9. The World Trade Organization’s legal framework and Africa’s food security

Colette Van der Ven and David Luke

This chapter undertakes an assessment of the World Trade Organization (WTO) legal framework in relation to food security in Africa. It begins by positing an often-overlooked paradox: the contradictory role that food security plays in international trade. Countries with the means to subsidise production provide food not only for domestic consumption but also for trading in open markets or for giving away as food aid. This enhances global food availability but disincentivises production in poorer and net food-importing countries. Much of the work on food and agriculture in the multilateral trading system is aimed at resolving this conundrum.

After framing the paradox, the chapter reviews the main WTO agreements that impact food security, beginning with the Agreement on Agriculture (AoA). In assessing the AoA, its provisions relating to domestic support, the public stockholding of food supplies, the special safeguard mechanism, and export restrictions are of particular focus. Concerning the last of these, the chapter unpacks the measures taken by WTO member states against the background of the food crisis that followed the Covid-19 pandemic and Russia’s invasion of Ukraine. Subsequently, the Sanitary and Phytosanitary (SPS) Agreement, the Fisheries Subsidies Agreement (FSA) and provisions relating to technology transfer from a food security viewpoint are discussed. In each case, we highlight the relevant WTO rules and ongoing initiatives to illustrate the implications for African countries’ food security objectives. In particular, the chapter suggests reform initiatives that could be taken by the WTO African Group, the body that coordinates activities among African member states. Finally, in keeping with the aim of this book to put the spotlight on the interrelationship between food trade, food security and climate, the chapter reviews current (at the time of writing) environmental initiatives at the WTO such as the Trade and Environmental Sustainability Structured Discussions (TESSD), which includes environmentally harmful subsidies, with agricultural subsidies among them.

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9.1 Food security and WTO rules: an unresolved conundrum

Food is unlike any other commodity that is traded. Demand for staples is inelastic. Food price movements are politically sensitive. Food is both traded in international markets and highly protected in domestic markets. During the Uruguay Round (1986–1994) that led to the establishment of the WTO, the negotiators readily accepted that international trade could have both positive and negative implications for food security and crafted a special set of rules set out in the AoA to reflect this reality. On the positive side, the well-known role that trade could play in generating a supply response where food is needed and in emergencies was acknowledged by Uruguay Round negotiators. So also was the role of trade in facilitating access to inputs and modern agricultural technology and infrastructure needed to support agricultural productivity. Today accessing technology through trade is seen as vital to render agricultural production less vulnerable to climate shocks and to drive mitigation and adaptation initiatives.

However, the Uruguay Round negotiators further recognised that, while subsidies and some degree of protection could help to boost domestic food production and safeguard food stability, they also generate trade distortions through overproduction, dumping on world markets, price depression and the destabilisation of local production. To curtail the risks, negotiators agreed to allow subsidies and protection within disciplines that were laid out in the AoA. Net food-importing countries were acknowledged to be especially vulnerable to disruptions in global food supply chains. This category of countries was singled out for special consideration in further deliberations on food and agriculture. To make the point, a Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries (NFIDCs) was adopted (Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries, 1994). The decision set out pathways for mitigating negative outcomes for least-developed countries (LDCs) and NFIDCs – which include 42 African countries – such as food aid, technical and financial assistance and special conditions for agricultural export credit disciplines. In addition, food security as an objective is explicitly mentioned in specific WTO agreements such as the General Agreement on Tariffs and Trade 1994 and the AoA, which were part of the Uruguay Round trade deal.

Following the formation of the WTO in 1995, food security has remained central to negotiations on agriculture. In the decades since, especially over the last decade and most recently in 2022 at the Twelfth Ministerial Conference, the 164 Members (as WTO member states are known) delivered a series of outcomes that are in line with the obligations of the NFIDC Decision (World Trade Organization 2024a). But how to discipline agricultural subsidies, afford some level of protection for NFIDCs and LDCs, and keep world food markets open is a conundrum that remains unresolved at the WTO, as will be seen in this chapter.

9.2 The Agreement on Agriculture

The AoA comprises three main pillars: market access, domestic support and export competition. Under the market access pillar, Members were required to replace agriculture-specific non-tariff measures with a tariff that afforded equivalent levels of protection. This is also known as tariffication. Quantifying the amount of protection Members were providing was the first step towards implementing reduction targets. Mandatory minimum and average tariff reduction requirements were established for developed and developing countries. LDCs were required to bind agricultural tariffs but were exempt from undertaking tariff reductions (World Trade Organization 2024b).

The pillar on domestic support focuses on the use of subsidies and other support programmes that directly stimulate agriculture production. These provisions seek to discipline the use of domestic support, while at the same time leave room for governments to design agricultural policies. The rules reflect a conceptual distinction between two types of domestic support: subsidies that provide minimal or no trade-distortive effect, and subsidies that are trade-distortive. Members were required to make annual reductions to the latter category of subsidies: by 20 per cent over a six-year implementation period for developed countries, and 13.2 per cent over a 10-year period for developing countries. Annex 2 and Annex 3 of the AoA set out, respectively, domestic support measures that are exempt from reduction requirements and the rules to calculate domestic support (World Trade Organization 2024c).

The export competition pillar covers the use of export subsidies and other government support programmes that subsidise exports. Export subsidies on agricultural products are permitted for those WTO Members that reserved this right in their schedule of concessions but subject to reduction commitments (World Trade Organization 2024d). However, the trade-distorting effects of export subsidies became a prime target for criticism by civil society and other stakeholders. In 2015, at the WTO Ministerial Conference in Nairobi, Kenya – the first time this had been held in an African country – Members agreed that developed and developing country Members must eliminate the remaining scheduled export subsidy entitlements within specified timeframes (Tenth WTO Ministerial Conference, Nairobi, 2015 2024).

For the purposes of our discussion in this chapter, we will mainly focus on the domestic support pillar.

9.3 Agricultural subsidies

An overview of subsidy disciplines

Agriculture is widely subsidised because of its food security implications. These subsidies amount to hundreds of billions of dollars each year. The United States, China, the European Union (EU) and India top the list of subsidisers. In 2019–2020, the United States provided €190.6 billion in domestic support, China provided €173.1 billion, the EU €81 billion and India €67.7 billion (Directorate-General for Agriculture and Rural Development n.d.). These subsidies potentially create market distortions that negatively impact agricultural producers that do not benefit from such generous subsidies.

The AoA disciplines only agricultural subsidies that are trade-distortive. To differentiate between different types of agricultural subsidies, the AoA categorises agricultural subsidies into four boxes: the Amber Box, the Blue Box, the Green Box and the Development Box. Only subsidies that fall into the Amber Box are subject to reduction requirements, set out in WTO Members' schedules. The differences between the boxes are explained below.

