



# PROMOTING RESPONSIBLE GOVERNANCE OF INVESTMENTS IN LAND



## Engaging the private sector in responsible agricultural investment in Uganda, Ethiopia and Laos Good Practice

HOW TO CONNECT COMMERCIAL INVESTORS WITH COMMUNITIES AND GOVERNMENT ACTORS TO AVOID AND SETTLE CONFLICTS AND ACHIEVE RESPONSIBLE INVESTMENTS IN LAND

# Programme

THE GLOBAL PROGRAMME RESPONSIBLE LAND POLICY (GPRLP) IS PART OF THE SPECIAL INITIATIVE “TRANSFORMATION OF AGRICULTURAL AND FOOD SYSTEMS”, OF THE GERMAN FEDERAL MINISTRY FOR ECONOMIC COOPERATION AND DEVELOPMENT (BMZ), WHICH AIMS TO REDUCE EXTREME POVERTY AND HUNGER.



The programme is implemented by the *Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH* in countries across Africa and Asia. Its main objective is to secure access to land as a critical prerequisite for poverty and hunger reduction in rural areas, especially for women, marginalized groups and indigenous peoples.

## THE PROGRAMME FOLLOWS THREE FIELDS OF ACTION:

- Improving procedures to secure land use or land tenure rights for the rural population
- Strengthening civil society
- Improving the framework conditions for responsible agricultural investments

As part of the Global Programme Responsible Land Policy in Ethiopia, Laos and Uganda, the *Responsible Governance of Investments in Land (RGIL)* project, co-financed by the *European Union (EU)*, aims to ensure that investments in land are fair, productive and contribute to sustainable land management. A key element of this is strong engagement of private investors in those processes. This includes capacity building measures for investors and facilitating engagement and discussions between investors and other impacted stakeholders such as civil society, communities and government officials via *Multi-Stakeholder Dialogues (MSD)* at a national and regional level and organization of *Investor Dialogue Fora (IDF)* at a local level.

# Starting point

**INSECURITY OF ACCESS TO LAND** in Ethiopia, Laos and Uganda threatens the livelihoods of a large share of the rural population, especially women and marginalized groups such as ethnic minorities. A lack of legal security renders them vulnerable to displacement, hinders smallholder investments and has a

negative impact on food and nutrition security. In all three countries, investors can take advantage of legal uncertainties and acquire land through purchase or lease without carrying out *Environmental and Social Impact Assessments* (ESIA). An increase in competition over and pressure on land can be expected due

to population growth, climate change and increasing food prices. In addition, growing foreign and domestic land-based investments exacerbate the pressure on land.

## BACKGROUND ON LAOS

Despite strong economic growth and rising income during the years before Covid-19, Laos is still amongst the *Least Developed Countries* (LDC) in the world: 18% of the population lives below the poverty line, with the rural population being the worst affected. The Lao government aspires to graduate from its current status as an LDC by 2026 but faces numerous challenges in land management. The expansion of large-scale plantations (rubber, eucalyptus, banana, cassava, sugar cane, coffee, other market fruits and teak) was accompanied by massive deforestation, often at the expense of rural households. They have often lost their access to land and other natural resources.

In addition to the resulting local resistances against individual investments, the population's declining confidence in local government authorities and the party leadership presents a central challenge.

In 2019, 438 poorly performing concessions were evaluated by a government task force to be either terminated or improved.

## MAIN CHALLENGES IDENTIFIED IN THE PERFORMANCE EVALUATION OF INVESTMENTS INCLUDE:

- **Coordination efforts** between government authorities in land governance are weak, and their services are often delayed. There is no centralized data system available.
- **Individual landowners** are increasingly approached directly by investors for land-related deals. Often villagers do not have enough information and negotiating skills to conclude fair contracts with investors.
- **The inadequate land use planning**, which forms the basis for land allocation, prompts investors to look for investment areas on their own.
- **Lack of previous necessary environmental and social impact assessment** and deficient environmental monitoring and management.
- **Inadequate investment monitoring system** and follow up and delay in resolving problems or conflicts.

