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ACHIEVING RESPONSIBLE LAND-BASED INVESTMENTS:

A MANUAL FOR COMMUNITIES

Implemented by

giz Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

MINISTRY OF AGRICULTURE

People Democratic Republic, Ministry of Planning and Investment

THE REPUBLIC OF UGANDA
MINISTRY OF LANDS, HOUSING AND URBAN DEVELOPMENT

Contents

List of abbreviations

CBO	Community-based Organisation
CCSI	Columbia Center on Sustainable Investment
CDA	Community Development Agreement
CFS	Committee on World Food Security
CFS-RAI	Principles for Responsible Investment in Agriculture and Food Systems
CSO	Civil Society Organization
ESIA	Environmental and Social Impact Assessment
ESMP	Environmental and Social Management Plan
FAO	Food and Agriculture Organization of the United Nations
FPIC	Free, Prior and Informed Consent
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH
MOU	Memorandum of Understanding
MSP	Multi-stakeholder Platform
NGO	Non-governmental Organization
OECD	Organisation for Economic Cooperation and Development
USAID	United States Agency for International Development
VGGT	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security
WB	World Bank

Preface

Access to and secured long-term use rights of land are essential conditions for rural development, food production and security as well as social peace. The distribution and use of land is connected to other thematic areas targeted in the Sustainable Development Goals like the achievement of SDG 5 gender equality and the implementation of human rights. As land is a limited resource, its distribution is often disputed between a variety of actors. The competition for land may further be aggravated by commercial agriculture and forestry investments. Such investments are often intended to generate value, providing positive impacts for the overall economy via land revenues and taxes, but also for the local communities in terms of livelihood improvement, job opportunities and transfer of know-how. However, if investments do not follow internationally agreed principles and guidelines, they run a high risk of having negative consequences on communities and the environment. Investments may lead to land-use disputes, expropriation, and displacement as well as environmental degradation, worsening the socio-economic situation of already disadvantaged groups.

Population growth, climate change as well as global supply chain disruptions for agricultural inputs and staples caused by the war in Ukraine are some of the drivers of the current downward spiral for food insecurity, poverty and hunger. Investments in land, when committed in a sustainable manner – considering ecological responsibility, social equity, and economic performance – contribute to tackling these challenges. To ensure that investments in land not only generate profit for the investors, but also for other actors, certain aspects must be considered when designing sustainable and profitable investments in land.

This is where the project *Promoting Responsible Governance of Investments in Land* (RGIL), commissioned by the European Union and German Federal Ministry for Economic Cooperation and Development (BMZ) comes in. Implemented by GIZ in Ethiopia, Laos and Uganda, the project aims to ensure that investments in land are productive, contribute to sustainable land management and respect the rights and needs of local populations, in particular vulnerable groups and women. RGIL works together with target communities, political partners and investors as well asCivil Society Organisations, academia and investor associations on the implementation of good land governance based on international principles such as the VGGTsand the CFS' Principles on Responsible Agricultural Investment (RAI).

In this series of guides and manuals, specific information relevant for the different stakeholder groups has been collected to make them accessible und useable to improve the practices in commercial agricultural and forestry investments on a large scale.

The guides and manuals were developed and validated in a participatory and iterative process with the stakeholders, after assessing the actual needs regarding capacity development and analysing existing international and national guidelines, regulations and training material. They combine important elements from existing products and trainings, and apply them specifically to the process of large-scale land based investments and in relation to identified problems in the three countries. The various guides and manuals complement each other thematically and can be used both as individual products and as a complete toolkit in the respective country-specific context.

This manual aims to provide practical guidance on how communities can prepare for and decide whether to support investments and is meant to be used along with the *Introductory Guide for Communities, Governments and Investors*. It has been written for all three RGIL countries, hoping that it will also be useful for other countries.

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Responsible Governance of Investments in Land (RGIL)

I. Introduction

Land-based investments in agriculture and forestry can have a number of beneficial impacts for the people where investments are made, such as enhancing food security, creating employment, improving natural resource management, sharing technology, upgrading infrastructure, providing better access to markets and contributing to overall sustainable development. If not done responsibly, however, these investments can harm affected communities by, for example, dispossessing people of their land, causing food insecurity, disempowering women and youth, damaging the environment or creating unsafe working conditions (FAO 2015; WB 2017 Note 1).

Therefore, deciding whether to support an investment on their land is one of the most important decisions a community can make. This manual provides practical guidance for communities and the organizations that support them to prepare for and respond to land-based investments — be they concessions, leases, contract farming arrangements or otherwise — in a way that maximizes benefits and minimizes risks.

In this manual, "communities" includes the people living in and around areas where land-based investments are made. They have a huge stake in whether the investments are made responsibly. The affected community consists of many groups, not all of which will have similar interests, experience significant impacts or play similar roles. These groups may include or be represented by:

- Civil society organizations, including legal advocacy organizations, which support communities.
- Small-scale producer's organizations and other rural organizations that work with farmers.
- Indigenous peoples and marginalized or vulnerable groups such as women, youth, pastoralists and the elderly and any associations or organizations that may represent them.
- Worker's organizations.
- Local government leaders, local elites and traditional leaders.
- Religious groups

Communities play an important role in connection with individual investments. As explained in this manual, they should actively engage with the investor, government officials and civil society organizations during the entire investment cycle. To do this successfully, communities should prepare by first developing institutional structures, processes, strategies and skills that they can use to participate and make decisions in an inclusive way and that enhances the likelihood that only responsible investments will be developed in their area (CFS-RAI; Landesa 2021a). How to do that is the primary focus of this manual.

This manual is meant to be used along with "Responsible Investments in Land: An Overview" (the "Overview"). That guide contains a detailed description of the potential benefits and harm from land-based investments, the basic principles of responsible investments and a discussion of the roles and responsibilities of other stakeholders — investors and governments. However, for those who may not have immediate access to the Overview, this manual begins with a brief summary of the generally accepted meaning and elements of a responsible land-based investment.

Guide

AN INTRODUCTORY GUIDE TO RESPONSIBLE LAND-BASED INVESTMENT FOR COMMUNITIES, GOVERNMENT AND INVESTORS

The Community Manual

Responsible Land-Based Investment: How Communities Can Prepare for and Decide Whether to Support Investments.

The Investors Manual

Incorporating Responsible Land-Based Investment Principles into Investor Policies and Practices.

The Government Manual

Promoting, Facilitating and Regulating Responsible Land-Based Investment: A Manual for Governments.

II. What Is Responsible Investment? A Brief Summary

As explained in the Overview, there is no single universally accepted definition of "responsible investment." The principles underlying a responsible land-based investment in agriculture and forestry are derived primarily from two international instruments: (1) the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT); and (2) the Principles for Responsible Investment in Agriculture and Food Systems (CFS-RAI).

Recognizing that responsible investment is essential for enhancing food security and nutrition, the CFS-RAI Principles provide a useful definition of a "responsible investment":

> "Responsible investment…requires respecting, protecting and promoting human rights, including the progressive realization of the right to adequate food in the context of national food security in line with… relevant international human rights instruments" (CFS-RAI, para 3).

