Mandate of the Special Rapporteur on the right to food

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Attached is a background document to the report presented to the Human Rights Council session of March 2009 by Prof. Olivier De Schutter, the UN Special Rapporteur on the right to food (ref. A/HRC/10/005). This document contains a longer set of references, as well as certain developments, which could not be included in the official version of the report due to volume restrictions.
The role of development cooperation and food aid in realizing the right to adequate food: moving from charity to obligation

EXECUTIVE SUMMARY

This report examines the contribution of development cooperation and food aid to the realization of the right to food. Development cooperation and food aid increasingly form a continuum ranging from interventions aimed at providing long-term support for food security to short-term answers to emergency situations. Both these policies have been under increased scrutiny in recent years, and both are in need of reform. This report explains how we can reorientate them by better integrating a perspective grounded in the human right to adequate food at three levels: in the definition of the obligations of donor States; in the identification of the tools these policies rely on; and in the evaluation of such policies, with a view to their continuous improvement. At its core, a human rights approach turns what has been a bilateral relationship between donor and partner, into a triangular relationship, in which the ultimate beneficiaries of these policies play an active role. But seeing the provision of foreign aid as a means to fulfill the human right to adequate food also has concrete implications, which follow from seeing donor and partner governments are duty-bearers, and beneficiaries as rights-holders.

I. INTRODUCTION

Development cooperation is one aspect of a broader obligation of international assistance and cooperation which includes, but is not limited to, the transfer of resources.¹ In recent years, development cooperation has been criticized from a number of different angles. Some have dismissed it as excessively donor-driven and top-down, and therefore as insufficiently informed by the views of the ultimate beneficiaries.² The tendency of donors – whether governments or intergovernmental agencies, or private non-governmental organisations – to impose various demands on recipients, without coordination, also has been seen as imposing a heavy burden on the partner government’s administrative capacities, and in leading to sub-optimal results. Others have denounced the mismanagement of aid by recipient governments, noting that poor governance often resulted in aid not being used effectively. On 2 March 2005, the Paris Declaration on Aid Effectiveness was adopted as an attempt to define a number of commitments which should improve the quality of aid. It has been endorsed by 122 governments and the European Commission, 27 international organisations including six regional development banks, the World Bank and the OECD, and a number of non-governmental organisations. The 56 commitments contained in the Declaration are organized around the five principles of ownership, of alignment, of harmonisation, of managing for results, and of mutual accountability. These principles mark a shift from donor-driven to needs-driven aid strategies, and emphasize the need for evaluation of the performance of both donors, particularly as regards harmonization and predictability of aid, and of their partners. This report argues that the Paris Declaration could be further concretized if placed under a human rights framework, and particularly by taking into account the human right to adequate food: it explores the implications to such a view.³

¹ See A/63/278, paras. 11-12.
Food aid is one specific means of international cooperation. It too has been subject to heavy scrutiny. Critics have denounced food aid as creating new forms of ‘dependency’; as potentially disruptive of the local markets; and as disrupting commercial trade patterns. Changes in food aid over the last two decades have made food aid less susceptible to these criticisms, however. At the same time, food aid has a crucial role to fulfil in times of emergency, leading the Committee on Economic, Social and Cultural Rights to take the view that States are complying with their obligations under the International Covenant on Economic, Social and Cultural Rights by providing disaster relief and humanitarian assistance in times of emergency. When based on proper needs assessments and well-targeted, food aid can play an important role on non-emergency contexts as well. Although it has been declining in volume terms over the last few years, international food aid currently provides about 10 million tonnes of commodities a year to some 200 million people in need, with an estimated total cost of 2 billion USD. But questions regularly surface about how to combine emergency responses with the need to promote developing local food markets and food security in food aid recipient countries. While there is a growing consensus on the desirability of providing greater flexibility, including through the use of locally and regionally procured food transfers and cash or voucher transfers, and on the importance of food aid being provided with a clear exit strategy in order to avoid dependency, these commitments remain unfulfilled in practice.

Within the broader area of international cooperation, both the fields of development cooperation and food aid are currently being re-evaluated. On 2-4 September 2008, the Accra High-Level Forum on Aid Effectiveness reviewed the Paris Declaration on Aid Effectiveness, and adopted an Agenda for Action which aims to accelerate and deepen its implementation. In the field of food aid, the year 2009 may provide a unique opportunity to revisit the mechanisms established by the Food Aid Convention. This instrument was initially adopted in 1967 as one component of the International Grains Agreement. It is specific in that it contains commitments by its States parties to provide certain quantities of food as food aid. The global food crisis of 2007-8 further highlighted the urgent need to reform both areas. The proportion of ODA going to agriculture and the rural sector fell sharply between 1980 and 2007: there is now a consensus that this trend must be reversed, and it can be hoped that the next few years will witness an important increase in that sector. The crisis also illustrated the continued importance of food aid in a context in which the dependency of countries on imports to feed their populations has grown significantly over the last two decades, at the same time as the prices of food commodities on international markets have become increasingly volatile.

The departure point of this report is simple. By cooperating internationally, whether through their development cooperation policies or through the provision of food aid, donor States are not simply meeting basic human needs: they are seeking to realize the human right to adequate food. This, potentially, has three implications. First, there emerges the question whether States are under an obligation to provide international assistance, including food aid, in certain circumstances, or at certain levels. Second, the way international assistance is delivered must take into account that it seeks to implement the right to food: the principles of participation, transparency, accountability and non-discrimination, as well as access to remedies, must therefore be taken into account in the implementation of development cooperation policies and in the delivery of food aid. Third, this must also contribute to determining how the effectiveness of the aid which is provided should be evaluated:

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4 See, e.g. WFP, Food Aid Flows 2007.
5 E/C.12/1999/5, at para. 38.
6 Since 1999, the overall amount of food aid has decreased from 15M to 6.9MT in 2006 and 5.9MT in 2007. This is a continuation of a broader trend: in the 1960s, food aid represented 20 percent of total bilateral official development assistance; it represented approximately 5 percent in 2003 (Christopher B. Barrett and Daniel G. Maxwell, Food Aid after Fifty Years: Recasting its Role, London and New York, Routledge, 2005).
7 Over 60 per cent of food aid is used for emergencies. This proportion has increased from 18 percent in 1990.
8 Three distinct modalities of food aid need to be distinguished: (a) the shipment of donor country sourced commodities (food transfers); (b) cash-based food aid (food transfers paid for by donor funding); and (c) vouchers or cash transfers (payment instruments enabling recipients to obtain food from the local market).
9 The parties to the Food Aid Convention are Argentina, Australia, Canada, Japan, Norway, Switzerland, and the United States, as well as the European Community and its member States. The present version of the FAC entered into force on 1 July 1999.
only by measuring the contribution of the existing policies to the realization of the right to adequate food can we learn from past experiences, and improve these policies for the future.

