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Trade Policy Options for Enhancing Food Aid Effectiveness



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Senior Research Associate, Overseas Development Institute (ODI)



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and Sustainable Development

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TABLE OF CONTENTS

LIST OF FIGURES, TABLES AND BOXES	iv
LIST OF ABBREVIATIONS AND ACRONYMS	v
FOREWORD	vii
EXECUTIVE SUMMARY	1
1. INTRODUCTION	2
1.1 Background	3
1.2 Objectives	2
1.3 Outline	2
2. THE CHANGING ROLE OF FOOD AID	4
2.1 Food aid: a Marginal Resource	4
2.2 Progress on Untying	5
2.3 Shifting From Budgetary Support to Emergency Aid	6
2.4 From Food Aid to Food Assistance	6
2.5 An Uncertain Resource	7
3. FOOD AID AND TRADE ARRANGEMENTS: THE MARRAKESH DECISION AND FOOD AID	9
4. FOOD AID AND TRADE ARRANGEMENTS: THE DDR NEGOTIATIONS	11
5. RENEGOTIATING THE FOOD AID CONVENTION	12
6. FOOD AID, FOOD SECURITY AND TRADE RISKS: A PRECAUTIONARY APPROACH	16
ENDNOTES	18
REFERENCES	21
ANNEX A. POSSIBLE NEW ARTICLE 10.4 TO REPLACE THE CURRENT ARTICLE 10.4 OF THE AGREEMENT ON AGRICULTURE. INTERNATIONAL FOOD AID	23

LIST OF FIGURES, TABLES AND BOXES

Figure 1: Global food aid: total deliveries, local and triangular purchases, and emergency uses 1991-2010

Figure 2: Food Aid Deliveries, FAC Commitments and Food Price Index, 1970-2009

Figure 3: Food Aid Deliveries, FAC Minimum Contributions and Reported Contributions, 1994-2010

Table 1: DAC Donor Food Aid Commitments in 2010 as percent of ODA and Humanitarian Aid

Table 2: Food Aid by Mode Of Delivery in 2010 (million tonnes)

Table 3: Top Recipients of Global Cereals Food Aid, Deliveries in 1990/1 and 2010 (thousand tonnes) with primary reason for operations in 2010

Table 4: FAC Contributions and Reported Food Aid in 2008-2009 (thousand tonnes)

Box A: Renegotiating the Food Aid Convention: the issues in more detail

LIST OF ABBREVIATIONS AND ACRONYMS

AoA	Agreement on Agriculture
DDR	Doha Development Round
EC	European Commission
ECHO	European Community Humanitarian Office
FAC	Food Aid Convention
GE	Grain equivalent
ICTSD	International Centre for Trade and Sustainable Development
IGC	International Grains Council
LDC	Least Developed Country
NFIDC	Net Food Importing Developing Country
DAC	Development Assistance Committee (of the OECD)
ODA	Official Development Assistance
TAFAD	Transatlantic Food Assistance Dialogue
UR	Uruguay Round
WE	Wheat equivalent

FOREWORD

Poor, net food-importing countries continue to face a range of challenges in guaranteeing the food security of their populations, many of which have been exacerbated by recent trends towards unusually high and volatile food prices. Many of these countries have, since the end of the Uruguay Round, been critical of the effectiveness of the Marrakesh Decision, arguing that flaws in its design mean that it is an inadequate instrument for addressing their needs. The evolving food price environment arguably creates new challenges for the countries concerned, and requires new kinds of policy responses.

Although food aid was one of the package of elements included in the Marrakesh Decision, the policy landscape surrounding food aid provision has altered substantially over the last two decades. Whilst recognising the role of food aid in humanitarian emergencies, many countries have argued that in-kind food aid in particular undermines local producers in ways that are akin to the provision of agricultural export subsidies, and should therefore be disciplined and ultimately eliminated accordingly. Provisions capturing an emerging consensus around this idea have been incorporated in the draft Doha accord on agriculture, but, in the absence of any wider momentum towards concluding the Round as a whole, have not been agreed upon by WTO members.

At the same time, a number of countries have sought to 'untie' the provision of food aid, in line with the analysis on aid effectiveness set out in the Rome and Paris Declarations in this area. Separate negotiations towards a Food Aid Convention (or Food Assistance Convention) have taken place under the auspices of the International Grain Council in London. Governments have also substantially reformed the way in which they provide food aid to vulnerable populations, with food aid decreasing in quantity, and with more food aid being provided in the form of cash transfers that can be used to purchase local products. The cyclical nature of food aid has also led to concern about the tendency for it to be least available when needs are greatest. Indeed, total food aid volumes now scarcely cover humanitarian emergency needs - a far cry from the situation envisaged at the time when the Marrakesh Decision was drafted.

With the Doha talks in an 'impasse', various negotiating groups have been exploring different avenues for pursuing progress on the outstanding issues from the Round. Cairns Group countries in particular have informally expressed concern that a number of deadlines set out in the Doha agricultural draft are fast approaching, although in the absence of any momentum towards a broader agreement. The 2013 target dates for developed countries to eliminate agricultural export subsidies has been mentioned in particular in this regard, along with other aspects of the text on 'export competition'. As the draft accord on food aid is one part of this 'pillar', it may therefore be particularly useful to revisit ways in which disciplines on trade distortions could help to support food security at this particular juncture - especially given the renewed attention by some actors to options for 'early harvests' on some elements of the wider Doha package.

The paper that Edward Clay has written for ICTSD aims to provide policy-makers, negotiators and other stakeholders with an impartial, evidence-based overview of the extent to which existing policies and mechanisms on food aid have enabled recipient countries to address their food security needs to date. It looks at options for improving food aid effectiveness, in the context of recent and projected food price trends, and sets out the implications these options may have for trade and development. As such, we believe it will be a valuable contribution to the ongoing debate in this area.



Ricardo Meléndez-Ortiz
Chief Executive, ICTSD

EXECUTIVE SUMMARY

This is an appropriate moment to re-examine the role of food aid in contributing to food security and disciplining trade displacement risks, especially given the renewed attention to options of 'early harvests' on some elements of the wider Doha package including export competition. A draft treaty in replacement of the Food Aid Convention (FAC) should be available soon: the signatories of this Convention fund four-fifths of international food aid.

Important changes in food aid since the DDR process began over a decade ago provide the context for this re-examination:

- Food aid has become a marginal resource: presently only some 5-6 million tonnes, mostly basic cereals, about 3 percent of Official Development Assistance and under a fifth of humanitarian aid.
- The risks of trade displacement are being reduced by increased international and local sourcing of food aid, about half in 2009 and 2010.
- A high and increasing proportion of food aid is now committed to emergencies, over three quarters in 2009-10.
- *Food assistance* is displacing food aid in much official and civil society thinking, with cash-based and non-food transfers being successfully employed in context specific ways to improve food security and offer social protection in both crises and situations of chronic hunger.
- There is resource uncertainty because of an apparent wider decline in donor support for food aid in contrast to other forms of humanitarian assistance; and also because
- Food aid has continued to be procyclical, actually contracting sharply when donor exporter stocks are depleted and global prices surge.

Consequently, food aid can be expected to play in the foreseeable future a useful role in contributing to global food security as emergency aid. However, food aid cannot be expected to make a significant contribution to national food security in Least Developed Countries and net food importing developing countries, as envisaged in the 1994 Marrakesh Decision.

