Voluntary Guidelines for the Implementation of the Right to Adequate Food

A Joint North South Contribution

March 2003
# Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Joint North-South Civil Society Contribution</td>
<td>5</td>
</tr>
<tr>
<td>Annex</td>
<td>13</td>
</tr>
<tr>
<td>Appendix 1</td>
<td>24</td>
</tr>
<tr>
<td>Appendix 2</td>
<td>27</td>
</tr>
<tr>
<td>Endorsement Form</td>
<td>32</td>
</tr>
</tbody>
</table>
Dear reader,

At the World Food Summit: five years later few concrete decisions were taken. One was the objective to develop in two years “guidelines to support Member States’ efforts to achieve the progressive realization of the right to adequate food.” The FAO Council in November was setting the terms of reference for this work. The Guidelines will be developed by an Intergovernmental Working Group (IGWG) in a period of two years. The IGWG will meet first in 2003 in March (24.-26.) and later again in September. All relevant stakeholders are invited to contribute to the work of the IGWG.

CSOs, NGOs and social movements have already prepared a joint contribution to the first session of the IGWG, which you will find at the beginning of this booklet. We have started a few weeks ago collecting endorsements for the joint contribution. The booklet also contains an annex, which has been written on the basis of many ideas reported by civil society organisations all over the world in the last weeks. It is written in the format of a proxy to the possible voluntary guidelines and shall be used as source of ideas. The annex is a working document which will be amended in the coming weeks and months by civil society organisations. It will be presented in a final form to the second meeting of the Intergovernmental Working Group.

In the name of the drafting team,

Yves Berthelot and
Michael Windfuhr
Voluntary Guidelines for the Implementation of the Right to Adequate Food

A Joint North-South Civil Society Contribution

Background: a rationale for contributing to the elaboration of “voluntary guidelines”

1. At the end of the World Food Summit: five years later (WFS:fyl) held in Rome in June 2002, representatives of the civil society organisations (CSOs) and non-governmental organisations (NGOs) stated in their final document:

“The social movements, farmers, fisherfolk, pastoralists’, indigenous peoples’, environmentalists’, women’ organisations, trade unions, and NGOs gathered here in Rome, express our collective disappointment in, and rejection of, the official Declaration of the World Food Summit: five years later. Far from analysing and correcting the problems that have made it impossible to make progress over the past five years toward eliminating hunger, this new plan of action compounds the error of “more of the same failed medicine” with destructive prescriptions that will make the situation even worse”.

The CSO/NGO community present in Rome went on to say that “only fundamentally different policies, which are based on the dignity and livelihoods of communities can end hunger”, affirming their belief that this is possible and urgently needed.

2. We share the fears expressed in Rome. In fact, recent figures published by FAO are alarming. Without counting the progress in China, the number of people suffering from hunger and malnutrition has increased by 40 million since 1996. With the exception of China, the situation has deteriorated in most parts of the world, particularly in Africa and even in some developed countries. Income distribution has worsened everywhere, making the situation of vulnerable groups even more precarious. This is a scandal as there is no doubt that worldwide resources (food, land, seeds, knowledge, and money) are sufficient to overcome hunger and malnutrition. Even in several countries where people lack adequate food, there is enough food available and, sometimes, stocks. The lack of progress and, too often, the worsening situation should compel governments and international organizations to give priority to the fight against hunger and call for a thorough revision of development policies and hunger-reduction strategies. There can be no complacency in analyzing the causes of such an unacceptable situation.

3. We want to seize the opportunity offered by the process of preparing “voluntary guidelines to achieve the progressive realization of the right to adequate food”, as called for in paragraph 10 of the Declaration of the WFS:fyl, for pursuing the dialogue with governments and contributing to eradicate hunger in all countries. We appreciate the possibility to participate as stakeholders in the work of the open-ended Intergovernmental Working Group (IGWG) set up to prepare such guidelines and intend to exercise fully the responsibility it gives them.
4. This first contribution has been prepared on the basis of discussions among CSOs/NGOs from the North and the South that met in Mülheim, Germany in November 2002 at the invitation of the Food First Information and Action Network (FIAN), International Institute Jacques Maritain and the World Alliance for Nutrition and Human Rights (WANAHR). These three organizations had, in early 1997, elaborated the Draft Code of Conduct on the Right to Adequate Food, in response to the 1996 Summit’s call for a clarification of the content of the right to food and the steps needed to implement it. By September that year, more than 800 NGOs in the North and the South had endorsed the Draft Code that became a major reference document in the years to follow. In particular, it served as a direct source of inspiration for the authors of the General Comment No. 12 on the right to adequate food issued, in May 1999, by the UN Committee on Economic, Social and Cultural Rights (CESCR) (see annex section 2.4).

5. Many countries and NGOs at the WFS:fyi would have preferred such a code of conduct or, ideally, a legally binding document on the right to adequate food, which should remain an ultimate objective. For the time being, however, we see considerable merits in the planned guidelines. First, their preparation will provide the opportunity to better understand the causes of hunger and malnutrition. Second, the guidelines will combine, in a mutually supportive way, legal instruments and procedures with development strategies and policies conducive to the realization of the right to adequate food. This will provide a framework for human rights based approaches to specific programming to reduce hunger and malnutrition and promote nutritional well-being. Third, the guidelines will increase the much needed coherence and consistency of governmental decisions at national and international levels as well as actions by the international organizations in the field of food security. Finally, the guidelines will, once adopted, be the first implementation focused document agreed by member states for one of the economic, social and cultural rights, thus leading the way to more specific guidelines for others among these rights.

6. We will use the guidelines as a reference for our own actions, supporting, complementing or correcting government efforts. We will also use them when assessing decisions of governments, international organizations and other actors. We will invite the various actors to meet their obligations or responsibilities and make observations when non-compliance with the guidelines aggravates the vulnerability of food insecure individuals and groups in all countries. We will share our findings with all relevant human rights and development bodies, especially the Committee on World Food Security (CFS), the UN Human Rights Commission, the UN Committee on Economic and Social Rights (CESCR), and the UN Special Rapporteur on the right to food.

Right to food concepts

7. We appreciate that the World Food Summit 1996 emphasized the importance of the right to adequate food and that the WFS:fyi 2002 decided to elaborate guidelines in order to support Members States’ efforts in implementing that right. This will establish a bridge between the economic and social development constituencies and the human rights constituencies, both at the national and international levels. Internationally, it particularly links the work of the UN Committee for Economic, Social and Cultural Rights, the Commission for Human Rights and the FAO through its Committee on World Food Security. It is therefore important to have a
clear understanding of what the right to food means, as well as other concepts currently used such as food security and food sovereignty.

8. An authoritative interpretation of the right to food has been given in the General Comment no 12 of the CESCR. Before recalling its main elements, we recognize that the primary aim of promoting and implementing the right to adequate food is to reduce hunger and malnutrition and to advance nutritional wellbeing for the individual child, woman and man. To achieve these objectives, adequate food is a necessary, but not alone sufficient condition. The ultimate biological utilization of food for the human being is dependent, also, on parallel achievements in the fields of health, sanitation, safe drinking water, and care for those vulnerable (see annex section 2.4).

9. The content of the right to adequate food and the corresponding State obligations have been broadly described in General Comment No. 12. The guidelines are a tool to transfer the interpretation achieved with the General Comment No. 12, into government policies at all necessary levels. The following elements of the right to adequate food, taken from the General Comment No. 12 (GC 12) are essential to build the starting point for the development of the guidelines:

- **Normative elements:**
  - The right to adequate food is defined as the right of every man, woman and child alone and in community with others to have physical access at all times to adequate food or economic means for its procurement in ways consistent with human dignity. The definition used by the GC 12 highlight the importance for each individual to have adequate food either through access to productive resources (land, fish, seeds etc.) or through work, or, if not possible, through sufficient transfers.
  
