



Confronting the Global Food Challenge

finding new approaches to trade and investment that support the right to food

World agricultural trade
and human rights:
case studies on violations of the right to
food of small farmers

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Introduction

The current hunger crisis makes it clearer than ever that global agricultural trade and the rules underlying it can have considerable – positive or negative – effects on the human right to food. Although this general recognition has now become virtually uncontested on an international level, opinions differ as to the political conclusions to be drawn. While the UN Special Rapporteur on the right to food warns of the negative consequences of opening the market further, the new UN strategy on the hunger crisis plans radical liberalisation on all levels. The debate concerning the kind of trade policy which is in accordance with human rights should not solely follow ideological models, but should be conducted on the basis of scientifically verifiable empirical data. This background paper therefore summarizes the results of some empirical case studies on the impact of trade policy on the right to food in selected farmers' communities in Ghana, Honduras, Indonesia, Uganda and Zambia. These examples of Human Rights Impact Assessments (HRIA) aimed at exploring more closely the connection between trade and human rights, at enabling conclusions for the formulation of trade agreements, and at supporting the development of human rights instruments for the monitoring of trade policy.

Human rights acknowledged and ignored as criteria for trade policy

There is no doubt on the normative level that human rights obligations continue to be valid when it comes to the regulation of agricultural trade. For instance, General Comment No. 12 of the Committee on Economic, Social and Cultural Rights (CESCR) of the UN states that strategies for the implementation of the right to food at national level “should address critical issues and measures in regard to *all* aspects of the food system, including the production, processing, distribution, marketing and consumption of safe food” (UN 1999: para. 25, emphasis in the original). Each signatory state of the UN Covenant on Economic, Social and Cultural Rights (ICESCR) must therefore as far as possible create a favourable environment in the framework of his trade policy so that domestic small farmers can market their produce and eat appropriately from the proceeds.

According to the CESCR, the same is also true on an international level: “States parties should, in international agreements whenever relevant, ensure that the right to adequate food is given due attention and consider the development of further international legal instruments to that end” (UN 1999: para. 36). Making reference to this, in its report on the effects of globalisation on human rights in 2002 the Office of the United Nations High Commissioner for Human Rights (OHCHR) called upon states “to give adequate consideration to human rights in trade rules”, particularly with respect to the rights to food and development (UN 2002: para.45). All states, including the industrially developed countries, are hence obliged to make sure that the trade rules which they negotiate, whether on a bilateral or multilateral level, do not lead to violations of the right to food anywhere (on this see also Windfuhr 2005 and FIDH 2008).

Particularly in the context of the current hunger crisis, this perspective has been confirmed and reinforced several times by UN human rights committees. For instance, on 26 March 2008 the UN Human Rights Council emphasised “that all States should make every effort to ensure that their international policies of a political and economic nature, including international trade agreements, do not have a negative impact on the right to food in other countries” (UN 2008, para 17). The fact that the mistaken agricultural trade policies of rich countries shares the responsibility, from the point of view of human rights, for the hunger crisis, was acknowledged, for example, by the German Minister of Development Cooperation, Heidemarie Wieczorek-Zeul: “If agricultural export subsidies have the effect that in developing countries not enough is grown to feed people in times of crisis, then that is not just a moral problem. It is a violation of the right to food.” (Wieczorek-Zeul 2008: 3).

In a background paper of 2 May 2008 on the hunger crisis, the new UN Special Rapporteur on the right to food, Olivier de Schutter, pointed out the negative role not only of export subsidies, but also of the liberalisation of trade. Particularly in the Least Developed Countries (LDCs) the far-reaching opening of the market had had the effect that not enough was produced in the countries themselves, and that international price increases were directly passed on to the price of foodstuffs in these countries (De Schutter 2008: 10-11). At least 18 states had further decreased their import tariffs as a reaction to the price increases. According to De Schutter this is a problematic policy which can lead to serious losses in state income and, in the medium term, can again lead to an increase in imports at the cost of local producers.

