

Agreement on Agriculture WTO: Discourse on Indonesia's Food Security in a Global Context

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Abstract

This article evaluates Indonesia's progress towards its national goal of food security. To meet the Indonesian population's right to food by formulating national policies and supporting regulations on agriculture for food sovereignty while conducting economic diplomacy utilizing its membership in the WTO Agreement on Agriculture and the G33 coalition. Normative juridical research and comparative legal analysis examine provisions concerning agriculture in Indonesia's national legal instruments and WTO's Agreement on Agriculture. The article finds that Indonesia has failed to attain either food security or food sovereignty, postponed by international negotiations where developed countries object to the developing and least-developed countries' Special Products and Special Safeguard Mechanism. The provisions are imperative for supporting Indonesia's economic growth to attain food security and eradicate poverty, considering the significant gap between developed and developing economies. This article suggests that Indonesia strengthen its bilateral economic relations

with influential, more economically developed members of the WTO agreement to garner international support to meet national food security and exercise Indonesia's right to regulate within its jurisdiction, leading to food sovereignty.

KEYWORDS *Food Security, Indonesian Food Ideology, WTO*

Introduction

Agricultural development in Indonesia faces a fundamental problem where the market and politics tend to undervalue the agricultural sector and other natural resources-based industries.¹ On the other hand, food is the most basic human need, the availability of which must always be guaranteed.

In the development of civilization, human beings with all their abilities have always try to meet their needs in various ways. The community, in fulfilling an advanced, independent, peaceful atmosphere, and prosperous in birth and mind, is increasingly required to provide sufficient, quality, and equitable food. This emphasizes that food sufficiency is fundamental in the sustainability of one nation's existence.²

No one can deny that food is a strategic commodity of a country as essential to national economic, social, and cultural resilience. This is emphasized by Article 1, number 2, of Law Number 18 of 2012 concerning Food which states that, "*food sovereignty is the right of the state and nation to independently determine food policies that guarantee the right to food for the people and that provide the right for the community to determine a food system that is in accordance with the potential of local resources.*"

This provision essentially provides that food sovereignty is a strategy for achieving national food development goals for food security which includes technical problems including food production, distribution, and availability, as

¹ Andry Anshari and Mia Aulina Lubis, "Influence Of The WTO's Agreement on Agriculture (AoA) Policy on Indonesian Coffee Imports 2007-2013," *Journal of Peasants' Rights* 1, no. 1 (2022): 30–35, <https://doi.org/10.32734/jpr.v1i1.8266>.

² Ririn Ardila and Akbar Kurnia Putra, "Sengketa Wilayah Zona Ekonomi Eksklusif Indonesia (Studi Kasus Klaim Cina Atas Laut Natuna Utara)," *Uti Possidetis: Journal of International Law* 1, no. 3 (J 2021): 358–77, <https://doi.org/10.22437/up.v1i3.10895>.

well as a paradigm, theory, and conception of the state as well as central to realizing state goals.³

True prosperity and food sufficiency can only be achieved if the people and the state are serious about reaching their social goals by caring for the most vulnerable citizens.⁴ In a more universal context, the right to food is classified as a human right, affirmed in Article 25, paragraph (1), of the 1948 Universal Declaration of Human Rights which states:⁵

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

Therefore, providing sufficient access to food is the responsibility of the state for fulfilling the inalienable economic, social and cultural rights. Recognizing this obligation, the right to food is enshrined in Article 28 C paragraph (1) of the Indonesian Constitution 1945 which reads, "*everyone has the right to develop themselves through the fulfillment of their basic needs, the right to education, and to benefit from science and technology, art, and culture in order to improve the quality of life and for the welfare of mankind*".

Furthermore, Article 28H paragraph (1) of the Indonesian Constitution 1945 states that, "*everyone has the right to live a prosperous life in birth and mind, to reside, and to have a good and healthy living environment and the right to receive health services*", and Article 28H paragraph (2) strengthens the previous postulate that, "*everyone has the right to special facilities and treatment to obtain the same opportunities and benefits to achieve equality and justice*," and paragraph (3), "*everyone has the right to social security that allows the full development of himself as a dignified human being*".

The mandate of the 1945 Indonesian Constitution related to food is supported by Indonesia's national food ideology defined as the nation's attitude towards efforts to meet food needs, respect for those who play roles in food production, the nation's behavior in consuming food, policies towards food

³ Fauzin Fauzin, "Pengaturan Impor Pangan Negara Indonesia Yang Berbasis Pada Kedaulatan Pangan," *Pamator Journal* 14, no. 1 (2021): 1–9, <https://doi.org/10.21107/pamator.v14i1.10497>.

⁴ Rachmat Safa'at, *Rekonstruksi Politik Hukum Pangan: Dari Ketahanan Pangan Ke Kedaulatan Pangan* (Universitas Brawijaya Press, 2013).

⁵ "Universal Declaration of Human Rights," 1948, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

resources, and even the icon of national foods. The national food ideology is the foundation for the formation of food and agricultural policies based on populism, democracy, and deliberation.⁶

Considering the explanation above, the existence of the right to food in government policy is essential, especially related to food insecurity. Citizens have the right to government accountability and even compensation, followed by strategic, economic, political, and even religious interests, if the right to food is not fulfilled.⁷

Indonesia has demonstrated its commitment to ensuring the right to food for its citizens by ratifying the International Covenant on Economic, Social and Cultural Rights on October 28, 2005. This ratification was formalized through Law Number 11 of 2005, which underscores the nation's dedication to upholding economic, social, and cultural rights, including the right to adequate food. Furthermore, Indonesia's active participation in the World Trade Organization (WTO) and various trade agreements enhances its capacity to engage in international trade, thereby supporting its objectives related to food security.

