

## CIDSE submission to the CFS Zero Draft principles for Responsible Agricultural Investments (CFS-RAI) February 2014

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?*

In our opinion, there are three important issues and areas that have been inadequately addressed (or not addressed at all) that would need to be included and/or reinforced within the draft. Those are **resilience, sustainability and food systems, three elements that are indubitably interlinked.**

**Resilience** – as the system’s ability to maintain a certain level of well-being when facing a shock (be it natural disaster, climate change or price shocks) – is of utmost importance and, therefore, should be one of the key elements guiding “responsible investments”. As with gender, resilience should be a transversal element. As underlined by the FAO, there are different factors that make households resilient: “income and access to food; assets such as land and livestock; social safety nets such as food assistance and social security; access to basic services such as water, health care, electricity, etc.; households’ adaptive capacity which is linked to education and diversity of income sources; and the stability of all these factors over time”<sup>1</sup>. Any investment that would represent a threat to those factors should therefore be comprised as “irresponsible”. Roles and responsibilities of the different actors should be reviewed in that sense. But resilience should be understood in a broader way. Concrete factors of resilience of agricultural systems should be mentioned, i.e. on-farm (bio)diversity is an important factor just as locally adopted technologies. The particularly high level of productivity and resilience of family farming systems compared to non-family commercial agricultural enterprises should be mentioned explicitly. On the other hand, a huge body of evidence suggests that there are certain factors that undermine the capability for resilience of farming households and food systems, such as a complete dependency of external inputs and monocultural production systems.

Little is said about **sustainability**. The draft (making many references to “sustainable production” without saying a word on what it means) suggests that taking this criterion into account for any investment would be sufficient. Here again, drivers of responsible AND irresponsible investments should be underlined. In a 2011 discussion paper from UNCTAD, a “significant shift from conventional, industrial, monoculture-based and high external input-dependent production towards sustainable production systems that considerably improve the productivity of small-scale food producers” was recommended<sup>2</sup>. The Global Strategic Framework can provide some guidance when it comes to sustainable production as it states that

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<sup>1</sup> <http://www.fao.org/docrep/013/al920e/al920e00.pdf>

<sup>2</sup> <http://unctad.org/en/pages/PublicationWebflyer.aspx?publicationid=666> and [http://www.cidse.org/content/publications/just-food/food-and-climate/agriculture\\_from\\_problem\\_to\\_solution.html](http://www.cidse.org/content/publications/just-food/food-and-climate/agriculture_from_problem_to_solution.html)

“Sound management of ecosystems and natural resources as well as **agro-ecological practices** have proved to be important in improving agricultural sustainability as well as the incomes of food producers and their resilience in the face of climate change”<sup>3</sup>. It also “consider[s], as appropriate, an ecosystem approach in agricultural management in order to achieve sustainable agriculture, including for example, but not limited to, integrated pest management, organic agriculture, and other traditional and indigenous coping strategies that promote agro-ecosystem diversification and soil carbon sequestration; work to conserve and improve forests as valuable ecosystems that contribute to the improvement of agricultural production”.

References to responsible investments in (agriculture and) **food systems** are often made, without saying a word on what a food system is and how responsible investments should foster the resilience and the sustainability of those systems. We would like to underline the fact that the HLPE on Food loss and Waste, in its zero draft, argued that the biggest contribution of **local food systems** to sustainability “is probably that they reestablish proximity and contact between food production and consumption thus often giving more value to food, both economic and symbolic, with numerous direct and indirect benefits: more value for producers, better recognition of sustainable practices, indirect incentives to protect farm land against urban spread, and also, especially for fresh products, less need for conservation and transport, thus less energy consumption, and, if well managed (including at consumption level) better nutritional quality”. It also argues that “one reason for losses in the food chain is the increasing distance between the places where food is produced and where it is consumed”. Rai principles as well should refer to a substantive definition of food systems, otherwise they remain too vague.