Unfortunately, these objections are wholly excluded in the most recent statements and strategies of governments and international organisations on the hunger crisis. Neither the closing statements of the Food Summit of the FAO in June and the G8 summit in July, nor the Comprehensive Framework of Action (CFA) of the UN High Level Task Force on the Global Food

Crisis (HLTF)¹ mention a connection between trade and the right to food. And all the papers mentioned demand in unison a hasty conclusion of the Doha Round of the World Trade Organisation (WTO) as well as further liberalisation of agricultural trade. Even if monitoring of the customs and tax policy in its effects on farmers, consumers and public revenues is indeed demanded within the CFA, the conclusion is already anticipated: the High Level Task Force wants to stand up in particular for the reduction of import tariffs, subsidies and export taxes in the name of combating hunger. No country-specific or situation-specific consideration of the advantages and disadvantages of particular trade policy instruments is anywhere to be found (UN 2008b).

The gap between the warnings of UN human rights committees and the orthodox demands for the liberalisation of the remaining UN and Bretton Woods organisations indicates two fundamental problems: 1) While the connection between agricultural trade and human rights is normatively acknowledged by states, there is no consensus as to the question of which trade policy is to be seen as being in accordance with human rights. Although the OHCHR recommended analyses on the impacts on human rights as early as in 2002, no such study has been carried out on the right to food by a state so far. Equally, to date no scientifically well-founded methodology has been developed to this end. 2) The same states which acknowledge the connection between human rights and trade policy in the Human Rights Council claim to know nothing about this connection in other UN or Bretton Woods organisations or in the WTO. Until now there has been no institutionalised opportunity to gain a hearing for human rights-related objections to trade agreements in the relevant committees for trade policy.

¹ The Task Force was formed in April 2008 by UN General Secretary Ban Ki-moon, and consists of representatives of all UN organisations which are concerned with food and agriculture, as well as the World Bank and the IMF. The UNHCHR is not a participant.

Case Studies

Approach and questions dealt with in the case studies

The advice on trade policy which international organisations give states in the name of combating hunger should not depend solely on ideological preferences, but should be derived from scientifically verifiable empirical findings in the various countries. At the macro-level, many solid studies of Food and Agriculture Organisation (FAO) and NGO's such as Action Aid International (AAI), the German Church Development Service (Evangelischer Entwicklungsdienst – EED), Oxfam, Third World Network (TWN), the Institute for Agriculture and Trade Policies (IATP) and others have shown that trade liberalisation had caused considerable rises in agricultural imports and a consequent reduction of domestic food production in many countries. These studies had raised serious concerns that food security might be strongly affected or endangered by these import surges. Some of them have also investigated in depth the actual injuries caused rural communities in the importing countries and the impact on small holders at the micro-level in terms of income, poverty and food security (Sharma 2005).

Surprisingly however, only very few of them have analysed such impact out of the perspective of the human right to food. Against this backdrop, on behalf of Ecumenical Advocacy Alliance (EAA) and Brot für die Welt, the FoodFirst Information and Action Network (FIAN) carried out a study on the effects of trade liberalisation on the right to food of individual rice farming communities in Ghana, Honduras und Indonesia (Paasch, Garbers und Hirsch 2007) which also allow important conclusions for the current debate on different trade policy options to overcome the food crisis.

Rice was chosen as an example product because, as an important staple food for half of the world's population and a main source of income for two billion farmers, it has a particular significance for world-wide food security. The period under investigation spanned the years between 1980 and 2005. While a dramatic rise in the price of rice on the world market was observable in 2007 and 2008, before this many developing countries generally had to contend with the opposite problem. Not least because of low world market prices, between 1983 and 2003 the FAO recorded 408 cases of import floods in 102 countries for rice alone, most of the countries being in Africa, the Pacific Islands and Central America (FAO 2007). As will be shown later, it was due in good part to these floods of imports that the high prices of today had such a fatal effect in some countries.

Methodically, the case studies combine a macro-economic examination with a qualitative inquiry on the level of communities, and evaluate the results from the perspective of human rights. On the macro level analysis is carried out on the available data about the development of the rice imports and domestic rice policy, including border measures to regulate imports. Equally, on the macro level analysis is carried out of potential dumping practices of the countries from which the rice imports originate, along with any pressure which other countries may have placed on Honduras, Ghana and Indonesia by means of bilateral and multilateral trade agreements or intergovernmental organisations (IGO) to adopt a particular trade policy for rice. In addition to this macro level, the studies contain a qualitative analysis of the effects of increases in rice imports on the income, livelihood and food security of selected rice-producing communities, on the basis of semi-structured interviews. The inquiries close with an evaluation of the behaviour of the states from the perspective of the human right to food. The added value of the studies lies primarily in this combination of macro-economic data with the empirical analysis on community level and the evaluation with respect to human rights.