This paper aims to analyze and elaborate on the issues of food security and food sovereignty in Indonesia from a global perspective. It evaluates Indonesia's capacity to fulfill the right to food for its population through diplomatic efforts in international negotiation forums, such as the WTO, as well as through other international trade agreements pertinent to agriculture. By examining these dynamics, the paper seeks to provide a comprehensive understanding of the challenges and opportunities Indonesia faces in achieving food security and sovereignty while adhering to its international commitments.

This article uses normative juridical research methods to examine Indonesian national regulations on food security and the utilization of WTO trade agreements by Indonesia to meet its national goal of food security. This article uses historical, legislative, and conceptual approaches by reviewing legal materials including Indonesian national legal framework on food security and WTO trade agreements, as well secondary sources such as literature providing insight into international perspectives on food security and sovereignty.

⁶ “Universal Declaration of Human Rights.”

⁷ Triwibowo Yuwono, *Pembangunan Pertanian: Membangun Ideologi Pangan Nasional* (Lily Publisher, 2019), 18.

Food Sovereignty, Food Security, and Indonesia's National Development Plan

The concepts of food sovereignty and food security are integral to Indonesia's national development plan, reflecting the nation's commitment to ensuring sustainable agricultural practices and the well-being of its population. Food sovereignty emphasizes the right of communities to control their own food systems, including the production, distribution, and consumption of food, while food security focuses on guaranteeing that all individuals have access to sufficient, safe, and nutritious food to meet their dietary needs. As Indonesia navigates the complexities of globalization, environmental challenges, and economic growth, these concepts become increasingly relevant.

In this context, it is essential to recognize that a clear understanding of "food" is fundamental to effectively examining these concepts within the framework of international law. In addition to its common, ordinary meaning, a more precise definition of "food" is required to analyze the provisions of the international legal framework concerning food and agriculture.⁸ This precision allows for a more nuanced discussion of how Indonesia's policies align with its international commitments and the implications for achieving food sovereignty and security. By establishing a solid definitional basis, we can better assess how Indonesia's national development plan addresses these critical issues and the role of food in promoting the rights and welfare of its citizens.

Furthermore, Article 1 number 1 of the Indonesian Food Law defines "food" as:

...everything derived from biological resources of agricultural, plantation, forestry, fishery, livestock, aquatic and water products, both processed and unprocessed that are intended as food or beverages for human consumption, including food additives, food raw materials and other materials used in the process of preparation, processing, and/or manufacturing of food or beverages.

The definition of food as described in the Food Law includes food sourced from animals and plants, as well as the processing thereof by considering the diversity of food sources of the Indonesian people according to their religious backgrounds or beliefs, as well as the tribal and cultural habits of the Indonesian people, which are a reflection and foundation of national food security.

⁸ Albert Sydney Hornby, *Oxford Advanced Learner's Dictionary: Of Current English* (Oxford Univer. Press, n.d.), 498.

The history of the term 'food security' began in the mid-1970s when a global food crisis that included the availability of food supplies and the stability of staple food prices at the national and international levels occurred. This crisis is characterized by reduced availability of food supplies and decreased supply on the international market, indicating price instability and a food crisis. For this reason, the inaugural World Food Conference was held in 1974 in Rome, Italy.⁹

The World Food Conference of 1974 was a forum where the term 'food security' was first introduced and interpreted as the availability of adequate global staple food supplies to maintain food consumption, compensation for fluctuations in production, and stable prices.¹⁰ The meaning of 'food security' was expanded in 1983 by the Food and Agriculture Organization (FAO) by including a safe accessibility factor for vulnerable low-income groups. The expansion of the concept by the FAO reflects attention on balanced and inclusive food security as part of the fulfillment of human rights, especially the right to food. The FAO also defines food security as the certainty that everyone has physical and economic access at all times to necessary staple foods.¹¹

At the national level, Indonesia in Article 1 number 4 of the Food Law defines 'food security' as,

... The condition of food fulfillment for the state and individuals, which is reflected in the availability of sufficient food, both in quantity and quality, safe, diverse, nutritious, equitable, and affordable and not contrary to the religion, belief, and culture of the community to be able to live a healthy, active and productive life in a sustainable manner.

The Food Law also explains the meaning of 'food sovereignty' in Article 1 number 2 which reads, "*food sovereignty is the right of the state and nation to independently determine food policies that guarantee the right to food for the people*

⁹ Food and Agriculture Organization, "The State of Food and Agriculture 1974: World Review by Regions Population, Food Supply and Agricultural Development," 1974, <https://www.fao.org/4/F5340E/F5340E03.htm>.

¹⁰ United Nations, "Report of the World Food Conference," 1974, http://ernaehrungsdenkwerkstatt.de/fileadmin/user_upload/EDWText/Abbildungen/Vorlesung_OLT/Surveillance_Nutrition_Resolution_1974_ICN_Infos.pdf#.

¹¹ FAO Agricultural and Development Economic Divisions, "Policy Brief: Food Security," 2006, https://www.fao.org/fileadmin/templates/faoitally/documents/pdf/pdf_Food_Security_Concept_Note.pdf.

and that provide the right for the community to determine the food system in accordance with the potential of local resources."

