



COMMITTEE ON WORLD FOOD SECURITY

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**POLICY ROUNDTABLE
LAND TENURE AND INTERNATIONAL
INVESTMENT IN AGRICULTURE**

Table of Contents

MATTERS TO BE BROUGHT TO THE ATTENTION OF CFS	Page 1
I. CHALLENGES	Paragraphs 1-14
A. SECURE ACCESS TO LAND AND OTHER NATURAL RESOURCES	
B. INCREASING INVESTMENT IN AGRICULTURE	
C. INTERRELATED CHALLENGES	
II. KEY ISSUES	15-32
II. POLICY IMPLICATIONS AND RECOMMENDATIONS	33-71
A. THE VOLUNTARY GUIDELINES ON THE RESPONSIBLE GOVERNANCE OF TENURE OF LAND AND OTHER NATURAL RESOURCES	
<i>Linkages, partnership and worldwide consultation</i>	
<i>Preliminary outcomes of the consultations</i>	

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Process

B. THE PRINCIPLES FOR RESPONSIBLE AGRICULTURAL INVESTMENT THAT RESPECTS RIGHTS, LIVELIHOODS AND RESOURCES

Recent reaction and development

C. COHERENCE AND SYNERGY BETWEEN THE RAI PRINCIPLES AND THE VOLUNTARY GUIDELINES AND THEIR IMPLEMENTATION AT COUNTRY LEVEL

Publicizing good practice and sharing knowledge

D. CONTRIBUTING TO POLICY CONVERGENCE

Matters to be brought to the attention of CFS

The Committee is asked to consider:

- Endorsing the on-going inclusive process of development of the Voluntary Guidelines on Responsible Governance of Tenure of Land and Other Natural Resources and requesting FAO to submit the Voluntary Guidelines for review and approval by CFS and FAO governing bodies
- Endorsing the on-going elaboration of Principles for Responsible Agricultural Investment that Respect Rights, Livelihoods and Resources initiated by the World Bank, FAO, IFAD and UNCTAD and recommending that the consultation process be pursued and include all relevant stakeholders
- Urging FAO and the other international organizations involved to continue ensuring the consistency and complementarity between the two processes and to keep focus on their food security and poverty reduction objectives.

I. CHALLENGES

1. The number of people suffering from food insecurity and hunger has been steadily increasing over the last fifteen years and reached more than one billion in 2009. World population will increase by 34 percent over the next 40 years and rural populations will continue to increase until 2025 globally and until 2045 in Sub-Saharan Africa. The majority of undernourished people live in the rural areas of developing countries. The latest FAO estimates indicate that agricultural production would need to grow globally by 70 percent over the next 40 years to feed the world population in 2050.

2. It is fully recognised that achieving food security for all is dependent on broad and secure access to land and other natural resources including water, forests and fisheries, and on the active promotion of investment in sustainable agricultural production and value chains.

3. Calls for improved access to, and tenure security of, land and other natural resources, and for the promotion of agricultural investment were made at the World Food Summit on Food Security in November 2009. These calls re-affirmed the importance of the linkages between food security, tenure and investment that were identified at the 1996 World Food Summit and its follow-up, five years later, in the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security (Voluntary Guidelines on the Right to Food) and at the International Conference on Agrarian Reform and Rural Development in 2006 (ICARRD).

A. SECURE ACCESS TO LAND AND OTHER NATURAL RESOURCES

4. Secure access to land and other natural resources is one of the fundamental factors for the food security of rural populations dependent on agriculture and for the realization of the right to adequate food. The aim of access to food for all may be achieved through other means such as formal employment or off-farm income. However, where such other livelihood opportunities are insufficient, governance systems that recognise existing and promote equitable access to land are

crucial for the realization of the right to food. Improved access and tenure security can allow a farming family to produce food for household consumption, and to increase household income, by investing in the farm and producing commodities for urban markets. Many countries have made considerable progress in improving tenure security. But successful reform is difficult, and competition for land and other natural resources is increasing due, on one side, to rising populations and demands for urban and industrial expansion, and on the other side to a shrinking natural resource base as land is abandoned because of degradation, climate change or conflict. Many problems with access to land and tenure security arise because of weak governance, and attempts to address tenure problems are affected by the quality of governance. Weak governance of tenure can lead to people being vulnerable to losing their farms, homes and livelihoods. In contrast, responsible governance protects the rights to land and is an essential part of the effort to promote productive investment by land users and sustainable use of the natural resource base.

5. For women, weak governance is compounded by inherent cultural practices that limit their secure access to land. Women's access to land is often through male relatives, and is tenuous at best, limiting women's investment opportunities and reducing their agricultural productivity. Substantial research shows that levelling the playing field for women in agriculture, including land tenure, would significantly increase farm outputs. Secure land access for women is critical given their fundamental role in food security.

B. INCREASING INVESTMENT IN AGRICULTURE

6. Lack of investment in agriculture over the decades has meant continuing low productivity and stagnant production in many developing countries, especially in much, though not all, of Sub-Saharan Africa. Lack of investment has been identified as an underlying cause of the recent food crisis and the difficulties developing countries encountered in dealing with it.

