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Item 5: Investment in the agricultural sector with a view to building productive capacities
“Principles for responsible investment in agriculture”

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**Remarks made by Olivier De Schutter
UN Special Rapporteur on the Right to Food**

I am worried. A consensus is emerging among the international institutions about the need to guide investment in agriculture in order to ensure that it shall proceed responsibly, and many of us are here today because they wish to contribute to shaping this consensus. But at the same time, many civil society groups and farmers' organisations, including the most representative among them, denounce 'land-grabbing'. Indeed, they denounce the very idea of adopting a code of conduct. They see this as legitimizing what, in their view, should not be allowed : depriving the poorest from their access to land, and increasing concentration of resources in the hands of a minority.

They see, as we all do, that all too often, notions such as 'reserve agricultural land', or 'idle land', are manipulated out of existence – as the Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources before us rightly note, 'that there are few areas truly 'unoccupied' or "unclaimed", and that frequently land classified as such is, in fact, subject to long-standing rights of use, access and management based on custom'. They see that the requirement that evictions take place only for a valid 'public purpose', against fair compensation, and following consultation of those affected, is honored more in the breach than in the observance. They live on the frontline : in countries in Africa where land is considered to be State-owned, and treated by governments as if it were their own ; in Latin America, where agrarian concentration is on the rise ; or in South Asia, where many populations are being driven off their land as we speak, to make room for large palm oil plantations, for special economic zones, or for reforestation projects.

If it is to be responsible, agricultural investment must take these concerns seriously, and it must address them. It must be investment that benefits the poor in the South, rather than leading to a transfer of resources to the rich in the North. It must be investment that truly reduces hunger and malnutrition, rather than aggravating them. It is my belief that we have been moving both too slowly and too fast : too slowly, because a phenomenon – the increase of commercial pressures and speculation over land – has been developing on a very broad scale without the international community acting in a truly coordinated way to guide this development ; and yet too fast, because we have focused on how to promote responsible investment, when investment can only be seen in a much wider context, and as one small part of a much broader strategy.

I shall not dwell today on the seven Principles before us, nor shall I comment on the eleven Minimum Principles based on human rights that I presented last month before the Human Rights Council (see UN doc. A/HRC/13/33/Add.2). Rather, I shall replace this debate in its wider context, because only by taking into account this context can we begin to answer the legitimate concerns that I have recalled. Whether investment in agriculture can be channelled towards poverty-alleviating aims depends not just on how it proceeds at the project level, but also on how it fits into a broader development strategy. I offer seven theses about this relationship between the micro and the macro, between the project level and the broader aim of human development. The suspicion of the civil society actors and farmers'

organisations stems, to a large extent, from the inability of many actors involved in this discussion to articulate this relationship. It is a challenge we must now urgently meet.

Thesis # 1. The public policies that aim at guiding investment should be primarily focused not on the need to boost production, but on the urgent need to contribute to rural development and to the increase of incomes in the rural areas

Over the past twenty years, food production has increased by an annual 2 percent, while population growth has increased by an annual average of 1.2 percent, and is now situated around 1.09 percent. Hunger and malnutrition are not primarily the result of too little food being produced; they are the result of poverty and inequality, particularly in the rural areas, where 75 percent of the world's poor still reside.

That is not to deny that needs are to be met : in certain countries, the population still doubles at every generation, as the result both of high fertility rates and of increased life expectancy, and global population increases by some 75 million individuals each year ; diets evolve, with a demand for more variety in diets and for more a greater amount of animal protein. But these facts matter only to the extent that, combined with the unsustainable levels of consumption in rich countries – the demand for meat and the thirst for agroenergy, in particular –, they lead to increased pressures on natural resources – farmland, water, grassland, and forests –, encouraging in turn speculation over land and large-scale dispossessions of the poorest and the most vulnerable, particularly smallholders and indigenous communities that lack adequate protection and political support. It is not by producing more that we will effectively combat hunger : it is by protecting those who are hungry today, and who are hungry because they are disempowered and marginalized.

