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**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS,  
CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL  
RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT**

**Report of the Special Rapporteur on the right to food,  
Mr. Olivier De Schutter\***

**The role of development cooperation and food aid in realizing  
the right to adequate food: moving from charity to obligation**

**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 makes a number of suggestions on how to reorient 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 on which these policies rely; 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. Seeing the provision of foreign aid as a means to fulfil the human right to adequate food has concrete implications, which assume that donor and partner Governments are duty-bearers, and beneficiaries are rights-holders.

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\* Late submission.

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## I. INTRODUCTION

1. The Special Rapporteur on the right to food, Olivier De Schutter, presents his first annual report to the Human Rights Council pursuant to its resolution 7/14. Since he took office on 1 May 2008, the Special Rapporteur has focused on integrating a right to food perspective in responses to the global food crisis in various forums.<sup>1</sup> He also presented a preliminary report to the General Assembly, outlining his approach to the mandate (see A/63/278), and conducted a mission to the World Trade Organization (WTO) (see A/HRC/10/5/Add.2). This report<sup>2</sup> examines the contribution of development cooperation and food aid to the realization of the right to food.

2. Development cooperation is one aspect of a broader obligation of international assistance and cooperation which may include, but is not limited to, the transfer of resources.<sup>3</sup> 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.<sup>4</sup> The tendency of donors - whether Governments, intergovernmental agencies or private non-governmental organizations - to impose various demands on recipients without coordination has also been seen as imposing a heavy burden on the partner Government's administrative capacities, leading to suboptimal 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 improve the quality of aid. It has been endorsed by 122 Governments and the European Commission, 27 international organizations including 6 regional development banks, the World Bank and the Organization for Economic Cooperation and Development (OECD), and a number of non-governmental organizations. The commitments contained in the Paris Declaration focus on the five principles of ownership, alignment, harmonization, managing for results and mutual accountability. These principles mark a shift from donor-driven to needs-driven aid strategies, and emphasize the need for evaluating the performance of both donors, particularly as regards harmonization and predictability of aid, and their partners. In this report the Special Rapporteur 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 and explores the implications of that approach.<sup>5</sup>

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<sup>1</sup> See, in particular, his report to the Council, A/HRC/9/23.

<sup>2</sup> An extended and more fully referenced version of the report is available at [www.srfood.org](http://www.srfood.org).

<sup>3</sup> See A/63/278, paras. 11-12.

<sup>4</sup> See, e.g., W. Easterly, *The white man's burden: Why the West's efforts to aid the rest have done so much ill and so little good*, Oxford, Oxford University Press, 2006, and other works by the same author.

<sup>5</sup> See also A/HRC/4/WG.2/TF/2 (7 February 2007), paras. 45-48 and 65-66; and A/HRC/8/WG.2/TF/2 (24 January 2008), paras. 36-40.

3. Food aid has also been subject to heavy scrutiny. Critics have denounced food aid as creating new forms of dependency; as being potentially disruptive of local markets; and as disrupting commercial trade patterns. Changes introduced over the last two decades have made food aid less susceptible to these criticisms.<sup>6</sup> At the same time, food aid has a crucial role to fulfil in times of emergency. The Committee on Economic, Social and Cultural Rights considers that States comply with their obligations under the International Covenant on Economic, Social and Cultural Rights by providing disaster relief and humanitarian assistance in times of emergency.<sup>7</sup> When it is based on proper needs assessments and well targeted, food aid can play an important role also in non-emergency contexts. Although declining in volume terms over the last few years,<sup>8</sup> international food aid currently provides about 10 million tons of commodities a year to some 200 million people in need, at an estimated total cost of US\$ 2 billion. Questions regularly emerge about how to combine emergency responses<sup>9</sup> with the need to promote developing local food markets and food security in food-aid recipient countries. 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,<sup>10</sup> and on the importance of food aid being provided with a clear exit strategy in order to avoid dependency. But these commitments remain unfulfilled in practice.