- The realization of the right to adequate food requires:
  
a) the availability of food, free from adverse substances and culturally acceptable in a quantity and quality which will satisfy the nutritional and dietary needs of individuals. Availability refers to the possibilities to feeding oneself either from productive land or other natural resources, or from well functioning distribution, processing and marketing systems that guarantee that adequate food is where it is needed.
  
b) the accessibility of such food in such ways that do not interfere with the enjoyment of other human rights and that is sustainable. The economic and physical access must be provided for all individual and groups, independent of the acquisition pattern or the entitlement of the person or group. It includes that adequate food must be accessible to everyone, including physically vulnerable individuals.

- **Obligations:**
  
  "The right to adequate food, like any other human right, imposes three types or levels of obligations on States parties: the obligations to respect, protect and to fulfil. The obligation to respect existing access to adequate food requires States parties not to take any measure that results in preventing such access. The obligation to protect requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food. The obligation to fulfil (facilitate) means that States must pro-actively engage in activities intended to strengthen people’s
access to and utilization of resources and means to ensure their livelihood, including food security. Finally, whenever an individual or group is unable to enjoy the right to adequate food by the means at their disposal, States have the obligation to fulfil (provide) that right directly.” State parties also have external obligations with respect to individuals or groups living in other countries.

- While the principal obligation under article 2 of the Covenant on Economic, Social and Cultural Rights is to take steps to achieve progressively the full realization of the right to adequate food, the GC 12 clarifies that (a) each State has the obligation to move as expeditiously as possible towards that goal, (b) every State has the core obligation to ensure that everyone under its jurisdiction has access to the minimum essential food, to ensure freedom from hunger. This core obligation must always be implemented as para 17 of the GC 12 states: “A State claiming that it is unable to carry out its obligations for reasons beyond its control therefore has the burden of proving that this is the case and that it has unsuccessfully sought to obtain international support to ensure that availability and accessibility of the necessary food”.

Duty bearers:
- While only States are parties to the Covenant and are thus ultimately accountable for compliance with it, all members of society – individuals, families, local communities, non-governmental organizations, civil society organizations, as well as the private business sector – have responsibilities in the realization of the right to adequate food. The State should provide an environment that facilitates implementation of these responsibilities.

Related concepts

10. Food Security was defined by the World Food Summit in 1996: “Food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life”. Food security and the right to adequate food both emphasize the economic access of individuals or households to income or food producing resources. The value added of the rights approach is that it spells out obligations and responsibilities of all duty bearers. It gives individuals and groups a claim vis-à-vis the State, and States acting together, to respect, protect and fulfil their access to adequate food. The rights approach also allows more precisely to judge which policy measures are necessary or should be avoided.

11. The concept of “food sovereignty” has been promoted since the early 1990s by alliances of small farmers’ organizations, landless peasants, fisherfolk and indigenous communities. It focuses on the right of small peasants, herders and fisherfolk to produce food for their local market, which is undermined in many countries by national or international policies. More generally, food sovereignty means that countries have the right to decide how to supply themselves with food products without outside interference whether economic or political. This concept is an invitation to pay particular attention to the national and international causes of hunger and malnutrition, which is essential to design appropriate policies for combating them. The right to adequate food describes the minimum standards of policy space needed by each State to implement its obligations under the right to adequate food and other human rights.
From concepts to action: addressing the causes of vulnerability

12. Even if the causes of hunger and malnutrition differ from one country to another and have to be spelled out in each country, there are elements common to many countries that the guidelines should consider and international factors that they cannot ignore. Often the problems cannot only be explained by a lack of resources or political will, but also by inadequate policies at the national and the international level that aggravate the situation and support processes of impoverishment.

* National level (see annex section 3 and the appendix 2)

13. The basic problem at the national level is most often not inadequate supply but insufficient income of those who are hungry. In many countries, the government has not identified the socio-economically vulnerable and food insecure groups, and therefore has no policies in place to address their problems, and hesitates to challenge vested interests or to adopt unpopular policies. Furthermore, in many countries, governments’ dilemma is between providing the urban poor with food at low prices and securing sufficient income for the peasants.

14. While vulnerable groups are many and differ from one country to another, primary attention must be given to the fact that 80% of the poor suffering from hunger live in rural areas. It is imperative to focus on the rural poor. From a development perspective, the only viable and sustainable solution is to give small farmers the possibility to make a living from their activity. If successful, this could, in addition, slow down rural-urban migrations that lead to unmanageable cities and induce sustainable growth for the national economy. It is indispensable to end discrimination against rural women regarding access to land and credit. Attention must, of course, also be given to the many other vulnerable groups. A non-exhaustive list is given in the annex (see section 3.2.2), among which it is worth singling out unemployed people, legal refugees and illegal immigrants who lack sufficient income, households which are labour scarce, and pregnant women who may not be able to meet their nutritional requirements.

15. Given the diversity of situations between countries and the diversity of causes affecting the vulnerable groups within a country, each country will have to adapt the policies and legal framework recommended in the guidelines to its specific situation. The guidelines must therefore be drafted in sufficiently general language. Each country should be strongly invited to design its own strategy to fight against hunger and malnutrition, bearing in mind the eight elements for national strategies proposed in the annex (see section 3.2.1). Such a national strategy that will have political, institutional, legal and economic dimensions, should be based on an accurate and comprehensive analysis of the causes of hunger and malnutrition at the national level and for each vulnerable group. Indeed, a country can design valid policies and set priorities only if they are based on a clear understanding of its agricultural, environmental, social, and economic situation. In developing appropriate legislation a country needs to take into account its institutional, financial and human ability to implement it. General Comment No. 12 offers useful principles for the elaboration of national strategies, which are summarized in the annex (see section 3.1) In elaborating national development strategy, governments should aim at creating the conditions that would permit poor peasants, and eventually urban
unemployed, to become efficient and sustainable “micro-entrepreneurs” producing food for local markets. (see annex section 3.2.1 point 3).

16. The right to adequate food and other rights are to be realized progressively through the use of the maximum of the available resources as provided for in Article 2 of the International Covenant on Economic, Social and Cultural Rights. Nevertheless it should be remembered that the obligations to respect and protect can often be implemented immediately. The Covenant also asks State parties to start the implementation by taking steps with respect to all vulnerable groups immediately and to fully guarantee the rights as expeditiously as possible.

*Linking national and international levels (see annex section 4)*

17. The idea that poor peasants could live in a sort of autarchy and nourish themselves with the food they produce, which seems implicit in many debates about hunger, is erroneous. Not only do they need to buy complementary food and afford housing, clothing, health care and education, but also, in a development perspective, they need to invest in order to increase their productivity and to stay sustainable in business. To achieve this, several obstacles have yet to be removed. First and foremost, the lack of access to land or to water and seeds that prevent many of the peasants to produce. Second, for those who produce, the low and stagnant levels of productivity due to limited access to the results of research, credit, and service infrastructure. Third, the low and often declining levels of the prices of major agricultural products, particularly cereal products, which forces farmers to sell an increasing part of the food they produce to cover compulsory expenses (tools, seeds, taxes, etc.) while their productivity remains stagnant. As a result, their families remain vulnerable to under- and malnutrition. Here, it is obvious that first, the State has to set framework conditions that enable poor peasants to live from their land, and, second, to pay particular attention to the international dimension of the causes of poverty and hunger in rural areas, as, with external trade liberalization, prices of cereal products on domestic markets are more and more linked to international prices. In general more attention should be paid to the effects of liberalisation of agricultural markets, the erosion of public services, the privatisation of natural resources, as well as the effects of models of industrialized agriculture often under the control of transnational corporations.