This indeed, is one often overlooked lesson from the Green Revolution of the 1960s through the 1980s in Latin America and South Asia. The volumes produced increased spectacularly, as a result of a technological fix including a massive expansion of irrigated areas, the introduction of high-yielding varieties of plants, and a huge increase in the use of fertilizers and of mechanisation. But, while the overall production was boosted, inequalities were exacerbated : the vast majority of the studies which examined the equity dimensions of the Green Revolution concluded that the switch to more capitalized forms of agriculture, which many small farmers could not benefit from and which bypassed many woman-headed households, in fact increased inequality instead of reducing it. In South Asia, while the production of food per capita increased by 9 per cent between 1970 and 1990, the number of hungry people increased by the same percentage over that period. In South America over the same period, food availability per capita rose by 8 per cent, yet there were 19 per cent more hungry people. We like to think ahead, but let us first humbly be students of that sad history.

Thesis #2. Agricultural investment must fit into a broader poverty reduction strategy, including a strategy for the realisation of the right to food

Indeed, there is a risk that, instead of being an instrument for development and poverty alleviation in the rural areas, agricultural investment will become an end in itself – and that the end goal of human development and the realization of the right to food will be sacrificed for the sake of the short-term objective of attracting investors.

This should not be allowed to happen. States should be encouraged, instead, to prepare national strategies for the realization of the right to food that include a mapping of food insecurity and vulnerability ; an identification of the obstacles the poor face in the realization of the right to food; the definition of the measures that should be taken to remove these obstacles, by whom, when, and with which budgetary resources ; and that provide for a monitoring of progress in the implementation of the strategy. The policies related to foreign investment should fit into such a strategy, in order to ensure that investment will be channelled to the most poverty-reducing uses. One of the benefits of the adoption of such strategies – as for instance the Fome Zero strategy adopted by Brazil in 2003, or the National Food and Nutrition Security Strategy 2008-2015 (ESAN II - Estrategia de Segurança

Alimentar e Nutricional) adopted in Mozambique – is that they are in principle adopted with the active participation of the communities affected, including farmers' organisations : this not only ensures that the choices will be made in accordance with the needs of those directly affected, it also increases the accountability of government towards those involved in such a mechanism.

Thesis #3. A human rights framework is vital to the sustainability of agricultural investment

The reference to human rights as would be facilitated by fitting investment policies under such strategies seems to me essential. It is one thing to do things responsibly. It is quite another to ensure that those who may be affected by whatever is done will be protected by having access to remedies before independent bodies, including courts. The Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources do not even refer to human rights. As a result, the dimension of accountability of governments and private actors alike, and of control by independent bodies, is lost. But this dimension is crucial : if hunger and malnutrition are the result of social injustice and inequality, rather than simply of a failure to produce enough food, protecting the legal entitlements of the poor is essential.

The human right to adequate food in particular has a central role to play in this discussion. When the International Covenant on Economic, Social and Cultural Rights was drafted in 1966, the governments accepted a duty to further the realization of the right to food, inter alia, 'by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources' (Art. 11, § 2, a)). In 2004, the 127 Member States of the FAO adopted the Voluntary Guidelines aimed at promoting progressive realization of the right to adequate food in a context of food security, a set of concrete recommendations that all governments have accepted. According to Guideline 8.1, 'States should facilitate sustainable, non-discriminatory and secure access and utilization of resources consistent with their national law and with international law and protect the assets that are important for people's livelihoods. States should respect and protect the rights of individuals with respect to resources such as land, water, forests, fisheries and livestock without any discrimination. Where necessary and appropriate, States should carry out land reforms and other policy reforms consistent with their human rights obligations and in accordance with the rule of law in order to secure efficient and equitable access to land and to strengthen pro-poor growth. Special attention may be given to groups such as pastoralists and indigenous people and their relation to natural resources'. Guideline 8.2 stresses the importance of guaranteeing security of tenure, especially for vulnerable groups, including through the adoption of adequate legislation. These are not just words. They are commitments of the international community. And they are based on a diagnosis of hunger as stemming from the violation of human rights, and not simply on the lack of technology and capital. I fear that, in certain respects, we may have been moving backwards since then.

Thesis #4. The arrival of investment in agriculture may exacerbate the competition between two types of farming – a competition that is deeply unequal

To simplify, we may distinguish between three types of farms : the small farm producing a diversity of crops, often combined with small animals on the same plot of land, using few or no external inputs, and producing mainly for the household and the local community ; the small farm tied to larger markets, including by a long-term relationship with a buyer as in contract farming or outgrower schemes, and most often producing a single crop with the support of external inputs and credit ; and the large plantation, heavily mechanised, with an easy access to external inputs and to markets, including global markets.

