



Chair's Summary

CFS-RAI Regional Consultation for Europe and Central Asia

Rome, Italy

December 9th and 10th, 2013

General Statements:

- CFS-RAI principles should add value, be simple, concise, relevant and applicable as well as an ambitious instrument and not just a document.
- It's also important to keep the end user in mind in designing the principles.
- Take into account already existing frameworks, standards, roundtables and improve on them. Specifically, reference should be made to the Global Strategic Framework, the outcome of the roundtable on smallholder investment at CFS 40, and the VGGTs and ongoing process such as the International Year of Family Farmers (IYFF).
- The document should reference the need for clear public policies for smallholders to enable them to invest.
- It's important that the focus of the document is on the bigger picture and objective, rather than getting lost in the details, while on the other side more detailed principles could lead to more practicability.
- There is a need for a greater focus on smallholders.
- All types of investment are needed, not just small, but also large. Need to find the balance.
- The element of guidance in the principles needs to be strengthened, e.g. what responsible investment should do and NOT DO. 'Do No Harm' approach should be incorporated.

Guiding Question 1: Are all relevant issues and areas related to fostering responsible agricultural investments adequately addressed in the zero draft? If not, what should be changed?

Participants noted the following areas as requiring further attention in the document:

- Forestry
- Fisheries and fisher folks
- Youth, higher education
- Capacity building and technical assistance to farmers
- Nutrition
- Animal health and welfare
- Water
- Food and non-food production
- Multi-functionality of farms with food production as a priority
- Marketing
- Waste management
- Food Safety
- Infrastructure
- Safety nets
- Access to markets, especially for small scale producers, including their free choice for their desired market
- Land and resource grabbing, go beyond VGGTs Chapter 12

- Decent work, no child labor, no forced labor, living wages, social protection schemes, health and safety, migrant and seasonal workers
- ILO core labor standards
- Gender, in particular women, are at the heart of small scale farms and their role and challenges need to be clearer in the document
- Comparable data and statistics including need for capacity building.

In addition, the following points were made:

- Emphasize the need for transparent legal frameworks.
- Stress public investment to foster private investment and taking into account that public investments go beyond investments in infrastructure.
- Recognize that investments are micro decisions, and not every investment can address all issues raised in the Zero Draft.
- Principle 4 should be reworked to address consumer choice and innovation in combination with cultural heritage, and also address the potential conflict between CFS-RAI principles and cultural heritage practices.

While some participants want to address the areas mentioned below, other participants don't want to prioritize one way of agricultural production or another and stressed the need to find a balanced approach in the First Draft for addressing the following:

- biofuels and policy mandates' impact on food security in developing countries;
- fundamental rights such as food sovereignty; and
- agro-ecological approaches and climate smart agriculture.

Guiding Question 2: Are the roles and responsibilities of relevant stakeholders clearly defined in order to facilitate implementation of the principles? If not, what should be changed?

Regarding roles and responsibilities, the following comments were made:

- There is a need for greater distinction between different actors, especially when we look at investors (small and large, public and private investors).
- Smallholders cannot be put in the same category as other investors.
- There is a need for clarification of definitions of smallholders, family farms, and cooperatives – but there is no common definition. The focus is often on labour force but no universal definition exists.
- Different types of investors could be addressed by looking at different stages in the value chain or in the food system (as not all actors are in value chains).
- Women should be addressed more clearly.
- Cooperatives should be addressed more clearly.
- Principle 8 is unclear on accountability, to whom are actors accountable.
- Need to take into account monitoring and related roles and responsibilities.
- States have an important responsibility to provide public policies and create an enabling environment; but also to provide public goods to enhance and facilitate investment.
- Highlight the responsibility of large investors in supporting small investors.
- Clarify the role of home states of companies operating abroad (the protection of the investment at the same time as the protection of human rights).
- Need to address and ensure that bilateral investment treaties do not undermine human rights.
- Multilateral and bilateral trade and investment agreements should respect the CFS-RAI principles.
- Use text from CFS agreed discussion on smallholders and investment.
- States' role regarding investors should follow Principle 14 of the UN-Guiding Principles on Business and Human Rights (Ruggie-Principles).

Guiding Question 3: Does the zero draft achieve the desired outcome to promote investment in agriculture that contributes to food security and supports the progressive realization of the right to adequate food in the context of national food security? If not, what should be changed?

In assessing whether the overall zero draft achieves the objective of promoting investments in agriculture and food systems that contribute to food security and nutrition, the following points were raised:

- Principles need to be more concrete and realistic to achieve outcome.
- Principles are too abstract and may hinder smaller investors' ability to implement them.
- RAI principles should not discourage investments.
- The burden imposed by the CFS-RAI principles should not outweigh the benefit.
- Eliminate any contradiction with other ongoing initiatives (e.g. OECD Responsible investment in agricultural supply chains; UN Global Compact Sustainable Agriculture Business Principles) and ensure that these initiatives take into account/build on CFS-RAI.
- To 'promote' we need to look at different kinds of markets (different crops, different ways to add value) at local, national and global level.
- Consumers and producers or cooperatives could be linked in new and innovative ways due to technology and web.
- Public procurement should source from local food systems.

Question 4: The principles are intended to provide practical guidance by stakeholders, therefore

a) Are the current structure and language used clear and accessible for all relevant stakeholders to apply?

Participants suggested the following changes:

Structure:

- Need to include priorities to set the tone of the document, for example investment by and for small food producers; to guide governments in structuring investment; and to regulate private investment under Objective, Nature and Scope.
- Roles and responsibilities could be addressed in one part, maybe in the last section of the document.
- Need to add a section on Implementation and Monitoring at the end of the document.
- Two proposals for restructuring the Zero Draft from which there seems to be consensus between the two proposals on the following outline:
 - Preface and Rationale
 - Objective, Nature, Scope, Main Intention/Priorities
 - Principles with short context
Delete all headlines and reduce content under each principle to a brief explanation of the context (objective/rationale) and what needs to be changed/addressed by the principle.
 - Roles and Responsibilities, including application and implementation

Language:

- There is a need for greater consistency in language, especially with regard to obligations versus good practices to be encouraged.
- Use already agreed language.
- Increase clarity and definition of terminology in the document.
- Use 'small-scale food producers and workers' instead of 'smallholders'.
- Human rights language is currently too weak.
- Right to Food should be mainstreamed through the document.

Question 4b) How can the CFS-RAI principles be used and implemented by different stakeholders after endorsement by the CFS?

Participants suggested the following approaches for implementing the CFS-RAI principles:

- Need to acknowledge that the CFS-RAI cannot address the level of detail requested at the same time as a high level of abstraction, so further work will be needed for implementation.
- Multi-level stakeholder platforms should be created at national level to foster implementation.
- National plans and strategies should be a way to implement the CFS-RAI principles.
- States should get guidance on which measures can be taken to foster public and private investments and on how to avoid negative impacts of agricultural investments.
- All stakeholders should apply the CFS-RAI principles and use the principles to build best practices for investing responsibly and creating an enabling environment.
- Large and medium investors should get guidance from the document on what steps they need to take into account to invest responsibly and to avoid negative impacts.
- Small scale food producers should get guidance on how they can invest responsibly and how their organizations should be informed of investment opportunities for increased productivity.
- Donors, foundations, and financial institutions can use the CFS-RAI principles as criteria for investments that they finance/fund.
- Civil society and other relevant institutions should get guidance on which actions to promote and to have internationally agreed standards to which they can hold governments and investors accountable.
- CFS should monitor experience of CFS-RAI at the global level and serve as a forum for stakeholders to share experiences.
- The RBA's should play a leading role in ensuring international coordination of efforts of the different stakeholders to implement the CFS-RAI principles.

Annex 1: Break –Out Group Results

Reporting Group Espace Gabon

BACKGROUND AND RATIONALE

Gaps and/or redundancies:

- Mention (make reference to) VGGT, conclusions on smallholder investment & Global Strategic framework
- Should we include 'food systems': might be too broad, but important to look beyond agriculture (production)
- What do we mean by "investments in agriculture and food systems"?
- Also make reference to investment in medium- and large-scale producers
- Reduction of food waste and food losses as a rationale, also water efficiency
- Don't sum up all different 'rationales' but leave it broad.

OBJECTIVE, NATURE AND SCOPE

Gaps and/or redundancies:

- Make more explicit mention of the need investments contribute to 'sustainable food systems' next to food security and nutrition / right to food
- Not only refer to smallholders in developing countries but also in developed countries.
- Note the main objectives/priorities in this section: conclusions CFS round table on smallholder investment 30b, 30c, 42, 43
- Include that all investments need to be economically viable
- Could also include the need to build on traditional knowledge

Suggestions for improvement

- New structure proposed by EU
- Mention Priorities in all Principles.

PART I: FOOD SECURITY, NUTRITION AND SUSTAINABLE DEVELOPMENT (ECONOMIC, SOCIAL, ENVIRONMENTAL AND CULTURAL ISSUES)

<p>FOOD SECURITY AND NUTRITION AND THE PROGRESSIVE REALIZATION OF THE RIGHT TO ADEQUATE FOOD IN THE CONTEXT OF NATIONAL FOOD SECURITY PRINCIPLE 1</p>
<p>Gaps and/or redundancies:</p> <ul style="list-style-type: none"> • Promote (more) agricultural investments • Include “safe” in bullit 1 under Objectives • What do we really mean with ‘enhance food security and nutrition’? • Paragraph 46 CFS round table on smallholder investment: model of investment that should be promoted • Under objectives: we should also mention the need to contribute to food security at a global level. • More attention for access to food and the effects of extreme price volatility • Include that investments need to be economically viable • No single investment can contribute to all the principles and objectives, but should at least not harm the objectives of the principles. • Framework for investment is the respect of basic rights. • Resilience means ‘before, during and after’, so this is redundant • Emphasise the position of women and girls • “Increased value generation” should not only apply to the local and national level
<p>ECONOMIC AND SOCIAL ISSUES PRINCIPLE 2</p>
<p>Gaps and/or redundancies:</p> <ul style="list-style-type: none"> • In bullit 2 of the principle, a reference should be added to the main ILO Conventions • It should be clear that employers pay a salary that is at least the minimum wage • Migrant and seasonal workers need to be explicitly mentioned • Principles should address the right to collective bargaining • Responsible agricultural investments should contribute to making agriculture a good sector to work in and provide decent work • Principle should address the right of migrant workers and of national labourers to decent living conditions • Caution is needed to insist on decent work in informal settings • Language on VGGT and human rights should be more concrete and a condemnation of landgrabbing should be included in the text • Reference to the need for responsible investments to be subject to transparent and fair tax system: but a difficult discussion? • Stronger reference to the position of women (and women’s rights). • Seed systems, access to seeds and breeders rights should be explicitly mentioned, but also the reference to IPR
<p>ENVIRONMENT, NATURAL RESOURCES AND CLIMATE CHANGE PRINCIPLE 3</p>
<p>Gaps and/or redundancies:</p> <ul style="list-style-type: none"> • “Develop natural resources” seems peculiar: what does it really mean? “Conservation” might be better. • Reference could be included in the principle to the ecosystem services provided by agriculture. • Build on text of CFS round table on smallholder investment para’s 40 &41: agro-ecological model of production • Reference to the conservation of biodiversity should be made to in the principle • Specify who/how mitigation and adaption to climate change should be done • Include the importance of animal health and welfare: mention consumer willingness to pay • Under Objectives, bullit 4: it should be included that there is “minimization of GHG emissions per unit of production”
<p>CULTURAL ISSUES</p>

