SUMMARY

Agribusiness and the right to food

Report of the Special Rapporteur on the right to food, Olivier De Schutter

Presented to the Human Rights Council, March, 2010

In this report, the Special Rapporteur examines the role of the agribusiness sector (including commodity buyers, food processors and retailers) in the realization of the right to food by analyzing the impact of sourcing, pricing, and wage policies. The relationship between the agribusiness corporations and their suppliers (especially agricultural workers and smallholder farmers as the most vulnerable groups) is the primary focus of the report. The report seeks to contribute to a better understanding, by agribusiness corporations and States alike, of their respective responsibilities and obligations under international law.

The report illustrates that food systems have been undergoing deep transformations in recent years due to the food processing sector becoming increasingly globalized and dominated by large transnational corporations. The current market structure gives buyers considerable bargaining strength over their suppliers, with potentially severe implications for the welfare both of producers and consumers. Current measures adopted to encourage companies to act responsibly are unable to tackle this structural dimension. Buyers and retailers can continue to pay relatively low prices for crops even when the prices increase on regional or international markets and they can continue to charge high prices to consumers even though prices fall on these markets. These imbalances of power in the food systems can and must be corrected. And the relationships between the actors concerned cannot any longer be based solely on their relative bargaining strength.

Protecting workers in the agricultural sector

In order to protect the fundamental rights of agricultural workers, a clear legal framework with robust enforcement mechanisms is necessary. In addition, employers have a responsibility to respect the right to food, even where laws are insufficiently protective of agricultural workers or where the existing labour legislation is inadequately monitored. Agribusiness companies must not contribute, directly or indirectly, to human rights abuses through their relationship with suppliers. A range of tools such as codes of conduct and international framework agreements are available for agribusiness companies to ensure that wages and working conditions improve as a result of their suppliers joining global value chains. The report details a number of criteria necessary for the effective design and implementation of these tools, including the incorporation of enforcement mechanisms.

Addressing the specific needs of smallholders

Smallholders in developing countries are the most food insecure in the world today. It is thus necessary to ensure that smallholders capture a fair proportion of the value of their products, despite the very unequal bargaining position in which they find themselves at the moment vis-à-vis commodity buyers. In order to achieve this, we must move away from a dualized farming system in which smallholders

1 The official report can be downloaded on http://www.srfood.org
either become sufficiently competitive, and large, to join the global value chains, or are relegated to subsistence farming, with little or no support. Instead, it is vital that farmers have a variety of options, and that they receive adequate support from the State if they opt not to join agro-export chains but choose to sell on local markets. The provision of information about prices and the improvement of communication infrastructures are both essential in order to allow producers to improve their bargaining position vis-à-vis buyers and to transport their crops more easily to the markets, where they can obtain better prices from other buyers. In addition, States can explore other instruments such as farmers’ cooperatives, marketing arrangements, and public procurement in order to address the specific needs of smallholders. Unless they organize themselves into cooperatives or unless they are otherwise supported in the acquisition of non-land farm assets, small farmers are at a major disadvantage to larger producers and can only compensate for this disadvantage by their lower labour costs. Excessive concentration, creating the risk of abuse of economic power, should be the target of State intervention in the area of competition policy. Unfair practices should be identified and prohibited.

Buyers also could improve the ability of smallholders to have access to markets, whether local, regional or global. There is evidence that the shift from supply-driven to buyer-driven chains, linked to the expansion of large retail networks (“supermarketization”), can lead to an increased exclusion of smallholders. In particular, the report notes that the agribusiness sector has devoted significant efforts to developing private standards, traceability systems and third-party certification in order to accompany and facilitate the booming global trade in fresh fruit, vegetables and fish. The development of standards is frequently seen as a tool to guarantee that the globalization of food chains meets high social and environmental criteria. However, the focus has been more on hygiene and food safety issues than on social and environmental concerns. And the development of private standards has worked against smallholders because compliance has often required higher levels of capitalization than many smallholders could afford. Small farmers therefore pay a high fee for entry into the global supply chain by being locked into a situation of high dependency on the buyer. They must be supported in achieving compliance, but they must also be integrated in ways that ensure an adequate standard of living, including adequate food. It is thus necessary to support smallholder by the payment of a premium by the wholesalers to reward compliance and by the provision of technical assistance to facilitate compliance with standards. Currently, a number of certified smallholders are only able to remain within the system thanks to donor support, which is not sustainable.

Contract farming can also help to address the vulnerability of smallholders, although, taking into account the very unequal bargaining positions of both parties in contract farming, it is important to ensure that contracts do not lead to inequitable outcomes. The development of fair trade although should be supported, and the report proposes a number of initiatives that States could take in this regard.

**Recommendations**

The Special Rapporteur concludes the report by offering 10 recommendations to States and the agribusiness sector to ensure that the current transformation of the food chain will contribute to the realization of the right to food.

States should:

- Improve the protection of agricultural workers by ratifying all ILO conventions relevant for the agrifood sector and by ensuring that their legislation sets a minimum wage corresponding at least to a “living wage”;
Monitor compliance with labour legislation by devoting appropriate resources for an effective functioning of labour inspectorates in agriculture and by taking the requisite measures, legislative or otherwise, to reduce to the fullest extent possible the number of workers outside the formal economy (including compulsory registration of agricultural workers and labour providers);

Proactively engage in public policies aimed at expanding the choices of smallholders to sell their products on local or global markets at a decent price by strengthening local and national markets, supporting the establishment of farmers’ cooperatives, establishing or defending flexible and efficient producer marketing boards, using their public procurement systems to support small farmers, and promoting and scaling up fair trade systems;

Reinforce the bargaining power of smallholders and equalize their relationships with the agribusiness sector by prohibiting practices that constitute an undue exercise of buyer power and by combating excessive concentration in the food chain and abuses of dominant positions (including through competition regimes sensitive to excessive buyer power and competition authorities with effective complaints mechanisms);

Re-engage in public regulation of global food chains by guaranteeing that the standards developed by the private sector do not have unintended negative side effects on the realization of the right to food (including through alternative decentralized certifying schemes, such as those qualifying products relative to specific cultural/geographical regions, and through development of standards through international cooperation).

Private actors of the agribusiness sector should:

- Refrain from practices that constitute an undue exercise of buyer power;
- Use their influence on suppliers to ensure that wages and working conditions improve as a result of their suppliers joining global value chains, by international framework agreements with global unions; by unilateral undertakings to monitor compliance with ILO standards in the supply chain, while supporting their suppliers in achieving compliance; and by engaging in chain-wide learning to assure that participation in the chain is profitable for all involved, including small-scale producers;
- Involve smallholders in the elaboration of and compliance with food safety, labour or environmental standards and facilitate their access to global supply chains;
- Negotiate contract farming arrangements that respect the right to food of smallholders and the criteria outlined in this report;
- Promote fair trade through increased shelf space and by running information campaigns highlighting the unique importance and contribution of fair trade.