II. THE OBLIGATION TO PROVIDE AID

Whether in the field of development cooperation or in the field of food aid, the contributions of donor States to the realization of the right to food in the partner countries are argued by donor countries to be made on a purely voluntary basis. However, donors cannot ignore their obligations under human rights law in the implementation of their policies in these fields. And there are situations where they may be under a duty to help: this is the case, in particular, when they have made commitments to this effect, and where reneging on those commitments would violate the principle of predictability for the recipient State.

1. Defining obligations to provide aid

The Eighth Millennium Development Goal is to develop a global partnership for development, a goal to which increased levels of donor country commitments to Official Development Assistance (ODA) can contribute. Aid continued to increase in 2007, once exceptional debt relief is excluded from the figures. But the increase was only 2% in 2006. This is clearly insufficient to meet the targets set by the 2005 Gleneagles G8 Summit and the 2005 World Summit, which would require raising ODA by 50 billion USD in 2010 compared with 2004 (at 2004 prices and exchange rates). Despite repeated commitments, again reaffirmed in the Millenium Declaration, in the Monterrey Consensus, in the FAO Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, and most recently in the 2008 Doha Declaration on Financing for Development, developed countries have failed, for the most part, to meet the targets for ODA of 0.7 percent of GDP to developing countries and 0.15 percent to 0.2 percent of GDP to least developed countries.

The UN Charter imposes in general terms an obligation on all its Members to ‘take joint and separate action in cooperation with the Organization’, inter alia, for the achievement of human rights (Articles 55 and 56). Neither the International Covenant on Economic, Social and Cultural Rights, nor other human rights instruments, define precise levels at which States should provide aid. That, however, is not equivalent to saying that there is no such obligation; it is to say, rather, that this obligation is still

10 ODA had been exceptionally high in 2005 (USD 107.1 billion) and 2006 (USD 104.4 billion), due to large Paris Club debt relief operations for Iraq and Nigeria. Taking into account those debt relief operations, the total ODA provided by the 22 members of the OECD Development Assistance Committee fell in 2006 to 104.4 billion USD, which is 4.5% lower than in 2005 and represented the first fall in ODA since 1997 in real terms (OECD, Development Cooperation Report 2007, 14 February 2008, www.oecd.org/dac/der); this sum was 103.5 billion USD in 2007, representing a drop from 0.31% of their combined gross national income in 2006 to 0.28% in 2007, or a fall of 8.5% in real terms (www.oecd.org/dac/stats). But figures taking into account debt relief operations are misleading and do not represent long-term trends in development aid.


12 Chap. III, para. 12. The Guidelines were adopted on 23 November 2004 by the 187 countries represented in the General Council of the FAO.

13 A/CONF.212/L.1/Rev.1, para. 43 (‘The fulfilment of all ODA commitments is crucial, including the commitments by many developed countries to achieve the target of 0.7 per cent of GNP for ODA to developing countries by 2015 and to reach the level of at least 0.5 per cent of GNP for ODA by 2010, as well as a target of 0.15 to 0.20 per cent of GNP for ODA to least developed countries’).

14 Five countries exceeded the United Nations target of 0.7% of GDP: Denmark, Luxembourg, the Netherlands, Norway and Sweden.

‘imperfect’, in need of being further clarified.16 According to the Committee on Economic, Social and Cultural Rights, ‘States parties [to the Covenant] should take steps to respect the enjoyment of the right to food in other countries, to protect that right, to facilitate access to food and to provide the necessary aid when required’.17 In the General Comment it devoted in 2000 to the right to the highest attainable standard of health, the Committee similarly noted that ‘Depending on the availability of resources, States [in particular States in a position to assist developing countries in fulfilling their core and other obligations under the Covenant] should facilitate access to essential health facilities, goods and services in other countries, wherever possible and provide the necessary aid when required’.18 For the moment, a consensus does seem to emerge, at a minimum, on three requirements.

First, the Covenant imposes an obligation on all States parties to ‘move as expeditiously and effectively as possible’ towards the full realization of all human rights, including the right to adequate food; moreover, ‘any deliberately retrogressive measures in that regard would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources’.19 Therefore, at a minimum, developed countries should make measurable progress towards contributing to the full realization of human rights by supporting the efforts of governments in developing countries, and they should not diminish preexisting levels of aid calculated as ODA in percentage of the GDP. Any regression in the level of aid provided should be treated, presumptively, as a violation of the State’s obligations under international law.

Second, the assistance which is provided should comply with the requirement of non-discrimination. Even if we accept, for the moment, that aid remains based on the voluntary decisions of each donor government, the aid which is given should be influenced, not by the political, strategic, commercial or historically rooted interests of the donors, but by an objective assessment of the identified needs in developing countries. This is not just required if aid is to be effective, as noted already in 1969 by the Pearson Commission and in 1980 by the Brandt Commission20: it also follows from the recognition of the fact that development cooperation is a means of fulfilling human rights, particularly the right to food. The implication is that aid should be informed by an adequate mapping of the needs – including, in particular, the existence in certain countries of food insecurity and vulnerability. Since this question relates to process – to the way assistance is delivered – it is not developed further here (see below, section III).

Third, the amounts of aid provided to recipient countries remain volatile and unpredictable, changing from one year to the next and from one country to another.21 That is problematic. It does not allow recipient countries to plan their development over a number of years. It creates the risk of aid being suspended or interrupted for politically-motivated reasons, without such measures being based on objective and transparently applied considerations. Where such decisions result in negative impacts on the enjoyment of human rights, particularly on the right to food, they are a violation of the donor State’s obligations.22 Donor States must therefore follow up on the commitments they make to provide

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17 E/C.12/1999/5, para. 36.
21 See, for instance, the calculations of Eurodad (European Network on Debt & Development) as regards the percentage of deviation from scheduled aid within a given year: using data from the 2006 Paris Declaration Survey (OECD, Aid Effectiveness: 2006 Survey on Monitoring the Paris Declaration. Overview of the Results, Paris, OECD, 2007), they conclude that the range of compliance was large: while better performing countries such as the United Kingdom, Japan and Denmark have deviations lower than 4%, figures for other countries reach 23 or even 31% (the figure for the World Bank is 14%). The predictability of aid varies strongly from recipient country to recipient country: ‘less than 50% of committed aid was disbursed in Sierra Leone in 2006, while Ghana only has to deal with deviations ranging from 7.5% to 1.2% in the period 2003-2006’ (Eurodad, Turning the Tables. Aid and accountability under the Paris framework, April 2008, p. 39).
certain levels of aid at a specific time and in a given year. Such commitments give rise to legitimate expectations for the recipient State, which cannot be disappointed without an adequate justification being provided by the donor State.

