

Fighting in the Fields: The Weaponization of Agriculture & its Legal Significance

By: Shelby Lepley¹

October 28, 2022

National prosperity depends on agricultural production for life-

Throughout the Cold War, the United States also implemented this embargo strategy on wheat exports to the Soviet Union, forcing them to purchase more from Canada and Australia.¹³

These many examples demonstrate the vast ways the agricultural industry has found itself wedged between conflicting parties. Despite the progression of technology and society, agriculture remains foundational and is exploited accordingly during warfare. Most recently, Russia—which has a long history of coercing its adversaries into compliance by targeting agricultural production—has made headlines for its attention to agriculture during wartime.

C. Changing World Order

A changing world order proposes new opportunities for agricultural production to be weaponized. Richard Haass summarizes the recent trend in international affairs as "widespread rejection of globalization and international involvement and ... a questioning of long-standing postures and policies, from openness to trade and immigrants to a willingness to maintain alliances and overseas commitments."¹⁴ The "liberal democratic order" that arose following World War II theoretically allowed countries to collectively pursue economic, political, diplomatic, and strategic efforts.¹⁵ The global push for these objectives led to the creation of the Bretton Woods system.¹⁶ Through the Bretton Woods and subsequent modifications, the World Bank, the International Monetary Fund (IMF), and the World Trade Organization (WTO) came to promote and govern international trade.¹⁷

The UN Charter also orders member nations to seek solutions through "negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, the result of regional agencies or arrangements, or other peaceful means of their own choice," and asks that member nations be able to

Recent events in the global agricultural industry continue to demonstrate the critical role that agriculture plays in conflict. In the last five years, the world has witnessed the United States-China trade war over agricultural commodities, recurring attacks on food and fiber products, and other events that threaten agrarian stability, but none have been as widely felt as the current Ukraine-Russia War. Since the beginning of the conflict, Russia has targeted agricultural production in Ukraine. When Russia invaded Ukraine in February 2022, it actively blockaded Ukrainian ports, and "the Russian military hit grain terminals, blew up silos and burned fields, hijacked Ukrainian grain to sell as Russian exports, stole agricultural equipment, and destroyed a bridge linking Ukrainian farmers to export markets in Romania."²⁰ By targeting agricultural production, Russia deprives Ukraine of a stable food supply and its export earnings. Both are necessary for a nation at peace, and a deficiency in either is crippling for a country.

Reports of starvation as a warfare method have surfaced repeatedly. On March 23, Janusz Wojciechowski, the European Union's Agriculture Commissioner, stated: "The only interpretation is that [the Russians] want to create hunger and to use this method as a method of aggression."²¹ Secondly, Russia is distorting agricultural markets to undermine Ukraine and supporting countries. The spike in food prices because of the Ukraine-Russia Conflict has caused disturbances worldwide.²² Granted, this conflict is not the only reason that food prices have increased drastically, but those contributing factors do not let Russia avoid responsibility.²³ Former Russian President Dmitry Medvedev recognized the importance of these agricultural disruptions when he wrote: "many countries depend on our supplies for their food security. It turns out our food is our silent weapon. Quiet, but mighty."²⁴

Analysis of the Ukraine-Russia July 2022 grain deal indicates the strategic thought associated with agricultural production and shipping. Michael Kofman, a Senior Research Scientist at the Center for Naval Analyses' Russia Studies Program, points out that Russia was strongly incentivized to sign this deal because it desires to export fertilizer, grain, or grain stolen from Ukraine.²⁵ Additionally, it is theorized that this deal came so late in the year that Ukraine would not be able to get its grain to market; Russia was only using this deal for convivence and to appear conciliatory to Europeans.²⁶ It is evident that Russia wishes to exercise its leverage using agricultural markets.

Russia's attacks on Ukraine's agricultural industry have had a significant impact across the world. Normally, Ukraine is a top agricultural producer and exporter of oilseeds and grains.²⁷ Before the

²⁰ John Feffer, *The Weaponization of Food*, FOREIGN POLICY IN FOCUS (July 27, 2022), <https://fpif.org/the-weaponization-of-food/> [https://perma.cc/8PA3-MFEB] (Last visited Sep. 30, 2022).

