I am very grateful for the initial invitation to present the 2014 Kathleen Baker Memorial Lecture at the University of Toronto, and the subsequent offer to publish the lecture with a series of commentaries in this special symposium of the Journal of International Law and International Relations. I particularly want to thank Professors Karen Knop, Jutta Brunnée, and Kerry Rittich for that opportunity, the journal editors for their work in putting together this symposium issue, and the discussants and audience at the original lecture for the extremely productive and wide-ranging conversation that followed it. I feel that there should be a new blessing: may you be invited to discuss your book project at the University of Toronto. In addition, I would like to thank all the authors involved in the symposium for the care they put into preparing their very thoughtful and generous commentaries. Any scholar would be honoured to receive such attentive, challenging, enriching, and insightful engagement with their project. I am pleased to have the opportunity to offer a brief response to some of the issues raised in these commentaries, in particular those by Valerie Hughes and Daniel Ari Baker, Harriet Friedmann, and Michael Trebilcock, who in quite different ways have sought to challenge aspects of my argument. In concluding, I will point to some of the important issues raised by
the complimentary though distinct projects sketched by Jennifer Clapp, Grace Skogstad, L Jane McMillan, and Michael Fakhri.

Collectively, these commentaries explore the question of how we should think about, write about, study, or understand the historical and contemporary relation between food security, free trade, economic integration, and international law, and perform a series of approaches to answering that question. The commentaries offer reactions to my provocation that we need to think in new ways about the role of trade agreements—as part of a longer story about the relation between the state, the market, and the social; produced through an intellectual community involving economists, lawyers, and certain kinds of civil servants and diplomats; reliant upon control over land, labour, and resources, and involving an ongoing process of interpretation and transmission of meaning.

Before responding to the commentaries in more detail, it might be useful to stress some of the principal moves I make in the initial lecture. As I note there, a series of crises began to unfold from 2006 that reintroduced the question of hunger on a global scale onto the international political agenda with a new urgency. Two intense periods of food price volatility in 2006-8 and again in 2010-11 meant that close to 1 billion people were unable to access sufficient amounts of safe and nutritious food on a reliable basis. This in turn led to a period of political volatility, with food riots reported in at least thirty countries and with sharply rising food prices contributing to the uprisings since characterised as the Arab Spring. While there are certainly a disturbingly large proportion of people in industrialised countries who are food insecure, the countries that suffer from food insecurity on a more generalised basis are all in Africa, Asia, Latin America, and the Caribbean. In addition, FAO indicators report that the vast majority of undernourished people in the world today live in what it calls ‘developing regions’—of the 805 million people who were chronically hungry in 2012-14, 752 million of them

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1. The Food and Agriculture Organization of the United Nations (FAO) estimated in 2009 that the food crises had led to a dramatic increase in the number of people experiencing hunger worldwide and that ‘more than a billion people may be suffering from under-nourishment’: FAO, *The State of Food Insecurity in the World* 2010 (Rome: FAO, 2010). The FAO changed its mode of calculating these statistics in 2012 so that the figure dropped to 868 million: FAO, *The State of Food Insecurity in the World* 2012 (Rome: FAO, 2012). For a careful evaluation of the stakes of the shifting FAO methodologies for calculating world hunger and food security, see Frances Moore Lappé, Jennifer Clapp, Molly Anderson, Robin Broad, Ellen Messer, Thomas Pogge, and Timothy Wise, “How We Count Hunger Matters” (2013) 27 Ethics & Intl Affairs 251.


3. For example, in a 2014 communication to the WTO Committee on Agriculture, the US reported that approximately 15% of US households had been food insecure at some point during 2012: see WTO Committee on Agriculture—United States’ experiences with domestic food security—*Communication from the United States*, G/AG/W/121, 14 March 2014.

lived in Africa or Asia, and 37 million in Latin America or the Caribbean. Thus around 98% of the chronically hungry people in the world live in what the FAO calls the developing regions. On the other hand, most of the world’s food is produced outside industrialised countries. Many industrialised countries, such as Great Britain, have depended on food produced elsewhere to feed their growing urban populations since the nineteenth century. Thus the food crises of the earlier twenty-first century took place in the context of an interdependent world food economy, which nonetheless distributes vulnerability in systematically uneven ways.

Those crises were widely framed as presenting a global food security challenge. That framing brought with it certain assumptions, which my article sought to revisit. First, the food crises were presented as global in three senses—as presenting a problem on a global scale, requiring solutions on a global scale, and requiring global institutions to be vested with jurisdiction and responsibility for deciding on the appropriate responses to those crises. Second, the characterisation of these crises as concerned with ‘food security’ brought them within a trajectory that had since the 1980s been framed in neoliberal terms—food security had been introduced in the mid-1980s as part of a move to discredit the notion of ‘self-sufficiency’ and argue for trade liberalisation and economic growth as solutions to world hunger. Third, quite different solutions to the ‘challenge’ of food security were proposed, with some institutions and commentators (for example in the international trade law field) seeking to reinforce dominant institutionalised policies and projects, while others presented the crisis as one that required a transformation of current systematic practices and values.

My focus in the lecture was on exploring the ways international law has shaped entitlements to food, how a range of actors responded to the food price crises with proposals for increased economic liberalisation, and how that development should be understood as part of a broader battle for the state. In trying to make sense of the ways in which food crises had given rise to proposals for intensified liberalisation of agricultural production and trade, I sought to place current developments in a longer historical trajectory, in which

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6 Timothy A Wise, “Feeding the World: The Ultimate First-World Conceit” (7 October 2014), Triple Crisis Blog.
9 Isobel Tomlinson, “Doubling food production to feed the 9 billion: A critical perspective on a key discourse of food security in the UK” (2013) 29 J Rural Studies 81.
famine and food riots have both accompanied and been the cause of transformations of food and land into market commodities over the past two centuries.

I. VALERIE HUGHES AND DANIEL ARI BAKER: ON THE NATURE OF INTERNATIONAL TRADE LAW

In their detailed commentary, Valerie Hughes and Daniel Ari Baker raise a series of concerns about my characterisation of the contemporary international trade law regime and about the relation between the history of the free trade project and its contemporary manifestation. Given the wealth of expertise that the two authors bring to the table as respectively Director and Dispute Settlement Lawyer at the Legal Affairs Division of the World Trade Organization, their reflections on the article offer an invaluable set of insights. However at several points they misrepresent my argument, in ways that undermine the claims I was making in the lecture.