The challenge of the evaluation relating to human rights lies primarily in the examination of possible causal links, firstly between a particular trade or agricultural policy and considerable rises

in rice imports, and secondly between these increases in imports and hunger or malnourishment in the communities. Proving these causal links all the way up to a violation of the right to food also requires a careful evaluation of other additional factors which may have impeded the access of the farmers to food, such as for instance natural disasters, violent conflicts or war, any possible changes in land ownership relations or reduced access to infrastructure, means of production, loans or advisory services. A further challenge of the human rights evaluation is to decide the responsibilities of different states for a particular trade policy. In many cases national governments, interstate organisations and external state actors share this responsibility.

Prescribed starvation diet for rice farmer communities

All three case studies give clear evidence that the liberalisation of trade and the agricultural sector have contributed quite considerably to the violation of the human right to adequate food of the rice farmer communities investigated in Ghana, Honduras and Indonesia. An increase in cheap imports has considerably lowered the access of the rice farmers to local town markets in all communities, and has driven down the price which they receive. In this way incomes are reduced, poverty is made worse and malnutrition and food insecurity among the rice producers is strengthened. Even if it was not reported that people died directly of hunger, the testimonies show quite clearly that many members of the community have no *permanent* access to *adequate* food of sufficient *quantity* and *quality* as is required for realisation of the right to food. For these families, purchasing food requires increasing financial sacrifices which limit the realisation of other human rights such as the right to health and education. Women and children are the worst affected by this malnutrition.

The negative effects of the liberalisation affect a social group of people who in many cases, due to limited access to land, a weak bargaining position vis-à-vis the middlemen, and poor infrastructure, were already marginalised. Natural disasters such as Hurricane Mitch, the tropical storm Michelle and droughts were other important factors which limited the ability of the communities living on rice-farming in Honduras and Indonesia to feed themselves. However, it is important to note that the farmers' access to the market was already weakened beforehand by increases in imports, and their incomes had fallen. Because of this, the natural disasters impacted on them harder than was necessary, which was largely due to the policy of liberalisation.

The case studies show that the opening of the market represents a key factor for increases in imports and import surges. The liberalisation of trade took place in Honduras and Ghana at the beginning of the 1990s, and in Indonesia in 1997, and in all of these countries was followed by substantial rises in imports. In Honduras and Ghana the FAO even registered several “import floods”, i.e. where the import volume exceeded the yearly average of the last three years by 30 percent. In all three countries the tariff reductions were the object of structural adjustments which had been imposed by the IMF and the World Bank as a condition for gaining credits. What is noteworthy is that the governments of all three countries reacted to the increases in imports after 2000 with moderate regulation. These initiatives, which were absolutely necessary (although not sufficient) to protect the right of the rice farmers to adequate food, were however thwarted by external actors and/ or international agreements. In Honduras, for example, the Central American Free Trade Agreement (DR-CAFTA) prescribes that the rice tariffs must be reduced step by step to zero by 2024. In Indonesia the World Bank is currently exerting great pressure in the direction of liberalisation.

The most noteworthy case of external influence being exerted is that of Ghana. In 2003, as a reaction to the import surges, the government and the parliament decided to increase the tariff on rice from 20 to 25 percent. The implementation of this, however, was stopped only four days after the corresponding law (Act 641) came into effect. As the IMF report on the consultations on

the poverty reduction strategy in Ghana expressly states: “The authorities have committed that these tariff increases will not be implemented during the period of the proposed arrangement.”(IMF 2003). On 9 May 2003 the IMF agreed to a three-year credit amounting to 185.5 million Special Drawing Rights (SDR) (258 million US dollars) as well as additional aids within the framework of the HIPC (Initiative for Highly Indebted Poor Countries) amounting to over 15.15 million SDR (around 22 million US dollars). And on 12 May, only three days later, the directive to repeal Act 641 was published. The same consultations which had led to the granting of the funds “convinced” the Ghanaian government to bring the tariffs back down to the previous level.

