Mandate of the Special Rapporteur on the right to food

Submission to the consultation on the First Draft of the Global Strategic Framework for Food Security and Nutrition of the Committee on World Food Security

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8 May 2012

The United Nations Special Rapporteur on the right to food welcomes the First Draft of the Global Strategic Framework for Food Security and Nutrition (GSF) and expresses his thanks to all the delegations who were involved in shaping this document. He offers the following comments:

A. The GSF and the human right to adequate food

1. The Special Rapporteur commends the First Draft for confirming the right to food as an overarching framework for the action of the CFS (paras. 23-25). The definition of the right to food (paras. 14-16) rightly refers to some of the most important elements of the right to food as recognized in international human rights law, notably the International Covenant on Economic, Social and Cultural Rights (ICESCR) and General Comment No. 12 of the Committee on Economic, Social and Cultural Rights. The references to the Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security (VGRtF) are important, and the proposal to summarize some of the duties of States in implementing the right to food at national level in “seven steps” (para. 38) is also very welcome, as it provides in simple terms adequate guidance to States’ efforts to progressively realize the right to food.

2. The GSF, however, could be clearer in stating the progressive realization of the human right to adequate food as an ultimate goal of the GSF. While this overall goal is implied through several references to the right to food throughout the document, such as the objective stated in paragraph 18 “to identify and prioritize challenges affecting the realization of food security and nutrition and the right to adequate food for all people,” it would be important to make it more explicit. This would be consistent both with the CSF 2009 Reform Document, which placed the right to food at the centre of the reform, as rightly recalled in a recent FAO note on the GSF; and

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2 Food and Agriculture Organization of the United Nations, The Global Strategic Framework for Food Security and Nutrition: A Right to Food Perspective, Right to Food team, Fact Sheet 1, March 2012, p. 4. During its 35th session held in October 2009, the Committee on World Food Security endorsed its reform, pledging to “strive for a world free from hunger where countries implement the voluntary guidelines for the progressive realization of the right to adequate food in the context of national food security.”
with existing international obligations of States to progressively realize the human right to adequate food, as framed in international human rights law. Placing the right to food as the goal of the GSF does not create new legal obligations. It simply reemphasizes a commitment to implement existing obligations. A new paragraph could be added in the introduction section to refer to this ultimate goal.

3. Explicitly grounding the GSF in a human rights framework presents a number of advantages. By endorsing such a framework and seeking to define their policies in accordance with what such a framework prescribes, countries are provided a reference point, based on their existing international obligations, for coordination efforts. This facilitates the search for a consensus between them. A human rights framework also requires the participation, as a matter of right, in the design and implementation of development policies, of the ultimate beneficiaries of development. Such participation in turn is facilitated by the invocation of internationally agreed human rights as benchmarks, by which the effectiveness of efforts could be judged. A reference to the realization of the right to adequate food as the ultimate aim of food security strategies thus not only provides us with an objective evaluation tool of these strategies; it also improves the effectiveness of these strategies, by obliging countries, international agencies and donors alike to pay greater attention to the impacts of their policy choices, both intended and unintended, direct and indirect, particularly on the most vulnerable sectors of society.

4. The reference to the VGRtF in section III “The foundations and overarching framework” (pars. 23-25) is very important and should be retained, but it should be put in the broader context of existing human rights norms and standards that frame States' duties to progressively realize the right to food, in particular the International Covenant on Economic, Social and Cultural Rights and the authoritative interpretation of this right provided by the Committee on Economic, Social and Cultural Rights in its General Comment No. 12. The Special Rapporteur is aware that these norms are referenced in the definition of the right to food (pars. 14-16), but they should also appear in Section III.

5. Explicitly grounding the GSF in a human rights framework is also a matter of efficiency in delivering results: the seven recommended steps to implement the VGRtF (para. 38), combined with the human rights principles of participation, accountability, non-discrimination, equality, transparency and the rule of law, serve to ensure that national, regional and global food security policies are on the right track in effectively fighting hunger.

B. The GSF and monitoring

6. With the 2009 reform, it was agreed that accountability would be at the center of the CFS’s work. As the CSF enters its second phase of reform, it is expected to “promote accountability and share best practices at all levels”, and to establish “an innovative mechanism, including the definition of common indicators, to monitor progress towards these agreed upon objectives and actions.”3 At its 37th session, the CFS confirmed its intention to proceed into the second phase of reform in due time and underscored the importance of monitoring by requesting “the CFS Secretariat, in collaboration with the Advisory Group, and based on the information made available by the relevant stakeholders, to prepare a general report on the state of implementation” of its recommendations to be presented to CFS.4 The CFS Bureau has also renewed its attention on monitoring by creating an open-ended working group on the issue.