18. The desire of governments to feed urban citizens at low cost, bilateral pressures of food exporting countries, conditions imposed by International Financial Institutions in the framework of structural adjustment programs or debt alleviation mechanisms, and rules of the WTO have led to food trade liberalization by most developing countries and countries with an economy in transition. This often puts small farmers of these countries in direct competition with agro-business and farmers of the developed countries who have benefitted indirectly or directly from state support for decades and whose exports benefit from direct or indirect subsidies. The competition is obviously unfair. In addition, because of the weight of subsidized exports on international markets, prices of major food products formed on these markets have little economic significance and hardly reflect the production costs of the most productive agricultural systems. The dumping of food products on international markets contributes to the impoverishment of small farmers in developing countries while price fluctuations contribute to food insecurity. These prices cannot, therefore, be taken as the point of reference when deciding on agricultural development policies and when assessing the viability of small farms.
19. Countries should recover the necessary policy space to conduct their fight against hunger and to be able to implement fully their obligations under the right to adequate food as well as other human rights. In particular, the guidelines should recognize the right for a country, or a group of countries, that so wishes, to impose duties on food imports as part of a strategy that would increase food security and concretise the right to adequate food for both small farmers and vulnerable urban dwellers. Import duties are not contrary to the principles and functioning of markets. Many advanced countries have, at a certain moment of their development process, protected their agriculture to increase the income of peasants and provide a market for emerging industries and services. In the meantime, if necessary, they provided well targeted adequate subsidies to the most vulnerable urban groups, which permitted the urban dwellers to buy food at remunerative prices for the peasants. In other words, whether the food security strategy based on full trade liberalization has, over the past decades, proved to be the most efficient, can and should be questioned. Similarly, the charge of the debt has made it more difficult for governments to adopt and implement sound development policies to implement its obligations under human rights. Here again, governments must be left with sufficient policy space to manage their debt while implementing policies to fulfil the right to adequate food.

20. The guidelines should address the impact that the national policy of a given country or group of countries may have on the enjoyment of the right to adequate food in other countries and should recognize the fact that countries also have external obligations under the right to adequate food.
- For instance, subsidized food exports, whether direct or indirect, may deprive small farmers in other countries of their rights and should therefore be discontinued.
- Fishing agreements allowing foreign fleets to enter fishing zones normally used by artisanal fishing communities to gain their income, may deprive them from their resources and income.
- Another example of the impact of national policies in other countries relates to food aid. If natural or man made disasters deprive a country of the necessary food, this country should not refrain from calling on international food aid. But bilateral and multilateral food aid practices should be revised so that they do not prevent the rebuilding of national capacities. Food aid in cash and regional procurement of food should be the rule. In addition, the providers of food aid should refrain from using food aid to open new markets, from interfering with local food habits, and from imposing the consumption and use of GMOs.

21. As members of international organisations, governments should secure that principles, conventions, norms and policies developed in the various institutions, and particularly in the Commission for Human Rights, FAO, WFP, IFAD, ILO, UNDP, UNICEF, WTO, World Bank, the Regional development banks and IMF, respect the right to adequate food and contribute to its implementation in a coherent and consistent manner. Unfortunately, this is not always the case and countries are faced with conflicting obligations from different bodies of international law. Some of these obligations, in particular trade rules, are supported by strong implementation mechanisms and pressures from the most developed countries, while other international laws are left to the goodwill of individual states. The guidelines should recognize that, because the implementation of the right to adequate food is a basic condition of human dignity, it should be given priority over other principles and rules that may conflict with it.
* Involving other actors (see annex sections 5.1 and 5.2)

22. If governments have the primary and ultimate responsibility of ensuring national and global implementation of the right to adequate food, other actors, particularly corporations, increasingly share this responsibility. TNCs may have a negative impact on the realization of the right to adequate food and nutrition if they pay too low wages, if they are cause of forced evictions or of destruction of land and water resources of individuals or communities living in the surrounding of the company site, or if they encourage changes in consumption habits. In addition TNCs have been known to lobby governments in order to maintain agricultural prices at the lowest possible level. Therefore, governments should encourage corporations to develop corporate social responsibility (CSR) strategies and codes of conduct, exercise monitoring of company behaviour and develop legal remedies for liabilities.

23. All actors in civil society, whether they act as individuals, families, local communities, NGOs or academia should mobilize themselves and actively participate in analysing, planning, executing, monitoring and evaluating public policies while maintaining their autonomy in their relations with the State. The obligation of governments in this regard is to provide an environment that facilitates the implementation of these responsibilities.

Monitoring and recourse mechanisms (see annex section 6)

24. The guidelines should reflect the critical importance of adequate monitoring and recourse procedures. Each country should be invited to devise its own mechanism to monitor progress towards the realization of the right to adequate food for all, to identify the factors affecting the fulfillment of its obligations, and to facilitate the adoption of corrective legislative and administrative measures. This should be done with the involvement of all stakeholders. The guidelines should also contain provisions concerning the development and implementation of effective and accessible recourse procedures, including national human rights commissions and ombudsman institutions to respond to violations of the right to adequate food. At the international level, existing monitoring instruments and reporting procedures should be fully used and, if necessary, improved. The effective implementation of the guidelines will critically depend on the quality of the monitoring at both national and international levels.

In conclusion

25. As already stated, governments have ultimate responsibility of implementing the right to adequate food. We recognize that it is an extremely complex and demanding task which needs resources, capacity, ideas, courage, and broadly based cooperation among all actors. Governments should facilitate the involvement of civil society, including all the concerned vulnerable groups, in analysing the causes of problems and in developing and implementing the most appropriate policies and remedies.
Annex

Examples for the formulation of
"voluntary guidelines to support Member States’ efforts to achieve the progressive realisation of the right to adequate food"

This annex is based on the results of the NGOs / CSO workshop held in Mülheim (Germany) in November 2002, taking into consideration further proposals made by NGOs and CSOs in the following weeks as the “Joint North-South Civil Society Contribution”. When appropriate, reference is made to the relevant paragraph of the Joint Contribution by indicating the paragraph number.

A. Introduction:

In our joint North-South civil society contribution we presented general principles that from our point of view should guide the elaboration of the voluntary guidelines. This annex, which is based on the results of the NGOs / CSOs workshop held in Mülheim, Germany in November 2002, intends to illustrate some of the principles and proposals of our joint contribution. It is a tentative list of proposals for elements that civil society organisations (CSOs), social movements and non-governmental organisations (NGOs) have collected over the short period of some weeks, that were given since the FAO-council took the decision to set up an Intergovernmental Working Group (IGWG) and we have organized it in a way that could become a proxy format for the structure and contents of future guidelines. It is our first contribution to the process and the text will be amended and changed as the process continues.

We see the two years time process as a development and we will involve as many CSOs, NGOs and social movements as possible. It will take time to reach out and inform these groups about the process and to collect ideas and elements from them, particularly from vulnerable groups, which often live in remote areas. All the proposals and insights we gather will be fed into the process of the IGWG. For further sessions, our “annex” will therefore be modified and amended. We share the conviction that our concerns are essential for the whole process, because the elaboration of the guidelines should be based on the experiences of individuals and groups who face violations of the right to adequate food and know why policies taken up by governments often do not reach the hungry and the malnourished.

Because of the preliminary nature of this annex, not all elements mentioned here will have the same level of concreteness and elaboration. Some of the proposals are already quite detailed and elaborate, others are of a more preliminary character and require further editing. Some proposals only describe what issues should be dealt with in the guidelines and in which way certain problems and issues should be tackled. The elements listed follow a structure for the guidelines, which was presented and discussed at the Mülheim, Germany conference.

The guidelines should start with

(1) An introductory chapter or preamble, starting with a problem description and an explanation of the mandate for the elaboration of the guidelines. The introduction should be followed

(2) by a general part, the purpose of which would be to clarify (a) what the objectives and the legal nature of the guidelines are, (b) who the duty bearers are for the implementation of the right to adequate food that must be addressed in the guidelines, and (c) what other relevant international agreements there are that should be taken into consideration when developing national strategies for the implementation of the right to adequate food. Furthermore, (d) important definitions can be included.

(3) The third chapter should contain the guidelines for the implementation of the right to adequate food by states at the national level.
(4) Chapter four deals with the guidelines for state behaviour at the international level and their role in intergovernmental organizations.

(5) The regulation of activities of private actors through states should become part of a fifth chapter called "Principles applicable to private companies and other private actors."

(6) The last chapter should deal with provisions for national and international monitoring of the implementation of the right to adequate food and the monitoring of the use and implementation of the guidelines.