7. Recent FAO analysis suggests that the growth rate of Agricultural Capital Stock (ACS) has been declining over the last two decades and that ACS has grown the least in countries with the highest prevalence and depth of hunger. In several of the least developed countries, in particular in Sub-Saharan Africa and South Asia, the growth of the population active in agriculture has outstripped the rate of ACS growth.¹

8. The average share of public spending on agriculture in developing countries has fallen to around seven percent of total budget, even less in Africa. In addition the share of official development assistance (ODA) going to agriculture has fallen to as little as five percent, from 19 percent in 1980. These trends had a negative impact on private investment. Indeed, government expenditure on agriculture is strongly correlated with private capital formation in the agricultural sector of developing countries: for farmers to invest, they need infrastructure, market linkages, access to technology and financial services.

9. FAO estimates that additional investments of about \$80 billion annually are needed in developing country agriculture and related downstream activities to meet global food needs in 2050. Developing countries' own capacity to fill that gap is limited. An urgent, sustained and substantial commitment to investment in agriculture is necessary to reverse the decline in domestic and international funding for food security, agriculture and rural development in developing countries. Given the limitations of alternative sources of investment finance, foreign direct investment in developing country agriculture could make a significant contribution to bridging the investment gap.

¹ S. von Cramon-Taubadel et al., June 2009. Investment in developing countries food and agriculture; assessing agricultural capital stocks and their impact on productivity. FAO.

C. INTERRELATED CHALLENGES

10. Important commitments to public investment and ODA to agriculture have been made since the food price crisis of 2007-2008 and following the G8 summit in L'Aquila and the World Summit on Food Security in 2009. There are now new hopes that the decades old public neglect of agriculture could be reversed.

11. However, most of the investment both in primary agricultural and downstream sectors, will have to come from private sources, primarily from farmers themselves. The projected USD 80 billion net annual investment foresees some USD 20 billion going to crop production, USD 10 billion to livestock production, with a further USD 50 billion annually to downstream support services such as cold and dry storage, rural and wholesale market facilities, and first-stage processing².

12. Given the limitation of budgetary resources and the persisting difficulty of smallholder farmers to access financial services, technology and markets, foreign direct investment in developing countries' agriculture could make a significant contribution to bridging the investment gap and to better link local farmers to markets. Foreign investments in the agricultural sector offer significant potential to complement public resources. However, they may also carry risks where local land rights are not well defined, where governance is weak, or where the local people affected lack voice.

13. The interest of national and international private investors in the agriculture sector, although not new, has been growing rapidly since the 2007-2008 dramatic increase in the price of agricultural commodities and policy-induced supply shocks, notably the result of export controls, that led to a perception that dependence on world markets for foods supplies had become more risky. This offered investment opportunities to the private sector which governments and financial institutions have been willing to support. Investors outside countries with food security concerns have also seen profitable opportunities for portfolio diversification into food production investments, especially as returns on other investments became less attractive. Others have been motivated by the prospects offered by biofuel developments. A number of dedicated investment funds have recently been established to invest in African agriculture with some claiming social as well as financial objectives.

Some developing countries are seeking to attract and facilitate foreign investment into their agricultural sectors. Foreign investments are seen as potentially providing developmental benefits through for example technology transfer, employment creation and infrastructural developments.

14. For governments, agricultural producers, civil society and development institutions concerned with the reduction of mass poverty and hunger in developing countries, the challenges are:

- i. to find ways to harness and channel this new interest in *aginvestment* in a way that matches country food security strategies, minimizes risks and maximizes positive outcomes for local populations
- ii. to ensure that, in this context, land and natural resource rights of local land users are protected and expanded, in particular for those one billion people suffering from hunger and extreme poverty.

II. KEY ISSUES

15. Pressure on farmland and water in agriculture-based countries has been rapidly growing with population density. Across large parts of the developing world the natural resources from

² FAO, 2009, Background note "Investment", High Level Expert Forum "How to feed the world in 2050"

which rural populations derive their livelihoods are being degraded or becoming increasingly scarce. As much as 5-10 million hectares of farmland are being lost each year due to severe degradation³ through over-use, poor land management and soil nutrient mining. This trend is aggravated by climate change. Growing competition for farmland has resulted in a rapid decline in average smallholder farm size over the last 50 years: in India for example average landholding size fell from 2.6 ha in 1960 to 1.4 ha in 2000 and is still declining. In Cambodia rural landlessness went from 13 per cent in 1997 to 20 per cent in 2004. Similarly in Eastern and Southern Africa cultivated land per capita has halved over the last generation and in a number of countries amounts today to less than 0.3 ha per capita.

16. However, in some countries in Sub-Saharan Africa and South America large tracks of land suitable for agriculture are not yet cultivated or are cultivated at low levels of efficiency. Land potentially available for expansion of rainfed crops (uncultivated, non-forested land in areas with less than 25 person/km² suitable for rainfed production) is estimated by the World Bank at about 440 million ha of which 202 million ha is in Sub-Saharan Africa, 123 million ha in Latin America and 51 million ha in Eastern Europe & Central Asia. This land, its water sources and vegetative cover are obviously not free of claims and use. In Sub-Saharan Africa, most of it is currently used extensively by the local population, in particular for livestock grazing by pastoralists and agro-pastoralist communities. This land is also used for endogenous expansion of rainfed crops in a continent in which rural population will continue to grow until 2045.