PRINCIPLE 4
Gaps and/or redundancies: <ul style="list-style-type: none"> • Reference to ILO Convention on Indigenous People (nr. 169) • Under Objectives, bullit 1: “including religious <u>and</u> traditional historic sites” • Under Objectives: third bullit seems vague, maybe choose different word than ‘acknowledge’. • Under Application: add to the last sentence “a broad diversity of agricultural systems”
ROLES AND RESPONSIBILITIES FOR PART I
Gaps and/or redundancies: <ul style="list-style-type: none"> • Delete fifth bullit under Investors: “Generate sustainable livelihoods...” •

Suggestions for improvement

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PART II POLICY COHERENCE AND SECTOR DEVELOPMENT

PRINCIPLE 5
Gaps and/or redundancies: <ul style="list-style-type: none"> • Need to rewrite the whole Principle • Important to note that human rights should be starting point • Include biofuels, speculation, trade and investment rules • More clarity about protection of investments: rule of law, tax system • Cooperatives should be mentioned in this principle
ROLES AND RESPONSIBILITIES FOR PART II
Gaps and/or redundancies: <ul style="list-style-type: none"> • •

Suggestions for improvement

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PART III GOVERNANCE, GRIEVANCE MECHANISMS AND ACCOUNTABILITY

GOVERNANCE AND DECISION MAKING PROCESSES PRINCIPLE 6
Gaps and/or redundancies: <ul style="list-style-type: none"> • Include reference to public-private consultations, mainly at national level • Build on para’s 37 & 38 of CFS round table on smallholder investment • Pay attention to power relations in the supply chain • Include reference to food sovereignty • Last sentence under Rationale is a repetition of what is mentioned in other places in the text • Include Free Prior and Informed Consent for all stakeholders
GRIEVANCE MECHANISMS PRINCIPLE 7
Gaps and/or redundancies: <ul style="list-style-type: none"> • Make reference to compensation • Ability after evaluation to review terms of a contract if it fails to deliver
REVIEW MECHANISMS AND ACCOUNTABILITY PRINCIPLE 8
Gaps and/or redundancies: <ul style="list-style-type: none"> • Better reference in the Principle to human rights: “potential impacts on food security and nutrition, <u>human rights</u>, societies...”

- Transparency and accountability need to be made more specific: to whom and about what?
- What do we mean by 'independent', what do we expect of this?
- First para under Rationale is a repetition and could be deleted

ROLES AND RESPONSIBILITIES FOR PART III

Gaps and/or redundancies:

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Reporting Group – Queen Juliana Room

BACKGROUND AND RATIONALE

Gaps and/or redundancies:

- Delete first two paragraphs and start with “Investing in agriculture and food systems.....”
- Prioritise small scale producers and workers.
- Stress specific roles of states as public investors and that they are the ones to define frameworks, rules and regulations to hold investors to account. They also act as public investors. (or in Objective, nature + Scope)
- Stress importance of Global Strategic Framework, VGGT and CFS decision on Investing in Smallholders. (or in Objective, nature + Scope)
- Ensure a concise background and rationale (in line with EU suggestion). Smallholders & VGGT incorporated in ToRs. Either copy and paste line from ToRs or just reference them.
- Balance important: 4th paragraph places emphasis on multitude of actors. Therefore the group disagreed on whether or not to prioritise certain actors over others.
- Already agreed language: how to deal with this? Room for a preamble listing already agreed language? – Look for a solution, how have other texts dealt with this?

OBJECTIVE, NATURE AND SCOPE

Gaps and/or redundancies:

- Delete VGGT reference – this is referred to throughout the text and in ToRs.
- Objectives: stress special role of smallholders, take in language from CFS decision box: prioritise public investments and encourage private investment. Special emphasis on vulnerable groups.
- Nature & scope: re-emphasise voluntary and non-binding nature of principles.
- Include animal welfare in broader statement on values.

Suggestions for improvement

- All parties support the principle of restructuring of the zero draft, possibly along the lines of that proposed by EU.
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PART I: FOOD SECURITY, NUTRITION AND SUSTAINABLE DEVELOPMENT (ECONOMIC, SOCIAL, ENVIRONMENTAL AND CULTURAL ISSUES)

FOOD SECURITY AND NUTRITION AND THE PROGRESSIVE REALIZATION OF THE RIGHT TO ADEQUATE FOOD IN THE CONTEXT OF NATIONAL FOOD SECURITY

PRINCIPLE 1

Gaps and/or redundancies:

- Recognise importance of ag investment. Begin principle “Recognising the importance of encouraging agricultural investment”.
- Do not extend principle – importance of investment already mentioned in background & rationale.
- DISCUSSION - BURDEN VERSUS BENEFIT: “Encouraging” not necessarily appropriate

wording here but the “the application of the RAI principles for large and small, public and private investors should not outweigh the potential benefits of the investment.

- Disadvantages for smallholders wanting to invest – this should be the priority as opposed to avoiding regulation etc.
- Compromise:
- More focussed headline “contribution to food security and nutrition”
- Delete bullet point format, add “with particular attention to the most vulnerable”
- Add “safe” to increase production of sufficient.... delete “increased production”
- Replace “culturally adequate” with “ acceptable”
- Suggested proposed language “decent work is not a burden” – language must be balanced and careful, link to respect for human rights.
- New 2nd bullet under Objectives “livelihoods, rural development and poverty reduction”
- Objectives bullet on “resilience” – take out “before, during and after” these are unpredictable replace with “to shock and crises”.
- DISCUSSION: New bullets under Objectives: “prioritise models of investment and models of markets and local food systems that benefit small scale producers and markets”. – What about local food systems and exports as part of income creation and food security? What about increase in productivity – this is in the interest of both smallholders and others.
- RAI not consistent in distinguishing what investors should do and should **not** do – so state “investments should not undermine rights”
- DISCUSSION: Add bullet on food prices and volatility – net income of small scale producers and workers are key to food accessibility.
- Objectives: add ‘international’ to first bullet point.
- Application: ‘especially for the most deprived producers especially small-scale producers’
- Application: add “in the context of food security” in bullet on clean water & sanitation
- STRUCTURAL COMMENT: Application should be checked – is this objectives?

ECONOMIC AND SOCIAL ISSUES

PRINCIPLE 2

Gaps and/or redundancies:

- Respect workers’ rights as defined in the international ILO core labour standards
- Restructure: no bullets and re-order points 1= ILO, 2 = VGGT and 3 = positive socio-economic impacts
- Add to Principle: “economic and social sustainability”
- DISCUSSION: Addition to Principle 2: Guarantee of all workers including migrant workers to be paid a living wage – discussion revolved around “guarantee” – accessible for everyone? However this is important because many workers hungry.
- Addition in ILO bullet: “universal human rights”
- VGGT language too weak – delete “as appropriate’
- DISCUSSION Rationale: delete ‘insecure tenure rights” add “businesses in ag systems should improve lives of workers and farmers, respect the rights of people and provide equal opportunities that result in communities that are attractive places to work live and invest” (language agreed in Global Compact) – sentiment agreed but why delete VGGT
- DISCUSSION: Objectives: include specific recommendations complementing the remaining gaps in VGGT e.g. access to land and natural resources a priority – is this the place to re-open VGGT?
- Objectives: add protection of “common” basic natural resources that are collectively used
- DISCUSSION Application: ‘all workers regardless of gender, age, nationality, physical condition’ delete ‘men and women’
- Add ‘ILO core labour standards, including for child labour, must be respected’
- DISCUSSION: This document is not a human rights document. Additions might create extra burdens, legal cases etc. Concerned about impacts on an enabling environment.
- ‘Safety’ of food can be subjective – conflicting definitions can create extra burdens.
- Principle 2 is weak. To be applied in national context as per ToRs.
- Rationale: Addition of waste management after transportation etc.

ENVIRONMENT, NATURAL RESOURCES AND CLIMATE CHANGE

PRINCIPLE 3

Gaps and/or redundancies:

- DISCUSSION ON EFFICIENCY OF FOOD PRODUCTION AS A WAY TO MITIGATE GHG EMISSIONS: add 'including mitigating greenhouse gas emissions by decreasing per kilo of food/*nutritional value* produced' – productivity and efficiency to be taken into account here.
- Mitigation of GHGs to be considered across who value chain i.e. how produced, where from, life cycles.
- Adaptation: maintaining production in the face of climate change by producing most appropriate food and using most appropriate technologies which will ensure safety and healthy working conditions as defined by ILO Convention P184.
- Objectives: Add 'improved transportation, storage and handling of *grains and other agricultural produce* that help to minimise post-harvest food losses and increase overall food availability'
- DISCUSSION: Mitigation – current contribution of industrial agriculture to climate change
- DISCUSSION: Objective: to support the scaling up of agro-ecological approaches (*supported by special rapporteur and others*) – industrial agriculture sometimes more efficient (*supported by European Academies of Science and others*)
- Objectives addition: 'good animal health and welfare practices
- Objectives: Addition 'Ensure access to seeds for small scale producers' – as agreed by CFS40 decision box on smallholders

CULTURAL ISSUES

PRINCIPLE 4

Gaps and/or redundancies:

- Missing basic concept – consumers should have choice to diverse and nutritious diet
- Strengthening gender equality: we need to make a decision! Either add a specific principle (best option) **or** add references throughout the text.
- Cultural references repeated throughout the text – keep them primarily in P4 to ensure a concise document.
- Addition: "ILO convention 169' on indigenous people into principle
- Make sure that CFS principles are not in conflict with generally accepted human rights principles – particularly relevant discussion for P4.
- DISCUSSION, clarification needed, possible deletion of sentence: 'are considered **legitimate** by local ~~and other relevant~~ stakeholders' – does not add value to the document as a tool for RAI. Who are these stakeholders? What is **legitimate**? Stakeholders can conflict.
- Gaps in regulation – stakeholders can fill this gap. Meaningful community consultation and multistakeholder consultation provides an important role. 'Meaningful consultation' taken up in P6
- DISCUSSION: Objectives: delete ITPGRFA because 1. Not an objective 2. International Treaty that already binds countries 3. Imbalanced reference to the treaty. – don't delete because it is important!
- Suggestion: 'respect as appropriate, farmers' rights **and breeders'** rights'
- Objectives: add including "religious and historic sites"

