

Oxfam input to the CFS e-consultation on the rai draft 0

In order to ensure that the CFS rai delivers food security and it is consistent with his ToRs and scope, the draft 1 should be dramatically different from draft 0. Please find below Oxfam's specific inputs to the e-consultation. The proposals below will focus on specific wording suggestions which, due to time constraints, were not possible to discuss during the regional consultations.

The structure

The current structure is confusing and it is not focused. Furthermore, it is not fit to deliver clear and ambitious principles and to provide specific guidance to all stakeholders' investments.

The rai document should be divided in 4 sections:

- 1) Introduction/Preamble;
- 2) Principles;
- 3) Roles and responsibilities. This part should include the specific changes and actions that need to be undertaken by the different stakeholders. It should clearly separate public from private sector actors, small scale food producers from the other investors and different kinds of private investors investing in different parts of the food system (input industry, traders, food industry, supermarkets, and financial sector). For every sector/stakeholder, this part should include specific recommendations on what are their roles and responsibilities to implement the rai principles.
- 4) Implementation, monitoring, evaluation and learning of the rai principles.

The principles

The principles should be entirely redrafted to: 1) Be more normative; 2) Guide all investments; 3) Clearly flag the need to avoid negative impact and produce positive impacts; 4) Clearly underlines major issues that deserve specific attention.

We propose that the principles should read as follow:

Principle #1 (food security) - All investments in agriculture and food systems should avoid any negative impact and enhance, as much as possible, local, national and regional food security, nutrition and development as well as contribute to and be consistent with the progressive realization of the right to food for all.

Principle #2 (economic and social issues) – All investments in agriculture and food systems should: i) generate sustainable livelihood opportunities for other stakeholders relying on the same natural resource base or markets, notably the food insecure, small-scale food producers and processors, women and men and vulnerable people; ii) where investments aim to achieve positive socio-economic benefits through generation of waged agricultural employment, it should ensure that it respect international core labour standards and obligations related to standards of the International Labour Organization (ILO) and that a living wage is paid as a minimum; iii) respect and promote small scale food producers, indigenous peoples' and local communities access to and control over land, water and other natural resources, avoid, where possible, large scale transfers of land or water rights away from small scale food producers and avoid any form of landgrabbing¹; iv) be subject to a fair and transparent tax framework that generates incomes for the host country and participate in strengthening a redistributing system contributing to poverty and inequalities reduction.

¹ Landgrabbing is defined as acquisitions or concessions that are one or more of the following: in violation of human rights, particularly the equal rights of women; (ii) not based on free, prior and informed consent of the affected land-users; (iii) not based on a thorough assessment, or are in disregard of social, economic and environmental impacts, including the way they are gendered; (iv) not based on transparent contracts that specify clear and binding commitments about activities, employment and benefits sharing, and; (v) not based on effective democratic planning, independent oversight and meaningful participation (ILC, Tirana Declaration, 26 May 2011).

Principle #3 (environment, climate change and resilience) – All investments in agriculture and food systems should: i) Avoid natural resources depletion and promote the sustainable use and regeneration of natural resources through the promotion of agroecology; ii) Be guided by comprehensive monitoring and reporting on climate change risks, including future risks from climate change, particularly with regard to small scale producers and rural communities, and should contribute to climate change mitigation and adaptation with a clear priority on further strengthening small scale food producers resilience in the face of climate change and other shocks and on reducing greenhouse gas emissions resulting mainly from industrial agriculture and deforestation.

Principle #4 (cultural issues) – All investments in agriculture and food systems should: i) respect cultural heritage and landscapes and traditional and indigenous knowledge and practices as well as respect how indigenous people manage their lands and share seeds; ii) be considered legitimate by local and other relevant stakeholders.

Principle #5 (policy coherence) – Adequate and effective regulatory frameworks, laws, policies and agreements should be in place to ensure that all investments and policies having impacts on agriculture and food systems, including those not directly dealing with food and agriculture (e.g. energy policies): i) Contribute to and do not undermine the progressive realization of the right to food for all; ii) ensure all smallholder food producers can invest sustainably in their own development, and contribute more broadly to sustainable development; iii) Are consistent with the principles and provisions of the VGGT; iv) address all aspects of responsible investments as described in this document in a coherent and comprehensive matter.

Principle #6 (governance and decision-making) – All investment in agriculture and food systems should: i) Be transparent; ii) respect national laws and their spirit; iii) Be based on decisions taken in an inclusive way, notably by involving multistakeholder platforms, small scale food producers and local communities; iv) should follow the principle of Free, Prior and Informed Consent for indigenous people and other local communities.