The VGGT add the following directions for investors:

- "Responsible investment should do no harm, safeguard against dispossession of legitimate tenure rights holders and environmental damage, and should respect human rights." (Paragraph 12.4)
- Investors "have the responsibility to respect national law and legislation and recognize and respect tenure rights of others and the rule of law." (Paragraph 12.12)

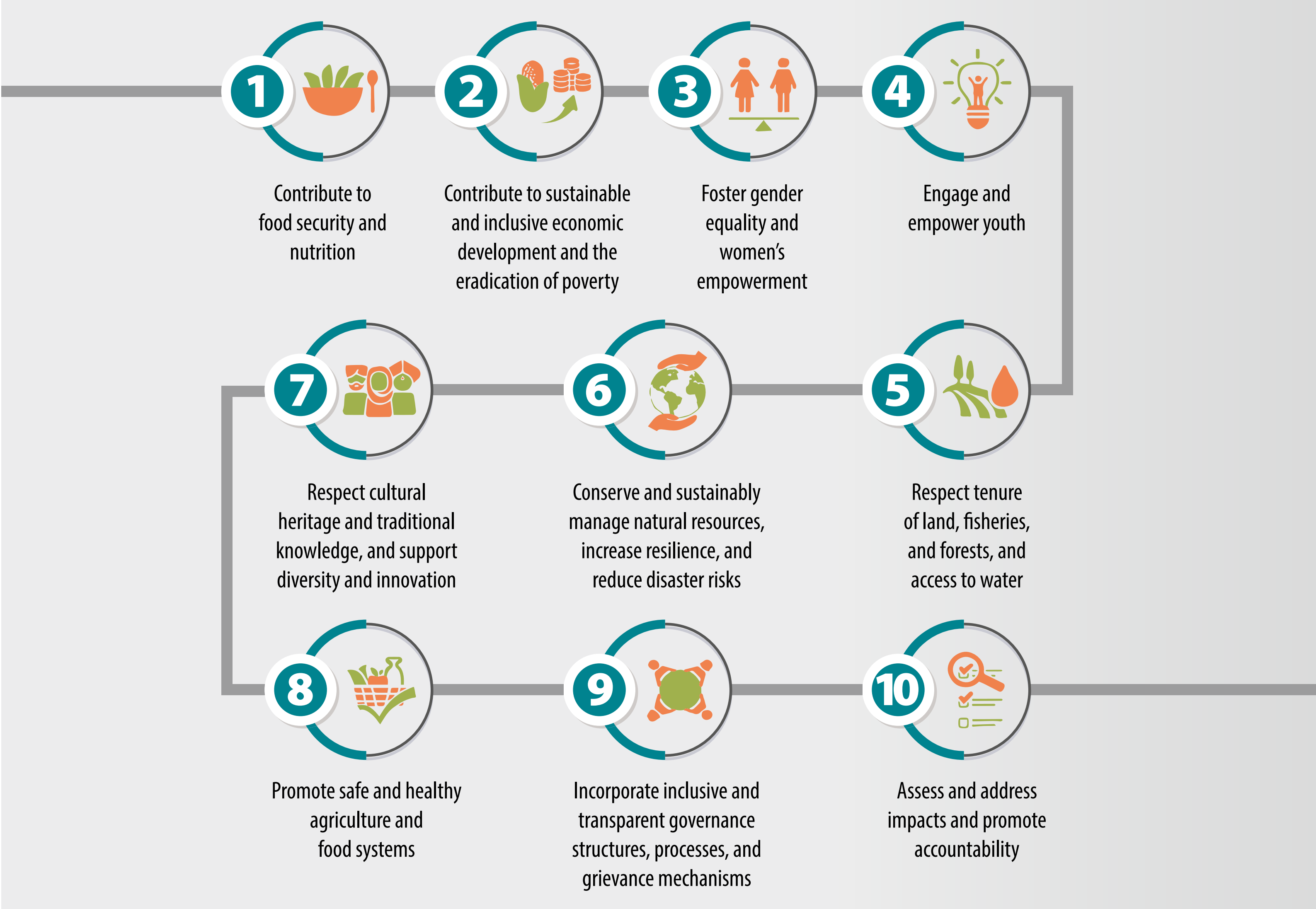


Figure 1: The CFS-RAI Principles[1]

Through 10 broad principles, the CFS-RAI encompass the entire range of activities involved in the production, processing, marketing, retail, consumption, and disposal of agricultural and food products. (See Figure 1). Together the two instruments (VGGT and CFS-RAI) serve as a framework to guide the actions of all stakeholders engaged in agriculture and food systems by promoting principles and practices that can promote much needed responsible investment, enhance livelihoods, and guard against and mitigate risks to food security and nutrition.

The VGGT and CFS-RAI, together with other guidance and experience to date have generated an understanding of the essential elements of a responsible land-based investment. Refer to the Overview and Box 1 for more about these elements.

1 Source: FAO 2020.

Box 1: Essential Elements of a Responsible Land-based Investment

- Respect Legitimate Tenure Rights
- Equitable Benefit-sharing
- No Harm to Food Security
- Impact Assessments
- Grievance Mechanisms
- Environmental Sustainability
- Effective Consultation and Participation
- Minimal Large-scale Transfers of Tenure rights
- Respect Human Rights
- Empowerment of Women and Youth
- Transparency and No Corruption
- Monitoring

III. Preparing for Investments Phase

Communities are more likely to benefit from investments if they have adopted governance and decision-making structures to help them make informed decisions that are supported by the entire community.

> Pre-investment planning helps communities to prepare for future investment. … Poorly planned community engagement is at best non-effective; at worst, it can cause conflict and jeopardize livelihoods. When communities are unprepared for investments, they become susceptible to fraud by opportunistic companies and self-interested community members. Disorganized communities may also discourage investments by increasing transaction costs associated with the negotiation of investment agreements.[2]

This section discusses what communities can do, often with help from CSOs, to be as well prepared as possible for proposed land-based investments on their land. It consists of three tasks: (1) developing relationships with non-governmental organizations (NGOs) and others that can provide legal and technical support; (2) establishing structures and processes for how the community will make decisions related to investment; and (3) mapping land rights and land uses (Figure 2).

Figure 2: Preparing for Investment

[2] Deng 2012 at 21.

A. Working with CSOs and NGOs

Many, if not most, communities in regions of the developing world of interest to land-based investors will need help in preparing for and reacting to proposed investments. A well-qualified NGO, legal services organization or perhaps even neighboring communities can provide support in several ways:

- Where existing community governance structures are not well-suited to making decisions about potential investments, an NGO can help the community make necessary changes. This may be especially important if community processes tend to exclude some community members, such as women or youth.
- An NGO can help the community draft by-laws or protocols to guide investment-related activities and decisions.
- Many communities also will need assistance in better understanding their legal rights and the risks and benefits of investments. There are organizations in several countries that make paralegals available can provided needed support in this regard.[3]
- Assistance from an NGO also may be required for the community to carry out a participatory process of mapping all land rights and uses and then preparing a community land use plan.[4]
- An NGO can provide legal and technical advice in relation to negotiating and entering into investment agreements or in the case of disputes arising during project implementation.
- Finally, a community might seek assistance from an NGO when monitoring the investment.