ROLES AND RESPONSIBILITIES FOR PART I

Gaps and/or redundancies:

- States: addition as last bullet 'support knowledge, innovation and science related to agriculture'
- (Important) States: 'build or further develop national strategies for responsible ag investment and food and nutrition security' (reflects language of CFS40 decision box)
- CSM reiterated comments on: categorisation of smallholders & workers; absence of language on mobilising public policy & investment; bilateral trade agreements.
- DISCUSSION: Investors: delete 'international environmental standards' and replace with 'national environmental law and regulation' – international agreements still have important aims and should be there as a reference as minimum basis. But are less enforceable!
- DISCUSSION Investors: delete 2nd bullet – unrealistic for single investor to do all of those

- things – points (suggestion: say ‘work towards’?)
- Investors: delete ‘engage proactively’ – already covered
 - DISCUSSION Include language on Ruggie Principles: Investment treaties
 - States: respect, protect and fulfil human rights and have responsibility to facilitate enabling environment other than in regard to financial and economic dimensions.
 - States: new bullet on role of states as investors should be emphasises (Ruggie Principles wording)
 - DISCUSSION: clarification of ‘**monitor compliance**’ by civil society? Not elected or judicial bodies or UN agencies – not role to monitor. ‘
 - Investors + states: add that they should not engage in tax avoidance and capital flight
 - Investors + states: add ‘should do no harm human rights and contribute to food security and nutrition including safety’
 - Investors + states: should aim for high animal welfare standards

Suggestions for improvement

- Move to just one place!
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PART II POLICY COHERENCE AND SECTOR DEVELOPMENT

PRINCIPLE 5
<p>Gaps and/or redundancies:</p> <ul style="list-style-type: none"> • DISCUSSION: What is policy coherence? All policies having direct or indirect impacts on food security and right to food should be made consistent with rights. • DISCUSSION: Stress that policy coherence should notably be applied to agrofuels polices, including trade and investment treaties. – Ruggie language only on trade and investment. • DISCUSSION: Rationale and objectives: Investment of many sizes and types is valuable, should not distinguish between types of industries. Add: small, medium and large • Add: ‘Continuous dialogue between investors and local populations, including vulnerable groups’ – good way to make the text less vague. This strengthens political commitment and stable framework.
ROLES AND RESPONSIBILITIES FOR PART II
<p>Gaps and/or redundancies:</p> <ul style="list-style-type: none"> • •

PART III GOVERNANCE, GRIEVANCE MECHANISMS AND ACCOUNTABILITY

GOVERNANCE AND DECISION MAKING PROCESSES
PRINCIPLE 6
<p>Gaps and/or redundancies:</p> <ul style="list-style-type: none"> • DISCUSSION: Additions: 1. Food sovereignty (related to national sovereignty); 2. Fostering multi-stakeholder platforms to develop national policies; 3. Address imbalances in markets and value chains (can result from government decisions) – do these points belong in decision making? Also disagreement on substance of additions • Application: add reference to ‘collective land use rights’ – individual consent of all land rights holders should be aimed at. • P6 What does an investor do in a place where there is weak government and risk is high?
GRIEVANCE MECHANISMS
PRINCIPLE 7

Gaps and/or redundancies:

- Additions: 1. Should be possibility reopen the terms of the contract if they failed to achieve the expected outcomes 2. Compensation
- Strengthen observation that grievance is a part of governance
- Use Ruggie language

REVIEW MECHANISMS AND ACCOUNTABILITY

PRINCIPLE 8

Gaps and/or redundancies:

- DISCUSSION: Delete: ‘participatory assessment of their ~~potential~~ impacts’- no way of technically making an impact assessment, however ‘precautionary principle’ important or prior impact assessments – use VGGT language? Lots of companies do this anyway.
- DISCUSSION: Suggestion: ‘participatory assessment must not inhibit investment’ – this must not be misused to discourage investments and must be used properly. Add Ruggie language.
- DISCUSSION: Add: ‘monitoring must be based in original agreement and/or national law, be practical cost effective’ – not a ‘basis’ for this everywhere, how can we add better context? Monitoring should be controlled. Monitoring should be put in place for each agreement and public sector has decisive role to play.
- We like the reference to “independent’ impact assessments
- Define more clearly: ‘accountability’
- Objectives: re-emphasise ‘foster participation and inclusion of local stakeholders’
- **Who is accountable to whom?** Who should have access to reports?
- Addition: ‘human rights’
- Independent assessments are not accessible for all investors (e.g. small) – how do we resolve this? Strengthen wording on
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ROLES AND RESPONSIBILITIES FOR PART III

Gaps and/or redundancies:

- Add “Civil society **and public and private investors** have an important role in engaging in dialogue with State’
- Ruggie wording needed here on grievance mechanisms as in guideline 3.2, 3rd – last sentences, of VGGT (=risk management systems avoiding negative impact on human rights, states should provide access to effective judicial remedies)\
- Distinguish between small and large scale investors. Very relevant given prior impact assessment.

Suggestions for improvement

- Specific section on ‘monitoring and implementation’
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Reporting Group Pakistan Room

No word word by word changes

BACKGROUND AND RATIONALE

Gaps and/or redundancies:

- The group propose that **Background and Rationale** is merged with **Objective, Nature and Scope** into one single section titled **objectives, nature, scope and priorities**
- It is possible to make this section shorter and more focused.

- Some parts of the current text are worth to save and incorporate in the new version.
- The roles and responsibilities of different types of investors need to be clarified.
- It is important to set the tone of the document here, which should be in line with the ToRs and already agreed upon language in other documents.
- The goal of CFS RAI, investment that contributes to food security and nutrition and the progressive realization on the right to food should be emphasized. Support to investment by small-scale food producers is important in this regard. (Refer to CFS40, paragraph 30b)
- The roles and responsibilities of medium and large scale investors should also be included. They can have both positive and negative impacts. The principle of “Do no harm” is valid.
- The expected outcome of an investment could be part of this section. The CSM emphasized that investment should contribute to FSN and the progressive realization of the right to food.
- PSM also suggested more concrete impacts in specific cases, such as contribution of innovation of food products and opening of new markets for different products. PSM emphasized that this means in practice depends on context. Moreover, all investments are micro decisions. Yet, it was agreed that the preface should not go too much into detail.
- The leading role of the public sector should be emphasized. A very important purpose of the CFS RAI is to help governments put into place the framework that encourages investment that contributes to food security and nutrition. In this regard, the right policy framework and governance issues were mentioned as well as the importance of public investment in key public goods (that facilitate and complement investment by small-scale food producers).
- Rules and regulations should strive to encourage each investment to do better and reach its full potential.
- It was discussed whether a single investment should contribute to all aspects of food security and nutrition and other goals.
- Some participants thought that it could be useful to differentiate between the ideal/best practice investments and the investments that fulfil minimum standard/. Ideally, a single investment should promote the different objectives of the CFS RAI principles, with emphasis on food security and nutrition. But there are also minimum standards that investments need to full fill. The principle of “Do no harm” is useful in this regard.
- It should be clearly expressed that the CFS RAI is grounded in the Right to Food framework. At present, the language is not consistent with already agreed upon CFS documents including the **Global Strategic Framework**, the **VGGTs** and the **CFS Roundtable on smallholder investment**.
- Even if these texts contradict the TORs of the CFS RAI, we have to be flexible and take into account docs that were agreed upon after these ToRs.
- In regards to language, the CSM reiterated that **small-scale food producers and workers** is the preferred term. (It is important for agricultural workers, trade unions etc. to differentiate between **smallholders** and workers that may not hold agricultural productive resources.)
- Germany stated that 1) “language experts” will help throughout the process and 2) a language harmonization group will be created during the negotiations.

The terms, small-scale **food** producers was discussed. It was asked whether we risk to forget producers of non-food agricultural products and whether it would be too narrow from a

European perspective, since agricultural producers produce a wide range of products and services.

- According to the CSM members, the term should be understood holistically and from a systemic view. For example, how do small-scale producers insert themselves in wider food systems is of central importance.
- Bad experiences from when small-scale producers shifts from food production to production of non-food agricultural products without either increased incomes or means to produce food for self-consumption were also mentioned.
-
- The question whether production of non-food agricultural products should be part of the document was raised.
- It was generally felt that it is important to regulate **all** agricultural investment but CSM stated that the CFS RAI should privilege food production (e.g. through policy frameworks, public investments etc.).

OBJECTIVE, NATURE AND SCOPE

Gaps and/or redundancies:

- See above

PART I: FOOD SECURITY, NUTRITION AND SUSTAINABLE DEVELOPMENT (ECONOMIC, SOCIAL, ENVIRONMENTAL AND CULTURAL ISSUES)

FOOD SECURITY AND NUTRITION AND THE PROGRESSIVE REALIZATION OF THE RIGHT TO ADEQUATE FOOD
IN THE CONTEXT OF NATIONAL FOOD SECURITY

PRINCIPLE 1

Gaps and/or redundancies:

General:

- Proposal for new restructuring for all principles: Reformulate title to make them self explanatory, erase subtitles, and have short descriptions.
- Some parts of rationale and objectives can go to the preface and some parts of application can go down to e.g. roles and responsibilities.
- Particular attention to the most vulnerable.
- The CSM would like to see stipulations on needed changes to achieve the outcome of an investment in line with the principle.
- The summary of the African consultation was helpful. It would be useful to share the idea with new structure to the forthcoming consultations

Principle 1:

- Food security and the progressive realization of the right to food are linked to encouragement of smallholder investment. (CFS 40, para 42.)
- Public procurement schemes are one of the best examples on how the state can encourage smallholder investment.
- This is also relevant in the European context. In Hungary 1) food is procured locally and provided free to school children 2) regulation has been changed to prioritize procurement from local producers so that schools and hospitals can make the choice. No extra money needed for this and it is a matter of political decisions. Available online: <http://familyfarming.kormany.hu/>
- This principle should take food prices into account. E.g. fair prices, impacts of price volatility for small-scale food producers, net-food buyers etc.
- Markets should be included in this principle. When talking about markets we should remember the objective of the CFS RAI principles.
- CFS 40, para 46 and 47 have good text on smallholders' access to markets.
- There is not one single market linked to the global value chains. International markets, and how they can be developed in accordance with the objective of the principles, are important.
- But local and domestic markets are crucial for smallholders and consumers and for food security and nutrition. Farmers create/operate in both traditional and innovative local markets that may operate without any public support. Sometimes such markets work very well and sometimes they need more support. To reach full potential they need an enabling environment and public investment.
- Discussions on markets could be linked to food loss and waste

ECONOMIC AND SOCIAL ISSUES

PRINCIPLE 2**Gaps and/or redundancies:**

- Many aspects of this principle are overarching and relevant for all principles so perhaps we should have it in the first section
- Nevertheless, there is always a risk that what is inserted in the preface and not elsewhere will be forgotten and not implemented.
- CFS RAI should build upon the VGGT and other agreed upon documents but also GO BEYOND.
- It should have very clear language on what responsible investment should do and what they shouldn't do. In particular, responsible investment do not contribute to land and resource grabbing. (Smallholder box para 41 as well as VGGT but go further. E.g. how can the principles ensure the respect and protection of commons?)
- Respect to core labour standards AS WELL AS the the specific ILO standards on agricultural

workers and decent work, and not only work, can be guaranteed concretely in the field.