Other components of the structural adjustment program, such as for example the privatisation of the agricultural sector and the lending system, the liberalisation of the market for production equipment, and the abolishing of price guarantees and state purchasing guarantees, lay an equal strain on the rice farmers in all three countries. By these measures the access of the farmers to seed, fertiliser, machines, advisory services and marketing facilities was considerably limited, which led to a massive rise in production costs. In combination with displacement from the markets and a drop in producers' prices caused by cheap imports, the cuts in production support caused drastic losses in income, and are demonstrably a key reason for malnutrition and food insecurity. The fact that the countries all experienced a rise in cheap imports while they reduced the support for domestic production is tragically ironic, since in many cases it was only through strong subsidising that these imports were possible. In Honduras and Ghana, for instance, dumping by the USA in the form of commercial exports and incorrectly used food aid were a significant determining factor for the import floods. Due to state support the export price for US rice in the years 2000-2003 was 34 percent below the cost of production in the USA (Murphy, Lilliston and Lake 2005 and Oxfam 2005).

On the basis of the empirical findings the study comes to the result that the human right to adequate food of the rice-farming families in question in all three countries was violated. Obligations relating to human rights were disregarded by both the governments of these countries and external actors. Ghana, Honduras and Indonesia violated their obligation to protect the right of food – although to different degrees – by opening up the markets to cheap imports and by consenting to international agreements which ban appropriate import protection. These states also violated their obligation to respect and ensure the right to food by dismantling existing support services for the rice-farming communities, who in any case already belonged to the groups of those endangered by hunger. This also constitutes a violation because no alternative income opportunities existed or were created for the farmers.

At the same time, all three country studies clearly show the sometimes extraordinary pressure towards the opening of the market and the dismantling of public services in agriculture which is exercised by external actors, first and foremost by the IMF and the World Bank. The International Financial Institutions (IFIs) have therefore clearly disregarded their *responsibility* – and the most influential member states their *obligation* – to respect the right to food of the rice-farming communities in the countries investigated.² The countries from which the rice imports came also partly disregarded this obligation to respect the right inasmuch as their lower prices were made possible through state intervention. Particularly the USA, through the subsidising of surplus production, through export credits and through the monetisation of food aid, have carried out a practice of export dumping of rice which is partly responsible for the hunger among local rice farmers in Honduras and Ghana.

The policy of liberalisation, particularly the tariff reductions, was justified by reference to the interest of low-income consumers in low prices. However, the case studies do not bear out this

² While “obligations” are spoken of with respect to states, with respect to interstate organisations the somewhat weakened term “responsibility” is used here. On this see the discussions on extraterritorial or international obligation in Windfuhr 2005 and Hausmann 2006.

expectation that consumer prices decrease as a result of liberalisation. In Indonesia the consumer prices even rose at the times of the market being opened. In Honduras, the decreasing import prices and producers' prices were not reflected in correspondingly low consumers' prices. The main reason in both cases was the oligopolistic structure of the market, which is shared by only a few parties, a fact which is largely neglected by the supporters of liberalisation. The cheap imports therefore exercise considerable pressure on the producers' prices and hence on the income of the farmers, without the consumer prices being reduced to a similar degree. What has increased the most with this change is the profit margin of traders and retailers.

The postulated link between liberalisation and the lower prices of foodstuffs is, however, rendered absurd by the current exorbitant price increases. It becomes clear that international price increases are reflected in domestic prices most strongly in those places where domestic production has been given up in favour of imports, i.e. where import dependency is the greatest. While the price increases in Indonesia, which is eager to preserve self-sufficiency, were within limits, the selling prices for rice in Honduras went up by 100 percent in twelve months. Although there were still 25,000 rice producers at the end of the 1980s in Honduras, today there are only 1,300. These are, needless to say, not at all in a position to increase their production quickly enough in the short term to close the supply gap which has resulted from the lack of affordable rice imports in recent months. These experiences above all make any strategy relying on imports for food security seem highly questionable. A similar pattern to that in Honduras can also be observed in Haiti, where the violent hunger protests made headlines in the international press.

EPAs between the EU and ACP states limit policy space to protect human rights

While it is primarily the USA and the IFIs which appeared as external actors in the case studies on the rice trade, in three further recent studies by FIAN, Both Ends, Germanwatch and the UK Food Group, it is primarily the role of the EU which is investigated. Following the methodology outlined above, in 2007 and 2008 they analysed the effects of the European agricultural and trade policy on small producers of tomatoes and chicken breeders in Ghana, and of dairy farmers in Zambia and Uganda (for background see Bertow und Schultheis 2007). The objects of the investigation were both the problems which were already visible, and the dangers for the right to food which could emerge from the recently negotiated Economic Partnership Agreements (EPAs³).

