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Organización
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y la
Alimentación

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**INTERGOVERNMENTAL WORKING GROUP FOR THE
ELABORATION OF A SET OF VOLUNTARY GUIDELINES TO
SUPPORT THE PROGRESSIVE REALIZATION OF THE RIGHT
TO ADEQUATE FOOD IN THE CONTEXT OF NATIONAL FOOD
SECURITY**

First Session

Rome, 24-26 March 2003

**UPDATED SYNTHESIS REPORT OF SUBMISSIONS RECEIVED
FROM GOVERNMENTS AND STAKEHOLDERS**

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Annex 1: Submissions considered for preparation of the Updated Synthesis Report

UPDATED SYNTHESIS REPORT

I. Introduction

1. The decision of the 123rd Session of the FAO Council (28 October–1 November 2002) that established the IGWG mandated the Secretariat of the Working Group to prepare a synthesis report of the submissions sent by governments and stakeholders for the first session of the IGWG.
2. The Secretariat received 16 submissions as of 28 February 2003, five of which were from FAO Members, and 11 from stakeholders, including international intergovernmental organizations and international non-governmental organizations. The first session of the IGWG requested that the synthesis be updated to reflect submissions during the IGWG session, and set a new deadline for further submissions as 7 April. During the first IGWG session and up until 7 April 2003, further 14 submissions were received, 5 of which were from IGWG members and 9 from stakeholders. All these submissions, including those received earlier, form the basis of the present updated synthesis report. A complete list of submissions is contained in Annex 1,
3. The synthesis report is intended to order the inputs received in such a way as to facilitate the debates in the IGWG. With that aim in view, the present report is organized in eight sections. **Within each section, an attempt has been made to reflect the different degrees of apparent consensus, starting with issues that seem to have broad support and ending with those on which opinions differ.**

II. Purpose

4. There was considerable agreement among submissions about the purpose of the Voluntary Guidelines (hereafter referred to as the Guidelines). They were seen primarily as a practical tool or road map to assist in the implementation of existing legal obligations regarding the right to adequate food¹ and in pursuit of the goals established by the Millennium Summit, the World Food Summit and other major international conferences. The Guidelines would serve to guide administrative and legislative agenda and systematically identify legal and policy measures and programmes to achieve the realization of the right to adequate food in all countries. The importance of basing the Guidelines on best practices was stressed by many. Some submissions considered that the Guidelines should identify core elements for national strategies and provide general principles for policy development, with a focus on process, implementation and follow-up.
5. Many submissions stressed the role of the Guidelines in providing guidance to ensure transparency, accountability, decentralization and participation in food security policies and interventions, and to assist in coordination between different levels and institutions of governments. Other submissions stressed that the Guidelines should be clear and simple, drafted in such a way that all stakeholders can identify with them, and that they should add value to existing tools. One submission stressed that the aim of the Guidelines should be to enable beneficiaries of policies to become agents of their own development.

¹ International obligations concerning the right to adequate food are contained in several international instruments, *inter alia*, Article 11 of the International Covenant on Economic, Social and Cultural Rights, Articles 24 and 27 of the Convention on the Rights of the Child, Article 12 of the International Convention on the Elimination of Discrimination against Women, and several provisions in the 1949 Geneva Conventions and their Additional Protocols.

III. Scope

6. The Declaration of the 2002 World Food Summit: *Five Years Later* (paragraph 10) called for the elaboration of *voluntary* guidelines, i.e. guidelines of a non-legally binding nature.

7. Most submissions stressed the importance of General Comment 12 on the Right to Adequate Food, adopted by the United Nations Committee on Economic, Social and Cultural Rights, as constituting an authoritative interpretation of the right to adequate food. Some also noted the relevance of the recent General Comment 15 on the Right to Water adopted by the same body.

8. A great majority of submissions called for the guidelines to provide a definition of the right to adequate food, which should be based on the one in General Comment 12, even though not all countries were parties to the International Covenant. There were separate calls for the right to food to explicitly encompass the right to safe drinking water and the right to water for irrigation.

9. There was general agreement that the Guidelines should be comprehensive, covering all levels of obligations, i.e. to respect, protect and fulfil the right to adequate food. One submission called for a clear distinction between obligations that were to be met immediately and those subject to progressive realization in light of their cost implications. The need to address both long-term development and self-reliance and the immediate needs of those presently hungry or malnourished, was also widely acknowledged, however it was also stressed that the Guidelines should be applicable to all countries, developed and developing.