2. Improving the definition of food aid commitments under the Food Aid Convention

The Food Aid Convention (FAC) is unique in that it imposes on the States parties binding obligations in relation to volumes of food aid they commit to provide, thus improving the predictability of this form of aid. Indeed, the objectives of the FAC are to ‘contribute to world food security and to improve the ability of the international community to respond to emergency food situations and other food needs of developing countries’, inter alia, by ‘making appropriate levels of food aid available on a predictable basis, as determined by the provisions of this Convention’ (Art. I). Article VIII, e), FAC, provides that ‘to the maximum extent possible, non-emergency food aid shall be provided by members on a forward planning basis, so that recipient countries may be able to take account, in their development programmes, of the likely flow of food aid they will receive during each year of this Convention’.

At the same time, the monitoring of compliance with these commitments remains weak. The Members must provide six-monthly reports to the Food Aid Committee on their contributions. But this information is processed and made available to the public in ways which are not sufficiently transparent to allow for an adequate scrutiny of the compliance of the Parties with their commitments. The monitoring system is based on a peer review of compliance, performed by the Food Aid Committee on the basis of the information provided by the Members. While the introduction of a sanctions mechanisms would most likely be counterproductive – leading to reduced commitments by Members – and would not be consistent with the voluntary nature of the food aid provided under the Convention, nevertheless the current monitoring system could be improved in two important respects. First, the information provided by the Members about their contributions could be processed in a way which would facilitate the evaluation by any external observer of a State party’s compliance with its commitments, thus allowing in particular national parliaments and civil society organisations to contribute more effectively to a public debate about whether States deliver food aid in ways which are sufficiently predictable for the recipient States. Second, the evaluation of States’ compliance with their obligations under the FAC should include, as a matter of priority, their compliance with Article XIII thereof, which makes explicit their obligation under international law to ensure that the aid they provide does not lead to violations of the right to food in the recipient country (see further below, section III). Both of these improvements could result from an amendment to the Rules of Procedure adopted by the Food Aid Committee.

A more fundamental issue related to the Food Aid Convention relates to the mismatch between commitments and needs, and even more clearly, between the deliveries of food aid and need. Under the FAC, Members express their commitments in terms of tons of wheat equivalent, in the value of wheat equivalent, or as a combination of tonnage and value. These commitments are made without being aligned with identified needs in recipient countries. In addition, in practice, food aid has often been counter-cyclical. States may carry over their commitments to the following year when they appear unable to meet their commitments for any single year, and they may carry forward their commitments to the following year for up to 5% of their total commitment if their contribution exceeds their commitment for any single year (Art. VI). This flexibility, combined with the fact that States budget aid in monetary terms rather than in volume terms, leads to a tendency for States to delay provision of aid when the prices are high on international markets, and to exceed their commitments when the prices are low – precisely the reverse of what would be needed if food aid were to truly contribute to food security. This allowed observers to conclude that there is ‘a financial incentive to mis-time the delivery of food aid’, which the FAC does not discourage effectively.

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23 Art. XIV, FAC and Rule 9 of the Rules of Procedure (FA(00/01)Misc.2 Restricted).
Indeed, although the prices of food commodities reached historical peaks in 2007-2008, food-aid volumes in 2007/08 reached their lowest level since the early 1970s, further illustrating the inverse relationship between food-aid volumes and world prices that typifies food-aid shipments.\(^{28}\)

This is in violation of the spirit of Article VIII, b), of the FAC, which recognizes the need to base food aid on an evaluation of needs by the recipient and the members, and states that food aid ‘should be aimed at enhancing food security in recipient countries’. The Voluntary Guidelines to Support the Progressive Realization of the Right To Adequate Food in the Context Of National Food Security also provide that ‘donor States should ensure that their food aid policies support national efforts by recipient States to achieve food security, and base their food aid provisions on sound needs assessment, targeting especially food insecure and vulnerable groups’ (Guideline 15.1). Indeed, that corresponds to a requirement under the International Covenant on Economic, Social and Cultural Rights: the Committee on Economic, Social and Cultural Rights noted pointedly that ‘priority in food aid should be given to the most vulnerable populations’.\(^{26}\)

Two changes could be made to the system of the FAC in order to ensure that it is effectively needs-based, beyond the still very insufficient emergency clause contained in the FAC.\(^{27}\) First, the aid provided to each State should be based on an adequate mapping of food vulnerability and insecurity in that State.\(^{28}\) Such a mapping could be based on the multi-agency Integrated Food Security and Humanitarian Phase Classification system, on WFP’s Emergency Food Security Assessments and Comprehensive Food Security and Vulnerability Analysis, or on the FAO-managed Food Insecurity Vulnerability Information and Mapping System, depending on the situation of each country; or it could be based on Food Insecurity and Vulnerability Information and Mapping Systems developed as part the recipient country’s national strategy to realize the right to food.\(^{29}\) Whichever the precise methodology used, it is crucial that the situation in each country where food security problems may arise is made the subject of an objective evaluation – a requirement which may also alleviate concerns that the food aid provided distorts commercial trade in favor of the donor country’s producers, when the aid is provided in kind. Consistent with Guideline 15.5 of the FAO Guidelines on the Right to Food, such assessment should, as far as possible, be made ‘in a participatory manner and, whenever possible, in close collaboration with recipient governments at the national and local level’.

Second, the commitments of the Members under the FAC should be expressed in ways other than in wheat equivalents. One possibility is to define these commitments as a percentage of assessed needs: each State should commit itself, in accordance with its ability,\(^{30}\) to cover a predefined percentage of the needs identified over a certain period, preferably on a multi-annual basis. This change would introduce an element of uncertainty in the commitments of donor countries. But that uncertainty is already present under the current system, since commitments expressed in tonnage will vary, as to their budgetary implications, following the variation of the prices of commodities on international markets. Expressing commitments as a percentage of assessed needs would at least share the risk equally across all parties to the FAC, and it would avoid the dangers associated with food aid being driven by the commercial or geopolitical interests of the donor States. In addition, States can insure

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\(^{26}\) E/C.12/1999/5, at para. 38.

\(^{27}\) See Article VIII, j), FAC (‘If it appears that, because of a substantial production shortfall or other circumstances, a particular country, region or regions is faced with exceptional food needs, the matter shall be considered by the [Food Aid Committee, which] may recommend that members should respond to the situation by increasing the amount of food aid provided’).

\(^{28}\) See also Conference Report. Exploring the Challenges, Berlin, Germany, 2-4 May 2007, p. 20.