Current food aid levels only just assure international emergency responses to the annual sequence of unrelated disaster shocks and humanitarian crises. A major regional crisis would require substantial additional funding to meet food needs, as well as complementary international financial support for affected countries. Resource levels preclude a significant response to a *systemic risk*, such as the global food price spike in 2007-8 and, unless there is a break with past donor policies and practices, food aid will be least available when most needed. Therefore the outcome of the FAC negotiations should be closely scrutinized: does it genuinely address shortcomings of the current Convention, including only partially limiting procyclical donor behaviour, ambiguities about collective and individual signatory commitments, lack of transparency and weak governance?

In conclusion, there is a strong case for early completion of the negotiation on food aid on which there was almost consensus within the DDR: some trade risks remain and the draft disciplines for food aid will provide a useful framework for *bona fide* food aid.

1. INTRODUCTION

1.1 Background

With the Doha Development Round (DDR) talks at an ‘impasse’, various negotiating groups have been exploring different avenues for pursuing progress on the outstanding issues from the Round. Cairns Group countries in particular have informally expressed concern that a number of deadlines set out in the Doha agricultural draft are fast approaching, although in the absence of any momentum towards a broader agreement. The 2013 target date for developed countries to eliminate agricultural export subsidies has been mentioned in this regard, along with other aspects of the (relatively advanced) text on ‘export competition’. As the draft accord on food aid is one part of this ‘pillar’, it is appropriate to revisit options for addressing food security and disciplining trade distortions at this juncture – especially given the renewed attention by some actors (including WTO Director-General Pascal Lamy) to options of ‘early harvests’ on some elements of the wider Doha package. The discussion is timely too because the draft treaty should be available soon to replace the 1999 Food Aid Convention (FAC) whose signatories fund about four fifths of international food aid.

1.2 Objectives

This issues paper on *international food aid*¹ provides a background for informed debate in a trade policy context on three issues. First, can food aid any longer be expected to make a significant contribution to food security in Least Developed Countries (LDCs) and net food importing developing countries

(NFIDCs), as envisaged in the Uruguay Round Marrakesh Decision in 1994 in the light of subsequent experience up to and beyond the DDR negotiations?²

Second, are the disciplines for food aid in the DDR draft Agreement on Agriculture (AoA) with important exemptions for emergency humanitarian aid – almost agreed in 2005-6 – still relevant in the light of the global food crisis of 2007/8 and continuing extreme volatility in commodity markets?³

Third, what are the issues of future donor commitment and governance, including linkages to trade rules, raised in the current negotiations for a new Food Aid Convention (FAC)

1.3 Outline

The paper focuses more on the national level food security in a trade policy context, which is of course only a dimension of food security.⁴ It provides a brief overview of developments within international food aid, contrasting both the longer term structural changes since the periods immediately prior to the Marrakesh Decision and the DDR, and what has happened during the still continuing period of extreme global price volatility. Key points concerning food aid in the Marrakesh Decision and Annex L on food aid of the draft AoA are highlighted.⁵ The paper looks at the issues raised in the renegotiation of the 1999 Food Aid Convention. Finally, the potential role of food aid in food security and the potential for trade displacement are considered in terms of risk management.

Table 1: DAC Donor Food Aid Commitments in 2010 as percent of ODA and Humanitarian Aid

Donor	Food Aid Commitments US \$ million	Food Aid % of ODA	Emergency Food aid as % Humanitarian Aid
Australia	63	1.7	6.5
Canada	167	4.3	30.7
Japan	423	2.4	11.5
NZ	3	1.1	10.5
Norway	27	0.7	7.8
Switzerland	58	1.9	19.0
USA	2265	6.8	28.2
EU Institutions	382	2.8	20.2
Member states	407?	0.8?	15.8?
DAC+EC	3796?	2.9?	17.8?

2. THE CHANGING ROLE OF FOOD AID

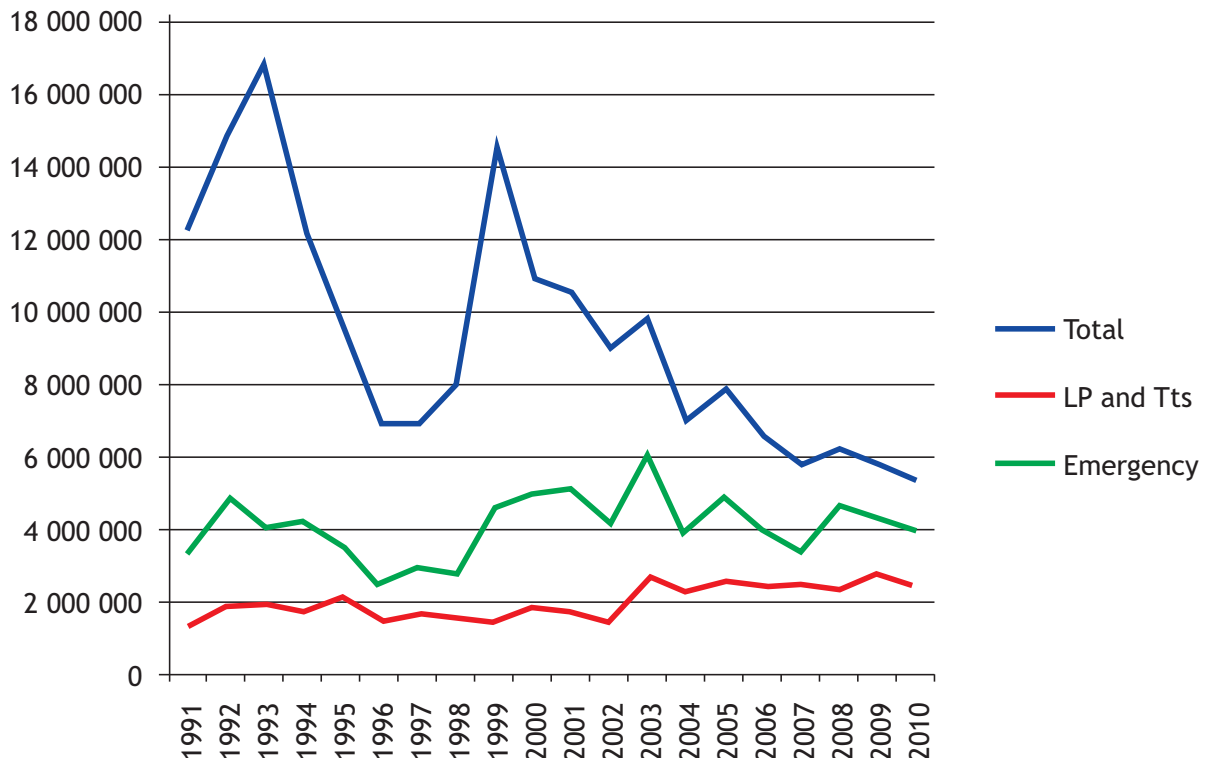
2.1 Food Aid: a Marginal Resource

International food aid is presently only some 5-6 million tonnes, mostly basic cereals, about 3 percent of Official Development Assistance (ODA), a fifth of official humanitarian aid (17 percent in 2010) and 1 percent or less of budgeted expenditure of many European aid agencies. (Table 1) Probably the greater part of food aid (and especially if one includes other forms of food assistance) is from development cooperation budgets and not, as in the past, from separate agriculture-related budgets. The important exception remains the USA that provides about half of all international food aid; food aid being about 6 percent of US ODA and still largely funded from agricultural appropriations.

Food aid has declined substantially in both absolute and relative terms as part of aid to and the imports of developing countries. The share of food aid in cereal imports has declined sharply, from close to 30 percent at the beginning of the 1990s for LDCs to some 8 percent in the last 3 years and from 8 percent for the NFIDCs to less than 0.5 percent (Konandreas, 2012)

These bare facts raise a serious question - in what ways should trade negotiators still be concerned with what has become a marginal element of agricultural trade and aid? We will return to this fundamental question after looking at the changing role of food aid and how donors have performed in the period of extreme price volatility since 2006, as well as issues raised by the status of recent and on-going negotiations.