B. Example for the formulation of guidelines for the implementation of the right to adequate food

1. Introduction

1.1 Problem description

Despite the fact that the international community has frequently reaffirmed the importance of full respect, protection and fulfilment for the right to adequate food, a disturbing gap still exists between the standards set in article 11 of the Covenant on Economic, Social and Cultural Rights and the situation prevailing in many parts of the world. More than 820 million people throughout the world, most of them in developing countries, are chronically hungry; millions of people are suffering from famine as the result of natural disasters, the increased incidence of civil strife and wars in some regions and the use of food as a political weapon. Fundamentally, the roots of the problem of hunger and malnutrition are not lack of food but lack of access to available food, inter alia because of poverty, for large segments of the world’s population. Also of importance are problems linked to the absence of, or incomplete, or insecure access of individuals and groups to productive resources and to reasons for violations of the right to food. Part of the problems linked to inadequate access to income is the regular discrimination of women in access to resources. Other groups that are also particularly vulnerable food insecure groups and which exist in many societies are small farmers, artisanal fisherfolks, indigenous peoples, etc. (see para. 2 and 12–18)

It must be recognized that there also exists a growing number of families who need access to social transfers, often because they are extremely labour scarce, for example through HIV-Aids effects, or old age, etc. These are groups which hardly can be helped through offers of the use of productive resources. They will need provision and care to overcome their situation. Moreover, it can be observed that while the problems of hunger and malnutrition are often particularly acute in developing countries, malnutrition, under-nutrition and other problems which relate to the right to adequate food and the right to freedom from hunger, also exist in some of the most economically developed countries.

Hunger and poverty are neither inevitable nor acceptable. Due to the fact that persistence and prevalence of hunger and malnutrition are to a huge extent related to policy failures and not to natural circumstances, a rights based approach is urgently needed to tackle hunger and malnutrition problems. It will help to identify those parts of the problem where government decisions, actions or omissions are causing violations. The guidelines will support Member States’ efforts in the implementation of the right to adequate food and shall help to overcome the missing political will in ending hunger and malnutrition. They shall be a guide to meet human rights obligations in daily policy practice and can help governments in the overall orientation of the design of its policies. Moreover, a rights based approach allow each individual to hold the government accountable for its decisions.

States are already duty-bound to implement the basic human right to adequate food by the Universal Declaration of Human Rights for all states, and by the ICESCR, Art. 11 for the states parties to that covenant. Many other international instruments contain additional provisions of relevance for the implementation of the right to adequate food, e.g. the Child Rights Convention or the Food-Aid Convention. General Comment No. 12 (GC 12) of the Committee on Economic, Social and Cultural rights gives a detailed description of the content and normative standard of the right to adequate food and the respective state obligations. The guidelines will therefore not try to
reiterate this basic work, but will build on the authoritative description of the right to adequate food as given by GC 12. GC 12 already contains partially detailed guidance for national implementation strategies for the right to food that have been taken into consideration, during the development of the guidelines.

Part of the introduction should be the recognition of the importance of the process of globalization for the full enjoyment of the right to adequate food. It should be mentioned that in the process of globalization, human rights obligations remain binding for states. Food cannot only be seen as a commodity / merchandise, but as a human right. States and all other relevant actors should respect and ensure the full enjoyment of human rights. In this respect it is important to emphasize that human rights obligations do not only cover domestic but also external obligations. States have to make sure that their own policies do not violate the right to adequate food in other countries. Also, intergovernmental agencies have to make sure that their own policies and programs do not lead to violations of the right to adequate food and promote its implementation.

1.2 Mandate/WFS goals/Plan of Action, etc.

The World Food Summit took place in 1996 as part of a series of UN-summits. Part of the strong elements of the "Declaration" and of the "Plan of Action" (PoA) of Rome are those where the right to adequate food is placed and recalled. The Declaration starts with a strong reaffirmation of the right to adequate food and the right of freedom from hunger. The PoA has, in commitment 7, a special chapter on how to better implement the right to adequate food (objective 7.4). The PoA also has a chapter on the importance of improving the access of poor and marginalized groups to productive resources, specifically land and water.

The follow-up process concerning those parts of the Plan of Action dealing with the right to food was successfully started. The Office of the High Commissioner for Human Rights (OHCHR) organized, in co-operation, with the FAO three expert consultations on the right to adequate food to better clarify the content and identify means for implementation. The first two, Geneva, 1997 and Rome, 1998, contributed to the elaboration of General Comment No. 12 of the UN-Committee on Economic, Social and Cultural Rights (CESCR). In the 3rd expert consultation in March 2001 new means for implementation were discussed, among them an "International Code of Conduct on the Right to adequate food" as an important implementation instrument not only at the national but also at the international level. So far the follow-up process has been successful in defining the right to adequate food and its related state obligations. The second step - better implementation of that right - has to be started now. With General Comment No. 12 a solid base of interpretation of the right to adequate food exists. The idea of developing an International Code of Conduct on the Right to adequate food was originated by several governments and civil society organizations which since 1995 had been promoting the development of an additional legal instrument for supporting the implementation of the right to food. The organisations were able to gather enormous support from civil society organizations all over the world in support of the initiative, including a strong message from the parallel NGO-Forum to the World Food Summit.

Six years after the World Food Summit the Food and Agriculture Organization (FAO) again gathered together the heads of states and governments to search for solutions to the two basic problems in implementing the results of the 1996 Summit identified by the FAO: (1) the missing political will of governments and (2) the missing financial resources at national and international levels. The results achieved since the World Food Summit in 1996 are not encouraging at all. The reduction of the number of the hungry is marginal and basically due to improvements in China. Without major changes, the objective to halve the number of the hungry by 2015 cannot be achieved. Additionally there is a sharp decline in financial resources being used to tackle hunger and malnutrition. The bilateral aid directed to agricultural and rural development issues went down from around US$ 7 billion at the beginning of the 90s to less than $ 3 Billion. The same is happening with the multilateral aid going into the two areas, which was reduced from US$ 3.5 Billion a decade ago to less than $ 1.5 Billion. Parallel to the reduction of aid budgets for this areas is a sharp decline in national budget allocations in developing countries devoted to agriculture and rural development.

It is in this context that the heads of states and governments gathered at the World-Food-Summit: five years later, which reaffirmed the need to come forward in implementing the right to food. While a large majority of states were in favour of developing a Code of Conduct for the right to adequate food, a compromise decision was taken to develop voluntary guidelines for the same purpose. In the final declaration it was decided that the FAO Council
shall establish “an Intergovernmental Working Group, with the participation of stakeholders, in the context of the WFS follow-up, to elaborate, in a period of two years, a set of voluntary guidelines to support Member States’ efforts to achieve the progressive realisation of the right to adequate food in the context of national food security...” In November 2002 the FAO-Council set up the Intergovernmental Working Group and defined the terms of reference for the work of the Group.

2. General Part

2.1 Objectives and legal nature of the Guidelines

One of the central objectives of the guidelines is to facilitate the process of implementation of the right to adequate food. In combining a rights based and development oriented approach they can help states to take the necessary action in order to comply with their obligations deriving from international covenants – in this case, the Covenant on ESC-Rights. States have to design adequate policies, take necessary legislative measures and set up judicial remedies quick enough to enable courts to take actions. It should be stressed again in this chapter that General Comment 12 is most authoritative interpretation of the right to adequate food (see para 8). The process of drafting guidelines for the implementation of the right to adequate food shall not focus on new definitions or new obligations. The obligations are coming from international human rights law, the definitions are given in the General Comment. The guidelines are a tool to guide the implementation process. Additionally, the guidelines will help those states who are not states parties to the International Covenant on Economic, Social and Cultural Rights to implement human rights standards in their policies and thus adopt a rights based approach, as requested by the Universal Declaration of Human Rights and by the Charter of the United Nations.