What is already demonstrable is the negative consequences of the EU agricultural exports, particularly for tomato farmers and chicken breeders in Ghana (Issah 2007 and Paasch 2008). The FAO's data show that since the opening of the market in 1992 Ghana, similar to the case of rice, has been afflicted again and again with import floods of tomato paste and poultry meat, of which a large proportion has come from the EU (FAO 2007). In Ghana the poultry keepers in Ashaiman, close to the port of Tema, were immediately squeezed out by this. While they had formerly earned their living by selling eggs and chickens for meat, the latter mainstay completely disappeared within a few years for all those interviewed, due to the unbeatably cheap imported chickens. While in 2004, according to the FAO, Ghanaians offered their poultry meat for sale at around €2.60 per kilo, the European meat was sold at a loss for €1.50 per kilo. In the case of the tomato farmers, the process of being squeezed out has taken a more complicated form: in the past 10 years the imported tomato paste has found its way into cooking and eating habits, primarily in the towns, and hence increasingly competes with the domestic fresh tomatoes.

³ The necessity of the EPAs was justified with the argument that the one-sided trade preferences which the EU had given the ACP states until this time were no longer compatible with WTO law. Since an exemption with the WTO expired by 31/12/2007, the EU applied pressure to gain reciprocal free trade agreements by this date.

Moreover, the cheap imports prevent Ghana from developing its own tomato industry with processing facilities which would be essential for stable sales for the local farmers. The result is that many families of tomato farmers and poultry keepers in the communities concerned have to reduce their meals in number, volume and quality over a number of months, become increasingly indebted, and have therefore become even more vulnerable to external adversities. Their right to food is no longer fulfilled.

Here as well, key factors for this development are the opening of the market and the dismantling of state support as part of the Structural Adjustment Programs (SAPs). On the one hand it was the Ghanaian government who implemented these, but on the other hand this happened primarily because of the corresponding credit conditions of the IMF. Moreover, in 2003 the IMF prevented not only the tariff increase for rice imports from 20 to 25 percent, but also for poultry imports from 20 to 40 percent. Both changes had been part of the same act, Act 641, which was suspended on pressure from the IMF. In addition, any increase in tariffs towards the EU will generally no longer be possible for Ghana in the future. According to the EPA interim agreement⁴ with the EU which the government initialled on 13 December 2007, Ghana is obliged to reduce the tariffs for over 80 percent of imports to zero by the year 2023. To date it is not clear whether tomatoes and poultry belong to these 80 percent, or if they can be excepted from the lowering of the tariff because of being “sensitive products”. But even in the latter case, the farmers are not yet out of trouble. A Standstill Clause in the agreement forbids Ghana to raise the tariff even for these products over the level which is currently applied. In concrete terms this means: while Ghana had the right up until now, according to the rules of the WTO, to increase its tariffs on tomato or poultry imports from 20 to 99 percent (*bound tariff*), this is forbidden as of now for European imports. In this way Ghana loses all of the freedom of action in its trade policy which would be necessary to protect the right to food of the tomato and poultry farmers affected.

Here as well, then, it is the case that obligations relating to human rights are violated, both by the state of Ghana and by external actors, in this case by the member states of the IMF and the EU.⁵ The latter firstly violated its obligation to respect the right to food in Ghana by exerting considerable pressure on the Ghanaian government in the EPA negotiations. Secondly, through unfair export practices it contributed to violations of the right to food in Ghana. For the support of European tomato producers, particularly in Italy, Spain and Portugal, the EU allots a generous budget each year of 300 million Euros and more. Moreover, exports of tomato paste have sometimes been considerably assisted by export subsidies (Bunte und Roza 2007). Export grants were not at all necessary in the case of the exported poultry meat, since they were residual products which the European companies would otherwise have had to dispose of at high expense (Marí und Buntzel 2007). Hence in this way what had been a liability became a lucrative business for the companies. It is true that no active export assistance was carried out by the EU in this case. However, it should be considered whether by omission the EU may have neglected its obligation to protect the right to food of the Ghanaian poultry keepers. For despite numerous complaints about the devastating effects of the cheap exports, the EU did not introduce any effective measures to counteract the export practices of the European companies which were responsible.