4. Within the broader area of international cooperation, both development assistance and food aid are currently being reviewed. The global food crisis of 2007/08 further highlighted the urgent need to reform both. On 2-4 September 2008, the Third High-Level Forum on Aid Effectiveness, held at Accra, reviewed the Paris Declaration on Aid Effectiveness, and adopted an Agenda for Action which aims to accelerate and deepen its implementation. For food aid, 2009 may provide a unique opportunity to revisit the mechanisms established by the Food Aid Convention (FAC), adopted in 1967 as a component of the International Grains Agreement (IGC). It contains

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<sup>6</sup> See, e.g. WFP, *Food Aid Flows 2007*.

<sup>7</sup> E/C.12/1999/5, para. 38.

<sup>8</sup> 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 per cent of total bilateral official development assistance; it represented approximately 5 per cent in 2005 (Christopher B. Barrett and Daniel G. Maxwell, *Food Aid after Fifty Years: Recasting its Role*, London and New York, Routledge, 2005).

<sup>9</sup> Over 60 per cent of food aid is used for emergencies. This proportion has increased from 18 per cent in 1990.

<sup>10</sup> 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).

commitments by its States parties to provide certain quantities of food as food aid.<sup>11</sup> The proportion of official development assistance (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 the next few years will witness, one hopes, an important increase. 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 in international markets have become increasingly volatile.

5. The premise 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 only meeting basic human needs. They are also contributing to realize the human right to adequate food. This has potentially three implications. First, there is the question of 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 should contribute 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, the effectiveness of the aid provided should be regularly evaluated by measuring the contribution of the existing policies to the realization of the right to adequate food.

## **II. THE OBLIGATION TO PROVIDE AID**

6. Whether in the field of development cooperation or in the field of food aid, their contributions 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. There are also situations where they may be under a duty to help, particularly when they have made commitments to this effect, and where reneging on those commitments would violate the principle of predictability for the recipient State.

### **A. Defining obligations to provide aid**

7. Millennium Development Goal 8 is to develop a global partnership for development, a goal to which increased levels of donor country commitments to official development assistance can contribute. The levels of aid provided remain clearly insufficient to meet the targets set by the 2005 G8 Summit in Gleneagles, United Kingdom of Great Britain and Northern Ireland, and the 2005 World Summit, which would require raising ODA by US\$ 50 billion by 2010 compared with 2004 (at 2004 prices and exchange rates). Despite repeated commitments, again reaffirmed in the Millennium Declaration, in the Monterrey Consensus,<sup>12</sup> in the Food and Agriculture

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<sup>11</sup> 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.

<sup>12</sup> Final Outcome of the International Conference on Financing for Development, adopted on 22 March 2002 in Monterrey, Mexico, A/CONF/198/3.

Organization of the United Nations (FAO) Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security (“FAO Guidelines”),<sup>13</sup> and in the 2008 Doha Declaration on Financing for Development,<sup>14</sup> developed countries have mostly failed<sup>15</sup> to meet the targets for ODA of 0.7 per cent of GDP to developing countries and 0.15 per cent to 0.2 per cent of GDP to least developed countries.

8. The Charter of the United Nations 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 (see Arts. 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.<sup>16</sup> That, however, is not equivalent to saying that there is no such obligation; it is to say, rather, that this obligation is still “imperfect”, in need of being further clarified.<sup>17</sup> 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*”.<sup>18</sup> 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*.”<sup>19</sup> A consensus seems to emerge, at a minimum, on three requirements.

9. 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

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<sup>13</sup> Chap. III, para. 12; the Voluntary Guidelines were adopted on 23 November 2004 by the 187 countries represented in the General Council of the FAO.

<sup>14</sup> A/CONF.212/L.1/Rev.1, para. 43.

<sup>15</sup> Five countries exceeded the United Nations target of 0.7 per cent of GDP: Denmark, Luxembourg, the Netherlands, Norway and Sweden.

<sup>16</sup> However, some authors note that the repeated commitments of developed States to provide certain levels of assistance, particularly to reach the Millennium Development Goals, might in time crystallize into customary international law.

