-1990s is likely to explain a sudden and largely unforeseen price shock 10 years later.”).
\item \textsuperscript{138} Agricultural Outlook, supra note 65, at 26.
\item \textsuperscript{139} See id. at 28.
\end{enumerate}
\end{footnotesize}
beyond what is needed to satisfy demand, resulting in prices too low to sufficiently cover the costs of production. One mechanism for combating the risks associated with unknown food prices, and thus offering more security to farmers, is the futures market. The futures market can provide a level of security with regard to future demand and allow farmers to plan a level of production based upon an already agreed upon prices.

The futures market is supposed to be a “stabilizing” tool for farmers to sell their harvests ahead of time. In a futures contract, quantities, prices and delivery dates are fixed, sometimes even before crops have been planted. As speculators are supposed to buy when prices are low and sell when prices are high, they serve to make prices less volatile rather than more so.¹⁴⁰

Commercial actors—farmers, traders, and processors—can utilize the futures market to hedge against future price fluctuations, whereas noncommercial actors take on the risk of future price fluctuations to earn profit.¹⁴¹ The role of noncommercial participants is important to ensure sufficient market liquidity and allows commercial participants to engage in low-cost transactions. The level of noncommercial participation can greatly impact food prices. “Too little non-commercial participation results in low liquidity and potentially in large seasonal price swings. Too much non-commercial participation can cause frequent and erratic price changes.”¹⁴²

The number of traded futures contracts has been growing in recent years, and the amount of speculative capital entering the agricultural commodity markets has greatly increased.¹⁴³ Moreover, loosened restrictions starting in 2000 and “regulatory loopholes” have allowed a large increase in speculation.¹⁴⁴ As the market is flooded with speculation and futures prices increase, spot—or current—prices can be pushed up as well. It was noted that

with the bursting of the housing bubble in mid-2007 and global grain stocks growing low, financial investors saw opportunities in the food commodities markets to diversify their portfolios and

¹⁴⁰. MITTAL, supra note 8, at 5.
¹⁴². FOOD & AGRIC. ORG. OF THE UNITED NATIONS ET AL., supra note 79, ¶ 82 (citations omitted).
¹⁴³. von Braun & Torero, supra note 141, at 1.
¹⁴⁴. MITTAL, supra note 8, at 5.
improve returns. The greater demand created by investors’ speculation in commodity futures put tremendous upward price pressure on food and energy commodities.\footnote{Id. at 5–6.}

3. Biofuels

The past decade has seen an enormous push by governments, international bodies, and non-governmental organizations to address issues of energy security. One of the major aspects of these policies has been the production of biofuels as a source of renewable energy. For example, the European Union has mandated that, by 2020, biofuels should account for 10% of transportation fuel use.\footnote{Id. at 5–6.} Similarly, the Energy Independence and Security Act of 2007 increased the biofuel target of the United States to thirty-six billion gallons by 2022.\footnote{Mark Gehlhar et al., Effects of Increased Biofuels on the U.S. Economy in 2022, at iii (2010).}

The increased demand for biofuel production has caused an increase in demand for the foods that are used to produce alternative fuels. From 2006 to 2007, biofuels accounted for almost half of the total increase in consumption of major food crops; from 2009 to 2010, grains used in the production of ethanol are expected to account for about 6% of cereal production worldwide and 40% of maize production in the United States alone.\footnote{Brinkman & Hendrix, supra note 56, ¶ 44.} This growth in demand can also be enhanced by government policies aimed at increasing biofuel production and consumption, such as tax credits, investment subsidies, and consumption mandates.\footnote{See Stewart, supra note 78, at 7.} In addition, biofuels push up the prices not only of the crops used for energy, such as maize and vegetable oil, but also of other foods, because of substitutions in production or consumption through cost-push effects. Approximately 60 percent of global maize production is currently used for animal feed, having an effect on meat and dairy prices.\footnote{Brinkman & Hendrix, supra note 56, ¶ 44.}

During the 2008 food price crisis, World Bank President Robert B. Zoellick urged the United States and Europe to adopt policies that would encourage production of sugarcane biofuels, as opposed to corn ethanol, in part because it would not directly compete with...
food production.\textsuperscript{151} Similarly, as demand for maize increases, more land is used to supply that demand, detracting from the land dedicated to other foods.\textsuperscript{152}