17. Land is the asset that is being targeted by the most publicised form of recent international private investments in agriculture, namely **the purchase or lease of large areas of farmland** for the production of food, agrofuel, livestock and other products. Large scale acquisitions of farmland by foreign or domestic investors in agriculture-based countries with weak land governance raise complex and controversial economic, political, institutional, legal and ethical issues in relation to food security, poverty reduction and rural development objectives. This phenomenon has attracted substantial international concern and demands by some farmer and civil society groups that it should be stopped.

18. Over the last two years extensive research has been conducted on this new land rush. The recent World Bank report *Rising global interest in farmland* issued in September 2010 provides new insights in the unprecedented acceleration of large scale land acquisition.. Analysis of media reports suggest that more than 40 million ha of farmland globally have hundreds of projects currently proposed, under negotiation or already approved. A quarter of these projects could involve more than 200,000 ha. The main characteristic of the recent trend are a focus on Sub-Saharan Africa (48% of projects and 69% of the total area⁴) and an apparently an emphasis on countries with weak land governance⁵ and high prevalence of food insecurity. About 37 percent of these projects focus on food crops while 63 per cent focus on industrial or cash crops, biofuels, game reserves, livestock and plantation forestry. Although 70 per cent of these projects have already obtained government approval, only 21 per cent reached the production stage in 2010⁶.

21. Evidence from official country inventories gathered by the World Bank also confirms that the amount of land transferred can be very large in some countries, although below the areas mentioned in press reports. For instance, total officially recorded transfers between 2004 and 2009 amount to 4.0 million hectares in Sudan, 2.7 million in Mozambique, 1.6 million in Liberia, 1.2 million in Ethiopia and 1.0 million in Cambodia.

22. It should be noted that the majority of deals involving large land concession (more than 500 or 1,000 ha) are proposed by domestic investors. However the median size of foreign acquisition is

³ World Bank, 2008

⁴ World Bank, *Rising global interest in farmland; can it yield sustainable and equitable benefits?* 2010, , p 35

⁵ Idem, p 37

⁶ Idem, p.36

usually much larger than that of domestic investors and most of the mega-projects involving more than 100,000 ha are of foreign origin.

23. While land under foreign control usually remains a relatively limited proportion of total farmland areas in host countries, such foreign acquisitions are more likely to target good land and water resources and their local impacts can be significant.

24. Although job creation is often among the expected benefit for local populations (together with infrastructure, technology and services), the evidence from official inventories and case studies is mixed. Foreign investments can lead to significant employment creation although this needs to be balanced against loss of traditional livelihoods where smallholders are displaced. However, many investment projects involving large scale acquisition of land in Africa are highly capital intensive and projected job creation is low. For instance, projected job creation is an average of 0.005 jobs/ha in Ethiopia⁷, a tiny fraction of the employment opportunities that farmland may offer under labour intensive family farming.

25. Land targeted by investors may be perceived to be unused because the local farmers or pastoralists lack official proof of their land rights, often held under customary tenure and on formal property of the State. However, little of the land being transferred is not already being used or claimed⁸. Change in use of, and access to, land can involve potentially negative effects on food security of communities and raise complex economic, social and cultural issues. Risks include eviction and displacement of local populations, undermining or negating of existing rights, increased corruption, reduced food security, environmental damage in the project area and beyond, loss of livelihoods or opportunity for land access by the vulnerable, nutritional deprivation, social polarization and political instability.

26. On the positive side, benefits from foreign investments can spill over into the domestic sector in a synergistic and catalytic relationship including with existing smallholder production systems and other value chain actors such as input suppliers. The fact that many developing countries are seeking to attract inward investment suggests that they see these benefits as desirable and real. Benefits should arise from capital inflows, technology transfer leading to innovation and productivity increase, upgrading domestic production, quality improvement, employment creation, backward and forward linkages and multiplier effects through local sourcing of labour and other inputs and processing of outputs and possibly an increase in food supplies for the domestic market and for export. However, these beneficial flows are not automatic: care must be taken in the formulation of investment contracts and selection of suitable business models and appropriate legislative and policy frameworks need to be in place to ensure that development benefits are obtained and the risks minimised. It is also not clear that large scale land acquisition is necessary to achieve these benefits. Private investment up and down the value chains linking foreign investors to local farmers through agro-processing industries, joint ventures, contract farming and out-grower schemes can often offer just as much security of supply to investors, while at the same time providing new opportunities for local smallholder farmers, without transfer of land rights. A diversity of such mutually benefiting business models have been successfully developed in many countries⁹.

27. A simplified map of the different types of investors and investment in the agricultural sector can help identify issues and options lying at the interface of food security, foreign investment in agricultural and governance of land tenure. Figure 1 presents in a matrix form four categories of investors according to their status (private or public) and geographical origin (local, national or foreign) and four types of investment: acquisition of land and natural resources, on-farm

⁷ Idem, p 45

⁸ L. Cotula et al 2009, FAO, IIED and IFAD

⁹ S. Vermulen and L. Cotuma, *Making the most of agricultural investment: a survey of business models that provide opportunities for smallholders*, IIED, FAO, IFAD, SDC. 2010

productive investment, off-farm investment along the agricultural value chains and investment in public goods and services.