The Amber Box covers the most trade-distorting subsidies, which are subject to limitations based on the country's Final Bound Total Aggregate Measurement of Support (FBTAMS) entitlements.[1] Examples of these subsides include price support regimes that regulate prices and production amounts; systems or targets for minimum prices for agricultural commodities; and highly subsidised insurance schemes and other forms of protection for farmers against low yields (Lau and van der Ven 2017).

For trade-distortive subsidies that fall into the Amber Box, WTO Members were allocated different levels of aggregate measure of support (AMS) entitlement. Using 1986–1988 as the base period, developed countries that were subsidising agriculture during this period had to reduce the level of support by 20 per cent over six years and developing countries by 13 per cent over 10 years – expressed in terms of total AMS (World Trade Organization 2024c). Only 33 WTO Members enjoy FBTAMS entitlements (see Table 9.1). The WTO Members that are not included on this list did not subsidise their agricultural sector during the base period of 1986–1988. Accordingly, these countries were not allocated an FBTAMS entitlement.

The amount of trade-distorting domestic support any WTO Member can provide, irrespective of their FBTAMS entitlements, is also determined by *de minimis* thresholds, that is, a percentage of the value of production that does not need to be counted towards a WTO Member's FBTAMS entitlements. These percentages differ based on a country's development status: for developed countries it is 5 per cent, and for developing countries it is 10 per cent.[2] Importantly, WTO Members are permitted to provide product-specific support under the *de minimis* provisions. For developing countries and LDCs that have no FBTAMS entitlements, the *de minimis* allowance is critical.

The Blue Box covers subsidies that may have some trade-distortive effects by limiting production or establishing production quotas, or payments to farmers for repurposing farmland. Blue Box subsidies are not counted towards a Member's AMS entitlements. An example of a Blue Box subsidy is US payments to farmers who participate in its Acreage Reduction Programme, which requires idling of farmland. Blue Box subsidies are hardly used by developing countries as they involve direct payments, which implies significant budgetary outlays. To date, no African country has made use of this type of subsidy.

Table 9.1: WTO Members with FBTAMS reduction commitments under the Amber Box

Argentina	Jordan	**South Africa**
Australia	Korea	Switzerland
Brazil	Mexico	Liechtenstein
Canada	Moldova	Chinese Tapei
Colombia	Montenegro	Tajikistan
Costa Rica	**Morocco**	Thailand
EU	New Zealand	**Tunisia**
North Macedonia	Norway	Ukraine
Iceland	Papua New Guinea	United States
Israel	Russian Federation	Venezuela
Japan	Saudi Arabia	Viet Nam

Source: World Trade Organization (2024e).
Note: African countries are shown in bold.

The Green Box covers subsidies that are deemed to be minimally trade-distorting. These subsides are exempt from reduction commitments. Green Box subsidies are listed in Annex 2 to the AoA and include horizontal activities such as research, training and certain types of direct payments to producers not linked to production.[3] Subsidies to achieve environmental objectives such as land rehabilitation, soil conservation, resource management, drought and flood control fall within the Green Box (WTO 2013). These subsidies are required to be provided under a publicly funded programme and do not involve transfers from consumers. As was noted in Chapter 4, the Malabo Declaration requires that African countries allocate at least 10 per cent of public expenditure to agricultural development. This would be covered mainly as part of the Green Box and will not be counted towards AMS limits.

The Development Box provides flexibilities for developing countries, by exempting certain types of subsidies they provide from being counted towards a WTO Member's FBTAMS. These subsidies include inputs such as irrigation systems and fertilisers for low-income producers and outlays for the acquisition of machines and provided they are used to promote agricultural and rural development and form an integral part of development programmes.

Agricultural subsidies and implications for food security in Africa

The domestic support disciplines in the AoA have been criticised because of their role in exacerbating structural asymmetries in agricultural subsidies between developing and developed countries. Differences in FBTAMS entitlements, which were calculated based on the domestic support Members

Table 9.2: Distribution of FBAMs entitlements (2018)

WTO Member	FBTAMS entitlement (US$ billion)	Cumulative share of FBTAMS entitlement (%)
EU	81.03	48
Japan	36.45	21.6
US	19.1	11.3
Mexico	12.82	7.6
Others	19.52	11.6
Total	168.92	100

Source: World Trade Organization (2023a).

provided between 1986 and 1988, have led to a situation where the distribution of FBTAMS entitlement is highly skewed. Four WTO Members (the EU, the US, Japan and Mexico) account for 88.4 per cent of FBTAMS entitlements, with the EU alone accounting for 48 per cent (World Trade Organization 2023a) (see Table 9.2).

Only three African countries – South Africa, Morocco and Tunisia – have FBTAMS entitlements.[4] This means that only these countries are permitted to provide Amber Box subsidies up to the limit specified in their schedules. All other African WTO Members can subsidise only within *de minimis* levels (up to 10 per cent of the value of agricultural production). Both Morocco and Tunisia have notified Amber Box use, but not beyond their *de minimis* levels, whereas South Africa has notified zero Amber Box use (World Trade Organization 2023a).

The African Ministers of Trade Declaration on WTO issues, submitted in June 2022, noted that 'long term resilience to future food crises and sustainable food security lies in unlocking the agricultural productive capacity of African economies through addressing longstanding asymmetries and imbalances in the Agreement on Agriculture' (World Trade Organization 2022a). Indeed, it is difficult, especially for small-scale agricultural farmers in Africa, to compete with heavily subsidised agricultural imports. This is especially the case given that most of the support provided goes to five commodities: rice (US$26.5 billion), wheat (US$13.3 billion), dairy (US$10.3 billion), bovine meat (US$8.5 billion) and corn/maize (US$8.3 billion) (World Trade Organization 2023a). Moreover, in spite of possible beneficial effects on food availability, recent studies have found that food subsidies support neither sustainability nor human health, and generate almost US$12 trillion in hidden costs (FAO, UNDP and UNEP 2021; Food and Land Use Coalition 2019).

African WTO Members have historically opposed the use of Amber Box subsidies. Specifically, the African Group has proposed that WTO Members with scheduled FBTAMS entitlements that exceed the *de minimis* levels must apply a cap on their non-product-specific FBTAMS at their *de minimis* level

(African Group 2023). For product-specific support, they have proposed a cap on FBTAMS entitlements at *de minimis* levels for WTO Members that account for a share of 10 per cent or above of all WTO Members' FBTAMS, or account for 8 per cent of global exports of WTO Members within a period of two years and five years for all other WTO Members (African Group 2023).