Research regarding the extent to which biofuels actually affect the price of food vary greatly, with one study noting that “[s]everal institutions estimate that biofuels accounted for about 20 to 30 percent of the price increases [in 2007 and 2008], but some put this figure as high as 70 percent or as low as 3 percent.”\textsuperscript{153} Nonetheless, the fact that biofuel production can impact food prices is unsurprising given the global division of food and ethanol production. The United States is by far the largest corn exporter in the world, exporting more than three times as much corn as Argentina, the second largest exporter;\textsuperscript{154} however, the United States also has been—and is expected to continue to be—the largest ethanol producer, raising concerns that higher prices in the United States resulting from higher demand will “spill[ ] over onto world markets, triggering an international crisis.”\textsuperscript{155} Thus, as demand for biofuels and, in turn, the commodities used to produce them, continues to grow, food prices will likely remain high due to both the primary and secondary effects of increased demand.

IV. ADDRESSING THE PROBLEM

Given the vast implications of food price increases, it is unsurprising that a wide variety of entities work toward ameliorating the impact of food price spikes and addressing global food insecurity. These entities pursue actions ranging from providing direct food aid during times of crisis to supporting local agricultural industries in order to build domestic production. These actions often focus on providing emergency assistance to those most affected and developing programs that will help minimize or ameliorate the impact of increased food prices.\textsuperscript{156} However, the speed at which

\begin{itemize}
\item \textsuperscript{151} Robert B. Zoellick, A 10-Point Plan for the Food Crisis, \textsc{World Bank}, http://go.worldbank.org/AQXYL87MN0 (last visited Jan. 19, 2012).
\item \textsuperscript{152} \textit{E.g.}, \textsc{Headey & Fan}, \textsuperscript{supra} note 11, at 29 (explaining that in the United States, an increase of maize area by 23% caused a 16% decrease in soybean area).
\item \textsuperscript{153} Brinkman & Hendrix, \textsuperscript{supra} note 56, ¶ 43.
\item \textsuperscript{155} \textsc{Mittal}, \textsuperscript{supra} note 8, at 7–8.
\item \textsuperscript{156} \textit{See, e.g.}, \textsc{Action Plan on Food Price Volatility and Agriculture}, \textsc{United Nations}, http://www.un.org/en/issues/food/taskforce/action_plan_on_food_price.shtml (last visited Jan. 19, 2012).
\end{itemize}
food prices increased in 2007–2008 and in 2010–2011, as well as the proximity of these increases, has demonstrated the need to focus on actions aimed at combating the causes of food price volatility in addition to actions designed to protect populations from the negative effects of food price increases. In response to the 2007–2008 food price crisis, and continuing through the following years, various international and intra-governmental organizations highlighted food price crises as a priority for the global community. For example, the U.N.’s High-Level Task Force on Global Food Security (HLTF), the FAO’s High-Level Conference on World Food Security: The Challenges of Climate Change and Bioenergy and Summit on World Food Security, and the meetings of the G8 and G20 have all identified the necessity of policy responses to combat some of the causes of high food prices. Consequently, a number of the obligations identified and the commitments undertaken as a result of these efforts have focused on addressing the causes of food price increases.

A. Agricultural Research and Development

With the onset of the 2007–2008 food crisis, the call for agricultural aid was renewed, and increased agricultural research and development has often been an aspect of proposals to address food insecurity. This is unsurprising given that agricultural research and development can not only help increase food supply through, for example, developing technologies for increased crop yields, but can also help address other factors that influence supply, such as weather and production costs, by exploring ways to develop harvests that are more resilient to weather and adaptive to climate change or that can be produced in more cost-effective ways. The HLTF identified increased contributions to agricultural research and development as a necessity to promoting medium- and long-term resilience, stating that significant increases in funding and dissemination of research are required to avoid another food crisis.

sis in ten to fifteen years." Agricultural research and development is particularly important in light of the growing population and the impact of climate change. Similarly, the declaration of the High-Level Conference on World Food Security "urge[d] the international community, including the private sector, to decisively step up investment in science and technology for food and agriculture. Increased efforts in international cooperation should be directed to researching, developing, applying, transferring and disseminating improved technologies and policy approaches."