Principle #7 (grievance mechanisms) – All investments in agriculture and food systems should recognize, respect and support: i) Non-discriminatory access to justice, grievance mechanisms or, when not available, non-judicial grievance and redress mechanisms; ii) fair, effective and timely mediation, administrative and judicial remedies, and a right to appeal. In that perspective, special attention should be paid to ensure access to legal assistance to vulnerable and marginalized individuals and groups.

Principle #8 (review mechanisms and accountability) – All investments in agriculture and food systems should be demonstrably based on independent, transparent and participatory assessment of their potential impacts on food security and nutrition, societies, economies, human rights, including land rights, environment, women and small scale food producers rights and culture before, during and after each investment, with mechanisms for regular review. Terms and conditions of investments should be adapted accordingly where necessary. All actors involved in investments in agriculture and food systems should be accountable for their decisions, actions and impacts and respect and implement obligations and commitments.

The following principles should be added:

Women rights and equality - All investments in agriculture and food systems should: i) fully take into account their differentiated impacts on women and men; ii) respect and promote women's rights; iii) empower women to claim their rights; iv) seek to strengthen women's social and economic access to and control of productive resources; iv) prioritize women in benefit sharing

Models of investment and partnership – All investments in agriculture and food systems involving partnerships that couple public and private resources should: i) promote the interests, respond to the needs and promote and respect the rights of small scale food producers' access to and control over land and other natural resources and livelihood; ii) be based on models of investments that have the highest potential to respect, promote and fulfil the progressive realization of the right to food and respect and promote small scale food producers rights; iii) recognize and mitigate risks for small scale food producers notably linked with climate change. Where market-based partnerships are developed, they should be designed to strengthen small scale food producers' negotiating power and support the development of and access to markets that are remunerative for smallholders and rural economies, recognizing the importance of non-monetary exchanges and of local food systems.

Missing elements to be included in the section on roles and responsibilities

Land-related recommendations need to be strengthened

All stakeholders should commit to zero tolerance on landgrabbing. This will imply different concrete commitments and action needed by different stakeholders.

Governments should ensure that governance of land, forests and fisheries is strengthened in line with the VGGT. All stakeholders should respect and promote the VGGT.

- A. All companies² should commit to and make publically available a Zero Tolerance for Land Grabbing policy that should:
 - a. Acknowledge the company responsibility for land rights violations involving the company, its suppliers (down to the primary producer) or clients (in the case of financial sector companies);
 - b. Commit, through a company-wide policy, to protect and promote all land rights of communities impacted by company, supplier or clients operations;
 - c. Promote and protect human rights with special attention to land rights of communities impacted, or potentially impacted, by the operations of the company, its suppliers or clients;
 - d. Adhere to the principle of Free Prior and Informed Consent for all affected communities in the operations of the company and its suppliers and ensuring contract transparency and disclosure to affected communities for any concession agreements/operation permits;
 - e. Ensure fair resolution of any disputes involving land use or ownership rights, via company grievance mechanisms, third party ombudsmen or other processes;
 - f. Refrain from cooperating with any host governments' illegitimate use of eminent domain to acquire farmland;
 - g. Avoid adopting or supporting production models which involve the transfer of land rights (including land under customary tenure) away from small-scale food producers;
- B. In addition to the point A, transnational and national food companies, supermarkets, and other companies that have a value chain, should also:
 - a. Uncover and disclose risks and impacts to communities related to land issues in the supply chain and disclose sources of main food products.
 - b. Conduct and publish third-party social, environmental and human rights impact assessments, with the full participation of affected communities, ensuring assessments specifically cover issues related to land and land conflict and publish them in a format and language accessible to those affected communities.
 - c. Commit to conducting assessments prior to any new sourcing, and periodically, in the company's supply chains on main food products.
 - d. Include a "zero tolerance" for land-grabbing policy in codes of conduct for all suppliers of all commodities and audit accordingly.

In addition to the point A, companies of the financial sector should also commit to tackle land grabs, disclose their full exposure to land risks (including through clients, investments, financing activities and asset management), and put in place policies to ensure they are mitigated through clear policies, rigorous due diligence and transparent, fair and effective grievance mechanisms.

Agro-ecology should be clearly mentioned with specific recommendations

In order to increase agriculture sustainability, all stakeholders should not undermine but promote, through their investments, the adoption and scaling up of agro-ecological approaches that proved to be crucial, as the CFS Global Strategic Framework underlines, "in improving agricultural sustainability as well as the incomes of food producers and their resilience in the face of climate change".