In light of this, we would like to emphasize some important changes that are needed:

- ⤴ **Resilience** should be transversally developed and included into the **third principle**. The principle should be reviewed in line with what we have developed in this first point and resilience should replace any reference to “efficiency”, as the former includes the latter, but goes beyond it (see above).
- ⤴ When it comes to the “sustainability of agriculture production”, low external inputs, regeneration of natural resources, and resilience, a clear reference to **agroecology**<sup>4</sup> should be made. Among others, States should dedicate an increasing part of their research funds towards farmer-led innovation systems and agroecology. “**Sustainable technology**” is quite vague and deserves to be defined more precisely with regards to what has been said above.
- ⤴ Developing **local and national food systems** and **reducing dependence on import/export** – as a strategy allowing reaching resilience and sustainability targets – should be a key element in the document. This is of utmost importance, considering the fact that this dependency threatens food security (especially since the price of food rose) and the development of a sustainable domestic food production system<sup>5</sup>. Governments should be able to create “an enabling environment for the development of local markets

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<sup>3</sup> [http://www.fao.org/fileadmin/templates/cfs/Docs1213/gsf/GSF\\_Version\\_2\\_EN.pdf](http://www.fao.org/fileadmin/templates/cfs/Docs1213/gsf/GSF_Version_2_EN.pdf) and <http://www.cidse.org/content/publications/just-food/food-governance/global-strategic-framework-manual-for-social-movements-and-csos.html>

<sup>4</sup> Agroecological farming methods include: agroforestry, biological control (controlling pests and diseases with natural predators), water harvesting methods, intercropping, green manure cover crops, mixed crop and livestock management, and many other practices. One feature uniting all of the above advances is the low use of external inputs. Source :

<sup>5</sup> [http://www.globe-spotting.de/fileadmin/user\\_upload/globe-spotting/agriculture/Alternatives\\_to\\_Food\\_Import\\_Dependency\\_web-3.pdf](http://www.globe-spotting.de/fileadmin/user_upload/globe-spotting/agriculture/Alternatives_to_Food_Import_Dependency_web-3.pdf)

benefiting small-scale farmers and the creation of a range of options for connecting small-scale farmers in rural areas to urban consumers”<sup>6</sup>, and to move ahead with effective trade measures, including use of special safeguards in order to support small-scale food producers’ participation in local and regional markets<sup>7</sup>.

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?*

So far, the draft principles lack a clear differentiation between the different types of investors: peasants, fisherfolk, cooperatives, private small-scale, private large-scale, corporate, public investors etc. Only such a clear differentiation would then allow to adequately deal with investments “by, for and with smallholder producers” as set out in the Terms of Reference.

Investment is not neutral. There can be, and there are cases of concrete investments that have a negative impact on food security and cause human rights violation, severe environmental damages, labor rights violation, corruption. **Human rights responsibilities of enterprises – particularly medium and large-scale – should be more specific.**

We welcome the reference to extraterritorial State obligations, and the fact that the fifth principle underlines that : “governments of **countries that invest, promote investments abroad or are home base of private transnational investors should ensure investor conduct is consistent with the protection of human rights** and legitimate tenure rights in line with the provisions set out in the VGGT, promote food security and nutrition and sustainable development and their own development policies and commitments”, but we think that it should be reinforced and that references to international law are necessary.

When it comes to the individuals and their representatives within the civil society, there is a lack of emphasis on **participation and empowerment**, which is nevertheless one of the fundamental pillars of the human rights-based approach – everybody having the right to participate in decisions that affect their lives –, and which requires that people are in a position to exert control over decisions affecting their lives<sup>8</sup>. This has been developed in the principle 4 and 6 but needs to be deepened.

The key role of **public investment is not adequately reflected in the draft**. As stated in the HLPE report, “smallholder farmers are the main investors in their own farming as they seek to increase productivity, improve their well-being, including food security and nutrition, and reduce environmental degradation. However, governments and donors have a fundamental role to play in providing the policies and public goods necessary to make smallholder farmers’ investments possible”<sup>9</sup>. As pointed out in the HLPE report, there are various success stories of public investments from countries such as China, Brazil or India.

