

Proposal for process of consultation on principles for responsible agricultural investments (RAI) within the CFS

I. Background

a. On the development of principles for responsible agricultural investment

- The global surge in interest in investment in agriculture since the food crisis in 2008 could have profound implications for the future of global food security and world agriculture. **In particular large scale acquisitions of farmland by foreign or domestic investors in agriculture-based countries with weak land governance** raise complex economic, institutional and ethical issues in relation to food security, poverty reduction and rural development objectives. Various stakeholders have called for principles, guidelines and even code of conducts to govern such investments, as well as an international framework or plan which translates the principles into action. There is a general consensus that urgent action is needed since the situation on the ground is quickly deteriorating.
- In the wake of the G8-summit of l'Aquila in June 2009, the United Nations Special Rapporteur on the right to food, Mr. Olivier De Schutter, had already proposed **a set of 10 principles based on human rights** that should guide large-scale transnational land acquisitions and leases. Earlier in 2009, important studies on the issues of transnational land acquisitions had also been published by IFPRI and by IIED/FAO/IFAD.
- At the G8-summit in l'Aquila in June 2009, the G8, *'with a view to ensuring a more food secure world'*, committed to: *"noting a growing trend of international agricultural investment, including land leasing and purchasing in developing countries, we will work with partner countries and international organizations to develop a joint proposal on principles and best practices for international agricultural investment."* In November 2009, the Declaration of the World Food Summit on Food Security expressed agreement *"to continue studying principles and good practices to promote responsible agricultural investment."* (Par. 40).
- Since then, FAO, IFAD, UNCTAD and the World Bank have been working together to develop their set of draft principles for responsible agricultural investment (RAI). A synoptic version of seven "Principles for Responsible Agricultural Investment that Respect Rights, Livelihoods and Resources" was jointly published by the 4 organizations in February 2010 as a *"discussion note to contribute to an ongoing global dialogue"* and some events were organized where the principles were presented and discussed (Side-event at UNGA (NYC, Sep 2009), side-events at FAO Regional Conferences for Africa, Asia-Pacific, Near East (May-Dec 2010), World Bank land policy Conference (Washington, April 2010), FAO Committee on Commodity Products (June 2010)). The principles proposed relate to: respecting land rights; not jeopardizing food security; transparency and good governance; consultation and participation; economic viability; social sustainability; environmental sustainability. It is however important to note that the **four involved organizations never formally submitted the RAI-principles to the approval of their governing bodies**.
- At the 36th session of the Committee on World Food Security in October 2010, the Committee: *"taking note of the ongoing process of developing Principles for Responsible Agricultural Investments that Respect Rights, Livelihoods and Resources (RAI), and, in line with its role, decided to start an inclusive process of consideration of the*

principles within the CFS” (Par. 26 ii) CFS-Report). No details were provided on how this process of consideration of the principles should take place and what the end result should be.

- At the meeting of the CFS-Bureau of December 13, the vice-Chair of the CFS-Bureau, Hugo Verbist, has been designated to do some informal consultations so as to be able to present, by the end of February, a concrete roadmap for this ‘*consideration*’ on RAI within the context of CFS. Input was received from, among others, France, Germany, USA, Japan, FAO, the World Bank, IPC and ILC and private sector (Keith Jones). Also comments during Bureau-meetings with the Advisory Group and with the Steering Committee of the HLPE have been taken into account.

b. Parallel processes

Various parallel processes are crucially important for the development of principles for responsible agricultural investment.

- ***Voluntary Guidelines.*** Since 2009, worldwide consultations took place for the development of *Voluntary Guidelines on the Responsible Governance of Tenure of Land and Other Natural Resources (VG)*. The 36th same session of the CFS of October 2010 also: “*encouraged the continuation of the inclusive process for the development of the VG, building on existing regional processes with a view to submitting the guidelines for the consideration of the 37th session of CFS (October 2011)*”. It at the same time “*urged governments and other stakeholders involved in the drafting process of both the Voluntary Guidelines and the RAI to ensure consistency and complementarity between the two processes.*” The link between the two processes is mainly to be found in Principle 1 of the RAI, which is dealing with respecting land rights.