\(^{29}\) Article XIII b) of the FAC requires that Members ‘endeavour to support the efforts of governments in recipient countries to develop and implement food aid programmes in a manner consistent with this Convention’. Thus, alignment of international food aid with national strategies for the realization of the right to food is recommended under the FAC itself. See also FAC, Art. XIII, c) (‘Members should support and, where appropriate, contribute to strengthening the capacity and competence of recipient governments and the respective civil societies to develop and implement food security strategies to enhance the impact of food aid programmes’).

\(^{30}\) The Committee on Economic, Social and Cultural Rights takes the view that States parties to the International Covenant on Economic, Social and Cultural Rights should provide aid in accordance with their ability to do so: see E/C.12/1999/5, at para. 38.
themselves against this risk, be resorting to reinsurance mechanisms. Finally, this way of expressing
commitments under the FAC would avoid the problem of counter-cyclical aid, which plagues the
current system.

Another possible mode of calculating commitments could be for FAC Members to commit to meeting
the costs of insurance schemes, again with a view to enhancing the predictability of aid and putting an
end to the counter-cyclical nature of food aid. For instance, since 2006 the World Food Programme
(WFP) has developed a drought insurance programme in Ethiopia, for which it partnered with the
French firm Axa Re to pilot a programme to provide cash payouts to farmers in the event of a severe
drought.31 In 2007, WFP, the World Bank and the Government of Ethiopia, began work on developing
a broader risk management framework for droughts and floods in the context of the Productive Safety
Net Programme. The second phase (2008–10) will introduce a drought risk financing component to
the programme and also include clearer contingency planning, capacity building and more robust early
warning systems. Donors could commit to pay the insurance premiums, thus ensuring not only
predictability at the recipient’s end, but also easier budgetary programming on the donors’ side. One of
the attractive features of such mechanisms is that they encourage potentially food insecure countries to
put in place relatively ambitious social safety nets, including food safety nets, since these countries
will not have to fear the fiscal costs linked to such shocks which, in the absence of an insurance
mechanism, may prove unsustainable. Another advantage, particularly as regards weather-related
insurance mechanisms, is that, if donors contribute to meet the costs of the premiums, this constitutes
an incentive for them to transfer technologies to developing countries which could ease adaptation to
climate change and limit its negative impacts.

This shift towards a more systematic needs-based approach to food aid would be consistent with the
responses which are currently being shaped in order to address concerns that food aid may constitute a
form of disguised export subsidy, and displace commercial imports. As regards specifically
emergency situations – to which roughly 60% of the food aid now is dedicated –, the development of
objective needs-based assessments will be required as part of the disciplines imposed under the WTO
Agreement on Agriculture, since the current proposals under discussion within the Doha development
round of trade negotiations aim to place emergency food aid in a “Safe Box” with more lenient
disciplines, once the emergency is declared or appealed by relevant international organizations; the
other (i.e., non-emergency) forms of food aid are also disciplined under the AoA to prevent the aid
from displacing commercial trade, which again implies that it is based on needs assessment. It should
be examined whether new mechanisms for the definition of commitments under the FAC’s Rules of
Procedure could be coordinated with the WTO disciplines, as would be the case if needs assessments
both triggered certain responses under the FAC (such as an obligation for each State party to provide a
certain percentage of food aid) and shielded the food aid provided through such responses from the
WTO disciplines.

3. Assisting net-food importing developing countries facing the negative impacts of the reform
programme in agriculture

In the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on
Least-Developed and Net Food-Importing Developing Countries (‘Marrakech Decision’), adopted as
part of the WTO agreements adopted following the Uruguay round of trade negotiations, the WTO
Members committed themselves to establishing a number of mechanisms in order to ensure that the
least-developed and net food-importing developing countries (NFIDCs) would be able to continue to
afford normal levels of commercial imports of basic foodstuffs, despite the impact on prices which
could result from the reform programme in agriculture. The four response mechanisms provided for
under this Decision are: (1) the provision of food aid at a level which is sufficient to continue to
provide assistance in meeting the food needs of developing countries; (2) the provision of technical

31 Under the programme, Axa Re would have had to pay 7.1 million USD to WFP in case of a serious drought in 2006
triggering the response – an event some estimate to occur every 20 years on average –; the WFP would then have transferred
the funds to the Ethiopian government to be disbursed as cash assistance to households.
and financial assistance to least-developed and net food-importing developing countries to improve their agricultural productivity and infrastructure; (3) favorable terms for agricultural export credits; and (4) short-term financing facilities benefiting developing countries in order to allow them to maintain normal levels of commercial imports. Regrettably, the WTO Members have not adequately implemented these mechanisms:

(1) The Marrakesh Decision refers to the need to review the level of food aid established periodically by the Committee on Food Aid under the Food Aid Convention 1986 and to ‘initiate negotiations in the appropriate forum to establish a level of food aid commitments sufficient to meet the legitimate needs of developing countries during the reform programme’. The 1995 and 1999 Food Aid Conventions (FACs) were a result of this proclaimed objective. The Marrakech Decision also included a commitment to ‘adopt guidelines to ensure that an increasing proportion of basic foodstuffs is provided to least-developed and net food-importing developing countries in fully grant form and/or on appropriate concessional terms in line with Article IV of the Food Aid Convention 1986’. However, Article VII (a) of the 1999 Food Aid Convention provides that food aid under the Convention may be provided to least-developed countries and low-income countries, as well as to ‘lower middle-income countries, and other countries included in the WTO list of Net Food-Importing Developing Countries at the time of negotiation of this Convention, when experiencing food emergencies or internationally recognised financial crises leading to food shortage emergencies, or when food aid operations are targeted on vulnerable groups’. Thus, as regards the NFIDCs which are neither LDCs nor low income countries, more restrictive conditions are stipulated under the FAC than would be required in order to ensure an adequate implementation of the Marrakesh Decision.32 The FAC could be amended in order to put an end to this discrepancy. In addition, the guidelines referred to in the Marrakesh Decision could be adopted, in order to impose an obligation on the States parties to the FAC to provide food aid at levels which ensure that NFIDCs will at all times be able to ensure an adequate protection of the right to food under their jurisdiction. Since we are entering a period which will be characterized by an increased volatility of the prices of food commodities, particularly due to the impact on harvests of climate change, the States parties to the FAC could most effectively comply with this obligation by financing insurance schemes – related, ideally, both to weather-related events and to other shocks, whether of internal or external origin.