Figure 1: Global food aid: total deliveries, local and triangular purchases, and emergency uses 1991-2010



2.2 Progress on Untying

The scale of the trade-policy issues of export competition, trade displacement and market distortion posed by food aid are much reduced by the increasing international and local sourcing of food in absolute terms and as a share of total food aid, about half in 2009 and 2010 (Figure 1). Most OECD Development Assistance

Committee (DAC) donors have “untied” their food aid both formally in terms of legal requirements and in practice since the 1990s. This process accelerated during the DDR. In contrast, the USA and Japan have retained the titles and budget lines under which only tied food aid can be provided and continue to tie a large proportion of their food aid. (Table 2)

Table 2: Food Aid by Mode Of Delivery in 2010 (million tonnes)

Donor	Direct Transfers (DT)	Local Purchases & Triangular Transactions	Total Food Aid	DT as % of total	LP&TT as % of total
USA (P)	2.6	0.4	3.062	86%	14%
Japan	0.225	0.168	0.393	57%	43%
EC	0.003	0.181	0.184	2%	98%
Total Food Aid (P)	2.9	2.5	5.463	53%	47%

Source: Adapted from WFP Interfais data (US figures are provisional)

Early food aid programs were largely “tied” to procurement of the food within the donor country or, in the case of EU, states within the single market. Food aid served a vent for disposing of surplus food such as EU skim milk powder stocks in the 1970s and 1980s and as a form of export competition, notably the USA. However, from the early 1990s competition rules for public procurement within the EU and the wider European Economic Area (EEA) made it increasingly difficult for governments to restrict their food aid procurement to a national (e.g. Danish, French or German) market. This constraint on favouring domestic suppliers undermined domestic support for tying. Civil society advocacy and evidence based research were influences on policy (Clapp, 2012). Research demonstrated that tied food aid is not always the best response to hunger, especially in emergency situations. A shipment of tied food aid typically takes four to six months to reach recipients, compared to one month for locally or regionally procured food aid. Tied food aid is also more expensive, typically costing 30 percent to 50 percent more than food aid purchased locally in the recipient country, or within the region (OECD, 2005).

European states such as Netherlands, Norway, Sweden and the UK were the first to untie their food aid by making local purchases in

countries where food was to be distributed and ‘triangular’ operations in third countries, and they allowed the WFP to do this on their behalf. Then the European Commission (EC) in the mid-1990s effectively untied its aid. The EC’s food aid is now provided in the form of financial resources that enable the purchase of food closer to the source of hunger. In the 1999 FAC the EU negotiated a further innovation: it made its food aid commitment partially in cash, with an implied tonnage equivalent, and partially as a minimum tonnage. Other donors kept their commitments in terms of tonnes of wheat equivalent (FAC, 1999 and Table 4 below).

The moves within OECD to untie aid to LDCs in 2001 and the focus on tying in the DDR were reflected in the untying of food aid by most DAC member governments. This was done even though food aid was specifically exempt from the DAC and Paris understandings. For example Australia partially untied its food aid in 2004, and fully untied it in 2006. Canada untied half of its food aid in 2005, and fully untied it in 2008. France, Norway and Switzerland removed the last formal vestiges of tying. The US and Japan have kept their food aid programmes largely tied, and the US opposed moves to include food aid in the wider untying of aid by DAC donors to LDCs.

The share of untied aid in 2009 and 2010 was a record high, 47 percent of the total tonnage delivered (Table 2). The US also funded an unprecedented 14 percent of untied aid, although still low compared with other major donors. This increase in untied aid reflects both efforts to widen sourcing and reduced appropriations under tied budget lines.⁶

2.3 Shifting From Budgetary Support to Emergency Aid

A second major change in the negotiating context is the high and increasing proportion of food aid now committed to emergencies. (Figure 1) In 1989 only 15 percent of food aid was directed toward emergencies and in 1999 some 31 percent, with the remainder being allocated to longer-term and more development oriented projects and programmes. In 2009-10, three quarters of food aid was directed toward emergencies. Consequently more food aid is now channeled through multilateral agencies, primarily the World Food Programme (WFP). When the FAC was last negotiated in 1999, only 27 percent of food aid was multilateral, but by 2009 that figure was 70 percent.

The EC and most member states, as well as Australia and Canada, largely phased out government-to-government programme aid following a series of negative evaluations and policy reviews in the mid 1990s. These donors now allocate their food aid budget primarily to emergencies. The US has also virtually phased out programme aid since 2001. However the current regulations under the 2005 Farm Bill still allow such aid. To underscore this potentiality for use of food for political economic purposes, the US announced in February 2012 an offer of 240,000 tonnes of food aid to North Korea, which was quickly withdrawn in April when linked political conditions were not met.⁷ (Clay, 2012) As well as emergency food aid, the US still provides a significant amount of developmental project food aid in support of food security and education, also including monetization by US registered NGOs. Japan also continues to provide rice as in-kind programme aid.

This significant shift in food aid use is a response to the growing scale of natural disasters and continuing humanitarian crises. It also reflects a greater understanding that long-term food aid, because it can introduce perverse incentives and create dependencies over long periods of time, is not necessarily the best use of food resources. Differences among donors on the extent to which they should focus their aid exclusively on emergency response have influenced negotiations in the DDR and the FAC. The EU, for example, is more inclined to allocate its food aid budget, now under the direction of The European Community Humanitarian Office (ECHO), primarily to emergencies as cash aid. The US had taken steps to untie a significant proportion of its bilateral development and humanitarian aid, including an experimental 300 million USD programme to acquire food locally and in the region of end use. But it continues to supply predominantly in-kind food aid, and wishes to retain the capacity to provide programme aid and NGO monetization. More generally, the US is unwilling to commit to fully untying its aid.⁸

2.4 From Food Aid to Food Assistance

Third, *food assistance* is displacing food aid in official and civil society usage (Harvey et al., 2011; TAFAD 2011). The FAC is likely to be renamed the Food Assistance Convention (see below). This change reflects the changes already noted, the shift of focus to emergencies and declining role of food aid in-kind. There is also wider recognition that a variety of direct food transfers and cash-based non-food transfers can be successfully employed in a context specific way to improve food security in both crises and situations of persistent hunger and malnutrition. The need to clarify the distinction between actions to improve food security and food as commodity aid is also widely acknowledged. There is growing use of cash based interventions in humanitarian operations and in social safety nets. Meanwhile there had been, at least prior to the 2007-8 crisis, a relative decline in the importance of both international food aid and domestically funded programmes to deliver food or subsidise food.⁹

The wider notion of food assistance is far from unproblematic. Where food is a high proportion of poor people's expenditure, providing food assistance through non-food transfers or even food-based transfers is in practice difficult to distinguish from cash-based social protection and safety net programmes of income support.¹⁰ So will food agencies support food assistance programmes by importing or locally acquiring food, and will International Financial Institutions fund cash-based safety nets with overlapping and potentially difficult to distinguish goals?