In recognition of the decline of agricultural aid, and the need to reverse the trend, over fourteen countries and the European Commission pledged more than $20 billion over three years during the G8-plus meeting in July 2009, known as the L’Aquila commitments. Despite the push to increase contributions to agricultural aid, it is unclear to what extent agricultural research and development is being targeted. For example, both the United States and Germany have stated that their contributions under the L’Aquila commitments will be in addition to food aid and emergency assistance, whereas Canada stated that its contribution included food aid and other donors did not clarify what their contributions included. Additionally, as reviewed above, although overall contributions to agricultural research have increased in recent years, this appears to have been mainly the result of a few bilateral donors, as contributions to agricultural research as a percent of agricultural aid from many governments and multilateral institutions have decreased.

This, of course, is not meant to suggest that certain countries are necessarily taking the right approach whereas other countries are not; instead, it is simply intended to demonstrate the variety of approaches that donors can take and the difficulties that exist in identifying exactly where contributions are being focused and why. Given that there are a multitude of other areas in agriculture—all of which are important—that are in need of funding, it is difficult to say that the area of agricultural research and development is more worthy of funding than, for example, agricultural education.

158. CFA, supra note 157, at 21.
159. See id.
160. Declaration on World Food Security, supra note 157, ¶ 7(d).
162. COPPARD, supra note 121, at 6.
163. E.g., id. at 44–45 tbl.7.
and training or agricultural financial services, and should receive funding over other projects. Similarly, particularly in light of the economic difficulties that the world has been facing and continues to face, governments, international organizations, and non-governmental institutions have limited resources available, meaning that there is likely a lack of funding in all areas.

B. Trade Policy

A consistent theme among many proposals aimed at addressing food price increases is the role of individual countries’ trade policies and the international trade system. Proposals emphasize the need to eliminate trade-distorting practices, by both exporting countries and importing countries, to better facilitate agricultural trade. For example, the HLTTF highlighted trade policy changes as part of both the short- and long-term solution, specifically calling on exporting nations to reduce subsidies and export restrictions and on importing countries to minimize tariffs and taxes. Similarly, the G8 and G20, as well as the declaration from the High-Level Conference on World Food Security, specifically identify liberalizing agricultural trade and minimizing trade barriers as critical to achieving global food security and mitigating food price volatility. Moreover, in order to accomplish this, the international community has repeatedly highlighted the necessity of strong international rules and of completing the Doha Development Round of negotiations at the WTO.

1. World Trade Organization

The GATT, and subsequently the WTO, has worked toward reducing or eliminating impediments and distortions to trade for over sixty years, and although agriculture was taken into consideration during the creation of the GATT and subsequent negotiating rounds, it was not until the Uruguay Round Agreement on Agriculture was implemented in 1995 that agriculture was directly addressed. The AoA sought to “mitigate [the] inequities in international agricultural trade and . . . gradually dismantl[e] agricultural subsidies and tariffs.” Indeed, the agreement itself

164. CFA, supra note 157, at 12-13.
165. Food Price Volatility, supra note 157, ¶¶ 37, 40; Declaration on World Food Security, supra note 157, ¶ 7(3).
166. Food Price Volatility, supra note 157, ¶¶ 37-38.
167. See Corinna Hawkes & Sophia Murphy, An Overview of Global Food Trade, in TRADE, FOOD, DIET AND HEALTH 16, 18 (Corinna Hawkes et al. eds., 2010).
168. Gonzalez, supra note 82, at 470.
notes the importance of trade reform to obtaining global food security and the need of the global trading community to account for the special needs of developing countries and countries dependent upon food imports. Moreover, in the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries, the Trade Negotiating Committee of the Uruguay Round agreed to take steps to ensure that agricultural trade would not hinder the availability of food for Least Developed Countries (LDCs) and Net Food Importing Developing Countries (NFIDCs) through adopting mechanisms such as periodic reviews of the level of food aid, guidelines to ensure the provision of basic foodstuffs, financial and technical assistance to improve agricultural productivity and infrastructure, and favorable differential treatment regarding agricultural export credits.