2.2 Duty bearers (states, international community, IGOs, non-state actors) (see para 22-23)

It is a central concern of all civil society organizations that have contributed to this document to emphasize that the guidelines shall address the role of all actors relevant for the realization of the right to adequate food. It is important to differentiate between the states, which have the obligation to implement the right to adequate food, and non state actors, which have duties and responsibilities not to obstruct the realization of this right and for actively promoting it. On a first reading, the formulation of para 10 of the declaration of the WFS:fyl seems to focus on members states’ activities only: “...guidelines to support Member States’ efforts to achieve the progressive realisation of the right to adequate food...”. But by looking into the details of human rights obligations it becomes obvious that states have to act in co-operation with other states in Intergovernmental Organizations and that they have to adequately regulate the work of private actors.

In this sense, the primary duty bearers under human rights are states as they are the main responsible actors for the implementation of the guidelines. As such, the guidelines are primarily addressed to states and the formulation of para 10 reflects this. As a matter of extension, Intergovernmental Organizations (IGOs - composed of various states) are also considered as primary duty bearers, who are accountable to states. IGOs should respect the rights people have and promote the rights and facilitate efforts of individual states in respecting, promoting and fulfilling the obligations. As members of Intergovernmental Organizations, states must ensure that policies and programmes of IGOs meet the obligations states have to implement the right to adequate food.

Non-state actors include inter alia the following four categories: (1) corporations; (2) non-profit NGOs and Civil Society; (3) local communities and individuals, and (4) academia. As stated in the preamble to the Universal Declaration of Human Rights and the two International Covenants, all members of civil society are called upon to promote the realization of human rights; in this sense, individuals and other non-state actors are duty bound to respect and promote the right to adequate food. The state has the obligation to adequately regulate the work of private actors, so that they at least respect the right to adequate food of other persons. Moreover, the minimum that can be expected from all the above mentioned actors is that they should respect the right to adequate food.
2.3 Definitions (see para 7-11)

The central definitions for relevant aspects of the guidelines should be taken from General Comment No. 12. In particular, paragraphs 6-13 of GC 12 provide the normative content of the right to adequate food. Paras 14-20 describe the respective state obligations. The guidelines should also mention that the ultimate objective of the right to food is to achieve nutritional well-being and that implementing the right to adequate food is a necessary, but not in itself sufficient component of efforts towards achieving nutritional well being.

The guidelines should explain the relation of the term food security and the right to adequate food. Food Security was defined by the World Food Summit in 1996: “Food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life”. Food security and the right to adequate food both emphasize the economic access of individuals or households to income or food producing resources. The value added by the rights based approach is that it spells out obligations and responsibilities of all duty bearers. It gives individuals and groups a claim vis-à-vis the State and States acting together to respect, protect and fulfil their adequate access to food. The rights based approach also allows more precisely to judge which policy measures are necessary or should be avoided.

The guidelines should take into account the objective of food sovereignty of local communities. Food sovereignty means that countries have the right to decide how to supply themselves with food products without outside interference, whether economic or political. This concept is an invitation to pay particular attention to the national and international causes of hunger and malnutrition, which is essential to design appropriate policies for combating them. The right to adequate food describes the minimum standards of policy space needed by each State to implement its obligations under the right to adequate food and other human rights. Therefore, sovereignty is needed to implement the basic human rights obligations. Nevertheless, it is also clear that Human Rights always limit the sovereignty rights of states.

2.4 Other related international agreements (Food Aid Convention, etc.)

The right to adequate food flows from the Charter of the United Nations, the Universal Declaration of Human Rights and as the central point of reference from the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The right to adequate food was reaffirmed in many international documents, inter alia the Universal Declaration on the Eradication of Hunger and Malnutrition of 1974, recalling “that every man, woman and child has the inalienable right to be free from hunger and malnutrition in order to develop fully and maintain their physical and mental faculties”, while considering that society today already possesses sufficient resources, organizational ability and technology and hence the capacity to achieve this objective. The right to adequate food was also reaffirmed in the Declaration on the Rights of Disabled Persons of 1975, the provisions of the Convention on the Elimination of all Forms of Discrimination against Women of 1979 and the Declaration on the Right to Development of 1986. Furthermore, the Declaration of the Rights of the Child of 1959 and the Convention on the Rights of the Child of 1989 recognized the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development. The ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries also affirms the right to adequate food.

Other important reference documents are contained international humanitarian law. Even during armed conflicts basic rights are in force. Food should never be used as a political weapon. The Food Aid Convention is another important reference document. Relevant texts of the FAO, such as the Code of Conduct for Responsible Fisheries need to be taken into account.
3. National obligations of states

We want to underline the recommendation of General Comment No. 12 that each state should develop its own national implementation strategy with respect to the right to adequate food. Moreover, the General Comment defines principles for such national implementation strategies.

3.1 Principles

The quality and success of the guidelines will depend on the principle that the overall process of national implementation strategies shall lead to the full accountability of governments towards the right to adequate food. While every state will have a margin of discretion in choosing its own approach in a national implementation strategy it is obligatory from the Covenant of Economic, Social and Cultural Rights, that each state take steps to ensure that everyone is free from hunger and as soon as possible can enjoy the right to adequate food.

We want to emphasize the principles mentioned in General Comment No. 12 and in paras 15 and 16 of the Joint Contribution that are the first related to the content of the guidelines:
- The national implementation strategies should address critical issues and measures in regard to all aspects of the food system: the availability, the physical and economic access and the use of adequate food, as well as parallel measures in the fields of health, education, employment and social security.
- The strategies should be built on mobilizing all the necessary legislative, administrative, and judiciary means,
- The strategies shall incorporate activities concerning all levels of human rights obligations: respect, protect, fulfill.

Concerning the procedure of developing and implementing these national strategies, General Comment No. 12 recommends that the formulation and implementation of the national strategies requires full compliance with the principles of accountability, transparency, people’s participation, non-discrimination, and decentralization. Appropriate institutional mechanisms should be devised to secure a representative process towards the formulation of the strategy, drawing on all available domestic expertise relevant to food and nutrition.

3.2 Implementation measures at national level

In the following sub-chapter we will, in the first part, highlight eight essential elements that must be included and respected in the development of national implementation strategies and the following implementation work at the national level. In the second part, we have started to elaborate a list of issues and concrete policy measures at the national level that should be dealt with or that should be included in the guidelines.

3.2.1 National strategy to implement the right to food (para 13-16)

The eight essentials elements are:
1. The development of a national implementation strategy must start with the identification and prioritization of the most food insecure vulnerable groups and the causes for the vulnerability. The implementation work necessarily should highlight the most food insecure. It is important that for each of the identified vulnerable groups clear benchmarks are set – what governments have to achieve over a certain period of time towards the full realization of the right to adequate food.
2. The analyses should be based on thorough assessments of the existing legislation and all programmes, plans, and projects focusing on problems of why they are hindering or prolonging the full implementation of the right to food.
3. The implementation work should start with the development of a “framework legislation” embodied in a broader strategy that enables all relevant government institutions to act best for the transition to full implementation of the right to adequate food. This strategy should be prepared in consultation with civil society and local authorities.
4. For all vulnerable groups, the State has to initiate measures in order to achieve as quickly as possible the realization of the right to food.

5. In all countries, a national policy and strategy for disaster relief must be available.

6. Governments should secure coherence of policies, legislation and programmes for implementing the right to food. The central authority should always ensure that policies at local, provincial and regional levels are consistent with its national strategy (built on the premise that the planning process is a participatory, bottom-up approach).

7. Each person living in the country must have access to adequate accountability and recourse mechanisms including legal remedies.

8. A national monitoring of the national implementation strategy must be developed. This must specify the role of national institutions such as national human rights commissions. It is essential to recognize the important role of non-governmental organizations and civil society organizations in monitoring the implementation of the national strategy in all its aspects. It is important, therefore, that governments ensure protection in this regard of human rights defenders in accordance with the principles adopted by the United Nations.

A helpful way of structuring all the measures of a national implementation strategy could be to incorporate them into a matrix, which is presented in appendix 1.

