**Comments to V0 from:**

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(*FoHRC = Food, Human Rights and Corporation research and action network, see* <https://www.jus.uio.no/smr/english/research/projects/fohrc/>)

We have chosen to make comments to each chapter as a whole and/or selected paragraphs, responding at the same time to some, but not all, of the questions posed in the instructions. This may also include some few specific suggestions for principal changes in the V0 text for chapters 1, 2 and 4.

**On Chapter I** INTRODUCTION

(Questions posed: Does Chapter 1 adequately reflect the current situation of malnutrition and its related causes and impacts, particularly in line with the goals and targets of the 2030 Agenda? What are the underlying problems that currently hinder food systems to deliver healthy diets?)

* The 16 paragraphs under Background and Rationale would gain from being split between those that describe the actual situation and its causes and impacts, and those looking ahead as regards policy. This will make it easier to separate factual descriptions from “what ought to be done”.
* Para 1 states that malnutrition is an impediment to achieving global food security, however, whereas food insecurity is a major determinant of malnutrition it is not evident that malnutrition is a major determinant of food insecurity (although the ill-health and disease stemming from malnutrition might reduce the productive capacity). Furthermore, the term “global food insecurity” is not a suitable term in this context.
* Para 6: It is important to underline that all forms of malnutrition can exist side by side in the context of poverty. Furthermore, the paragraph mentions explicitly only underlying causes of malnutrition, but could also state some of the basic causes such as inadequate capital and resources (financial, human, physical and social) and how malnutrition reflects the sociocultural, economic and political context of a country.
* Para. 13: The text should better read: *“…that will result in Voluntary Guidelines on Food Systems and Nutrition (hereafter named VGFSN) to be presented…*”.

We propose subsequently that throughout the document “Voluntary Guidelines” should normally be replaced by VGFSN. Consistently calling them with their full acronym will help remind both veterans and newcomers in the debate that there are other VGs within the full context of CFS’ (and FAO’s) efforts to establish such guidelines in a range of areas, and the direct or indirect connections between them.

* Para.15 lacks reference to the UNSCN as specifically referred to in the General Assembly document (resolution) proclaiming the Nutrition Decade…“using coordination mechanisms such as *the Standing Committee on Nutrition,* and multi-stakeholder platforms such as the Committee on World Food Security,…”, see A/RES/72/30 para.5, this particular part of the sentence is left out in the citation. (Reinserting it here may also need some adjustment in para. 13.)
* General on “underlying problems”: We miss an explicit and honest reference to conflicts of interest that exist and may continue to do so due to unequal power between final decision-makers and their different agendas. It is important that the VGFSN not end up as a document aiming at harmony at all costs and hiding the under-streams that must be made visible and counteracted. An important reference may be the Report of the WHO Director-General for the 142nd Session of the WHO Executive Board in 2018 (EB142/23) on “Safeguarding against possible conflicts of interest in nutrition programmes”, and its follow-up; see also our general remark at the end.
* Para. 16: It is crucial that the VGFSN make an equal emphasis on the human right to health as the right to adequate food. The raison-d’être for having combined guidelines on food systems and nutrition is that the *manifestations* of malnutrition in all forms are health issues while food systems and food environments provide many of the *determinants* for these. This must also be reflected and balanced in the kind of rights in focus in the guidelines and the interplay between them.tt
* Para 21: Citation from present: “… Different actors dealing with these matters need to refer to, and build upon, each others’ resolutions and declarations, promoting coherence and addressing policy fragmentation, without duplicating efforts moving beyond the mandates.”

The first part of this sentence is extremely important and crucial to the kind of integrated progress aimed at in the Nutrition Decade’s concept note, notwithstanding that coherence is often undermined by conflicts of interest among crucial actors.

The highlighted part however is outright dangerous in that it can counteract the idea of integrated efforts where actors may have to draw on other actors’ concepts, norms and methodologies to adjust or improve/enhance their own. This is different from duplication - which is a waste of resources, but may risk being criticized as moving beyond one’s/the agency’s mandate. The logic and experience match those in the debate and practice of inter-or cross-disciplinarity and is directly counterproductive to progress.

We suggest the highlighted part be replaced as follows: *“… without duplicating, but promoting openness to relevant frameworks and approaches of other actors/agencies where the mandates are overlapping (or interfacing) as regards the subject matter.”* (A case in point is precisely food and (nutritional) health!)