(2) The provision of assistance to LDCs and NFIDCs in order to allow them to improve their agricultural productivity and infrastructure has been insufficient over the last two decades. Mainly as a result of falling commodity prices making agriculture less profitable in developing countries and of increasing competition from social sectors such as health or education, both the proportion of official development assistance dedicated to agriculture and the proportion of national budgets going to agriculture have declined significantly since the early 1980s.33 In sub-Saharan Africa, bilateral agricultural aid fell by 60% from 1.3 billion USD to only 524 million USD between 1990 and 2001.34 While commitments have been made in various fora to reverse this trend, it remains to be seen whether there will be sufficient political will to implement these resolutions. This is vital. It would be unacceptable for increased and more predictable provisions of food aid to divert attention from the need to rebuild agriculture and enhance food security through the improvement of local capacities to produce.

(3) The Marrakesh Decision provides that appropriate provision should be made in any agreement on agricultural export credits for differential treatment of LDCs and NFIDCs. The most recent WTO draft texts underscore the ongoing nature of this commitment, which is particularly important in light of the recent extreme international food price volatility. Those texts also provide for substantially extended credit periods for commercial transactions involving Least Developed Countries and Net Food

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32 The countries concerned are Barbados, Mauritius, St. Lucia, Trinidad and Tobago.
Importing Developing Countries. However, as explained in the following paragraph, the IMF has only recently made any credit available to cope with high price without requiring a high level of policy conditionality by these countries.

(4) Para. 5 of the Marrakesh Decision provides for the possibility for NFIDCs experiencing balance of payment difficulties to draw on ‘existing facilities, or such facilities as may be established’ in order to enable them to address their financing difficulties. The main facility which has been considered to satisfy this requirement is the IMF Compensatory Financing Facility (CFF), initially established in 1963. The CFF was expanded in 1981 to cover excess cereal import costs, following requests of the World Food Council and the FAO, and in consideration of the high volatility of food prices in the 1970s. In fact however, this facility has been of little usefulness to NFIDCs. Access to the CFF is restricted to countries experiencing temporary balance of payments difficulties linked to factors largely beyond the control of the authorities, such as a rise in cereal import costs, a condition which very few countries have been considered to meet. In addition, access to loans are subject to conditionality, which the Marrakesh Decision recognizes explicitly by referring to facilities extended ‘in the context of adjustment programmes’. Finally, here too, there is a discrepancy between the CFF and the Marrakesh Decision: the CFF is limited to cereals only, whereas the Decision covers all basic foods.

On 25 April 2001, a group of 16 developing country Members of WTO submitted a proposal which called for, inter alia, the establishment of an Inter-Agency Revolving Fund (RF) under which, in addition to technical and financial assistance to LDCs and NFIDCs for specific projects linked to improving agricultural productivity and related infrastructure, financing would be provided at concessional terms without requiring any justification other than evidence that import bills were excessive. This system was conceived as self-financing: borrowing countries would assume the obligation to repay their loans, for instance within a period of two years. The UNCTAD later elaborated on this proposal, which was included by the WTO Doha Ministerial Conference among the implementation issues and led to an Inter-Agency Panel being established to examine the issue. No follow-up was given, at yet, to the proposal for a revolving fund. It is therefore to be welcomed that the Exogenous Shocks Facility (ESF) has been revised in September 2008 in order to allow the IMF to help its members cope with events such as commodity price changes, by including a rapid-access component in the facility and be providing concessional terms of financing, focused on the adjustment to the underlying shock but with less emphasis on previously on broader structural adjustments.

III. IMPLEMENTATION

Until a few years ago, international aid was seen as a unilateral undertaking, by a donor country, to provide assistance to a recipient country, whether through bilateral or through multilateral channels. We have now moved towards fuller reciprocity: strategies which were donor-driven are now more needs-driven, and should be aligned with strategies developed at the level of the partner country. A human rights framework requires that we deepen the principles of ownership, alignment and mutual accountability, by shifting our attention to the role of national parliaments, civil society organisations, and the ultimate beneficiaries of aid – the rights-holders – in the implementation and evaluation of foreign aid. It is this triangulation, away from a purely bilateral relationship between governments, which the adoption of a human rights framework requires.

35 See TN/AG/W/4/Rev.4 (6 December 2008), Annex J (proposal to replace the current Article 10.2 of the Agreement on Agriculture).
36 It is significant that, in order to assist countries to face the balance of payments difficulties in 2008 as a result of the brutal increases in prices of food commodities on international markets, the International Monetary Fund provided additional balance of payments support by augmented access to 12 countries under Poverty Reduction Growth Facility (PRGF) arrangements.
38 Decision on Implementation-Related Issues and Concerns, WTO Doc. WT/MIN(01)/17 of 20 November 2001, para. 2.2.
1. Improving the contribution of international aid to the realization of the right to food: the role of national strategies

The current reform process of international aid is based on the principles of ownership, alignment, harmonization, managing for results, and mutual evaluation, which are made explicit in the Paris Declaration on Aid Effectiveness. An explicit endorsement of a human rights framework for the implementation of these principles could serve to make them more concrete and operational. At a general level, human rights based approaches to development cooperation recognize people ‘as key actors in their own development, rather than passive recipients of commodities and services’: participation, in such approaches, ‘is both a means and a goal’; strategies are ‘empowering, not disempowering’, and they should combine top-down and bottom-up approaches; both outcomes and processes should be monitored and evaluated, following the adoption of measurable goals and targets in programming; all stakeholders should be involved in analysis; and the programmes should focus on marginalized, disadvantaged, and excluded groups, and aim at reducing disparity.\(^{40}\) The human right to adequate food in particular should be guiding countries’ choices of development strategies, and provide an objective benchmark to evaluate the effectiveness of development efforts, thus improving the accountability of both donors and partners.

Specifically, the implementation of the principles of national ownership and alignment would be greatly facilitated by the definition by the recipient State of its national priorities under a national strategy for the realization of the right to food, whether or not it is formally integrated to broader poverty-reduction strategy documents. The Committee on Economic, Social and Cultural Rights has insisted on the need for States to work towards ‘the adoption of a national strategy to ensure food and nutrition security for all, based on human rights principles that define the objectives, and the formulation of policies and corresponding benchmarks’.\(^{41}\) Guideline 3 of the FAO Voluntary Guidelines provides useful indications about how States could adopt a national human rights-based strategy for the realization of the right to adequate food. According to these guidelines, such strategies should be based on a careful assessment of existing obstacles to the realization of the right to adequate food and of the measures necessary to overcome such obstacles (3.2.); they should include objectives, targets, benchmarks and time frames, and they should allocate responsibilities across all actors, as well as coordination between them (3.3.); they should establish monitoring mechanisms to ensure that the actors involved comply with their obligations under the national strategy adopted by the State (3.3.); specific attention should be paid to the need to improve the situation of the most vulnerable segments of society, including girls and women whose specific situation must be taken into account (3.9.), to the principle of non-discrimination, as well as to the explicit inclusion of access to adequate food as part of larger poverty reduction strategies (3.4. and 3.5.); finally, such national strategies should be developed through participatory processes (3.8.).