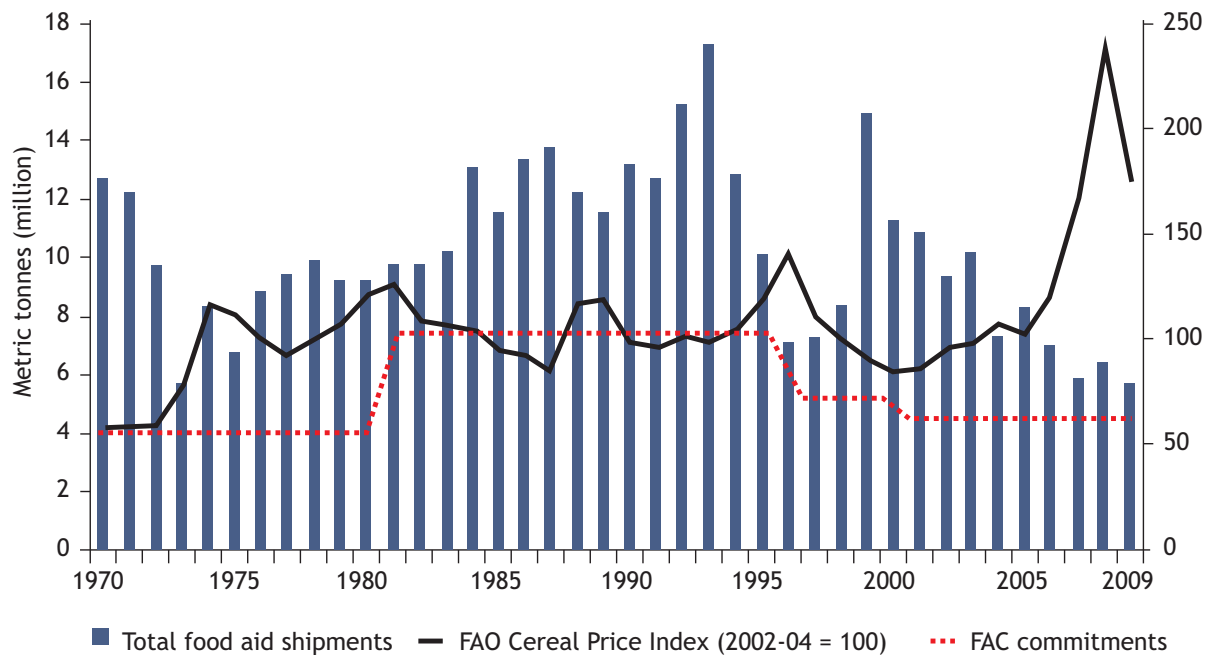
What are the implications of these changes for trade policy? It might be argued that as governments, donors and civil society have so broadened their approach to supporting food security, and combined with the massive decline in food aid for development including budgetary and balance of payments (BoP) support, that concerns about in-kind aid as export competition are now unimportant. Therefore the draft DDR disciplines on in-kind aid to prevent or minimize market displacement are disproportionate or unnecessary.

Alternatively, it could be argued that the basic concerns about in-kind tied aid remain. Firstly, from an economic perspective, the distinctions between international food aid, aid in-kind, tied and untied aid are useful for distinguishing between ways of providing funding that can have

different implications in a national economic, trade or aid policy context. Second, the empirical record suggests it would be premature to conclude that because the global food economy has moved into an era of relatively higher real prices there will not be episodes of transient surpluses and market weakness. These would be circumstances in which governments, as in 1998-2000, may be tempted again to fund in-kind aid for reasons of short term political economic expediency without regard for damaging implications for third parties. "New" donors such as Brazil and India also typically provide in-kind aid. Talking about food assistance should not obscure the continuing risk of trade distorting actions.

2.5 An Uncertain Resource

There are two widely recognised sources of uncertainty regarding availability which makes food aid provision more expensive and difficult to plan: changing donor priorities and the strong connection with the agricultural supply situation in donor countries and international market conditions. Historically food aid has been procyclical with quantities shipped contracting as stocks are depleted in exporting donor countries and as global prices surge, notably in 1973-74 and 1995-96. In contrast, shipments have risen often sharply when markets were weak, from the late 1970s to early 1990s and again in 1999-2000 (Figure 2).

Figure 2: Food Aid Deliveries, FAC Commitments and Food Price Index, 1970-2009

Source: Clapp (2011) from FAO, IGC and WFP data

This continuing uncertainty about availability has been underscored yet again as stocks declined after 1999, and especially during the period of extreme grain price volatility since 2006 (Figure 2.) Food aid levels dropped by half between 1999 and 2004-5, and then fell by another 27 percent to only 5.8 million in 2007. Additional US appropriations and a Saudi Arabian 500 million USD donation funded a small increase to 6.2 million tonnes in 2008. But, the food aid provided dropped again in 2009 and in 2010 reached a fifty year low of under 5.7 million metric tonnes. The WFP and NGOs have struggled since 2007 to maintain the level of emergency food aid they had been providing (Figure 1).

The procyclical behaviour of food aid is usually attributed to donors budgeting in financial terms. (Kondandras, 2000; OECD, 2005) However, the failure in deliveries to recover in 2009-10 when prices temporarily fell suggests a further downward ratchet effect of the combined

global financial and food crisis on commitments. Proposals to cut US appropriations indicate that there may be a decline in those supply side pressures that historically supported food aid. The sustained fall in EU food aid since the late 1990s in contrast with rising humanitarian aid levels as cash and more recently falling Australian food aid levels seem part of a wider decline in support for food aid (Clapp, 2012).

Food aid has continued to be procyclical, actually contracting sharply when stocks are depleted and prices surge. Yet this is when net importers are most in need of support and when humanitarian agencies are finding pressures on their operations more intense. These developments raise serious doubts about existing commitments and the international institutional arrangements for food aid. How relevant now is the Marrakesh Decision, the draft AoA disciplines and especially the Food Aid Convention?

3. FOOD AID AND TRADE ARRANGEMENTS: THE MARRAKESH DECISION AND FOOD AID¹¹

The contrast between the Marrakesh Decision or NFIDC Decision and the failure on the part of developed countries to use food aid to address needs arising from the reform process is an issue that should receive careful consideration. Was the concept flawed? Was it impractical or a question of bad faith?

The Decision recognizes that least-developed and net food-importing developing countries may experience negative effects during the Uruguay Round (UR) reform programme leading to greater liberalization of trade in agriculture. Specifically, problems could arise which pertain to the availability of adequate supplies of basic foodstuffs from external sources on reasonable terms and conditions, including short-term difficulties in financing normal levels of commercial imports of basic foodstuffs anticipating relatively higher global food prices. The Decision recognizes the *legitimate needs* of these developing countries during the reform process, and envisaged establishing mechanisms which provide for the review of the level of food aid and the initiation of negotiations in the appropriate forum to establish a level of food aid. But nothing of substance followed, leading to accusations of bad faith on the part of developed food aid donor countries. However, the Decision is also seriously flawed in its drafting.

The Decision does not define these LDC and NFIDC needs, which are open to different interpretations. A narrow interpretation of legitimate needs would be those that relate to the reform process itself: these are needs that are over and above those that would have arisen in the absence of the reform programme. This interpretation would require establishing a counterfactual scenario, that is, what would have been the case in the absence of the UR. Attempts to quantify a counterfactual scenario face many problems, and it would be difficult

to substantiate legitimate needs on the basis of such an approach.