10. The importance of international humanitarian law applicable in armed conflict was stressed, and it was suggested that the scope of the Guidelines should cover food-related measures in peace time, as well as during armed conflict, emergencies and other crises.

11. There was general agreement that the Guidelines should focus primarily on state obligations, i.e. obligations of national governments, but there were also many suggestions for a multi-stakeholder approach, stressing the need to discuss the roles and responsibilities of non-state actors, including private businesses. Attention was often drawn to the impact of international trade, cooperation and assistance in the design and implementation of national policies. There seems to be no agreement on the scope of obligations of states at the international level, with some submissions addressing the international or external obligations of states and the responsibilities of intergovernmental organizations and calling for guidance and recommendations in this area, and others submitting that this would not be appropriate. Some suggested that the issue of food sovereignty be treated in the Guidelines, others that human rights in general and the right to adequate food in particular should have precedence over other international obligations. One submission suggested that corporate social responsibility should be encouraged in the Guidelines, including measures such as fair contracts and prices, and more profit sharing; others suggested the Guidelines should develop principles directly applicable to corporations and private actors.

12. The submissions show that most stakeholders attach importance to linkages between food security and factors that affect it, such as international trade, food and financial assistance, and intellectual property rights. The potential benefits of international trade for poverty reduction were acknowledged, as well as the possible support of the international community for national efforts to implement right to adequate food approaches, but there was no agreement as to whether the Guidelines should address these issues or not. Some felt that such matters should be addressed in the appropriate fora.

IV. Principles

13. Principles proposed in the submissions can be grouped into the following three broad categories:

14. Firstly, the Guidelines should be consistent with international law and compatible with the sustainable social, economic and environmental strategies of recent world summits. However, while some submissions indicated that the Guidelines should not establish any new obligations, others called for the Guidelines to ensure that international economic law was consistent with obligations relating to the right to adequate food.

15. Secondly, the primary responsibility of national governments was recognized by nearly all submissions. However, the essential role of international cooperation was also stressed.

16. Thirdly, the central role of rights-based approaches and the associated principles of putting human beings at the centre of development policies and programmes were stressed. This included concepts such as transparency, accountability, legislative capacity, independence of judiciary, participation, better communication with and hearing of stakeholders, and non-discrimination. A rights-based approach empowers people to claim their rights.

17. The vast majority of submissions emphasized the principle of non-discrimination as a key element in addressing food security from a rights-based approach. International law would prohibit any distinction on any grounds when it has the intention or the effect of nullifying or impairing the equal enjoyment or exercise of the right to adequate food. Non-discrimination as a principle would also underpin gender approaches to food security.

18. Application of the principle of non-discrimination may require special measures to ensure equal opportunities for traditionally disadvantaged and vulnerable groups including with regard to their traditional access to natural resources.

V. National level measures for achieving the right to adequate food

19. In this section, issues raised in the submissions, relevant to realizing the right to adequate food at national level, are grouped under a number of headings in an attempt to suggest a possible framework to facilitate the drafting of the Guidelines. Where possible these issues have been grouped according to the various levels of governmental responsibility in the realization of the right to adequate food, namely, to respect, protect and fulfil the right to adequate food.

V.1 A holistic approach

20. Submissions generally stressed the need for comprehensive, multisectoral and holistic approaches to realizing the right to adequate food. This implies incorporating the right to adequate food in wider poverty eradication and development policies, including, in particular, rural poverty plans. The need to address the situation of rural women and rural youth was stressed as well as the situation of smallholder producers and the urban poor. A holistic approach also implies that parallel measures are needed in sectors such as health, drinking water, sanitation, education, employment and social protection to achieve the final goal of nutritional well-being. The holistic approach, according to some submissions, should also encompass sustainability, and pay due regard to the protection of agrobiodiversity.

V.2 The importance of institutions

21. The institutional aspects of a right to adequate food approach were stressed including organizational responsibilities and coordination between different levels and sectors of government as well as between government and civil society organizations including the commercial sector.

22. There were calls for guidance in setting up a legal and organizational framework for the formulation, implementation and monitoring of laws, policies and national strategies for the realization of the right to adequate food. The question of framework law should be addressed. The Guidelines should identify generic issues in national strategies to combat hunger and malnutrition, leaving enough room for states to take into account their particular circumstances and needs.