One of the commitments of the States adhering to the Paris Declaration on Aid Effectiveness is to enhance partner countries’ accountability to their citizens and parliaments for their development policies, strategies and performance (para. 3, iii, and para. 14). This objective has been further reaffirmed by the Accra Summit on Aid Effectiveness of 2-4 September 2008\(^ {42}\) and in the 2008 Doha Declaration on Financing for Development.\(^ {43}\) The choice, through participatory processes, of a national strategy for the realization of the right to food, provides a concrete means to improve the accountability of national governments and their responsiveness to the needs of their populations. The Accra Agenda for Action provides that developing countries and donors will ‘ensure that their respective development policies and programmes are designed and implemented in ways consistent with their agreed international commitments on gender equality, human rights, disability and environmental sustainability’ (para. 13, d). Grounding development assistance on the human right to

\(^{40}\) The Human Rights Based Approach to Development Cooperation - Towards a Common Understanding Among UN Agencies (2003).

\(^{41}\) E/C.12/1999/5, para. 21.

\(^{42}\) Accra Agenda for Action, para. 13, b.

\(^{43}\) A/CONF.212/L.1/Rev.1, para. 46.
food would contribute to this agenda. Since development cooperation programmes will fit into a national strategy for the realization of the right to food defined at national level, the recipient government will improve its bargaining position in aid negotiations. Since this national strategy will involve national parliaments and civil society organizations, development policies will be democratized. And since it will set benchmarks and allocate responsibilities, it will increase accountability in their implementation.

2. Improving the contribution of food aid to the realization of the right to food: the need for disciplined and context-specific food aid

Food aid, if not strictly tailored to the needs which have been assessed and to the local conditions, may create unintended – and negative – consequences. The most discussed problem is that, when food insecurity is not the result of the absence of well-functioning markets or of insufficient supply, but of insufficient purchasing power for certain segments of the population, the arrival of food aid in kind can undermine local agricultural production, since it leads to a lowering of the prices on domestic markets. In the worst-case scenario, the provision of food aid could lead to reduced investment in the local agricultural sector, increasing the likelihood of future emergencies, leading to what major commentators have referred to as a ‘relief trap’ in international assistance: donors are caught in a vicious circle in which ‘they can increasingly finance only relief operations accompanied only occasionally by under-funded structural investments’. This is why the FAO Guidelines on the right to food emphasize the need to ensure that international food aid does not disrupt local food production (Guideline 15.1) and it is this concern also which led to insert into the FAC a provision according to which, in delivering food aid, the Members should ‘avoid[…] harmful effects on local harvests, production and marketing structures, by appropriately timing the distribution of food aid’ (Art. XIII, a), i)).

Since food aid is generally directed towards regions which experience food insecurity problems, often as a result of failures of domestic production, the arrival of food aid and patterns of food insecurity are statistically correlated – which is not to say that the latter are necessarily caused or aggravated by the former. Indeed, the potential impacts on local agricultural production should not lead to dismissing the usefulness of food aid to meet the needs of the food insecure, under certain conditions and provided the right instruments are used. In principle, in-kind food aid – through the physical delivery of commodities – will be adequate as an answer to humanitarian crises resulting from a food availability deficit and a market failure; cash transfers allowing recipients to procure from local or regional markets may be an option where markets function adequately and where there exists an adequate local agricultural production, but where certain households are food insecure as a result of insufficient purchasing power. When in-kind food aid is the preferred option, it should comply with certain conditions. First, adequate targeting and appropriate timing should ensure that the provision of in-kind food aid does not have such disruptive effects on local agricultural production: if food aid is effectively targeted towards the poor and the most vulnerable, which in any case may not have been able to afford buying locally produced commodities, and if it is delivered in a timely way, immediately after the needs have been identified – rather than, for instance, many weeks later, particularly after new harvests are brought on the markets –, any negative impact on local production may be entirely avoided. Second, local purchasing of commodities through food aid programmes which are cash based rather than donor country sourced commodity based may both assist those in need and support local producers and maybe closer to local diets. This will be the case particularly if

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45 The studies which documented such effects may have sometimes treated correlation as causality: see FAO, The State of Food and Agriculture 2006 – Food aid for food security?, at 40-41, referring to A. Abdulai, C. Barrett, and J. Hoddinott, ‘Does food aid really have disincentive effects? New evidence from sub-Saharan Africa’, World Development, vol. 33(10) (2005), pp. 1689-1704. See also, for a review of the literature on the impacts of food aid on local markets, C. Donovan, M. McGличy, J. Staatz and D. Tschirley, Emergency needs assessments and the impact of food aid on local markets, Desk study for World Food Programme SENAC Project, 2005.
those responsible for these purchases affirmatively seek to buy from smallholders, helping them to overcome the barriers they face, particularly as regards their ability to keep stocks, which may otherwise place them at a disadvantage in comparison to larger producers or commodity traders. At the same time, the local purchasing of food aid to be distributed to the poorest or most food insecure segments of the population may lead to price increases which will be detrimental to households which are not covered by the programme: it is for this reason that the FAC requires that Members ‘pay particular attention to avoiding harmful effects on low-income consumers due to price changes resulting from local purchases’ (Art. XII, d)).

In sum, while donor country sourced commodities risk disrupting local production, cash-based food aid (food transfers paid for by donor funding, allowing local or regional purchasing) or vouchers or cash transfers (enabling recipients to obtain food from the local market) both have price effects which risk making food less affordable for the poor. To avoid these negative effects, a number of conditions must be strictly adhered to: the monetization of food aid – i.e., the selling of donated products to raise funds for aid –, whose disruptive impacts on local production are particularly important, should be avoided to the largest extent possible, since it has the largest negative effect on local market prices; the delivery of food aid needs to be based on careful assessments of the existing needs; it needs to be timely and well targeted; and it needs to be delivered preferably in cash and untied from domestic production or shipping requirements, in order to allow it to be used in the most efficient way, for instance for local or regional purchases, depending on the conditions existing on the local markets. Tying constitutes a major impediment to the effectiveness of food aid: it is estimated that the cost of direct food-aid transfers from the donor country is on average 50% more than local food purchases, and 33% more than regional purchases. Yet, it remains widespread, resulting in roughly a third of the global food aid budget, or some 600 million USD, being spent in donor countries and never reaching beneficiaries. This is highly unfortunate, since it puts the interests of the donor State or its agricultural sector above the needs of the population in the recipient State.