Reducing or eliminating FBTAMS can generate efficiency gains with positive impacts for African countries. This is because domestic support – which is being provided most generously outside the African continent – can lead to price suppression, thereby disincentivising domestic production. For example, a study found that US subsidies alone depressed global maize prices by about 9 to 10 per cent (Ambaw et al. 2021). Another study found that removing domestic support for cotton globally could result in an increase of the value of net cotton exports by African cotton producers by US$622 million per year (Anderson et al. 2021). It is clear that it would be difficult for African farmers to sell products at the depressed world price without receiving similarly generous domestic support. Removing these trade-distortive, price suppression subsidies by reducing or eliminating FBTAMS allowances could lead to increased food production, including in NFIDCs, and enable African countries to achieve self-sufficiency.

However, removing or reducing FBTAMS can also negatively impact food affordability, globally and in Africa. A reduction of FBTAMS subsidies will likely result in a decline in farm output and subsequent increases in food prices. This could make it more costly for African countries, many of which are NFIDCs, to import the staple commodities crucial to achieve food security. Moreover, a shift towards higher levels of agricultural production in Africa enabled by the reduction or removal of AMS would not occur overnight. From this point of view, advocating for reducing or removing FBTAMS is a conundrum that cannot be easily resolved.

Trade-offs must also be considered with regard to *de minimis* entitlements. Except for the three African countries with FBTAMS allowances, African WTO Members are only entitled to provide trade-distortive support as part of their *de minimis* allowance. The African Group's position is to keep the *de minimis* allowances to ensure policy space for Africa's agricultural development. To the extent that African policymakers consider this desirable, domestic support must be linked to productivity targets to avoid waste and inefficiencies.

Given that *de minimis* is calculated as a percentage of a country's total value of production, *de minimis* allowances have become increasingly large as global agricultural production has increased. Whereas global *de minimis* entitlements were around US$182.4 billion in 2001, it more than tripled to US$631.8 billion in 2019, with China and India in the lead (World Trade Organization 2023a). In fact, China has the most Amber Box entitlements even if it does not have FBTAMS entitlements, owing to its *de minimis* share.[5] Maintaining *de minimis* allowances across the board could have negative implications for African food security with a similar global price depression effect as FBTAMS allowances. At the same time, reducing *de minimis* allowances could lead to a reduction in food being produced globally, with potentially negative implications for the African continent. (It is surprising that there is little available research on the possible global effects of new disciplines on agriculture at the WTO. More research is needed, which will also provide fresh evidence for WTO negotiations.)

The African Group has also proposed that any developing country Member experiencing a severe food crisis should have recourse to product-specific *de minimis* exceeding the 10 per cent of the value of production threshold, provided that the country exports less than 1 per cent of that product globally (African Group 2023). While this would provide African WTO Members with additional policy space to address a severe food crisis, it assumes that restricted policy space is what stands in the way of additional domestic support. However, this is not necessarily the case, given that not all African countries have used their *de minimis* allowance (World Trade Organization 2023a).

Trade-offs may also be required as regards the Development Box and its implications for African food security. Currently, the African Group's position is to keep the Development Box as set out in Article 6.2 of the AoA as is – notwithstanding calls from some WTO Members to impose a cap. Under the Development Box, developing country WTO Members can provide a variety of subsidies to develop agricultural production. However, the notifications of the Development Box suggest that African WTO Members are only marginal users of the Development Box.[6] Asia is responsible for at least 85 per cent of usage in most years between 2001 and 2019, with India topping the list at the forefront of Article 6.2 expenditures (Committee on Agriculture 2021a). When advocating to maintain Development Box privileges, African countries should consider whether they have the financial means to effectively use the policy space it provides and be mindful of how the use of these flexibilities by other developing countries could negatively impact African agriculture production (Ambaw et al. 2021). Perhaps the African Group could explore limiting Development Box benefits only to NFIDCs and LDCs.

Concerning support provided under the Green Box, an African Group communication noted an emerging trend whereby measures that are notified as Green Box support by developed countries under the AoA paragraphs 5–15 of Annex 2 are not decoupled from production (African Group 2023). This is known as box shifting, using the Green Box for Amber Box measures. Since support provided under the Green Box does not need to be counted towards a Member's FBTAMS, some WTO Members increase their subsidy allowances through box shifting. In 2020, 28 WTO Members provided Annex 2 support above US$100 million, with 12 of these WTO Members providing Annex 2 support that exceeded 5 per cent of the annual value of production, and nine exceeding 10 per cent of the value of production (African Group 2023). Similar to the FBTAMS, this can have negative implications for African producers. To avoid the trade-distorting effect of Green Box support, the African Group has proposed to introduce a cap – at 5 per cent of the value of production – with exemptions for farmers with low-income levels in developing countries and LDCs (African Group 2023).

9.4 Public stockholding of food supplies

Public stockholding programmes are policy tools used by governments to purchase, stockpile and distribute food when needed (World Trade Organization 2024f). Specifically, public stockholding programmes provide (1) emergency stocks to reduce the vulnerability of consumers to supply disruptions or food price shocks in emergencies; (2) buffer stocks to stabilise prices within the domestic market to avoid excessive volatility; and (3) stocks for domestic food distribution or for external food aid (Avesani 2023). Most African WTO Members, and some RECs like ECOWAS, have public stockholding programmes in place. However, despite the prevalence of public stockholding programmes, they might not be sufficient to address emergency situations given low stock-to-use ratios in many African countries (Gro Intelligence n.d.).

While public stockholding programmes are essential for food security, they are disciplined by the AoA for their potential to distort market prices and trade. The AoA allows governments to procure stocks at current market prices. However, if stocks are procured at pre-announced administered prices, outlays are counted towards a country's AMS, owing to its potential market-distortive effects (Sinha and Glauber 2021). Developing countries, including African WTO Members, have raised concerns that procurement at administered prices could push them towards exceeding allowable limits, thus limiting their ability to pursue public stockholding programmes to meet their food security needs.

Following the launch of the Doha Round negotiations, the African Group advocated for the removal of references to AMS with respect to public stockholding programmes, effectively seeking to put these programmes in the Green Box category (World Trade Organization 2014). In 2013, at the Ninth Ministerial Conference in Bali, WTO Members reached an interim solution for stockholding known as the 'Peace Clause'. Under the 'Peace Clause' WTO Members agreed to refrain from challenging food security programmes of developing countries that exceeded *de minimis* or bound limits provided certain transparency conditions were met (World Trade Organization 2013). Following the Nairobi Ministerial Conference two years later, the WTO General Council adopted a decision to extend the Peace Clause indefinitely while continuing to work towards a permanent solution (WTO General Council 2014).

In March 2020, India became the first WTO Member to invoke the Bali Decision on Public Stockholding when it notified the organisation that it had exceeded its *de minimis* support level for rice as a result of its minimum support price programme and other welfare schemes (World Trade Organization 2020). India submitted similar notifications on breaching its permitted support levels for rice in 2021, 2022 and 2023 (Committee on Agriculture 2021b;

Committee on Agriculture 2022a; Committee on Agriculture 2023a). Yet, following these notifications, some WTO Members raised questions about a surge in India's rice exports.[7] India's experience highlights the limitations and stringent requirements that WTO Members are subjected to when invoking the Peace Clause.