V.3 Inclusive national strategies

23. National strategies should address all aspects of the realization of the right to adequate food inherent in the food system (production, processing, distribution, trade/marketing and consumption), and in food security (availability, access, utilization, safety, nutritional status).

24. It was suggested that the Guidelines should deal as a minimum with the following core elements of national strategies:

- Objectives, including benchmarks and timeframes
- Resources and responsible actors and institutions
- Monitoring mechanisms including indicators and remedies
- Participatory institutions and processes that are transparent and accountable
- A national policy on emergency situations/natural disasters that contains institutional arrangements and resources to ensure a permanent supply of adequate food through food stocks and food funds and adopts early warning systems
- Identifying and devising special policies and programmes for vulnerable, marginalized or traditionally disadvantaged groups; identifying and addressing the causes of their food insecurity.
- Ensuring the sustainable intensification of food production to meet the needs of the present generation while not compromising the ability of future generations to meet their own needs.
- Agricultural research policies, including on organic agriculture and traditional knowledge.

V.4 Good governance

25. The importance of participative, transparent and accountable governance practices to make efficient use of available resources while avoiding corruption and favouritism was underscored as a key element in the realization of all human rights and the right to adequate food in particular. Respect for the rule of law, democracy, fundamental freedoms and public participation in decision making, as cornerstones of good governance, empowers individuals and groups to demand from their governments policies that adequately address the causes of food insecurity, and can foster efforts towards self-reliance at the community level. The Guidelines could also provide advice on how to enhance communication between civil society and governments and on ways to enhance civil society participation in the entire process of realizing the right to adequate food.

V.5 Raising awareness

26. Some submissions underlined the need for promotional and awareness raising strategies, including the definition of roles for the media, religious leaders and civil society in general, in relation to all aspects of relevance to the realization of the right to adequate food.

V.6 Best practice

27. It was stressed that the Guidelines could identify measures to be included in national strategies by drawing these from examples of best practice. Among the many fields where measures and policies could be adopted are agriculture, fisheries, livestock and water. Access to land, seeds, knowledge and other productive resources as well as to consumer protection and social safety nets was also mentioned. The importance of, where appropriate, incorporating a gender perspective into the above areas was raised.

V.7 Measures to ensure respect for the right to adequate food

28. Most submissions underlined that the primary aim of efforts to implement the right to adequate food is to create or sustain an enabling environment in which most people can feed themselves. States should take proactive measures only to facilitate or provide food to those who are unable to feed themselves. In this respect it is recalled that some obligations call for immediate implementation, while others are subject to progressive realization, within the limits of available resources. The obligation contained in Article 1 of both of the International Covenants, which state “in no case may a people be deprived of its own means of subsistence”, was recalled, particularly with reference to indigenous peoples.

V.8 Measures to protect the right to adequate food

29. The importance of the regulatory role of governments in ensuring the enjoyment of the right to adequate food and other human rights was underlined by many. Strong emphasis was placed on the state’s responsibility to ensure that the activities of private entities, including multinational enterprises over which they exercise jurisdiction, do not negatively affect the individual’s enjoyment of the right to adequate food. The question remains whether or not the Guidelines should address recommendations directly to private actors and businesses, or only provide guidance to states on the regulation of private sector and other non-state activities. However, there seemed to be wide consensus that, at least in the context of food aid in emergencies and conflict, the duties and roles of non-state actors should be addressed.

30. Most submissions underlined that measures that ensure access to safe food of acceptable nutritional quality at all times, including in emergency situations, should be addressed in the Guidelines.

31. A number of submissions indicated that land tenure policy and measures to secure property rights, including water and genetic resources, should be dealt with in the Guidelines along with essential health and environmental measures to regulate the use of pollutants and harmful chemicals.

V.9 Measures to fulfil (facilitate and provide) the right to adequate food

32. Some submissions suggested that the Guidelines should address and provide guidance for states’ action to improve access to food and to facilitate income generation. This guidance could include advice regarding more equitable access to and better assessment of natural capital and food-producing resources, education and training, technology, markets, financial resources, services and employment.