<sup>17</sup> A. Sen, “Human rights and development”, in B. Andreassen and St. Marks, *Development as a Human Right*, Harvard University Press, Cambridge, 2006, chap. 2.

<sup>18</sup> E/C.12/1999/5, para. 36.

<sup>19</sup> E/C.12/2000/4, para. 39.

available resources”.<sup>20</sup> 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 pre-existing levels of aid calculated as ODA in percentage of the GDP. Any regression in the level of aid provided that is not fully justified should be treated, presumptively, as a violation of States’ obligations under international law.

10. Second, the assistance provided should be non-discriminatory. Even if it remains based on the voluntary decisions of each donor Government, the aid provided should not be determined 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 required if aid is to be effective, as noted already in 1969 by the Pearson Commission and in 1980 by the Brandt Commission.<sup>21</sup> 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 needs - including, in particular, the existence in certain countries of food insecurity and vulnerability (see chap. III below).

11. Third, the amount of aid provided to recipient countries remains volatile and unpredictable, changing from one year to the next and from one country to another.<sup>22</sup> This does not allow recipient countries to plan their development over a number of years and 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 require careful consideration of the donor State’s obligations.<sup>23</sup> Donor States must therefore follow up on the commitments they make to provide 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.

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<sup>20</sup> E/1991/23, para. 9.

<sup>21</sup> See L. Pearson, *Partners in Development: Report of the Commission on International Development*, New York, Praeger Publ., 1969, p. 127; *North-South: A Programme for Survival*, Report of the Independent Commission on International Development (chaired by W. Brandt), London, Pan Books, 1980, p. 244.

<sup>22</sup> See, for instance, the calculations of Eurodad (European Network on Debt and 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, 2007).

<sup>23</sup> See E/C.12/1997/8.

## **B. Improving the definition of food aid commitments under the Food Aid Convention**

12. The FAC is unique in that it imposes on its parties (or “Members”) 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). The Convention, in its article VIII, (e), 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”.

13. At the same time, the monitoring of compliance with these commitments remains weak. Members must provide yearly reports to the Food Aid Committee on their contributions.<sup>24</sup> This information is processed and made available to the public in ways which are not sufficiently transparent to allow for an adequate scrutiny. The monitoring system is based on a peer review performed by the Food Aid Committee on the basis of the information provided by the members. The current 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 organizations 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 also below, chap. III). Both of these improvements could result from an amendment to the rules of procedure adopted by the Food Aid Committee.

14. A more fundamental issue related to the FAC 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 per cent 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 their aid in monetary terms rather than in volume terms, may contribute to States delaying 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. In sum,

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<sup>24</sup> Art. XIV, FAC, and rule 9 of the rules of procedure (FA (00/01) Misc.2 Restricted).

there is “a financial incentive to mistime the delivery of food aid”, which the FAC does not discourage effectively.<sup>25</sup> For example, although the prices of food commodities reached historical peaks in 2007-2008, food-aid volumes in those years 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.<sup>26</sup>

15. This is contrary to 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 FAO Guidelines 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 treaty Committee noted pointedly in its general comment No. 12 on the right to food that, to avoid discrimination, “priority in food aid should be given to the most vulnerable populations”.<sup>27</sup>

16. Two changes could be made to the system of the FAC in order to ensure that it is effectively needs-based, beyond its still very insufficient emergency clause.<sup>28</sup> First, the aid provided to each State should be based on an adequate mapping of food vulnerability and insecurity in that State.<sup>29</sup> There are methodologies available for mapping food vulnerability which may be used in the context of FAC. Whatever the methodology used, it is crucial that the situation in each country where food security problems may arise is objectively evaluated. This may also alleviate concerns that the food aid provided distorts commercial trade in favour of the donor country’s producers when the aid is provided in kind. Consistent with Guideline 15.5 of the FAO Guidelines, the assessment of food vulnerability 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”.

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<sup>25</sup> J. Hoddinott, M.J. Cohen and C.B. Barrett, “Renegotiating the Food Aid Convention: Background, context, and issues”, *Global Governance*, vol. 14 (3) (2008), pp. 283-304.