Given the limits of space, I will here just take up three issues that they raise in their commentary: (1) whether international trade lawyers and economists argue that WTO disciplines should be strengthened to constrain states from imposing export controls on raw materials during periods of scarcity; (2) how I presented the relationship between international food flows and colonial economic ordering, and (3) whether the current project of economic liberalisation contains within it an element of compulsion. Their commentary also raises questions about domestic subsidies and support, which I take up in my response to arguments on that point made by Harriet Friedmann.

1. Export restraints

Valerie Hughes and Daniel Ari Baker cite me as saying:

According to Professor Orford, international trade rules “constrain states from … imposing export controls on raw materials during periods of scarcity”. (89-90)

However, the quoted phrase appeared in the following passage:

During the debates over appropriate responses to food crises, it became clear that many commentators still felt it was appropriate that … international trade rules should be extended to constrain states from … imposing export controls on raw materials during periods of scarcity (17, emphasis added).

Hughes and Baker’s rephrasing made it look as though I was making a claim about the current legal position, which I clearly was not doing. Rather, I was unambiguously making a point about how trade law experts and advocates use the food price crisis to argue for an extension of international trade law rules. There are multiple examples of experts, states, and international officials
arguing for the disciplining of export restrictions on foodstuffs during the food price crises of 2006 and since.

Export restraints began to receive renewed attention from trade lawyers and economists in part due to the use of export restraints by developing countries during the 2007/8 and 2010/11 food price crises. 25 countries restricted exports of grain or rice during the 2007/8 price increase, including Argentina, Cambodia, China, Egypt, India, Kazakhstan, Pakistan, Russia, Ukraine and Vietnam. A smaller number of countries resorted to export restrictions in 2010, with the most significant intervention being the decision by Russia, Ukraine and Moldova to restrict exports of grain after a disastrous harvest due to extreme hot weather and widespread fires. The restrictions insulated domestic economies from the turmoil on world markets, with studies finding that the decision by the world’s three most populous developing countries, China, India, and Indonesia, to impose export restraints on rice was a major reason that fewer people than initially feared were pushed into undernourishment and poverty during the 2007/8 crisis.

Many commentators, however, condemned the use of export restrictions on the basis that they caused a degree of upward pressure on prices in the world market. In addition, many worried that such measures “inflicted a severe damage to trust in the world market as a reliable source of food”. One reaction amongst these experts was to argue for the use of trade disciplines to restrict resort to such measures by states. Indeed Hughes and Baker refer to a number of these studies and proposals in their commentary, including the comment by then WTO Director-General Pascal Lamy describing these measures as ‘starve-thy-neighbour’ policies. At an institutional level, this led

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to a number of international declarations stating that countries should minimize the use of export restrictions on foodstuffs to protect their populations during periods of food crisis.\textsuperscript{17}

The question of whether and how states might be restrained from using export restrictions by WTO disciplines was taken up by a number of commentators. For example, Ramesh Sharma, Senior Economist at the Trade and Markets Division of the FAO, argued in an FAO working paper published in 2011 that as a result of experiences with food export restrictions during 2007-10, the question of “disciplining export restrictions” needed to be reopened as part of the Doha Round negotiations.\textsuperscript{18} Sharma suggested that ideally Article 12 of the Agreement on Agriculture (AoA) relating to export restraints on foodstuffs should be de-linked from GATT Article XI, because Article XI “permits almost full freedom for restricting food export” and this was no longer an appropriate starting point for considering export restraints. According to Sharma: “The fundamentals of the world food markets have changed and so multilateral trade rules also need to adjust accordingly.”\textsuperscript{19}

A similar argument was developed in an influential paper by Robert Howse and Tim Josling published in 2012. Howse and Josling argued that export restrictions significantly exacerbate commodity price hikes and “pose a systemic problem for the multilateral trade system as they undermine confidence in the role of trade in meeting food needs”.\textsuperscript{20} In their view, the “challenge of food security” can be met only if “open trade” is allowed to “play a major part in transmitting incentives to producers and in distributing food to consumers”.\textsuperscript{21} Indeed, they equated food security with free trade, suggesting that “trade in food and agricultural products may well be necessary to discharge a state’s responsibility to provide food security for its own people”.\textsuperscript{22}

Thus along with the institutional players discussed above, Howse and Josling argued that there was a need to revisit the topic of export restrictions from the perspective of international trade regulation.\textsuperscript{23} Perhaps more radically, Howse and Josling suggested that “existing WTO disciplines can serve as an important constraint on a WTO member responding to a food crisis in a manner

\begin{footnotesize}
\begin{enumerate}
\item[19.] Ibid at 4.
\item[20.] Howse and Josling, supra note 11 at 3.
\item[21.] Ibid.
\item[22.] Ibid at 11.
\item[23.] Ibid at 3, 10.
\end{enumerate}
\end{footnotesize}
that is simply indifferent to the food security impacts on import-dependent Members” and that WTO jurisprudence showed “clear indications of an emerging norm that it is not appropriate for a state to respond to a food crisis in a manner that is simply indifferent to the effects of its actions on the food security of other states”.24

Howse and Josling explicitly challenged what they called the “conventional wisdom” that existing provisions addressing export restrictions in Article XI of GATT and Article 12 of the Agreement on Agriculture were “largely meaningless”,25 taking their cue from what was then a recent Appellate Body decision in China—Raw Materials.26 While, as Hughes and Baker note, the Appellate Body in China—Raw Materials restated the rule as set out in Article XI that Members” have the right to use export restrictions to prevent or relieve a “critical shortage” of an essential product, the Appellate Body in China—Raw Materials interpreted that enabling provision very narrowly.

The Appellate Body addressed the meaning of the provision in Article XI: 2(a) of the GATT to which Hughes and Baker refer, which provides that states are not required to eliminate export restrictions “temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting contracting party”. The Appellate Body held that the concepts of “critical shortage”, “essential product”, and “temporarily applied” impart meaning to each other, and together indicate that the exception is designed to enable responses to “extraordinary conditions” involving “absolutely indispensable or necessary products” of which the shortage is “critical”, meaning it involves a crisis or vital turning-point.27 The Appellate Body also made clear that it would determine whether in light of the restrictions and the surrounding circumstances these criteria had objectively been met.