Both the disciplining of food aid and its adaptability to the different contexts in which it operates could be significantly improved by defining food aid as a tool aimed at the realization of the right to adequate food, and by drawing the consequences from this redefinition at the operational level. Specifically, this shift has three implications. First, the provision of food aid should fit into national strategies for the realization of the right to food, defined by the government through participatory processes in which the ultimate beneficiaries, but also farmers’ organisations, should be involved. This would ensure that the local conditions are taken into account in the assessment of which forms of food aid are desirable – depending, in particular, on whether the local agricultural sector is or is not able to increase its supply following cash transfers, whether such transfers take the form of disaster relief, of public employment schemes, or other forms. It would also ensure that greater attention will be paid to the nutritional dimensions of food aid. The need for food aid to ensure an adequate provision of micro-nutrients – referred to in the FAC – is increasingly recognized in international discussions. Yet, this may constitute a particularly important benefit of aligning food aid with national strategies developed with the beneficiaries, both because food aid may result in a transformation of dietary habits of the target population, which may be difficult to change back later and lead to a long-term dependency on certain imported goods, and because the nutritional adequacy of diets is particularly tested in times of crisis.
Second, the reconceptualization of food aid as a means to implement the right to adequate food implies that targeting would be based on the needs identified through such participatory processes. This should limit the risk of discriminatory criteria being applied to identify those who qualify for food aid, and it should allow the possibility for the targeted communities to identify by themselves the optimal means of distribution – for instance, through women rather than men.

Third, and even more importantly, once food aid is defined as a means to implement the right to food, it implies that it should be delivered through criteria which are transparent and, in principle, set out in legislation: this should allow those who are unjustifiably denied food aid to have access to recourse mechanisms in order to seek a remedy from such exclusion – a potentially powerful guarantee against the risk of exclusion or against the discriminatory application of the criteria for the allocation of aid. By restoring predictability for the recipients, food safety nets could function adequately as insurance mechanisms. Without such insurance, those who transitarily fall into poverty would be obliged to sell their assets to meet their immediate needs and thereby fall into extreme poverty, and those who are chronically poor would be stuck in poverty as a result of their inability to rebuild their asset stocks and thus escape their condition.

IV. EVALUATION

The evaluation of development cooperation and food aid policies can serve to progressively improve their effectiveness. It also enhances the accountability of donors and partner States alike. By providing an objective and agreed upon analytical framework for such assessments, the reference to the human right to adequate food contributes to both objectives.

1. Evaluating the effectiveness of development cooperation

Under the principle of mutual accountability agreed to in the Paris Declaration on Aid Effectiveness, partner countries and donors should ‘enhance mutual accountability and transparency in the use of development resources’, a process which should help ‘strengthen public support for national policies and development assistance’ (para. 47). The commitment of the partner countries is to involve more closely national parliaments and civil society in the design and implementation of national development strategies and/or budgets (para. 48). In turn, donors commit to ‘provide timely, transparent and comprehensive information on aid flows so as to enable partner authorities to present comprehensive budget reports to their legislatures and citizens’ (para. 49). And both partner countries and donors commit to ‘jointly assess through existing and increasingly objective country level mechanisms mutual progress in implementing agreed commitments on aid effectiveness, including the Partnership Commitments’ (para. 50).

How success is to be measured remains unspecified under the Declaration. A reference to the normative components of the right to adequate food would be particularly useful to guide such assessments. Ideally, monitoring of the effectiveness of aid should take the form of human rights

insecurity, has particularly severe consequences on children under 24 months of age and on lactating or pregnant women. See C. Koltz et al., ‘Nutrition in the Perfect Storm: Why Micronutrient Malnutrition will be a Widespread Health Consequence of High Food Prices’, World Food Programme 2008, Sight & Life No. 2/2008, p. 6 (noting that ‘during times of economic crisis, households forego relatively expensive micronutrient-rich foods in order to maintain staple food consumption for as long as possible’); and see The World Bank, Rising Food and Fuel Prices: Addressing the Risks to Future Generations, 12 October 2008, pp. 3-4 (noting, among other examples, that the children born during a drought in Zimbabwe had significantly lower height during adolescence, delayed school enrollment, and reduced grade completion equivalent to a 7 percent loss in lifetime earnings).

Such transparency requirements and recourse mechanisms should also be available to the beneficiaries of food aid channelled through non-governmental organisations. Certain such organisations have established helpdesks to provide information to those targeted by their programmes, as well as complaints handling mechanisms.

53 Human Rights Based Approach to Development Cooperation - Towards a Common Understanding Among UN Agencies (2003) (mentioning that human rights-based approaches lead to ‘monitor and evaluate both outcomes and processes guided by human rights standards and principles’).
impact assessments based on the normative components of human rights as recognized in international law; and it should be performed jointly by donors and partner countries, as well as by independent bodies. The Office of the UN High Commissioner for Human Rights or the Right to Food Unit of the FAO could provide assistance to countries about how to perform such impact assessments. Apart from providing donor countries and partner countries with a focal point for the performance of joint assessments, this could significantly enhance accountability of both donors and recipient governments to the national parliaments and civil society organisations in the recipient countries, by the involvement of these actors in the assessment itself, and by encouraging these actors to launch a public debate about the results of the evaluation. Thus, such assessments would allow citizens of developing countries to hold their governments and donor States to account for the impact of development cooperation, and for the use of aid.

2. Evaluating the effectiveness of food aid

Article XIII h) of the FAC provides that ‘Members shall endeavour to carry out joint evaluations of their food aid programmes and operations. Such evaluation should be based on agreed international principles’. This not only suggests the need for the Food Aid Committee to transform itself in a learning forum, in which States parties, together with the recipient States and non-governmental organisations, could on a regular basis assess the effectiveness of food aid both in responding to emergency situations and in enhancing the long-term food security of the country concerned. It also points to the usefulness of basing such evaluations on objective and internationally agreed criteria. Although the FAC refers to the use of indicators ‘such as the nutritional status of the beneficiaries and other indicators related to world food security’, at least for the Members’ monitoring of the impact of the food aid they provide (Art. XIII, j)), a reference to the normative components of the human right to adequate food would be most appropriate. Those components are well recognized and provide an objective benchmark, including a well-established set of indicators, on the basis of which the effectiveness of food aid could be assessed.