# Starting point

**IN ETHIOPIA, LAOS AND UGANDA** national laws, policies and international standards of responsible land governance, like the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests* (VGGT) and the *Principles for Responsible Investment in Agriculture and Food Systems* (CFS-RAI), are not sufficiently implemented.

Central legal and administrative procedures are often not in place or they are not implemented in a way that ensures fair access to land. The relevant institutions often lack the capacities in land management (e.g., surveying, cadastral and land registration, land use planning and conflict management) and in the management of agricultural investments, including the implementation of social and environmental safeguards. Corruption in land transactions remains very high in all three countries.

Political dialogue at a regional and a national level on responsible land policies is often insufficient, and *Civil Society Organizations* (CSOs) and representatives of marginalized groups are often not involved. The engagement of private investors in these dialogues is also low.

## BACKGROUND ON UGANDA

In 1991, the government established the *Uganda Investment Authority* (UIA) to actively attract investors to boost the agriculture sector. The UIA is a statutory agency mandated to initiate and support measures that enhance the quality of investment in Uganda. It advises the government on appropriate policies conducive to investment promotion and growth. In theory, its focus is on domestic and international investors.

However, most Ugandan investors do not meet the UIA's definition of what is considered to be an investor (in terms of asset value, turnover, export share, etc.).

## THE MAIN CHALLENGES REGARDING INVESTMENTS IN LAND INCLUDE:

- **Most investments are small and made by Ugandan citizens** and therefore lack comprehensive regulation and guidance by UIA.
- **Limited information on district-level** (e.g., in district land offices, district commercial offices) – due to a lack of transparency of land investments – make it difficult for local government to monitor and support investments.
- **Most households lack formal documentation of land rights**; there is often no clarity regarding land ownership or land use rights. In this context, legally correct and fair land acquisitions remain challenging.
- **There is inadequate dialogue and alignment** at national and local levels among government representatives, as well as between the private sector and civil society to work together.
- **Investors and government officials often operate with weak capacity** and poor facilitation, they lack control and support in matters related to legally sound investments that incorporate environmental and social safeguards.

# Starting point

**ON THE LOCAL LEVEL**, land-based investments often happen without *Free, Prior and Informed Consent* (FPIC) of communities and lack appropriate compensation mechanisms. This regularly leads to conflicts. There are no local platforms on which private investors, the local population, CSOs and local government officials engage with one another to prevent or resolve conflicts or to create scenarios in which land-based investments benefit the local population and the investors.

The local population often lacks capacity and opportunity to adequately assert their interests regarding domestic and foreign investors. At the same time, investors often have no capacity to manage their business according to the national and international standards in a socially and environmentally responsible manner. There are no mechanisms to bring together investors, government representatives and affected communities. Regular dialogue and exchange between the three parties is therefore lacking.

In addressing these challenges, RGIL, together with its partner institutions established avenues for strong engagement of private investors towards more responsible land-based investments. This includes the organization of regular *Multi-Stakeholder Dialogues* (MSD) at a national or regional level, the establishment of *Investors Dialogue Fora* (IDF) at local level, jointly with accompanying capacity development measures for private investors, government officials and community members on responsible agriculture investments.

## BACKGROUND ON ETHIOPIA

In Ethiopia, the government called a moratorium on large-scale land transfers to private investors in 2015. Since then, no larger land areas (> 5,000 hectares) have been leased to international investors for agricultural production purposes. Yet, land speculation has been a common problem in the past: instead of investing in agricultural intensification, investors used land lease documents as collateral for bank loans for urban real estate investment projects.

To address such non-/under-performing agricultural investors, since 2016, several regions have cancelled hundreds of land contracts or granted investors a grace period for fulfilling contractual obligations. A monitoring report from the Gambella and Benishangul-Gumuz regions revealed that investors developed only a fraction of leased land. In Gambella, 269 and in Benishangul-Gumuz 91 investment contracts were terminated due to non-compliance. Currently the regional governments in both regions re-started the process to transfer these plots to new private investors.

