Mandate of the Special Rapporteur on the right to food

Observations on the current food price situation

Background note, 21 January 2011

As a contribution to ongoing deliberations within the United Nations System High Level Task Force on Food Security, the Special Rapporteur on the right to food, Olivier De Schutter, in the present note draws attention to what he considers nine key priorities for international action to avoid a repetition of the 2007/08 world food price crisis.

These priorities are explained in the two reports presented by the Special Rapporteur at the request of the Human Rights Council following the seventh special session of the Council on the negative impact on the realization of the right to food of the worsening of the world food crisis caused, inter alia, by the soaring food prices. In these reports, the Special Rapporteur has examined the crisis and the responses, based on a human rights framework, that it calls for (see ‘Building resilience: a human rights framework for world food and nutrition security’, Report of the Special Rapporteur on the right to food, Olivier De Schutter, to the 9th session of the Human Rights Council (UN doc. A/HRC/9/23) (8 September 2008) ; and ‘Crisis into opportunity: reinforcing multilateralism’, Report of the Special Rapporteur on the right to food, Olivier De Schutter, to the 12th session of the Human Rights Council (UN doc. A/HRC/12/31) (21 July 2009)).

1. Support to each country’s ability to feed itself

Since the early 1990s, the food bills of many poor countries have multiplied by five or six as a result of population growth combined with a lack of investment in agriculture that feeds local communities. Many developing countries are today highly dependent on imports for their food supplies and particularly vulnerable to, and affected by, rising food prices on the international markets. Mozambique, for instance, imports 60 per cent of the wheat its people needs, and Egypt imports 50 per cent of its food supplies. A focus on export-led agriculture has also made many developing countries vulnerable to price shocks on international markets and to currency exchange volatility. In order to address this situation, developing countries must be allowed and encouraged to strengthen their agricultural production to ensure a higher degree of food self-sufficiency. In particular, there is a need for increased support for farmers who should be adequately protected from the dumping of agricultural products on their local markets.

The Special Rapporteur’s report to the Human Rights Council in 2009 (A/HRC/5/Add.2), based on a mission to the World Trade Organisation conducted in 2008, provides a more in-depth discussion on challenges related to international trade and food dumping (available at: http://www2.ohchr.org/english/issues/food/annual.htm).

2. Support the establishment of food reserves

Food reserves should be established, not only to as humanitarian reserves in disaster-prone, infrastructure-poor areas, but as a means both to support stable revenues for agricultural producers and to ensure that food will be affordable for the poor. If managed in ways that are transparent and participatory, and if countries combine their efforts at regional levels, food reserves can be an effective way of limiting price volatility and of counter-acting both the abuse of buyer power and speculation by traders (see A/HRC/12/31, para.
35; and, on the role of marketing boards, see Report of the Special Rapporteur on the right to food, Olivier De Schutter, Agribusiness and the right to food (A/HRC/13/33) (22 December 2009), para. 32).

Another option is to conclude long-term supply arrangements, by which importing countries agree to buy a minimum amount of grain or other food crop each year in exchange for a commitment by the exporting country to meet larger imports when needed. Such arrangements make net food-importing countries less subject to the volatility of market prices for the crops they import, although there is a risk that the counterpart reneges on the arrangements, pleading altered circumstances. A viable alternative if food shortages do not arise simultaneously in a large number of countries is for Governments, fearing shortages, to resort to contingent option contracts, by buying options on future imports which, if exercised, would be realized by physical delivery (that is, in the event that harvests are as poor as initially feared) (see A/HRC/12/31, para. 35).

3. Remove support schemes for the production of biofuels

Several countries subsidize the production and consumption of ethanol or biodiesel. Such policies achieve generally very little for the environment, and they increase the tension between supply and demand on agricultural markets. They also send a signal to financial actors that they will reward by speculating on farmland and on agricultural commodities.