Therefore, we propose to:

- △ Include a **precise definition of businesses’ responsibility to respect all human rights**, with a specific mention of the International Bill of Human Rights and the ILO

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<sup>6</sup> <http://www.ohchr.org/Documents/Issues/Food/SRRTFContributionRaiWorkshop.pdf>

<sup>7</sup> [http://www.cidse.org/content/publications/just-food/food-and-climate/agriculture\\_from\\_problem\\_to\\_solution.html](http://www.cidse.org/content/publications/just-food/food-and-climate/agriculture_from_problem_to_solution.html)

<sup>8</sup> <http://www.fao.org/righttofood/about-right-to-food/human-right-principles-panther/en/>

<sup>9</sup> [http://www.fao.org/fileadmin/user\\_upload/hlpe/hlpe\\_documents/HLPE\\_Reports/HLPE-Report-](http://www.fao.org/fileadmin/user_upload/hlpe/hlpe_documents/HLPE_Reports/HLPE-Report-6_Investing_in_smallholder_agriculture.pdf)

[6 Investing in smallholder agriculture.pdf](http://www.fao.org/fileadmin/user_upload/hlpe/hlpe_documents/HLPE_Reports/HLPE-Report-6_Investing_in_smallholder_agriculture.pdf)

Declaration on Fundamental Principles and Rights at Work, in line with the UN Guiding Principles on Business & Human Rights.

- ▲ Make a clear reference to the Maastricht Principles on Extraterritorial Obligations of States. These “set out a robust interpretation: wherever they are in a position to do so, **States must take measures** to ensure that transnational corporations do not impair the enjoyment of these rights (24). This applies for instance in cases where the harm or threat of harm originates in the State’s own territory, or **where the corporation or its parent or controlling company is domiciled** or registered in the State concerned, or has its centre of activity in that State’s territory (25)”<sup>10</sup>.
- ▲ Include in the section on “roles and responsibilities” that States :
  - **must require businesses to undertake human rights due diligence wherever they operate throughout their global operations**, including subsidiaries and subcontractors, through integration of the following elements into legal and regulatory frameworks and particularly as a condition of State support for investment: *Human rights impact assessments* and ensuring access to all information on impacts; *Free, Prior and Informed Consent* for indigenous populations and affected communities; Ensuring security of *human rights defenders*; *Corporate reporting* on human rights and environmental risks and impacts, including transparency on contracts<sup>11</sup>.
  - **must enforce laws requiring business enterprises to respect human rights**
- ▲ Refer to a **comprehensive social protection system**, recalling the first recommendation made in the HLPE report on social protection: “Every country should strive to design and put in place a comprehensive and nationally owned social protection system that contributes to ensuring the realisation of the right to adequate food for all”<sup>12</sup>.
- ▲ Stress the importance of **public procurement** to impose high standards in terms of human rights and labor rights as well as in terms of sustainability criteria to investors or in terms of developing localized food systems.
- ▲ **Prioritize the provision of public goods**, “such as extension services, rural infrastructures and agricultural research, and by building on the complementary strengths of seeds-and-breeds and agroecological methods, allocating resources to both, and explore the synergies, such as linking fertilizer subsidies directly to agroecological investments on the farm (“subsidy to sustainability”)<sup>13</sup>.
- ▲ **Develop infrastructure**, such as food hubs and storage facilities that would allow smallholders to process their raw materials and to diversify their incomes while moving up into the food chain in order to increase rural development.
- ▲ **Develop credit schemes** with fair interest rates and develop institutional support to sustain the development of rural micro-enterprises (agro-industries).
- ▲ **Address the problem of concentration** (be it in terms of land or market share), as it poses a real risk in terms of investments for other actors of the food system, amongst whom smallholder food producers (men and women) are the most vulnerable.