Para 25: An important paragraph to ensure that the VGFSN are truly built on earlier agreed UN documents and frameworks, and help prevent efforts to downgrade these by states that may later have changed views on what they have ratified or endorsed. Textwise we suggest enriching the first sentence as follows: “…and applied consistently with existing obligations under relevant national and international law, *including international human rights law*, and with…” (Experience has shown that many in the food and health areas are unaware that there exists something as international human rights law, which has led to many misconceptions and hampered the practical developments of the human rights to adequate food and to health.)

Para 26: We wonder if there ought to be a reference to international trade organizations here ­or if they fall naturally under a)? (See also our general remark at the end of this note.)

**On Chapter II** KEY CONCEPTS AND GUIDING PRINCIPLES

* Para 33: Please include “adequate” (food) in Note 19.

We suggest the following insert after the definition of the right to adequate food:

*The right to health* “is an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health; a further important aspect is the participation of the population in all health-related decision-making at the community, national and international levels.”

NB: Also this to be referenced in a similar way in Note 19 (or eventually in a separate note), referring to the CESCR interpreting, through its General Comment No 14, Article 12 of the ICESCR.

*See our comment on para 16 above*

* Para 36 d) It is not only to *respect* women’s rights, especially where they do not have many, hence we suggest the text to read “respecting, protecting and promoting/fulfilling their rights…” (in line with adopted human rights terminology regarding the nature of state obligations for realizing human rights, see also below on Ch.3).
* f) We suggest using “Realization of the Right to *Adequate* Food” which is the legally adopted term, interpreted in CESCR General comment no 11 (as mentioned in note 19) and as used in the Voluntary Guidelines on the Right to Adequate Food…”.

We also propose including the Right to Health, since the right to adequate nutrition is inherent in both these rights (right to health and right to adequate food) but need both to be realized).

* Para 36 – general: We think the list of guiding principles should each be referenced with examples of already agreed international documents and tools (too sweeping as it stands in note 20 and too restricted examples now for the purpose; as *a minimum* add Voluntary Guidelines on the Right to Adequate Food..).
* Para 40 similar to para 21, states that the recommendations are expected to “(…) consider, and avoid duplication with, the work and mandate of other relevant international bodies.” As mentioned above, it is crucial that the work and mandate of other relevant international bodies are taken into account when developing the VGFSN since nutrition is closely linked to both food and health.

**On Chapter III** THE VOLUNTARY GUIDELINES ON FOOD SYSTEMS AND NUTRITION

(Questions posed: In consideration of the policy areas identified in Chapter 3 and the enabling factors suggested in paragraph 41 of the Zero Draft, what policy entry points should be covered in Chapter 3, taking into account the need to foster policy coherence and address policy fragmentation?

(Not responding to this: Can you provide specific examples of new policies, interventions, initiatives, alliances and institutional arrangements which should be considered, as well as challenges, constraints, and trade-offs relevant to the three constituent elements of food systems presented in Chapter 3? In your view, what would the “ideal” food system look like, and what targets/metrics can help guide policy-making?)

* In Para 41, it would be useful to back up the reference to “humanitarian contexts” with reference to guidance grounded in international humanitarian law.
* Furthermore, the Right to Adequate Food and the Right to Health are often presented as important crosscutting dimensions (together with other related international human rights) and should also be presented adequately in the VGFSN. In recent time the use of a human rights terminology has sometimes given rise to confusion and tensions, some of which is based on non-familiarity with the content and implication of applying the international human rights framework. To maintain momentum, a reference to the typology of state obligations that has been officially developed through (among others) the relevant UN convention committees, would demonstrate the specter of levels of potential engagement by the state: through respecting, protecting, and/or where necessary, assisting or fulfilling the respective rights; this can in turn to be translated into agreed goals and targets (drawing on Global Nutrition Targets; ICN2 goals, and goals and targets under relevant SDGs) and combined with *principles of conduct* to guide the level and form of state involvement in the realization of these rights.

Such principles largely parallel or conform with “transparent and accountable governance” which normally also would emphasize people’s (or rights-holders’) participation and empowerment in policy formulation, planning and implementation; hence some easy-to-understand information on this typology for how to understand obligations and duties to act should find a place in the VGFSN.