The African Group, the African, Caribbean and Pacific (ACP) Group and the G33 (a group of developing countries that includes India and China) sought to address shortcomings perceived in the Bali Decision. First, the Bali Decision applied only to programmes that existed at the time the decision was taken but not to new or future programmes. This limited the scope of the Peace Clause (Matthews 2014).[8] Second, the Bali Decision can be utilised only for 'traditional staple food crops', i.e. primary agricultural products that are predominant staples in the traditional diet of a developing Member (World Trade Organization 2014, footnote 2 to para. 2). In other words, the Bali Decision does not apply to agricultural commodities that are not part of a developing Member's traditional diet. This creates a narrow group of products that are eligible for the Peace Clause than that which may be eligible for public stockholding. Third, the Bali Decision sets out onerous notification requirements that must be met to benefit from the Peace Clause.

The proposal submitted by African Group, ACP and G33 sought to address these limitations and included a permanent solution for public stockholding. The proposal aimed to recalculate trade-distorting support when stocks are procured at administered prices, adjusting for excessive inflation. For situations in which a developing country WTO Member exceeds its allowable support because of public stockholding programmes for food security purposes, the proposal sets out anti-circumvention measures that aim to buffer potential market-distortive effects. These include ensuring that stocks acquired under the public stockholding programme for food security purposes do not adversely affect the food security of other Members and a best endeavour provision to refrain from exporting stocks acquired through public stockholding programmes, except in situations of international food aid or when requested by net food-importing developing countries or similar situations of food scarcity (African Group, ACP and G33 2022). Finally, the proposal provides recommendations for less onerous transparency and notification requirements than under the Bali Decision.

Carving out additional policy space for public stockholding programmes through a permanent solution, as proposed by the African Group, ACP and G33, would enable African WTO Members to ensure food availability for critical crops during times of food scarcity. At the same time, the proposal for a Permanent Decision on Public Stockholding also opens the door to distorting global agricultural markets even further, as it would allow developing countries with large agricultural markets, like China and India, to provide unlimited support. While this could negatively impact food production in Africa due to price suppression, it could at the same help to ensure that, globally, sufficient food is being produced.

To better balance the dual objectives of providing policy flexibility to advance food security in developing countries while preventing trade distortion, one solution could be to limit outcomes on a permanent public stockholding programme to LDCs and NFIDCs, or to WTO Members whose procured stocks do not exceed a certain percentage of the average value of production (Ambaw et al. 2021), or whose share in world trade in agricultural products amounts to no more than a set percentage (Avesani 2023). For these countries, the risk that public stockholding programmes would result in global market distortions is generally low, given that many LDCs do not have the financial capacity to procure food at administered prices (WTO General Council 2014). Politically, however, doing this will be very challenging, given that the G33 is one of the staunchest proponents of a permanent solution on public stockholding. Complicating this further is the fact that a permanent solution has been elusive, and WTO Members have not made any progress since the Bali Ministerial Conference a decade ago.

9.5 Special safeguard mechanism

The AoA includes a special agricultural safeguard provision (SSG), but its applicability is limited to the 39 countries that undertook tariffication[9] of agricultural products during the Uruguay Round. This included the following African countries: Botswana, Eswatini, Morocco, Namibia, South Africa and Tunisia.[10] However, WTO Members that did not engage in tariffication during the Uruguay Round are not eligible to use the SSG. Establishing a special safeguard mechanism (SSM) with broader eligibility would address this gap. At the 2015 Nairobi Ministerial Conference, WTO Members adopted a decision to negotiate an SSM for developing countries to enable them to temporarily increase tariffs on agriculture products in cases of import surges or price declines (World Trade Organization 2015).

It is vital for Africa to protect its resource-poor and small-scale farmers from excessive price volatilities in agriculture commodities. While the dynamics on price volatility for rural African households are complex (G33 2017), price falls coupled with import surges are especially problematic as farmers risk losing expected returns, which could take them further into poverty. In a 2019 proposal to the WTO, the African Group noted that African countries have been 'subject to massive and repetitive import surges, resulting over the years and in the absence of any means to safeguard the market from substantial reduction in production amounting in some cases to more than 50 per cent decrease, and the loss of numerous jobs' (Benin on behalf of the African Group 2019). A 2020 study by Das of eight developing countries,[11] Ghana, India, Indonesia, Namibia, Philippines, Senegal, Sri Lanka and Turkey, showed that these countries experienced import surges covering between 191 and 348 tariff lines (Das et al. 2020). Given Africa's prevalence of smallholder farmers, minimising the impact of a commodity international price collapse on domestic prices is critical.

However, the Twelfth Ministerial Conference, in 2022, made no progress on the SSM, reflecting the sensitivity of this issue and disagreement among the Members. While developing countries are pressing for the SSM, other Members have sought to ensure that the SSM is limited by discipline in order not to compromise market access reform efforts in the negotiations of existing tariff bindings. Concerns were also raised on the potential negative implications of the SSM on Members' exports, and on trade between WTO Members more broadly.

Nonetheless, the LDC Group, the African Group and the G33 have called for the adoption of a simple and accessible SSM to be used as a trade remedy tool to balance distortions in agricultural markets. The African Group called upon Members to intensify discussions on SSM to reach an outcome at the Thirteenth Ministerial Conference, held in February 2023. Its proposal advocated for an SSM that would cover both price and volume-based triggers with no *a priori* product limitations as to its availability, and one that would be easy to apply by developing countries (Committee on Agriculture 2023b). The African Group further proposed that any transparency requirements should not be excessively onerous for developing countries (Committee on Agriculture 2023b). The African Group requested a moratorium on Members from challenging the compliance of a developing country Member with its SSM obligations through WTO dispute settlement mechanism pending the entry into force of a potential SSM-related amendment or protocol to the AoA (Committee on Agriculture 2023b). However, no decision on an SSM was taken at the Thirteenth Ministerial Conference, which was deadlocked on most issues on its agenda.

As African Members advance a food security agenda at the WTO, it will be important to continue to press for an SSM. Meanwhile, in situations marked by price volatility, African Members should also consider the extent to which existing tariffs could be applied to protect vulnerable smallholder farmers from import surges. The 2020 study by Das et al. referenced earlier found that the countries studied had differences between the applied and bound levels in their tariff schedules of over 20 per cent, suggesting that simply raising the tariff up to the bound level could be another method to protect against import surges (Das et al. 2020). Until a SSM has been negotiated, African WTO Members, which tend to have high bound tariffs for agricultural products, should consider to extent to which existing tariff schedules could provide a temporary buffer.