In addition, the Appellate Body rejected the argument by China seeking to bring its export restrictions under the general exceptions in Article XX of GATT enabling states to implement measures aimed at the conservation of natural resources, because China had not included language specifically reserving this right in its Accession Protocol. In making that determination, the Appellate Body also upheld the Panel’s rejection of China’s claim that the general international law principle recognizing a right to permanent sovereignty over natural resources should shape the approach taken to interpreting the meaning of “essential” products in determining the obligations of developing countries under the WTO agreements. China had argued that “the customary norm in international law of sovereignty over natural resources was developed in recognition of the “essential” role that natural resources play in the progress

24. Ibid at 11.
25. Ibid at 10.
27. Ibid at ¶ 318-344.
and development of states that possess those resources” and that the essential nature of a product for developing countries might relate to the product’s role in securing economic diversification. The Panel rejected the suggestion that Article XI of the GATT “should hold a different meaning or be applied differently for developing countries” and held that it was “not clear that a panel should view foodstuffs or other products to be more or less “essential” by taking into consideration the development of a WTO member. Howse and Josling argued that the “interpretative approach” taken by the Appellate Body in that case had “very important implications for the debate about export restrictions and food security”. In their view, the Appellate Body had indicated that “the invocation of GATT exceptions to justify export restrictions as a response to the scarcity of essential commodities must be carefully policed and circumscribed”. They considered that this approach would also likely be taken to the interpretation of Article 12 of the AoA, which would impose additional restraints to those contained in Article XI of GATT on a Member trying to justify the imposition of export restraints on foodstuffs. The approach to export restrictions taken by the Appellate Body in China—Raw Materials has since been reinforced by a related Appellate Body decision in China—Rare Earths. After the Appellate Body ruling was handed down in the China—Raw Materials dispute, the EU, Japan and the US initiated a new dispute challenging China’s export restrictions on rare earths, tungsten, and molybdenum, which are also seen to be vital inputs for global manufacturers. In its decision in China—Rare Earths, the Appellate Body affirmed the trajectory of its reasoning in relation to export restrictions, confirming that China’s rare earths export restrictions violated its obligations under the GATT and China’s Accession Protocol, and that China could not invoke the conservation exception under GATT Article XX to justify violating its Accession Protocol as it had not specifically referred to that exception in the relevant part of its Accession Protocol. The US Trade Representative Michael

29. Ibid at ¶ 7.280.
30. Howse and Josling, supra note 11 at 14.
31. Ibid.
33. One of the initial Panel members dissented on this point, holding that “the defences provided in the GATT 1994 are automatically available to justify any GATT-related obligations, including border tariff-related obligations—unless a contrary intention is expressed by the acceding Member and WTO Members”: see Panel Reports, China—Measures Related To The Exportation Of Rare Earths, Tungsten, And Molybdenum, WT/DS431/R, WT/DS432/R, WT/DS433/R, 26 March 2014 at ¶ 7.137. The full dissent is set out at ¶ 7.118 to 7.138. It is worth noting that dissents are rare in WTO dispute settlement: see generally Meredith Kolsky Lewis, “The Lack of Dissent in WTO Dispute Settlement” (2006) 9 Journal of International Economic Law 895; Meredith Kolsky
Froman responded to the decision with the comment that: “By upholding rules on fair access to raw materials, this decision is a win not only for the United States, but also for every nation that respects the principles of openness and fairness.” Howse and Josling were thus correct when they signalled the importance of the “interpretative approach” taken by the Appellate Body in China—Raw Materials. As that interpretative approach suggests, we are seeing a new jurisprudence developing around these rules of access to raw materials, which in the words of the US Trade Representative represents a “win” for nations espousing “openness”.

As I suggested in my lecture, international commentators and international institutions took the price crises as an opportunity to argue for greater liberalisation and stronger disciplines on the capacity of states to take such actions. The discussion of the need for greater discipline of export restraints is one illustration of the more general point that while a balance between the imperatives of trade liberalisation and respect for state sovereignty is expressed in WTO agreements, there has been a strong tendency for interpreters of those agreements to read them in ways that expand the constraints on states to regulate in ways that are seen as trade-distorting and limit the scope for states to take what are understood within this frame as ‘exceptional’ measures aimed at conserving exhaustible natural resources, responding to critical shortages of essential products, implementing measures to protect human and animal health and safety, and so on.

Why am I interested in where official interpreters and trade commentators are seeking to move the field? As I said in my lecture, international law is made not only at the point of negotiation of a treaty or handing down of a decision, but also in the process through which legal fictions or concepts or rules or principles are interpreted, transmitted, and handed on between legal professionals and between legal professionals and other people. I also noted that international lawyers and political economists (more recently described as economists) have consistently worked together on the project of realising liberalism through the creation of an international legal order. So international law is made, expanded, and handed on through a process of transmission that involves legal scholarship, commentary, and teaching as well as legal negotiations, advocacy, and judgment. It is the teleological nature of this process that I sought to capture in the lecture. The invocation of a need for food security has been part of this process of interpretation, transmission,

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35. For a related argument about the uses of the financial crisis to entrench further a particular vision of the state, see Philip Mirowski, Never Let a Serious Crisis Go to Waste: How Neoliberalism Survived the Financial Meltdown (London: Verso, 2013).
handing on, and expansion of international trade law. Indeed the language of food security emerged internationally at the point when pressure began to be put on developing countries to liberalise their agricultural sectors. My aim is to open up a conversation about how renewed attention to food insecurity since 2006 has become an opportunity for renewed pressure to liberalise agricultural production and distribution.

That pressure to move forward is indeed a key part of the GATT framework, and more specifically of the AoA. The original GATT regime was organised around rounds of trade negotiations aimed at tariffication and then reduction of tariffs. It was this process of trade rounds that led to new areas being brought within trade “disciplines”. That trajectory of ongoing “reform” is built into the AoA. The Preamble describes the agreement as “a basis for initiating a process of reform of trade in agriculture”, with the “long-term objective” to “provide for substantial progressive reductions in agricultural support and protection sustained over an agreed period of time, resulting in correcting and preventing restrictions and distortions in world agricultural markets”. Under Article 20, entitled “Continuation of the Reform Process”, Members recognize “that the long-term objective of substantial progressive reductions in support and protection resulting in fundamental reform is an ongoing process”, and “agree that negotiations for continuing the process will be initiated” in 1999. Thus in ratifying the AoA, the Members bound themselves to continuation of a reform process with the long-term objective of “substantial progressive reductions in agricultural support and protection” and “fundamental reform”.

This teleology is not only central to the GATT system but to political economy more generally, and here we can see one legacy of the providential character of economic thinking that I detailed in the initial lecture.36 It is the sense of an ongoing process of ‘fundamental reform’ and movement towards a goal of greater liberalisation that I have sought to draw out. A similar sense of an ongoing process is evident in debates about domestic subsidies and support, which I discuss further in response to Harriet Friedmann below.