For these and other reasons, it will be in the best interests of many communities to identify one or more qualified NGOs or other institutions to help the community to prepare for investment (Landesa 2021a; CCSI/Namati 1).

Box 2: NGO Support for Communities in Mozambique

In Mozambique, in a pilot project involving the NGO ORAM and the Portucel company, "professional legal support assisted villagers in establishing community land management associations responsible for local land rights management and negotiations with outside investors, clarifying options for legal instruments to govern release of land and distribution of benefits and terms of out-grower contracts, linked to basic business management training and the identification of necessary legal and regulatory reforms to enable equitable management of company–community relations."

Source: Quan and Seigneret 2019 at 10

In some cases, communities can look to investors for help in obtaining the support they need. The investor might help the community to contact qualified organizations that can provide assistance. (See Box 2.) Another option is for the investor to provide funding to an independent third party that can provide legal and/or technical support during negotiations and contracting. However, communities should recognize that the best practice is for the company not to be involved in choosing the third party and refrain from communicating with the advisor (AFD, 2014; New Alliance 2015; FAO 2016; CCSI/Namati 1; CCSI 2016). Another option may be to seek information from a responsible government agency.

3 See, e.g., an example from Uganda described in NIRAS 2021b.

4 See the discussion of mapping land rights below.

B. Community governance and decision-making structures

Legal and cultural differences mean that communities employ a range of governance structures and decision-making processes. Despite these differences, the following guidance should be useful and appropriate for most communities as they consider revising those structures and processes to make them better-suited to responding to proposed investments:

- Conduct a community governance assessment to identify existing structures and processes, evaluate the strengths and weakness of those structures and processes and then make recommendations for change to make them better-suited to dealing with proposed investments. This involves several steps (Figure 3): (1) identifying existing institutions; (2) for each institution, identifying its roles, responsibilities, membership and how members are selected, how it communicates with the broader community and its existing rules; (3) assessing how well each institution currently performs in terms of community governance; (4) developing suggested changes for each institution; and (5) presenting and validating the findings in a community meeting (Landesa 2021a; Landesa 2021b).

Figure 3: Conducting a Community Governance Assessment

- Decision-making about governance and responding to investments must be open and include the participation of every member of the community, including women, men, elders, youth, seasonal land users and others. Everyone should have a real opportunity to participate; leaders should not make these decisions independently. Strategies to achieve community-wide participation include: (1) tasking leaders of segments of the community, such as women and youth, to mobilize those they lead to become informed and participate; (2) organizing separate meetings for women, youth, the elderly, etc.; (3) notifying the community in ways that will maximize awareness of the issues and meeting schedules; (4) scheduling meetings at times and places accessible to all; and (5) taking affirmative steps in meetings to elicit input from all members of the community (CCSI/Namati 1; Deng 2012).
- Through inclusive processes the community should seek to develop a vision of its economic, social and cultural future. This vision can be

developed by posing and answering a variety of important questions. (See Box 3.) Any proposed investment should be consistent with the vision informed by the answers to these and other relevant questions. (CCSI/Namati 1; Landesa 2021a).

Box 3: Questions on the Community's Vision of its Future

- What are the community's development goals and are they consistent with accepting land-based investment?
- Is there land that the community is willing to make available for investment?
- What is the maximum size plot of land the community is willing to lease and for how long? Often it will be in the best interest of the community to avoid leasing out very large tracts for long periods of time as such projects sometimes have proven not to be commercially viable.
- What are the major social, cultural and environmental impacts that are of greatest concern to the community?

- Community decisions concerning investments, including governance and how decisions will be made should be reflected in rules, bylaws or community protocols that reflect a consensus reached on such matters. The bylaws should reflect the following, some of which will be derived from the community's vision: (1) Who will negotiate on behalf of the community? (2) How will the negotiators keep the community informed? (3) How will the community make final decisions on a proposed investment? (4) What types of investment and companies are welcome? (5) What land might be available for investment and for how long? (5) What benefits (jobs, infrastructure, etc.) will the community require from the investor? (6) What rules will be imposed on the investor? (Deng 2012; CCSI/Namati 1).
- If consistent with the by-laws, the community may appoint a committee or other body charged with engaging with investors and representing the community in negotiations. This may be a newly established body or one that fits within the existing community governance structure. Either way, its membership should be representative of all segments of the community, such as women, youth, elders, and other traditionally marginalized or vulnerable groups. This committee may have many different responsibilities, including: (1) working with a CSO to build community awareness of rights related to land-based investments; (2) leading the process of drafting the bylaws (if that has not yet been done); (3) serving as the main point of contact for consultations between the community and the investor; (4) representing the community in negotiating with investors, preferably with outside legal support; (5) keeping the community informed of all matters related to the proposed investment; and (6) approving the terms of any final agreement with the investor (Landesa 2021a).

- Any community, family or individual that decides that it may be willing to make some of its land available for investment should undertake a process to place a monetary value on that land in advance of any potential negotiations. While communities understand the intrinsic value of their land, they may not know the financial value and potentially undervalue it in an agreement with an investor. This may be especially true when it comes to the value of common-property resources, such as forests and grazing lands that are hugely valuable to communities as the source of herbal medicines, firewood and wild fruits and nuts. Determining market value of land before an investor arrives increases bargaining power and better prepares the community for negotiations. Here, too, an NGO or technical advisor can help (CCSI/Namati 1).

- Communities should determine in advance how investment-related revenues will be allocated and managed. This requires developing and agreeing upon a basic set of structures and procedures for managing income and expenses. Some communities already may have financial management procedures in place that are suitable for managing investment revenue, but others may need to develop new procedures. Failing to do so may cause even well-meaning community leaders to waste investment revenue or, worse, take the money for their personal use (Deng 2012).

Many communities may find it challenging to carry out the foregoing tasks due to internal differences regarding interests and priorities. This illustrates once again the crucial importance of bringing in a trusted CSO to act as a facilitator or resource partner in such cases. Note, too, that undertaking these processes and activities can empower communities more generally and improve social cohesion.

C. Mapping land rights and land uses

In many settings official government land records are not up to date or do not accurately reflect all legitimate tenure rights, especially customary rights that may not be documented but are considered to be socially legitimate in the community. Seasonal uses, such as in the case of pastoralists or for those who collect non-timber forest products, also are often not documented anywhere.

Box 4: Participatory Land Mapping in Sierra Leone

"**Welthungerhilfe (WHH) sought to develop a community-based cocoa development project and developed a methodology for a land tenure and participatory land use assessment.** The project undertook participatory sketch mapping of multiple land claims and uses on land held by several different land-holding families and subsequently made digital maps of village municipal land, areas held by land-owning families, various forms of land use, and of specific areas used by men and women, areas to be reserved for expansion of settlement and food production, areas of high conservation value and those available for commercial crop development. The process served to adjust and confirm availability of land areas initially identified for release to the business partner, taking account of communities' ongoing land use needs."