9.6 Export restrictions on agricultural products

As most African countries are net food importers, disruptions in food supply chains can be catastrophic. As discussed in earlier chapters, export restrictions contributed to increased price volatility and higher price levels during the Covid-19 pandemic and following Russia's invasion of Ukraine (Food and

Agriculture Organization of the United Nations, World Trade Organization and World Bank 2023). This followed similar episodes in 2008–2010 and the 1970s (Giordani, Rocha and Ruta 2012; Trade and Markets Division 2009, p.11).

Export restrictions can temper domestic price increases, or ensure sufficient domestic supply is available in case of scarcity. This is especially critical in situations of food shortage. However, export restrictions also accelerate price spikes in international markets, and can have a broader destabilising effect on global markets as trade is interrupted abruptly. This has direct implications for the availability and affordability of food in domestic markets (Committee on Agriculture 2023c). In the first six months of 2022, countries adopted 75 export restrictions affecting trade in food and fertiliser (Espitia, Rocha and Ruta 2022). Export bans on rice, wheat and citrus fruits, including by major exporters such as India, Russia and Turkey, led to price increases estimated at 12.3 per cent, 9 per cent and 8.9 per cent, respectively. During the same period, export prices for soya bean oil and maize increased by 14 and 6.1 per cent, respectively (Espitia, Rocha and Ruta 2022).

These price increases were challenging for NFIDCs and LDCs. In June 2022, 26.3 per cent of LDC agricultural imports (measured in calories) were impacted by export restrictions, compared to 13.2 per cent for developed countries (Glauber et al. 2022). Moreover, many LDCs do not have the financial resources to compete for access to alternative markets at higher prices (Committee on Agriculture 2023c), and so experience higher levels of food inflation as a result of the supply shortages (Committee on Agriculture 2023c).

Article XI of the General Agreement on Tariffs and Trade (GATT) 1994 disciplines the adoption of quantitative restrictions. Generally, it prohibits quantitative restrictions, 'whether made effective through quotas, import or export licenses or other measures', but permits the use of export restrictions to relieve critical food shortages. Thus, export restrictions that were adopted in response to the Covid-19 pandemic and the Russian aggression on Ukraine were, to the extent they were necessary to relieve critical food shortages, not considered WTO-inconsistent.

Article 12 of the AoA added a transparency requirement in making it mandatory for WTO Members that are net food exporters and which adopt a food export prohibition or restriction to (1) give due consideration to the effects of such prohibition or restriction on importing Members' food security; and (2) give notice in writing to the Committee on Agriculture. These transparency requirements do not, however, apply to inputs such as fertilisers (Calvo 2023).

At the Twelfth Ministerial Conference, in 2022, which was held during a period of exceptional turbulence in world food markets, WTO Members sought to further discipline export restrictions by adopting two ministerial declarations: the Ministerial Declaration on the Emergency Response to Food Insecurity (WTO Food Security Declaration) and the Ministerial Decision on World Food Programme Food Purchases Exemption from Export Prohibitions or Restrictions (Ministerial Decision on WFP Exemptions).

The WTO Food Security Declaration includes a provision to 'ensure that any emergency measures introduced to address food security concerns shall minimize trade distortions as far as possible; be temporary, targeted, and transparent; and be notified and implemented in accordance with the WTO rules' (Ministerial Declaration on the Emergency Response to Food Insecurity (WT/MIN (22)/28), 2022, art 5). A related provision in the WTO Food Security Declaration is summarised in Box 9.1 below. While the declaration should be applauded for seeking to minimise trade disruptions on food products caused by export bans, it is not likely to lead to significant changes in WTO Members' behaviour vis-à-vis export restrictions on food, given that it does not establish any new binding rules against export restrictions on food (Calvo 2022a).

The Ministerial Decision on WFP Exemptions provides that Members shall exempt foodstuffs purchased for non-commercial humanitarian purposes by the World Food Programme (WFP) from export prohibitions or restrictions to ensure the steady supply of its humanitarian aid (World Trade Organization 2022b). Given that the WFP is a humanitarian organisation that delivers food assistance in emergencies, including in many African countries, this ministerial decision could help to ensure the WFP's access to available food supplies.[12] However, the decision also underlined that its provisions 'shall

Box 9.1: A dedicated WTO work programme on food security

Another aspect of the 2022 WTO Decision on Food Security of interest to Africa was the establishment of a dedicated work programme to consider the needs of LDCs and NFIDCs in increasing their resilience, bolstering domestic production, and enhancing their domestic food security. In line with this mandate, a work programme under the Committee on Agriculture was established by the Members in November 2022 with four thematic areas: (1) access to international food markets; (2) financing of food imports; (3) agricultural production and resilience of least-developed and net food-importing developing countries; and (4) horizontal issues.

Technology transfer and knowledge cooperation on climate resilient agriculture development and coordinated rapid response in case of food security crises are some of the areas identified for further discussion. As a first step, the work programme issued a questionnaire to identify the utilisation of WTO flexibilities by least-developed and net food-importing developing countries.

Source: Committee on Agriculture(2022b). Also see Committee on Agriculture (2022c).

not be construed to prevent the adoption by any Member of measures to ensure its domestic food security in accordance with the relevant provisions of the WTO agreements' (Reuters 2022). In effect the decision sought to balance the WFP exemption and a WTO Member's ability to adopt measures to ensure its own food security. While this may appear contradictory, implementation of the decision in good faith by WTO Members might help to tackle the food crisis during the early years of the 2020s by ensuring that critical relief reaches the most vulnerable.

In the absence of clearer and binding disciplines for food export restrictions and prohibitions, the 2022 measures signal a desire among WTO members to cooperate to ensure that vulnerabilities are not left unaddressed. This is also an opportunity for WTO Members to deliver on additional outcomes for clarifying export restrictions and disciplines on prohibitions in relation to both Article XI of GATT 1994, and Article 12 of the AoA. Moreover, notifications of export restrictions are still lacking. There is scope for the African Group to call for more transparency on export restrictions notifications. The African Group could also seek exemptions from export restrictions or prohibitions for food destined to LDCs and NFIDCs in periods of acute food instability (Committee on Agriculture 2023d).

9.7 The Sanitary and Phytosanitary Agreement

Food security cannot be achieved without access to safe food and inputs like seeds. Food standards and trade mutually contribute towards delivering safe, nutritious and sufficient food for the world's population. On the other hand, foodborne diseases contribute to the incidence of malnutrition and erode food security. The 2015 WHO Estimates of the Global Burden of Foodborne Diseases report estimated that in Africa food safety hazards were responsible for approximately 137,000 annual deaths and about 91 million cases of acute foodborne illnesses, the highest estimates worldwide (World Health Organization 2015). The economic burden as a result of productivity loss associated with foodborne diseases in low- and middle-income countries was estimated at US$95.2 billion per year in 2019 (Jaffee et al. 2019).