An alternative *broader* definition of legitimate needs would be one that does not limit them to those strictly linked to the reform programme. In that sense, such needs could be defined as those that would be able to maintain adequate levels of food consumption during the reform process. Such an interpretation would be valid if the aim of the Decision were to alleviate any undue hardship, which if left unattended, could compromise the success of the reform programme. However, again it is unlikely that the intention of the signatories of the Decision would have been to address needs that would be so encompassing and loosely defined. (Konandreas, 2000: 93)

The Marrakesh Decision was agreed after an extended period in which food aid of over 10 million tonnes a year (Figure 2) had been providing relatively substantial budgetary and balance of payments support to larger food insecure countries, Bangladesh, Egypt and Ethiopia, as well as economies in transition, former Soviet Republics and Eastern Europe. This use of food aid is reflected in the list of largest recipient countries in 1990 (Table 3). So it might have seemed a reasonable presumption that food aid could play a role in the UR process. However, almost immediately as prices rose sharply in more volatile markets, major donors cut back their food aid and reduced their market exposure by reducing joint FAC commitments from 7.5 to 5.4 million tonnes in 1995 (Figure 2). From then onwards the actual scale of food aid, and even relatively assured commitments, made it impractical to use it as a tool for national food security, except in a few smaller economies on any predictable basis. So was the Marrakesh Decision conceptually flawed, or simply impractical or a question of bad faith? None of these explanations is mutually exclusive.

Table 3: Top Recipients of Global Cereals Food Aid, Deliveries in 1990/1 and 2010 (thousand tonnes) with primary reason for operations in 2010

COUNTRY	1990/91 000T	COUNTRY	2010 000T	PRIMARY REASON FOR FOOD AID IN 2010
Egypt	1,864	Ethiopia	1,374	Chronic food insecurity
Bangladesh	1,356	Pakistan	667	Natural disaster
Ethiopia	894	Sudan	473	Protracted hum. crisis
Poland	742	Haiti	266	Natural disaster
Jordan	481	Kenya	257	Natural disaster
Romania	480	Bangladesh	179	Chronic food insecurity
Mozambique	454	Congo DR	192	Protracted hum. crisis
Sudan	453	Niger	157	Natural disaster
Peru	371	Chad	111	Protracted hum. crisis
Tunisia	348	Afghanistan	108	Protracted hum. crisis
		Occupied Palestinian Territories.	87	Protracted hum. crisis since 1948

Source: WFP

4. FOOD AID AND TRADE ARRANGEMENTS: THE DDR NEGOTIATIONS

There has been a highly successful process promoted through voluntary commitments of the OECD DAC of untying bilateral aid specifically to LDCs and also more widely. Such untying considerably reduces risks of aid related trade displacement. (Clay et al., 2009) However, food aid has been explicitly exempt from this process at the insistence of the USA. Hence the WTO and the DDR process became the focus for negotiations on this sensitive issue of minimizing the risks of trade displacement and internal market distortion in recipient economies posed by food aid. The failure to address commitments implied by the Marrakesh Decision and the controversial programming of food aid when levels spiked in 1999-2000, including to over 6.0 million tonnes to Russia, were also part of the context for the negotiations.

After intense and extended negotiations including not only donors but also developing countries a near consensus on disciplines for food aid was achieved, and this is reflected in Annex L on international food aid in the December 2008 text of the draft AoA (attached as Annex A to this paper). The proposed new article to replace Current Article 10.4 explicitly combines two objectives. The first objective is ensuring that trade disciplines do not intentionally impede the delivery of food aid to deal with emergency situations. The second is to avoid or minimize commercial displacement.

The first objective is addressed through the establishment of a *Safe Box for emergency transactions*. Aid in the form of cash, i.e. untied aid, is exempt from all disciplines. Aid in-kind (tied aid in DAC terms) is exempt provided it satisfies conditions for being *bona fide* emergency aid which include the *formal declaration of an emergency* and an *assessment of needs* that would be internationally recognized, as well as *ex-post notification of transactions by the donor* for reasons of transparency.

To avoid or minimize risk of trade displacement there are further *disciplines for non-emergency in-kind food aid* including requirements for a

formal needs assessment by an international or regional body, evidence of a deficit and consistency with the objective of avoiding trade displacement. The issue of *monetization of in-kind food aid for developmental purposes* was the subject of continuing negotiation between 2005-2008. The prohibitions on such practices were progressively diluted, some argue, by exemptions, but the December 2008 text is free of brackets on this issue. Avoidance of distorting effect will depend on the good faith and competence of the monetizing body, very likely an NGO. Monetization remains controversial amongst donors and also within civil society: some NGOs have abandoned and others strongly oppose the practice.¹²

An early agreement on accepting the new draft of Article 10.4 should complement and possibly facilitate moves to improve the effectiveness of food aid and reduce possible market distorting effects of aid in-kind in the following ways.

- Firstly, those drafting a new Food Aid Convention can explicitly take these rules into account in determining what are eligible food aid transactions.
- Second, the combination of adopting such a new article and incorporating these into a new FAC would bring food aid into line with the moves elsewhere to untie development aid, especially the OECD.
- Third, establishing how the *monitoring and surveillance* implied by the new rules would be undertaken could provide a basis for agreeing a more rational, simplified allocation of responsibilities between WTO for trade and OECD based aid monitoring, as well as the role of Rome based agencies concerned with food aid and food security.
- Finally, WTO agreements are both more generally applicable than those including only DAC or FAC donors and the disciplines would be potentially more robust than non-binding agreements.

5. RENEGOTIATING THE FOOD AID CONVENTION

The Convention¹³ expires in June 2012 and the main DAC donor countries are negotiating under the chairmanship of Canada to hammer out details of a new agreement, likely to be renamed the Food Assistance Convention. A draft treaty has been expected anytime since late 2011.

The FAC is an international treaty dating back to 1967 when as part of the Kennedy Round a group of donors and grain exporters pledged a minimum annual amount of food aid, currently some 4.9 to 5.4 million tonnes measured in an arcane formula of wheat equivalent (see Table 4). The Convention is a formal *risk transfer arrangement* in a volatile global economy, in

that donors are guaranteeing minimum levels of food aid. Operational food agencies - WFP and NGOs - argue that *indirectly* the FAC provides minimum levels of predictable funding to food based and humanitarian actions.¹⁴ The FAC is a stand-alone agreement housed in the International Grains Council (IGC) in London, supervised by a Food Aid Committee of its signatory donors. The Marrakesh Decision recognises the FAC as a place where appropriate levels of food aid are to be agreed. It is only tenuously linked to the Rome-based architecture for food security, to humanitarian and development aid more broadly under the OECD and the UN, where other stakeholders are represented.

Table 4: FAC Contributions and Reported Food Aid in 2008-2009 (thousand tonnes)

Food Aid Donor	FAC Contributions (WE)	FAC Reported Contributions in 2008/9 (WE)	Food Aid Deliveries in 2008 (GE)	Food Aid Deliveries in 2009 (GE)
Australia	250	164	91	81
Canada	420	551	259	238
EU (Incl. €130 million)	1320 (1908)	2,263	1184	980
Japan	300	556	374	403
Norway	30	89	49	15
Switzerland	40	59	28	19
USA	2500	4,257	3216	2915
Argentina	35		0	0
Total FAC ^a	5483	7,940	5200	4651
FAC Donors as % of FAC Contribution	100%	145%	95%	85%
Non-FAC Donors			1072	1071
Total Food Aid (all donors)			6272	5722
Non-FAC as % of Total Food Aid			17%	19%

Source: Clay (2010) from WFP and IGC data

Notes: WE Wheat equivalent; GE Grain equivalent

a. Total FAC includes both the EU commodity and cash contribution of Commission and Members states, converting the €130 million cash element at 1999 prices as equivalent to 580,000 tonnes in WE.

Last renegotiated in 1999, the FAC was extended pending the outcome of the DDR, which would include new rules on food aid. With the DDR stalled and continued food price volatility exposing the inadequacies of the present agreement, the G8 development ministers agreed in April 2010 that they

“believe in a Food Aid Convention for the 21st Century that focuses on providing appropriate and effective *food assistance to vulnerable populations.*” (Canada, 2010)

The negotiations on the future of the FAC, which began in December 2010, have been conducted entirely in private and there is no substantive publicly available documentation.