Source: Quan and Seigneret 2019 at 8

A land-based investment should not infringe upon these rights and uses. To help to avoid this, a community can undertake a participatory mapping process where everyone has the chance to provide input into and agree upon a map that sets out all rights and uses. Here, too, an experienced CSO or an independent technical advisor can provide support. (See Box 4.) Depending on the circumstances, the investment committee might be charged with leading the mapping process. Whichever body takes on this task, it should coordinate with local government both to gather land rights documentation it may have and to inform it that the mapping is to occur. The mapping process should be gender-sensitive and offer a way to resolve existing land disputes. Ultimately, the final map must be validated by the entire community. See Box 5 for a sample of the information that could be included in the final map.

Once the mapping is completed the community can move on to developing a community land use plan that, among other things, can identify land that might be made available for investment. Here, too, it is advantageous to the community to complete this process before an investor arrives (and ensure that the map is fully up-to-date) so that decisions about making particular land areas available need not be made in haste. (Landesa 2021a; CCSI/Namati 1).

Box 5: Potential Content of a Participatory Land Rights Map

- The outside boundaries of each village or community;
- Any overlapping claims including protected areas or wildlife/conservation zones, watersheds, government forests, forest or mining concessions;
- The proposed project boundary;
- Current ownership of the land (including common areas);
- Current occupancy and/or use of the land (this is often different from ownership);
- Whether land is being leased or otherwise allocated to third parties;
- Natural boundaries, such as rivers;
- Location of common natural resources (e.g., hunting areas, forests, rivers, pastures);
- What uses the land is most suitable for (this may require more sophisticated equipment and the use of experts);
- Current land-related disputes (both between and within communities);
- Man-made improvements (e.g., roads, bridges, irrigation systems);
- Sacred, historic, or spiritual sites;
- Livestock corridors or other areas used by transhumant groups; and
- Any other private sector operations in the area or areas directly contiguous; also consider activities upstream that may affect water availability in the project site.

Source: USAID 2015 at 33-34

IV. The Investment Phase

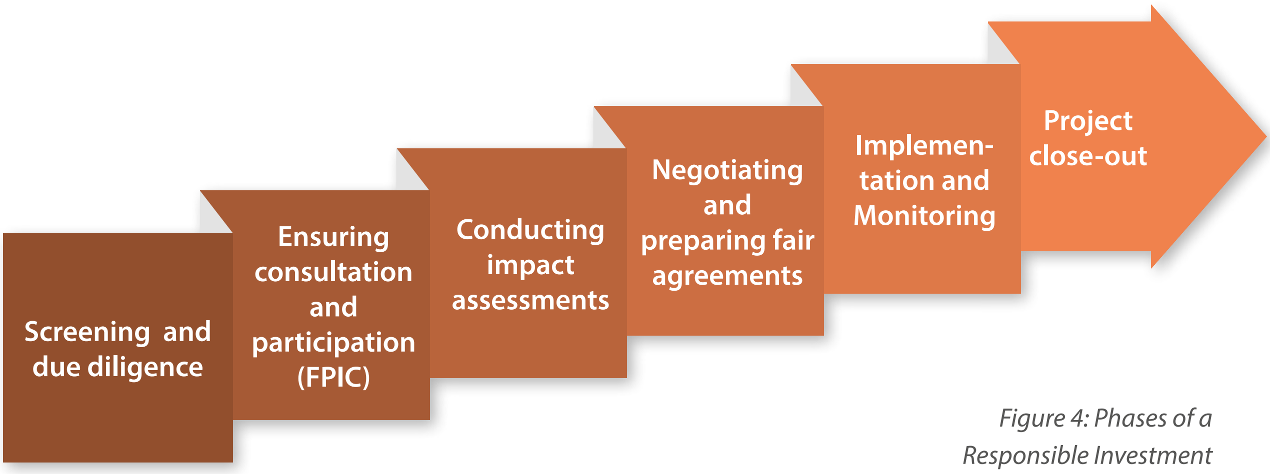


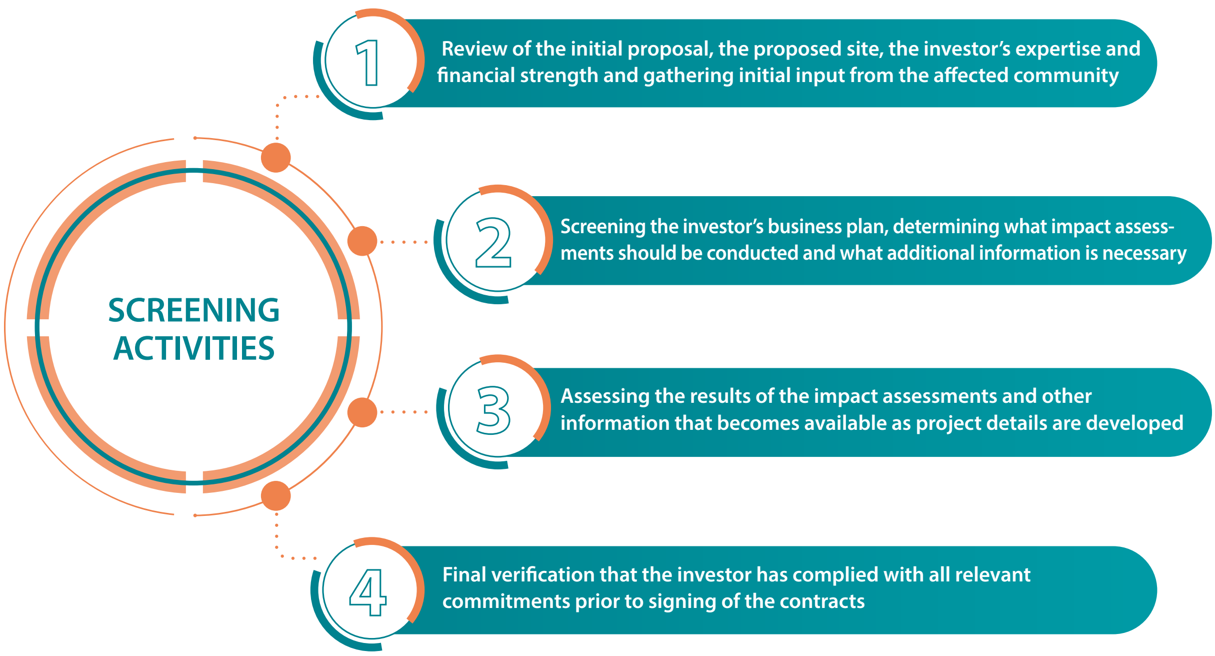
Figure 4: Phases of a Responsible Investment

Communities that developed their community governance and decision-making processes, mapped their land rights and developed a land use plan should be reasonably well-prepared to respond to a proposed investment. The investment process involves assessing, developing, negotiating and, if there is an agreement, implementing the investment. Thus, in this section, we break the process down into the following broad activities: (1) screening; (2) community engagement; (3) impact assessments; (4) developing an equitable agreement; (5) implementing and monitoring the project; and (6) closing out the project (Figure 4). Note, however, that these phases do not proceed in a linear fashion. For example, the investor should engage with the affected community throughout the entire project cycle.