3.2.2 National measures for vulnerable groups by obligations level

When starting to identify measures the State has to take at the national level it is always helpful to differentiate between measures for immediate and for progressive implementation. Most of the measures at the levels of the obligation to respect and to protect can be realized immediately or short implementation time (e.g. in drafting adequate legislation). Moreover, as indicated in GC 12, every state has the core obligation to ensure that everyone under its jurisdiction has access to the minimum essential food, to ensure freedom from hunger. If national resources are too limited States must guarantee to provide international help to do so. The majority of measures under the fulfilment bound obligation will have a progressive nature, but governments have to prove that they have started to implement measures for all particularly vulnerable groups and that they are implementing progressively by using the maximum of available resources.

The work on developing and identifying the measures which states should implement at the national level, both immediately and progressively, has to start with the identification of vulnerable groups which are food insecure. For the supporting civil society organizations is it important not to use a standard list of typical vulnerable groups, but to identify at the national level all groups which are particularly vulnerable in terms of food insecurity and to violations of the right to food. We want to highlight that while naming of particular groups causes the risk that groups which only exist in some countries are overlooked (e.g. victims of landmines) and, therefore, causes states to only concentrate on those groups that are listed, on the other hand, there are particular groups which are vulnerable to violations of the right to food and food insecurity in most countries. Additionally, it is important to see that the status “vulnerable concerning food security” is not a static category. People’s situation can improve and at the same time, everybody can become food insecure at some critical points in life-time. In some regions for example, political and military circumstances can result in violations of the right to food and food insecurity of its many citizens through processes of internal displacement.

An indicative list of particularly vulnerable has been given by the FIVMS work of the FAO in “The State of Food Insecurity in the World 1999”. That list can be a helpful orientation for the planning of the national implementation strategy.
### Food-insecurity vulnerable groups

<table>
<thead>
<tr>
<th>Some or all members of low-income households within vulnerable livelihoods</th>
<th>Urban marginal populations</th>
<th>Dependent people living alone or in low-income households with large family size</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subsistence/smallholder farmers</td>
<td>School dropouts</td>
<td>Elderly</td>
</tr>
<tr>
<td>Female-headed farm household</td>
<td>Unemployed</td>
<td>Women of childbearing age, especially pregnant and nursing mothers</td>
</tr>
<tr>
<td>Landless peasants</td>
<td>Recently arrived migrants</td>
<td>Infants and children under five</td>
</tr>
<tr>
<td>Agricultural labourers</td>
<td>Slum dwellers in urban periphery</td>
<td>Disabled and ill</td>
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<tr>
<td>Fishers</td>
<td>Dockworkers, porters</td>
<td></td>
</tr>
<tr>
<td>Nomadic pastoralists</td>
<td>Construction workers</td>
<td></td>
</tr>
<tr>
<td>Sedentary herders, small-scale livestock producers, agro-pastoralists</td>
<td>Workers in the informal sectors</td>
<td></td>
</tr>
<tr>
<td>Forest dwellers</td>
<td>Homeless people</td>
<td></td>
</tr>
<tr>
<td>Peri-urban smallholders, market gardeners</td>
<td>Street children</td>
<td></td>
</tr>
<tr>
<td>Day or contract labourers</td>
<td>People living on small fixed incomes</td>
<td></td>
</tr>
<tr>
<td>Migrant workers and their families:</td>
<td>(elderly, pensioners, widows, widowers, divorcees, invalids, handicapped people)</td>
<td></td>
</tr>
<tr>
<td>Migrant herders tending herds of others</td>
<td>Beggars</td>
<td></td>
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<tr>
<td>Migrant labourers seeking seasonal work</td>
<td>People in at-risk social groups</td>
<td></td>
</tr>
<tr>
<td>Female-headed households left behind by migrant male labourers</td>
<td>Indigenous people</td>
<td></td>
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<tr>
<td></td>
<td>Ethnic minorities</td>
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<tr>
<td></td>
<td>Illiterate households</td>
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<tr>
<td>People in at-risk social groups</td>
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</table>


At the Mülheim conference the following eleven vulnerable groups were particularly analyzed, due to the fact that in many countries they regularly face violations of the right to adequate food and therefore are often food-insecure:

Small farmers, landless people, agricultural workers, workers under difficult conditions and in the informal sectors, unemployed, households that are labour scarce, fisherfolk, indigenous communities, pastoralists, women, children.

We have written a first tentative list of measures for government action to implement the right to adequate food for these vulnerable groups. The list of measures follows the different levels of state obligations. The tentative list of measures for vulnerable group by obligations levels are spelled out in **appendix 2**.

### 4. International obligations of states

#### 4.1 External obligations of states (see para 17-20):

The guidelines shall have a sub-chapter dealing with the external obligations of states. States are also obliged to respect the right to food of persons living in other states. They must guarantee that their own policies do not contribute to violations of the right to adequate food but contribute, as far as possible, to the protection and full implementation of the right to adequate food. Furthermore, they have the duty to promote and help other states to implement the right to food. Moreover, the role of the governments in Intergovernmental Organizations (IGOs) needs to be pursued in a way that these IGOs fully respect and contribute, as far as possible, to the protection and full implementation of the right to adequate food

- States should recognize the essential role of international cooperation, and reaffirm their commitment to take joint and separate action to achieve the full realization of the right to adequate food.
• In meeting their obligations derived from general international law, states will not violate, nor assist in violating the right to adequate food of persons outside their territory.

• States should, in international agreements, whenever relevant, ensure that right to adequate food be given due attention, and consider the development of further international legal instruments to that end.

• States’ international policies and programmes must respect the full realization of people’s right to adequate food. This has implications for their trade and finance policies, and for technology transfers. It also requires states to consider the international implications of their domestic agricultural policies and use of technology. States have to refrain from dumping agricultural products.

• In cases of emergency, states shall provide disaster relief and humanitarian assistance to any country that may need it. Food should, as appropriate, be mobilized from the nearest available sources. Assistance will be provided as necessary for its distribution to the most vulnerable people.

• The community of states through its IGOs shall co-fund social programmes in low income countries, e.g. through minimum income programmes.

• Food aid should at all times be organized in ways that facilitate the return of the beneficiaries to food self-reliance.

• Embargoes shall never cover food, water and agricultural inputs.

4.2. Measures by the International Community and IGOs (see para 20-21)

As a general principle, the guidelines shall be specifically addressed to agencies such as UN agencies, the WTO, international financial institutions, etc.

The following issues must be included in this chapter:

• An international organization must never put pressure on a state or on other international organizations to take measures that would violate the human right to adequate food.

• We see international organizations as being accountable under the international provisions relevant to the human right to adequate food and should submit to the same standards of transparency, public control and freedom of information as other state authorities. The right to adequate food should be respected and promoted in all projects and policy recommendations. Moreover, international organizations must support states in protecting and fulfilling people’s access to adequate food.

• Nothing in the international treaties establishing international organizations or regarding other international matters such as international finance and trade, shall be construed to override the obligations of states under the right to adequate food.

• Food aid should, as far as possible, be provided in ways which do not adversely affect local producers and local markets, and should be organized in ways that facilitate the return to food self-reliance of the beneficiaries. Such aid should be based on the needs of the intended beneficiaries. Products included in the international food trade of aid programmes must be safe and culturally acceptable to the recipient population. The supporting civil society organizations support the right of recipient states to determine (based on their criteria, such as cultural acceptability) if food aid is adequate or not.

• Adequate agricultural research should be directed towards the needs of small farmers. An increase in public funding for agricultural and health research is needed. Indigenous knowledge of farmers and fisherfolk needs to find adequate recognition in international agricultural research and the principles of participation in the research, the fair sharing of benefits, and guaranteeing research findings as public goods must be established.
• International trade must be regulated to end problems such as the misuse of subsidies and the dumping of agricultural products below the cost of production.

• The United Nations agencies at the country level, should coordinate among themselves in order to enhance coherence in promoting the realization of the right to adequate food among all actors concerned.

• There is a need for effective information dissemination of international agreements at country level.

• The international financial institutions, notably the International Monetary Found (IMF) and the World Bank, must pay attention to the respect and the protection of the right to adequate food in their lending policies and credit agreements, the poverty reduction strategies and in other measures dealing with debt crises.

5. **Obligations of states vis-à-vis non-state actors**

5.1 **Private corporations (see para 22)**

States should provide adequate legal regulations for compliance of corporations with the right to adequate food and the content of the guidelines.