Plus ça change? The rumoured outcome (March 2012) is that the FAC negotiators are likely

to agree a face saving formula for allowing signatory donors to do what they would do anyway. There will not be a single collective commitment, either as a quantity of resources or to people in need. Instead signatories seem likely to agree contributions in physical or financial terms of more broadly defined forms of food assistance, similar to levels under the 1999 Convention. On governance, the treaty will continue to be housed at the IGC and commitments will be non-binding. Transparency may however be enhanced. If food aid is envisaged to play a significant role in global food security and provide humanitarian assistance, then the complex issues of the commitments, participation and governance raised in renegotiation of the FAC merit careful consideration and are explained in more detail in Box A.

Figure 3: Food Aid Deliveries, FAC Minimum Contributions and Reported Contributions, 1994-2010



Source: Clay (2010) updated based on IGC and WFP data

Box A: Renegotiating the Food Aid Convention: the issues in more detail

Counting commitments: currently signatories commit to *minimum contributions* between 4.9 and 5.4 million metric tonnes of *wheat equivalent food aid*,¹⁵ depending on how cash contributions by the EU are counted (Table 4). The US makes about half of the total commitment, reflecting its historic role as chief supplier of food aid. The FAC, as periodically renegotiated, has sought to accommodate the growing diversity of ways in which food aid is provided - tied aid in-kind, local and regional procurement, a wider range of foods, including pulses, oils, nutritionally fortified products and even seeds of foods supplied as aid. All contributions are reported according to a complex and arcane formula expressed in terms of wheat equivalent tonnage.

The need to reconsider the basis of FAC commitments is underscored by the increasing divergence between actual food aid deliveries and the reporting by donors of their contributions under the Convention (Figure 3). During the 2007/8-food crisis, food aid donations dropped precipitously to fifty year lows. In 2008 FAC signatories delivered less than 5.2 million tonnes of food aid, including both cereals and non-cereals, and under 5 million tonnes in 2009. However, they reported as contributions 7.9 million tonnes of food aid and financing for food and its delivery in wheat equivalent between July 2008 and June 2009 (Table 4). But what should replace this opaque and dubious formula?

Some would prefer to retain a *commodity-based commitment*; such as the US makes under federal legislation to provide 2.5 million tonnes of domestically sourced food aid every year. Some donors, especially Europeans, are keen to measure their *commitments in monetary terms*, allowing a greater flexibility in support of both food-based and other forms of food assistance including cash and tokens, livestock support and inputs for recovery of production. This change would widen the scope of the FAC but shift the 'price risk' from donors to recipients, unless commitments were explicitly recalculated every year to take account of volatile food and fuel prices and exchange rates.¹⁶

A collective commitment: When the Marrakesh Decision was made in 1994, the FAC included joint minimum commitments of 7.6 million tonnes as a contribution to a global cereals food aid target of at least 10 million tonnes initially agreed at the 1974 World Food Conference. However, the joint commitment was reduced to 5.4 million tonnes and reference to a global target was dropped in 1995 (FAC, 1995). What does a combination of individual donor contributions as physical quantities of food or cash for food and other forms of food assistance represent as a joint commitment?

The NGO coalition, the Transatlantic Food Assistance Dialogue (TAFAD), has instead proposed measuring FAC commitments in terms of *assisting* a minimum number - 30 million people affected by disasters and other humanitarian crises - to meet their food needs.¹⁷ Such a collective commitment would maintain the minimum floor of assistance, keep the price risk with the donor and pragmatically could allow donors to contribute in different ways - commodity aid or cash to a common overall objective. Should the commitments be limited to providing emergency and recovery assistance or include development projects and also government-to-government import support? Should the commitment be limited to providing emergency assistance, but supporting development only in LDCs, as allowed in the latest draft AoA? But as past practice suggests, the wider the remit, then potentially the less effective the risk transfer commitment is likely to prove in a tight global market.

Governance: even as a donor agreement and club, the FAC and its supervisory committee seem anachronistic, but what are the realistic alternatives? Should the FAC continue as a

stand-alone and weakly administered agreement housed in the IGC? Fulfilling commitments is voluntary, reporting is declaratory and there is no formal independent monitoring or evaluation.

A more robust alternative would be for the new treaty to require transparent links through an annual assessment of performance and then reporting this to international bodies with trade, aid and food security responsibilities. First, the new treaty could acknowledge trade risks by only allowing as eligible contributions donor aid transactions that confirm to the draft AoA disciplines and reporting annually on compliance to the WTO Committee on Agriculture. Second, donors could similarly report on the tying status of their aid to the DAC as part of its annual review of progress in implementing its commitments to untying of ODA. Third, the FAC annual report could be tabled for discussion at the FAO based Committee on World Food Security and the WFP Executive Board. But is there an appetite for more transparency and accountability?

The EC represents the whole EU because the FAC began life as a trade rather than aid agreement. In consequence EU states do not have either direct commitments or a responsibility to be accountable. But because food aid is only a small part of their humanitarian aid would they want either greater supervisory involvement in or accountability to the FAC? The US has historically wanted the exclusion of food aid from voluntary DAC agreements on development aid effectiveness and accountability. Would signatories wish to submit their performance to formal wider scrutiny in the WTO and the Rome based institutions?

Donors such as China, South Korea, and Saudi Arabia, accounting for 20 percent of food aid in 2009, or South Africa as a key source of food aid, are not signatories. Under what terms would non-FAC donors see it as in their interest and as part of their international responsibility to accede to a new treaty of donors?

6. FOOD AID, FOOD SECURITY AND TRADE RISKS: A PRECAUTIONARY APPROACH

Food security is inherently concerned with risks. So the potential contribution of food aid to assuring national food security can be usefully considered in terms of capacity to respond to different categories of risk, commonly characterised as idiosyncratic, covariate and systemic.¹⁸

The actual scale of food aid, currently some 5-6 million tonnes mostly basic cereals, makes it an inadequate tool for supporting *national food security*, simultaneously, except in a few smaller economies. Even then the need for budgetary or import support is likely to require complementary use of other financial mechanisms. Current levels of food aid are therefore barely adequate to respond to *idiosyncratic risks* in small and medium sized economies, that are uncorrelated with events elsewhere. Natural disasters such as the earthquake in Haiti and the floods in Pakistan in 2010 and the humanitarian crises in Sudan are examples.

Responding adequately to *covariate risks* such as the region wide and drought related food crises in the Sahel 1982-4 and in Southern Africa in 1991-2 could require several million tonnes of additional imports by affected countries. This scale of response would be more difficult to accomplish with food aid alone without possibly crowding out other operations or waiting for additional commitments. The UN's estimated food requirement of the 2012 Sahel Crisis, so far less severe than those in 1972-74 and 1982-84, is already approaching 400 million USD or one million tonnes (OCHA, 2012). A framework should be in place for integrating international preparedness and responses including food aid and financial support for additional imports by crisis-affected countries. There is also a need for regional crisis contingency planning within the agencies and financial institutions most likely to have a major role. The G20 pilot project on emergency food reserves for West Africa is recognition of such a need within one highly food insecure region.

Assured resource levels preclude a significant response to a *systemic risk* because these are small in relation to the import costs imposed by global price spike. They are also, unless there is a break with past donor policies and practices, actually procyclical. As a reminder: global food aid levels declined from 7.9 million tonnes in 2005 to 5.8 million tonnes in 2007, and after increasing slightly in 2008, fell again in 2009 and 2010.

