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Summary

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Policies against Hunger XI: Responsible Agricultural Investments – an Expert Meeting 30 June and 1 July 2014, Berlin

Summary of the key positions and expectations regarding the CFS-RAI principles

At the invitation of the German Federal Minister of Food and Agriculture Christian Schmidt, about 250 representatives from governments, international organisations, civil society, private sector enterprises, farmers organisations, academia, think tanks and the interested public from about 40 different countries met in Berlin to discuss topics related to responsible investments in agriculture and food systems and how investments could contribute to food security and the realization of the right to food.

The topic was chosen in light of the on-going process in the UN Committee on World Food Security (CFS) of drawing up the Principles for Responsible Investments in Agriculture and Food Systems (CFS-RAI principles). The motivation of the conference was to contribute to the successful conclusion of the negotiations on the CFS-RAI principles in August and to their successful adoption by the CFS in October 2014. The CFS-RAI principles have the potential to be the first manual for responsible investments in agriculture and food systems to be negotiated globally by all relevant stakeholders.

The conference offered an additional platform for discussion without having the intention of duplicating the negotiation process. By bringing together representatives from all stakeholder groups involved in the CFS-RAI negotiations as well as experts on investments in agriculture, the conference contributed to building bridges towards consensus. This is a crucial aspect of the CFS' multi-stakeholder approach and is also crucial in developing the sense of ownership in respect of the final CFS-RAI document, as Gerda Verburg, Chair of the CFS, highlighted in her key note speech.

This summary is a conglomerate of individual thoughts, concerns and suggestions. Not every expectation regarding the CFS-RAI principles and the negotiation process necessarily represents a consensus of all conference participants. The following subject areas reflect the topics dealt with in four different Working Groups.

1. Expectations regarding the procedure for concluding the negotiations of the CFS-RAI principles

Participants believed the following aims should be set:

- Conclude the negotiations in August in order to present the CFS-RAI principles for adoption at the 41st CFS plenary in October 2014.
- Negotiate a meaningful chapter on “Roles and Responsibilities” which clearly outlines the roles and responsibilities of the stakeholder groups. No cutting back on the text due to time pressure.
- Ensure that all stakeholders feel ownership of the CFS-RAI principles. Ensure that the multistakeholder approach is the guiding principle for the negotiation of the CFS-RAI principles. The negotiations should include all actors in agriculture and food systems with a special emphasis on smallholder farmers and producers.
- Be aware that dissemination and application starts during the drafting and negotiation of the CFS-RAI principles. Issues such as monitoring need to be clearly anchored and defined in the principles.

2. Expectations regarding the content of the CFS-RAI principles

Overall, the CFS-RAI principles should have a clear human rights approach. They should refer to existing internationally agreed human rights treaties, principles and guidelines, such as the UN Guiding Principles on Business and Human Rights, the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forest and the Voluntary Guidelines on the Right to Food. Furthermore, expectations

concerning the CFS-RAI principles were that they should include a do-no-harm clause regarding human rights, legitimate tenure rights and the environment. The CFS-RAI principles should contain strong provisions on monitoring as a prerequisite for accountability, as well as access to effective remedy through corresponding grievance mechanisms. A meaningful chapter on “Roles and Responsibilities” has been requested by many participants in order to provide real guidance to the different stakeholders.

2.1 Expectations concerning States’ obligations with regard to providing a framework for investments

The CFS-RAI principles should:

- Point out that States should ensure enabling policy frameworks for responsible investments by developing policies in support of good governance and human rights principles (the so-called PANTHER principles: Participation – meaningful, inclusive, informed, Accountability - of all throughout the value chain, Non-discrimination, Transparency – all actors throughout value chain, Human dignity – observed for all, in particular of marginalised groups, Empowerment – all actors, communities (women, youth) with information, legislation, counsel, Rule of law – ensure observance and compliance by all.
- Address the States’ obligation to be accountable in the event of failure to safeguard the interests of investors and communities and to ensure access to effective remedy to tackle human rights abuses by establishing corresponding grievance mechanisms.
- Address extraterritorial obligations of home countries of investors – at a minimum to the extent of already accepted common language, i.e. in Principle 2 of the UN Guiding Principles on Business and Human Rights.
- Safeguard the central right of host countries of investments to regulate. For example, legally binding frameworks such as International Trade and Investment Agreements should not interfere with or reduce the policy space of a government to apply the CFS-RAI principles or similar principles and guidelines in order to meet its obligation to protect and fulfil the human rights of its citizens.
- Appoint the State to facilitate coordination, cooperation and communication among and effective engagement of all involved actors (home and host countries, foreign and domestic companies, smallholder farmers, civil society, non-governmental organisations etc.).