2. Colonialism and international food flows

How then does this relate to the broader claim that Valerie Hughes and Daniel Ari Baker consider me to be making—that is, that trade law is simply

First, Hughes and Baker suggest that one of my “core claims is that contemporary international food flows are unidirectional”. I do not claim anywhere that colonialism was about unidirectional trade flows, and nor do I claim that the current economic order is premised upon unidirectional trade flows. Imperialism was not simply a form of exploitative rule premised upon shipping raw materials from periphery to centre in a unidirectional manner (though at times it was about exactly that). Instead, imperial powers were able to control the way that land was used in distant places, thus opening up land in their own territories for a wider variety of uses.

The ability to free up land in Europe for uses other than production of food or timber for fuel was a central part of that story. To take the example of British imperialism that I refer to in the lecture, colonial expansion allowed English agriculture to be supplemented with labour, fuel, and other resources from British colonies. The great cities that emerged during the industrial revolution in England required equally great sources of food, initially from the hinterland but increasingly, with the development of road, rail, and shipping infrastructure, from further afield. In addition, cities contained disproportionate numbers of the middle class, who also demanded food of high quality, particularly high quality grains, sugar, and meat. The place of Ireland in that colonial history is often overlooked, but Ireland was the most important source of food for Britain in the first half of the nineteenth century. From the beginning of the century, two sectors developed in the Irish agricultural economy—the first a subsistence sector with potatoes as its primary product feeding the poor Catholic masses, and the second an export sector of wheat, grains, and live animal exports that met Britain’s food shortfall. As I explore in the lecture, that export trade continued during periods of famine. The language of free trade and providentialist thinking were key to the way that officials justified that situation to themselves.

That transformation of Ireland began a process in which Britain became increasingly reliant on food from overseas. Denmark became a long-term supplier of food to England from the 1860s onwards, and thereafter Britain began to source its food from continental Europe as well as from the “ghost acres” of the settler colonies. Britain’s outsourcing of its food supply

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39. Kenneth Pomeranz, *The Great Divergence: China, Europe, and the Making of the Modern World Economy* (Princeton: Princeton University Press, 2000). For the initial development of the phrase “ghost acres” to refer to the land a country would need to put into cultivation to gain an equivalent amount of animal protein to that of its imports from trade and fishing,
“worked best when it was accompanied by a comprehensive transformation of the supplying economy”, and while this was most effective when it took the form of colonisation that was not a necessary condition. What was needed was to ensure that other countries were committed to free trade and open to British investment. Yet this pattern of settlement and trade provides only some clues as to how imperial forms of legal ordering inform current legal relations—as I make very clear in the lecture, this complex set of relations had to be taken apart and put back together in new ways with the move to formal decolonisation during the twentieth century. Thus my interest is in how current legal rules facilitate regimes of access to resources and maintain the kinds of policy settings in foreign states that will allow movement of vital resources around the globe safely and efficiently.

I also do not anywhere make the second claim that Hughes and Baker attribute to me—that is, the argument that the contemporary situation “continues, under the guise of free trade, ‘the social, legal, and environmental legacies of settler colonialism’”. Again this phrase is taken out of context. The full passage in which it appears is as follows:

Many scholars and policy-makers in the fields of trade law and economics continue to argue that the most significant persistent food insecurity is the ‘lack of substantial liberalisation of trade in agriculture’. They critique forms of state intervention that are seen to ‘distort’ the market in agricultural commodities or act as barriers to trade, such as the provision of subsidies to farmers in the EU and the US, the imposition of export restrictions on food commodities in situations of crop failure, the use of trade barriers to protect domestic farmers from foreign competition, and the use of ‘non-genuine’ food aid to swamp developing countries with cheap produce … In contrast, a growing group of scholars in the fields of ecology, development studies, and human rights sees both the global free market in agricultural commodities and the green revolution embrace of new technologies and expensive inputs as part of the problem. According to this literature, the proposed causes of food insecurity include speculation in commodity futures, the effect of structural adjustment programmes on the agricultural capacity of developing countries, the social, legal, and environmental legacies of exploitative settler colonialism, the diversion of land and crops from food production to biofuels, and the displacement of peasant agriculture and family farms through large-scale land acquisitions and resource-intensive agribusiness.

Thus it is clear that I refer to “the social, legal, and environmental legacies of settler colonialism” as one in a very long list of competing causes of food


41. Hughes and Baker, supra note 16 at 85.
insecurity that have been proposed by commentators. The point I was making there is that defining a problem as ‘global’ and agreeing that it needs to be solved by international collaboration is the beginning rather than the end of a search for consensus. I do not anywhere conclude that the contemporary situation “continues, under the guise of free trade, ‘the social, legal, and environmental legacies of settler colonialism’”.

However, I do ask (although I do not yet answer) whether there is a relationship between multilateral and imperial forms of economic ordering suggested by the fact that food insecurity is unevenly distributed between North and South, that food insecure countries continue to export food during periods of food crisis or even famine, and that international legal regimes play a part in determining who has access to resources in the decolonised world and on what terms. Thus I pose a series of questions about why food insecure countries in Asia, Africa, Latin America, and the Caribbean export food despite widespread hunger amongst their populations, and how that is justified using the framework and language of trade liberalisation. The article explores how officials and experts communicate their sense that there is a moral, political, or legal obligation to continue exporting foodstuffs even during periods of famine or food crises, while the goods being exported could be used to feed starving people living nearby. I study what kind of legal reasoning and what kinds of law explain that approach to distributing foodstuffs globally (and not whether these laws cause food insecurity, which would be a different question).

How then to determine whether there is an imperial legacy to this form of legal ordering of economic integration? This requires studying the practical and the conceptual bases upon which law sought to order imperial economic relations, the practical and the conceptual bases upon which law seeks to order current economic relations, and to track the transformations involved in the move from one to the other. As I note in the article, in order to grasp the past and present role of international law in contributing to the creation of the contemporary global food economy, the broader project on which this article draws is structured around five concepts that have been integral to debates over the constitution of transnational food regimes since the late eighteenth century—free trade, investment, population control, intervention, and rights. Thus as I stress in the initial lecture, the exploration of the movement from the imperial to the multilateral era requires attention to a range of concepts and forms of law, including but not limited to those related to trade liberalisation. It is only once the broader project is complete that I will be ready to answer determinatively whether and how imperial or settler colonial legacies inform our current forms of global economic ordering through international law.