<sup>26</sup> FAO, *State of Food and Agriculture 2008*, p. 110.

<sup>27</sup> E/C.12/1999/5, para. 38.

<sup>28</sup> 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”).

<sup>29</sup> See also *Conference Report. Food aid: exploring the challenges*, Berlin, 2-4 May 2007, p. 20.

17. Second, members' commitments 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 whereby each State commits itself, in accordance with its ability,<sup>30</sup> to cover a predefined percentage of the needs identified over a certain period, preferably on a multiannual basis. This change would introduce an element of uncertainty in the commitments of donor countries. This uncertainty is already present in the current system, since commitments expressed in tonnage will vary, as to their budgetary implications, following the variation of the prices of commodities in international markets. Expressing commitments as a percentage of assessed needs would share the risk equally across all parties to the FAC, and would avoid the dangers associated with food aid being driven by the commercial or geopolitical interests of donor States. In addition, States may insure themselves against this risk, by 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.

18. Another possible mode of expressing commitments could be for FAC members to commit to meeting the costs of insurance schemes, 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 in partnership with the French firm Axa Re. This pilot programme aims to provide cash payouts to farmers in the event of a severe drought.<sup>31</sup> 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 shocks like drought which, in the absence of an insurance mechanism, may make the safety nets 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.

19. The 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. For

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<sup>30</sup> The Committee on Economic, Social and Cultural Rights takes the view that States parties to the Covenant should provide aid in accordance with their ability to do so; see its general comment No. 12 (E/C.12/1999/5, para. 38).

<sup>31</sup> Under the programme, Axa Re would have had to pay US\$ 7.1 million 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 Government of Ethiopia to be disbursed as cash assistance to households.

emergency situations, the development of objective needs-based assessments will be required as part of the disciplines imposed under the WTO Agreement on Agriculture (AoA), 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 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 be based on needs assessment. New mechanisms may be needed for the definition of commitments under the FAC rules of procedure to 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.

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

20. In the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries (“Marrakesh Decision”), which is 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 countries (LDCs) 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 the Marrakesh Decision are: (a) the provision of food aid at a level sufficient to continue to provide assistance in meeting the food needs of developing countries; (b) the provision of technical and financial assistance to least-developed and net food-importing developing countries to improve their agricultural productivity and infrastructure; (c) favourable terms for agricultural export credits; and (d) short-term financing facilities benefiting developing countries in order to allow them to maintain normal levels of commercial imports. Regrettably, WTO members have not adequately implemented these mechanisms.

21. The Marrakesh Decision refers to the need to review the level of food aid established periodically by the Committee on Food Aid under the FAC 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”. It also included a commitment to “adopt guidelines to ensure that an increasing proportion of basic foodstuffs is provided to [LDCs and NFIDCs] in fully grant form and/or on appropriate concessional terms in line with article IV of the Food Aid Convention 1986”. However, as regards the NFIDCs which are neither LDCs nor low-income countries, more restrictive conditions are stipulated under article VII of the 1999 FAC than would be required in order to ensure an adequate implementation of the Marrakesh Decision,<sup>32</sup> a discrepancy that should be eliminated. 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

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<sup>32</sup> The countries concerned are Barbados, Mauritius, St. Lucia, and Trinidad and Tobago.

their jurisdiction. Given the likelihood of increased volatility of food prices, particularly due to climate change, 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, internal or external.

22. 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. 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.<sup>33</sup> In sub-Saharan Africa, bilateral agricultural aid fell by 60 per cent from US\$ 1.3 billion to only US\$ 524 million between 1990 and 2001.<sup>34</sup> While commitments have been made in various forums to reverse this trend, it remains to be seen whether there will be sufficient political will to implement these resolutions. 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.

23. The Marrakesh Decision provides that appropriate provision should be made for differential treatment of LDCs and NFIDCs in any agreement on agricultural export credits. 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 LDCs and NFIDCs.<sup>35</sup> However, as explained in the following paragraph, the IMF has only recently made any credit available to cope with high prices without a high level of policy conditionality.