28. Relationships between the different categories of investors can be dominated by **competition** as they seek to control the same limited natural resources (A1-B1-C1) or product markets (A3-B3-C3), or even entire value chains and markets through vertical integration strategies (for example C1-C2-C3-C4). But different stakeholders and investors can also choose to engage in different segments of the value chains and seek mutually beneficial contractual arrangements through **partnership strategies** and inclusive business models along the diagonal of the above matrix (such as A1-A2-B3-C3-D4).

Figure 1: Mapping investments in agriculture

Type of investor \ Type of Investment	A. Private: local farmers and pastoralists	B. Private: other domestic investors	C. Private: Foreign investors	D. Public: National/ local government (including ODA)
1. Acquisition of farm land and water sources	<i>Small to medium size acquisition & transfers among many rural producers</i>	<i>Medium to large size acquisition by urban individuals or companies</i>	<i>Large to very large size acquisition by few foreign companies</i>	<i>Governance of tenure and transfers</i>
2. On-farm productive investment	<i>Many small Investments in labour intensive family owned farming systems</i>	<i>Investment in capital intensiv plantations or in contract farming or in family farms</i>	<i>Few large investment in capital intensiv plantations Or in contract farming</i>	<i>Regulation and incentives to private investment</i>
3. Off-farm investment in agricultural value chains	<i>Small-medium storage, processing & marketing, including cooperatives</i>	<i>Medium- large scale storage, industrial processing and marketing facilities</i>	<i>Large scale storage, industrial processing and marketing facilities</i>	<i>Regulation and incentives to private investment</i>
4. Investment in agriculture related public goods	<i>Farmers organizations' Ag. services</i>	<i>Private extension</i>	<i>Private extension services, Some rural infrastructure</i>	<i>Rural infrastructure, Research, extension & education</i>

29. In this regard, public investment in agriculture and rural development (D4), the quality of governance of land tenure (D1), the choice of incentive framework (D2 and D3, including market and trade policy), together with the level of organization of local farmers in producer groups and cooperatives and the degree of social responsibility of foreign investors can bring very different patterns of investment in the agricultural sector.

30. The three groups of private investors in agriculture are characterized by extreme inequality in access to markets, finance, technology and policy influence. Under such extreme asymmetry of market relationships the regulatory role of the State is essential if policy objectives such as food security for all and poverty reduction are to be achieved.

31. Public policies – in particular land tenure policy - and public investment play a fundamental role in shaping relationships among stakeholders and potential investors and determine their outcome in terms of development, food security and poverty reduction. Generally, it is recommended that policy be characterised by broad and equitable distribution of land use rights

among local smallholders, strong public incentives to on-farm investment, public investment in rural infrastructure and agricultural services, and incentives to investors down stream in the value chains.

It must be stressed that overseas farmland investments are not the cure to the problems that continue to confront large masses of small farmers and landless rural workers in Asia. While these investments can provide tangible benefits and steps can be taken to ensure that they do so, the hard work remains for governments to assume and execute their responsibility of building roads, putting up the irrigation, delivering the (...) services that will enable farmers to generate profits from their farms and rear their families out of chronic poverty. These masses of small farmers – not foreign entities – are the real and most strategic investors that governments should encourage and support. And unlike foreign investors, who can easily pack up and leave if things go bad, these small farmers are the most loyal and resilient investors, if only because they have nowhere else to go.

Raul Q. Montemayor, Federation of Free Farmers of the Philippines, Vice President of IFAP

32. At the heart of the challenges mentioned above are therefore the interrelated policy issues of:

- i. How to ensure a responsible governance of access to, and control over land, water and other natural resources in agriculture-based countries?
- ii. What could be the best “location” of foreign investment in domestic agricultural value chains and what should their relationship be with local farming systems and rural economies?
- iii. What are the pre-conditions for developing inclusive business models that benefit local producers and contribute to national food security?

III. POLICY IMPLICATIONS AND RECOMMENDATIONS

33. The challenges and opportunities discussed above have been addressed over the last two years by a number of international and regional initiatives including research activities, stocktaking of good and bad practices, and consultations on policy and normative instruments¹⁰. A number of norms and guiding principles have been proposed by IFPRI (2009) and by the Special Rapporteur on the Right to Food (2009). Policy debate and formulation has been engaged at the national and regional level (Framework and Guidelines on Land Policy in Africa, EU Land Policy Guidelines). At the national level, criticism of “land grabbing” have already triggered some reaction, including improvement in public inventories in some countries and a moratorium on allocation of land for biofuel projects in Mozambique. At the international level, two initiatives of major interest for CFS are ongoing:

- the preparation of *Voluntary Guidelines on the Responsible Governance of Tenure of Land and Other Natural Resources*, led by FAO in a broad partnership with member nations, civil society, IFAD and other United Nations agencies
- the development of *Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources*, now called the “RAI Principles”, developed by the World Bank, FAO, IFAD and UNCTAD.

34. These two initiatives are complementary, inter-related and will refer to each other, although they are different in nature. The Voluntary Guidelines will cover all aspects of governance of

¹⁰ This includes studies by FAO/IFAD/IIED (2009 and 2010), World Bank (2010), ILC (2010), GRAIN (2009), FIAN (2010) and BMZ (2010) and others.

tenure, while the RAI Principles address the broad considerations of agricultural investment. They meet on the issue of investment in agriculture as it affects land rights. They both integrate food security concerns and can contribute to a process of international and multi-stakeholder policy convergence.