- Give emphasis on the issue of tax avoidance
- Gender very important and we may consider a separate principle on gender but for now gender aspects are absent here and need to be strengthened. (Para 34 CSF 40.)
- Role of public investment in supporting smallholder investment (agreed upon language exists).

ENVIRONMENT, NATURAL RESOURCES AND CLIMATE CHANGE

PRINCIPLE 3

Gaps and/or redundancies:

- Agro-ecology is in CSM's view the solution to meet all of the objectives of principle 3 (and also important for meeting the objectives of other principles).
- **Seeds.** If we want natural resources to regenerate, farmers must have the right to their seeds. (CFS 40, para 40)
- Animal welfare and health
- On Climate change CFS40 and CFS39 on for example supporting smallholder adaptation and mitigation of industrial agriculture is useful.
- CFS 39 box
- CFS 40 document para 40, 44 (participatory research extension...and merging traditional knowledge of smallholders and indigenous with science)
- This may be the right place to add energy. Linked to this, the importance of eco-system services.
- Multifunctional aspects of agriculture should be added.
- It can absolutely be valid and important to produce energy, e.g. for and by smallholders, but the do no harm aspect (e.g. regarding land grabbing for biofuel production) should also be mentioned.

CULTURAL ISSUES

PRINCIPLE 4

Gaps and/or redundancies:

- This is the most problematic principle for PSM. New technology and innovation should be added. Knowledge diversity should be acknowledged. The principle could possibly be formulated into something like "The need for new technology and innovation and traditional knowledge".
- The term innovation was discussed. Traditional knowledge can be useful for innovating ways to in meeting shocks and increasing resilience in agriculture etc.
- Agriculture is an important source of social identity. For example, there is a very strong inbound feeling towards agriculture in Switzerland even though few people are involved in the sector.
- FDI in agriculture, even in Europe, can lead to complete shift of traditional landscapes when land is consolidated and jobs in the sector are lost.
-
- Smallholder agriculture in European countries such as Italy is important from a cultural and

social perspective but, the economic value linked to location, tradition etc. is very significant.

- Some traditions and innovations were not small-scale. E.g. big irrigation systems in China. Traditional knowledge doesn't have to be small-scale
- CSM: This principle does not exclude new innovation and technology but protects...
- "Joint existence" between traditional knowledge with... good practice example from Kenya
- Innovation should build on traditional knowledge (CFS 40, para 44)
- **ILO convention of indigenous people should be referred to.**

ROLES AND RESPONSIBILITIES FOR PART I

PART II POLICY COHERENCE AND SECTOR DEVELOPMENT

PRINCIPLE 5

Gaps and/or redundancies:

- Too vague
- The inclusive and participatory approach is important.
- Dialogue should be emphasized especially with local populations including the most vulnerable in order to minimize damage
- The role of the state and importance of real political commitments is also vital.
- Civil society organizations are missing in the objectives
- CSM: We need to mention the importance of coherence between bioenergy policies and food security and nutrition policies as well as investment treaties and how they affect FSN
- Right to food should be strengthened in this part, as it's crucial that all aspects of CFS RAI are consistent with RTF

- In addition to the focus on transnational investment, focus on public policy and domestic investment needed. Need to have coherence with other CFS products to make it implementable.

- Smallholder decision box 1) Build and further develop a country owned vision for smallholder... with participation of national stakeholders, particularly the most vulnerable; 2) There has to be both an inclusive and multi sectoral process. No use to only involve min of agri without ministry of finance etc. 3) National vision... Para 31, 32

- PSM: investments are of many sizes and types. Apart from production, there is infrastructure, processing, inputs etc. In order to create an enabling environment, states have a central role and must set priorities and ensure synergies between these different types of investments.

ROLES AND RESPONSIBILITIES FOR PART II

PART III GOVERNANCE, GRIEVANCE MECHANISMS AND ACCOUNTABILITY

GOVERNANCE AND DECISION MAKING PROCESSES

PRINCIPLE 6

<p>Gaps and/or redundancies:</p> <ul style="list-style-type: none"> • PSM: 6 & 7 OK. • FPIC could be changed from indigenous people to potentially affected people • 3rd point. Inclusive decision making should be guaranteed. More focused. • CSM: In line with building on VGGT and go beyond, we'd like FPIC to not only consider indigenous people but ALL potentially affected people. • Multi-stakeholder platforms at national levels should develop policies • We can't ignore POWER so we need to find a way to address asymmetries of power e.g. between smallholders, governments and other actors. • CSM: Food sovereignty concept should be included, as it includes recognizing the rights of people to chose the ways in which they produce food • VGGT in general principles on consultation should be brought in • Governance and decision making processes CFS 40 para 37 and 38
<p>GRIEVANCE MECHANISMS</p> <p>PRINCIPLE 7</p>
<p>Gaps and/or redundancies:</p> <ul style="list-style-type: none"> • Ref third of the last sentence of VGGT 3,2. Main principles of the Ruggie principles. Agreed upon language. • CSM: If we go beyond VGGT and the Ruggie Principles: Ability to reopen the ToRs of a contract if an investment fail to meet the ToRs of a contract • Adequate compensation is absence and should be added. VGGT have stipulations on compensation in cases of state expropriation for public utility. How to define this remains an open question. • Consistency with investment treaties. Investment treaties can be inconsistent with contracts. Links between 5, 6 and 7. How to ensure consistency between investment treaties and contracts must be discussed.
<p>REVIEW MECHANISMS AND ACCOUNTABILITY</p> <p>PRINCIPLE 8</p>
<p>Gaps and/or redundancies:</p> <ul style="list-style-type: none"> • Human rights are missing and Human Rights Assessment should be added. • Whom is accountable for whom • For whom should Impact Assesments be available and how should they be published • Whether demands to do Impact Assessment should be applicable to smallholders where discussed. • CSM: No • More details needed on what to whom accountability. • Linking back to preface etc. the State plays a major role here. • Review and grievance mechanisms etc. must be gender sensitive • There could be a specific principle on gender, but it is also important to mainstream gender throughout. This is open to discussion since ToRs stipulate that gender should be mainstreamed. • PSM: "assessed on their potential impacts... during and after" It needs to be assessed prior. Afterwards it should be judged against set parameters. • CSM thought that this principle may not be relevant for small-scale food producers and workers. This might also apply to e.g. FPIC.
<p>ROLES AND RESPONSIBILITIES FOR PART III</p>
<p>Gaps and/or redundancies:</p>

- For differentiation, in part 1 different investors are explained including small-scale food producers. Investors are called to respect for example international core labour standards and environmental standards.
- The problem is that investors are taken as a single group while in reality investment are made by a many different actors (from small-scale food producers to large corporations).
- Need to differentiate roles and responsibilities of different actors (e.g. that smallholders can't be put into the same category as medium and large-scale investors).
- VGGT 3.2. Ruggie principles para 14. Agreed upon languages on differentiated responsibilities of state and non-state actors including small-scale and large-scale producers.
- How to structure part 3? Most probably it would be good to structure according to actors. Start with state and its different roles and then go to other actors.

Proposal for M&E and Implementation

- Good examples exist. Link to best practice and don't start from scratch. Impact Assessment is linked to this.
- When discussing implementation of CFS RAI and other CFS processes it's important to continue to connect info on other initiatives (FAO-OECD is an example) and lessons learned, e.g. by the ps
- Mandatory processes for IA for some investors that we can learn from.
- We should find a mechanism to monitor the application of CFS RAI.
- VGGT is general in this regard and it would be good to have more details on what we expect on reporting of progress of application of CFS RAI. (Refer to CFS M&E.) CFS RAI should be one of the products that should be monitored by the CFS.
- This can be linked to capacity building, e.g. on generation of data and statistics
- All CFS docs must be linked to be operationalizable.
- Since the state is ultimately responsible for the application.
- National level is crucial but also relevant how the International Organizations and other non-state actors apply the documents. We want the CFS to have a role. How this should be done in practice needs to be discussed.
- Clearly state from the outset that the RBAs should play a role in the application of CFS RAI.
- PSM: Feeding system that reports back. The role of the state is a missing link.
- When talking about monitoring and implementation we need to consider the most important investments (i.e. smallholder investments) and how CFS RAI can encourage these investments (i.e. by the state's efforts in policy making and public investments as well as how private investments by other actors are linked to smallholder investment).
- Example in Germany: Model farms can be used for data collection
- Multi-stakeholder platforms can play a role.
- Not only quantitative data, also lived experiences, qualitative data from farmers organizations etc.
- **Link with:**
- **GSF 5 principles**
- **CSM monitoring group**

Annex 2: Written Comments Received

CFS rai principles

Zero Draft (1 August version)

Comments by the EU and its 28 Member States

as of 29 November 2013

as a preparation of the European regional consultation (9-11.12.2013, Rome)

as adopted at the FAO AGRI on 22 November 2013 in Brussels

Statement to be delivered by the Chair

at Plenary session on 9 December 2013

First of all we would like to thank the Chair of the OEWG, the Secretariat and the Technical Support Team for organising this regional consultation. This is a good opportunity to exchange views, to identify possible specific interest of our region on the issue of responsible investment and to come up with proposals for the First Draft.

We understand that this regional consultation is not a forum for negotiation. Therefore I am honoured to present to you the general position of the EU and its 28 member states on the questions raised. However at the breakout groups the representatives of the various EU member states will come up with specific recommendations.

The current document describes broad and overarching principles. More detailed principles are needed in order for them to be used in a fair and realistic manner. Our overall aim is that rai-principles provide real guidance for the different stakeholders. The principles need to be implementable, applicable, realistic and user friendly. This does not mean that we want to see a long document with many additional aspects. The final version should stay concise and relevant.