Currently, WTO negotiators are seeking to better address agricultural issues through the Doha Round negotiations, and agriculture has been both a driving force in and major impediment to completion of the negotiations. Understandably, countries’ proposals reflect the particular concerns that the proposing country, or group of countries, faces. For example, a group of LDCs and NFIDCs have sought exemptions under WTO rules that would allow them to still receive food imports even if exporting nations have implemented export restrictions. Similarly, Japan, which is a major food importer, has suggested that, if a country determines it is necessary to impose temporary export restrictions, the country must consult with other members prior to imposing the restriction and must maintain a certain level of exports to allow “importing countries to secure the necessary level of imports.” The United States likewise proposed to strengthen disciplines regarding export

169. Agreement on Agriculture, supra note 89, pmbl.
171. E.g., CHARLES E. HANRAHAN & RANDY SCHNEPF, CONG. RESEARCH SERV., RL33144, WTO DOHA ROUND: THE AGRICULTURAL NEGOTIATIONS 2 (2007) (“Just as disagreement over agricultural issues was the principal cause of the July 2006 suspension of negotiations, agriculture has been at the center of efforts to restart the negotiations.”).
173. See Committee on Agriculture Special Session, Negotiating Proposal by Japan on WTO Agricultural Negotiations, ¶ 33, G/AG/NG/W/91 (Dec. 21, 2000).
restrictions, as well as to establish export reporting systems and
parameters for agricultural export credits and credit guarantees.174

Emerging from the 2008 negotiations in Geneva, the members
had reached a number of agreements—contingent upon the pas-
sage of a comprehensive agreement—on issues involving each of
the “three pillars” of the agriculture negotiations: domestic sup-
sport, market access, and export competition.175  With regard to
domestic support, the members agreed to make significant cuts to
overall trade distorting domestic support, ranging from 80% for
the European Union, 70% for the United States and Japan, and
55% for other members; they also agreed to significant cuts and
caps to Amber Box programs, limitations to Blue Box programs,
and revised and tightened monitoring of Green Box programs.176
With regard to market access, the members agreed to cut tariffs,
with obligations for developed countries ranging from 50% to
70%, subject to a 54% minimum average, and with developing
countries cutting tariffs at a rate of two-thirds of developed coun-
tries’ cuts and at a maximum average of 36%.177  Additionally,
smaller cuts could be taken by all countries for sensitive products
and by developing countries for “special products.”178  Finally, with
regard to export competition, the members agreed to eliminate
export subsidies, with a deadline of the end of 2013 for developed
countries and longer for developing countries, and to revise the
provisions on export credit, guarantees and insurance, interna-
tional food aid, and exporting state trading enterprises.179  Given
the delay in completing the Doha Round—and the question of
whether the negotiations will be abandoned all together—there is

174. Committee on Agriculture Special Session, Proposal for Comprehensive Long-Term
Agricultural Trade Reform Submission from the United States, 5–6, G/AG/W/15 (June 23,
2000).
english/tratop_e/dda_e/status_e/agric_e.htm (last visited Jan. 19, 2012); see also HANRA-
HAN & SCHNEPF, supra note 171, at 21 (noting that these issues are known as the “three
pillars”).
176. Agriculture: Negotiating Modalities, supra note 175. Under WTO terminology,
domestic support programs are defined as “boxes,” where Amber Box programs are
domestic support measures that distort trade and production, Blue Box measures are
Amber Box programs with conditions aimed at reducing distortion, and Green Box pro-
grams are subsidies that do not distort, or cause minimal distortion to, trade. Domestic
english/tratop_e/agric_e/agboxes_e.pdf.
177. Unofficial Guide to the Revised Draft Modalities – Agriculture, WORLD TRADE ORG. 3
178. Id.
179. Id. at 4.
uncertainty surrounding whether and when these agreements will be implemented.\textsuperscript{180}

2. Food Sovereignty and Free Trade

One of the debates that has arisen regarding trade policy is whether food security would be better accomplished by focusing on trade liberalization in the agricultural sector or by developing individual countries’ abilities to be food-self-sufficient. For example, in January 2008, the Report of the Special Rapporteur on the Right to Food (Report) noted that “[s]everal States and civil society organizations have been active in questioning the whole paradigm of free trade in agriculture, as they believe that the inequities of the global agriculture trade system are a disaster for food security, particularly for poor countries and poor people.”\textsuperscript{181} The Report explained that, while the concept of food sovereignty is not “anti-trade,” it focuses on developing individual countries’ food policies and agricultural industries opposed to prioritizing the facilitation of international markets.\textsuperscript{182} In other words, “[f]ood sovereignty emphasizes locally-oriented small-scale peasant agriculture producing for consumption inside the country, as opposed to the current model of export-oriented, industrialized agriculture.”\textsuperscript{183} The Report concluded that promoting the policy of food sovereignty would better ensure the right to food and stimulate global food security.\textsuperscript{184}