Governments should develop an adequate enabling environment for agro-ecology and, more specifically: 1) Support farmer to farmer networks and organizations to develop and share learning on agroecology, building primarily on

² Including financial investors, as appropriate, and as per the UN Guiding Principles.

traditional knowledge and know-how; 2) Secure smallholders access to land, seeds and other natural and productive resources; 3) Increase support and prioritize agroecology in agricultural research and extension services while ensuring that both are consistent with smallholders priorities with a particular attention to women.

Public investment role should be clearly underlined

The rai principles should recognize the critical role of public investments that cannot and should not be replaced by private investments. In fact, experience shows that the role of the government in providing public goods and services to small scale food producers is critical. Moreover, even if the governments liberalize those sectors, the private sector will not deliver those services to most small scale food producers, notably the most marginalized.

Accountability and transparency recommendations should be strengthen

Companies should be accountable for what is happening in their value chain, and financial institutions should be accountable for the impacts of the investments they are backing.

In order to ensure positive impacts on food security, there should be mechanisms in place that ensure that all stakeholders are accountable to small scale food producers and local communities.

Furthermore, companies should execute ex-ante environmental and social assessments and need to ensure that any unsustainable water extraction, pesticide and fertiliser leakage is in the first instance avoided, and where it takes place is controlled and mitigated .

Recommendations on models of investment and partnership should be included

A new section under roles and responsibilities should provide clear recommendations and guidance to all stakeholders in relation with main models of investments and focus in particular with those that are growing today such as: Contract Farming, Public Private Partnerships and programmes to link smallholders to value chains.

Connecting small scale food producers to markets

Several agencies and governments are working to connect smallholders to markets. This often fails to acknowledge that markets are about power relationships that in most of the cases work to the disadvantage of women and small scale food producers. The rai principles should acknowledge this and recognize that the solution is not simply to include smallholders in value chains but to empower small scale food producers to decide how to engage in formal market activities, through for example building the capacity of producers' organisations, protecting their autonomous functioning and change laws that disadvantage the membership of women. Governments should be required to actively pursue regulations that rebalance power relationships between market actors in favour of small scale food producers through actively supporting diverse markets and mixed agricultural models, helping traditional markets to evolve and compete through practical measures such as improving market infrastructure, helping small-scale producers to access and benefit from formal markets, and ensuring that small-scale producers get a fair share of value from agricultural markets. Policy makers can also help small-scale producers meet sustainability or safety standards by providing training, subsidised audits and certification. They should also promote elements in standards that make them more applicable for small-scale producers, such as group certification. For women to benefit, standards need to include gender equality objectives

Public Private Partnerships

Public Private Partnerships should:

- Serve as a complement to, not substitute for responsibilities and commitments that are properly and most effectively delivered by the state;
- Be designed to address specific constraints and needs of small scale food producers and not simply as a tool to encourage or increase foreign direct investment or export agriculture;
- Involve small scale food producers' organizations throughout the process (from design to implementation and evaluation) in an open, transparent and meaningful way that ensures that they are the key actor in decision-making.

- Ensure that all actors involved have clear roles and responsibilities, are accountable for outcomes and that there are clear indicators for measuring the success of these partnerships.
- Be consistent with the rai principles and the VGGT.

Governments should:

- Regulate PPPs to ensure that they contribute to and do not harm the realization of the right to adequate food and other human rights, and sustainable development (including by enhancing agricultural approaches making sustainable use of land and other natural resources) and ensuring adherence to social and environmental legislation and impact assessments;
- Make sure that PPPs:
 - are designed to address specific constraints and needs of small scale food producers
 - Involve small scale food producers' organizations throughout all the process (from design to implementation and evaluation) in an open, transparent and meaningful way that ensures that they are the key actor in decision-making;
 - Involve all actors and define clear roles and responsibilities for all of them, and make them accountable in this regard
 - Support and do not undermine environmental sustainability
 - are consistent with the rai principles and the VGGT
- Not use PPPs as a way to avoid their roles, responsibilities and needed commitments with regard to responsible agricultural investments, including and especially with regard to public investments

Private companies should commit to:

- Ensure partnerships do not transfer production risk to small scale food producers;
- Promote sustainable agriculture practices that manage, protect and enhance the environment.

Contract farming

Contract farming is often recognized as a better model of investment than the models that rely on large scale acquisition of land at the expenses of small scale food producers' access to land and other natural resources. However, not all contracts deliver for small scale food producers and there is a need for clear guidance to companies and governments.