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<sup>10</sup> <http://www.cidse.org/content/publications/just-food/agricultural-investment/agribusiness-and-human-rights-briefing-for-social-movements.html>

<sup>11</sup> <http://www.cidse.org/content/publications/just-food/agricultural-investment/agribusiness-and-human-rights-briefing-for-social-movements.html>

<sup>12</sup> [http://www.fao.org/fileadmin/user\\_upload/hlpe/hlpe\\_documents/HLPE\\_Reports/HLPE-Report-4-Social\\_protection\\_for\\_food\\_security-June\\_2012.pdf](http://www.fao.org/fileadmin/user_upload/hlpe/hlpe_documents/HLPE_Reports/HLPE-Report-4-Social_protection_for_food_security-June_2012.pdf)

<sup>13</sup> <http://www.ohchr.org/Documents/Issues/Food/SRRFCContributionRaiWorkshop.pdf>

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?*

Although we are aware of the fact that the Rai principles require to be jointly adopted by a consensus of governments, we expect the future principles to be only of any value added, if they allow for certain differentiation at two levels:

- ⤴ First, as pointed out above, Rai principles must draw upon existing instruments to **set clear criteria for “non-responsible investments”**. Otherwise the concept of “responsible investment” cannot be framed positively in any way. Rai must contain a clear wording that excludes investments that do harm, that marginalize rural populations that violate the right to food, that exploit natural resources unsustainably, that violate workers rights, that lead to monopolization of markets etc.
- ⤴ Second, the Rai principles must draw upon the existing human rights framework. Existing binding human rights instruments must be the core and cannot be referred to in the same way as **voluntary initiatives of the private sector**. Several of these initiatives, such as the Round Table on Sustainable Palm Oil and the one on Soy, have been criticized by civil society organizations because certifications were attributed to enterprises responsible for environmental damages and human rights violations, clearly showing the limits and risks of such “voluntary initiatives”.

The different elements that could lead to the establishment of an **“enabling environment”** should be defined in order to give clear guidance to States (such as: remove incentives for unsustainable use of resources, regulate food speculation, fight and prevent tax evasion, invest in research and infrastructure, prohibit excessive concentration within the food chain, enable the development of local and regional markets, ensure a broad and transparent participation ...).

Finally, the principle on **“grievance mechanisms”** needs to be developed and reinforced. In the context of the growing number of public-private investment initiatives, a key element is that States must establish **effective redress mechanisms for State-supported investments** as part of their special responsibility to take additional steps to protect against abuses of human rights by enterprises that receive support from State agencies. More broadly, States must provide effective access to remedy, including both judicial and non-judicial mechanisms. And they must facilitate access to **non-State-based grievance mechanisms that meet the effectiveness criteria** defined in the UN Guiding Principles on Business & Human Rights.<sup>14</sup>

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

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

It should be more clearly stated that the principles are complementary and interdependent – within the “objective nature and scope” section for example – as underlined in the principle number five: “responsible investments in agriculture and food systems are supported by policies, laws and regulations which are consistent with each other and address all aspects of responsible investments as described in this document”.

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<sup>14</sup> The effectiveness criteria for non-judicial grievance mechanisms are that the mechanisms be: legitimate, accessible, predictable, equitable, transparent, rights-compatible, and a source of continuous learning (31).

(Apart from this, see our responses to question 3)

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

The principles need to specify the mechanisms that will ensure their robust implementation. This includes clear identification of the entities that will be responsible for implementation of the principles, monitoring and reporting on their impact, and recommendations for improvements. It is important to underline that CFS-Rai principles should not only be guiding individual investments, but also be considered as the frame for existing and future private and policy initiatives that try to foster investments. E.g. the G8 New Alliance's cooperation frameworks refer to CFS-Rai, but only in a superficial manner. The key question will be, if CFS-Rai criteria set the basis for the monitoring criteria in these cooperation frameworks. Finally, the value of CFS-Rai will depend strongly on the future CFS monitoring and accountability mechanism.



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