24. The Marrakesh Decision provides in paragraph 5 for the possibility for NFIDCs experiencing balance-of-payment difficulties to draw on existing facilities, or such facilities as may be established to address such 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 from the World Food Council and FAO, and in view of the high volatility of food prices in the 1970s. However, this facility has been of little use to NFIDCs. Access to 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. This is a condition

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<sup>33</sup> The World Bank, *World Development Report 2008 - Agriculture for Development*, 19 October 2007, p. 7.

<sup>34</sup> FAO-IFAD-WFP, *Reducing Poverty and Hunger: The critical role of financing for food, agriculture and rural development*, paper prepared for the Monterrey Financing for Development Conference, 18-22 March 2002.

<sup>35</sup> 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).

which very few countries are considered to have met. In addition, access to loans is subject to conditionality, which the Marrakesh Decision recognizes explicitly by referring to facilities extended “in the context of adjustment programmes”. Finally, there is a discrepancy between CFF and the Marrakesh Decision: CFF is limited to cereals, whereas the Decision covers all basic foods.

25. On 25 April 2001, a group of 16 developing countries, members of WTO, submitted a proposal which called for, inter alia, the establishment of an Inter-Agency Revolving Fund (RF)<sup>36</sup> 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. UNCTAD later elaborated on this proposal, which was included by the WTO Doha Ministerial Conference among the implementation issues<sup>37</sup> and led to an Inter-Agency Panel being established to examine the issue.<sup>38</sup> To date, there has been no follow-up to the proposal. 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 providing concessional terms of financing, focused on the adjustment to the underlying shock but with less emphasis than previously on broader structural adjustments.

### III. IMPLEMENTATION

26. 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. Now, strategies which were donor-driven are increasingly needs-driven, and expected to 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 organizations, 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.

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<sup>36</sup> Proposal to Implement the Marrakesh Ministerial Decision in Favour of LDCs and NFIDCs, G/AG/W/49, 19 March 2001, and Add.1 (23 May 2001), and Add.1/Corr.1 (27 June 2001).

<sup>37</sup> Decision on Implementation-Related Issues and Concerns, WTO document WT/MIN(01)/17 of 20 November 2001, para. 2.2.

<sup>38</sup> Inter-Agency Panel on Short-Term Difficulties in Financing Normal Levels of Commercial Imports of Basic Foodstuffs, Report of the Inter-Agency Panel, WTO document WT/GC/62 G/AG/13 of 28 June 2002.

### **A. Improving the contribution of international aid to the realization of the right to food: the role of national strategies**

27. 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 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”: they emphasize participation as both a means and a goal; they seek to empower, and thus 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.<sup>39</sup> 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.

28. Specifically, the implementation of the principles of national ownership and alignment would be greatly facilitated if the recipient State were to define its national priorities according to a national strategy for the realization of the right to food, whether it is formally integrated into broader poverty-reduction strategy documents or not. 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 (E/C.12/1999/5, para. 21). Guideline 3 of the FAO Guidelines provides useful indications about how States could adopt a national human rights-based strategy for the realization of the right to adequate food, emphasizing in particular the need to allow for monitoring of progress and accountability, and to develop such strategies through participatory processes.

29. 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 (paras. 3 (iii), and 14). This objective has been further reaffirmed by the Accra Summit on Aid Effectiveness of 2-4 September 2008<sup>40</sup> and in the 2008 Doha Declaration on Financing for Development.<sup>41</sup> The elaboration, 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

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<sup>39</sup> United Nations Development Group, *The Human Rights-Based Approach to Development Cooperation - Towards a Common Understanding Among UN Agencies* (2003); see [www.undg.org/?P=221](http://www.undg.org/?P=221).

<sup>40</sup> Accra Agenda for Action, para. 13 (b).

<sup>41</sup> A/CONF.212/L.1/Rev.1, para. 46.