33. Almost all submissions noted the need for special measures for certain groups. The Guidelines may provide guidance on the type of special measures and adequate safety nets to be put in place for that purpose. These groups include victims of disasters, people affected by HIV/AIDS, persons with disabilities, orphans, the elderly, certain minorities or indigenous people, and women who are heads of households.

34. Measures aimed at conflict prevention and resolution may, according to some submissions, be an important element to be addressed in the Guidelines.

V.10 Monitoring, Evaluation and Recourse

35. Several submissions emphasized the need for effective, participatory and accountable national monitoring mechanisms of the goals and targets set out in the national strategies, while some others strongly suggested that procedures be put in place to allow individuals and groups to raise issues regarding the implementation of the right to adequate food. This implies mechanisms to monitor the processes as well as the results of implementing the Guidelines. For others, the guidelines should recommend the setting up of judicial or quasi-judicial recourses and remedies for violations of the right to adequate food. The role of national human rights institutions in the monitoring of implementation of the right to food was underscored.

36. In this context, the need for verifiable benchmarks and reliable methods used in data collection was underlined. They could feed or be linked with information systems derived from the Food Insecurity and Vulnerability Information and Mapping Systems (FIVIMS).

37. Several submissions underlined the need for remedies for victims of violations of the right to adequate food and suggested the Guidelines provide criteria for identifying such violations. Courts could be empowered to adjudicate violations of this and other human rights. Judges and other members of the legal profession may be encouraged to play a role in this regard.

VI. Situations of conflict

38. It was proposed that the Guidelines should recall, by means of safeguard clauses or otherwise, that parties to armed conflicts must abide by their obligations under international humanitarian law and human rights law, in particular the rules specifically aimed at ensuring food, or access to food in situations of armed conflict. Parties to an armed conflict must abide by the rules governing humanitarian assistance and the protection of relief personnel in armed conflicts. It was suggested that the Guidelines reaffirm the duty of states to accept humanitarian assistance, in particular food assistance, which is non-discriminatory, and is impartial, neutral and independent. The principle was also recalled that food should never be used as an instrument of political or economic pressure and that starvation of protected persons is prohibited by international law. It was suggested that conflict prevention should be addressed in the Guidelines.

VII. International dimension

39. All submissions assigned high importance to international cooperation, but there were very different views on the extent to which this international dimension should be treated. Mention was made of possible assistance and support that could be provided by third countries, in areas such as conflict prevention, attaining democracy and good governance, identifying international market opportunities as well as complying with food safety, sanitary and phytosanitary standards.

40. With regard to international food assistance, the majority of submissions attached high importance to international solidarity in case of emergencies, with some recalling the duties of states under international law to ensure safe and unimpeded access for international food assistance. The responsibilities of international organizations and coordination amongst them for the purposes of providing timely food relief were also mentioned.

41. Some submissions elaborated on “extra-national” obligations of States, stating that the three levels of obligations, to respect, protect and fulfil, also applied to the international dimensions of the right to food. States should refrain from food embargos and measures that endanger conditions for food production and access to food in other countries. No conditions should be attached to aid relating to food and States should take account of the right to food in their deliberations and negotiations in multilateral organizations and that the multilateral organizations as such also carry obligations, which should be addressed in the Guidelines. States also had a duty to regulate the conduct of private corporations operating in other countries to ensure their respect for the right to food.

42. Many submissions addressed issues related to international trade. The potential of trade to reduce poverty and the need to pursue further liberalization of international agricultural trade were mentioned. The sometimes negative impact of the current global food trading system on national food security was recalled: unequal competition, subsidized exports, falling primary commodity prices and lack of access to developed countries’ markets. Some submissions called for recognition in the Guidelines of the right of countries to define their own policies, levy import duties and provide targeted subsidies in order to realize the right to adequate food. Some submissions called for insertion of the right to adequate food as a priority principle in various WTO agreements or suggested that agriculture should not be subject to WTO rules. There was also a call for reform of international trade rules to favour small-scale producers. Genetic

resources were also mentioned and calls were made to declare them patrimony of humanity and ensure that international trade rules do not limit rights over them. Intellectual property rights should be limited to protect genetic diversity.

VIII. International monitoring of the Guidelines

43. Several submissions emphasized that the Guidelines should include international procedures and mechanisms to monitor the implementation of the right to adequate food at national level. There was agreement on the need that such mechanisms be complementary and do not duplicate the work done by existing mechanisms. Most submissions also underlined the actual or potential role that existing mechanisms such as the Committee on World Food Security (CFS) and the Committee on Economic, Social and Cultural Rights (CESCR) could play. One suggested an annual progress report to be prepared and submitted to the CFS and to the Commission on Human Rights. There were also calls for adoption and ratification of an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which would allow for individual and group complaints.