The presence of the terms 'food sovereignty' and 'food security' in the Indonesian Food Law shows that the two concepts share a special place in the Indonesian economy, namely that the concept of food sovereignty is positioned as the main strategy for achieving Indonesia's national food development goals through national policies to ensure food security. Essentially, food sovereignty is the driving force for the achievement of food security. The principles of food sovereignty are:¹²

- 1) Respecting and strengthening traditional wisdom and local knowledge in local agricultural as the foundation of a sustainable food production system;
- 2) Recognition and respect for the distinctive culture of choosing and consuming food and the right to self-determination in sufficient, nutritious, and safe quantities;
- 3) Respecting the sovereignty of villagers in determining their own policies and strategies for production, distribution and consumption of food, especially to prioritize increasing food production in order to provide sufficient sustenance for all villagers; and
- 4) Poor and undernourished families in villages are given priority to access various productive sources.

Furthermore, the concept of food security as a national policy is stipulated in Law Number 17 of 2007 concerning the National Long-Term Development Plan for 2005-2025 in the "Attachment" thereto, Chapter IV (the "Development Plan"), Sub-chapter IV.1 point IV.1.2 concerning Realizing a Competitive Nation, letter B number 15 which reads:

Efficiency, modernization, and added value of the primary sector, especially the agricultural sector in the broad, marine, and mining sectors, are improved in order to be able to compete in the local and international markets and to strengthen the production base nationally. This is a strategic factor because it is related to rural development, poverty alleviation and underdevelopment, and strengthening food security. All of this must be carried out in a planned and careful manner to ensure the realization of the transformation of all elements of the national economy in a more advanced and sturdy direction in the era of globalization.

¹² Lukman Adam, "Kinerja Ekonomi Pangan Nasional: Dinamika Dan Reformulasi Kebijakan," *Jurnal Ekonomi Dan Kebijakan Publik* 5, no. 2 (2014): 173–92.

Article 1 number 3 of the Development Plan Law further mandates that the central government form a National Medium-Term Development Plan divided into four periods, namely the period 2005-2009, 2010-2014, 2015-2019, and 2020-2024. Currently, Indonesia is winding up the National Medium-Term Development Plan for the 2020-2024 period, the implementation of which is regulated by Presidential Regulation Number 18 of 2020 concerning the National Medium-Term Development Plan 2020-2024.

The Presidential Regulation on the National Medium-Term Development Plan 2020-2024 stipulates in Appendix I that efforts toward food security are carried out by building 18 multipurpose reservoirs to ensure the water supply in 51 premium irrigation areas of 20% and by developing superior fish stocks to support export targets and food security.

The decision of the Indonesian government to prioritize food security in the National Long-Term Development Plan 2005-2025 is based on the awareness of the state's obligation to ensure access to food for its citizens, considering that building food security and independence is fundamental and strategic as an affirmation of the efforts of the implementation of the state's responsibilities and obligations in achieving the goal of a prosperous population and in the context of fulfilling the right to food as a human right.¹³ By following the spirit of food sovereignty, Indonesia's food security is expected to be more robust and fair.

The National Long-Term Development Plan 2005-2025: Food Security Policy and Indonesia's Membership in the WTO

The journey toward Indonesia's food security is divided into three phases, namely the period after independence until the mid-1960s, the period of after 1960 to 1997, referred to as the new order government, and the reformation period after 1997 to the present.¹⁴ In the period after independence until the mid-1960s, Indonesia focused on meeting the basic food needs of its population. In retrospect, this is seen as a period of preparation for Indonesia towards a green revolution that would occur over the next period. The form of assistance provided by the government was building an agricultural support

¹³ Retno Kusniati, "Analisis Perlindungan Hukum Penetapan Lahan Pertanian Pangan Berkelanjutan," *INOVATIF Jurnal Ilmu Hukum* 6, no. 2 (2013).

¹⁴ Efendi Pasandaran and Haryono Tri Pranadji, *Reformasi Kebijakan Dalam Perspektif Sejarah Politik Pertanian Indonesia* (Bogor: Badan Penelitian dan Pengembangan Pertanian kementerian Pertanian, 2014), 27.

infrastructure including irrigation. In addition, a national agricultural output plan (Kasimo Plan) was developed that aimed to improve the welfare of farmers by, among other things, providing education through the Village Community Education Center (BPMD) and the application of the latest technology to Indonesian agriculture, one of which was through superior seeds stocks.

During the New Order period, Indonesia implemented a green revolution program. Various aspects of that program were designed to encourage an increase in agricultural production such as fertilizer subsidies, seed subsidies, and irrigation development intensification. The government also actively provided assistance and imposed price controls on agricultural products through the Logistics Affairs Agency. The success of these efforts peaked in the 1980s exemplified Indonesia's food self-sufficiency along with increasing openness to playing a role in the international agricultural market.

This period ended after the New Order government collapsed under the weight of the monetary crisis in 1997. One consequence of this crisis was reform to Indonesia's trade policy articulated in a Letter of Intent with the International Monetary Fund, executed by then-president Suharto and IMF Managing Director Michel Camdessus, to help the Indonesian economy to bounce back after the monetary crisis. Along with legal and social reforms and conditional aid from the IMF, the collapse of the New Order government ushered in the ongoing phase of Indonesia's agricultural development referred to as the reformation era.

The change in trade sector policy also affected the agricultural sector, which was Indonesia's most heavily exported and imported commodity.¹⁵ The agreement with the IMF forced Indonesia to eliminate import barriers and reduce various subsidies to the agricultural sector. changes which lasted until the mid-2000s, when food security became an issue addressed yearly by the government to achieve food self-sufficiency. To shore up food security, various forms of assistance have been intensified by the government, including subsidies for agricultural inputs such as fertilizers, seeds, and machinery.¹⁶

Indonesia as a developing country with the fourth largest population in the world realizes that food security is a crucial issue. For this reason, Indonesia updated the provisions regarding, replacing Law Number 7 of 1996 concerning

¹⁵ Food and Agriculture Organization, "WTO Agreement on Agriculture: The Implementation Experience—Developing Country Case Studies" (Food and Agriculture Organisation, 2003).