A. Screening

Once the community becomes aware that an investor is interested in its land, the community should seek to learn as much as possible about the investor and the proposed project. The screening process enables the community to gather the information they need to understand and evaluate a potential investment and ultimately determine whether it should proceed, and if so, under what conditions. In most cases the community should obtain assistance from legal and technical advisors in doing so. Laws in some countries may require investors to provide relevant information.

Screening activities should continue throughout all of the investment process leading up to a final agreement, if any. Thus, they involve (1) review of the initial proposal, the proposed site, the investor's expertise and financial strength and gathering initial input from the affected community; (2) screening the investor's business plan, determining what impact assessments should be conducted and what additional information is necessary; (3) assessing the results of the impact assessments and other information that becomes available as project details are developed; and (4) final verification that the investor has complied with all relevant commitments prior to signing of the contracts (UNIDROIT/IFAD 2021).



Box 6: Screening Questions for the Investor

- Whether the company has demonstrated a commitment to sustainable development and to operating investments in compliance with applicable laws and standards of responsible business conduct.
- Whether the company has the necessary experience and expertise to undertake the type of project they are proposing.
- How the company would finance this project and whether they can demonstrate adequate resources.
- Does the investor have contingency plans if they have insufficient capital to fund the investment, if their financial projections are optimistic, or if they run into unexpected financial or operational challenges?
- Details about who owns and manages the investor company so that the corporate structure is transparent and traceable.
- The company's reputation or track record with respect to ongoing or past investments, especially with investments in your country and region. E.g., what is the track record with human rights and tenure rights violations?

Sources: FAO 2015; WB 2017 Notes 6 and 7; CCSI/FAO 2022

The inquiry should seek all relevant information about the potential project, including documents such as the investor's feasibility study, business plan, contract with the government (if any), environmental and social impact scoping reports (comprehensive ESIAs normally are prepared later in the investment process) and materials describing the investor's sources of funding and operational track record. See Box 6 for a list of the questions the community should ask about the investor and Box 7 for questions about the investment proposal.

Box 7: Key Information to Obtain when Screening the Investment Proposal

- Details about the business model and plan with a view to ascertaining whether what is proposed is feasible and likely to yield the anticipated and desired outcomes.
- Is the proposed business model inclusive? If not, have alternatives, such as joint ventures or outgrower schemes been explored?
- How does the investor plan to consult with affected rights-holders and comply with FPIC?
- What are the likely environmental and socio-economic impacts of the project, particularly for the local community?
- Whether the proposed project is designed and would be implemented to integrate climate change considerations.
- The expected contribution to safe and healthy agriculture and food systems, food security, and nutrition.
- The expected contribution to gender equality and economically empowering women and youth.
- How the investor plans to monitor and evaluate the project during its implementation and close it after the project has concluded.
- The expected contribution to national development objectives and (more generally) to poverty eradication and sustainable development.
- Whether the proposed site is suitable for the proposed project, considering potential impacts on legitimate tenure rights holders.
- What types of training and employment opportunities would the project bring?

Sources: FAO 2015; WB 2017 Notes 6 and 7; CCSI/FAO 2022

Information obtained through screening is essential for a community to be able to understand the potential positive and negative impacts of a project, engage in consultations and negotiations with the investor and, ultimately, decide whether to agree to the project. Note, however, that not all relevant information will be available in the early stages of the project. More will become known as the project proposal is developed. Thus, it is important that the community continue to engage in screening and due diligence as the proposed project takes shape (FAO 2015; CSI/Namati 1; Landesa 2021a).

B. Community engagement

Investors and communities communicate with each other through a process of consultations. As explained in the Overview (section II(B) and elsewhere), effective consultation and participation are core requirements for any responsible land-based investment and communities should insist that no investment proceed without their FPIC (see Box 8). This is because good communication can develop and sustain strong working relationships between the two. On the other hand, ineffective consultations can build local resentment that prompts communities to oppose an investment and may lead to conflict between the community and the investor (Deng 2012, FAO 2016; Landesa 2021a).

Box 8: Free, Prior and Informed Consent (FPIC)

Derived from international law, this principle states that any investment affecting the land or resources of indigenous peoples should not proceed without the free, prior and informed consent (FPIC) of those affected by the proposed project or investment. It gives indigenous communities a veto – the right to say no – to a project being implemented in their territory. This power may extend over the lifetime of the project if the nature or scope of the investment changes over time. The four elements can be summarized as follows:

Free. Those deciding whether to consent to a project should do so without coercion, intimidation or manipulation.

Prior. Consent must be sought well before any authorization or the beginning of project activities. The timetable must allow sufficient time for culturally appropriate consultation and for completion of local decision-making processes.

Informed. People receive all relevant information about the project. The information provided must be objective, accurate and presented in a manner or form that is understandable to those receiving it.

Consent. The people have agreed to the activity that will take place on their land. The right to consent includes the right to say no to the project or to offer to consent only under certain conditions.

While international law and the VGGT explicitly call for FPIC only where indigenous peoples are involved, emerging best practices provide that the most prudent risk management approach for investors (and governments) is to insist on FPIC in all cases. There is a strong case for using it in any situation where an investor requires land where there is a local population living and working.

Source: FAO 2014; Quan and Seigneret 2019

In many settings, governments also may be involved in consultations, either as a facilitator or an active party where the government is making community land available to the investor. Thus, the community must be prepared to engage with government institutions as part of the consultation process. As explained in section IV(B) of the Government Manual, government should seek to facilitate effective communications amongst everyone involve and should itself follow the best practices described below where it is more directly involved in the investment as the party acquiring the land. Here, again, communities may require assistance from a trusted NGO.

Consultations between investors and communities should begin in the very earliest stages of the investment process and continue throughout the project lifecycle. While a detailed discussion of how to consult is beyond the scope of this manual, the community should both follow and ensure that the investor follows these best practices:

- Agree on a consultation process for working towards seeking FPIC. This crucial step, which is sometimes ignored, should identify the specific current and future activities where consent should be sought, where and how the meetings will be held and who will represent each party. In some cases, it might be appropriate to commit to this process through a formal agreement. The process should always be based on good faith negotiation free of coercion, intimidation, or manipulation.

- Begin consultations as early as possible during project planning and well before activities for which consent should be sought are commenced or are authorized.
- Develop and implement a stakeholder consultation plan (see Box 9.) tailored to the risks, impacts and development stage of the operations and to the characteristics and interests of affected communities.

