

МІЖНАРОДНЕ ПРАВО

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PROBLEMS OF INTERNATIONAL LEGAL REGULATION OF FOOD SECURITY

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International legal regulation of food security was studied. Main stages of the evolution of the definition of food security were determined. Features of international legal regulation of relations in the field of production and trade of agricultural products were analyzed.

Food security, International law, The Uruguay Round Agreement on Agriculture.

Food security is one of the elements of economic policy of the state, which is aimed at ensuring sustainable food production, availability of food products for population and utilisation of food (nutrition). Food problem is classified as global. This is due to the fact that for its solution efforts of individual states are not enough. It requires more international cooperation than any other problem. Food security became the object of international legal regulation in the mid-1970s during the discussion of international nutrition problems that were caused by global food crisis of that time. The first attention was focused on the problems of food supply – from ensuring the availability of basic foodstuffs to stability of their prices at the international and national level.

It should be noted, that only separate aspects of international legal regulation of food security find their fragmentary reflectation in works of such Ukrainian scientists: O.V. Hafurova, T.V. Hohol, L.V. Lysenko, T.O. Ostashko, P.O. Ryzhko and others. Therefore, the relevance of this article consists in the necessity of determination of the present state of international legal regulation of food security.

The purpose of this article is to analyze international legal regulation of food security.

Food security exists when all people, at all times, have physical, social and economic access to sufficient, safe and nutritious food which meets their dietary needs and food preferences for an active and healthy life. Household food security is the application of this concept to the family level, with individuals within households as the focus of concern.

Food security as a concept originated only in the mid-1970s, in the discussions of international food problems at a time of global food crisis. The initial focus of attention was primarily on food supply problems – of assuring

the availability and to some degree the price stability of basic foodstuffs at the international and national level. That supply-side, international and institutional set of concerns reflected the changing organization of the global food economy that had precipitated the crisis. A process of international negotiation followed, leading to the World Food Conference of 1974, and a new set of institutional arrangements covering information, resources for promoting food security and forums for dialogue on policy issues [1].

The World Food Conference, which was held in Rome in 1974, had accepted that the solution of the food problem requires co-coordinated action on three important fronts:

- a) to increase food production, especially in the developing countries;
- b) to improve consumption and distribution of food; and
- c) to build a system of food security [2, 3].

The Universal Declaration on the Eradication of Hunger and Malnutrition was adopted by governments attending the above-mentioned World Food Conference. It has been proclaimed that «every man, woman and child has the inalienable right to be free from hunger and malnutrition in order to develop fully and maintain their physical and mental faculties» [2, 1]. Thus, in the aforementioned document, the essence of the concept of food security was reduced to the absence (liquidation) of hunger.

In 1986, the highly influential World Bank report «Poverty and Hunger» focused on the temporal dynamics of food insecurity [4]. It introduced the widely accepted distinction between chronic food insecurity, associated with problems of continuing or structural poverty and low incomes, and transitory food insecurity, which involved periods of intensified pressure caused by natural disasters, economic collapse or conflict. This concept of food security is further elaborated in terms of: «access of all people at all times to enough food for an active, healthy life» [1].

By the mid-1990s food security was recognized as a significant concern, spanning a spectrum from the individual to the global level. However, access now involved sufficient food, indicating continuing concern with protein-energy malnutrition. But the definition was broadened to incorporate food safety and also nutritional balance, reflecting concerns about food composition and minor nutrient requirements for an active and healthy life. Food preferences, socially or culturally determined, now became a consideration. The potentially high degree of context specificity implies that the concept had both lost its simplicity and was not itself a goal, but an intermediating set of actions that contribute to an active and healthy life [1].

Fundamental international act that regulates the issues of ensuring international food safety is the Rome Declaration «On world food security», adopted by the World Food Summit in Rome in 1996. It does not contain separate definition of food security, but its provisions affirm the right of everyone to have access to «safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger» [5]. Thus, from the provisions of these international normative legal

acts follows that the main element of food security, in its international legal sense, remains the elimination of hunger in the world [6]. Food security is most important to developing countries since they are more vulnerable to high prices and food shortages, but at the same time many developed countries are also dependent on imported foodstuffs [7]. In case of high commodity prices, food shortages may arise and global food crisis may become more serious in the future [8].

The Uruguay Round Agreement on Agriculture (Agreement on Agriculture), which was adopted in 1994 as an annex to the Marrakesh Agreement establishing the World Trade Organization (WTO), is one of the fundamental international documents on food security. Although it does not contain any definitions of food security, it operates with it in the text. The Agreement on Agriculture was the first multilateral agreement which implemented mandatory rules in the sphere of trade with agricultural products. Proponents of this Agreement on Agriculture argued that it will enable developing countries to use their comparative advantage as suppliers of cheap agricultural goods in the global market and will control spending of industrially developed countries on agriculture (especially in the U.S. and the EU).

Article 4.2 of the Agreement on Agriculture requires that all customs access barriers applicable to agricultural product imports have to be «converted into ordinary customs duties». This means that no border trade restrictions other than tariffs are allowed. Measures such as quotas are now seen as illegal. According to Article 5 of the Agreement on Agriculture additional duties may be levied on the importation of any agricultural product that is imported in quantities exceeding a certain specified amount or at prices below a specified trigger price [9]. These regulations did not significantly change the basic level of tariffs on agricultural products. Conversion of non-tariff barriers into the tariff has led to a number of new extremely high tariffs, for example, on imports of dairy products to some developed countries. Articles 3, 6 and 7 of the Agreement on Agriculture impose limits on domestic support for agriculture. According to article 9 of the Agreement on Agriculture export subsidies are subject to reduction [9]. Almost all analysts now admit that provisions of the Agreement on Agriculture appeared inefficient for reduction of domestic support programs in agricultural sector.

WTO Agreements [9, 10] provide mechanisms for countries wishing to impose import prohibitions on the flow of unsafe food products, yet both of them fall short in the advancement of global food safety in many aspects. The primary objectives of the WTO and its agreements are to eliminate trade barriers, to promote economic development, to elevate standards of living, to ensure effective demand, and to expand trade in goods and services. Issues regarding food safety or public health, more generally, have never been core considerations throughout the WTO's history [11].

Considering the above mentioned, developing countries have received little access to markets for their exports. Moreover, in some cases they have either completely or partially lost a preferential access to the markets of

economically developed countries, which have been traditionally used. At the same time developing countries significantly increased the volume of imported goods. Increased imports reduced food prices in local markets and incentives for local production, which in turn caused further food shortages. Reduction of domestic production caused further increase of imports and worsened the situation with the production of basic food products. Therefore, liberalization of trade with agricultural products, from the perspective of developing countries, was the wrong way. Determination of the basics of food security depends on national particularities of each country. Thus, for countries with high own agricultural potential self-provision (increase of domestic production) as basis of national food security is more acceptable. However, for states with low agricultural potential (for example, with unfavorable climatic conditions) stable food trade guarantees the food security.

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У статті досліджено міжнародно-правове регулювання продовольчої безпеки. Встановлено головні етапи розвитку трактування поняття продовольчої безпеки. Проведено аналіз міжнародно-правового регулювання відносин у сфері виробництва та торгівлі сільськогосподарською продукцією.

Продовольча безпека, міжнародне право, Угода про сільське господарство.

В статье исследовано международно-правовое регулирование продовольственной безопасности. Установлены главные этапы развития понятия продовольственной безопасности. Проведен анализ международно-правового регулирования отношений в сфере производства и торговли сельскохозяйственной продукцией.

Продовольственная безопасность, международное право, Соглашение по сельскому хозяйству.