¹⁶ Food and Agriculture Organization, 207. *See also* Rubiati Rubiati, and Satria Unggul Wicaksana Satria Unggul Wicaksana. "Indonesia's Trade Policy in Responding to Free Trade in the Midst of Uncertain Conditions." *Journal of Private and Commercial Law* 8, no. 1 (2024): 22-42.

Food with Law Number 18 of 2012 concerning Food. Some of the differences between the two Food Laws as shown on Table 1.

TABLE 1. Differences of Law No 17 of 1996 and Law No. 18 of 2012

No	Law No. 17 of 1996	Law No. 18 of 2012
1	Vision: Food security	Vision: Food security, food sovereignty, and food independence
2	Fulfillment of food needs at the household level	Fulfillment of food needs at the individual level
3	Does not regulate food institutions	Regulates food institutions
4	Does not regulate local food	Prioritizes food production in accordance with local wisdom
5	Does not regulate food hoarding	Regulates food hoarding
6	Preliminary regulation of food reserves	Regulates food reserves in detail
7	Does not regulate the government's obligation to manage the stabilization of supply and prices, reserves, and distribution of staples	Regulates the government's obligation to manage the stabilization of supply and prices, reserves, and distribution of staples
8	Regulates food safety issues: labels, packaging, and advertising	More in-depth and detailed in regulations of food safety, labels, packaging, and advertising

The 2012 Food Law has contained rules on price stabilization and the formation of food reserves, taking a targeted approach focused on individuals, and carries the mandate of establishing a new institution that is directly responsible to the President of the Republic of Indonesia, namely the Food Security Agency.

Furthermore, Presidential Regulation Number 17 of 2015 concerning Food Security and Nutrition provides for central and local government food reserves, food diversification, improvements to community nutrition, food crisis preparedness and management, food distribution, food trade, food assistance, government supervision in the implementation of food security and nutrition, food and nutrition information systems, as well as community participation in national food security and nutrition. This Presidential Regulation is a roadmap for the implementation and technical guidance of the Food Law which addresses anticipation of food shortages or surpluses, price

fluctuations, and emergencies, as well as food reserves used to build international cooperation and provide foreign food assistance.

The development food-related policies as described above proves that Indonesia strives to ensure that its legal umbrella covers all elements affecting food security in accordance with modern needs. Indonesia also works toward food security by engaging with the international community, namely through its membership in the WTO and accession to the General Agreement on Tariffs and Trade (GATT) and the WTO Agreement on Agriculture (AoA).

The WTO embraces the principle of non-discrimination as a foundation for all international trade agreements.¹⁷ This general principle informs the adoption of Special and Differential Treatment across various WTO Agreements based on the philosophy that trade liberalization is not the main goal of trade agreements, but rather a means to the end, namely the economic development of all WTO member countries. WTO agreements are generally based on the following principles:¹⁸

- 1) Trade without discrimination
 - (a) Most-favoured nation status (MFN): treating other people equally
 - (b) National treatment;
- 2) Free Trade: gradually through negotiation;
- 3) Predictability;
- 4) Promoting fair competition; and
- 5) Encouraging development and economic reform.

The provisions in the Special and Differential Treatment provisions of WTO agreements, which give developing countries special rights and allow other members to treat them more favorably, embody the principles above. John Rawls in his book entitled *A Theory of Justice* opines that justice should be considered in formulating legal agreements. Rawls explores the basis for the concept of justice which leads to the understanding that the liberal paradigm is grounded in equality, and liberalism and all liberal theories can be evaluated based on the extent to which equality is created and maintained.¹⁹

The provisions of Special and Differential Treatment as a tool for the creation of justice must find a foundation in an egalitarian theory of justice, namely justice in the liberal tradition. Therefore, Special and Differential Treatment conforms with the ideal of liberalism. Specifically, Special and

¹⁷ Bernard Hoekman, *Proposals for WTO Reform: A Synthesis and Assessment* (Oxford University Press, 2012), <https://doi.org/10.1093/oxfordhb/9780199586103.013.0034>.

¹⁸ “Principles of the Trading System,” n.d., https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm.

¹⁹ Frank J Garcia, “The Global Market and Human Rights: Trading Away the Human Rights Principle,” in *Human Rights* (Routledge, 2017), 359–405.

Differential Treatment reinforces the existence of the GATT/WTO liberal paradigm, because Special and Differential Treatment has become embedded in international trade law under the auspices of the WTO.

Furthermore, the WTO Special and Differential Treatment is an acknowledgment of the existence of differences in development levels of each WTO member country. These differences require policies at the international level that facilitate the achievement of different economic growth and development goals. Currently, there are 145 provisions related to Special and Differential Treatment across various WTO agreements. 107 of them were adopted at the Uruguay Round and the other 22 were specifically reserved for least-developed country members.

The WTO Secretariat classifies the provisions of Special and Differential Treatment into six categories, namely:²⁰

- 1) Provisions aimed at increasing trade opportunities in developing countries;
- 2) Provisions that require WTO member countries to protect the interests of developing countries;
- 3) Provisions that provide flexibility in commitments, actions, and use of policy instruments;
- 4) Provisions that provide a transition period;
- 5) Provisions on technical assistance; and
- 6) Special provisions for underdeveloped countries.