A. THE VOLUNTARY GUIDELINES ON THE RESPONSIBLE GOVERNANCE OF TENURE OF LAND AND OTHER NATURAL RESOURCES

35. The FAO Council and CFS have expressed support for the process of developing the draft Voluntary Guidelines on the Responsible Governance of Tenure of Land and Other Natural Resources (Voluntary Guidelines)¹¹. They are being prepared in response to growing interest in an international instrument to help improve the governance of tenure. The quality of the governance of tenure is a fundamental factor in the success or failure of efforts to improve gender equity in access to land and other natural resources; manage disputes over the resources; provide access to land and shelter following natural disasters and violent conflicts; facilitate land reforms; recognise indigenous, customary and community rights; improve the management of state owned land, and improve the administration of tenure. The governance of tenure is fundamental to the investment climate for all agricultural producers and in particular for the 500 million small farms in developing countries.

36. The Voluntary Guidelines will provide practical guidance to States, civil society and the private sector on the responsible governance of tenure as a means to alleviate hunger and poverty, empower the poor and vulnerable, enrich rural livelihoods, support growth and development, enhance the environment, and reform public administration. They will integrate regional perspectives and take into account the diversity of social, cultural, religious, environmental and economic situations, and the specific needs of member nations. While respecting the diversity of beliefs and traditions, there are internationally accepted human rights and obligations upon which an internationally approved framework can be created to address responsible governance of tenure. The Voluntary Guidelines will provide such a framework for responsible practices, thereby allowing governments, the private sector, civil society and citizens to judge whether their proposed actions and the actions of others constitute acceptable practices and if not, they will provide a reference for improving the governance of tenure.

Linkages, partnership and worldwide consultation

37. The Voluntary Guidelines are closely linked to all relevant international and regional initiatives that address human rights and secure access to land and other natural resources. They further expand the Voluntary Guidelines on the Right to Food with regard to tenure reform, and they are a follow-up to the International Conference on Agrarian Reform and Rural Development (ICARRD), both of which emphasized the role of governance and the rule of law.

38. The Voluntary Guidelines will serve to support and strengthen national policy processes, and will build on and support the implementation of regional initiatives such as the recently adopted *Framework and Guidelines on Land Policy in Africa*; the *Framework for Action on Food Security for the Pacific*, and the principles developed by the Pacific Island Forum for land management and conflict minimization; and the European Union *Land Policy Guidelines*.

39. The Voluntary Guidelines are being prepared through a global partnership of member nations, civil society, United Nations agencies and other international organizations, many of which have joined the Advisory Board established for the initiative. FAO's major funding partners are Germany, Finland, Switzerland and IFAD¹². Member nations to host regional consultations

¹¹ CL 139/REP; C 2009/21-Rev.1

¹² In addition to Germany, IFAD and Finland, Switzerland has pledged funding for the preparation of the Voluntary Guidelines and has expressed interest in providing funding to assist in support for their subsequent implementation.

include Brazil, Burkina Faso, Ethiopia, Jordan, Namibia, Panama, Romania, the Russian Federation, Samoa, and Viet Nam¹³. Intergovernmental partners include UNDP, UNECA, WFP, IDLO and the World Bank. The International Land Coalition, an alliance of intergovernmental and civil society organizations, is a partner. Civil society partners include FIAN International, IPC, Namibia Institute for Democracy, Transparency International, GRAF (Burkina Faso), GRET (France), CIDES (Panama), RDI (USA), SNV (Netherlands) and others. Partners of professional associations include the International Federation of Surveyors (FIG), the Royal Institution of Chartered Surveyors (RICS), the Commonwealth Association of Surveying and Land Economy (CASLE) while those from academia include Birzeit Technical University of Palestine, the University of Jordan and the University of the South Pacific.

Preliminary outcomes of the consultations

40. The Voluntary Guidelines are in the initial stage of preparation, with inputs being gathered from member nations and intergovernmental and civil society partners, and through multi-stakeholder discussions conducted during 2009-10.

41. *Core issues.* The regional and thematic consultations have discussed an extensive range of relevant issues. There is widespread support for improved governance of tenure which ensures the right to adequate food, and reinforces the universal respect for human rights while recognising regional, cultural and political diversities. A similar broad consensus exists that improved governance is required to ensure secure access to land and water in ways that are non discriminatory, and which foster rural livelihoods, gender equality and sustainable cities. Support is needed for large sectors of society, including family farms, women, youth, indigenous peoples, pastoralists, fisher folk, forest dwellers, refugees, landless peasants and bonded labourers, and other poor or vulnerable members of society. There is extensive recognition that improved governance of tenure is necessary to promote rural and urban development while ensuring the protection and enhancement of the environment. The consultations further recognise that the Voluntary Guidelines should not exist in isolation but will need to reinforce existing and new regional and national initiatives on the governance of tenure.

42. *Political will.* The consultations acknowledge that substantial political will and willingness are required to improve governance of tenure, and that there is a need for stakeholders, including government, civil society, local communities and the private sector, to develop a broad social consensus on the importance of governance reforms.