Box 9: Content of Stakeholder Consultation Plan

- Purpose of the consultation – Present the strategic reasons for consulting with affected communities at the particular phase of the project.
- Requirements for the consultation – List the requirements that the consultations are seeking to satisfy. Discuss the terms of community protocols, if they exist.
- Communities who will be affected – Identify the affected communities and discuss their interests.
- Priority issues – Discuss special measures that need to be adopted with respect to high-risk groups.
- Techniques to be used – Discuss the forms of participation that are best suited to the various groups. Consider use of customary communication methods.
- Roles and responsibilities – List who within the company is responsible for what activities.
- Approach to documentation – Describe how will the results be documented.

Source: Deng 2012 at 29

- Consult and agree on what constitutes appropriate consent for each community group in accordance with their governance institutions, customary laws and practices with groups participating through their own freely chosen representatives and institutions.
- Include appropriate measures to allow effective participation of disadvantaged and marginalized groups (e.g., women, youth, and those who are landless, disabled or elderly) in the consultation process. Such measures may include separate meetings for each group.
- Recognize the process of seeking FPIC is ongoing rather than a one-off discussion. This means that there should be continuous dialogue throughout the investment and implementation cycle.
- The investor must provide all information relating to the activity to the community in a manner that is timely, objective, accurate and understandable to them. Consultations should be conducted in the local language and in keeping with the cultural norms of the community.
- Communities should document in writing or by audio or video recording the substance of all interactions with the investor.
- The parties should document in writing all commitments and agreements that have been reached and share them with the affected community in a form and language they can understand and in a timely manner.
- The investment committee or other body created in the pre-investment phase can represent the community in communications with the investor. It should have a membership that reflects the

diversity of the community, as noted above, and follow any and all rules established to guide internal community deliberations and keep the broader community informed of the content of discussions with the investor (CCSI/Namati 1; FAO 2016; Landesa 2021a). See Box 10 for an example of a productive collaboration in Sierra Leone between the investor, an NGO and the community.

Box 10: Effective Investor/NGO Collaboration on Consultations

"**In Sierra Leone,** for an oil palm development, **Solidaridad** established rules for in-depth consultation processes, combining meetings at village level, with meetings with the elders of land-holding families, with extended family members, and specifically with women and youth. In collaboration with business partner NHSL, Solidaridad also established a **multi-stakeholder platform** (MSP) to bring together all affected communities, chieftaincy authorities, landowners organisations – for and against the project, women's, youth and religious organisations, local government and other stakeholders.... The MSP proved to be effective as a mechanism for consultation, enabling negotiation of a new lease agreement with the company for an area considerably smaller than the original huge Chieftaincy-wide concessions that the Chieftaincy Council had previously agreed to. The platform also made women's rights and interests in land publicly visible, and enabled women to pay an active role in brokering agreements within and between land-holding families about how to proceed."

Source: Quan and Seigneret 2019 at page 9

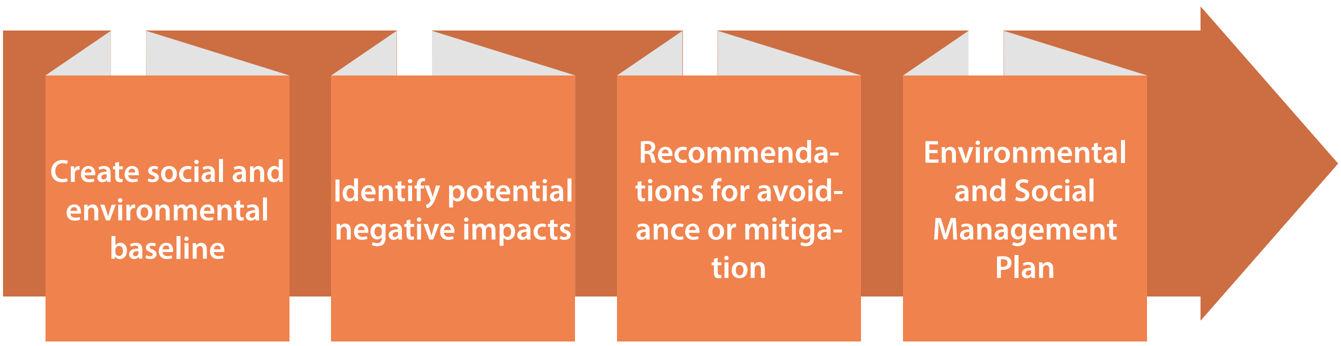


Figure 5: Steps in an ESIA

C. Impact assessments

Land-based investments undoubtedly will have an impact on the community, both positive and negative. As discussed in section II(B) of the Overview, responsible investors should conduct ESIAs as a way to avoid negative impacts on human rights, legitimate tenure rights, food security, livelihoods, the local culture and the environment, all on a gender-disaggregated basis. The results of an independent ESIA, conducted by a neutral and well-qualified outside expert, help the community assess the project proposals and identify needed changes, especially ways to mitigate potential harm.

There are four steps in preparing an ESIA (Figure 5): (1) measuring existing social and environmental conditions using both quantitative and qualitative methods to create a baseline picture of local conditions that will later be used in monitoring the investment if it proceeds; (2) identification of potential negative impacts on the factors listed above, together with an assessment of the severity of the impact; (3) recommendations for how to avoid or minimize the negative impacts; and (4) preparation of an environmental and social management plan (ESMP) describing what the investor must do to avoid or mitigate the negative impacts (CCSI/Namati 2; OECD/FAO 2016; Landesa 2021).

Box 11: Content for Environmental and Social Management Plans

"An ESMP needs to be placed within the environmental and social context identified in the ESIA, and each ESMP is case specific. Although not all topics listed are always relevant to all ESMPs, a proper ESMP should consider the following, at a minimum:

1. Assessment and management of environmental and social risks and impacts
2. Labor and working conditions—decent work and gender
3. Resource use efficiency
4. Pollution prevention and management
5. Community health and safety
6. Biodiversity, ecosystems and habitat conservation, and sustainable management of living natural resources
7. Indigenous peoples and traditional local communities
8. Cultural heritage
9. Land acquisition, restrictions on land use, and involuntary resettlement
10. Land rights, resettlement, and displacement
11. Financial intermediaries' need for reports on compliance
12. Stakeholder engagement and information disclosure"

Source: WB 2017 Note 14 at 2

One of the roles of the community's investment committee is to monitor whether the investor commissions this independent ESIA. Representatives of the community can and should play an important role in providing information for the ESIA in community meetings or perhaps via the investment committee. They can help the assessment team to identify potential impacts and ways to eliminate or minimize harm through measures the community will find beneficial and culturally appropriate. One way or another, the community should have the opportunity to provide input into the content of the final report and the ESMP. (See Box 11.) Investment committee members likely will also engage with representatives of the responsible government environmental management institution, which ideally will effectively carry out its duty to ensure that the investor complies with all environmental laws and regulations. NGOs identified in the pre-investment phase can support the communities in interacting with the expert assessor and the government agency charged with ensuring that the results of ESIAs meet legal requirements (Landesa 2021a; Deng 2012; FAO 2016).