3. **Compulsion**

Finally, Hughes and Baker take issue with my suggestion that countries are in some way ‘compelled’ to engage in this form of trade liberalisation or to
export raw materials during periods of scarcity. They do so on the basis that the countries in question want to export their food, and that the main reason their people are food insecure is due to poverty. If food insecure countries were able to export their agricultural commodities more readily to Europe or the United States, the resulting income could be redistributed to ensure that their populations were no longer impoverished. In their view it is only an intensification of liberalisation in the agricultural sector that will lead to development, growth, and an end to these persistent patterns of uneven vulnerability. This again raises broader questions than I can explore fully in this brief response, but it perhaps worth explaining a little further why I chose that word. Drawing on the analyses above, I would suggest that states are indeed compelled to export raw materials and that this form of compulsion takes both illiberal and liberal forms.

The illiberal forms of compulsion include the pressure put upon states during the 1980s and 1990s to engage in unilateral market-oriented agrarian reform as part of structural adjustment packages imposed by the World Bank and the International Monetary Fund as a condition of access to the financial resources and forms of credit guarantee offered by those institutions. Despite the focus on reciprocity in discussions of WTO law and practice, much agricultural liberalisation took place in a situation of complete absence of reciprocity. In addition, the illiberal forms of compulsion include the long history of interventions by regional powers concerned to protect the interests of their investors in situations where agrarian revolutions threatened the security of returns on rural investments.

However many other forms of compulsion are ‘liberal’, by which I mean that they do not involve overt violence or force. The language of freedom of contract and free labour distracts our attention from the elements of compulsion involved in any system organised around protection of property. Nonetheless, if we are discussing the ways in which access to resources is secured through law, there is an element of force built into that story.\textsuperscript{42} The difficulty we have within a liberal framework is to recognise the forms of compulsion that result in some people accumulating property and profit while others starve. The problem is that the forms of compulsion are ‘economic’—that is, they work through the system of property (and lack of property) sustained through the operation of markets and enabled by those forms of state law that support markets. Force or compulsion in this kind of liberal system generally does not work through direct intervention in the relation between parties (whether those parties be governments, corporations, or individuals) but through sustaining the market in the face of attempts to limit it (in the words of trade disciplines, in the face of ‘protection’).\textsuperscript{43}

\textsuperscript{42} For a classic articulation, see Robert L Hale, “Coercion and Distribution in a Supposedly Non-Coercive State” (1923) 38 Political Science Q 470.

From the late eighteenth century onwards, political economy has become the dominant discourse in which industrial and post-industrial society explains (to itself and to others) why forms of market relations should be preferred to other relations, and thus why some people have an entitlement to do things with the food grown on the land around them and other people do not. My focus here has been on tracing the transmission through law of the doctrines, vocabularies, concepts, and practices that make sense of such relations on a global scale.

II. Harriet Friedmann: On Subsidies and the State

Harriet Friedman’s ground-breaking work conducted across decades has made a major contribution to understanding how world food regimes have been constructed and the role of the US in using farm policy as a political and strategic weapon. Her work shares something with the world systems theory of Immanuel Wallerstein, blended with the romantic revolutionary idealism of advocates for the commons such as William Morris and more recently Peter Linebaugh, as well as the anti-statist scepticism associated with the rise of public choice theory, the latter suggested by Harriet Friedmann’s evocation of the work of Elinor Ostrom. The result is a heady brew. My work on this project has already been enriched and energised by our face-to-face conversations during my visit to Toronto. It is a delight to be able to continue this conversation now in print.

44. Thomas A. Boylan and Timothy P. Foley, Political Economy and Colonial Ireland: The Propagation and Ideological Function of Economic Discourse in the Nineteenth Century (London and New York: Routledge, 1992) at 2: “By the nineteenth century in Britain political economy had become the unchallenged mode of political discourse, the self-knowledge of industrial society.”


47. The discussions I have had with Harriet Friedmann have already revealed a shared interest in the idea of enclosures and the commons, including the reinterpretation of the idea of the commons by Peter Linebaugh (see particularly Peter Linebaugh, Stop, Thief! The Commons, Enclosures, and Resistance (Oakland: Spectre, 2014) as well as his introduction to EP Thompson, William Morris: Romantic to Revolutionary (Oakland: PM Press, 2011), vii). My approach to thinking about the relation of different forms of law to economic ordering is more broadly informed by the work that Linebaugh and his colleagues did in rethinking English legal history at a key moment in the struggle for law in the Anglophone world with the rise of neoliberalism in the 1980s. I discuss this in much more detail in the forthcoming book from which my lecture is drawn. For the reasons discussed in this section, however, I find the work of Elinor Ostrom less compelling. For a related analysis of the point at which radical thinking about the commons might depart from that of Elinor Ostrom, see David Harvey, “The Future of the Commons” (2011) 109 Radical History Rev 101.
As Friedmann’s commentary suggests, we share with each other and with many other scholars and activists deep concerns about a global food system that is “demoralised, unsustainable, and ... widely considered to be lacking integrity”. Yet our approach to that situation differs in two key respects that are made clear in Friedmann’s commentary. In my view they are interrelated, and involve different views about the nature and potential of the state as a progressive force, and about the role of subsidies in this story. I will address the two in turn.

1. Critical thinking and the state

Friedmann is concerned that my focus on the ways in which free trade projects have sought to consolidate a particular state form defined in relation to the market “sustains the dichotomy between the state and the market” and “makes it difficult to envisage a way out of the destructive neoliberal course except by returning to something before it”. For Friedmann, the way out is to recover the idea of the ‘commons’, understood in particular by reference to the notion developed in the work of public choice theorist Elinor Ostrom. I suggest that Friedmann’s concern is a result of her preconception that the ‘state’ has a static quality, and must be understood as essentially a partner with the market in realising the project of neoliberalism. My account is an attempt to challenge that uniform vision of the state, which I see as modelled on the US state form. I am arguing that we are seeing a battle for what the state can be, conducted in part through international law. My project tries to demonstrate how the ability to gain control over the forms that the state can take should be understood as one prize of this battle.