⁴ Originally the EU had insisted on “comprehensive” EPAs, which would also include areas such as services, investments, intellectual property rights and procuring bodies. However, it was only possible to implement this form of EPA politically with the Caribbean states. Other states, such as Ghana, Uganda and Zambia, could only be persuaded to make agreements on the trading of goods. These agreements are called interim agreements, as they are only seen as a preliminary stage to comprehensive EPAs. However, even these agreements have only been initialled so far, in other words neither signed nor ratified. Despite the great political pressure, 43 of the 78 ACP states have not even consented to interim agreements.

⁵ The European Court has clarified that the EU must observe general legal principles, including the basic rights in international pacts which are ratified by all member states (see FIDH 2008: 7).

New threats through the EU agricultural reform and *Global Europe*

In the investigations of milk farmers in Uganda and Zambia (FIAN 2008) no processes of squeezing out have been found to date which are comparable to those found in the cases displayed so far (concluding report appears in the early 2009). No import floods or considerable increases in imports of milk powder from the EU have appeared yet in Uganda and Zambia. However, in both countries there are serious fears that this could change in the future. Up to now the milk quota, i.e. the upper limit of production, was already more than ten percent above European consumption. In April 2008 the EU increased this quota by a further 2 percent, and the Commission suggests a further annual increase of one percent per year. In 2015 the quota should then be entirely abolished. “In general terms,” according to the Commission, “the phasing-out of milk quotas would expand production, lower prices and increase the competitiveness of the sector.” (European Commission 2008: 9).

The EU hopes to increase exports not least for skimmed milk powder, which in the past has often been sold in great quantities on African markets. For the milk farmers in Zambia and Uganda this is grim news. Even the last quota increase of April will raise the volume of milk on the world market by an estimated 0.5 percent. As little as 0.3 percent, according to the estimates of the Dutch bank Rabobank, can determine whether the world market price is ruinous or bearable (Reichert 2008). For the Magoye dairy farmers' co-operative investigated in Zambia, whose producers' prices are closely oriented to the world market price because of their close connection to the formal sector, this could already have considerable negative effects.

If production increases, according to the calculation of the Commission, the European milk price will sink, and European milk products will find their way into the world market even without export subsidies. It is true that export subsidies on milk products have been suspended since mid-2006 for the first time in 40 years, because due to the higher world market prices they are not currently necessary. According to the proposal of the Commission, however, the EU is to retain the liberty to make use of this unpopular instrument again if the world market prices fall below the EU-internal prices again. This is despite the fact that the EU, within the framework of the World Trade Organisation (WTO), had already promised a definite end to export subsidies by 2013. Now that the WTO negotiations in Geneva are faltering, the EU chooses to forget this for the moment.

Against the background of the Commission's plans on the structuring of the milk market, the fact that the EPAs restrict freedom to determine trade policy for the protection of the farmers in Uganda and Zambia could have fatal effects in the long term. Since the product lists for the interim agreement are not yet accessible, the exact implications cannot be definitely assessed yet. However, what is clear is that the Standstill Clause included in the agreements, just as in Ghana, prohibits any raising of the tariffs over the current level, even for those products which are rated as being “sensitive”. Should exports from the EU actually considerably increase and the world market prices sink, Uganda and Zambia would then no longer be in a position to adequately protect the market access, the income and therefore the right to food of domestic dairy farmers.

The problem is not restricted to dairy farmers, and is not limited to Africa. The economic partnerships with the ACP states are only the beginning. “Global Europe – Competing in the World” is the name of the EU trade strategy which was presented in October 2006 by the Trade Commissioner, and was waved through by the EU Council without public discussion. This was a decision of far-reaching consequences. For the EU is planning to make new free trade and investment agreements in all regions of the world in accordance with it. The negotiations have already begun with India, South Korea, the Andean Community, the Association of Southeast Asian Nations (ASEAN) and the countries of Central America. Radical tariff cuts in trade in industrial and agricultural goods are to be one component. However, the EU is above all

targeting liberalisation in those areas which are high on the wish list of European corporate groups: more protection of intellectual property, easier access to energy and raw materials, the opening up of the service sector and of public procurement, as well as the loosening of investment restrictions. Some of these themes had already been categorically rejected by the countries of the South in the WTO negotiations, but they are there again. According to the International Federation for Human Rights (FIDH) the liberalisation agenda of the EU threatens not only the right to food, but also the right to health, a sufficiently high standard of living, education, work and development (FIDH 2008: 6).

