

Civil Society Position on the first draft of the CFS rai Principles May 2014

The CFS has recognized the overwhelming role of small-scale producers in feeding the majority of the world and working the land. Given its mandate to promote food security, the CFS has framed its rai initiative in the context of the progressive realization of the right to food in the context of national food security. The CFS's Global Strategic Framework (GSF) and VGGT provide a normative framework and foundation for addressing the question of rights-based, 'responsible' agricultural investment.

The rai process needs to be reoriented from the rights of private investors to practice (ill-defined) 'responsible' agricultural investment to the rights of small-scale producers and workers to produce food in the public interest of domestic food security and nutrition; from the rights of private investors to the rights of farmworkers, indigenous peoples, women and other constituencies to protection against exploitation. Rather than proclaim a general responsibility for best investment practices on the part of financial investors, if the rai is to be consistent with CFS and GSF proclamations, it must center on public policies that are effective in promoting state-sponsored and state-monitored schemes to improve and consolidate small-scale production models and guarantee the rights of producers, workers and consumers to vibrant, healthy, resilient and sovereign food systems.

The first draft of the CFS rai principles that have been presented for negotiation is not acceptable to Civil Society.

We find that that the draft is a patchwork of proposals to make it acceptable to a broad swathe of CFS stakeholders and so doing, it makes inaccurate assumptions about the nature, purpose, benefits, impacts and needs of different types of agricultural investment. More specifically we note the following deficiencies:

1. The rights-based framework needs to be stated clearly at the outset and recognized in concrete terms in all of the principles.

The first draft does not refer to several human rights conventions and instruments that are directly pertinent to the progressive realization of the right to adequate food and nutrition. Missing in the draft is clear language on upholding the rights of workers, immigrants, rural women, farmers, fisher-folk, pastoralists and indigenous peoples.

A serious omission is acknowledgement of the principle of Free Prior and Informed Consent (FPIC) for all affected communities, which contains the minimum requirements to negotiate and conclude agreements and negotiations between peoples, the state and other parties with regard to the implementation of treaties, agreements and constructive arrangements.

Furthermore, as the CFS is a body convened within the United Nations, CFS Member states have an obligation to promote and respect human rights under international law and multilateral human rights conventions and agreements, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of all forms of Discrimination Against Women, the International Convention on the Elimination of all Forms of Racial Discrimination, United Nations Declaration on the Rights of Indigenous Peoples, ILO provisions, etc.

2. There must be clear recognition of small-scale producers and workers as the

main investors in agriculture and the main producers of food, and of the fact that investment is not only financial. Further, small-scale producers should be clearly distinguished from the private sector.

The current draft implicitly maintains that small food producers cannot feed the world and that private sector investment is a solution to overcome this deficit. We completely disagree with this assumption.

Albeit more in developing countries than in developed countries, family-based food production has been recognized by the FAO and other expert bodies as the predominant form of food production that feeds majority of the world's people, and is critical to combat hunger, malnutrition and poverty. Small-scale farmers account for 80 % of the food supply in Asia and sub-Saharan Africa, while artisanal fishing employs over 90 % of the 35 million people practicing capture fisheries worldwide as well as provides a livelihood for 85 million people employed in activities related to processing, distribution and marketing.

Small scale agricultural and food producers and workers must be recognized as the main producers and investors in agriculture, and public investment should further strengthen and be consistent with their interests and needs, as stressed in the HLPE report on investing in smallholders, and as confirmed by the CFS in October 2013 and the regional consultations organized by the CFS.

3. There must be a commitment to create decent work and respect workers' rights and overcome discrimination against women.

Workers' rights as defined in the ILO core Conventions must be respected and upheld. Investors and/or employers may respect the UN and its standards but often refuse to respect the workers rights as defined by UN standards.

The rai should commit to create "decent work for all" not just "decent opportunities," which are in the realm of dreams rather than commitments. Decent work includes:

- Obligations on investors to pay living wages and respect the rights of agricultural and food workers, as defined in the ILO core Conventions, as well as in ILO Conventions 184, 183 and 129.
- Protection for migrant and seasonal workers in agriculture, which should be included in the rai principles.
- Obligation on governments to ensure that workers in the food and agriculture sectors are covered by adequate and appropriate labour legislation, social protection schemes and labour inspection to protect and promote occupational health and safety.
- Women workers should be guaranteed equal employment rights (including equal pay), maternity protection and there should be clear commitments to zero tolerance of sexual harassment.
- Enabling collective bargaining between employers and trade unions to fix decent working conditions at national and enterprise levels.
- Clear commitments to ensure that there is no use of child labour

4. There must be support for peasant-based agro-ecological production systems, and local food systems and markets; defense of peoples' access to and control overall land, forests, water, peasants' seeds, fisheries; and investment in people-centered research.

The rai must explicitly prohibit land, water and resource grabbing, including public resources and supports that should not be diverted towards enabling the operations of medium and large private investors.

5. The rai must prioritise effective public policies and investment that support and defend small-scale producers and local food systems. These should include agricultural and rural policies, and also trade and investment.

We expect the principles to outline a far more active role for the state in promoting the abilities and capacities of small-scale food producers and workers. In the first Draft, it seems that the role of the state is limited to creating an enabling environment for outside investment. Instead, the state should support and defend small-scale producers' investments.

6. There has to be a strong statement of the responsibility of states for implementing and monitoring the principles in an inclusive way, with particular emphasis on participation by the most vulnerable.

The state must guarantee and regulate the implementation of the principles on agricultural investment. In the first draft, the state is presented more as an enabler of private sector than as an actor implementing public policies to support investment for and by small-scale producers. It is not enough that intermediaries acknowledge the rai principles in their operation; they must be obliged to implement them.

The state has legal, binding commitments to protect human rights, specifically the rights of small-scale food producers and workers, and commitments to invest in public goods.