Comprehensive Special and Differential Treatment provisions provide both hope and the expectation by developing countries to utilize the provisions there of as intended, not as expected. However, there are still many doubts voiced about the effectiveness of Special and Differential Treatment in helping developing countries participate in multilateral trade and benefit from cross-border trade activities.

These doubtful voices are amplified by the AoA, a multilateral agreement that purports to regulate agricultural trade and the management of sustainable agriculture,²¹ instead, provides a market mechanism for the agricultural commodity business and changes agricultural cultivation into agricultural

²⁰ Nandang Sutrisno, "Efektifitas Ketentuan-Ketentuan World Trade Organization Tentang Perlakuan Khusus Dan Berbeda Bagi Negara Berkembang: Implementasi Dalam Praktek Dan Dalam Penyelesaian Sengketa," *Jurnal Hukum IUS QUIA IUSTUM*, 2009, 2–3.

²¹ Zaky Nouval F, Geneng Dwi Yoga Isnaini, and Luthfi J Kurniawan, "Petaka Politik Pangan Di Indonesia: Konfigurasi Kebijakan Pangan Yang Tak Memihak Rakyat [Political Food Catastrophe in Indonesia: A Configuration of Food Policy of Neglected Citizen]" (Intrans Publishing, Malang, 2010), 32.

business.²² The signing of the AoA also imposes an obligation on Indonesia to reduce domestic agricultural subsidies, reduce agricultural export subsidies, and establish trade policies for improving market access related to food products.

Indonesia's Central Agency for National Statistics noted that in April 2024, Indonesia had exported US\$ 19.6 billion of commodities, including consisting of US\$ 183,959,246 of coffee, tea, spices, vegetables, and fruits. On the other hand, the value of Indonesia's imports in that same month April 2024 reached US\$ 16.9 billion, or US\$ 2.7 billion lower than the export value, with cereals as the highest import commodity, which was worth US\$ 643,047,279.²³

The export-import data further shows that Indonesia's membership in the WTO makes it easier for Indonesia to conduct international trade, especially those transactions aimed at attaining food security. The "Country Brief" report released by the World Food Program in April 2024 also states that Indonesia had succeeded in reducing poverty, inequality, and food insecurity. However, the rate of malnutrition and stunting in children under five years old is still worrying, reaching 21.3% in 2023.²⁴

The Indonesian Ministry of Health found a similar situation, releasing the results of the 2023 Indonesian Health Survey showing that the percentage of stunting in Indonesia is still 21.6% and has not met the achievement target of the 2020-2024 National Medium-Term Development Plan, which is 14%. The good news is that the results of the 2023 Indonesian Health Survey show a significant decrease in the percentage of stunting over the last 10 years which reached 16.1%.²⁵

On the other hand, the Indonesian National Statistics Agency reported that in March 2023, the percentage of poor people in Indonesia was 9.36% or around 25.90 million people, which when compared to September 2022 where the percentage of Indonesia's poor population decreased by 0.21%.²⁶ Based on these figures, it can be said that despite the benefits of Indonesia's membership

²² F, Isnaini, and Kurniawan, 33.

²³ Indonesian National Statistic Agency, "National Export-Import Data," accessed June 21, 2024, <https://www.bps.go.id/id/exim>.

²⁴ World Food Program, "Indonesia Country Brief April 2024," 2024, https://docs.wfp.org/api/documents/WFP-0000159061/download/?_ga=2.231813467.593024068.1718939985-656599594.1718939985.

²⁵ Indonesian Ministry of Health, "Stunting Di Indonesia Dan Determinannya (Stunting in Indonesia and Its Determinants)" (Jakarta, 2023).

²⁶ Indonesian National Statistic Agency, "Profil Kemiskinan Di Indonesia Maret 2023 (Poverty Profile in Indonesia March 2023)," 2023.

in the WTO and policy adjustments required under the AoA, Indonesia still has a lot of work to do to achieve the goal of food security.

Indonesia's Food Sovereignty *vs.* the WTO Agreement on Agriculture

The AoA contains three main elements, namely the reduction of export subsidies, the reduction of domestic agricultural subsidies, and opening market access.²⁷ Provisions related to export subsidies include: 1) determination of criteria for parallelism (elimination of subsidized exports carried out in parallel with the elimination of subsidy components in export credits); 2) subsidies from State Trading Enterprises (STE), food aid, and differential export taxes that can be accepted by European countries for reciprocal removal of all export subsidies; and 3) determination of the subsidies for STE, food aid, export credits, and monitoring issues.

In the general WTO context, subsidies fall into three categories, referred to as green, amber, and red boxes (to correspond with the common traffic light). Subsidies that fall into the green box are authorized, those subsidies that fall into the amber box must be reduced, and those subsidies with fall into the red box are prohibited. For agricultural subsidies, however, there are no unauthorized (red box) subsidies, and the categorization is different for developing countries. Agricultural subsidies that are authorized with conditions fall into a fourth, blue, box²⁸

In negotiating trade under the AoA on domestic subsidies the following issues included: 1) determining a formula that could cut domestic subsidies progressively – the higher the level of subsidies, the greater the cuts; 2) the application of the concept of product specific for subsidies in the Amber Box and Blue Box categories; 3) de minimis cuts related to Blue Box subsidies; 4) the issue of discipline, monitoring and tightening of Blue Box rules; and, 5) the starting point of the Blue Box cuts considering that subsidies in this category are not bounded.²⁹

The negotiations related to market access discussed issues, including: 1) a tariff reduction formula; 2) elaboration of Special Products and Special Safeguard Mechanism concepts; 3) sensitive products for developed countries;

²⁷ Hira Jhamtani, *WTO Dan Penjajahan Kembali Dunia Ketiga* (Yogyakarta: Insist Press, 2005), 84.