The competition between these producers small and large, integrated or not integrated into broader supply chains, is intensifying today. And it is biased. The large and mechanized farms are highly competitive, in the sense that they can produce for markets at a lower cost. Smallholders, in contrast, unless they are effectively supported by the supply chains which they join, produce at a higher cost. They are often very productive by hectare, since they maximize the use of the soil, and since they seek to achieve the best complementary use of plants and animals. But they practice a form of agriculture

that is both labor-intensive, and makes little use of external inputs. If they compete on the same markets as the large farms, they lose. Yet, the services they render are invaluable, in terms of preservation of agrobiodiversity, resilience of local communities to price shocks or weather-related events, and environmental conservation. In contrast, while large plantations produce at highly competitive prices, they also produce a number of social costs that are not accounted for in the price of the produce they sell on the markets.

The arrival of investment in agriculture alters the relationship between these worlds of farming. It exacerbates this competition. If governments remain passive, small-scale agriculture will be driven out, and with it the important positive externalities it delivers for the communities where it is allowed to flourish. Certain governments have experimented with policies that can support smallscale, or 'family' farming, and allow it to coexist, more or less peacefully, with other types of farming, including large-scale commercial farms. Among these policies are a preferential access to support schemes, including below-market-rate access to credit ; the use of public procurement schemes to support smallscale farming – for instance, since July 2009, 30% of the food purchased under the Brazilian school-feeding programme should come from small family farms, representing a powerful encouragement for family farmers –; the development of farmer field schools and extension services, storage facilities, or other public goods that primarily benefit small farmers ; or the encouragement to the creation of cooperatives. Whether such tools are sufficient to equalize the competition between smallholders and large producers remains to be seen ; but I have no doubt that such policies urgently need to be implemented or scaled up to protect small farmers from the trends we are witnessing.

Indeed, there is a strong risk that the wave of land investments, seen as an opportunity, will lead public authorities into one direction, devoting most attention and resources to it, with comparatively fewer resources and attention going to the policies promoting smallholder farming. Resources are scarce, they need to be more focused to the priority of hunger and poverty alleviation. We should keep in mind the conclusions reached in 2008 by the International Assessment of Agricultural Knowledge, Science and Technology for Development (IAASTD), which noted that 'Technologies such as high-yielding crop varieties, agrochemicals and mechanization have primarily benefited the better resourced groups in society and transnational corporations, rather than the most vulnerable ones. To ensure that technology supports development and sustainability goals strong policy and institutional arrangements are needed (...)' (IAASTD (2008) Summary for Decision Makers of the Global Report). The IAASTD calls for a fundamental paradigm shift in agricultural development, noting that 'successfully meeting development and sustainability goals and responding to new priorities and changing circumstances would require a fundamental shift in [agricultural knowledge, science and technology], including science, technology, policies, institutions, capacity development and investment.' These conclusions, the result of a three years process initiated by the FAO and the World Bank, and which involved 400 experts from all regions, underline the pitfalls of productivity-centred approaches, favouring instead more integrated approaches, including agro-ecological farming approaches.

Thesis #5. In order to protect the rights of landusers, 'titing' schemes are both insufficient and potentially damaging

It has been fashionable in recent years to present the clarification of rights over land, in the form of property rights recognized through 'titles', as a core ingredient of market-based development. However, while the legal protection of landusers has clearly been insufficient, explaining many of the abuses both in the past and today, land policies should prioritize the protection and realization of the right to food above the creation of a market for land rights.

The legal protection of access to productive resources, including in particular land and water, is vital for the rural poor. In numerous cases, smallholders or indigenous communities have been driven off the land they depended on for their livelihoods, whether as a result of the arrival of investors using land for large-scale plantations, particularly related to agrofuels production, or as a result of the building of dams, tourist resorts, or other large-scale infrastructure or industrial projects. In this context however, enhancing security of land tenure, while necessary, is not sufficient. Where

improving security of tenure takes the form of individual titling, it results in the transposition of Western-style property rights over land that may negate the function that land fulfils in many rural communities across the global South, not to mention the special relationship to land of indigenous peoples. It can lead in time to a counter-agrarian reform (i.e., re-concentration of land ownership) unless measures are taken both to support the viability of smallhold agriculture, and unless communal rights over land are recognized and institutionalized.