In contrast, the Director-General of the WTO, Pascal Lamy, has countered suggestions that there should be a move away from international trade and toward food sovereignty. For example, when speaking at the XIIIth Congress of the European Association of Agricultural Economists, he acknowledged that trade distorting agricultural subsidies and high tariffs on agricultural goods are still common, but asserted that the Doha Round provides the opportunity “for vital agricultural reform.”\textsuperscript{185} Mr. Lamy contended that

[i]nternational trade in agriculture is less than 10% of world trade. Furthermore, whereas 50% of the world’s production of

\textsuperscript{180} See Robinson, supra note 86.
\textsuperscript{182} Id. ¶ 73.
\textsuperscript{183} Id.
\textsuperscript{184} See id. ¶ 75.
industrial goods enters international trade, it is important that you know that only 25% of the world’s agricultural production is traded globally. In the case of rice, this figure drops to 5-7%, making for a particularly thin international rice market. In addition, of the world’s 25% of food production that enters international trade, the vast majority (two-thirds) is processed food, and not rice, wheat, or soya as some would like to claim. To suggest that less trade, and greater self-sufficiency, are the solutions to food security, would be to argue that trade was itself to blame for the crisis. A proposition that would be difficult to sustain in light of the figures I just cited.186

Instead, he argued that international trade should be used as part of the solution to the global food crisis by developing international rules that better allow for the transmission of food.187

As these two approaches clearly have different emphases, they implicate the need for different efforts by the global community. These approaches both implicate policies that affect the supply of food, but they differ in how the additional supply should be developed and distributed. To establish food sovereignty, resources would have to be directed toward providing countries with the ability to develop sufficient and sustainable agricultural industries, which would include providing things like financing, education, and supplies. Additionally, international rules would likely have to be developed to allow these countries to undertake steps that may be inconsistent with or contradict other international obligations—in particular, the WTO—and to identify the countries for and situations in which these rules would apply. Policies such as these may help combat food price increases as well as establish a safety net for countries that are particularly dependent on food imports and vulnerable to food price volatility through creating an increased and maintainable domestic supply.

On the other hand, to develop enhanced international trade rules would require, first and foremost, the completion of trade negotiations. As demonstrated by the ongoing Doha Round, this has proven quite difficult given that countries are seeking to protect and promote their own national interests as well as the concepts that the countries believe are in the best interest of the global community. However, countries have been able to liberalize agricultural trade through bilateral and multilateral agreements as WTO negotiations have stalled.188 These agreements have worked

186. Id.
187. Id.
188. Hawkes & Murphy, supra note 167, at 20.
toward further agricultural trade liberalization through measures such as lowering tariffs and removing restrictions on foreign direct investment in and opening the market for services that affect the food supply chain.\footnote{Id. at 21.} Liberalized trade can help facilitate the flow of supply and ensure that food is produced by the most efficient producers, helping to decrease overall pressures on food prices.

C. Biofuel Policy

Given the role that demand for biofuel can have on demand for staple foods like maize, there have been recommendations aimed at reducing the competing pressures between food production and biofuel production. Many of these suggestions have focused on increasing biofuel production that does not directly compete with food production and reducing mandates and subsidies that encourage development and consumption of biofuel that may not be efficient. For example, in the \textit{Comprehensive Framework for Action}, the HLTF called on the global community to develop an international consensus regarding biofuel policy, recognizing the need to address the dual concerns of food security and climate change mitigation and adaptation.\footnote{CFA, \textit{supra} note 157, at 24.} The HLTF specifically suggested that nations reassess biofuel targets, subsidies, and tariffs and facilitate private investment in biofuel production in developing countries as a way to reduce price volatility and pressures on grain and oilseed demand.\footnote{Id. at 25.} Similar recommendations have promoted removing barriers in the international market so that biofuels are produced by the most efficient producers and increasing research in alternative technologies.\footnote{See \textit{Food & Agric. Org. of the United Nations et al.}, \textit{supra} note 79, at 26 recommendation 6.} For example, the Statement on Global Food Security by the G8 leaders promoted the development and commercialization of biofuels from non-food plant materials and inedible biomass.\footnote{G8 Leaders Statement, \textit{supra} note 157, ¶ 7(i).}