The principles should have greater focus on the specific aspects that responsible investment should respect. We believe that rai should provide added value in an ambitious way and give guidance to stakeholders on responsible investments.

Moreover, we believe that there should be clear differentiation between private and public investments, as well as, between small-scale and large-scale investments.

1) Are all relevant issues and areas related to fostering responsible agricultural investments adequately addressed in the zero draft? If not, what should be changed?

The rai-principles should give clear guidance towards responsible investments. This guidance should make clear **what a responsible investment should do, but also what a responsible investment should not do.** These aspects are not covered by the Zero Draft.

The principles should apply to **all forms of agriculture including forestry and fisheries.** We find it unclear how principle one's objectives relate to non-food agriculture. It appears

that the principles are currently limited to food production systems, but we believe that they should apply to all aspects of agriculture including non-food production, since it provides employment and generates income, a pre-requisite for access to food. In addition, they should take into account the production, processing and marketing of food as well as food safety. Marketing and waste management aspects are lacking throughout the document.

We believe rai could further contribute to the **small scale food producers' possibilities to develop** thriving local entrepreneurship e.g. with small business friendly supply chain developments. Articulation between the different types of investors and investments has to be tackled. For instance, public investment could be useful for fostering private sector investment ; small scale or family producers can benefit from public or private investment in public goods

Shortcomings in **comparable data on agricultural investments** hamper policy-making and monitoring. Thus countries should be encouraged to invest in their capacity to monitor investments and collecting statistics on agricultural investments.

To ensure economic viability of investments transparent, stable, **appropriate and protective legal frameworks** are required. Further, medium and large scale investments should lead to **fiscal entries** for the host states. Rules and regulations should be easily accessible for everyone.

There should be a reference to **higher education and research** as well as to **bilateral/multilateral agencies, donors and foundations**. The importance of **capacity building** should also be pointed out.

In order to achieve improved productivity and sustainability of agriculture production systems we would like to see the inclusion of the issue of **animal health and welfare** as an important element for responsible investments in the livestock sector. We underline also the importance of the aspect of nutrition in the principles.

2) Are the roles and responsibilities of relevant stakeholder clearly defined in order to facilitate implementation of the principles? If not, what should be changed?

There should be as much as possible clear **distinction between the roles and responsibilities of different actors**. The different key responsibilities of different actors should be mentioned in a short introductory part. Here it should also be pointed out that large scale investors usually have additional means to apply and implement the principles due to their special responsibility and the impacts that may arise from large scale investments.

The different obligations and responsibilities of the different actors addressed in the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (VGGT, Part 3.2.), which result from the UN Guiding Principles on Business and Human Rights ("Ruggie-principles"), should be clearly pointed out in the rai-principles. We would appreciate including VGGT's agreed language as well, for example as introduction under "implementation and application", followed by the parts for the different stakeholders. We would like to use this opportunity to ensure our continuous support for the application of the VGGT as demonstrated by the financial contribution of the EU and many of its Member States.

There should be a distinction between states in their role to foster responsible investments within their own territory and as home states of private investments in foreign countries:
- With states in their role to foster responsible investments in their own territory, at least two roles should be clearly addressed:

- their role in guiding and regulating the behaviour of private investors, establishing regulatory framework and implementing regulations,
- their role as public investor and to create an enabling environment for private investments- states and state owned enterprises as investors abroad,

- For states as home states of private investments in foreign countries the roles all investors and other stakeholders including civil society organisations, agricultural cooperatives, research institutions and national human rights institutions need to be addressed.

In particular, the different responsibilities of small scale and large scale investors should be pointed out. The Ruggie-principles (para 14) state that: “The responsibility of business enterprises to respect human rights applies to all enterprises regardless of their size, sector, operational context, ownership and structure. Nevertheless, the scale and complexity of the means through which enterprises meet that responsibility may vary according to these factors and with the severity of the enterprise’s adverse human rights impacts”. This wording should be slightly adapted to the context of the rai principles which goes beyond human rights and includes also environmental aspects.

States should be encouraged to define appropriate thresholds and differentiated obligations.

States’ roles concerning investment treaties should be reformulated. A global reference to not exactly defined obligations in investment treaties is not possible. The reason to conclude investment treaties is to create legal certainty for foreign investments. Therefore it must be very clear under which circumstances the investment is protected by the investment treaty.

As result we suggest only to maintain part of the first sentence of the paragraph and to replace the remaining part by the agreed language of Principle 4 of the UN-Guiding Principles on Business and Human Rights (Ruggie-Principles): “Furthermore States are called to respect, adhere to, apply and promote their respective obligations under international law.” (following the Ruggie Principle 4): “States should maintain adequate domestic policy space to meet their human rights obligations when pursuing business-related policy objectives with other States or business enterprises, for instance through investment treaties or contracts.”

3.) Does the zero draft achieve the desired outcome to promote investment in agriculture that contributes to food security and supports the progressive realization of the right to adequate food in the context of national food security? If not, what should be changed?

Referring to our general comments, we believe that some improvement is needed in order to be able to promote more investments in agriculture.

We want to highlight that **national food security is mainly the responsibility of the State**, and thus we would recommend using national plans/strategies as a way to ensure implementation of the rai principles.

It is important that the final principles are **realistic and concrete in order to be applicable**. For example in principle 2 is stated: “generate positive socio economic impacts... *for all*”, in Part II (roles and responsibilities): “*highest / international environmental standards*. The possible burden for the investors should not outweigh the potential benefits of the investment.

The principles should be **formulated normatively** and give clearer guidance. We will discuss in more detail the different principles in the breakout groups.

For the rai principles it is important that they should not contradict with other principles and guidelines such as the Organisation for Economic Co-operation and Development or the UN Global Compact. There is potential for the various initiatives linking with other processes. We should avoid that at the end parallel principles exist without any linkages as this could be confusing to investors and other stakeholders and potentially risks duplication of work.

4) The principles are intended to provide practical guidance by stakeholders, therefore a) Are the current structure and language used clear and accessible for all relevant stakeholders to apply?

The first discussion at the OEWG on 22/23 September showed that the **structure** of the document is not clear enough and should be significantly improved. Different participants stated the need to have clearer guidance for the different stakeholders to know what they should and should not do. Further, it is important to avoid duplication. This could be improved significantly by a more clear structure.

We suggest therefore the following **new structure**:

Preface and Rationale
Part 1: Objectives, nature and scope, main intention
Part 2: The principles
Part 3: Application and implementation in relation to the different stakeholders (including roles and responsibilities)

This means:

- **Concentrating roles and responsibilities of all stakeholders at the end of the document** to avoid duplication and to permit for better differentiation between different actors, especially between the state, small-scale and large-scale investors;
- **Combining “roles and responsibilities” with “application and implementation”** and re-ordering the “objectives section” of each principle. We suggest outlining the **objectives** in the first part of the document; by doing so it is possible to get an overview of what should be achieved by the rai-principles and, at the same time, avoiding duplication. In part two, where the principles are spelled out in detail, principle-specific objectives should be outlined in the text;
- **Deleting all headlines under the principles;**
- **Adding “guiding principles”** in the first part of the document, similar to the VGGT, in order to state key issues which apply to the whole document.

The **terminology** of the Zero Draft should be tightened and less general. Terms based on internationally accepted definitions should be used as well as the agreed language of the Voluntary Guidelines on the Responsible Governance of Tenure (VGGT). Therefore we suggest language harmonization for the 1st Draft.

For instance, we should follow the VGGT as an example, where the term “should” is always used where international obligations, respectively responsibilities, already exist. The principles of “due diligence”, of “respect” and “protection” of human rights, the “prevention” and “remedy” of human rights violations should also be included.

THIS PARTS IN ITALICS SHOULD BE PROVIDED IN WRITING AND NOT PRESENTED AT PLENARY

The suggested structure in detail:

Preface and Rationale: Introduction to the idea of the principles, the main challenges and the process of their elaboration. This could be similar to the current part “background and rationale”, but the first paragraph and the first sentence of the second paragraph seem redundant. Instead the environmental challenges for agriculture should be mentioned.

Part 1: Objectives, Nature and scope, guiding principles

Objectives:

Under this heading belong parts of the present part “objectives, nature and scope” and parts of the “objectives” of the single principles, eventually combined and more focused and concentrated. The important role of smallholders should be pointed out here as well and the need for prioritized support for smallholder investments, as it was pointed out in the smallholder-recommendations at CFS 40.

Nature and Scope:

Similar to the current part but more focused; voluntary, non-binding, addressees etc. In this context the affected population with a special emphasis on vulnerable groups should be mentioned explicitly.

Additionally under “nature and scope” it should be clarified that the principles shall give clear guidance to the different stakeholders but that an investment cannot necessarily be labelled “responsible investment” if it complies with the principles. The document cannot on its own serve as a certification scheme. More detailed consideration of different contexts and a defined controlling procedure is needed.

Main intention:

This part should name the most important aspects the rai-principles are guided by. Here some of the central principles of the VGGT and of the Ruggie-principles should be included, especially guideline 12.15. VGGT on States obligations under national and international law, guideline 2.2. VGGT on the interpretation of the principles in the context of international law, Guideline 3.2. VGGT on the responsibility of non-state actors to respect Human Rights and paragraph 14 of the Ruggie-principles on the applicability of the Human Rights responsibilities on all investors while stating differences concerning the scale and complexity of the means to meet this responsibilities for different investors.

When States invest or promote investments abroad, they should ensure that their conduct is consistent with the protection of legitimate tenure rights, the promotion of food security and their existing obligations under national and international law, including the Universal Declaration of Human rights and other international human rights instruments, and with due regard to voluntary commitments under applicable regional and international instruments. (Guideline 12.15. VGGT, except of the words “including the Universal Declaration of Human rights and other international human rights instruments” which is part of Guideline 1.1. VGGT) “These Guidelines [Principles] should be interpreted and applied consistent with existing obligations under national and international law, and with due regard to voluntary commitments under applicable regional and international instruments. Nothing in these Guidelines [Principles] should be read as limiting or undermining obligations to which a State may be subject under international law.” (first and last sentence of Guideline 2.2. VGGT). “Non-state actors including business enterprises have a responsibility to respect Human rights. Business enterprises should act with due diligence to avoid infringing on the human rights of

others” (part of first two sentences Guideline 3.2. VGGT) and respect the UN-Guiding Principles on Business and Human Rights.

“Responsible investments should do no harm and safeguard against environmental damage“ (part of first sentence Guideline 12.4. VGGT).