Food safety falls under the ambit of the WTO Sanitary and Phytosanitary Agreement, which allows WTO Members to set their own standards on food safety and plant and animal health but puts a premium on measures that are based on mutually agreed international standards.

At the 2022 WTO Ministerial Conference, Members agreed on an SPS Declaration to enhance the implementation of the Sanitary and Phytosanitary Agreement and manage issues related to international trade in food, animal and plants (World Trade Organization 2022d). The declaration specifically identifies 'climate change and increasing environmental challenges and associated stresses on food production' as a challenge and the 'growing importance of sustainable agricultural practices and production systems, including their contribution to addressing climate change and biodiversity conservation' as one of the opportunities for addressing emerging challenges. It provides for the establishment of a work programme to explore how the Sanitary and Phytosanitary Agreement can contribute to global food security and sustainable food systems, enhance safe international trade in food through adaptation of measures to regional conditions, and address the needs of developing and least-developed Members in the elaboration and application of SPS measures, among others. The African Group was supportive of this ministerial declaration during the negotiations and can benefit from discussions that emanate from the working group (World Trade Organization 2022a). It would be important for the group to play an active role in the work programme discussions to ensure that it addresses Africa-specific SPS issues.

9.8 The Fisheries Subsidies Agreement

Seven million tons of fish are caught annually in Africa (African Development Bank 2022) and over 12 million people in Africa depend directly or indirectly on the marine fishing industry for their livelihoods (World Trade Organization 2023b). Fish is also critical for Africa's food security as an important protein source for over 400 million Africans, as discussed in Chapter 3. According to forecasts, the continent must produce an additional 1.6–2.6 million tons of fish a year by 2030 to meet consumption needs (Fevrier and Dugal 2017). The African Union considers the fisheries sector to be 'Africa's future', highlighting the sector's role as a 'catalyst for socio-economic transformation' (World Bank and United Nations Department of Economic and Social Affairs 2017). Fishery around African coasts and islands is mainly artisanal and generally carried out through traditional practices that are sustainable. Foreign subsidised commercial fleets dominate both national territorial waters beyond the coasts and the high seas around the continent. Much of this is illegal, unreported and unregulated (IUU) fishing. It generates as much as US$2.3 billion in lost revenue to African countries each year and leaves more than 30 per cent of African fish stocks overfished (World Trade Organization 2023c).

The Fisheries Subsidies Agreement (FSA) was adopted at the 2022 Ministerial Conference to discipline IUU practices. It prohibits IUU as well as subsidies to fishing overfished stock and subsidies to fishing on the unregulated high seas. The FSA includes reporting and notification obligations and provides flexibilities for developing countries and LDCs with regard to some of the obligations.

The challenges caused by subsidised foreign fleets in Africa suggest that these disciplines could be highly beneficial to African food security (World Trade Organization 2023c). Curtailing capacity-enhancing subsidies could reduce overcapacity and the ability of foreign fleets to exploit Africa's fishery resources (African Development Bank 2022). But many African countries do not have the required resources for monitoring fisheries activities through patrolling and inspections at sea. Ahead of the adoption of the FSA, African Ministers of Trade emphasised that 'an outcome on the fisheries subsidies negotiations must not undermine the right of coastal states and fully respect their territorial integrity and sovereignty' (African Ministers of Trade 2022).

African WTO Members also expressed concern that the FSA should not reduce the available policy options to further develop domestic fishery sectors. During the FSA negotiations, the African Group stressed the importance of special and differential treatment (SDT) – reflecting common but differentiated responsibilities and respective capabilities under the Paris Agreement – to ensure food security and protect the livelihoods of coastal communities, as well as *de minimis* threshold to exempt artisanal and small-scale fisheries. While the FSA includes SDT provisions, it does not fully exempt developing countries and LDCs or artisanal and small-scale fisheries from the disciplines it sets out.

However, the FSA addresses the resource and capacity constraint of poor countries. It envisages the creation of a WTO funding mechanism to provide targeted technical and capacity-building assistance to help integrate sustainability elements into fisheries policies and practices, strengthen sustainable fisheries management systems, and comply with notifications and transparency obligations.

There is some evidence that African countries are leading beneficiaries of official development assistance, totalling 48 per cent of all fisheries disbursements. Mozambique, Madagascar, Nigeria, Tanzania and Senegal topped the list of countries receiving funds for sustainable ocean economy initiatives between 2010 and 2020 (World Trade Organization 2022c). It would be critical for African Members to identify the specific types of support they require to advance sustainable fishery management practices and comply with the reporting requirements set out in the FSA. This will include strengthening African governments' sea patrolling capacity, as well as evidence and data collection (Walker, Reva and Willima 2022).

At the time of writing, WTO Members are negotiating outstanding issues such as regulating subsidies that promote overfishing and overcapacity. Adopting additional disciplines on overfishing and overcapacity would be of interest to Africa, not only from a food security perspective but also in view of the lost revenues, estimated to be around US$2.3 billion annually (World Trade Organization 2023c). African Members also remain concerned that FSA disciplines limit their policy options to provide support to small-scale artisanal fishing and seek appropriate exemptions (World Trade Organization 2023d). To this end, in current and future negotiations, African Members could propose exemptions based on a *de minimis* threshold, measured in percentage of a WTO Member's global fish stock. The FSA uses 0.8 per cent annual share of the global volume of marine catch as the threshold for notification obligations. This figure could also be used as a *de minimis* threshold on which agreement might be easier to reach than seeking exemptions for artisanal fisheries, taking also into account the difficulty in reaching a consensus on the definition of artisanal fishing.

9.9 Technology transfer and food security

As discussed in earlier chapters, low agricultural productivity and low yields are ubiquitous problems across Africa. An important means of overcoming this is the use of technology including hybrid seeds, fertilisers, pesticides, mechanical equipment, and veterinary care for livestock and poultry (General Council, Committee on Agriculture and Committee on Trade and Development 2023). Adopting these and other smart agricultural technologies would not only increase agricultural yields but also support African agriculture to adapt to climate change and extreme weather occurrences such as floods and droughts.

The importance of facilitating access to smart agricultural technologies has been recognised at the WTO. Responses to a questionnaire survey of NFIDC and LDC Members that was discussed in the Committee on Agriculture revealed that access to inputs, agricultural equipment, capacities and support for absorbing new agricultural technologies are priorities (Committee on Agriculture 2023d). Other issues that were highlighted were early-warning systems, storage and supply-chain infrastructure to contain food losses, regulatory infrastructure for SPS, high-yielding seeds and livestock breeds, and 'assistance to promote diversification of production and production of nutritious local products entailing financial prudence and sound environmental practices' (Committee on Agriculture 2023d).