IX. Proposed structure of the Voluntary Guidelines

44. Some submissions made suggestions for the possible structure of the Guidelines. The following sections were suggested:

- preamble
- nature of the guidelines
- general principles and definitions
- national level implementation
- national monitoring and remedies
- conflict situations
- state action at the international level, role of international organizations
- non-state actors, principles applicable to private companies
- monitoring of the guidelines.

45. There was broad agreement on the first four sections, but some difference of opinion as to the organization of the rest of the Guidelines. These could be independent sections or located under the fourth heading (national level implementation). Within the main sections of the Guidelines, subjects could be organized, where appropriate, under the three levels of obligations listed in General Comment 12 of the CESCR: respect, protect and fulfil (facilitate and provide). The possibility of referring to established food security concepts (availability, access and utilization) to guide the process was also mentioned.

X. Adoption of the Guidelines

46. The guidelines should be adopted by the FAO Conference and submitted also to the General Assembly of the United Nations for approval or endorsement. It was further suggested that the Guidelines should form the basis of a future binding instrument.

ANNEX 1**Intergovernmental Working Group on Right to Food Guidelines, First Session**
24-26 March 2003**Submissions received as of 28 February 2003,**
forming the basis of the Synthesis Report**Members**

- | | | |
|----|-------|------------------------------|
| 1. | 03/03 | Brazil |
| 2. | 28/02 | European Union |
| 3. | 19/02 | Norway |
| 4. | 28/02 | Switzerland (also in French) |
| 5. | 28/02 | United States |

Observers

- | | | |
|-----|-------|--|
| 6. | 11/02 | Food First Information and Action Network (FIAN) - Joint North-South Civil Society contribution (also in French) |
| 7. | 18/02 | Universidad Politécnica de Valencia, Centro de Estudios Rurales y de Agricultura Internacional (CERAI-España) |
| 8. | 12/02 | Mouvement International de la Jeunesse Agricole et Rurale Catholique (MIJARC) |
| 9. | 19/02 | Justitia et Pax (German NGO Statement) |
| 10. | 27/02 | Fair Food |
| 11. | 25/02 | Ius Primi Viri International Association |
| 12. | 21/02 | JEEP (Uganda NGO Coalition) |
| 13. | 28/02 | UN Special Rapporteur on the Right to Food |
| 14. | 05/03 | UN High Commissioner for Human Rights |
| 15. | 28/02 | World Food Programme |

Submissions received from 1 to 21 March 2003, not included in the Synthesis report**Members**

- | | | |
|-----|-------|---------------------|
| 16. | 13/03 | Benin |
| 17. | 14/03 | Switzerland - Annex |
| 18. | 17/03 | Uganda (Revised) |

Observers

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| 19. | 28/02 | World Health Organization |
| 20. | 14/03 | International Food Policy Research Institute (IFPRI) |
| 21. | 15/03 | Annex to Submission by Joint North-South Civil Society contribution |
| 22. | 15/03 | UN Standing Committee on Nutrition |
| 23. | 20/03 | International Federation of Adult Rural Catholic Movements (FIMARC) |

Submissions received from 24 March to 7 April 2003

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| 24. | 25/03 | Bangladesh |
| 25. | 25/03 | Mali |
| 26. | 25/03 | Nepal |
| 27. | 25/03 | CIDSE (also in French) |
| 28. | 25/03 | International Jacques Maritain Institute |
| 29. | 27/03 | Peru |
| 30. | 04/04 | CNR Solidarity Network |
| 31. | 04/04 | Society for International Development |
| 32. | 07/04 | Ius Primi Viri (IPV) – Notes to Synthesis Report and Supplements |
| 33. | 07/04 | Prosalus |

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|-----|-------|---|
| 34. | 07/04 | Second Submission of UNCHR Special Rapporteur |
| 35. | 07/04 | International Indian Treaty Council – Comments on Annex - Joint
North-South Civil Society Contribution |
| 36. | 07/04 | Atitlán, Guatemala (also in Spanish) |
| 37. | 07/04 | Cuba Submission |