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 food would contribute to this agenda. Since development cooperation programmes would fit into a national strategy for the realization of the right to food defined at national level, the recipient Government would improve its bargaining position in aid negotiations. Since this national strategy would involve national parliaments and civil society organizations, development policies would be democratized. And since it would set benchmarks and allocate responsibilities, it would increase accountability in their implementation.

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

30. Food aid, if not strictly tailored to the needs which have been assessed and to the local conditions, may create unintended - and negative - consequences. 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”.<sup>42</sup> This is why the FAO Guidelines emphasize the need to ensure that international food aid does not disrupt local food production (Guideline 15.1). The FAC also includes 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)).

31. 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. This is not to say that the latter are necessarily caused or aggravated by the former.<sup>43</sup> 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

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<sup>42</sup> C. Barrett, “Food aid as part of a coherent strategy to advance food security objectives”, background paper for *FAO State of Food and Agriculture 2006*, p. 3.

<sup>43</sup> 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. See also, for a review of the literature on the impacts of food aid on local markets, C. Donovan, M. McGlitchy, 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.

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 highly 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 - 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 and commodity-based may both assist those in need and support local producers and may be closer to local diets. This will be the case particularly if those responsible for these purchases make deliberate efforts 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)).

32. In sum, while donor-country sourced commodities risk disrupting local production, cash-based food aid or vouchers or cash transfers both have price effects which risk making food less affordable for the poor. To avoid these negative effects, a number of conditions should be strictly adhered to. The monetization of food aid - i.e., the selling of donated products to raise funds for aid - has a particularly negative effect on local market prices and thus disruptive impacts on local production and should be avoided to the largest extent possible.<sup>44</sup> As much as the commitments, the delivery of food aid needs to be based on careful assessments of the existing needs. Delivery needs to be timely and well targeted; and 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 per cent higher than local food purchases, and 33 per cent higher than regional purchases.<sup>45</sup> Yet, tying remains widespread, resulting in roughly a third of the global food aid budget, or some

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<sup>44</sup> The monetization of food aid is particularly disruptive since it is not targeted to specific food-insecure populations. In this respect, it is similar to programme aid which consists in transfers from Government to Government, with the recipient Government reselling the food aid received on the local markets.

<sup>45</sup> E. Clay, B. Riley and J. Urey, *The development effectiveness of food aid: Does tying matter?* Report DCD/DAC/EFE(2004)9, OECD, Paris, 2005.

US\$ 600 million, being spent in donor countries and never reaching beneficiaries.<sup>46</sup> 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.<sup>47</sup>

33. Both bringing discipline to 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, as noted above, 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' organizations, should be involved. This would ensure that 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 micronutrients - referred to in the FAC<sup>48</sup> - is increasingly recognized in international discussions. 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.<sup>49</sup>

34. 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 applying criteria which may be discriminatory in nature or may have discriminatory effects 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.

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<sup>46</sup> FAO, *The State of Food Aid and Agriculture 2006*, Rome, January 2007, p. 16.

<sup>47</sup> Another advantage of untied aid is that it ensures the compatibility of aid with the requirements of the Agreement on Agriculture under the WTO framework (see art. 10 (4), AoA), as well as with the FAO Principles of Surplus Disposal and Consultative Obligations.

<sup>48</sup> See FAC, art. XIII (a) (ii) (requiring from Members that they "respect local food habits and nutritional needs of the beneficiaries" and that they minimize "any possible negative effects on their eating habits").

<sup>49</sup> A switch to diets which are poorer in micronutrients, a common adaptation strategy of households faced with food 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.

35. 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 criteria for the allocation of aid.<sup>50</sup> By restoring predictability for the recipients, food safety nets could function adequately as insurance mechanisms. Without such insurance, those who temporarily fall into poverty are obliged to sell their assets to meet their immediate needs and thereby fall into extreme poverty, and those who are chronically poor are stuck in poverty as a result of their inability to rebuild their asset stocks and thus escape their condition.