In July 2023, the African Group circulated a communication on the role of transfer of technology to build agricultural resilience (General Council, Committee on Agriculture and Committee on Trade and Development 2023). The communication noted that:

> Effective technology transfer also holds the potential to contribute to addressing the risks of concentration of production and supply of agri-food products which evidently renders import-dependent countries vulnerable to global supply chain shocks. It can therefore contribute to building resilience, especially developing countries, including least-developed countries and net food importing countries, address food insecurity, and support initiatives towards more environmentally sustainable farming methods in light of the climate change challenge. (General Council, Committee on Agriculture and Committee on Trade and Development 2023)

For patented technologies, African WTO Members could seek to utilise the provisions on compulsory licensing as set out in Article 31 of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement. Owing to the built-in limitations of these provisions, African countries might want to seek clarifications on the applicability of compulsory licensing to smart agricultural technologies. However, even if technologies critical for agricultural resilience could be exempted from the limitations on compulsory licensing, having access to patents must be coupled with adequate technological capacity and specific know-how of the production process in order to develop the product.

Another TRIPS provision that will be useful to ensure African LDCs are able to access smart agricultural technologies is Article 66.2, which requires developed countries to provide incentives to enterprises and institutions in their territory to transfer technology to LDCs. However, the provision falls short of requiring the actual transfer of technology to LDCs, which has generally rendered this provision ineffective. Proactive engagement from the African Group could change this. Together with other LDCs, African LDCs could identify a list of technologies that would be critical to enable smart agricultural production (Aggad et al. 2023). Given that discussion on transferring green technologies falls within the mandates of both the Committee on Agriculture and the TRIPS Council, it would be important to involve both bodies in these discussions (World Trade Organization 2023e).

9.10 Addressing agriculture and the environment at the WTO

As discussed in earlier chapters, food systems both contribute to environmental challenges, including climate change and biodiversity loss, and are impacted by them (FAO, UNDP and UNEP 2021). At the WTO, aligning trade and the environment has received increased attention. According to Director General Ngozi Okonjo-Iweala, 'trade and the WTO, are part of the solution to climate change and environmental degradation' (World Trade Organization 2021). Recent initiatives that seek to put environmental consideration at the heart of trade discussions include the TESSD, the Informal Dialogue on Plastics Pollution and Sustainable Plastics Trade and the Fossil Fuel Subsidy Reform. The FSA, which as we have seen aims to curb harmful fishery subsidies, is another important component of the WTO's sustainable trade initiatives. While negotiations on environmental goods and services have not progressed, there remains widespread interest in taking them forward.

Under the TESSD, participating WTO Members have established informal working groups focusing on trade-related climate measures, the circular economy, subsidies, and environmental goods and services. Each working group aims to advance ways in which trade can be used as a lever to address the respective climate and environmental challenges. From an agriculture and African food security perspective, the initiatives that are most relevant include the subsidy reform discussions in the Working Group on Subsidies, and the tariff and related discussions in the Working Group on Environmental Goods and Services.

In 2014, 46 WTO Members (not including any African countries)[13] launched plurilateral negotiations for the establishment of an Environmental Goods Agreement (EGA) to promote trade in key environmental products such as wind turbines and solar cells. It sought to do so by reducing or eliminating tariff and non-tariff measures on environmental goods. The negotiations reached a dead-end in 2016, in part because of disagreement on what constitutes an environmental good. The Working Group on Environmental Goods and Services in TESSD is seeking to revitalise the EGA negotiations and expand its scope to include services. These negotiations could positively affect food security in Africa if goods and services relevant to developing more resilient and high-yielding food products could be included within its scope. Lowering tariffs on various sustainable agricultural technologies such as early-warning systems, storage, and supply-chain infrastructure could help to increase food production. Participating African WTO Members could contribute to this discussion by identifying the types of goods and services that are critical from an agricultural production and food security perspective.

Similarly, issues related to post-harvest waste, addressed in the Working Group on the Circular Economy would be important from an African food security perspective. As much as 37 per cent of all food produced in Africa is lost between production and consumption (FAO 2011). Lowering barriers to trade in goods and services would enable the uptake of more circular agricultural production systems.

The Working Group on Subsidies focuses on addressing environmentally harmful subsidies, including agricultural subsidies. Subsidies linked to the production of a specific agricultural commodity, typically the staple crops, beef and poultry, generate environmentally harmful outcomes through overuse of agrochemicals and natural resources and contribute to nitrogen pollution and GHG emissions (Calvo 2022b). Some WTO Members are advocating the repurposing of agricultural subsidies towards addressing environmental concerns (Calvo 2022b; World Trade Organization 2023f). This would require diverting funding from agricultural subsidies with harmful environment effects to agricultural activities that promote better environmental outcomes (e.g. sustainable land management practices, or compensating farmers for ecosystem services like averting water runoff and soil erosion or offsetting GHG emissions). In the context of the AoA, this would mean that trade-distorting subsidies that would otherwise have been listed in the Amber Box will now come under the Green Box subsidies.

From an African food security perspective, repurposing subsidies is another aspect of the conundrum in the nexus between trade rules and food security objectives. On the one hand, research has shown that subsidies coupled to specific commodities result in higher levels of agricultural production (Calvo 2022b). On the other hand, repurposing agricultural support to achieve better environmental outcomes will likely reduce the volume of food that is produced globally with implications for food availability. Moreover, the anticipated box shifting that will happen because of the repurposing of domestic support – from Amber to Green – would essentially mean that WTO Members have no limits on domestic support that is linked to climate sustainability since there are no caps on support that can be provided under the Green Box. This will deepen the existing asymmetries between WTO Members.

As trade-offs can be made on a case-by-case basis, it would be important for the African Group to take a seat at the table and influence these discussions. As of October 2023, however, the 75 Members participating in the TESSD include only four African countries: Cabo Verde, Chad, Senegal and Gambia. While the Members of the African Group have expressed reservations about engaging in environmental discussions at the WTO, a recent submission by the African Group, 'Principles Guiding the Development and Implementation of Trade-Related Environmental Measures', suggests an increased openness to recognise the WTO as an institution to discuss trade and environment issues. (Lamy et al. 2023).

Summary

This chapter has examined the conundrum between WTO rules and global food security from an African perspective. The conundrum is manifested in the contradictory implications of WTO rules. Policymakers and negotiators must be aware of the many trade-offs that the conundrum implies. Five key trade-offs stand out.