A number of governments have taken action to pursue alternative biofuel policies. For example, in reviewing the commitments expressed during the 2008 G8 summit, the expert group on global food security at the 2009 G8 summit noted that Canada has invested $500 million over eight years in developing and commer-
cializing second-generation biofuels.\textsuperscript{194} Similarly, Germany has promoted the establishment of policies that incorporate and prioritize food security concerns and has supported projects dedicated to the breeding and cultivation of new plants for second-generation biofuels.\textsuperscript{195} While there has been widespread consensus regarding the need to address the role of biofuels in food price crises, international and national actors are faced with competing concerns. Much of the emphasis on biofuel production is a response to the need to develop new technologies that are environmentally friendly and sustainable, and therefore there may be reluctance to move away from current biofuel technology until a feasible alternative is established. Additionally, many governments and private entities have made large investments to develop biofuels and related technologies and to conform to government mandates regarding these alternative technologies. In other words, governments and other entities “may not want to forego the environmental or energy security benefits they believe the [current biofuel] policies generate, or they may not want to see the substantial investment that has already taken place in biofuel production under-utilized.”\textsuperscript{196}

D. \textit{Financial Market Regulation}

There is also recognition among the international community that there needs to be greater regulation of the futures market in order to reduce the ability of the futures market to cause large fluctuations in food prices. Given that these markets exist in a number of countries, individual actions will need to be taken to address the policies and regulations that exist with regard to each specific market. For example, in the wake of the financial crisis, the United States and the European Union have both pursued regulatory reform for their financial markets, including, but not limited to, the agricultural commodity markets, to increase transparency and reduce the likelihood of market abuse.\textsuperscript{197}

Recommendations to address the volatility caused by the futures market have typically focused on increased information sharing and transparency in order to establish appropriate market over-

\begin{thebibliography}{10}
\bibitem{195} \textit{Id.} at 42–43.
\bibitem{197} \textit{Id.} ¶¶ 85, 87.
\end{thebibliography}
sight. As was stated in the Action Plan on Food Price Volatility and Agriculture produced during the meeting of the G20 Agricultural Ministers in June 2011, “appropriately regulated and transparent agricultural financial markets are indeed key for well-functioning physical markets.” Consequently, the G20 Agricultural Ministers recommended increased transparency as well as enhanced collaboration between the regulatory bodies responsible for futures markets. Other policy responses that have been debated by the international community have included the use of speculative position limits, maximum limits to daily price changes, and limits on inventories held by non-commercial participants. Despite the agreement that there should be greater regulation, there is also concern that over-regulation may stifle the beneficial aspects of the futures market. A policy report by the FAO noted, as follows:

Efforts to reduce speculation in futures markets might even have unintended consequences. Mechanisms to intervene in futures markets, if the futures price diverges from an equilibrium level determined by market fundamentals . . . , might divert speculators from trading and thus lower the liquidity in the market available for hedging purposes.

Thus, in order to be effective, any policy change must meet the appropriate balance between regulating the market and allowing the market to function effectively.

V. Conclusion

The negative correlation between high food prices and global food security is clear. This has only been emphasized by the discrepancy seen in the reduction in poverty compared to the reduction in hunger over the past twenty years. Addressing the causes of high food prices is a fundamental part of achieving global food security. Regardless of increases in the amount of food available and individuals’ incomes, food security cannot be achieved if food prices are so high that the food is not accessible to the populations in need. Similarly, food security cannot be achieved if populations’ ability to access sufficient food is continually threatened by price volatility. Thus, the global community must continue its efforts to address the root causes of food price increases and volatility.

198. *Food Price Volatility*, supra note 157, ¶ 52.
199. *Id.* ¶¶ 53, 55.
Despite the efforts that have been made in recent years, the current situation demonstrates that the international community still must make substantial strides before global food security will be a reality.