The outcome of the FAC negotiations will merit careful scrutiny to see if it has been successful in addressing the shortcomings of the current Convention including, only partial success in limiting procyclical donor behaviour, ambiguities about collective and individual signatory commitments, lack of transparency and weak governance. Otherwise, would it be better to allow the Convention to lapse and for donors, with others in the international community, to address assuring the food needs of crisis affected people and global food insecurity in ways that are more appropriate to today's *different and rapidly changing physical environmental, political and economic circumstances*?

Trade risks remain, if apparently reduced by donors untying their aid and focusing on emergencies. However, some governments have retained the legal framework that permits them to provide food aid in-kind. Even if the global food economy has moved into an era of relatively higher real prices, it would be premature to conclude that there will not be episodes of transient surpluses and market weakness. These are circumstances in which governments, as in 1998-2000, may be tempted again to fund in-kind aid for reasons of short term political economic expediency, without regard for damaging implications for third parties. The recent offer, then quickly withdrawn, by the US to provide 240,000 tonnes of food aid to North Korea is a reminder of the rationale for establishing the Safe Box for emergency food aid. There is a strong case for concluding the almost completed negotiation on food aid under the DDR. This will establish

conditions under which in-kind food aid is *bona fide* emergency aid whilst accepting disciplines on non-emergency in-kind aid that will minimize risks of commercial displacement.

To address these unresolved issues of food aid governance is a real challenge, and will require imagination and lateral thinking, as well as a genuine commitment to succeed.

ENDNOTES

- 1 There is no generally accepted definition of food aid, and this paper follows the draft AoA “Unless otherwise specified, the term food aid is used to refer to both *in-kind* and *cash-based* food aid” http://www.wto.org/english/tratop_e/agric_e/agchairtxt_dec08_a_e.pdf. These aid transactions are understood to be *international* because funded by a bilateral donor and respectively equivalent to *tied* or *fully untied* aid according to DAC definitions. Clay et al. (2009: 5-7) describe these definitions and provide an account of efforts within the OECD directed towards untying aid.
- 2 The Marrakesh Decision is included in Konandreas (2012) as Annex A; and for a agreed statement of the potential implications of the decision see the WTO Ministerial Meeting 1996 Press Release: http://www.wto.org/english/thewto_e/minist_e/min96_e/netfood.htm
- 3 Doha Development Round: http://www.wto.org/english/tratop_e/dda_e/dda_e.htm and the latest version of the new rules on food aid are in the December 2008 draft text of the AoA: http://www.wto.org/english/tratop_e/agric_e/agchairtxt_dec08_a_e.pdf
- 4 From the early 1980s the focus of food security policy (and also food aid more narrowly) shifted increasingly to ensuring that poor and vulnerable people are able to meet their needs, or, following Amartya Sen, their food entitlements. However, with the extreme volatility in global food markets since 2006, the national dimension - ensuring adequate food to enable the food insecurity to meet their needs and also to prevent destabilising domestic food policy volatility has once more become an international policy issue.
- 5 On Doha Development Round and draft text of AoA see endnote iii above.
- 6 The third country procurement by the US in 2010 is being re-estimated. The 50% share of local and third country procurement reported in the *WFP Food Aid Flows 2010* appears to have been considerably over-estimated, and a provisional share of 14% is given in Figure 1 and Table 2. The decline in US sourced commodity aid is mostly linked to the decreasing Congressional appropriations for food aid under the Farm Bill, which is somewhat offset by the fairly large Local and Regional Procurement (LRP) program being run out of USAID (\$300 million/yr).
- 7 The US reached the “Leap Day understanding” with North Korea, so-called because announced on 29th February 2012, that included providing 20,000 tonnes of food aid a month over one year. <http://www.state.gov/r/pa/prs/ps/2012/02/184924.htm>. Before an agreement had been finalised, the offer was withdrawn on 13th April 2012 after North Korea attempted to launch a satellite considered to be in break of the understanding. The food aid policy implications of this offer are discussed further in Clay (2012)
- 8 Hillary Clinton, the US Secretary of State, at the Pusan high level meeting on aid effectiveness in November 2011 indicated the unwillingness of the US to fully untie its bilateral aid:

“our partners express concerns about what is called “tied aid”: requirements that some development contributions must be acquired through firms in our own countries. We certainly understand the benefits of untying aid and we attempted to do so. While we cannot commit to have untied all American assistance, we are working to untie as much as possible. And actually in - between 2005 and 2009, we more than doubled the percentage of assistance that is untied, from 32 percent to 68 percent. But one of the reasons tied aid has persisted is in order to get political support for the budgets that we turn into official development assistance. So we try to untie as much as possible, but recognize the political constraints that we and others operate under.” <http://www.state.gov/secretary/rm/2011/11/177892.htm>

There is also little evident impetus to significantly modify the international food aid provisions in the new Farm Bill to be enacted in 2012 or, if there were a roll over, in 2013.

- 9 Donors, notably the EU, have broadened the allowable uses of what were previously food aid budget lines, restricted to providing in-kind aid or funds for procuring food, to include other forms of food assistance (Harvey, et al., 2011). Domestically funded programmes to deliver food, or subsidise food, had also contracted in many LDCs, associated with international pressures to liberalise food markets. Investigations are needed to determine whether this tendency has been reversed since 2007.
- 10 To give a simple example, food-for-work would likely be classified as food assistance, but cash-for-work would usually be considered as a form of social protection. Similarly food vouchers would usually be classed as food assistance, despite obvious fungibility, whereas cash payments are treated as social protection. These distinctions are being made in a context where a high proportion of poor people's in LDCs is on food.
- 11 See above endnote 2
- 12 The US Coalition of Food Aid advocacy group of NGOs was dissolved in 2007 because of internal differences about monetisation and the TAFAD Group of 11 European, Canadian and US registered NGOs opposes the practice. See Clapp (2012)
- 13 Food Aid Convention 1999: http://www.foodaidconvention.org/Pdf/activities/fac_0910.pdf. For a fuller discussion of the issues raised by the renegotiation of the FAC see: Clapp (2011) and Clay (2010); Konandreas (2010) makes the case for a broader FAC that would support post-crisis recovery of food production; others argue for commitments to support only emergency and recovery operations and in financial terms that would be annually updated e.g. Gaus, A. et al. (2011).'
- 14 This is because signatories and especially European aid agencies that are party to the EU's commitment direct most of these resources to WFP and NGOs in a highly flexible way. EU member states are responsible for "national action" from a few thousand tonnes (Ireland) to over 100,000 tonnes (Germany) under the 1995 Convention but since 1999 the exact division of this EU collective responsibility is no longer made public.
- 15 tonnes of 'wheat equivalent' <http://www.foodaidconvention.org/Pdf/convention/iga1995.pdf>. In the 1999 Convention the EU also made a cash contribution of 130 million Euros considered as equivalent to 580,000 tonnes in 1999 prices.
- 16 Such a treaty commitment unless carefully drafted could pose legal difficulties for some countries that have constitutional restrictions on unlimited financial commitments, e.g. Germany.
- 17 Transatlantic Food Assistance Dialogue: <http://www.tafad.org/> and numbers of people fed: http://www.tafad.org/wp-content/uploads/Food-Assistance-Summary_TAFAD_November-20101.pdf
- 18 Clay, Keats and Lanser (2011) consider how food security risks might be presented in a risk management framework. See also OECD (2009)
- 19 Unless otherwise specified, the term food aid is used to refer to both in-kind and cash-based food aid donations.
- 20 It is conceivable that there could be circumstances where strict application of this obligation would have the effect of acting as an unintended impediment to the capacity of Members

to respond fully and effectively to genuine need with in-kind food aid in an emergency situation envisaged under paragraphs 6 to 10 below. Therefore it is recognized that, in such an emergency situation, Members may be permitted to depart from the strict application of this obligation, but only and strictly to the extent that this is a necessary and unavoidable consequence of the nature of the emergency itself such that to act in strict conformity would manifestly compromise the capacity of a Member to respond effectively to meet food aid needs. Furthermore, a Member shall in any case be obliged to avoid or, if this is not possible in the circumstances, to minimize, any adverse effects on local or regional production through the provision of in-kind food aid otherwise in conformity with the provisions of paragraphs 6 to 10 below.