- ***HLPE.*** The High Level of Experts on Food Security and Nutrition was mandated as follows: “*requested the HLPE to undertake studies, to be presented at the 37th Session of the CFS (October 2011), on the following important issues:*

- *the respective roles of large-scale plantations and of small-scale farming, including economic, social, gender and environmental impacts;*
- *review of the existing tools allowing the mapping of available land;*
- *comparative analysis of tools to align large scale investments with country food security strategies.*” (Par. 26 iv) CFS-Report)

The terms of reference for the study have been prepared and opened for public consultation in January 2011. The results of this study could have a direct impact on the RAI-consultations.

- ***G20.*** At the Seoul Summit of the G20 in November 2010, the G20 “*encourage all countries and companies to uphold the principles of Responsible Agricultural Investment. We request UNCTAD, the World Bank, IFAD, FAO and other appropriate international organizations to develop options for promoting responsible investment in agriculture (March 2011 for preliminary report; June 2011 for final report)*.” The link between G20 and CFS on this issue should be ensured.

- ***The dialogue initiative (ILC and others).*** In April 2010, the International Land Coalition (ILC) formed a partnership with ROPPA, AFA, COPROFAM (regional farmers’ organizations), Action Aid and Oxfam to widen dialogue on large-scale land acquisitions and their alternatives. Several consultations are planned in 2011 (see under III for further details). ILC is also completing a global study on commercial pressures on land and how to respond to this in a way that minimized risk and maximizes opportunity for local land users. The results of these consultations and report should feed in into the CFS-consultation.

II. General scope of the Consultation Process

a. Urgency: need for a two-track approach

Given the increasing number of large-scale land acquisitions particularly in food insecure countries, there is a general sense of urgency. Consultations can not go on for months while nothing is being done, allowing some current practices of illegitimate dispossession, evictions and displacements arising from such investments to continue. However, the real issue is not whether to go for “implementation” of what is already on the table **OR** to go for “further consultations”. **The way forward is a two-track approach:**

- A broad, inclusive and genuine consultation process on the principles in order to increase the ownership and legitimacy of the principles.
- At same time, continue working with pilot countries where the implementation of the principles, as proposed by the 4 organizations, are tested. However, those existing principles are at this stage ‘just’ guiding principles for the 4 organizations themselves, and NOT policy as none of the four institutions, as said before, formally submitted the RAI-principles to the approval of their governing bodies. On the other hand, even if the principles are used now as guidance for giving advice by the 4 organizations to countries or private companies who ask for it, it is noted that many national government are not asking for advice and just unconditionally embrace foreign investment.

In order to have a well-informed consultation process, there is a need to, prior to the consultation process:

- do a **mapping** what has been done so far and by whom, and what the results have been, also towards the private sector (building up knowledge on consultations and studies done by different stakeholders),
- **identify the remaining gaps** and come to a **division of labour**.
- get a clear understanding of what are the **best practices** (i.e. how to handle investment-failure, alternative ways of investment).

b. Participation

- There is a general consensus that there hasn’t been enough dialogue on RAI so far and that a consultation with broad and deep participation on the RAI is needed within the context of the CFS and on all levels (national, regional, global). In order to build the necessary **trust, legitimacy** and **ownership**, this process should be as inclusive as possible whereby all relevant stakeholders are adequately represented such as governments of receiving countries as well as investing countries, international organizations (in particular the 4 originally involved but also, for example, HLTF and Special Rapporteur to the Right to Food), private sector including companies working in agricultural production and investment funds, civil society including local communities, NGOs, women’s and small scale farmers’ organizations (facilitated by the Civil Society Mechanism).
- To ensure the broad participation as described above, a **Working Group on RAI** could be composed of CFS Bureau members, interested non-Bureau members, the Advisory Group members and other relevant organizations and platforms such as ILC. There should also be a close link with the participants of the Working Group on the Voluntary Guidelines and with HLPE and the project team in charge of making the land study should be involved as well.