All private sector companies should commit to ensure that dealings with small-scale producers in their supply chain are fair and transparent and that they are paid a fair price that allows these producers to earn a decent income and promote improved conditions related to fair business arrangements including by providing training and support.

Governments should set up adequate regulatory frameworks to and companies should commit to:

- Ensure contracts deliver fair returns that cover the cost of sustainable production, and permit the payment of a living wage and ensure agricultural workers rights are protected.
- Ensure that contracts are based on a fair sharing of risks (e.g. production risks due to weather, pests and other factors affecting harvest), including clear commitments of volumes to be purchased (subject to agreed quality standards) at guaranteed prices, and a set price for inputs. Delivery schedules and quality standards should be well-defined and agreed in advance.
- Ensure that contracts and provision of services recognise the constraints women face. These include mobility and transporting of products, protection of contracts/assets from being taken over, access to training.
- Ensure that contracts support diversified farm systems and avoid creating dependence of smallholders on one company. These include investments that enhance trade in alternative or local markets, or markets for secondary or complementary products.
- Ensure that contracts set out clear commitments for the company to purchase product at guaranteed prices, with transparent terms of trade, quality standards and pricing structure, while also guaranteeing some flexibility for farmers. All members of the producer organisation have a copy. A dispute resolution mechanism is established, and the wider community (beyond smallholders directly involved) is engaged. Regular discussion takes place between the company and the farmers. The contract contains clear provisions on exit arrangements.

Furthermore, companies should work with specialised intermediaries, ideally producer-owned organisations such as cooperatives, which support smallholders and strengthen their ability to negotiate, aggregate product, avoid monopolistic traders, and diversify their products and markets.

Investment and Trade agreements

Governments and companies should only sign investment and trade treaties or agreements on the condition that do not:

- Undermine national sovereignty and democracy, or national policy and investment priorities
- Are fully transparent
- Include accountability measures for investors as well as states
- Reflect and respect the VGGTs and rai, support (and do not undermine) the commitment to deliver food security prevent harmful impacts regarding environmental, social and human rights, and support benefits for small scale farmers and women.

Additional sections to be added at the end of the rai principles document (see proposed new structure)

Implementation of the rai principles (new part)

The rai principle should include a detailed part on how the rai principles should be disseminated and implemented. It should include the following elements:

- **Dissemination.** The CFS should promote actively the dissemination of the rai and encourage different stakeholders and fora to disseminate them. FAO, Ifad and WFP in collaboration with Advisory Group members should present it to the secretariats of the relevant international agencies, notably IFIs and regional organizations and banks. The CFS Chair should promote the rai principles with the Heads of international intergovernmental organizations and regional organizations and banks as well as major international forums, including those negotiating the post-2015 framework, and major private sector forums.
- **Coordination.** FAO and Ifad, together with other multilateral and bilateral agencies, should set up a mechanism to provide coordinated support to countries that require international cooperation to implement the rai principles. A global coordination mechanism, including all CFS Advisory Group stakeholders, should be set up.
- **Support.** A trust fund to be managed, preferably by Rome Based agencies and overseen by the global coordination mechanism will be set up to support dissemination at country level, technical support requested by countries and use of the rai principles, notably by small scale food producers' organizations at country level.
- **Implementation at country level.** Countries should set up or strengthen existing multistakeholder platforms at local, national and regional levels, which include notably small scale food producers and those most affected by hunger, to review existing policies, regulation and practices on investment and develop proposals on how to improve existing systems to implement the rai principles and recommendations.

Monitoring and evaluation of the rai principles (new part)

The rai principles should include a part on monitoring and evaluation of their implementation. This part should include the following elements:

- The CFS will be the lead platform to share lessons learned and take stock on the implementation of the rai principles. Bilateral and multilateral agencies should support the development of country led monitoring and evaluation mechanisms based on the guidance agreed in the Global Strategic Framework (see the 5 principles for monitoring) and on the on-going work of the CFS OEWG on monitoring.
- Every year, the CFS should assess relevant policies and practices of X countries, Y international/regional organizations and Z private sector companies (or sectors) in the light of the provisions of the rai principles and make recommendations on how policies and practices can be improved.
- Metrics/indicators of success should ideally be included in the rai principles to support governments and other stakeholders to measure progress toward achieving responsible agricultural investment. If not possible it is critical that e.g. the CFS Monitoring Technical Support team is tasked to develop them and present it to the CFS Plenary.