²¹ Eddy Wax, *The*

Russian invasion, they provided one-third of the world's sunflower oil (nearly half of global exports) and two-thirds of its sunflower meal.²⁸ Additionally, they were the fourth-largest corn exporter and the eighth-largest wheat exporter.²⁹ Following Russia's invasions, "blockade[s] resulted in a sharp reduction in exports as grain was diverted to alternate routes," and exports fell to approximately one-third of the typical level.³⁰ In July 2022, "about 20 million tons of grain from 2021, including 6 million tons of wheat (13% of 2021 harvest), still [had] not shipped."³¹ The exports sent through nonconventional routes increased prices severely, which analysts estimated added approximately \$100 per ton to the cost of Ukraine grain, decreasing demand for Ukrainian agricultural exports and limiting farmers' incentive to plant in the future.³² The Russia-Ukraine grain agreement may assist in reducing these impacts, but as discussed above, some scholars are skeptical of the agreement's efficacy.³³

Given that Russia and Ukraine are leading world exporters of agricultural products, it is not surprising that the impact of this conflict is being felt far outside of these two nations. Reports from the WTO indicate that this conflict contributes to food insecurity and increases agricultural commodities' prices worldwide.³⁴ The Center for Strategic and International Studies attributes increased global food insecurity and political instability to the rise in food prices associated with the Ukraine-Russia War.³⁵ Russia's attacks on Ukrainian agriculture negatively impacts Ukraine, dependent nations' stability, and the world order.

III.

Determining a civilian or military object will require a case-by-case evaluation of whether the agricultural product or infrastructure falls into the description of Article 52, Subsection 2.⁵⁸ Russia would have to prove that each attack on the agriculture industry is associated with a military action through its nature, location, purpose, or contribution to the military, or in the alternative, that chosen agricultural targets offer a definite military advantage. But proving either of these possibilities would be incredibly difficult given that other provisions expressly forbid attempts to attack objects indispensable to the civilian population's survival, including foodstuffs and agricultural areas, regardless of intent.⁵⁹ Even if Russia describes attacks on agriculture as an attempt to undermine a "definite military advantage," the motive element of Article 54 demonstrates a global intolerance for military strategies that result in the starvation of civilians. Therefore, Articles 52 and 54 indicate that Ukraine may find redress for attacks endured on grain terminals, silos, fields, grain supplies, and agricultural equipment.⁶⁰

Whether Ukrainian agriculture becomes a military objective as a war-sustaining activity is far more debatable. Given the context, it is reasonable to conclude that Ukrainian agriculture is not sufficiently war-sustaining to be an acceptable target. Agriculture does sustain war because it provides needed sustenance for militaries and generates national revenue, making it an attractive target for an opposing military. But this analysis fails to consider the civilian population that the industry supports, and thus would not satisfy the internationally accepted rules of distinction. The U.S. Department of Defense's policy to consider each potential target on a case-by-case basis is the most attractive and adaptable solution to the two policy approaches.⁶¹ Under this approach, Russia would still fail to prove that its agricultural attacks have not unduly impacted civilians given that Ukraine's agricultural production supports far more than just the military.⁶²

B. Violations of International Trade Agreements

It is unclear whether the world order can effectively reprimand a nation for distorting international trade by attacking an agricultural industry. There is no international agreement or even soft law that outlaws a nation from distorting world markets as an outcome of their conflicts, even if the distortion is deliberate. Given the immense impact of this war on international agricultural markets, international organizations may benefit from considering a provision that discourages military actions that undermine the stability of global food security.

There are avenues for impacted nations to legally retaliate against a wrong-doing country. Western governments have already placed extensive sanctions on Russia, and while these were implemented to oppose the war generally, nations could use them to discourage specific action against Ukrainian agriculture. Further, removing Russia's WTO membership would pose a significant hindrance to Russian markets. This option could cause long-lasting, unintended

⁵⁸ Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), art. 52, June 8, 1977, 1125 U.N.T.S. 3.

consequences to international markets and seems less achievable because of the extensive requirements for modifying WTO agreements.⁶³

Finally, the nation whose agricultural industry has been attacked can seek justice via the dispute settlement system of the WTO. Since Ukraine and Russia are both WTO members, Ukraine has standing to claim that Russia has unfairly restrained agricultural trade for their country and violated the Ukraine-Russia Grain Agreement. But this method does not ensure appropriate compensation, because the WTO cannot force Russia to change its policy or provide damages. If the WTO finds in favor of Ukraine, Russia may choose to ignore the outcome. The only option left for Ukraineing WTO agree

world economy. The world must decide to stand against any threat to agricultural production because of the industry's contributions to long-sought-after peace. The Russian Federation uses every weapon available to take advantage of its adversaries. For the U.S. and many others, this impedes international trade and markets. For Ukraine, its valuable exports, food supply, and civilians are in imminent danger. Despite the shifting international order, countries must choose to stand together on behalf of each other to obtain a brighter tomorrow where peace is practiced, and agricultural production is secure.