

WTO reform for fair and sustainable food systems

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“A sustainable food system is a food system that ensures food security and nutrition for all in such a way that the economic, social and environmental bases to generate food security and nutrition of future generations are not compromised.” (HLPE, 2017)

Background

Our inability to achieve sustainable food and nutrition security has an extremely concerning impact on human and planetary health. On top of undernutrition, there is the colossal public health challenge of chronic societal diseases (CSDs) associated with poor diet. These diseases cause 11 million deaths worldwide every year, and a growing proportion of children are overweight or obese.

In addition, the documented contributions of the globalized food system (GFS) to climate disruptions and the alarming loss of agricultural and food diversity further cloud the outlook. Many scientists believe that the limitations of terrestrial ecosystems in terms of biodiversity and climate have already been exceeded. The COVID-19 pandemic has highlighted the fragility of the GFS and its negative impacts on food and nutrition security, and the environment. The pandemic has underlined the inextricable links between food security and national security, leading some states to advocate for greater food self-sufficiency.

In this context, it becomes more obvious than ever that securing fair access to quality food, in a way that protects human and environmental health, is an urgent challenge for current and future generations.

The global wake-up call sparked by the COVID-19 pandemic has created a highly favourable context for constructively addressing food systems reform by focusing on the fact that there is only one health (human, animal and planetary).

Many researchers and international organizations are of the opinion that a food systems reform based on an integrated, systemic and unified human, animal and planetary health approach is a powerful way of optimizing both human and environmental health, in accordance with the sustainable development goals.

The United Nations addressed this conclusion in October 2019 by convening a Food Systems Summit, to be held in the fall of 2021.

A foundation for a successful reform

Food systems are numerous and varied. They are different in size, scope and function, from very local to global and from highly traditional to extremely modern. They are interconnected, and together they constitute what is known as the “global food system” (HLPE, 2014, 2017).

To effectively think about WTO reform, we must look beyond the binary view that generally pits market liberalization against food self-sufficiency. A return to greater domestic food self-sufficiency and a transition from the globalized food system to greater sustainability must take place simultaneously. This process involves restoring the balance between the “territorialized” and “globalized” aspects of food by allowing states to maintain the means and encouraging them to adopt the measures required for the transition to fair and sustainable food systems.

The WTO greatly shapes current food systems in that its rules organize and delineate the liberalization of agricultural and food products. The liberalization of agricultural trade partly contributes to food and nutrition security in that it promotes economic access to food. Scientific research from several disciplines shows, however, that it must be reformed with the objective—shared by the United Nations and other international organizations—of making a transition to fair and sustainable food systems.

One basic premise must guide WTO reform and thinking on food systems reform: food security, nutrition and human and planetary health are not only a potential outcome of food systems, but also a prerequisite for the sustainability of those systems.

This principle and the One Health approach must orient the ongoing negotiations toward the *Agreement on Agriculture*, which must proceed and conclude. The *Agreement on the Application of Sanitary and Phytosanitary Measures*, the GATT, the *Technical Barriers to Trade Agreement* and the *Agreement on Trade-Related Aspects of Intellectual Property Rights* must also be addressed using the One Health approach. In broader terms, as an organization, the WTO must become more open to the other areas of international law and become actively involved in global governance of food and the environment. Achieving sustainable global food and nutrition security requires greater consistency between the WTO’s legal system and that of the other areas of international law, such as environmental law.

Examples of essential reform options

WTO reform, particularly reform of the *Agreement on Agriculture* (AA), which has languished since 2000, must be designed to support the transition to fair and sustainable food systems. This requires greater openness from the WTO to non-trade considerations, as well as a balance among the three components of sustainable development: the economic, social and environmental aspects. States must be able to protect and promote these systems, be they international, national or local.

Several possible solutions and legal reforms in this vein can be considered and are already emerging in the core AA text, including the following:

- The special safeguard provisions in the AA should be maintained and their scope expanded so as to take new realities into account, including those resulting from economic shocks, climate change and various pandemic contexts, in order to ensure sustainable global food and nutrition security. The AA's flexibility in this respect must not only be maintained, but also increased.
- Food security, the need to protect the environment and the objective of sustainable development are included in the preambles to the AA and to the Agreement Establishing the WTO. These concepts should already guide the interpretation of the AA and other WTO treaties. However, they should also be enshrined in the body of the AA.
- In addition, the definition of "food security" in the AA should be the one recognized by multiple international forums, including the Committee on World Food Security. This interpretation of food security is necessary to ensure more consistency between the WTO and international organizations that deal with food security, nutrition, health and the environment.
- Greater consistency in international law must therefore be achieved by ensuring that the three dimensions of sustainable development are balanced, and food and nutrition security should never be part of a trade-off (HLPE, 2017).
- Annex 2 of the AA must be reviewed, expanded and made more accessible in keeping with the One Health approach and to ensure fair and sustainable food systems. This annex must give states the freedom to adopt effective and necessary measures to that end. States should be able to promote and encourage food security and sustainable production and processing methods that protect the environment, fight and adapt to climate change and avoid food loss and waste through more impactful means, such as sustainable management systems.

- The WTO rules on public support for environmental protection must be broadened to allow farmers to be directly and appropriately remunerated for the environmental services provided by their operations. The contributions that nature makes to human beings should also be considered.
- The legal studies relating to necessity may be useful in pursuing the unfinished business of the AA, as may further analysis of the emergence of a “food security exception” at the WTO, based on a global food normative order being constructed outside the WTO.
- The *Committee on World Food Security Voluntary Guidelines on Food Systems and Nutrition*, adopted last month, should guide AA and WTO reform (http://www.fao.org/fileadmin/templates/cfs/Docs1920/Nutrition_Food_System/Negotiations/NE_982_47_8_VGFSYN.pdf).

In broader terms,

- The dispute settlement system should be more open to non-trade considerations and states’ other international commitments respecting the environment and human rights. In addition to reflecting this openness in the provisions of the agreements, the composition of the panels and the Appellate Body should be changed to include human rights, environmental, and food and nutrition security experts.
- Reform of the WTO decision-making mechanism should be considered for greater efficiency and fairness.
- International standard-setting organizations, such as the Codex Alimentarius Commission and the World Organisation for Animal Health (OIE), need to take this broader view of health into account when developing and adopting international standards, as these standards often de facto become the applicable law.
- The services negotiations, which began in 2000, should work toward reducing or eliminating tariff and non-tariff barriers to environmental goods and services in order to make trade and the environment more mutually supportive.
- The social and environmental externalities of the various components of fair and sustainable food systems must be internalized. This is necessary to ensure prices reflect the true cost of goods and services and to adhere to the regulatory frameworks in place in Canada that apply to Canadian producers.
- States must be able to ensure that imported products meet the same environmental and social requirements that they impose on the various stakeholders in their fair and sustainable food systems.