2.2 Expectations concerning agricultural and rural development policies of States

The CFS-RAI principles should:

- Encourage States to shape a vision of what kind of development/progress through investments they want, ideally taking their agricultural reality as starting point. This vision should be the foundation for agricultural policies and should be coherent with all other policies.
- Remind States that legal frameworks should allow for a wide variety of production models, giving priority to those that promote the production and consumption of healthy, adequate and sustainably/responsibly produced food.
- Recognize the States’ role in creating the conditions for responsible investment by fostering research, education and communication.
- Stress that policies should develop new or promote existing traditional capacities and practices that promote the sustainable use and regeneration of natural resources and ensure that the introduction of modern technology respects traditional knowledge and ways of living in rural areas, e.g. by conducting meaningful consultation processes to decide if seeds of genetically manipulated organisms should be introduced.
- Demand that States address the needs of smallholder farmers and food producers and support them in increasing their capacities to invest, e.g. by supporting farmers’ organizations and solidary commercialization channels, and by ensuring that industrial agriculture is operating on a fair,

equitable and sustainable basis, e.g. by benefit sharing, creating decent work and increasing the income of people living in rural areas.

- Refer to the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security and reiterate the States' responsibility to secure the individual and collective land tenure rights of all, including small-scale food farmers, which are crucial for long-term investments.
- Name the States' duty to invest in public goods to facilitate private sector investment and to counterbalance market failure.
- Highlight the States' duty to protect the alimentary culture as part of the cultural identity.
- Emphasize the States' obligation to ensure sustainability and list key tasks to do so, e.g. strengthening the nexus approach across different resources, promoting agro-ecological approaches, focusing on water rights and the right to water, setting rules to mitigate climate change, ensuring high environmental standards for agriculture and food systems.
- Appoint States to monitor their policies and to introduce indicators to assess the impacts of investments in order to be able to learn from good as well as bad experiences, and to adapt their policies accordingly.

2.3 Expectations concerning responsibilities of private investors

The CFS-RAI principles should:

- Emphasize private investors' responsibility to respect workers' rights and to do no harm to human rights, legitimate tenure rights and the environment.
- Encourage responsible private investments in agriculture and food systems.
- Address the need for transparency.
- Address the need to fight against corruption.
- State the importance to review impacts of investments on local communities and the environment. This should include due diligence prior to investments as well as ex-post impact monitoring. However, distinction between efforts/means of larger enterprises with regard to due diligence activities and risk management mitigation systems compared to small and medium size enterprises has to be made (see Principle 14 of the UN Guiding Principles on Business and Human Rights).
- Address the power imbalance between smallholders and big investors by promoting fair business models for profit and risks sharing (no pushing down investment risks to smallholders), fair contracts (i.e. by promoting the UN Principles for responsible contracts), a level playing field of bargaining power as well as fair dispute resolution mechanisms.
- Address the power imbalance between investors and States on the one hand and smallholders on the other by calling upon investors not to undermine States' abilities to meet their human rights obligations (see Principle 11 of the UN Guiding Principles on Business and Human Rights).
- Promote "Free, prior and informed Consent" (FPIC) for all affected communities.
- Favour inclusive joint business operations which include peasants or local communities (private people/peasants partnerships, pppp) instead of public private partnerships (ppp).

2.4 Expectations on the dissemination and application of the CFS-RAI after their adoption

Strong CFS-RAI principles require from the beginning to take into account how to disseminate, apply and monitor their application. Therefore the CFS-RAI should:

- Put straight that application always includes the entire set of the CFS-RAI principles.
- Encourage strategic partnerships based on continuous dialogue and transparency to strengthen ownership as well as to create sufficient capacity to disseminate and apply the CFS-RAI principles.
- Encourage international organisations to support the dissemination and application of the

CFS-RAI principles and to strengthen their focus on public investment policies, e.g. foster investments in smallholders.

- Appoint a lead agency within the UN-agencies to provide support for the application by developing tools, instruments and guides.
- Mainstream the CFS-RAI principles into existing international soft and hard law instruments (e.g. International Trade and Investment Agreements) and in international policies and instruments still under negotiation, such as G7/8 or G20 policy documents or the Post-2015 Agenda for Sustainable Development.
- Ensure consistency between CFS-RAI principles and other instruments – increased legitimacy of CFS-RAI principles means they should supersede other standards.
- Identify strategies to ensure those affected on the ground are included in the application process at all levels, e.g. by fostering constructive cooperation with civil society organizations that directly work with affected communities bringing forward concerns and issues from grassroots level, disseminating information and exchanging experiences to increase acceptance and knowledge at the local level and helping to adopt the applications process to the local needs.
- Favour medium and long-term transparent multi-stakeholder monitoring systems at national level that cover all issues dealt with in the CFS-RAI principles and look at different levels – from project to policy level.
- Ensure robust monitoring by a new mechanism or an existing mechanism that the monitoring of the CFS-RAI is built into (such as UN Global Compact, Global Reporting Initiative, human rights monitoring systems etc.). In the latter case, risks of inconsistency in monitoring have to be addressed.
- Appoint the CFS Open Ended Working Group on Monitoring to receive the mandate, capacity and resources to ensure that existing monitoring systems use/offer indicators that reflect the CFS-RAI principles correctly.
- For reporting, back current reporting systems (e.g. Global Reporting Initiative (GRI) and Principles on Responsible Investment (PRI)) but adapt and extend them once CFS-RAI principles are endorsed.
- Establish national contact points to deal with cases of non-compliance with the principles such as foreseen in the OECD Guidelines on Multinational Enterprises.
- Include safeguards and respect for watchdogs to create an enabling environment for people to expose bad investments and recognize responsible ones.