Human rights instruments necessary

Even if the impact analyses of the NGOs reveal important differences, nonetheless in most cases very similar problems could be observed. The privatisation of public services and the opening of the market in the global South, as well as the agricultural dumping of the USA and the EU have demonstrably frequently had negative effects on the right to food of farmer communities. This admittedly does not allow the conclusion that liberalisation measures are always contrary to human rights. However, the results of the studies underline emphatically that the demand for more liberalisation contained in almost all official strategies to overcome the hunger crisis is highly questionable from the point of view of human rights. The lobby work for comprehensive liberalisation announced in the CFA of the High Level Task Force on the Global Food Crisis is not acceptable against this background. In particular, following particular formulae in trade policy must not under any circumstances become the condition for gaining allowances or loans to combat hunger. The fact that similar practices have still been carried out by the IMF, even in the recent past, and that the IMF, together with the World Bank, is intended to carry out the trade policy consulting for the developing countries in the CFA, certainly gives cause for concern in this respect.

Trade policy advice on combating hunger must not follow solely ideological preferences, but must be based on empirical studies, including those from the perspective of the human right to food. The studies summarised above by Brot für die Welt, the EAA, FIAN and Germanwatch and others are examples of case related impact assessments of trade policy from the point of view of human rights, and are intended to provide methodical stimulus for further studies. However, it is true that such studies must not remain the sole domain of NGOs. What is required instead is an institutionalisation in the member states of the CESCRC covenant. The EU already routinely commissions in advance so-called Sustainability Impact Assessments (SIA) for all trade agreements. However, FIDH rightly points out the deficiencies of the studies carried out so far, and also the fact that these studies do not in any way replace an assessment of the consequences from the perspective of human rights (FIDH 2008: 11ff). Analyses from the perspective of human rights not only assess the consequences for living conditions, but also evaluate the extent to which states are fulfilling their obligations with relation to human rights when making trade agreements. Moreover, analyses from the perspective of human rights look much more carefully at the consequences for particular social groups, such as women, ethnic groups or particular regions, instead of solely arguing on the macro level. FIDH therefore demands impact analyses from the perspective of human rights both *ex ante* and *ex post*. A *rendez-vous* clause in the trade contracts must allow a monitoring of individual provisions and potential changes to them if so required for the sake of human rights. Only in this way can states ensure that in both the negotiation and the implementation of trade agreements the realisation of human rights in their own country and in other countries is not impaired, but is promoted.

It is also true that the judgement of trade policies with respect to human rights must not be left solely to the states responsible for them. Active involvement of civil organisations from all states involved is indispensable at a stage as early as the impact analyses. Moreover, it is necessary on UN level to systematically monitor the trade policy of the signatory states of the CESCRC pact. This already occurs to a rudimentary extent. For instance, in 2006, in its concluding observations on the report on Canada, the CESCRC committee indicated some problems related to human rights in the North American Free Trade Agreement (NAFTA). With respect to Germany, too, Brot für die Welt, EED and FIAN dealt with questions of trade policy in a parallel report. In order for the scope of this to be increased, however, states must be called upon to systematically include trade policy in their reports to the CESCRC committee. The upcoming revision of the report format would be a good opportunity for this. In the medium term it would be worthwhile to have this kind of systematisation in the newly introduced Universal Periodic Reviews (UPRs) of the UN Human Rights Council.

Finally, the OHCHR should be instructed to play a much clearer role in the monitoring of trade and investment agreements with respect to human rights. Good starting points are provided by the 2002 report mentioned on the effects of globalisation with respect to human rights. In order to continue this work and to intensify it, however, considerable increases in the resources devoted to this area would be necessary. At present there is less than half a post available for this topic at the OHCHR. If the trade policy capacities there were lifted to a level which is usual in other UN organisations such as the FAO, or even the World Bank, the OHCHR could take on an important monitoring function.

It is of course a long way before these or similar measures can be implemented. One sign of hope is that besides those already mentioned, many other international NGOs and networks such as ActionAid International (AAI), EAA, FIDH, the International Institute for Agriculture and Trade Policies (IATP), and Misereor now also analyse trade policies from the perspective of human rights. For the UN Special Rapporteur on the Right to Food, Olivier de Schutter, trade is also a clear focal topic. Moreover, with the hunger crisis and the repeated failures of the negotiations at the WTO in Geneva in July, the inadequacies of concepts and mechanisms used to date are becoming more and more obvious, and hence the search for new instruments in many areas is becoming more intense.

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