²⁸ Sachin Kumar Sharma, *The WTO and Food Security: Implications for Developing Countries, 1st Edition* (Springer, 2016), 29.

²⁹ Jhamtani, *WTO Dan Penjajahan Kembali Dunia Ketiga*, 97.

4) tariff capping, quotas, preferences, tropical products; 5) and newly acceded members.

Fertilizer and seed subsidies are categorized by the Indonesian government as part of an agricultural development program, not as a program with the potential to cause distortion in the market, so it is not included in the amber box. This is unusual, considering that Indonesia has a price support program known as 'government purchase price,' where the government indirectly intervenes in influencing food prices in the market.³⁰

To create fair trade as stated in the opening of the AoA which reads, "*is to establish a fair and market-oriented agricultural trading system...*," the AoA includes the principles of Special and Differential Treatment and non-trade concerns for developing countries, which are actually intended to create a level of playing field between developed and developing countries. The non-trade concerns in question include environmental protections, poverty reduction, food security, rural development, and others.

Special and Differential Treatment is manifested in two forms: lower levels of protection than developed countries and provisions allowing for an extended implementation period. Gibbs states that Special and Differential Treatment is, "*the product of the coordinated political efforts of developing countries to correct the perceived inequalities of the post-war international trade system by introducing preferential treatment in their favour across the spectrum of international economic relations.*"³¹ Accordingly, Special and Differential Treatment is considered a manifestation of the struggle to realize a fairer world economic order as the goal of the establishment of the WTO.

Special and Differential Treatment is found in various provisions of the GATT and other WTO agreements, either as the title of certain provisions or implicitly in the provisions themselves. Article XXXVIII of the GATT, for example, uses the term "Government Assistance for Economic Development,"³² and part IV is given the title "Trade and Development."³³ A variety of terms that indirectly refer to Special and Differential Treatments are often used in some GATT provisions, such as special measures³⁴ and more satisfactory and

³⁰ Sharma, *The WTO and Food Security: Implications for Developing Countries, 1st Edition*.

³¹ "Agreement on Agriculture," n.d.

³² "The General Agreement on Tariffs and Trade (GATT 1947) (Article XVIII — XXXVIII)," n.d.

³³ "Legal Text The General Agreement on Tariffs and Trade (GATT 1947)," n.d., https://www.wto.org/english/docs_e/legal_e/gatt47_01_e.htm#art4.

³⁴ "Legal Text The General Agreement on Tariffs and Trade (GATT 1947)."

acceptable conditions.³⁵ In other WTO provisions, the term special treatment, special care and special attention are also used.³⁶

The provisions in the international trade agreements explained above give Indonesia high hopes for national food security through the implementation of policies related to food in the furtherance of food sovereignty. Apart from the existence of the term 'food sovereignty,' Indonesia as a signatory to the AoA has an obligation to fulfill its commitments by establishing policies that can overcome distorted markets and restrictive trade, including the reduction of domestic subsidies, the reduction of export subsidies, and the elimination of trade barriers to ensure fairer and more competitive market behavior.³⁷

Paradoxically, Indonesia's commitments under the AoA actually seem to obscure the meaning of Indonesia's food sovereignty. In fact, Indonesia is aware of this and is not alone. Together with 46 other WTO member countries, including China, India, and the Philippines, Indonesia formed a coalition of developing countries called the G33.

The G33 was originally known as the Special Product and the Special Safeguard Mechanism Alliance, a negotiating group of developing countries that was formed on September 9, 2003, during the WTO Ministerial Conference V in Cancun, Mexico, with the strategic goal of ensuring that the issues of food security, living standards, and rural development become the driving force for and central issue surrounding the "Doha Round" in agricultural negotiations.

These efforts are derived from continuously promoting Special and Differential Treatment through the Special Products and Special Safeguard Mechanism framework for all developing countries. This persistence allows for such mechanisms to be included in the WTO agricultural negotiation modalities³⁸ by emphasizing the development dimension of the Doha Round, effectively achieved through cooperation between developing countries in agricultural negotiations.³⁹

³⁵ "Legal Text Article XXXVI: Principles and Objectives," n.d.

³⁶ "Agreement on Agriculture," n.d., https://www.wto.org/english/docs_e/legal_e/14-ag_02_e.htm#articleXV.

³⁷ World Trade Organization, "Agriculture," 2024, https://www.wto.org/english/tratop_e/agric_e/agric_e.htm.

³⁸ Republik Indonesia Direktorat Perdagangan, Perindustrian, Investasi and HKI Direktorat Jenderal Multilateral Kementerian Luar Negeri Republik Indonesia, "Sekilas WTO Edisi Ketujuh," 2013, 35.

³⁹ Direktorat Perdagangan, Perindustrian, Investasi and HKI Direktorat Jenderal Multilateral Kementerian Luar Negeri Republik Indonesia, "Sekilas WTO Edisi Ketujuh."

In 2021, Indonesia initiated inclusion of the issue of food security and agriculture in the policy package at the 12th WTO Ministerial Conference, after negotiations related to agricultural issues at the WTO ended without a solution.⁴⁰ Indonesia proposed these policy initiatives through the G33 Ministerial Informal Meeting which was then joined by the Indian Minister of Commerce and Industry, Consumer Affairs and Food and Public Distribution and Textiles who states that:⁴¹

...[the] G33 must strive for positive outcomes on permanent solution to public stockholding for food security purposes which is of utmost importance, finalization of a Special Safeguard Mechanism quickly and a balanced outcome on Domestic Support... Agreement on Agriculture of WTO was riddled with deep imbalances which favour the developed countries and have tilted the rules against many developing countries and therefore as a first step in agriculture reform, the historical asymmetries and imbalances must be corrected on order to ensure a rule-based, fair, and equitable order...