The scope and content of Ch. 3 is otherwise rich and well organized, and there may also be many good proposals coming for further nuancing. We restrict ourselves to a few points:

* Para 41 e): stronger emphasis on locally developed varieties and the need for research on indigenous varieties;

f) “nutritious foods” has never been a good term and can lead to misunderstandings, we suggest using e.g. *nutrient-dense foods* and perhaps *nutritious diets* - although “healthy diets” should remain the priority in most contexts*.* The same applies also to para 45 b) and para 47.

g) with “financial inclusion” – pls. include explicitly microcredits and other forms of social protection.

* Para 55: In addition to what is mentioned here, please find a way to include the need for new forms of *dialogues* between actors with different even potentially conflicting interests, there are currently efforts to develop approaches to constructive dialogues that might be used in such cases, for example through techniques for joint exercises in developing systems charts in modelling food systems and food environments as a basis for ideas for action.
* On a general note: Besides the already referred VGRtAF, other VGs developed through CFS/FAO such as the VGRGT (and others) should be referred to. It is important that the CFS shows the totality of the areas where states (and other stakeholders) can seek guidance within a universe where so many actors and actions interface and which need to be understood as pieces of a whole that must seek coherence. Only in this way can the SDG and Agenda 2030 be successfully reached.

**On Chapter IV** IMPLEMENTATION AND MONITORING…

* States and civil society actors that wish to draw on the international human rights framework in formulating coherent policies and implementation projects, must especially be made aware of the vast material developed by FAO on monitoring and evaluation of such actions from a human rights perspective, besides the many other tools in the FAO Right to Food Methodological Toolbox from about a decade ago. Also the right to health has recently gained high level attention in WHO; recent milestone publications include *WHO*, *Leading the Realization of the Human Right to Health and Through Health - Report of the High-Level Working Group on the Health and Human Rights of Women, Children and Adolescents* (WHO 2017), and *WHO*, *Advancing the Right to Health: The Vital Role of Law* (WHO 2017).

**General comments to the zero draft:**

We propose an explicit focus on the role that the food industry plays in whole food systems and the more localized food environments, as related to dietary habits and nutritional health, not least in childhood. The food industry should be part of the solution to malnutrition in all its forms, but is increasingly seen and documented as being part of the problem.

Elements of the food industry are to a large extent responsible for the commercially induced determinants of both obesity and non-communicable diseases and to undernutrition and micronutrient deficiencies. Foods which are unnecessary (ultra-processed foods high in salt, sugar and fat with a low nutrient content, and sugar-sweetened beverages), and contributing to malnutrition, are very profitable and are heavily promoted by the industry as is also infant feeding formulas. This part of the food industry is usually opposing any law-enforced public regulations that may reduce sales of their products (such as restriction of marketing, increasing taxes etc.).

Since such industries contribute economically to a country with job opportunities and sometimes with funding for social projects, it may be difficult for some countries to put the attention to people’s health highest and introduce regulations. At the same time, the food industry should aim to contribute to meeting the challenges of malnutrition with a positive outcome. Most people are dependent on buying food and thereby depend on the food industry to provide healthy and safe food products. The food industry’s role in this part of the food system must also be described.

A central part of this perspective should be to outline how to deal with the conflicting interests that exist between the concerns for nutritional health among stakeholders in the population, and the food industry’s need to satisfy their shareholders’ concerns with profit. These issues must be discussed and recommendations for how to deal with it should be given in the VGFSN. The most important reference material will be the Report of the WHO Director-General for the 142nd Session of the WHO Executive Board in 2018 (EB142/23) on “Safeguarding against possible conflicts of interest in nutrition programmes”, and its follow-up in an informal technical consultation of Member States in February 2019, which also was presented with country case studies as outlined in “Risk assessment and management tools for safeguarding against potential conflicts of interest in nutrition”: <https://www.who.int/nutrition/events/2019-memberstates-consultation-COI-4Feb/en/>

This issue will benefit from using a human rights-based approach where the established international human rights to adequate food and to the highest attainable health are in focus (International Convention on Economic, Social and Cultural Rights, articles 11 and 12, respectively). This will entail to describe the legally established obligations of Member States to protect their population against harm done by third parties, including business enterprises, and the responsibilities of the industry (in this case food industry) to respect all human rights (including to food and health). These respective obligations and responsibilities are elaborated in the UN Guiding Principles for Business and Human Rights adopted by the Human Rights Council in 2011: <https://www.business-humanrights.org/en/un-guiding-principles>.