3 CFS:2009/2 Rev.1, para. 6.
7. The First Draft of the GSF clearly emphasizes the importance of monitoring and accountability (paras. 94-102), and it states that right to food indicators should be used in the process (para. 95). Those references could be further strengthened. Guideline 17 of the VGRtF addresses monitoring, indicators and benchmarks. UN agencies have devoted significant energy to conceptualize and operationalize rights-based monitoring since the adoption of the VGRtF in 2004. The Updated Comprehensive Framework of Action (UCFA) of the High-Level Task Force on Global Food Security Crisis (HLTF) also refers to a rights-based monitoring methodology, including the use of a set of illustrative indicators on the right to food, based upon the work of FAO and OHCHR.

8. The GSF could usefully build on this accumulated experience. As such, the monitoring mechanism associated with the GSF should be grounded explicitly in a human rights framework, which would provide countries with a reference point based on their existing international obligations. To do so, it could usefully be specified in Section E that monitoring should be focused on the progressive realization of the right to food, and paragraph 97 could reflect the following five key principles for monitoring and accountability systems:

   a) The requirement of accountability should extend to all orientations adopted by the CFS Plenary, including the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, as well as the substantive elements of the GSF, which should in turn be considered in the broader context of international norms and standards on the right to food;

   b) Adequate participation in monitoring should be ensured, by taking into account in the process of monitoring inputs from non-State actors, including UN agencies, civil society and independent experts. The advantages of a multistakeholder peer-review mechanism analogous to the Universal Periodic Review (UPR) system of the Human Rights Council were outlined in a letter to CFS members dated 18 January 2012, and subsequently in a joint open letter dated 19 March 2012 to States negotiating the Rio+20 Summit Outcome document (signed by twenty-two special procedures mandate holders of the Human Rights Council). The process employed by the UPR provides a model that should guide our discussions. Other solutions, however, could be considered, including the establishment of an independent monitoring mechanism – an Observatory – that would provide the CFS plenary with independent reports on the implementation of CFS decisions, like the High-Level Panel of Experts (HLPE) provides the CFS plenary with independent expertise. Whichever the solution ultimately preferred, parallel reporting from civil society is essential to the credibility of the monitoring process;

   c) In order to be manageable, the monitoring of the implementation of the orientations set by the CFS should concern a few priorities every year, allowing cross-country comparisons and collective learning across different regions; the aim should be that, based on the information provided, the CFS engages in a dialogue on implementation of the major orientations it has adopted every four or five years (for instance, such a cyclical

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5 FAO, Methods to monitor the human right to adequate food. Volume I: Making the Case for Rights-Focused and Rights-Based Monitoring, 2008, pp. 6-12. See also Volume II: An Overview of Approaches and Tools.
6 High-Level Task Force on Global Food Security Crisis, Updated Comprehensive Framework of Action, September 2010, see Topic Box 18, p. 57.
approach could lead the successive sessions of the CFS in 2013-2016 to follow up respectively on: (1) investments in agriculture and food security, taking into account the challenge of climate change; (2) the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security; (3) price volatility and social protection; and (4) other orientations set by the GSF, not covered under the headings above);

d) Under each of the areas covered, the CFS should assess whether or not the CFS Members, in implementing CFS decisions and/or recommendations, have applied human rights principles and standards.\textsuperscript{8} Right to food indicators should be used, as rightly suggested in the First Draft. The GFS could build on the set of structural, process and outcome indicators proposed in the UCFA.\textsuperscript{9} And in all the areas covered, States should be expected to take measures to ensure that food insecure and marginalized groups are informed about their rights and about the claims mechanisms available;

e) The monitoring process should also provide an opportunity to identify obstacles that countries face in implementing the CFS orientations in a way that is consistent with their obligation to progressively realize the right to food with a view to highlighting issues which require further consideration by the CFS. Thus, the outcomes of regular monitoring should inform the agenda of future CFS plenary sessions: for instance, if many States face a systematic obstacle in meeting the CFS recommendations, the CFS may consider devoting a specific session to addressing that obstacle. The monitoring process should be seen as an iterative process, allowing the CFS to gradually improve its orientations in the light of successes and failures at implementation level, and as an opportunity to identify how the constraints faced by States in implementation could be alleviated, in particular by action at international level.