The G33 countries then agreed on the initiative through the G33 Informal Ministerial Meeting. Indonesia's Minister of Trade, Muhammad Lutfi, explained that the agreement was a form of political support for developing countries and least developed countries of the G33 to the 12th WTO Ministerial Conference to resolve the issue of food security through public stockholding, the issuance of instruments to secure the import of agricultural products under the Special Safeguard Mechanism, and the issuance of reducing agricultural subsidies that distort trade.⁴²

The 12th WTO Ministerial Conference in 2021 led to the Ministerial Declaration on the Emergency Response to Food Insecurity which contains 12 essential points:⁴³

- 1) The Ministers acknowledge that the effort to fulfil the Sustainable Development Goal No. 2 (Zero Hunger) has been undermined;

⁴⁰ Indonesia's Ministry of Trade, "Atas Inisiasi Indonesia, G33 Sepakat Isu Ketahanan Pangan Dan Pertanian Menjadi Paket Kebijakan WTO" (2021).

⁴¹ Indian Ministry of Commerce and Industry, "WTO Agreement on Agriculture Titled Against Developing Countries: Shri Piyush Goyal" (2021).

⁴² Indonesia's Ministry of Trade, "Atas Inisiasi Indonesia, G33 Sepakat Isu Ketahanan Pangan Dan Pertanian Menjadi Paket Kebijakan WTO."

⁴³ World Trade Organization, "Ministerial Declaration on the Emergency Response to Food Insecurity," Declaration, Ministerial Conference Twelfth Session (Geneva, 2022).

- 2) The Ministers agree that both trade and domestic production play vital roles in improving global food security and enhancing nutrition;
- 3) The Ministers commit to take concrete steps to facilitate trade and improve the functioning and long-term resilience of global markets for agricultural products with particular consideration to the specific needs and circumstances of developing country members, least-developed country members, and net food-importing developing countries;
- 4) The Ministers underscore the need for agri-food trade to flow and reaffirm the importance of avoiding export prohibitions or restrictions in a manner inconsistent with relevant WTO provisions; and
- 5) The Ministers resolve to ensure that any emergency measures introduced to address food security concerns shall minimize trade distortion as far as possible.

Most recently, in February 2024, the WTO held its 13th Ministerial Conference in Abu Dhabi. Indonesia through the Ministry of Trade expressed its encouragement for the 13th WTO Ministerial Conference to complete the food negotiations that began at the 2013 9th Ministerial Conference in Bali, during which Indonesia and the previous G33 countries proposed two main policies:

- 1) A description of government policies that can be placed in the *green box*, including land rehabilitation, drought management, and farmer placement programs; and
- 2) Allowance for developing countries to provide domestic subsidies by buying agricultural products from smallholders and selling them at government-set prices rather than at market prices.

The proposal, however, was opposed by the developed countries at the Conference because any domestic subsidy has the potential to distort the market and should accordingly be included in the *amber box* category. Because of this contentiousness, the negotiations merely resulted in the Bali Package which contained an interim solution to agricultural issues, namely domestic subsidies, only after Indonesia acted as an interlocutor between India and the United States.⁴⁴

The Bali Package which came out of the 13th Ministerial Conference was officially titled the Ministerial Decision on Public Stockholding for Food Security Purposes for Developing Country Members, essentially adopting the proposal submitted by the African Group. The substantive sections of the

⁴⁴ Mira Sukmawati, "Dinamika Posisi Dan Strategi Negosiasi Indonesia Dalam Perundingan Pertanian Di WTO," *Journal of World Trade Studies* 5, no. 2 (2015): 14, <https://doi.org/https://doi.org/https://doi.org/10.22146/jwts.v5i2.818>.

Ministerial Decision essentially renewed the agriculture-related provisions, which had been put on hold since 2000. The Conference, however, failed to reach a consensus on the scope, balance, and timeline of agriculture negotiations, resulting from disagreements on public stockholding for food security purposes and the agricultural export restrictions for fear of undermining food security in net-food importing countries.⁴⁵

As a result, the WTO negotiations related to food security failed to provide room for the actualization of food sovereignty for Indonesia or other developing G33 member countries. For this reason, Indonesia must be more persuasive in the international community to attain food security and food sovereignty.

Indonesia's Role in the WTO Agricultural Negotiations

Indonesia's membership in various international trade and agriculture-related organizations and negotiations, including the WTO, G33, and AoA, is driven by Indonesia's support for wider market access while still protecting certain types of staples through special flexibility mechanisms. So far, Indonesia has utilized three mechanisms in negotiations with the international community that are in furtherance of Indonesia's national interests, namely trade coalitions, integrative negotiation, and economic diplomacy.

John S. Odell stated that a trade coalition can increase a country's credibility in decision-making at multilateral forums by solidifying opposition to other coalitions. The presence of a country in a coalition helps its interests be better represented and gain more support from other countries with similar interests.⁴⁶ Therefore, the G33 is a manifestation of Indonesia's awareness of the usefulness of coalition mechanisms and partnerships among developing countries and least-developed countries to fight for Indonesia's interests at the WTO and in AoA negotiations.

Furthermore, Indonesia utilizes the integrative negotiation mechanism, a negotiation strategy to achieve the goals of all parties without causing winners and losers. In integrative negotiation, negotiators play a role in creating an open information space and providing opportunities for all parties to engage in dialogue until they reach an agreement on the same approach for achieving their goals. Fred C. Ikle argues that negotiation is an attempt to explore or reconcile

⁴⁵ World Trade Organization, "Public Stockholding on Food Security Purposes," Decision, Ministerial Conference Thirteen (Abu Dhabi, 2024).