- At regular intervals, plenary meetings for all relevant actors could take place in Rome.

c. Format

- The consultation process can be mirrored to the one which was established for the VGs (which had 15 regional & thematic consultations in 16 months).
- The workplan should include both electronic consultations and plenary-type negotiation meetings. The existing website www.responsibleagroinvestment.com should include a link to the CFS-website where a working space could be created for electronic consultations and exchanges of information. Special attention is needed for consultation with private sector.
- The consultation should build on the consultations which were already organized by the 4 initiating organizations as well as on the work of platforms such as ILC.
- The consultation could be organized around the key issues on which consensus need to be reached. For each contentious issue, which will be identified on the basis of the mapping, a separate consultation meeting could take place.

d. Content

- The consultation should deal with:
 - **content** of the 7 principles elaborated by the 4 organizations, **taking into account principles set out by other institutions** (principles elaborated by Special Rapporteur, GTZ, ...).
 - identification of the **'users'** (to whom is it aimed)
 - **implementation** of the principles (promotion, communication, technical assistance, including of a legal nature, elaboration of practical guides, capacity building, 'labelling' of RAI, ...)
 - identification of **pilot countries** where feasibility and impact of implementation of principles can be 'tested'
 - establishing method of **follow-up and monitoring** of implementation
 - establishing a method of **further reviewing** the principles after evaluating their efficiency
- **There should be a possibility to amend, refine and/or complement the RAI-principles if necessary and on the basis of what is practical.** Whatever amendment is proposed has to be the result of abovementioned consultation process in close cooperation with the 4 organizations which are the original drafters of the RAI-principles, as well as with the drafters of other principles. Detailed editing and wordsmithing of the existing principles should however if possible be avoided, it is more important to clearly identify themes and ideas which have been overlooked and still need addressing (such as conflict resolution, alternatives to large scale farming for sustainable food and agricultural production, the grounding of the principles in the obligations of states under international human rights law, the inclusion of Free, Prior and Informed Consent, and the monitoring of it, to the current set of Principles, ...)
- **The principles are and remain voluntary by nature and can not as such be made enforceable.** However, incentives should be sought for the governments and private companies involved to take the principles into account when making their decisions and implement them. The consultation should also **consider ways to monitor and follow-up** the implementation of these international instruments.
- Trying to alleviate the negative impacts of large-scale acquisition might be the central theme but the discussion should be put **into the context of the broader question about**

what kind of agricultural investment is needed to overcome hunger and to support small-scale farmers, particularly women.

e. Coherence

- To ensure consistency and complementarity of the RAI and the **VGs**, a direct reference to the VGs should be included in the wording of the first RAI principles, which refers to recognition and respect of land rights. The VGs will be the concrete implementation of principle 1 so that the discussions on ‘RAI’ can concentrate on the other principles.
- Since the **HLPE**’s land study is closely related to agricultural investment issues, this study should be regarded as an integral part of the CFS process on RAI.
- The *dialogue initiative* (ILC and others) was launched in April 2010 as a direct response to the lack of coordinated consultation and open dialogue on how to respond adequately to increased land-related investments. Now that the CFS has to some extent stepped into this gap, the dialogue partners will adapt their strategy so as to use their resources to best support the CFS process and feed into it.
- The reports on responsible agricultural investment prepared for the **G20** should also feed into the CFS-process; on the other hand, for the sake of consistency, the input of the HLPE might also be sought for the G20-reports, for example by organizing an expert-seminar on the issue.

f. Deadline – Final product?

A proper inclusive and participatory process will take time and has to build on ongoing processes which will only see their finalization late 2011: adoption of the VGs and presentation of the report the work of the HLPE on land at the CFS October session of 2011, outcomes of G20-summit in November 2011, foreseen regional consultations, studies and pilot projects by FAO, World Bank, ILC and others throughout 2011. Confusion with the actual process of negotiation of the Voluntary Guidelines should also be avoided. Therefore **adoption of the principles by the CFS plenary session of October 2012 seems most appropriate.**

Nevertheless, a working group, once set up, can already follow up and monitor the different ongoing processes in 2011, whereby the actual broad consultation in Rome is preferably started after the CFS October session 2011, during which the CFS plenary can make a clear decision to finalize this consultation process with ‘endorsement’ of principles at the CFS October session of 2012. In fact, whether these principles should be *endorsed, approved* or supported in any other way by plenary is still somewhat an open question which might need further discussion in the working group. Unlike for VGs, no formal approval procedure has yet been decided upon as far as the RAI are concerned.