9. It is the conviction of the Special Rapporteur that the CFS cannot meet its ambition – to be “the foremost inclusive international and intergovernmental platform for a broad range of committed stakeholders to work together in a coordinated manner and in support of country-led processes towards the elimination of hunger and ensuring food security and nutrition for all human beings” – without monitoring and accountability mechanisms, including accountability of CFS Member States to discharge their human rights obligations in the context of achieving food and nutrition security.

C. The GSF and trade

10. The Special Rapporteur supports the inclusion of international trade as an issue that requires concerted efforts in the coming years to build a necessary consensus (para. 74). The confidence in a supposed automatic link between the expansion of international trade and improvements in food security has broken down following the 2007-2008 and 2010 global food

\textsuperscript{8} Such as the principles are participation, accountability, non-discrimination, equality, transparency, and the rule of law. As noted by the FAO, implementation of right to food measures should, for instance, ensure equity in terms of resource distribution; should not discriminate against certain population groups; should guarantee transparency in public affairs, administration and decision making; and should ensure informed popular participation in the formulation of public policies and programmes. (FAO, Methods to monitor the human right to adequate food. Volume I: Making the Case for Rights-Focused and Rights-Based Monitoring, 2008, p. 8).

\textsuperscript{9} High-Level Task Force on Global Food Security Crisis, September 2010, see Topic Box 18, p. 51.
price crises. As such, increasing attention is being given to the complex links between trade and food security at national and global levels.10

II. For that matter, the Updated Comprehensive Framework of Action (UCFA) of the High-Level Task Force on Global Food Security Crisis depicts the role of trade in a more elaborated way: “open and well-functioning local, regional and international markets and trade policies are fundamental to food and nutrition security. They should be characterized by price predictability and transparency, function in a stable, transparent and integrated manner and contribute to the realization of internationally agreed human rights. Interventions which support the functioning of international, regional and local markets should be consistent with the goal of achieving food and nutrition security for all and of encouraging efficient and competitive production by smallholders.”11 It is precisely because the links between trade and the realization of the right to food are complex that human rights impact assessments should be conducted before free trade agreements are agreed upon.12 The GSF could also better acknowledge this complexity in paragraph 42.

D. Tenure of land, fisheries and forests

12. The section on tenure of land, fisheries and forests (paras. 68-70) should be updated and improved to reflect the discussions held in the CFS on the challenges and problems posed by the expansion of large-scale land acquisitions and leases for food and nutrition security and for the right to food of vulnerable land users. This section should also integrate the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT), which will be considered for endorsement during the 38th Special Session of CFS in Rome on 11 May. The intergovernmental negotiations have been successfully finalized on 9 March 2012. Upon the endorsement, the focus will shift to the implementation of the Voluntary Guidelines. States are indeed responsible for the implementation, monitoring and evaluation of the VGGT (art. 26.1); and they are encouraged to set up “multi-stakeholder platforms and frameworks” at local, national and regional levels or use such existing platforms and frameworks to collaborate on the implementation of these Guidelines (art. 26.2). The GSF should include these two elements in the section for full coherence across CFS activities.

E. Support to smallholders and agroecology

13. Since the global food price crisis of 2008, there has been a general consensus that we should put greater efforts into supporting small-scale food producers, particularly women, in order to reduce rural poverty and local food insecurity. The GSF usefully integrates these considerations in various sections, including in paras. 39-40 and 57-59, but could further strengthen its focus on the duty to respect, to protect and to fulfil the human rights of smallholders throughout its strategy. The GSF could devote more attention to the policies that promote agroecological methods of farming. In its resolution 16/27 adopted at its 16th session in March 2011, the Human Rights Council “encourages States and donors, both public and private, to examine and consider ways to integrate the recommendations [contained in the report “Agroecology and the right to food”

11 High-Level Task Force on Global Food Security Crisis, Summary of the Updated Comprehensive Framework of Action, September 2010, p. 15.
submitted by the Special Rapporteur on the right to food] in policies and programmes.” It stressed that “improving access to productive resources and investment in rural development is essential for eradicating hunger and poverty,” and that the promotion of investments “in programmes, practices and policies to scale up agroecological approaches” is a means towards achieving that end.