ESIAs must be conducted before negotiations begin and certainly before any final decisions are made, or any agreement is signed as the purpose of the impact assessment is the identification of potential negative and positive impacts of an investment. This is essential information for the community as it decides whether to agree to the project. The findings should be incorporated into the design of the project. The government is likely to make compliance with the assessment's recommendations on how to prevent and mitigate risks and improve the overall impacts of the investment a condition for approval of the project. In addition, the ESMP is likely to be incorporated into the investment agreement (FAO 2016; WB 2017 Note 14; CCSI/Namati 2).

As noted above, data gathered for the ESIA should be used later as part of the monitoring process (see below). The community also should play a role in gathering the information required as part of the monitoring process just as it should do with regard to the ESIA.

D. Negotiating with the Investor and Developing an Equitable Agreement

Negotiations. If the investor, the community and other stakeholders (in many cases, the government) reach general agreement through the consultations process that a project may be acceptable, the parties can enter into negotiations that, if successful, will lead to a final written agreement. The goal of the negotiations should be to reach an agreement on the various rights and obligations of the parties, how they will communicate and give notice to each other, mechanisms for monitoring compliance and how to handle complaints and resolve disputes (UNIDROIT/IFAD 2021).

It may be advisable for the community and the investor to enter into a memorandum of understanding (MOU) to guide the negotiations. The MOU should state, among other things, that: the parties intend to negotiate in good faith in an attempt to reach an agreement; how the parties will consult, be inclusive and determine whether consent has been given; and other terms that will govern the negotiations (Landesa 2021a). This and all documents related to an ultimate agreement should be in the local language. See Box 12 for other content that could be found in an MOU.

Box 12: Content of a Memorandum of Understanding

- Detailed description and timeline of the proposed negotiation, consultation and drafting process
- List of key stakeholders who will be included, along with their roles, rights and responsibilities
- Description of any professional, financial or legal support that the company will provide to the community during the contracting process
- Shared objectives between the company and community
- Description of the role of government authorities, if any, in the negotiation, consultation and drafting process
- Description of the engagement and consultation process that the company will undertake with the community and individual women and men land holders and users
- Clearly defined process for dispute resolution, which most likely will require a third party

Source: Landesa 2021a at 44

In some countries, especially those where the government is the legal owner of the land, the community may lack the legal authority to sell or lease their land to an investor. One such country is Ethiopia, where the Ethiopian Constitution[5] states that land is owned by the state and farmers and citizens have the right to use but cannot transfer their land. In such cases, the land lease contract may be between the government and the investor but the community, especially legitimate tenure rights holders whose land will be affected, must be included in negotiations. (The community can be an actual party to other agreements, such as a Community Development Agreement or a stakeholder consultation plan.) Where the government has the legal authority to transfer rights to land, the MOU between the community and the investor can require the investor to obtain FPIC from the community related to any transfer of land.

The community should insist that negotiations be transparent and consistent with the principles of effective consultation and FPIC. The community and the investor should generally agree on the location, language, and timing for meetings and the overall timeframe must be guided by respect for the community's decision-making practices. The community may be represented by the investment committee team, or another team formed specifically to negotiate with the investor. The membership of this team and its actions should be in line with decisions made in the pre-investment phase. All participants should have legal representation (UNIDROIT/IFAD 2021; Landesa 2021a).

Content of the Final Agreement. As explained in the Overview, the final agreement may be contained in a single comprehensive government approval or agreement document, or in some settings it may consist of many individual contracts or other documents.[6] Whatever documentary form the final agreement takes, a number of important topics should be covered by one or more contracts. Depending on the circumstances, the final agreement or collection of agreements may cover (FAO 2015; FAO 2016):

- Land concession, lease or sale
- Payment for loss or transfer of tenure rights (if not covered by the lease or sale document)
- Community Development Agreement describing benefits the investor will provide to the community (see Box 13.)
- Stakeholder consultation plan
- Partnerships with local suppliers of goods and services required by the investment
- Monitoring plan
- Dispute resolution and grievance mechanisms
- Project close-out

5 Ethiopian Constitution, Proclamation No. 456/2005 and Proclamation No. 1161/2019.

6 Investors also are likely to be required to obtain or produce various other documents, licenses and permits to operate legally in the country.

Box 13: Community Development Agreements

A community development agreement (CDA), sometimes referred to as a "community benefit and impact agreement," is an agreement typically among an investor, the affected community and sometimes the government aimed at ensuring that communities share in the value-added created by a large-scale investment and are not harmed by it. A CDA should facilitate the delivery of tangible benefits to affected communities and individuals by detailing how the benefits of an investment project are intended to be shared with local communities and how negative impacts will be avoided. While CDAs are becoming more common, it is rare for CDAs to be legally required in the context of a large-scale agricultural investment. But many countries require them for investments in mining and sometimes forestry.

Even when not required, responsible investors are increasingly entering into CDAs on a regular basis. Companies see them as important tools for building trust, enhancing community relations, and reducing tensions while contributing to socioeconomic development through shared value.

Investors sometimes provide or promise to provide affected communities with infrastructure—roads, schools, clinics, electric power, wells, etc.—or support for provision of social goods such as scholarships, jobs and training. It is important to note in this context that communities should not expect investors to replace the government in this regard as that is not sustainable over the long term and not all investor promises are kept.

In order to manage community expectations, the investor's promises to provide benefits should be clearly stated in writing and, of course, the investor must follow through on those promises. Government can encourage investors and communities to enter into and comply with these agreements.

Sources: WB 2017 Note 18; CCSI 2016

Community members should pay special attention to whether the final agreement respects and even strengthens the land rights of women in the community. As explained in the Overview, it is often difficult for women to assert their rights due to cultural practices and other factors that undermine laws requiring equal treatment of women — including laws governing land rights and employment. Land-based investments that ignore these impediments can worsen the plight of women in the affected community as dispossession of land can affect women differently from men, and in some cases might increase burdens on women. This can happen if women lose access to productive resources that they relied on for family nutrition or income-generation, or by requiring them to go farther and spend more time in gathering water, wood, or other resources for the family. Thus, a responsible investment should recognize and respect all legitimate tenure rights, including the tenure rights of women (see Box 14.) (FAO 2015; New Alliance 2015; FAO 2016; WB 2017 Note 11)[7].

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[7] See FAO 2013 for extensive guidance on women and land.

Box 14: Strengthening Women's Land Rights in Uganda

CFS-RAI Principle 3 provides that a responsible investment should foster gender equality and the empowerment of women and the VGGT advises parties to investment contracts to ensure that the "negotiation process should be non-discriminatory and gender-sensitive. In Uganda, Bukonzo Joint Cooperative Union (BJCU), a microfinance and coffee cooperative union in the Western region, has been working to secure joint land rights for its mainly female membership. BJCU helps its members to legally register landownership in the name of husband and wife. It provides assistance during the lengthy and intricate process of registering joint ownership, involving: payments to the sub-county office (for application forms); having at least four neighbours verify the land boundaries; obtaining the signature of traditional chiefs; and having the sub-county land committee inspect the plot of land. The application is then forwarded to the district land office, where additional payment is needed in order to expedite issuance of a certificate. BJCU has succeeded in creating a climate of respect for women's land rights among its membership and their families.