Friedmann’s unease with foregrounding the state in this story is illustrated by her invocation of the Nobel Prize winning work of Elinor Ostrom in the concluding section of her commentary. Ostrom was a public choice theorist, whose work on the commons emerged from a desire to find forms of action that could exist uneasily between the individualism of the market and the collectivism of actually-existing organised political forms. The rise and rise of public choice theory is both cause and symptom of the intellectual climate in which many social scientists operate today in much of the Anglophone world. Public choice theorists argue that we should understand politics in terms of the rational action of self-interested individuals, amongst them politicians. According to one of the founders of public choice theory, the economist James M Buchanan, public choice had allowed citizens to understand that it was a “normative delusion, stemming from Hegelian idealism” to believe that

49. Friedmann, supra note 46 at 116.
“the state was, somehow, a benevolent entity and those who made decisions on behalf of the state were guided by considerations of the general or public interest”.

It is important to remember the political project embodied in the development of that way of thinking about social life. From the earliest moments at which public choice began to emerge as a school of thought, it was characterized by “a thorough-going individualism opposed to any stripe of collectivist theory”. The account of rational action promoted by public choice theory was an attempt to protect individual interests—its “thorough-going commitment to individuals’ utility-maximizing calculation in the arena of politics was designed from the beginning in opposition to idealist democracy, socialist economics, and ‘collectivist sentimentality’”. This worldview now shapes much thinking about the state in the North American academy and beyond. Critique is dominated by a cynical approach to collectivism in any organised form, particularly in relation to the state and politicians, but often also in relation to international organisations, non-governmental organisations, and indeed most other organisations.

That vision has dominated the critical scholarship produced in North America, including in relation to law, over the past decades, and thus has shaped the horizon of critical thinking in the field. In so doing it has begun to pose significant limits to the development of politically engaged critical work on international law. That vision is one in which domination and exploitation are problems of human nature rather than any particular legal or political system, and in which attempts at social engineering or planning are treated with scepticism and ironic disdain. The effect is to create a form of critique that discredits any attempt to think about power in anything other than individualist terms, whether as cause, effect, or solution. Individualist desires are the cause of domination, the end-point of domination, and the solution to domination. History is about people with projects who are out to further their own individual dreams of power, realise their own fantasies, and from time to time join with others who might help them realise those ambitions. Critique is about unmasking those pretenders and showing that the intensification of this war of all against all is an inevitable cause and effect of any human attempts to engineer a better future.

That critique provides a powerful weapon when turned against those who try to make their own plans for the future appear natural, inevitable, and uncontested. Yet the relentlessly negative operation of that critique (and the choice of its targets) offers no purchase on a political and legal culture

52 Ibid.
53 Ibid at 155.
that now depends upon that negativity for its consolidation and expansion. It assumes that we can only imagine a world divided between some kind of authentic (though doomed) heroic experience of individual freedom, and a cynical pretence at collective organisation or attempts to plan better futures that (because of the limits on human understanding and the meanness of human nature) will simply end up as more perfectly engineered forms of domination. Again we are left with a choice between authentic freedom and artificial society, between nature and engineering, between human and machine.

This project is then an intervention in the production of critique that assumes the impossibility of meaningful collective action through the state or other organised forms. I am arguing that what is at stake in debates about food economies is achieving “human, social control” over the processes of producing nature. The dream of control seems dangerous if by that we want some kind of authoritarian control over nature (including human nature) itself. But control over the production of nature and other human creations (including law) we already have—it is just that liberal capitalism has a vested interest in democratic bodies not consciously undertaking the process of planning what to do with that control. I think this is not the same thing as then going on to say that law has a particular determinative effect—that is a command and control vision of cause and effect. We can however recognise that humans produce law, we produce nature and we produce collective political forms, and we can control that production process.

2. Subsidies and agricultural exceptionalism

The second point on which Harriet Friedmann and I disagree is the question of how we should think about state “subsidies”. Our differing perspective is in part a reaction to our different orientation to the state as outlined above. Friedmann is uncompromising in her claim that “advocates for global justice should oppose existing agricultural subsidies”. In my view, that strategy is misconceived, for the reasons I set out in the initial lecture. In particular, by adopting both the vocabulary of “subsidies” to refer to state support for agriculture and a framework that treats subsidies as inherently a bad thing because of their distorting effect on the market, critics of the current food regime have already given too much away. Let me explain this further.

54. Neil Smith, Uneven Development: Nature, Capital, and the Production of Space (3rd edition, Athens: The University of Georgia Press, 2008) at 91: “As soon as human beings separated themselves from animals by beginning to produce their own means of subsistence, they began moving themselves closer and closer to the center of nature. Through human labor and the production of nature at the global scale, human society has placed itself squarely at the center of nature. To wish otherwise is nostalgic. Precisely this centrality in nature is what fuels the crazy quest of capital actually to control nature, but the idea of control over nature is a dream. It is the dream dreamt each night by capital and its class, in preparation for the next day’s labor. Truly human, social control over the production of nature, however, is the realizable dream of socialism.”

55. Friedmann, supra note 46 at 126.
When I began teaching international trade law in 1995, the mainstream scholarly and institutional literature was agnostic on the question of how a subsidy should be defined and whether a subsidy was a bad thing. It was a hard won battle to characterise various forms of state support as subsidies, and it was only with the conclusion of the Uruguay Round and the negotiation of the WTO Agreement on Subsidies and Countervailing Measures (the SCM Agreement) that subsidies and the practice of imposing countervailing duties as a remedy became the subject of a free-standing multilateral agreement. The negotiation of both the earlier Tokyo Round Subsidies Code and the SCM Agreement had been very contested, in large part because most states viewed both industrial and agricultural subsidies as legitimate policy instruments. At the point when the Tokyo Round of negotiations commenced in the early 1970s, most states other than the US accepted government support for agriculture and industry as “a fact of modern economic life”. In contrast, the US has taken a strong view on the unfairness of subsidies. Disputes during negotiations over what counts as a subsidy have thus reflected deep debates over the proper role of the state in relation to the market. As two US trade negotiators remarked in reflecting on the Tokyo Round process:

The writing of new international rules governing the use of subsidies necessarily raised fundamental questions concerning the nature and degree of government involvement in commercial affairs and the right of other governments to inquire into that involvement.

Whether and how subsidies are harmful is still disputed. It is not clear that subsidies always “distort” the market—in some situations they may offset other costs or perceived burdens that producers face, such as high wage laws, environmental obligations, or occupational health and safety conditions. Equally it is not clear that subsidies are bad for consumers, so that commentators have suggested that “rather than condemning foreign subsidies, importing countries should send expressions of gratitude to the subsidizing country, noting only their regret that the subsidies are not large and timeless”. While subsidies might allow firms to develop predatory pricing and create monopolies, this raises questions about industry concentration that are not peculiar to the provision of subsidies. The claim that subsidies are “unfair” is also one that is “difficult to unravel and to contain”.