14. A key recommendation of that report was to call States to “support decentralized participatory research and the dissemination of knowledge about the best sustainable agricultural practices by relying on existing farmers’ organisations and networks, and including schemes designed specifically for women.” Indeed, the expansion and achievements of agroecological modes of production in all continents are impressive, and farmer’s organizations play a vital role in many countries.

15. The GSF should better reflect the importance of agroecology as well as the importance for public authorities to collaborate with farmer’s organizations in the design and implementation of agriculture, nutrition and food security policies.

F. Workers’ right and food security

16. The GSF acknowledges that “many agricultural and food workers and their families suffer from hunger and malnutrition because the basic labour laws and minimum wage policies do not cover rural workers” (para. 35). The GSF, however, could usefully underline key steps to be taken by States to tackle this situation, notably the importance of ensuring basic workers’ rights, as set out in the core ILO conventions\textsuperscript{13} and the International Covenant on Economic, Social and Cultural Rights, and the importance of ensuring living wages to enable rural workers to feed themselves and their families.\textsuperscript{14}

17. There are more than 450 million waged agricultural workers globally, composing 40 per cent of the agricultural workforce. Fundamental rights at work are frequently violated in the agricultural sector. Collective bargaining is crucially important for agricultural workers, both because knowledge and enforcement of the law tend to be weak in rural areas and because labour legislation frequently treats the agricultural sector differently from other sectors with regard to issues such as working time, overtime pay or leave.

G. Social protection

18. The right to social security is enshrined in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights. The important role that social protection plays in contributing to the right to food is rightly highlighted in the GSF as well as in “Social Protection for Food Security,” the zero draft consultation paper authored by the High Level Panel of Experts.

\textsuperscript{13} Specific instruments that concern agricultural workers include ILO Convention, No. 99 (1951) on Minimum Wage-Fixing Machinery in Agriculture 21 and No. 110 (1958) on Conditions of Employment of Plantation Workers, supplemented by its Protocol of 1982, and recommendation No. 110 (1958) on Conditions of Employment of Plantation Workers.

\textsuperscript{14} For more details on what States should do, see Report of the Special Rapporteur on the right to food to the 13th session of the Human Rights Council, Agribusiness and the Right to Food [A/HRC/13/33] (March 2010), para 52.
19. Drawing from the UN common understanding on a human rights based approach, for social protection schemes to contribute to the realization of the right to food it is crucial that they are grounded in an adequate legal and institutional framework; respect the human rights principles of equality and non-discrimination; mainstream gender considerations; guarantee active and meaningful participation; ensure transparency and access to information; and ensure access to complaint mechanisms and to effective remedies.

20. Universal social protection systems are required to prevent food insecurity, malnutrition and hunger among the most marginalized and vulnerable. Recognizing the importance of social protection programmes, the UN system has been undertaking work in this area. In April 2009, the United Nations Chief Executive Board (CEB) launched the Social Protection Floor Initiative as a part of a set of multilateral actions to address the global crises of 2008 (food, financial and economic). The Special Rapporteur on extreme poverty and human rights has also been undertaking work on social protection.\textsuperscript{15} And UNICEF has recently published its “Social Protection Strategic Framework” that presents the approach and main principles guiding its work in this area.\textsuperscript{16} The GSF could support these initiatives and promote the importance of universal social protection systems for food security and the progressive realization of the right to adequate food.

H. Biofuels

21. The GSF should consider biofuels among the thematic issues for which there is a need for a stronger international consensus. It should thus be included in section I “Major existing gaps in consensus on policy issues.”

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Olivier De Schutter was appointed the UN Special Rapporteur on the right to food in March 2008 by the United Nations Human Rights Council. He is independent from any government or organization, and he reports to the Human Rights Council and to the General Assembly. All reports are available on http://www.ohchr.org/EN/Issues/Food/Pages/FoodIndex.aspx. See www.srfood.org for a thematic classification of all reports and statements of the Special Rapporteur. The Special Rapporteur can be contacted at srfood@ohchr.org

\textsuperscript{15} See A/HRC/11/9 (on cash transfer schemes); A/64/779 (on the importance of social protection in the context of the global financial crisis; A/HRC/14/31 (on non-contributory old age pensions); A/65/259 (on social protection in facilitating achievement of the MDGs); and A/HRC/17/34 (on a human rights based approach to recovery from the global financial and economic crises, and the important role of social protection systems in this regard).

\textsuperscript{16} The full Framework is available from: www.unicef.org/socialprotection/framework.