43. *Holistic approach.* While noting the important contributions that improved governance of tenure can make, the consultations also recognise that the full benefits to society are dependent on complementary actions in other areas. For example in the context of land reform, the redistribution of land will be more effective if accompanied by holistic support including improved access to rural financial services, extension, markets and education in order for beneficiaries to achieve sustainable rural livelihoods.

44. *All tenures and natural resources.* The consultations recognise that governance should be improved for all forms of tenure including private ownership, state ownership, leases, customary

Other financial contributors include France, UN-HABITAT's Global Land Tool Network, the Conseil Supérieur du Notariat of France (CSN) and the German Technical Cooperation (GTZ). Many governmental agencies, such as the MCC and GTZ have collaborated in organizing consultation meetings.

¹³ The regional consultation process includes meetings in Southern Africa (Namibia, September 2009), Asia (Viet Nam, October 2009), Europe (Romania, March 2010), Near East and North Africa (Jordan, May 2010), Latin America (Brazil, May 2010), West and Central Africa (Burkina Faso, June 2010), the Pacific (Samoa, July 2010), Central America and Caribbean (Panama, September 2010), East Africa (Ethiopia, September 2010), and Eastern Europe and Central Asia (Russian Federation, October 2010). Consultations specifically for civil society included regional meetings in Malaysia (March 2010), Brazil, (May 2010), Italy (July 2010) and Mali (Sept. 2010). A consultation was held with the private sector in the United Kingdom (January 2010).

tenure and common property resources, and where informal rights to land exist. In many countries customary and statutory tenure co-exist, overlap and interact with each other: weaknesses in both forms of tenure should be identified and addressed. Initiatives to improve governance of tenure should not be limited to land, but should also target secure access to other natural resources.

45. Making existing rights real. The consultations recognise that improved governance is needed in order for many people to enjoy, and protect, their existing rights to land and other natural resources. The ability to use such rights may be limited for many reasons. Many people, including women and other vulnerable groups, are often unaware of the full extent of their rights. Other limitations arise when policies for land and other natural resources conflict or are unclear, and when legislation is complex, poorly enforced and open to different interpretations. Costly and time-consuming administrative procedures may further limit opportunities for people to benefit from their rights. These factors may also result in people losing their rights when conflicts and natural disasters occur, and when land is required for development projects. Improvements to governance should enable people to know their rights and exercise them without discrimination.

46. More equitable access. The consultations acknowledge the need to improve access to land and other natural resources by the poor and vulnerable. **Inequitable access to rural lands can be an important factor in rural hunger, poverty and environmental degradation.** Women often have fewer and weaker rights because of discrimination in statutory and customary tenure, and indigenous peoples may lack legal recognition of rights to their ancestral lands. Improved governance can lead to land reforms that benefit the poor in ways that are consistent with international human rights obligations and in accordance with the rule of law, and can lead to legal reforms that provide equal rights to women and legitimacy for the use and management of indigenous peoples' ancestral lands.

47. Multi-dimensional nature of land. The consultations recognise that the allocation of land, including redistribution and development, should consider not only economic purposes, but should also take into account cultural, social, religious and environmental interests. Governance reforms are required to ensure that rural-urban linkages are addressed to harmonize agricultural, industrial and urban policies and plans, and to protect agricultural land **from its inappropriate conversion for other purposes and the associated loss of biodiversity.**

48. Corruption. The consultations identify corruption as a significant problem, particularly for the poor and vulnerable who lack the political force to influence decisions, and the financial resources to protect their rights to land and other natural resources. Eliminating corruption requires concerted action by governments, private sector, civil society and academia.

49. Responsible investments. The consultations recognise that agricultural **investments may bring benefits, but investments that involve large scale land purchases or leases can result** in eviction and displacement, particularly in areas with communal and customary tenure where people lack legal recognition and documents to prove their rights to use the land. Improved governance is required to monitor, promote and manage investments where land is acquired; to provide safeguards that protect human rights, including the prior assessment of possible socio-economic and environmental consequences; and to ensure that local land users transfer their land rights only with free, prior and informed consent.

Process

50. The Voluntary Guidelines are scheduled to be drafted in 2011, following the completion of the regional, thematic and electronic consultations in 2010. The initial technical drafting will be led by FAO, in close consultation with the Advisory Board. The initial draft will be widely disseminated electronically and through a briefing to Permanent Representatives, to provide extensive opportunities for review by member nations and other stakeholders. The final draft will be compiled by the FAO secretariat. The preliminary schedule is for the Voluntary Guidelines to be available for adoption by FAO governing bodies in 2011. Following the adoption, the focus will turn to dissemination, capacity building and support to implementation, recognising that good

practices identified in the Voluntary Guidelines will have to be implemented in multiple manners and by multiple actors in order for families, communities and countries to benefit. Implementation of the Voluntary Guidelines will be included in the Programme of Work and Budget for 2012-13 under Strategic Objective F; Organizational Result F04.