## OTHER MAIN CHALLENGES INCLUDE:

- **A lack of institutional stability and coordination** between the responsible authorities, abrupt functional and structural changes of regional land administration institutions.
- **Inadequate land identification and verification procedures**, i.e., local communities are not involved according to the principle of FPIC.
- **Insufficient systematic monitoring mechanisms** of investors' performance, because of a lack of government capacity and poor accessibility of investment sites.
- **Unclear and inexplicit wording and provisions** within contracts and agreements are leading to loopholes for individual interpretation.
- **Lack of clear measures and sanctions** in case of non-compliance of investors, and absence of enforcement mechanisms.
- **A lack of land use plans and documented land use rights** in areas targeted by investors because of the overall slow progress in *Second Level Land Certification* (SLLC).

# Positive changes

**BRINGING REPRESENTATIVES FROM THE DIFFERENT STAKEHOLDER GROUPS TOGETHER** in MSDs to share their perspectives, identify challenges and define actions contribute substantially to a more inclusive environment for responsible and fair investment in land in the three partner countries. In addition, the provision of platforms for exchange between investors and communities lead to a better understanding between the two stakeholders involved in investments. By offering capacity building, including training, coaching and advisory services for private investors,

the project enriches the efforts of the partner governments to ensure more responsible land investments.

To date, approximately 200 investors in Ethiopia, Laos and Uganda have participated in multi-stakeholder dialogues with CSOs (NGOs, farmers' associations, academia), the private sector (including financial institutions) and government representatives on the state of the implementation of guidelines for agricultural investments.

So far, around 200 investors in the three countries have used training, coaching and advisory services to comply with principles of national and international guidelines, such as the VGGT and CFS-RAI.

In the pilot regions, approximately 4600 land users or their representatives affected by private agricultural investment projects (new or ongoing) and investors have participated in investor community dialogue fora; at least 20 % of the participants were women.

## POSITIVE CHANGE IN UGANDA IMPROVING COMMUNITY-INVESTOR RELATIONS ON THE GROUND

*Greenland Integrated Farms* (GIFA) is a mixed farm producing citrus fruits, oranges, mangoes, papaya, cassava and all kinds of seedlings. Its livestock branch includes herding of goats, sheep, cows, pigs and a poultry farm. There is also bee keeping and fish farming.

The support of RGIL along the predefined 10 principles of responsible agriculture investments, combined with coaching, contributed to the further sustainable and responsible development of the business. The local dialogue fora provided a platform for positively shaping the relationship with the communities.

## ALL THIS LED TO:

- A substantially improved community relationship.
- An increase in the farm's capacity to produce, sell and provide free seedlings to the community.
- GIFA increases its engagement with youth in the areas of empowerment, training and mentoring.
- Engagement with other partners, e.g., Pallisa cassava milling factory, in the promotion of socio-economic development. GIFA currently supplies onions to three big schools in Teso.
- GIFA, with its cassava multiplication projects, hired women groups from different villages for cassava cutting.

# Positive changes

## POSITIVE CHANGE IN ETHIOPIA BUILDING TRUST, A COMMON UNDERSTANDING AND COLLABORATION

Key challenges in Ethiopia are the lack of intra and inter-organizational harmonization and coordination between stakeholders working in the area of agricultural investment as well as mistrust and even hostility between investors and local communities.

To find a joint solution to these issues the *Ministry of Agriculture* (MoA) of Ethiopia in collaboration with the *Responsible Governance of Investment in Land* (RGIL) project conducted three *Multi-Stakeholder Dialogues* (MSDs).

The dialogues were able to bring together representatives from government, technical experts, academia, agricultural investors, local community, *civil society organizations* (CSO), consultants, and the media. The MSDs discussed among other things critical land governance challenges, including legal framework and policy issues and proposed solutions.

Through the MSDs local community members were able to better understand the potential direct and indirect benefits of commercial agricultural investments for the community, while local administrators have become more supportive for the private sector. Furthermore, in the MSDs, it was agreed to create a common and regular platform for consultations among the three stakeholder groups. According to the participants, the MSDs promoted and encouraged a mutual understanding and collaboration among the government, agricultural investors, and local communities. The MoA highlighted that supporting commercial agricultural investment in a responsible manner is a pathway to inclusive sustainable development.