#### IV. EVALUATION

36. The evaluation of development cooperation and food aid policies can serve to progressively improve their effectiveness. It also enhances the accountability of donor and partner States alike. By providing an objective and agreed upon analytical framework for such assessments,<sup>51</sup> the reference to the human right to adequate food contributes to both objectives.

##### A. Evaluating the effectiveness of development cooperation

37. 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 joint assessments of the effectiveness of aid (para. 50).

38. 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 the effectiveness of aid should take the form of human rights 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

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<sup>50</sup> Such transparency requirements and recourse mechanisms should also be available to the beneficiaries of food aid channelled through non-governmental organizations. Certain such organizations have established help desks to provide information to those targeted by their programmes, as well as complaints handling mechanisms.

<sup>51</sup> Human Rights Based Approach to Development Cooperation - Towards a Common Understanding Among UN Agencies (2003).

by independent bodies.<sup>52</sup> 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 organizations in the recipient countries, ensuring the involvement of these actors in the assessment itself, and encouraging the launching of 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.

### **B. Evaluating the effectiveness of food aid**

39. Article XIII (h) of the FAC provides that “Members shall endeavour to carry out joint evaluations of their food aid programmes and operations ... based on agreed international principles.” This suggests the need for the Food Aid Committee to transform itself into a learning forum, in which States parties, together with the recipient States and non-governmental organizations, 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 those Members’ monitoring 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.

40. Although the FAC defines the composition of the Food Aid Committee as including all the Parties to the FAC, it does not exclude the organization 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 organizations active in the field of food aid,<sup>53</sup> on the other hand. Such meetings 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 organizations may be in a position to convey. They could also 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.

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<sup>52</sup> House of Commons, United Kingdom, International Development Committee, Working Together to Make Aid More Effective, Ninth Report of Session 20078, HC 520-1, 17 July 2008, paras. 73-74.

<sup>53</sup> These NGOs already form a coalition through the Trans-Atlantic Food Aid Policy Dialogue (TAFAD).

## V. CONCLUSIONS AND RECOMMENDATIONS

41. 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 of 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 assessed needs, so that assistance will be detached from commercial or strategic interests of the donors. Defining international aid as an instrument to fulfil the human right to adequate food could contribute to this shift.

42. Human rights can help complement the principles of aid effectiveness stipulated in the Paris Declaration, and help make them more operational 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. 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 to fulfil this objective on the human right to adequate food, would lead to policies which were less well informed, less sustainable in the long term, and whose legitimacy would 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 ignore the potential of the right to food at our own peril.

43. The Special Rapporteur recommends that:

(a) 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 - increasing levels of aid calculated as ODA as a percentage of 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, ensuring adequate justification when commitments are not complied with
- Support the implementation of the FAO Guidelines in partner countries and their use as a 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 national strategies for the realization of the right to food defined in the partner country with the participation of national parliaments and civil society organizations**
- **Promote the right to food as a priority for cooperation with partner countries where hunger or malnutrition are significant problems, focusing on 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-discrimination and empowerment**
- **Propose to their partners that they prepare joint assessments, on a regular basis, of the impact of development cooperation on the realization of the right to adequate food, based on the normative components of this right as recognized in international law**

**(b) States parties to the FAC 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 FAC 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 organizations 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 FAC are needs-based, by grounding 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 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 their food aid will be timely and well targeted and 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**

**(c) States receiving food aid should:**

- **Ensure an objective mapping of food vulnerability and insecurity, 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**

**(d) Members of the World Trade Organization should:**

- **Fully implement the Marrakesh 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 (LDCs and NFIDCs) negatively affected by the reform programme under the WTO Agreement on Agriculture, in fully grant form and/or on appropriate concessional terms, by providing that the States parties to the FAC shall 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**

**(e) 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 as to:**

- **Donor States and (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, long-term food security in the recipient State, and the development of its agricultural sector**
- **Whether in food-aid recipient States (a) they have ensured that the food aid they receive fits into a national strategy for the realization of the right to food; (b) the criteria for the attribution of food aid are defined transparently in national legislation, guaranteeing access to recourse mechanisms to any right-holder unjustifiably excluded**

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