The Special Rapporteur on the right to food has commented, in various reports, the question of the impact of the development of biofuels on the right to food, and (see A/HRC/9/23, paras. 25-34 and Annex II; A/HRC/12/31, paras. 23-25). He has noted in these reports that ‘the current path in the development of agrofuels for transport is not sustainable, and that if such development goes unchecked, further violations of the right to food will result. Pending the adoption of an international consensus on this issue, any new large-scale investment into the production of agrofuels for transportation should be authorized by government authorities only when its detailed and multi-stakeholder assessment is positive in terms of its implications, both at the domestic and international levels, for the right to food, social conditions and issues related to land tenure, including the displacement of farmers and the indirect environmental impact this might cause in terms of land use. All measures encouraging a market for agrofuels (blending mandates, subsidies and tax breaks) should be revised, since such measures encourage speculation by non-commercial investors, who anticipate that the price of agricultural commodities will remain at high levels and rise further as a result of the growing demand for agricultural commodities on international markets, linked to the creation of this artificial market’ (A/HRC/9/23, para. 31).

4. Tackle speculation by financial actors

While not a cause of price volatility, speculation on the derivatives markets of essential food commodities significantly exacerbates the problem. Such speculation was facilitated by massive deregulation in important commodity derivatives markets beginning in 2000. This problem of speculation must be adequately addressed. The major economies should ensure that dealing with food commodity derivatives is restricted as far as possible to qualified and knowledgeable investors who deal with such instruments on the basis of expectations regarding market fundamentals, rather than mainly or only by speculative motives.

The Special Rapporteur has discussed the measures to be adopted to address speculation by commodity index funds in his first report to the Human Rights Council on the 2008 global food price crisis (see A/HRC/9/23, paras. 41-43), as well as in a more recent briefing note “Food Commodities Speculation and Food Price Crises. Regulation to reduce the risks of price volatility” (September 2010), available at: http://www2.ohchr.org/english/issues/food/other_documents.htm

5. Support the establishment of social safety nets by a global reinsurance mechanism
Many cash-strapped developing countries fear that social protection schemes, once put in place, may become fiscally unsustainable following domestic or international shocks, such as a sudden loss of export revenue, poor harvests or sharp increases in the price of food commodities on international markets. The international community can help overcome this uncertainty factor by putting in place a global reinsurance mechanism. If premiums were paid in part by the country seeking insurance and matched by donor contributions, this would create a powerful incentive for countries to put in place robust social protection programmes for the benefit of their population. The Special Rapporteur has discussed this further in his first report to the Human Rights Council on the 2008 global food price crisis (see A/HRC/9/23, para. 44).

6. Support farmers organizations

An estimated 75 per cent of the poor and food insecure in the world today reside in rural areas and depend on small-scale farming for their livelihoods. One main reason for this situation is that these small-scale farmers are insufficiently organized. By forming cooperatives, they can move up the value chain into the processing, packaging and marketing of their produce. They can improve their bargaining position in the food chain, both for the buying of inputs and for the sale of their crops. And they can increase their political participation, so that decisions made about them are not made without them (on the various benefits from organizing farmers, see Report of the Special Rapporteur on the right to food, Olivier De Schutter, Agribusiness and the right to food (A/HRC/13/33) (22 December 2009), para. 31).

7. Protect access to land

Each year, an area equivalent to more than France’s farmland is subject to deals in which land is being ceded to foreign investors or governments. This current trend of land-grabbing, most of which takes place in Sub-Saharan Africa, constitutes a major threat for the future food security of the populations concerned. Whichever gains in agricultural production will result from these investments generally serve foreign markets, and not the local communities. A moratorium on these large-scale investments should be recommended until agreement is reached on the conditions which they should comply with.