• Private corporations have to respect the right to food of persons everywhere, they should promote the realization of it and they should, in a socially responsible way, ensure safe and affordable products. In addition, they should not practise unfair market prices.

• States shall refrain from assisting or tolerating action by individuals, corporations or other non-state actors depriving persons of their access to adequate food.

• States will take all necessary steps to prevent individuals, corporations or other non-state actors from obtaining pecuniary benefits or advantages of any sort by interfering with the enjoyment of the right to adequate food, even if that action has taken place in another country.

• States are under the duty to prohibit such acts as destroying access to food or productive resources and prosecute those responsible for them. Economic enterprises, including transnational corporations, must be subject to regulation both at the national and international levels, ensuring that their activities do not adversely affect access to food, the means to acquire food, or food production resources. Economic enterprises must respect the right to adequate food.

• States shall encourage the development of Corporate Social Responsibility (CSR) strategies of private companies and have the duty of supervision and monitoring of company behaviour.

• For corporations failing to respect the right to adequate food, states shall create adequate legal remedies for liability.

5.2 **Other private actors (see para. 23)**

The guidelines should also contain a section on responsibilities of non-governmental organizations and civil society organizations and the role of the state related to these activities:

• States should respect and actively promote the space needed by civil society, including individuals, families, people’s community based organizations, social movements and non-governmental organizations, to fulfil their role in realizing the right to adequate food.
• States shall respect and protect the work of human rights advocates and prevent all forms of discrimination of civil society.

For the full realization of the right to adequate food, the active participation of all relevant actors, such as individuals, families, local communities or NGOs / CSOs is essential. This includes mechanisms of social mobilization as well as participation in planning, executing, monitoring and evaluating public policies relevant to the right to adequate food, while maintaining their autonomy in their relationship with the state. No actor of civil society shall contribute through personal or organized behaviour and programmes to violations of the right to adequate food. The essential role civil society should play in the realization of the right to adequate food shall in no way diminish the primary importance of the obligations of states in this respect.

6. Monitoring / national and international reporting (para 24)

We have agreed on proposing several elements and criteria for a meaningful monitoring of the implementation of the right to adequate food that should be included in the guidelines. Without an effective monitoring of the guidelines, the process of implementing the right to adequate food will be slowed down considerably:

• All monitoring must be based on an effective national monitoring process.

• Based on the results of national monitoring, the international monitoring process must make use of existing monitoring and reporting procedures (including their rapporteurs) such as in the Committee on Economic, Social and Cultural Rights (CESCR) and other treaty bodies.

• The monitoring shall include the role and work of intergovernmental organizations and of private corporations.

• In addition, there should be regular reporting on the progress of the national implementation strategies to the FAO Committee on World Food Security (CFS) and the Human Rights Commission. Regular reports should be submitted by FAO and OHCHR on the "status of the realization of the right to adequate food".

• Both the national and the international monitoring must be done in a participatory way to allow NGOs/civil society organizations to also be involved in the monitoring process and their efforts in external monitoring must also be recognized.

• FAO must play an important role in the process of monitoring, for example through regular reports on the state of the implementation of the guidelines, which shall be based on the reports submitted by the states and by civil society. Such reports by the FAO shall be regional and not global.

• Regional Human Rights systems must also be involved, for example in making use of the guidelines on the implementation of the right to adequate food.

States must as quickly as possible provide victims of violations access to legal remedy. Finally, other national mechanisms that are not court based, for example ombudsman, national commissions for human rights, commissions for racial equality, etc. must also be used in the monitoring process.
Appendix 1:

Tools for help in working out state obligations for the right to adequate food (1) and for nutritional wellbeing (2)

The following matrices are meant to serve as a generic aid for groups who wish to collectively reflect on how state obligations could be conceptualized and given concrete content under the prevailing circumstances of a country or a community. Users may adapt them to their own needs, simplifying them or emphasizing certain dimensions with more details, or constructing new matrices focusing on particular components as the situation demands.

The main purpose in using a matrix format is to base thematic and policy discussions on the understanding of obligations as graded involvements of the state, or vice-versa: exemplify what would be obligations at the different levels using the normative components of the right to food or (the broader) nutritional wellbeing as check-lists for what state and non-state actors need to be concerned with.
A framework for working out obligations for implementing the right to adequate food in the context of household food and livelihood security

<table>
<thead>
<tr>
<th>Normative principles</th>
<th>Household Food Security</th>
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<tbody>
<tr>
<td></td>
<td>Adequate food</td>
</tr>
<tr>
<td>Level of state obligations</td>
<td>Dietary adequate (quantity, nutritional quality)</td>
</tr>
<tr>
<td>Respect</td>
<td></td>
</tr>
<tr>
<td>Protect</td>
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<td>Fulfil</td>
<td>- Facilitate</td>
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<td></td>
<td>- Provide</td>
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</tbody>
</table>
An expanded framework for working out obligations necessary to help achieve nutritional wellbeing for the individual* through his/her full (biological) utilization of the food ingested

<table>
<thead>
<tr>
<th><strong>Normative principles</strong></th>
<th><strong>Nutritional wellbeing</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Level of state obligations</strong></td>
<td>Household food security/adequate food intake</td>
</tr>
<tr>
<td>Respect</td>
<td></td>
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<tr>
<td>Protect</td>
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<td>Fulfil</td>
<td>- Facilitate</td>
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<tr>
<td>- Provide</td>
<td></td>
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</table>

*Physiological fulfillment of nutritional needs (adequate nutritional status) and psychological satisfaction from
Appendix 2:

The tentative list of measures for vulnerable group by obligations levels

At the Mülheim conference the following eleven vulnerable groups were particularly analyzed, due to the fact that in many countries they regularly face violations of the right to adequate food and therefore are often food-insecure:

Small farmers, landless people, agricultural workers, workers under difficult conditions and in the informal sectors, unemployed, households that are labour scarce, fisherfolk, indigenous communities, pastoralists, women, children.

We have written a first tentative list of measures for government action to implement the right to adequate food for these vulnerable groups:

Level 1: Obligation to respect:

In recognition of their obligation to respect the right to adequate food under all circumstances for everyone, states will respect physical and economic access to adequate food or to a resource base appropriate for its acquisition. The obligation to respect means that the state must not take political or other measures destroying existing access by vulnerable populations.

Issues related to some of the particular vulnerable groups:

- Domestic legislation should be coherent: land use, land administration, rural investment and trade policies should not endanger the access to and control over productive resources of food insecure groups.
- States must as quickly as possible provide victim of violations of the right to adequate food with legal remedy.

* small farmers / small holders:
  - Respect access to productive resources, when planning government activities, such as infrastructure investment etc.
  - Rule out forced evictions through government measures.
  - Develop legislative and administrative institutions to guarantee that there is no resettlement without adequate rehabilitation and compensation.
  - Change and innovation in farming systems must give due respect to traditional farming practices.
  - Imported competing food products should be sold at a fair price, reflecting the cost of production at origin and destination.

* agricultural workers / other workers:
  - Respect the fundamental workers rights in state companies.
  - Respect the freedom of organization.

* unemployed:
  - Respect all forms of self-employment.
  - Do not restrict income generating activities in the informal economy.

* households that are unable to feed themselves, eg. labour scarce households:
  - Respect dignity in all social support programs.
- Guarantee that food is culturally acceptable, and also when given in social security programmes such as school meals.

* fisherfolk:
  - design a fishery policy that respects traditional access to fishing resources.

* indigenous communities:
  - respect indigenous communities’ access to their ancestral lands and resources as is agreed in ILO-Convention No. 169.

* pastoralists:
  - respect transpassing rights, access to water resources for pastoralists when designing new government policies, developing new infrastructural measures etc.

* women:
  - The state must respect the right of women to breastfeed their babies for at least six months of life.
  - Guarantee that women have access without discrimination to all social support programmes related to the right to adequate food.

* recipient of aid and social transfers:
  - Respect traditional cultural preferences for food.
  - Products included in international food aid programmes must be nutritionally safe and culturally acceptable to the recipient population.