Indeed, it would be naïve to think that the sequence from security of tenure to improved production and to increased incomes for the land-users is an automatic one. Instead, if not carefully managed, security of land tenure through titling schemes can mean that land will be increasingly subject to speculation and to commercial pressures, and that, in time, the poorest and cash-strapped farmers will lose the land on which they depend. Even when compensation is offered to them for the land they cede, they may not be able to find alternative means of securing a decent livelihood, and food insecurity can increase as a result.

In addition, there is clearly a tension between ceding land to investors for the creation of large plantations, and the objective of redistributing land and ensuring more equitable access to land, as governments have committed to do, for instance, when they adopted the Final Declaration adopted at the International Conference on Agrarian Development and Rural Development (Porto Alegre, 7-10 March 2006). This tension can only be overcome if we put our efforts not only into monitoring and guiding investments in land, but also into exploring other business models linking investors to producers, that can ensure stability of supply for the buyers while at the same time improving access to markets and better revenues for the farmers – for it will only very rarely be the case that the only viable form of investment is one that brings about shifts in rights over land, despite the considerable risks such shifts may involve : in general, other schemes, referred to as outgrower schemes or contract farming, may have fewer long-term implications and present fewer risks than transfers of landusers rights per necessity entail. As I argued in my latest report to the Human Rights Council, if contractual arrangements do not result in a disproportionate portion of the value going to the buyer, and in all the risks linked to production (as a result of weather-related events or pests, or due to changes in consumers' preferences) being shifted to the producer, they may be a preferable solution, better suited to the needs of all parties.

Thesis #6. Sequencing is crucial : appropriate conditions must be created in the receiving country before investment flows in

Public policies such as the support to smallscale farming or the improvement of security of tenure by the recognition of landusers' rights shall be more difficult to launch once the agricultural sector shall have been transformed by the emergence of a highly capitalized sector, competitive on both the domestic and the global markets. Indeed, once such development shall have taken place, it will be too late, often, to protect those whose livelihoods may have been impacted as a result. By then, the veto points will be many, and they will be difficult to overcome. For this reason, it is important to improve governance structures and the policy environment prior to the arrival of large amounts of investment in agriculture: in all likelihood, later will be too late.

Thesis #7. Both receiving States and States where investments originate from have a responsibility to ensure that investment in agriculture proceeds responsibly

Much emphasis has been placed, in recent international discussions, on the responsibility of the receiving State to channel investments wisely, to protect the rights of the local communities affected by the investment, and to make a transparent use of the revenues accruing for the State from the investment. But international investment is typically an area where both FDI-exporting and FDI-receiving States have a responsibility. This is true, of course, as far as public investment is concerned, including when it takes the form of sovereign wealth funds being part of larger investment projects. But it is also true of private investment flows. Private investment funds in particular, which played an important role in the increased speculation on land over the past few months, should be appropriately

monitored by their State of origin. States have a duty under international law to protect the human rights that may be affected by the activities of private actors which they are able to influence. I am actively cooperating with the OECD on the revision of the Guidelines for multinational enterprises they initially adopted in 1976, and which have been revised a number of times since ; it is my hope that clearer guidance will be given to the private sector as regards the specific question of agricultural investment in the next version of the guidelines, that are currently under discussion.

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These are the challenges we are facing. The challenge, I repeat, is not just to ensure that agricultural investment will develop 'responsibly'. It is also to create the policy environment that will ensure that it will not produce the disruptive effects that, all too often, it has led to in the past. We cannot afford more dispossessed, greater inequalities in the rural areas, and more smallholders driven off their land because farming shall have ceased to be viable for them. We cannot allow for pastoralists to lose access to their grazing areas, and more fishers to be cut off from their fishing grounds. We cannot tolerate more indigenous peoples being victims of the destruction of the forests they depend on, or being fenced off from these forests as a result of carbon sequestration projects. There is no time to lose, and I am very grateful to the UNCTAD for providing us with this unique forum where to hold this vitally important discussion.

***Olivier De Schutter** was appointed the UN Special Rapporteur on the right to food in March 2008 by the United Nations Human Rights Council. He is independent from any government or organization, and he reports to the Human Rights Council and to the UN General Assembly. For more on the work of the Special Rapporteur on the right to food, visit www.srfood.org or www2.ohchr.org/english/issues/food/index.htm.*