Bringing about such improvements in the evaluation of food aid should be feasible, even without a formal amendment to the Food Aid Convention. Although that Convention defines the composition of the Food Aid Committee as including all the Parties to the FAC, it does not exclude the organisation of regular meetings between the members of the FAC on the one hand, and the recipient countries or their representatives as well as non-governmental organisations active in the field of food aid, on the other hand. Such meetings could serve a number of purposes: they could encourage mutual learning, on the basis of an exchange of experiences about the successes or failures of food aid in different contexts; they could enhance mutual accountability – of donors towards recipients, who must receive aid in more predictable ways in the future, of recipients towards donors, who must ensure that the food aid they receive is used in accordance with appropriate national strategies, and of both donors and recipients towards the beneficiaries of aid, whose concerns non-governmental organisations may be in a position to convey; and they could contribute to more transparency, allowing in turn both national and international monitoring mechanisms to better supervise whether the States concerned comply with the requirements of the right to food in the provision, delivery, and management of food aid.

V. CONCLUSIONS AND RECOMMENDATIONS

While the contributions of donor States to the realization of the right to food in the partner countries are generally made on a purely voluntary basis, this does not exempt donors from complying with the principles of non-retrogression, non-discrimination, and predictability in the provision of aid. Where States have made commitments to provide certain levels of assistance, as is the case under the FAC and under the Marrakesh Decision, those commitments should be complied with. To the fullest extent possible, such commitments should be to meet objectively

55 These NGOs already form a coalition through the Trans-Atlantic Food Aid Policy Dialogue (TAFAD).
assessed needs, so that assistance will be detached from commercial or strategic interests of the donors. Defining international aid as an instrument to fulfill the human right to adequate food could contribute to this shift.

Because they provide a framework which is grounded in the international obligations of both donors and recipient States, and because they emphasize the values of participation and accountability, human rights can help complement the principles of aid effectiveness stipulated in the Paris Declaration, and help make them more operational. As donors and their partners seek to clarify how to implement these principles, a reference to human rights may provide a focal point on which those discussions can be based. Realizing the first Millennium Development Goal to halve the proportion of people suffering from hunger by 2015, without grounding the policies we develop in order to fulfil this objective on the human right to adequate food would be a mistake: it would lead to policies which are less well informed, less sustainable in the long term, and whose legitimacy will be more easily contested. The recommendations presented in this report are based, not only on the idea that governments must respect their obligations under international law, but also on the idea that relying on the right to adequate food is useful and operational, and truly adds value to development policies. We can only ignore the potential of the right to food at our own peril.

The Special Rapporteur makes the following recommendations:

Donor States should:
- make measurable progress towards contributing to the full realization of human rights by supporting the efforts of governments in developing countries, by maintaining and, to the maximum of available resources, by increasing levels of aid calculated as ODA in percentage of the GDP;
- provide aid on the basis of an objective assessment of the identified needs in developing countries;
- respect their commitments to provide certain levels of aid at a specific time and in a given period, and offer an adequate justification when commitments are not complied with;
- support the implementation of the Voluntary Guidelines on the right to adequate food in partner countries and to establish these guidelines as binding reference framework for development cooperation especially in the field of rural development and concerning advisory services for development strategies such as Poverty Reduction Strategy Papers (PRSPs);
- fully respect the principle of ownership in their development cooperation policies, by aligning these policies with the national strategies for the realization of the right to food set up in the partner country with the participation of national parliaments and civil society organisations;
- promote the right to food as priority of development cooperation with partner countries where hunger or malnutrition are significant problems and to focus on measures to promote the most vulnerable groups of the society;
- conduct ex-ante impact assessments (based on human rights standards and principles) in order to ensure that development policies and investments in all relevant sectors will not lead to violations of the right to adequate food;
- implement basic human rights principles in development cooperation: transparency, accountability, participation, non-discimination and empowerment;
- propose to their partners that they prepare jointly assessments, on a regular basis, of the impact of development cooperation on the realisation of the right to adequate food, based on the normative components of this right as recognized in international law.

The States parties to the Food Aid Convention should:
- process the information provided by the Members of the Food Aid Committee about their contributions so as to allow the evaluation by any external observer of a State party’s compliance with its commitments;
- assess States’ compliance with Article XIII of the Food Aid Convention within the Food Aid Committee;
- allow the Food Aid Committee to transform itself into a learning forum for both its Members and the recipient governments, as well as non-governmental organisations active in the field of food aid, by organizing transparent and joint assessments of the impacts of food aid on long-term food security;
- ensure that the commitments under the Food Aid Convention are needs-based, by basing them on an adequate mapping of food vulnerability and insecurity in the recipient country, and by expressing commitments as a percentage of assessed needs or as a contribution to the cost of meeting the costs of insurance schemes;
- avoid the monetization of food aid, and to prioritize cash transfers untied from domestic production or shipping requirements, above the provision of food aid in-kind;
- set up mechanisms, including by reforming internal decision-making processes for the allocation of food aid, in order to ensure that the food aid they provide will be timely and well targeted, and that they will fit into the national strategy for the realization of the right to food adopted at domestic level by the recipient State;
- seek information about the situation of local markets before deciding on the form in which food aid should be provided, in order to avoid disrupting prices or local agricultural production or, if local purchasing is preferred, contributing to increases in prices which households not covered by the food aid programme may not be able to afford.

States receiving food aid should:
- ensure an objective mapping of food vulnerability and insecurity, preferably in cooperation with the international community and with adequate participation, in order to allow adequate targeting of food aid;
- examine the potential impacts on local agricultural production and on the affordability of food for the poorest segments of the population, before deciding under which form food aid may be accepted and how it should be distributed;
- ensure the delivery of food aid through criteria which are transparent and, in principle, set out in legislation, granting a right to effective remedies to potential beneficiaries which are unjustifiably excluded.

The Members of the World Trade Organization should:
- fully implement the Marrakech Decision, in particular by adopting guidelines ensuring that an increasing proportion of basic foodstuffs will be provided to least-developed and net food-importing developing countries negatively affected by the reform programme under the WTO Agreement on Agriculture, in fully grant form and/or on appropriate concessional terms, by imposing on the States parties to the Food Aid Convention to provide food aid at levels which ensure that NFIDCs will at all times be able to ensure an adequate protection of the right to food under their jurisdiction.

The Committee on Economic, Social and Cultural Rights should systematically request that the reports of States parties to the International Covenant on Economic, Social and Cultural Rights provide information about:
- in their position as donor States, a) the proportion of food aid they have committed to deliver in an untied form; b) the measures they have taken, in their bilateral programmes for the provision of food aid, in order to ensure that the food aid they provide does not undermine, but instead enhances, the long-term food security in the recipient State, and the development of its agricultural sector;
- in their position as food aid recipient States, a) whether they have ensured that the food aid they receive fits into a national strategy for the realization of the right to food; b) whether the criteria for the attribution of food aid, whether in kind or through cash transfers, are defined transparently in national legislation, guaranteeing access to recourse mechanisms to any right-holder unjustifiably excluded.