**Obligation to protect:**

States shall protect everyone from having their access to food being undermined by a third party. The obligation to protect includes the state’s responsibility to ensure that private entities or individuals, including transnational corporations over which they exercise jurisdiction, do not deprive individuals of their access to adequate food. This involves the protection of the freedom to feed oneself and the use of resources to regulate other actors, through, inter alia the adoption of legislation and administrative measures that protect the access to adequate food.

**Issues related to some particularly vulnerable groups:**

- several food insecurity vulnerable groups:
  - States should enforce land administration policies that protect food insecure groups from landgrabbing and other illegal appropriations of natural resources.
  - Develop and maintain land administration policies (registration, cataster, property rights) that primarily aim to strengthen access to and control of productive resources (land, water, forests) for landless, small farmers, indigenous peoples and fisherfolk.
  - Land administration policies should take into account historical grievances and redress land right’s destitution of indigenous peoples and other rural groups destituted on racial and ethnic discrimination.
  - Formulate legislation to protect the consumer from unhealthy food items and to regulate food safety.
  - Install an adequate food safety control system
  - Protect consumers from nutritional disinformation and commercial fraud.
  - Develop legislation and administration to protect existing access to drinking water.

* small farmers / small holders:
  - Develop an adequate tenant regulation to guarantee stable access to land for non-land owners.
- Regulate and monitor crop-sharing arrangements to avoid forms of exploitation and bonded or slave labour.
- Design an agricultural trade policy that protects smallholders and small farmers and guarantees local production and procession of food items. The development of local and regional agro-industries stimulating the rural economy.
- Dumping of food products from other countries which undermine market opportunities for local producers must be prevented.
- Develop adequate regulation to protect access of farmers to traditional varieties of seeds and breeds.

* agricultural workers and other workers:
  - Take the necessary legal and administrative measures to avoid all forms of bonded and slave labour.
  - Guarantee the freedom to organize of all workers.
  - Regulate labour regulations concerning working hours, occupational health etc. in a way consistent with the regulations of the respective Articles of the Covenant on ESC-Rights and the respective ILO-conventions.
  - Workers must receive a minimum income to allow their family access to adequate food.

* households which are unable to feed themselves, e.g labour scarce households:
  - All food transfers should be nutritionally safe and culturally acceptable. Cash support should get priority over transfers in kind.

* fisherfolk:
  - Develop a fishing policy that protects access rights of traditional fishing population.
  - International fishing agreements must be designed in a way that does not negatively affect the rights of artisanal fishing communities.
  - Regulate the use of fishing resources so that a sustainable use of the fishing resources is possible.

* indigenous communities:
  - Protect indigenous communities’ rights to their traditional territories and ancestral lands through adequate legislation and necessary administrative measures, such as demarcation, control of activities of logging companies etc.

* pastoralists:
  - Protect traditional grazing rights and the use of almend systems by pastoralists.
  - Protect access to water resources for the animals of the herders.

* women / children:
  - Guarantee no discrimination of women in access to land, water, seeds, agricultural credits etc.
  - Prevent discrimination in access to food at all levels: national, local and household.
  - Protect the right to breastfeed for at least six months.
  - Protect children from nutritional disinformation.

Level 3: Obligation to fulfill

Whenever an individual or group is unable to enjoy the right to adequate food, states have the obligation to fulfil that right. This requires that states identify, and provide for, vulnerable populations, using strategies which ensure the long-term ability of people to realize this right for themselves. The obligation to fulfil (facilitate) means the State must pro-actively engage in activities intended to strengthen people’s access to and utilization of resources and means to ensure their livelihood, including food security. Finally, whenever an individual or group is unable to
enjoy the right to adequate food by the means at their disposal, states have the obligation to fulfil (provide) that right directly. This obligation also applies to persons who are victims of natural or other disasters.

**Issues related to particular vulnerable groups:**

* small farmers / landless people:
  - Agrarian reforms must provide vulnerable smallholders and landless peasants with access to land in particular through redistributive agrarian reforms that:
    - give peasants, women and men control over productive resources; while redistributive processes based on market mechanisms are extremely reduced in their scope, expropriative measures within the framework of law; land ceilings, land taxes and state extension services remain key elements in these processes.
    - Agrarian reforms should be undertaken within the agricultural frontier and should preserve the means of subsistence for future generations.
  - Change and innovation in farming systems must give due respect to traditional farming practices.
  - Promote measures to ensure sustainable patterns of production, preventing soil and water pollution and protecting the fertility of the soil, the biodiversity of genetic resources and the climate.
  - Local food production must be ensured access to markets for their products.
  - Local food storage and distribution should be promoted and enhanced.
  - Create access to adequate agricultural support services and credits.
  - Support smallholders in marketing their products at the local, regional and, if possible, international level.

* agricultural workers / other workers:
  - Promote access without discrimination to work with remuneration which provides a decent living for wage earners and their families.
  - Workers of state-run enterprises must receive at least a minimum income to allow their family access to adequate food.

* unemployed:
  - Promote the development of local and regional agro-industries stimulating the rural economy as an important step to create employment.
  - Establish and maintain employment guarantee schemes that try to support income generation for unemployed groups.
  - Food for work programmes, preferably with locally acquired food staples, can help support self-employment.

* households that are unable to feed themselves, e.g. that are labour scarce:
  - It is important to develop a national strategy for all those families or households which are unable to produce food by themselves or to gain an adequate income. As a rule, minimum income in cash transfer should get priority over transfers in kind.
  - Everybody must be secured a minimum income through different programme measures that allows sufficiency to be free from hunger and malnutrition.
  - Households which are labour scarce such as HIV-Aids effected families, families in which only grandparents and children live, disabled headed households etc. should be supported through social transfers. In most cases it will be best to guarantee a minimum income through cash transfers.
  - Refugees’ access to adequate food must be guaranteed by providing the respective facilities.

* fisherfolk:
  - Promote business opportunities and access to local markets for artisanal fisherfolk.
* women:
  - Ensure women full and equal access to economic resources, including the right to inheritance and the ownership of land and other property, credit, natural resources and appropriate technology through legislative and administrative reforms.
  - Affirmative support in resources programmes or in employment programmes for women can be given to overcome traditional discrimination in access to productive resources.
  - In order to strengthen the rights of women peasants a gender based analysis and monitoring methods are to be developed and used in rural development policies and in the formulation of land policies. The examination of legislation and political structures and mechanisms concerning access to land is needed (land titles, inheritance legislation, access to credit, etc.). Moreover, the introduction of compensatory measures which allow the overcoming of existing inequalities regarding the access to land and agrarian production conditions.
  - Design legislation for maternity protection (maternity leave before and after birth, breastfeeding).

* children
  - Support of children’s diet through carefully designed school feeding programmes.
FORM OF ENDORSEMENT FOR THE
JOINT NORTH-SOUTH CIVIL SOCIETY CONTRIBUTION

To the process of elaboration of a set of voluntary guidelines to support the progressive realization of the right to adequate food

1. Name and kind of organisation

2. Objectives of organisation (brief)

3. Address

4. Tel: Fax: email:

5. Contact person

JOINT NORTH-SOUTH CIVIL SOCIETY CONTRIBUTION

We, the undersigned representatives of non-governmental organizations, community based organisations, grassroots organisations, social movements and actors of civil society, regional, national and international networks endorse the JOINT NORTH-SOUTH CIVIL SOCIETY CONTRIBUTION to the process of elaboration of a set of voluntary guidelines to support the progressive realization of the right to adequate food

Name: Organisation: signature/date

Please sign, copy and circulate the JOINT NORTH-SOUTH CIVIL SOCIETY CONTRIBUTION to the process of elaboration of a set of voluntary guidelines to support the progressive realization of the right to adequate food to organisations and networks who will join this initiative to strengthen the Right to Food. Please return this endorsement to FIAN International.

FIAN-International: P.O.Box 10 22 43, 69012 Heidelberg, Germany, Michael Windfuhr
E-mail: windfuhr@fian.org, Fax: +49-6221-830545