For an in-depth discussion on challenges related to access to land, see the Special Rapporteur’s 2010 reports to the General Assembly (A/65/281) and Human Rights Council (A/HRC/13/33/Add.2) respectively focusing on access to land and the right to food and identifying a set of “Minimum human rights principles applicable to large-scale land acquisitions or leases”, available at: http://www2.ohchr.org/english/issues/food/annual.htm

8. Support the transition to sustainable agriculture

Weather-related events are a major cause of price volatility on agricultural markets. In the future, more supply shocks can be expected as a result of climate change. While agriculture is negatively affected by climate disruption, it is also a major contributing factor to climate change, being responsible for 33 per cent of total greenhouse gas emissions if one includes deforestation for cultivation and pastures. There is a need to build agricultural systems that are more resilient to climate change, and that can contribute to mitigate it. Agro-ecology, a mode of agricultural development which has shown notable success in the last decade, can play a central role in achieving this goal. The scaling up of these experiences is a main challenge today. Appropriate public policies can create an enabling environment for such sustainable modes of production. These policies require investing more in knowledge by funding agricultural research and extension services; investing in forms of social organization that encourage partnerships, including farmer field schools and farmers’ movements innovation networks; empowering women; and creating a macro-economic enabling environment, including connecting sustainable farms to fair markets.

For an in-depth discussion on challenges related to the challenges posed by climate change and environmental degradation as well as the potential of agro-ecological modes of agricultural development,
see the Special Rapporteur’s 2011 report to the Human Rights Council (A/HRC/16/49), available at
http://www2.ohchr.org/english/issues/food/annual.htm, and the 2009 study “Climate Change and the Right to Food - A Comprehensive Study”, available at

9. Protect the human right to food

In the fight against hunger, institutions and rights matter. People are hungry not because too little food is being produced, but because their rights are violated in impunity. Victims of hunger must be allowed to access remedies when their authorities fail to take effective measures against food insecurity. Three actions deserve priority in this regard:

*Improve the protection of agricultural workers.* Governments must guarantee a living wage, adequate health and safe conditions of employment for the 450 million agricultural workers in the world by enforcing a better implementation of the conventions on labor rights in rural areas. And their actions in this area must be subjected to independent monitoring.

*Adopt national strategies for the realization of the right to food through participatory means.* In the 2004 Voluntary Guidelines in support of the progressive realization of the right to adequate food in the context of national food security, the member governments of the FAO unanimously committed to the adoption of nationally owned strategies for the realization of the right to food. The Final Declaration adopted at the World Summit on Food Security held in Rome in November 2009 reiterates this commitment (para. 9). Such strategies can have an important impact, by ensuring an adequate mobilization of resources, by improving coordination across different branches of government, by setting timebound objectives to be achieved, and by setting up participatory bodies – such as CONSEA in Brazil, or CONASSAN in Nicaragua – that ensure that the policies will be addressing the real needs of those who are hungry. Such strategies raise accountability. They prohibit governments from remaining passive in the light of widespread, unfulfilled needs. The Special Rapporteur has examined the progress made in the implementation the right to food at national level, in his briefing note “Countries tackling hunger with a right to food approach” (May 2010), available at:
http://www2.ohchr.org/english/issues/food/docs/Briefing_Note_01_May_2010_EN.pdf

*Design support schemes that comply with human rights.* Accountability based on the right to food can significantly enhance the effectiveness of the two tracks that have hitherto characterized actions to achieve food security – 1° direct action to immediately tackle hunger for the most vulnerable and 2° medium- and long-term development programmes to eliminate the root causes of hunger and poverty. Support schemes to farmers that leave out the most marginalized, those living far from communication routes and who work the least fertile soil, may succeed in raising production, but they will fail to reduce hunger. Social programmes that benefit the best connected, or those who are sufficiently well equipped to overcome the bureaucratic hurdles, but that do not reach the poorest households or the illiterate, will equally fail. Thus, by improving accountability, by clearly defining beneficiaries as rights-holders rather than as persons whose basic needs should be satisfied, and by ensuring access to claims mechanisms for those that are unjustifiably excluded, we ensure that such programmes will be both more legitimate and more effective in achieving their objectives.