*Reflections of agricultural investors' representatives at the national MSD in 2023.*

# Positive changes

## POSITIVE CHANGE IN LAOS POSITIVE EFFECTS OF THE MSD



*A representative of a large agro-forestry investment company in Laos showcasing their work on community engagement and grievance mechanisms at the national MSD in 2022.*

- The dissemination for RAI tools, sharing of approaches, experiences and lessons learnt in responsible land-based investment in the MSD contributes to a common understanding amongst communities, government officials and the private sector on fair and balanced investments. At both MSD, in 2021 and 2022 presentations by investors were included in which they introduce their company-based grievance mechanism which now serve as basis for other private actors.
- MSD leads to better cooperation in responsible agricultural investment amongst stakeholders. At MSD in 2022 the Lao Chamber for Commerce and Industry participated and acts now as multiplier having direct contact to private investors.
- The MSD serves as platform in which the partly overlapping mandates and unclear responsibilities between the different ministries are discussed and practical solutions dealing with these unclarities are jointly developed.



# Approach

**CAPACITY DEVELOPMENT** RGIL offers support packages to investors to improve their compliance with national and international standards and principles for responsible investments in all three countries. Based on the needs of investors, existing guidebooks and guidelines are screened to develop appropriate training materials and new guidebooks at a national level.

Selected international and domestic investors are trained to increase their compliance with national and international standards and regulations related to environmental (e.g., type of ESIA required, relevant environmental legislation) and social standards (employment rights, working conditions, land tenure, contract farming).



## ENGAGING INVESTORS: CAPACITY DEVELOPMENT MEASURES IN ETHIOPIA

The adoption of and compliance with international standards on a voluntary basis has so far only been met with hesitant interest by investors. This has become evident from monitoring agricultural investments. To increase interest, awareness raising measures have been further expanded. *The Social and Environmental Code of Practice* (SECoP) has been didactically prepared and corresponding training has been carried out for investment projects by the regional environmental authorities in all three project regions. This is done in cooperation with investor associations. Mechanisms to create concrete incentives for investors are being developed.

A study on SECoP implementation from December 2021 provides further guidance on the extent to which agricultural investments in the target regions are already based on SECoP and how high the number of socially and environmentally compatible investments currently is.

# Approach



**MULTI-STAKEHOLDER DIALOGUES (MSDs)** The MSDs in the three countries regularly bring together relevant stakeholders at national or regional level enabling them to exchange information, build mutual trust, cooperate on land investments and support each other in economic development endeavours.

## IT ALLOWS PARTICIPANTS TO

- develop a clear understanding of responsible land investment governance.
- expand specific knowledge on selected topics.
- facilitate an open exchange of experiences between groups of actors.
- draw lessons and best practices for exchange among stakeholder groups and participants.
- identify challenges and opportunities to influence action at operational, institutional, policy and legal levels.

**IN PRACTICE,** MSD participants discuss, among other things, key international and human rights frameworks for investments in land, social and environmental safeguards and investor due diligence frameworks. MSDs are organised at national and regional levels, as most of the issues addressed involve dynamics at both levels, involving central and sub-national governments. The MSDs have a kind of elevator function to connect these different levels and bring the discussion closer to the communities on the ground.

## MULTI-STAKEHOLDER DIALOGUES (MSDs) IN UGANDA

RGIL provides support for the organization of national multi-stakeholder dialogues and for the development of suitable knowledge products and training of government authorities, investors and communities. The purpose of the dialogues is to bring representatives from the different actor groups together to share their perspectives, identify challenges and define actions for achieving responsible governance of land-based investments. In addition to that local CSO partners are facilitating regional and local dialogue events, discussing issues of compliance, providing a complementary platform to *Alternative Dispute Mechanisms* (ADR).



Discussion on women land rights during the MSD in Uganda 2021.

# Approach



## INVESTOR DIALOGUE FORA (IDF) AT LOCAL LEVEL

Another focus of the project is on the support in regions with concrete investment projects. Here, IDFs are organised in which willing investors cooperate with communities. In order to prepare local communities for these fora and negotiations, awareness raising activities are conducted, e.g., on the benefits and risks of investments in land, land (tenure) and labour rights, environmental and social safeguards.