At the CFS October session of 2011, progress till then can be presented together with the proposed roadmap for 2012 which the plenary session can approve (including the question of the ‘nature’ of the final project). At the session, the HLPE-report on land will also be presented and preferably also the report of the 4 international organizations prepared in the context of the G20.

g. Budget

The RAI-consultation will, at the very least in 2011, have to be funded by extra-budgetary resources, since the core-budget of CFS will, besides the fixed administrative costs, only cover the CFS-activities foreseen on mapping and on the development of the Global Strategic

Framework. Important question is therefore which stakeholders are committed – also financially – to support such an inclusive process of developing RAI.

III. Proposed Roadmap

2011

❖ March 2011: Establishment of a working group along the lines mentioned above to **keep track on the ongoing developments in 2011** which will serve as input for the broad consultation on global level which will start after the CFS-October session of 2011. In that context, the WG will need to do a mapping of what has been done so far and by whom (and what the results have been), identify the remaining gaps and get a clear understanding of what are the best practices. This will help to identify what are the remaining key issues which remain to be addressed.

The Working Group will also **open a web-based working space for facilitating electronic information exchanges** on new developments. This working space, preferably on the CFS-website, needs to be linked to the existing website on the principles on agricultural investment (www.responsibleagroinvestment.com) which also needs to be updated.

The Working Group will further keep an eye on the budgetary implications of various initiatives and in particular on the question of how the financial requirements will be met. The developments to take into account are, among others:

- **Negotiation on the Voluntary Guidelines** with adoption at CFS October session 2011.
- **Report by the HLPE on land** to be presented at the CFS October session 2011.
- **Reports by the 4 organizations in the context of the G20-process**: preliminary report in March 2011, final report in June 2011. G20-summit in November.
- **Foreseen events by FAO**
 - Consultation with private sector (2nd March 2011)
 - Consultation with LDC countries (UN LDC Conference, Turkey, May 2011)
 - Consultation in Latin-America and Caribbean (autumn 2011)
- **Foreseen pilots with countries and with private sector** by the 4 initial organizations where the principles in their current draft are ‘tested’ on their practicability: the results of these can feed in into the consultation process.
 - Activities being planned by **‘the dialogue’** (ILC and others) on large-scale land acquisitions and their alternatives are:
 - National consultations in up to 9 countries in Asia led by AFA, and a potential Regional Asian meeting
 - National consultations in 2 countries per region in central, west, southern and eastern Africa, led by regional farmer organizations
 - Pan-African Conference on Women’s Land Rights and Large Scale Land Acquisitions in late May/early June 2011 by Action Aid/Oxfam to be held in Nairobi, Kenya).
 - Africa-wide consultative meeting in late 2011.

❖ September 2011: Informal seminar to all the Permanent Representatives and other stakeholders on state of play as far as RAI is concerned.

❖ October 2011: CFS plenary session: presentation of HLPE-report and G20-process, general progress report of the CFS Working Group and approval of the foreseen consultation process up to October 2012 as proposed by the Working Group.

❖ November 2011: start-up of the broad consultation process in Rome. Details will still need to be worked out by the Working Group during 2011, but consultation should include including:

- electronic consultations based on the key issues identified in 2011 to prepare the actual working group-meetings (one meeting each time organized around one outstanding key issue);
 - 5 to 10 full-day working group meetings between November and June with a CFS led open-ended plenary review and finalization of the discussion (including content, implementation, etc...) by end of June.
- ❖ October 2012: Endorsement/Adoption/Agreement at the CFS plenary session 2012.

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