⁴⁶ John S Odell, *Negotiating Trade: Developing Countries in the WTO and NAFTA* (Cambridge University Press, 2006), 94.

conflicts between warring parties in order to obtain a solution that is acceptable to all parties.⁴⁷

The use of the integrative negotiation mechanism is in line with Indonesia's stance that promotes conflict resolution through deliberation and consensus, as evidenced by the Indonesia's various border dispute negotiations.⁴⁸ Indonesia has also similarly applied this approach to trade negotiations, recently resulting in an agreement between Indonesia and the European Union in May 2024 regarding customs and trade facilitation, trade remedies, economic cooperation and capacity building, technical barriers to trade, sanitary and phytosanitary measures, small and medium enterprises, dispute settlement, institutional and final provisions, transparency, good regulatory practices, and sustainable food system.⁴⁹

The third mechanism implemented by Indonesia on the world stage is economic diplomacy, essentially efforts by the government and other stakeholders involved in economic activities that include commodity trade, investment, tourism, employment, and technical cooperation. The goals and objectives of economic diplomacy are to encourage the improvement of public welfare, support national development, and advance Indonesia's interests in the global arena. The IEU-CEPA mentioned earlier is one example of successful economic diplomacy by Indonesia.

In addition to the IEU-CEPA, Indonesia's involvement in agricultural negotiations under the AoA framework through the G33 coalition highlights Indonesia's economic diplomacy, especially the provisions regarding efforts to limit the implementation of protectionism.⁵⁰ Indonesia and its fellow G33 countries succeeded in persuading the WTO to recognize the Special Products

⁴⁷ Sukmawati, "Dinamika Posisi Dan Strategi Negosiasi Indonesia Dalam Perundingan Pertanian Di WTO," 8.

⁴⁸ Indonesia's Ministry of Foreign Affairs, "Indonesia Completes Several Border Agreements with Neighbouring Countries in the Last 9 Years," accessed June 22, 2024, <https://kemlu.go.id/portal/en/read/5667/berita/indonesia-completes-6-border-agreements-with-neighbouring-countries-in-the-last-9-years>.

⁴⁹ Indonesia's Ministry of Foreign Affairs, "IEU-CEPA Negotiations Set to Conclude Before October: Minister," accessed June 22, 2024, <https://kemlu.go.id/chicago/en/news/29304/ieu-cepa-negotiations-set-to-conclude-before-october-minister#:~:text=The 11 issues are customs,good regulatory practices%2C and sustainable>.

⁵⁰ Sukmawati, "Dinamika Posisi Dan Strategi Negosiasi Indonesia Dalam Perundingan Pertanian Di WTO," 11.

and Special Safeguard Mechanism proposed by the G33 at the 6th WTO Ministerial Conference in Hong Kong in 2005.⁵¹

This recognition is very important for developing countries and least-developed countries of the G33, because the mechanism allows for flexibility in reducing tariffs that differ from the general provisions for certain agricultural products (a maximum of 20%) in the hope that developing countries can adapt, encourage rural development, reduce poverty rates, and strengthen food security. The Special Safeguard Mechanism then complements Special Products as a temporary protection for agricultural product classified as Special Products from the threat of import invasion or decreases in import prices, so that actors involved in the agricultural industry, such as farmers and associated businesses, do not suffer from the negative impact of import activities in other countries.⁵²

The Special Safeguard Mechanism is vital because it was specifically to address the difficulties for developing countries in applying the AoA on the Special Agricultural Safeguard as it is not elastic in its modality and the AoA contains too many technical terms that are difficult for the public to understand, as well as requiring a strict schedule of commitments.⁵³ As a result, the AoA is ineffective and its implementation seems overly complicated for developing countries and least-developed countries which ironically need more support from the international community through the AoA.

Conclusion

Food is a strategic commodity, the provision of which is the responsibility of the state as fulfillment of the right to food for its people. In the Indonesian legal system, the right to food is recognized as a fundamental right under the 1945 Indonesian Constitution. The fulfillment of the right to food involves always ensuring the availability of staple food supplies, as well as physical and economic access to adequate staple foods for everyone.

The Government of Indonesia has sought to fulfill its obligations through the formulation of national policies and partnerships with the international community through WTO membership, involvement in the Agreement on Agriculture negotiations, and the G33 coalition. However, Indonesia finds it has yet to realize food security for its people because the provisions of the Agreement on Agriculture related to the reduction of domestic subsidies, the

⁵¹ Anton Apriyantono, "Kepentingan Pertanian Indonesia Dalam Perdagangan Internasional," *Indonesian Journal of International Law* 4 (2006): 453.

⁵² Apriyantono, 454.

⁵³ Safa'at, *Rekonstruksi Politik Hukum Pangan: Dari Ketahanan Pangan Ke Kedaulatan Pangan*, 219.

reduction of export subsidies, and the obligation to establish domestic trade policies to further open access to the global market actually restrain Indonesia from exercising its right to regulate within Indonesia's jurisdiction. Therefore, in addition to coming up short on food security, Indonesia has also failed to achieve food sovereignty.

Based on these conditions, Indonesia is advised to strengthen the framework of economic diplomacy through strengthening bilateral relations with influential developed countries at the WTO. The goal is for Indonesia to obtain greater support in realizing the ideals of food security and to exercise the right to regulate within its jurisdiction to realize true food sovereignty.

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