B. THE PRINCIPLES FOR RESPONSIBLE AGRICULTURAL INVESTMENT THAT RESPECTS RIGHTS, LIVELIHOODS AND RESOURCES

51. In order to better spread the benefits and balance opportunities with risks in major investment and to generate empirical evidence, FAO, IFAD, UNCTAD and the World Bank have been working together over the last year to develop a set of draft Principles for Responsible Agricultural Investment (RAI). The Principles provide a framework to which national regulations, international investment agreements, global corporate social responsibility initiatives and individual investment contracts might refer. They are intended to provide guidance for host countries, including towards the preparation of domestic legislation and fair contractual arrangements, and to provide guidance to investors for socially responsible investment. The principles which highlight the need for transparency, sustainability, involvement of local stakeholders and recognition of their interests, and emphasize concerns for domestic food security and rural development, have broad political support. The Principles are based on detailed research concerning the nature, extent and impact of foreign investment and best practices in law and policy. They cover all aspects of agricultural investment including the issue of large scale land acquisition for that purpose, and this latter being addressed by the Voluntary Guidelines. The RAI principles and the Voluntary Guidelines are therefore substantially complementary.

52. In September 2009, a side event at the UN General Assembly on responsible international agro-investment was organized by the four international organizations mentioned above. The meeting discussed an initial version of the Principles. The meeting was followed by extensive consultation between the four agencies.

53 In November 2009 the Declaration of the World Summit on Food Security expressed support for “*public/private cooperation and private investment, both domestic and foreign, for agriculture and food security in developing countries*” and agreement “*to continue studying principles and good practices to promote responsible international agricultural investment*”.¹⁴

54. By the time of the annual meeting of the Global Donor Platform for Rural Development held in Rome in late January 2010, the four organizations had agreed on a joint version of the seven principles jointly published as a “discussion note to contribute to an ongoing global dialogue”. This first version of the document was further vetted in the run up to the World Bank’s Annual Land Conference in April 2010 in Washington where a slightly modified Synoptic Version (March 2010) was extensively discussed.

55. The seven principles for Responsible Agricultural Investment are¹⁵:

1. **Respecting land and resource rights:** existing rights to land and associated natural resources are recognized and respected. The material for this principle is being developed under the Voluntary Guidelines initiative
 - i.
2. **Ensuring food security:** investments do not jeopardize food security but rather strengthen it;

¹⁴ FAO, November 2009, *Declaration of the World Summit on Food Security. Para 40, p.7.*

¹⁵ www.responsibleagroinvestment.org

- i. continuing access to food is assured
 - ii. opportunities for outgrower involvement and off-farm employment are expanded to protect livelihoods and raise income
 - iii. dietary preferences are taken into account if the mix of products grown may change
 - iv. strategies to reduce potential instability of supply are adopted.
- 3. Ensuring transparency, good governance and a proper enabling environment:** Processes relating to investment in agriculture are transparent, monitored, and ensure accountability by all stakeholders, within a proper business, legal and regulatory environment;
- i. ensuring public availability of relevant information, such as land potential and availability, core aspects of prospective investments, and resource flows or tax revenues
 - ii. developing the capacity of institutions that handle investment selection, land transfers and incentives to follow principles of good governance, and operate efficiently and transparently
 - iii. ensuring that an independent system to monitor progress towards a better investment climate is in place.
- 4. Consultation and participation:** All those materially affected are consulted, and agreements from consultations are recorded and enforced;
- i. definitional and procedural requirements in terms of who represents local stakeholders and what is a quorum for local attendance is clarified
 - ii. the content of agreements reached in such consultations should be documented and signed off by all parties
 - iii. methods for enforcement and sanctions for non-compliance are specified.
- 5. Responsible agro-enterprise investing:** Investors ensure that projects respect the rule of law, reflect industry best practice, are viable economically and result in durable shared value;
- i. investors should be expected to comply with laws, regulations, and policies applicable in the host country (and ideally with all relevant international treaties and conventions)
 - ii. adhere to global best practices for transparency, accountability and corporate responsibility in all sensitive areas
 - iii. strive not only to increase shareholder value but also to generate significant and tangible benefits for the project area, affected communities and the host country.
- 6. Social sustainability:** Investments generate desirable social and distributional impacts and do not increase vulnerability;
- i. relevant social issues and risks are identified during project preparation, and strategies are devised to adequately address them
 - ii. the interests of vulnerable groups and women are considered explicitly
 - iii. the generation of local employment, transfer of technology, and direct or indirect provision of public goods and services is part of the investment design.
- 7. Environmental sustainability:** Environmental impacts due to a project are quantified and measures taken to encourage sustainable resource use while minimizing the risk/magnitude of negative impacts and mitigating them.
- i. independent environmental impact analysis to identify potential loss of public goods, such as biodiversity or forests, is conducted prior to approval

- ii. preference is given to reclaiming or increasing productivity of resources already in use
- iii. the most appropriate production system is selected to enhance the efficiency of resource utilization, while preserving the future availability of these resources
- iv. environmental good practices in agriculture, processing and manufacturing are adhered to
- v. provision of desirable ecosystem services is encouraged
- vi. negative impacts are addressed through regularly monitored environmental management plans and compensated where appropriate.

Recent reaction and development

56. Beyond the four international institutions directly involved, the RAI principles have attracted the interest of many governments (in particular from OECD countries), from the corporate private sector, from civil society groups and from the UN Special Rapporteur on the right to food¹⁶).

57. On the occasion of the World Bank conference on land in April 2010 a coalition of NGOs and farmers movements including La Via Campesina, FIAN and GRAIN expressed strong criticisms of the RAI principles.