To this end, information and communication materials in different local languages are developed and distributed. According to the specific circumstances, the dialogue fora can be used as mechanisms to sensitize, identify and eventually mediate on problematic issues, and agree on follow-up measures. Good practice from other regions in the countries, e.g., community-investor Memoranda of Understanding that specify respective rights and duties, are analysed,

elaborated and offered as mechanisms to negotiate fair distribution of risks and benefits from the investment. For those cases where concrete investment projects are still in preparation, inclusive business models (such as various forms of contract farming and joint ventures) are identified together with other GIZ projects and other suitable partners and proposed as models for community-investor cooperation.

## ENGAGING INVESTORS: INVESTOR DIALOGUE FORA (IDF) IN LAOS

RGIL in Laos strengthens the engagement of investors with communities and local governments by organizing 'exchange days', implemented in four steps:

### STEP 1: IDENTIFICATION OF INVESTMENT PROJECTS AND PREPARATION OF SUMMARY SHEET

In this step companies which affect nearby communities, or which have been in the focus of complaint of a community in the past, are identified. A summary sheet is prepared, which includes a rating sheet and the summary of the selected investment projects including their positive and negative effects on the community, as well as suggestions from the community.

### STEP 2: INVESTOR PREPARATION

The investor is contacted, and a first meeting is arranged to discuss the status quo of the relationship with the affected communities from the investor's perspective.

### STEP 3: COMMUNITY PREPARATION

In the first meeting, the communities are approached with two main questions.

QUESTION 1: What are the positive points of the investment to the community?

QUESTION 2: What are the suggestions for the investor to improve?

The communities' answers are documented on the summary sheet. The villagers are asked to appoint at least 10 representatives, who may include the head or deputy of the village, women, elders, and young people. In addition, a speaker is selected and trained. The communities receive an introduction to the investment contract, especially the chapter related to community commitment, environment, and land.

### STEP 4: EXCHANGE DAY BETWEEN INVESTOR AND COMMUNITY

After a round of introductions, representatives of the company receive the feedback on the positive and negative impact of the investment. Points for improvement are agreed upon and further meetings for checking progress are arranged.

# For replication

In all three countries scaling-up and replication aspects are integral part of the design of the projects. First success stories are already available. In Ethiopia for instance, efforts of building capacities amongst governmental actors led to replication of the information system for agricultural investment outside of the project regions. Additionally, the IDF approach is in the process of being replicated in Amhara region.

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**THE STRATEGIES IN EACH COUNTRY FOR ENGAGING PRIVATE INVESTORS IN RESPONSIBLE LAND GOVERNANCE HAVE BEEN SPECIFICALLY DESIGNED FOR THE RESPECTIVE COUNTRY CONTEXT. HOWEVER, THEY COULD BE REPLICATED IN OTHER COUNTRIES, CONSIDERING THE FOLLOWING MAJOR REQUIREMENTS:**



- **Willingness of the private sector or private sector associations** to participate in projects is crucial.
  - **Clear communication to investors of potential benefits** in participating in project activities (capacity development, knowledge transfer, long-term sustainability, improved business operation, lower costs in long term, sustainability, etc.).
  - **Capacity development of all target groups;** government, investors and communities on RAI, awareness raising.
  - **Early involvement of the three stakeholder groups** in the development of information and training materials strengthens the ownership and uptake of materials by counterparts and other agencies.
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# Further information



## VGGT:

➤ <https://www.fao.org/3/i2801e/i2801e.pdf>

## CFS-RAI:

➤ <https://www.fao.org/3/au866e/au866e.pdf>

## LAOS:

➤ MSD 2021: [Laos National MSD2021 material](#)

➤ MSD 2022: [Laos National MSD2022 material](#)

Information on the project:

➤ <https://landportal.org/community/projects/responsible-land-policy-laos>

## ETHIOPIA:

➤ MSD 2021: [20211222\\_Proceedings\\_MSD\\_Gambella\\_FNL.pdf](#)

➤ MSD 2022: [20220902\\_Proceedings\\_MSD\\_02\\_Bahir\\_Dar\\_FINAL.pdf](#)

➤ <https://landportal.org/blog-post/2022/10spillover-effect-brought-big-smiles-rural-women>



## UGANDA:

Investment compliance monitoring tool:

➤ <https://land-in-uganda.org/practical-guidebook/>

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