The responsibility of investors to respect the above stated principles applies to all investors regardless of their size, sector, operational context, ownership and structure. Nevertheless, the scale and complexity of the means through which investors meet that responsibility may vary according to these factors and with the severity of the investment’s adverse impacts.”

(Language according to Guideline 14 UN-Guiding Principles, with the modification that the word “enterprise” is replaced by “investor” and the words “to respect human rights” are replaced by “to respect the above stated principles” to include human rights and the environmental aspect).

States should prioritize public investment and encourage private investment in public goods which are prerequisite for smallholders’ and other small scale investors’ capability to invest and to create a level playing field for them.

The main intention section could further include parts of the current “objectives, nature and scope”, particularly the reference to equality (instead of the term “equity”) and non-discrimination, gender equality, social inclusion and good governance and to the VGGT.

Part 2: The Principles

The principles should not be separated into three parts, but just be listed in one block. The heading should not just name the field the principle refers to (e.g. principle 1, “food security...”) but the content of the principle (“contribution to food security...”). These headings should be short and focused (“Contribution to food security and nutrition”).

Principle 1 should read for example:

“Principle 1: Contribution to food security and nutrition and the progressive realization...: Responsible investments in agriculture enhance food security and nutrition, including food safety, and contribute to the progressive realization of the right to adequate food in the context of national food security, with particular attention to the most vulnerable.“

Further headings could be:

Principle 2: Economic and social responsibility and sustainability

Principle 3: Good governance and inclusive decision making process

Principle 4: Responsibility for the environment, biodiversity and ecosystems

Principle 5: Cultural responsibility

Principle 6: Policy coherence and sector development

Principle 7: Grievance mechanisms

Principle 8: Review mechanisms and accountability

Under the principles there should be no further heading.

The wording of the principle should clarify, if the principle or part of the principle is something every stakeholder should respect, protect and fulfil due to an existing human rights /international law obligation respectively responsibility or if it is an desirable aim that stakeholders should be encouraged to target at.

In the explaining text under the different principles possible negative impacts of an investment could be more clearly pointed out, to clarify which effects responsible investments should not have.

Part 3: Application and implementation:

In this part the concrete opportunities of the different actors to apply and implement the principles should be highlighted. It should be structured along the different stakeholders. Here also the responsibilities concerning remedies and grievance mechanisms as well as on meaningful consultation should be clearly pointed out. Here should also be mentioned the

key responsibilities according to the Ruggie-Principles as far as they are not yet included in the guiding principles.

b) How can the rai principles be used and implemented by different stakeholders after endorsement by the CFS?

Currently it would be very difficult for the different stakeholders to apply the rai principles as they do not provide guidance on what to do and what not to do. In order to be applicable, implementable and user-friendly the principles must provide **clear guidance and have concrete “dos” and “don’ts” whilst remaining simple and concise.**

This could be achieved with the new structure proposed above. Combining application with roles and responsibilities enables stakeholders to get an overview of what is expected.

Main opportunities to use the principles are

- for states: to get guidance which measures can be taken to foster public and private responsible investments and to avoid negative impacts or trade-offs, with a special emphasis on small scale food producers and vulnerable groups, youth, women and men;
- for large and medium scale investors: to get guidance what measures they could take to invest responsibly and to avoid negative impacts or trade-offs;
- for small scale food producers: to get guidance how they can invest responsibly, but additionally they, and especially their organizations, should be informed of finance and investments opportunities for increased productivity
- for institutions supporting investments (e.g. states, donors and foundations, civil society organizations): to get clear criteria for requirements supported investments should comply with;
- for civil society organizations and other relevant institutions, such as National Human Rights Institutions etc.: to get guidance which actions to promote and to have internationally agreed minimum standards to which they can hold governments and investors accountable.
- All stakeholders may use the principles to build best practices and to learn how to invest responsibly, how to create an enabling environment and which investments to promote.

Thank you for listening to our comments. We look forward to providing further information in the breakout groups and participating fully in this process to devise realistic and effective rai principles.

Comments from Switzerland

Switzerland’s Inputs to Europe and Central Asia Consultation on Zero Draft of principles for responsible agricultural investment (“rai”), Rome, 9-10.12.2013

Question 1 *“Are all relevant issues and areas related to fostering responsible agricultural investment adequately addressed in the Zero Draft ? If not what should be changed?”*

- The zero draft of rai is comprehensive and it is generally in line with its ToRs. It is therefore a good starting point for the regional and e-consultations. The main weaknesses of the draft consist of the following:

Inconsistent use of internationally agreed language: since most of these were already mentioned in September, they should not be repeated. Three remarks notwithstanding:

- The first draft should be prepared through a thorough and inclusive consistency check of key concepts, such as the term “investors”, be they public (including but not exclusively States) or private, small or large, domestic or international. The first draft should in particular recognize the specific constraints, challenges and needs as well as the potential and untapped capabilities of small-scale producers, who are the largest investors.
- Principle 4 should not come under “cultural issues”, since sustainable development encapsulates the social, economic and environmental dimensions. In its current form, Principle 4 partly recognizes non-economic values of agriculture and food systems in supporting the realization of the right to adequate food for all, in particular for poor and marginalized populations. Indeed, in addition to culture and traditional knowledge, responsible investment in agriculture and food systems should recognize that the latter are also the basis for social identity and that they are grounded on sustainable resources that need to be protected.

Unprecise language related to obligations under international law: Two concrete examples in this regard.

- On “core labour standards”, we suggest to replace in Principle 2 and throughout the whole document “international core labour standards” with “ILO core labour standards”. Consequently, this principle should be drafted as follows “respect International Labour Organization (ILO) core labour standards as well as, when applicable and relevant, other standards of the ILO”. In so doing, the word “obligations” is deleted, since these standards are applicable by States as well as by other stakeholders.
- On “respect human rights”, the basic reference to core human rights instruments is insufficient in the zero draft, since it is currently located in a footnote (number 2 on page 1). We support the thrust of the document towards gender equality and the advancement of women. Nevertheless, to avoid a long and -- possibly -- incomplete list of relevant human rights instruments in the Roles and Responsibilities for Part I (on the top of page 7), while respecting the priority set on ensuring gender equality, the word “including” could be added in the enumeration (with due respect with the change proposed on “ILO core labour standards”). The call for CEDAW is indeed aligned with the ToRs of the rai, but the Convention on the Rights of the Child (CRC) or the Convention of the Rights of People with Disabilities (CRPD) could equally be considered as key human rights instruments.

Balanced approach towards all kinds of agricultural investment, including those which impact on access to natural resources, such as land, water and biodiversity.

Question 2: *“Are the roles and responsibilities of relevant stakeholders clearly defined in order to facilitate implementation of the principles? If not, what should be changed?”*

- As it stands, the zero draft does not provide a clear definition of roles and responsibilities of all relevant stakeholders: Since the principles promote a human rights-based approach, it should unambiguously spell out the respective obligations, responsibilities and entitlements of all relevant stakeholders.

- While accountability is built in Principle 8, it is not clear to whom the different stakeholders are accountable and for what. Equally important is to embed accountability into effective, inclusive and participatory monitoring mechanisms and to promote and realize transparency, prior, during and after an investment takes place. Consequently, we expect tasks under “monitoring” to be featured more prominently in the first draft. In more general terms, the content of Part III will also need to take properly the gender dimension into account.

Question 3: *“Does the Zero Draft achieve the desired outcome to promote investment in agriculture that contributes to food security and supports the progressive realization of the right to adequate food in the context of national food security? If not, what should be changed?”*

Question 4: *The principles are intended to provide practical guidance to stakeholders; therefore: a) Are the current structure and language used clear and accessible for all relevant stakeholders to apply?*

- The principles cannot contain all practical detailed guidance to all stakeholders. Nevertheless, we expect the principles to be unambiguous and conceptually sound, what they are not yet.

b) What steps need to be taken for the CFS-rai principles to be used and implemented by different stakeholders after endorsement by CFS?

- By definition, principles are a set of rules that guide practical action: due to the fact that the rai principles cover the roles and responsibilities of a wide range of stakeholders, there is an inherent tension between a necessary high level of abstraction, on the one hand, and a practical guidance for concrete steps and activities, that indeed cannot be dealt with in the document itself. After the adoption of rai, CFS stakeholders that make use of the rai principles could report on their practices to facilitate ownership and uptake by other Members and stakeholders as well as to consolidate experiences and knowledge generated by different stakeholders.

CSM written contribution to the CFS responsible agricultural investments (rai) consultation for Europe and Central Asia

9th and 10th of December 2013

I. GENERAL COMMENTS

- **The principles are meant to guide investment that contribute to food security and to the progressive realization of the right to food. To achieve this goal, principles have to prioritize investments by and for small scale producers as they produce the majority of the food, and undertake the bulk of agricultural investments.**

While recognizing that all investors have a role to play with regard to agricultural investments, the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT), the Global Strategic Framework (GSF), as well as the last CFS 40 policy round table on investing in smallholders, those three instruments clearly put a particular emphasis on the crucial role of small scale food producers and workers with regard to food security, and recognize the fact that they constitute themselves the major investors. Therefore, while recognizing the existence of different actors and investments, investment by and for smallholders have to be given prominence if we want to achieve food security and the realization of the right to food; furthermore, investments should primarily prioritize food production, and investment from private sector should implement the “do not harm” principle, meaning that regulation from states is needed in order to prevent private investment from undermining small scale food producers own investments.

- **In order to promote investment by and for smallholders, the role of governments in developing public policies and mobilize public investments that prioritize the interests and needs of small-scale producers should be prioritized.** (see hereafter under point (B) in the answer to guiding question 2). Stressing adequately the roles of States as public investors and as those setting regulations and rules for ensuring all actors contribute to food security and the realization of the right to adequate food, and sustainable development, is crucial; in this regard the EU can be a champion having the best known public policy in agriculture (CAP) with more than 60 billion per year allocated to agriculture
- **The VGGT, GSF and last CFS 40 policy round table on investing in smallholder agriculture should be referred at the beginning as reference agreed documents, and mainstreamed throughout the whole document and adequately used;**
- **Agricultural workers are almost completely absent of the whole document. We suggest to use from the outset the following terminology “small-scale food producers and workers”, bearing in mind that workers cannot be assimilated to food producers as they usually do not hold productive resources.** They make up 40% of the agricultural workforce and work on all sizes of enterprises (small, medium and large). Their views, requirements and concerns should be much more fully reflected, and their rights respected and protected. Rai principles should ensure that also migrant and seasonal workers in agriculture are also protected by rai principles. Principles would guarantee respect of agricultural and food workers rights, as defined in the ILO core conventions and ensure that workers in agriculture are paid living wages. (see the point related to food workers in the answer to guiding question 1)
- **The CFS rai needs to be based on a strong Human Rights based approach,** being made much more consistent with relevant international human rights instruments. The consistence with the right to food should be always reflected in the measures recommended by the principles.