58. Since April 2010 the RAI principles have been discussed in a number of policy fora, including at the UNCTAD Trade and Development Board¹⁷ and most recently at the FAO Committee on Commodity Problems, at its sixty-eighth session in June 2010¹⁸. The Committee on Commodity Problems supported *“the development of principles for responsible investment in agriculture by the Secretariat, the World Bank, IFAD and UNCTAD and urged them to hold broad consultations with all Member Governments and stakeholders. In particular, it insisted on the need of giving transparency to the discussion and on the importance of holding meetings in Rome where the Permanent Representations to FAO, IFAD and the WFP are based...The Committee emphasized also the need for coordination with other processes such as the Voluntary Guidelines for responsible land tenure and the initiatives of multilateral organizations such as the OECD, African Union and UN Economic Commission for Africa in order to ensure coherence and synergy”*.

C. COHERENCE AND SYNERGY BETWEEN THE RAI PRINCIPLES AND THE VOLUNTARY GUIDELINES AND THEIR IMPLEMENTATION AT COUNTRY LEVEL

59. Governments, UN institutions, civil society and private sector organizations involved in CFS have been actively debating the two initiatives presented above. The Voluntary Guidelines and the RAI Principles identify the issues on which there is a consensus-based desire for action. They are voluntary and do not establish legally binding obligations for member nations, nor will they replace existing national or international laws and commitments. They will set out frameworks of internationally accepted standards that member nations may use when developing their own strategies, policies, legislation, programmes and activities. The experiences of voluntary instruments such as the Voluntary Guidelines on Right to Food, the International Code of

¹⁶ Olivier De Schutter, 2009: *Large scale land acquisitions and leases; a set of minimum principles and measures to address the human rights challenges*. Addendum to the Report of the Special Rapporteur on the right to food to the Human Rights Council, UNGA.

¹⁷ UNCTAD Trade and Development Board, Investment, Enterprise and Development Commission, Second session Geneva 26-30 April 2010.

¹⁸ FAO Committee on Commodity Problems, 2010 “Foreign Investment in Developing Country Agriculture – issues, policy implications and international response”.

Conduct on the Distribution and Use of Pesticides and the Code of Conduct for Responsible Fisheries show they have the potential to have a substantial impact in guiding relevant national policy and legislation.

60. The Voluntary Guidelines and the RAI Principles obviously come together over the question of acquisition of land by investors and therefore of the governance of land tenure. The first RAI principle “*Existing rights to land and associated natural resources are recognized and respected*” is intended to address a primary concern that large scale land acquisitions for agricultural investments are likely to threaten the rights of existing users of the land, including local agricultural producers, pastoralists and indigenous peoples and especially women whose land use rights are often particularly vulnerable.

61. The basis for this first principle is the Voluntary Guidelines which will address, in part, access to land in the context of agricultural investments as this topic has already been identified and widely explored in consultation meetings. Further development of the RAI Principles will thus be able to benefit from the consultations for the Voluntary Guidelines and could explicitly refer to them, and similarly, the treatment of international investment aspects of land tenure and land transfers within the Voluntary Guidelines will be able to draw on the wider scope of discussions on investment carried out for the RAI Principles, including contributions from the UN Special Rapporteur on the Right to Food, private investors and civil society organizations.

62. Civil society and private sector organizations and in particular organizations representing farmers, fishers, pastoralist and indigenous peoples have a major role to play in the consultation processes for the development of the Voluntary Guidelines and the RAI principles. The RAI principles acknowledge that “*civil society can have a major role in helping to improve transparency, build stakeholders’ capacity at the local level and help those affected to make their concerns heard. Provision of assistance for identifying priority areas for improvement and fostering synergies, as well as options for making incremental progress towards meeting them, is indispensable.*” Robust capacity of CSOs and the media to scrutinise government-led contract negotiation and management is likely to make a positive difference as is greater capacity of local land users and agricultural producers to negotiate favourable outcomes with incoming investors.

Publicizing good practice and sharing knowledge

63. The development of standards or a code of conduct for investors has been proposed at a certain point in other initiatives, such as the Extractive Industry Transparency Initiative (EITI), the Equator Principles, and the Santiago Principles, that have formulated standards for specific sub-sectors or investor categories. However, the extent of actual application of such systems remains limited and it is still a challenge to combine them with independently verifiable performance standards coupled with benchmarking. Publicizing good practice on how to address specific principles is important in order to demonstrate that compliance is not only possible, but serves stakeholders long-term interests. In that regard, **a knowledge exchange platform** (www.responsibleagroinvestment.org) explaining the RAI principles and making available information to support their implementation by both host countries and investors has been established. It could particularly identify ways in which agricultural investment can be used to best contribute to national strategies for development and poverty reduction and how incentives for different actors can be structured to achieve this.

D. CONTRIBUTING TO POLICY CONVERGENCE

71. The growing interest in agriculture of national and international investors - after decades of neglect - may be a historical opportunity for development and food security in developing countries provided the investments fit within national strategies, fill the gaps and are effectively channelled into geographical areas and segments of the agricultural value chains where they are most needed and can be mutually beneficial to local agricultural producers, consumers and the investors. Policy convergence among nations on standards of responsible governance of land

tenure and responsible agricultural investment is needed in order to seize this opportunity. Because of its intergovernmental nature, its inclusive character and its focus on food security, CFS has an important role to play in this policy convergence process.