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57. Ibid at 1448.
59. Ibid at 390.
60. Ibid.
the opportunities provided to a producer by being resident in a particular country unfair—is state investment in infrastructure, education, health care for workers, or research and development unfair because it provides a comparative advantage to producers and allows them to produce goods more cheaply? As Michael Trebilcock and Robert Howse have argued:

Unless one is prepared to adopt a *laissez-faire* baseline as one’s normative reference point, and to view every government deviation from this baseline as a form of unfairness where it has some impact on the pattern of international trade, one is quickly forced to accept that almost everything that modern governments do is likely either directly or indirectly to affect the pattern of economic activities within a country and therefore, by extension, the pattern of international trade flows to which that country contributes.  

The attempt to subject agricultural subsidies to trade disciplines has been even more contested than the attempt to discipline industrial subsidies. There are clearly problems with the resulting uneven nature of the rules imposed in relation to agricultural liberalisation as a result of pressures put upon states to liberalise unilaterally. The fact that agriculture has an exceptional place within trade agreements and has not been subjected to the disciplines of economic liberalisation at the same pace as other forms of industrial production is obviously why the AoA exists as a sector specific agreement. That does not mean, however, that the ambition and trajectory of the free trade project, understood as a means of remaking the state in a particular form, has been limited when it comes to agrarian reform and challenging what are now referred to as “subsidies”.

Of course, as I said in my lecture, there may be extremely good reasons to criticise the use of particular forms of state aid in support of particular forms of agricultural production, but that is quite a different argument. The danger I see here is that when critics like Friedmann adopt this language of subsidies, they buy into a debate that seeks to discredit state action more broadly. The use of the language of subsidies to challenge state support remains an agenda driven by the US—the US remains by far the predominant initiator of challenges to subsidies, initiating just over 40% of countervailing duty actions. In addition, by far the highest users of countervailing duties against subsidised products are developed countries—between 1995 and 2008 developed countries were responsible for 83.4% of countervailing duty

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61. *Ibid* at 391.
initiations and developing countries were their primary object. We can see some of the implications of this now in the agricultural field, where the US and US corporations are leading the push to have the building of public food security stocks in developing countries treated as a form of subsidy with trade distorting effects. Resistance to the imposition of that vision of the state is growing—in October 2014, confronted with the potential unravelling of the Bali package due to renewed debates over India’s public food security stocks, the WTO Director-General Roberto Azevêdo said that “this could be the most serious situation that this organization has ever faced”.

Advocates for free trade as an approach to government over the past two hundred years have concentrated much of their energy on finding ways to include food and agriculture within what we now call ‘trade disciplines’. In our time, this is being realised not just through the AoA, but also through all the other WTO, bilateral, and regional agreements that help to entrench the framework for a particular kind of market-based, property-oriented, global system for the production, ownership, exchange, and distribution of food, through which the rights of investors are protected, the movement of commodities is secured, and the ability of governments to interfere with the capacity of corporations to take a broad range of decisions about food safety, packaging, agricultural patents, food additives, biotechnology, and farming livelihoods is restricted. In my view, it is not at all clear that advocates for global justice should sign up to this programme.

III. MICHAEL TREBILCOCK: ON THE ORIENTATION OF THE INTERPRETER

Michael Trebilcock is one of the founders of international trade law as an academic field, and the textbook he has co-authored with Robert Howse through four editions has provided many students, including my own, with a nuanced way into the world of international trade regulation. I appreciate his careful engagement with my project, and his articulation of the points

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64. Ibid.  
67. Trebilcock, Howse, and Eliason, supra note 58.
at which we disagree. As his commentary makes clear, there are many such points. Michael Trebilcock very astutely begins by providing a name for the “perspective” from which he understands my argument to be coming. He call this perspective that of the “Critical Theorist”. I am happy to be described as speaking from that perspective. He then explains that his own perspective is “quite different”, and describes it in two ways—in terms of orientation and in terms of specialization. His orientation he describes as law and economics, and his specialization as international trade lawyer.

This starting point is key to drawing out the central differences in thinking that become evident between my initial lecture and the commentary provided by Michael Trebilcock. I will start by drawing out some of the points of difference and debate between us that emerge from his response, and then return in conclusion to consider how these differences can be understood in terms of the perspective or orientation from which we approach trade law.

The first point of difference is that Michael Trebilcock considers that if I am questioning the free trade approach to food security, I must be arguing for an approach based on national self-sufficiency. I do not make that argument, and I do not see the two positions as the only alternatives shaping the field. However there is a long tradition of opposing free trade to self-sufficiency as the only two available means of achieving food security. My attempt is to think more carefully about the terms of that opposition, and to ask whether seeking to constrain state action in this field is the only way forward if self-sufficiency is not a tenable proposition. How might we think about allowing democratic decision-making and control over the terms in which particular communities are integrated into the market, and the situations in which there must be protection from the ravages of market operations?

The second point of difference is in how Michael Trebilcock and I narrate the history of the field. In Trebilcock’s telling, we see a gradual movement towards economic liberalisation, hampered in certain areas by an intransigent commitment to protectionism (with agriculture being one of those fields). Thus the world is gradually improving, living standards are rising, and although the liberalisation project is incomplete, it can still take credit for this gradual improvement in the human situation. In this account, the Green Revolution of the 1960s and 1970s was in large part responsible for the fall in food prices over the past half century, which has led to a dramatic improvement in the situation of world hunger and life expectancy. I was struck by the fact that Trebilcock simply claims this role for the Green Revolution, given that there is a growing literature revealing that the Green Revolution occupies a far more complex and complicated place in the history of the twentieth century and demonstrating that its legacy is extremely contested.\(^{68}\) I had the same

reaction to Trebilcock’s suggestions about the place of Keynes in establishing the post-war international economic architecture that incorporated the GATT, given the sense from biographical and archival reports that Keynes was kept firmly out of the picture when it came to the GATT negotiations and his relationship with the broader UK negotiating team was complicated.69

Yet questioning each step in the journey that Trebilcock narrates seems somehow beside the point. What he is telling is a narrative about the field itself, one from the position of an international trade lawyer in specialization and a law and economics scholar in orientation. His history is the history of a believer in the law and economics project as manifested in the doctrines and institutions currently regulating international trade. His brief history of trade liberalisation works to root this set of doctrines and institutions in the past, to provide a tradition that gives meaning to those doctrines and institutions as part of an unfolding story of progress, and to narrate the triumph of this way of understanding the world over alternative ways of understanding the world.