II. ANSWERS TO THE FOUR GUIDING QUESTIONS

(1) Are all relevant areas related to fostering responsible agricultural investments adequately addressed in the zero draft? If not, what should be changed?

Civil society has identified a number of significant gaps and weaknesses in the Zero Draft. These include the following:

Access to land and other natural resources

The issue of access to land and other natural resources is a key one to address with regard to agricultural investments. In particular, the CFS rai principles should lead to prevent any land or other natural resources grabbing practice. Land grabbing is notably taking place in Central Asia and Europe. The issue of land grabbing in Europe has recently been very well documented by a joint, comprehensive publication launched by the European Coordination Via Campesina and the Hands off the Land network¹. Yet, access to land and the protection of land rights are not consistently addressed in the Zero Draft:

- Principles should clearly condemn land and resource grabbing
- Principles should go beyond the VGGTs and complement them
- Principles should provide concrete safeguards to protect commons and legitimate tenure rights in the situation of crisis such as wars, occupations and natural disasters.

Access to seeds

While the zero draft does make mention of the farmer's rights as enshrined in the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), no elaboration is given as to how these rights – including the protection of native seeds, plant, animal and fish varieties as well as indigenous knowledge - are to be safeguarded. In order to fill this gap, reference could be made to the CFS 40 decision box on 'Investing in small holders agriculture' agreed in October 2013. Farmers should have the "ability to access, breed, produce, conserve, exchange, sell and use the seeds they need"². Recognizing and protecting those rights are notably crucial in Europe, especially in the context of recent developments related to the EU seeds legislation.

Food prices volatility

Beyond mentioning the fact that food security is about economic as well as physical access to food, the Zero draft contains few provisions related to the issue of food prices. The CFS rai should include provisions ensuring protections against market fluctuations and food prices volatility for both food producers and consumers. This entails a number of obligations for States including:

- Developing state managed market and price information systems that are accessible to all.
- Ensuring remunerative prices for farmers and strengthening their capacity to negotiate fair prices
- Regulating local, national, regional and international food markets and curbing food price speculation

¹ This comprehensive publication, entitled 'Land concentration, land grabbing and people's struggles. TAKE ACTION AGAINST LAND GRABBING in Europe', is available here:

http://www.eurovia.org/IMG/pdf/Land_in_Europe.pdf

² See paragraph n°40, p.6, of the final report of CFS 40.

- Building food security capacity within national boundaries as protection against food price volatility on international markets in particular.

Agroecology

The Zero draft contains no references to agro-ecology: it does not call for agricultural systems primarily based on the use of local resources and natural interactions of ecosystems rather than external inputs; it does not support farmer-led bottom-up processes that make the best use of local farmers' traditional knowledge, know-how, experimentation and innovation. This is despite the fact that an increasing number of high-level reports, including those by the UN Special Rapporteur on the Right to Food and the International Assessment of Agricultural Knowledge, Science, and Technology for Development (IAASTD), and the UNCTAD Trade and Environment Report 2013 (*Wake up before it is too late*) call for investment in agro-ecological modes of production as the best way to combat hunger and the climate crisis. Among other things, transitioning industrial agriculture and food systems towards more agroecological systems will be crucial for mitigating the huge contribution of the industrial agrifood system to human made greenhouse gas emissions.

Food workers

The document fails to address adequately the concerns of agricultural and food workers in relation to responsible investment in agriculture. As they make up 40% of the agricultural workforce and work on all sizes of enterprises – small, medium and large, their views, requirements and concerns should be much more fully reflected. The document must clearly state that rai should create decent work. Key decent work deficits that the rai principles must cover are the following:

- Ensure commitments from governments and investors to promote safe and healthy working practices. Such commitments are crucial since agriculture is ranked amongst the three most dangerous industries to work in;
- Encourage collective bargaining between employers and trade union to fix decent working conditions at national and enterprise level;
- Women workers should be guaranteed equal employment rights (including equal pay) and there should be clear commitments to zero tolerance of sexual harassment (currently a major problem for many women workers in agriculture especially those on piece rates and in precarious forms of work);
- Investment in infrastructure that lifts a whole community and standard of living.
- ensure migrant and seasonal workers in agriculture are also protected by rai principles
- rai would guarantee respect of agricultural and food workers rights, as defined in the ILO core conventions
- ensure that workers in agriculture are paid living wages.

Indigenous Peoples

In relation to Indigenous Peoples, the Zero Draft does not make reference to the ILO convention no.169. This absolutely needs to be included in the First Draft.

Monitoring and implementation of the CFS rai

There is no section on how the rai is to be monitored and implemented. The principles should be enforceable and entrench the principle of monitoring to hold all investors and

governments accountable and to promote stakeholders participation and involvement. They should incorporate the five principles set out in paras 92 and 93 of the already adopted Global Strategic Strategy (GSF), namely:

- a. They should be human-rights based, with particular reference to the progressive realization of the right to adequate food;
- b. They should make it possible for decision-makers to be accountable;
- c. They should be participatory and include assessments that involve all stakeholders and beneficiaries, including the most vulnerable;
- d. They should be simple, yet comprehensive, accurate, timely and understandable to all, with indicators disaggregated by sex, age, region, etc., that capture impact, process and expected outcomes;
- e. They should not duplicate existing systems, but rather build upon and strengthen national statistical and analytical capacities.

Civil society should be involved in monitoring and evaluating CFS rai implementation at all stages. As the VGGT, the CFS rai should recommend to establish multi-stakeholders platforms to monitor. All monitoring and evaluation reports should be shared with the CFS. The CFS's own role and modalities for monitoring implementation should be spelled out.

Contract farming and public-private partnerships

The rai do not include any recommendation for regulating, monitoring, assessing contract farming and public-private partnerships. Yet regulation is crucial at that level.

(2) Are the roles and responsibilities of relevant stakeholders clearly defined in order to facilitate implementation of the principles? If not, what should be changed?

The roles and responsibilities of the different stakeholders are not clearly defined. Three major concerns stand out:

- (A) **First, in the zero draft, small-scale food producers are grouped in the same category as large investors or as all private sector actors.** Yet, small scale producers (including agricultural workers, processors and cooperatives) have different priorities, goals, strengths and constraints, and must be addressed as a particular set of actors, separate from the private sector, businesses and large investors. To group them together is therefore a dangerous elision and reinforces the erroneous assumption that all small-scale producers are potential businessmen/women and would seek to commercialize their production primarily on international markets. Yet, in Central Asia as well as in Europe, most small-scale food producers consider primarily agriculture as a way of life (instead of reducing it to an economic/commercial activity). Food producers and workers produce for local/domestic markets and should be supported in that capacity, rather than being viewed as potential actors in value-chains and grouped in the same category as large investors/agribusiness. The CFS rai principles should recognize and respond to the distinct needs, capacities and rights of small-scale food producers and workers as self-investors and contractors. The language of “investment”

should not be used to hide crucial differences between the nature, scale and capacities of different types of agricultural production and investments.

(B) **Secondly, the absence of language on the roles and responsibilities of governments to mobilize public policy and public investments that prioritize the interests and needs of small-scale producers, is worrisome.** This is why it is important to link Rights language practically with domestic food security projects. The 2012 State of Food and Agriculture report of the FAO, the 2013 HLPE report on “Investing in Smallholders” and the decision box adopted by CFS 40 identify public investment in support of smallholders as key to advancing food security and rural development. This includes such things as investing in rural roads, electricity, storage facilities and other public goods and services; public procurement schemes; marketing and price information; public and locally adapted agricultural research etc. States also have a duty to set in place proper legal-regulatory regimes to discipline investments, public-private partnerships and contract farming arrangements that violate the tenure and human rights of small-scale producers and workers. This includes renegotiating investment contracts that have negative impacts and measures for reparations and compensation for small-scale producers, workers and local communities.

(C) **Third, a serious omission in the Zero draft is the roles of bilateral, regional and international trade and investment agreements, which are legally enforceable through international dispute settlement mechanisms.** All States must ensure that the CFS rai principles are respected and upheld in the trade and investment agreements they sign with other States as well as with private entities. The specific actions by which the CFS rai principles should be respected and upheld in such agreements must be elaborated in the final rai document.

(3) Does the zero draft achieve the desired outcome to promote investment in agriculture that contributes to food security and supports the progressive realization of the right to adequate food in the context of national food security? If not, what should be changed?

Unfortunately not, for the following reasons:

- On a very fundamental level, **the Zero draft still does not answer the questions of what type of investments, by whom, for what purposes and based on what models of production, are considered to be “responsible.”** As stated above, while recognizing a variety of investors and investments, in order to achieve food security, which is the purpose of the principles, principles should guide governments to develop public policies to promote and support investment by and for small-scale producers who produce most of the food and are the major investors themselves. Governments have also to regulate private investors to ensure they do not undermine the investments by small-scale food producers. Agroecology should be echoed as the most viable model of production that achieve the multiple goals of food security, preservation of natural resources and biodiversity, climate change mitigation, empowerment of women and job creation.

- **The draft starts from the assumption that one single market exists, based on the global value chain to which small-scale food producers should have to connect to benefit. The reality is that a variety of local, national and regional markets exist, some of them built by farmers themselves. Small-scale producers should have the right to choose the markets that most benefit them, and public policies and investment should support those markets,** especially those that without the appropriate support from Governments risk to fail, in the event of incentives or schemes that privilege the value chain model. The language in the document appears to be geared towards the expansion of market-mechanisms through the deployment of incentives and the unfolding of the value chain model. It says comparatively little about supporting local food systems for small-scale producers, including their potential for supplying school and institutional feeding programmes, promoting direct producer-to-consumer networks, and expanding alternative types of contracting arrangements such as community supported agriculture. Investing in small-scale food producers does not only mean out-grower schemes. The HLPE report on smallholder agriculture provides several examples of supports for local food systems and different types of community supported agricultural models.
- **Gender equality:** the gender dimension is almost absent in the current draft. Rural women amount for 43% of agricultural labor force, and lie at the heart of local crop production and household food systems around the world. Yet they are the most discriminated in their access to resources, in their labour rights, and burdened with unpaid work and unpaid care work which consumes much of women smallholder farmers time without any recognition. The impact of investment on women should be further considered and the principles should target better the specific constraints and needs they have, including access to technical assistance.
- **The draft fails to prioritize food production and investments for the realization of the right to food.** It does not for example contain provisions to examine the impacts of production of agro-fuels and other non-food cash and feed crop production on local and national food security. **Responsible investment must focus on food production, not on agro-fuels;**
- **The rai principles must distinguish clearly between public and private investments.** Public investment must be under public purview; large-scale private and corporate investments should not be supported through public finance and policies;
- **The Zero Draft remains insensitive to questions of politics and power.** The draft should reflect existing power relations by differentiating between different types of private investors (corporate investors and small-scale food producers) and ensuring that a fair share of value addition remains with small-scale producers and rural economies. Subsidies must be designed to support small-scale producers and workers rather than enable agribusiness to extract value from producers and workers (as is the case at present). The principles should ensure the inclusion of small-scale producers in local-national decision-making processes around agricultural investments and specify measures for states to undertake in order to strengthen the organizational capacities of small-scale producers, workers and their unions, collectives and cooperatives. It should

also focus on building up forms of local food governance such as food policy councils and food hubs;

- **We note again the absence of language on the impacts of trade and investment liberalization on progressive realization of the Right to food and national food security.** Given that trade and investment agreements are legally binding, the CFS rai principles will be rendered ineffective unless States ensure that the principles are upheld in full letter and spirit in all trade-investment agreements and projects.