Global vs. African agricultural production: Agricultural subsidies, enabled by FTBAMS allowances and *de minimis* thresholds, increase the global availability of food supply but also suppress commodity prices. This is beneficial from a global food security perspective since it means that more people have access to food at affordable prices. It also enables African NFIDCs to access the food they need. At the same time, large market-distortive, price-suppressing subsidies harm African agricultural production as farmers are not able to compete with the lower prices in the absence of government subsidies. For the African countries to become more food-secure, more food needs to be produced at home. Without reducing the FTBAMS of large agricultural producers, this will be practically impossible, especially for staples like rice, wheat, maize, meat and poultry.

National vs. global food security: Imposing export restrictions during periods of food shortages could be beneficial at a national level – at least in the short run – as it makes more food available at the national level. When many countries adopt the same measure, as was the case during the Covid-19 pandemic and following Russia's invasion of Ukraine, the result is an increase in global food prices and disrupts supply chains with catastrophic consequences for NFIDCs.

Export restrictions and price hikes vs. import surges and price suppression: Neither export restrictions with associated price hikes nor import surges associated with price suppression are desirable. Export restrictions and price hikes could result in severe food shortages for NFIDCs, whereas import surges and price suppression disincentivises agricultural production. While this trade-off between consumers and producers is not exclusive to agricultural trade, the tension is more pronounced with respect to food, especially staples.

Policy space for African countries vs. policy space for large developing countries: As long as African countries, most of which are NFIDCs, are grouped with large emerging markets like India and China as developing countries, successful negotiation by the African Group for carve-outs or exemptions will be difficult. These tensions have come to the surface especially in the context of public stockholding, *de minimis* allowances and the Development Box.

Food security vs. the environment: Another challenge as we saw is the tension between incentivising production and reducing the harmful impacts of agricultural subsidies through repurposing. While repurposing agricultural subsidies would be desirable from an environmental perspective, it could reduce the global amount of food produced, with potentially negative effects for African (and global) food security.

These trade-offs must be carefully navigated as the African Group seeks to make sure that WTO rules serve its food security objectives.

Agricultural negotiations remain contentious at the WTO, with limited progress in addressing imbalances and asymmetries. However, it is in the interest of the African group to work towards revitalising agricultural trade reform and also to call for new research that can offer fresh insights. This chapter has unpacked the issues, implications and conundrums with respect to domestic support, public stockholding, SSM, export restrictions, SPS, fishery subsidies, technology transfer, and trade and environment. Trade-offs are inevitable as some reforms might be desirable from an African agricultural production perspective but not from a consumption perspective. Others would not only secure policy space and flexibilities for African Members but would simultaneously provide benefits for developing countries with large agricultural production volumes, like China and India – with potentially negative implications for African agricultural producers. As we saw in Chapter 7, African countries have become export markets for these countries.

One critical aspect that stands out throughout this chapter is the importance of limiting benefits, such as those set out in the Development Box, to a subset of developing countries and conversely to apply proposed limits, for example caps on product-specific domestic support, or on support provided under paragraphs 5–12 of the Green Box, only to large agricultural producers. Whether to limit the Development Box to NFIDCs and LDCs, or to WTO Members that produce less than X per cent of global agricultural value, has to be negotiated and reflected upon. Upper thresholds that must be reached for specific restrictions to be applied must also be further explored.

African Members would also be advised to be pragmatic in agricultural negotiations, i.e. adopting an approach that focuses on results over principles, technical analysis over ideological positioning (van der Ven and Luke 2023). Some of the current positions advocated by the African Group on food security might not yield many benefits for Africa, or might not sufficiently strengthen African countries' food security situation. For example, in the context of SSM price suppression discussions, African countries should not overlook the flexibility they have in their tariffs schedules and use this in the event of price suppression. Given the highly politicised nature of the negotiations, it would be important for African countries to focus on areas that will have the most important impact from a food security and broader development perspective.

Another important observation that can be drawn from this chapter is the matter of implementation. While African WTO Members focus on agricultural negotiations, many of them have not used the Development Box and are not providing domestic support up to their allowed *de minimis* levels. This suggests that the problem is not necessarily a lack of policy space but also national policies and priorities, as discussed in Chapter 4.

Food security, agriculture and the environment are discussed in different fora and committees at the WTO including the Committee on Agriculture, the Work Programme on Food Security for LDCs and NFIDCs, the TRIPS Council, the Committee on Trade and Development, the SPS Committee and the Informal Working Group on Subsidies under the TESSD. It would be important for WTO Members to avoid discussing different aspects of food security in silos. This calls for enhanced cooperation between these relevant bodies, to streamline the discussions. With very small delegations in Geneva, African countries will surely benefit from a rationalisation of the food security agenda at the WTO. This is also necessary to understand the trade-offs better and to make sure adequate approaches are adopted and effective solutions are reached. This could be done through a Global Triangle Forum at the WTO, focused on matters at the intersection of trade, environment and development (Calvo 2022b).

While WTO rules can address market distortions and alleviate supply-chain shocks, trade remains only one among many considerations that impact Africa's food security. It has been shown throughout this book that low levels of agricultural output are a function of many factors, from climate change to technology applications, from finance and investment to productivity and production at scale. As shown in this chapter, the WTO legal framework is itself constrained by conundrums that cannot be easily resolved. Ultimately, African countries' policy choices and implementation processes at home are also critical.

Notes

[1] Article 1(a) of the AoA defines aggregate measurement of support (AMS) as follows: the annual level of support, expressed in monetary terms, provided for an agricultural product in favour of the producers of the basic agricultural product or non-product-specific support provided in favour of agricultural producers in general.

[2] Uniquely, China has a *de minimis* entitlement of 8.5 per cent.

[3] See Agreement on Agriculture, 1994, Annex 2.

[4] See Ambaw et al. (2021).

[5] This was negotiated as part of China's WTO Accession Protocol.

[6] One exception is Zambia, which notified Article 6.2. spending at 8 per cent of the value of production in 2000.

[7] The countries that have requested consultations include the US, the EU, Australia, Canada, Japan, Brazil, Paraguay, Uruguay and Thailand. See Mishra (2022).

[8] Also see Committee on Agriculture (2015).

[9] As mentioned above, tariffication refers to the process of replacing agriculture-specific non-tariff measures with a tariff that affords an equivalent level of protection.

[10] See World Trade Organization (2002).

[11] All these countries have developing country status in the WTO, which allows Members to announce whether they are 'developed' or 'developing' countries.

[12] It must be noted that even when WFP is delivering food assistance, this assistance often gets abused. For example, in some African countries government officials and/or the private sector have sold to make a profit the WFP's delivered food, which was meant to be provided free of charge to the hungry. See e.g. World Food Programme (2023); Bailey (n.d.).

[13] If the individual members states of the European Union are also counted. The WTO Members that were part of the initiative were: Australia; Canada; China; Costa Rica; the EU; Hong Kong, China; Iceland; Israel; Japan; Korea; New Zealand; Norway; Singapore; Switzerland; Liechtenstein; Chinese Taipei; Turkey; and the US.

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