The dominant response in recent decades to the kind of self-confident disciplinary history that Trebilcock here presents has been a turn to the history of the disciplines, in which the focus is on the contingencies, personalities, contests, and struggles for power and social control that shape the emergence and consolidation of particular fields. By the 1980s and 1990s, those histories were increasingly coming to be written by professional historians who wrote from outside the discipline and did not intend to practice it themselves.70 The result is work that in some ways seems to miss the mark analytically, precisely because it does not have a present-day investment in the stakes of historicizing for contemporary struggles in the field.71

This then returns me to the question of perspective with which Michael Trebilcock opened his commentary. This notion of ‘perspective’ or ‘orientation’ raises the question of hermeneutics—from what position do we interpret? Professor Trebilcock is able to present his orientation (law and economics) and his specialization (international trade lawyer) as compatible. Historically, as I have tried to show in my lecture, this is accurate. One of the stakes of my intervention then is the question of who can occupy the position of ‘international


69. See for example the account given in Susan Howson, Lionel Robbins (Cambridge: Cambridge University Press, 2011).

70. See further Anne Orford “International Law and the Limits of History” in Wouter Werner, Alexis Galan and Marieke de Hoon (eds), Koskenniemi and his Critics (forthcoming). On the limits of the writing of disciplinary histories as a critical move more generally, see Suzanne Marchand, “Has the History of the Disciplines Had its Day?” in Darrin McMahon and Samuel Moyn (eds), Rethinking Modern European Intellectual History (Oxford: Oxford University Press, 2014) at 131.

trade lawyer’ going forward. Is it possible to think critically and inside the discipline of international trade law at the same time? My short answer is yes.\textsuperscript{72} To think critically means attending both to the knowledge you produce and your situation as a producer of knowledge. In my view it is vital that more work of this kind is done from within the field of international trade law.

The discipline of international trade law has for the most part lost the sense it once had that the developments I have been describing represent a significant shift of world historical proportions. Writing in the \textit{Journal of International Economic Law} in 2000, Donald McRae argued that the expansion of trade disciplines as interpreted and applied through the WTO dispute settlement processes “raises questions about the nature of states as political and legal entities”.\textsuperscript{73} He used the example of agriculture to make his point.

The field of agriculture provides a useful example. The ability of states to manage agricultural policy in order to avoid food scarcity, maintain employment, and preserve rural communities has historically been regarded as fundamental to a state’s role. Food security has been a key part of a nation’s perception of its security … Yet, today, under the Agreement on Agriculture, that exclusive domain has been whittled away.\textsuperscript{74}

McRae concluded his article by suggesting that the expansion of the trade liberalization project to include such issues as liberalization of trade in services and investment “calls into question notions about traditional state functions, and hence calls into question some of the traditional assumptions on which international law is predicated”. He thus concluded that “it is not just trade lawyers who should be following the work of the Appellate Body”. International lawyers, including international trade lawyers, needed to “move beyond the easy assumption that the WTO is no more than the continuation of a tradition”.\textsuperscript{75}

The changes over the past two centuries in the situation in which free trade projects operate render many of the key assumptions that underpin the idea of an ongoing tradition questionable. I have tried to draw out some of these shifts in my article and in this response. They include: the shifting relationship of liberalism and democracy, the shifting nature of free trade approaches to corporate monopolies, the shifting relationship of free trade to military intervention, and the shift in strategy from unilateralism to commercial diplomacy. Where in the nineteenth century free trade advocates challenged feudalism, mercantilism, and the fiscal-military state, the twentieth century saw communism, socialism, and at times even democracy become the targets

\textsuperscript{72} For the longer answer, see further Orford, supra note 70.


\textsuperscript{74} \textit{Ibid} at 40.

\textsuperscript{75} \textit{Ibid} at 41.
of free trade challenges. I have suggested in this symposium that it is time to reopen the question of what image of the political and what forms of the state are being pursued through this free trade project.

IV. CONCLUDING REMARKS: ON THE MAKING AND GROUNDS OF COMMUNITY

The remaining commentaries in this symposium, by L Jane McMillan, Jennifer Clapp, Grace Skogstad, and Michael Fakhri, offer rich insights into alternative ways of thinking through, about, and beyond the current global food regime.

For L Jane McMillan, the starting point is land and its traditional owners and custodians. Her commentary lets us see the difference that is made when we start with traditional and collective law, knowledge, and culture as the norm rather than introducing them as the exception. By beginning her account with the relationship of indigenous peoples to their lands and resources, she draws our attention to the continued existence of economies, forms of resource use, and traditional ecological knowledges that trade agreements attempt to displace. Her commentary is a reminder that even as dispossession continues to take place, the people who are displaced do not simply disappear, and nor do their laws.

Similarly, Jennifer Clapp points to the contests that continue to be played out in the “ongoing and messy process” of the Doha Round negotiations on agriculture. She points to the way that apparently incoherent positions can be posited by the same delegations, so that two apparently competing norms recognizing on the one hand that food and agriculture are different and on the other that food and agriculture must be liberalized can be deployed by the same countries at different points in the negotiations. Clapp reminds us that the situation in this field remains radically open and that it is not clear what the outcome of the Doha negotiations will be, if they are “ever completed”.

Grace Skogstad also focuses on the ways in which states (admittedly, as she recognizes, powerful states) are able to find space to respond to social purposes after treaties are negotiated, sometimes at the cost of paying compensation to countries whose producers are harmed by the introduction of environmental or food safety regulation. Skogstad is showing us another way in which trade negotiations are never completed, in that implementation of the resulting agreements remains a site of political contestation. She focuses on the situation in the EU context to show that different versions of liberalism continue to do battle as states attempt to respond to domestic pressures to address societal concerns within the constraints imposed by trade agreements.

Finally, in questioning the way we approach food as a matter of global governance, Michael Fakrhi urges us to think about ourselves as actors who make things rather than people who rule others or are ruled by them. In his account the things we make are food, gardens, and meals. He takes as his
example the image of a man in his garden—a garden that might allow him to
grow some extra fruit and vegetables, to exchange them with his neighbours,
to spend his money on buying local supplies. I would like to extend Fakhri’s
image a little further, and hold on just a little longer to the dream that it might
still be possible to make something beyond “my own garden”—the dream
that we might labour and plan collectively to make a social world, to make a
state that is hospitable, to make a law that is more just, and to make the future.