(4) The principles are intended to provide practical guidance by stakeholders; therefore:

(a) Are the current structure and language used clear and accessible for all relevant stakeholders to apply?

It is unfortunately not the case, for the following reasons:

- **The document does not convey a clear purpose.** Although the progressive realization of the Right to Food is listed under “objective” and “Principle 1,” the Zero draft then proceeds to drop this language for much of the rest of the document. A Rights based approach should be at the core of the Principles. The proposed 8 principles are facets of a singular project intended to serve the progressive realization of the Right to Food in the context of national food security, which must be emphasized continually in all principles; the principles should not be viewed or treated as individual principles outside the normative human rights framework;
- **The language with regards to the expectations regarding action by different actors is confusing:** it is also not clear why on some issues, States “should” while on others, States and investors “are encouraged to”. This ambiguity could be resolved by grounding the principles much more explicitly in the human rights framework. harmonization of language with regard to human rights obligations is needed. This framework would provide normative guidance with respect to the roles and responsibilities of different actors;
- We propose that the terminology to be used is: **“small-scale food producers and workers.”** In order to ensure that all groups involved in and affected by agricultural investments are included. These include the landless, sharecroppers and tenant farmers, agricultural workers, cooperatives, pastoralists, smallholder farmers, fisher communities, youth in rural and coastal areas, rural women, indigenous communities etc.

In order to address problems resulting from current structure, the CSM proposes the following structure:

1. **Objectives, nature, scope and priorities** (so merging the background and rationale with the part on objective, nature and scope, and adding priorities). The rationale for this is to have in the introductory session the main important concepts that set the tone

of the whole document. Here we recommend to add the following: a strong reference to the human rights framework; the fact that responsible investment should primarily promote investment by and for smallholder producers through public policies put in place by State at national level, and address the issue of other investments with the purpose of regulating them in order to not undermining smallholders investments and workers. In this part we recommend a strong reference to the three major documents endorsed by the CFS: the VGGTs, the Global Strategic Framework and the recommendations from the CFS 40 policy roundtable on investing in smallholder agriculture;

2. **Principles.** This part should list the principles, each principles should be accompanied by a short paragraph highlighting what needs to be changed to achieve that objective. Something in between the current “application” and “objectives”;
3. **Roles and responsibilities.** One single part on roles and responsibilities. Here the different investors should be differentiated in their different roles and responsibilities. We recognize that roles and responsibilities should be grouped by actor and not by principles, to avoid repetition and redundancy;
4. **Implementation and monitoring.** Having a separate section on implementation and monitoring with clear action-oriented recommendations, will be crucial.

(b) What steps need to be taken for the rai principles to be used and implemented by different stakeholders after endorsement by the CFS?

CSM proposals are the following:

- (1) A multi-stakeholder platform approach should be adopted to support implementation at national and regional levels;
 - (2) National governments and stakeholders must develop “Country-owned” implementation strategies, and other actors (donors, international agencies, corporations...) are expected to respect national decisions;
 - (3) Multilateral and bilateral trade and investment agreements must respect the rai principles (at present, international trade and investment agreements can be enforced at international levels whereas the rai principles would be soft law)
 - (4) All stakeholders should be expected to apply the rai principles to their own programmes and operations;
 - (5) There is an ongoing discussion within the CFS for identifying the best innovative mechanism to ensure efficient monitoring of CFS decisions. However, it should be made clear that the CFS should play a global monitoring role with regard to the implementation of the CFS rai principles. Among other things, all stakeholders should report back to the CFS as to their actions to support this implementation. This sharing of experience and knowledge would allow identifying lessons for improving implementation on the ground;
- (6) UN Rome-based agencies should play a leading role to ensure the international coordination of efforts of the different stakeholders to implement the CFS rai at national level

Private Sector Mechanism Statement

Responsible Agricultural Investment Principles

Regional consultation: Answers to guiding questions

1. Are all relevant issues and areas related to fostering responsible agricultural investments adequately addressed in the Zero Draft? If not, what should be changed?

Madam Chair, I wish to thank you sincerely on behalf of the Private Sector Mechanism for the opportunity to join you today. Achieving food and nutrition security will require addressing significant challenges and we believe that the CFS principles, if agreed, could be an outstanding achievement for the PSM, CSM and governments.

All forms of investment in agriculture - public and private, foreign and domestic, small and large - will be necessary to increase food production sustainably and we need these principles to be effective and workable.

We wish to thank the Chairperson for her exceptional effort to move us farther ahead since May. However we in the private sector believe this draft still has a very long way to go.

While we do have a number of suggested changes in the specifics of the zero draft, on behalf of businesses engaged in furthering agriculture and food production, we would like to express our overarching concerns with the current state of the document.

The zero draft is full of laudable goals, yet it does not form a coherent set of principles from which an investment could be made. As criteria they are so broad that they would not be useful in deciding whether a company can or cannot be involved, or whether a financial institution should or should not finance it.

Investment decisions are micro-decisions. They are valid at a project level. The principles ask to factor in all consequences at a larger system level, but without common understanding of what that system is, and that the overarching supply chains change all the time, are principally unstable and therefore impossible to factor in.

It is important to note that one investment cannot achieve all things. For instance, we want to encourage linking to smallholders, but not every investment is in primary production. It may be further down the value chain or it may not be particularly relevant in that geography.

Investments do not happen in a vacuum. There need to be adequate resources in capacity building and support programs that encourage further investment. In general on this matter, what we require are positive, forward thinking principles that encourage the right actions in a manner that respects the broad diversity of the agri-food system.

2. Are the roles and responsibilities of relevant stakeholders clearly defined in order to facilitate implementation of the principles? If not, what should be changed?

Madam Chair, the private sector notes that currently the paper discusses roles and responsibilities in three different places. For the purpose of clarity and simplicity, we

recommend that the responsibilities should be discussed altogether in one section, and that this single section be at the conclusion of the document to avoid duplication and confusion. On language specifically around roles and responsibilities, we recommend that the voluntary guidelines should discuss "application" rather than "implementation".

There are many actors in agriculture – small, medium, and large. All have a role and are important to global food supply. It is important to recognize that for some groups specific actions will be required to support them and in those cases the investment programs are not equitable, by design. A dedicated section discussing these types of investments would be helpful and the private sector encourages the inclusion of the gender dimension in this context.

As ever, we join with others in noting the specific needs of women, particularly women farmers, to be empowered by investment in agriculture. We are pleased to see the references to women in so many places in this document.

The Private Sector Mechanism is currently consulting with its members to develop line-by-line comments on the document and of the hundreds of companies who have read it, all have cited that the draft blurs the actions which governments can achieve as opposed to investors. Specific ways to resolve this in the text could be to clarify the obligations of states to respect, protect and fulfil the right to food, including through actions related to food and agriculture. It will also be of paramount importance to mention that states “support knowledge, innovation and science related to agriculture.”

3. Does the Zero Draft achieve the desired outcome to promote investments in agriculture that contributes to food security and supports the progressive realization of the right to adequate food in the context of national food security? If not, what should be changed?

Madam Chair, the private sector believes that the CFS Principles present an opportunity to underline the importance of an enabling environment for responsible agricultural investment. Agriculture has too long been under-funded and thus there is need to recognise the value that a broad range of actors can bring, right from the beginning of the document. In particular, more explicit recognition of the importance of responsible agricultural investment could be included in Principle 1.

The goal of this process is not to discourage investment but to help it be more successful in all aspects of sustainable development. However, the principles are so abstract that they will pose high implementation costs and barriers. In part, we believe that stems from the fact that the current draft does not draw adequately upon the work that has been done to-date on responsible agricultural investment. This is a moment to build upon what has been done and improve it, as was set out in the original terms of reference.

Of course, agricultural investment aims to reduce poverty and further food security, but a single investment cannot address the entire question of regional food security, any more than every investment could possibly be relevant to smallholders. We need investment criteria providing tools, practical guidance and common ground on how investments should occur.

4. The principles are intended to provide practical guidance to stakeholders; therefore:

a) Are the current structure and language used clear and accessible for all relevant stakeholders to apply?

Madam Chair, the private sector would like to take this opportunity to re-emphasise that a recrafting of the document is needed to make it clearer what criteria an individual project must meet, or at least a reframing exercise to suggest that these are broad principles for states.

Ultimately, the principles will only work if they are concise and understandable. We see opportunities for the language to be more compact and effective, as well as more focused and guiding. A simplification and shortening of the zero draft would also be welcome. In addition, we see much duplication in the document and believe it could benefit from a strong effort to harmonize language with other UN agreements.

Specifically, the topic of culture and tradition in Principle 4 needs to be addressed carefully and should acknowledge the importance of diversity and the value of coexistence of different approaches. A complete reworking of Principle 4 is therefore necessary, in order to recognise the need for diversity and innovation as well as traditional knowledge. It could also raise awareness about the potential cultural practices that are in direct conflict with the principles of equality and human rights, which otherwise frame the RAI approach. As one way of addressing this serious shortfall in the document, we recommend that the principle discuss the importance of "consumer choice for diverse nutritious diets".

As mentioned previously, another linguistic change to the document would be on the language specifically around roles and responsibilities, for which we recommend that the voluntary guidelines should discuss "application" rather than "implementation".

b) What steps need to be taken for the CFS-RAI principles to be used and implemented by different stakeholders after endorsement by CFS?

The Private Sector Mechanism sees consultation as an absolutely key step for the CFS to take, and we are actively engaging partners throughout the world in the regional consultations, as well as developing line-by-line feedback on the present draft.

Madam Chair, we have the utmost confidence that this document can be improved upon and help to deliver the responsible agricultural investment climate we all desire. Thank you