- 21 Needs assessment should be done with the involvement of the recipient government and may involve a relevant regional intergovernmental organization or an NGO, but while the latter bodies may be so involved, this is in a context where they are in coordination with the relevant United Nations agency or ICRC/IFRCRCS as the case may be. A needs assessment shall not have standing for the purposes of access to the safe box under these provisions unless it has been conducted in such a coordinated manner, and has obtained the demonstrable consent or approval of the latter multilateral agencies.
- 22 In the case of a landlocked Member, additionally for the transport/delivery from the extra-territorial continentally contiguous port of final unloading to the destination territorial border.
- 23 This should involve the recipient country government and may involve humanitarian non-governmental organisations working in partnership with the recipient country government.
- 24 In the case of a landlocked Member, additionally for the transit transport/delivery from the extra-territorial continentally contiguous port of final unloading to the destination territorial border.

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ANNEX A. POSSIBLE NEW ARTICLE 10.4 TO REPLACE THE CURRENT ARTICLE 10.4 OF THE AGREEMENT ON AGRICULTURE

INTERNATIONAL FOOD AID

1. Members reaffirm their commitment to maintain an adequate level of international food aid (hereinafter referred to as “food aid”¹⁹), to take account of the interests of food aid recipients and to ensure that the disciplines contained hereafter do not unintentionally impede the delivery of food aid provided to deal with emergency situations. Members shall ensure that food aid is provided in full conformity with the disciplines below, thereby contributing to the objective of preventing commercial displacement.

General disciplines applicable to all food aid transactions

2. Members shall ensure that all food aid transactions are provided in conformity with the following provisions:

- (a) they are needs-driven;
- (b) they are in fully grant form;
- (c) they are not tied directly or indirectly to commercial exports of agricultural products or of other goods and services;
- (d) they are not linked to the market development objectives of donor Members; and
- (e) agricultural products provided as food aid shall not be re-exported in any form, except where, for logistical reasons and in order to expedite the provision of food aid for another country in an emergency situation, such re-exportation occurs as an integral part of an emergency food aid transaction that is itself otherwise in conformity with the provisions of this Article.

3. The provision of food aid shall take fully into account local market conditions of

the same or substitute products. Members shall refrain from providing in-kind food aid in situations where this would cause, or would be reasonably foreseen to cause, an adverse effect on local or regional production of the same or substitute products.²⁰ Members are encouraged to procure food aid from local or regional sources to the extent possible, provided that the availability and prices of basic foodstuffs in these markets are not unduly compromised. Members commit to making their best efforts to move increasingly towards more untied cash-based food aid.

4. Untied cash-based food aid that is in conformity with the provisions of paragraph 2 above shall be presumed to be in conformity with this Article.

5. The recipient government has a primary role and responsibility for the organization, coordination and implementation of food aid activities within its territory.

Further disciplines for food aid transactions in emergency situations (Safe Box)

6. To ensure that there is no unintended impediment to the provision of food aid during an emergency situation, food aid provided under such circumstances (whether cash or in-kind) shall be in the ambit of the Safe Box and, therefore, deemed to be in conformity with this Article, provided that:

- (a) there has been a declaration of an emergency by the recipient country or by the Secretary-General of the United Nations; or
- (b) there has been an emergency appeal from a country; a relevant United Nations agency, including the World Food Programme and the United Nations

Consolidated Appeals Process; the International Committee of the Red Cross or the International Federation of Red Cross and Red Crescent Societies; a relevant regional or international intergovernmental agency; a non-governmental humanitarian organization of recognized standing traditionally working in conjunction with the former bodies; and

in either case, there is an assessment of need coordinated under the auspices of a relevant United Nations agency, including the World Food Programme; the International Committee of the Red Cross or the International Federation of Red Cross and Red Crescent Societies.²¹

7. Following the emergency declaration or appeal as provided for in paragraph 6 above, there may well be a period where the needs assessment outcome is pending. For the purposes of this Agreement, this period shall be deemed to be 3 months in duration. Should any Member consider that the food aid concerned would fail to satisfy the conditions provided for under paragraph 6 above, no initiation of dispute settlement on these grounds may occur until that period has elapsed (provided that the relevant multilateral agency referred to in paragraph 6 above has not, within this period, given a negative assessment or has otherwise demonstrably not consented to a needs assessment). Where, within or by the end of this period, the relevant multilateral agency has either itself carried out a positive needs assessment or has demonstrably provided its consent or approval pursuant to footnote 3, and the other conditions of paragraph 6 have been satisfied, the food aid concerned shall remain in the Safe Box hereafter provided it is also in conformity with all the other relevant provisions of this Article.
8. There shall be no monetization for food aid inside the Safe Box, except for least-developed countries where there is a demonstrable need to do so for the sole

purpose of transport and delivery. Such monetization shall be carried out solely within the territory of the recipient least-developed country²² such that commercial displacement is avoided or, if not feasible, at least minimized.

9. A notification will be required on an ex-post basis by donor Members at six-month intervals in order to ensure transparency.
10. Subject to its continued conformity with other provisions of this Article, food aid that is in conformity with paragraph 6 may be provided as long as the emergency lasts subject to an assessment of continued genuine need as a result of the initial onset of the emergency. The relevant multilateral agency shall be responsible to make or convey such determination.

Further disciplines for food aid transactions in non-emergency situations

11. Further to the disciplines set out in paragraphs 1 to 5 above, in-kind food aid in non-emergency situations outside the Safe Box shall be:
 - (a) based on a targeted assessment of need whether carried out by an international or regional intergovernmental organization²³, including the UN, or, where such a targeted assessment is not reasonably obtainable, by a donor government or a humanitarian non-governmental organisation of recognized standing, working in partnership with a recipient country government. That assessment would incorporate and reflect objective and verifiable poverty and hunger data published by an international or regional intergovernmental organisation or by a recipient country that objectively identifies the food insecurity needs of the target populations described in subparagraph (b) below;
 - (b) provided to redress food deficit situations which give rise to chronic hunger and malnutrition and, accordingly, such

food aid shall be targeted to meet the nutritional requirements of identified food insecure groups; and

- (c) be provided consistently with the objective of preventing, or at the very least minimizing, commercial displacement. Commercial displacement in this context shall arise where the provision of in-kind food aid by a Member materially displaces commercial transactions that would otherwise have occurred in or into a normally functioning market in the recipient country for the same product or directly competitive products.

12. Monetization of in-kind food aid in non-emergency situations shall be prohibited except where it is in conformity with the

provisions of paragraph 11 above and, as a means to meet direct nutritional requirements of least-developed and net food-importing developing country members, it is necessary to fund the internal transportation and delivery of the food aid to, or the procurement of agricultural inputs to low-income or resource-poor producers in, those Members. Monetization shall be carried out within the territory of the recipient least-developed or net food-importing developing country.²⁴ Additionally, commercial displacement shall be avoided.

Monitoring and surveillance

13. Food aid donor Members shall be required to notify to the Committee on Agriculture, on an annual basis, all relevant data.

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