Sources: FAO 2022 and Twin 2016

Dispute and grievance resolution. As noted in the Overview, the investment agreement should contain provisions for timely, affordable and effective means of resolving disputes. In many cases such disputes can be dealt with through a variety of government or community-led dispute-resolution channels at the village, municipal, provincial and national level (FAO 2015; CFS-RAI Principle 9; WB 2017 Note 19).

Box 15: Communities Collaborating with Government and an Investor on a Grievance Mechanism in Laos

"In Laos, the government is responsible for the settlement of land-related grievances that cannot be resolved at village administrative level. In addressing its land dispute, OBL [the investor] worked with the provincial government to establish a new "Provincial Compensation Evaluation Committee" (Provincial decree No. 1089/ 2012). This Committee was a redesign of the Provincial Grievance Committee, to address challenges identified during its operation. The Committee was established as part of OBL implementing a new approach to grievance resolution, allowing the company to play a greater role in resolving the dispute, gaining direct community-company contact, and thereby ensuring the grievance resolution process continued moving forward, as it had become protracted. The Committee comprised provincial and district officials and Outspan representatives whose duties were to work with village authorities to collect detailed data on the areas of land impacted by the investment, evaluate the amount of compensation due and explain to affected families the compensation process."

. . .

OBL's new grievance mechanism provides training for its staff and village representatives on lodging, registering and resolving complaints. OBL aims to solve grievances as quickly as possible, and to do so at the local level directly with the complainant. If the issue cannot be resolved, the complaint is escalated to the CR&S Manager. Communities had a direct contact number for this manager; complaints could also be raised anonymously and in writing. If the issue remains unresolved, the complaint is directed to the formal government processes."

Source: MRLG 2016 at 16

In addition, investors may establish grievance mechanisms that entail a set of procedures for resolving grievances related to the project that may not require a lengthier dispute resolution process. Through such mechanisms communities and investors can resolve complaints before they escalate into serious conflict. Such grievances might arise from inadequate consultation, problems with the land acquisition process, failure to provide agreed-upon community benefits, or complaints by employees. Here, again, any such provision must be freely agreed to by the affected community and jointly managed by the community and the investor. Any mechanism should be culturally appropriate, accessible and lead to equitable decisions (Deng 2012). Box 15 provides an example of a grievance mechanism in Laos.

Compensation for transfers of land rights. An important element for negotiation and the agreement is equitable compensation for land rights that are transferred to the investor. As explained above, communities should try to take it upon themselves to value their land before dealing with an investor to be well-prepared to negotiate. This should include any communal or forest land to which community members may lose access and ensure those individuals are involved in determining the value and receive their fair share of compensation. Valuations of land should be fair, and compensation paid promptly.[8] Frequently, compensation paid only in the form of cash will be inadequate. In such cases communities should seek alternative land and other non-cash compensation. Compensation also should include payments for resettlement and new housing (if necessary) environmental and social harm and other losses. While there is no "one size fits all" formula for compensation, in all cases those being compensated should be better off or at least no worse off than they were before the investment (FAO 2016).

Box 16: Revenue Sharing in Tanzania

"After securing collective land rights for pastoralists and hunter-gatherer groups and developing 15 village land use plans in the Lake Eyasi basin in northern Tanzania, the VSF-B pilot developed a landscape-wide tourism development plan and code of conduct. The project also established a tourism revenue-sharing arrangement with district government and community-based organisations (CBOs) for each indigenous social group in order to safeguard their interests. Project partners and local actors are to establish a multi-stakeholder platform that will involve tourism operators, local government and conservation authorities to manage implementation in an inclusive way." (Note: this is a project by VSF-Belgium (VSF-B), UCRT & Dorobo Safaris Ltd.)

Source: Quan and Seigneret 2019 at 13

Communities and their representatives can push investors to consider collaborative business models that create partnerships with communities that benefits the company and community alike. For example, a viable alternative to acquiring large areas of land is an outgrower scheme, sometimes referred to as contract farming, where a contractual partnership is established between a company and local growers or landholders for the production of a commodity. This approach allows for vertical integration of the production process and enhanced quality control. It reduces the need to acquire rights over large tracts of land. The arrangement usually consists of a small "nucleus" farm owned by the company surrounded by a network of land parcels owned by local smallholders. The smallholders contract to sell their yields

8 See BVVG publication "Initial Valuation Concept for Compensation Purpose" for a discussion of valuation approach options in the Ethiopian context.

to the company, often at discounted prices, in exchange for training, equipment, input supplements, business development services, and assistance with credit and/or financing (USAID 2015). See Boxes 16 and 17 for other examples of collaborative community-investor approaches.[9]

Box 17: An Inclusive Nucleus Farm Arrangement in Ethiopia

Koga Veg is an initiative of Durabilis NV, a Belgian impact investing company with activities in Africa and in Latin America. The company was established near Bahir Dar, Ethiopia to boost rural economic development in Mecha district by supplying a wide range of exotic vegetables for the European market. It operates its own 50-hectare nucleus farm and engages in contract farming with farmer groups in the area with a production potential of 7,000 hectares of arable and irrigated land. The company introduced the farmers to peas and other export crops and provides seeds/ seedlings, technical and ongoing farm management training as a means of increasing farmer income and ultimately improving livelihoods. It has added sugar snap, snow pea, avocado and other vegetables to its capabilities. The farm has created jobs for male and female workers (the majority of employees appear to be women) on different farm activities.

Avocado producers have established a cooperative, enabling the company to communicate efficiently with the farmers via executive body of the cooperative. Koga Veg helped farmers to employ intercropping farming practices with cereal or vegetable crops with young avocado trees that lack a fully closed canopy. Once the tree canopy closes the intercropping activity will cease and the farms will fully transform to perennial avocado fruit production.

Source: Interview with farm and outgrower scheme managers and NIRAS-IP national team field observation, February 2022

E. Implementing and Monitoring the Project

As is true of the entire project cycle, it is critically important for communities to ensure that investors continue to communicate regularly and effectively with the community during project implementation. As noted above, best practice is for the community and the investor to work together early in the project lifecycle to develop a stakeholder consultation plan that guides consultations before and during project operations.

Monitoring. To avoid costly conflicts and otherwise facilitate smooth operation of the project, the community and the investor should also agree to a monitoring plan as part of the final agreement. Monitoring allows parties to land-based investment contracts to determine whether all are complying with their obligations. It also enables them to assess the impacts, both positive and negative, of these investments on the affected community and individuals.

Broadly speaking, monitoring involves collecting a set of qualitative and quantitative indicators to establish a baseline and then periodically collecting data on the same indicators for comparison with the baseline. All or most of the baseline data will have been collected in the ESIA. It is essential to monitor

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9 See BVVG Model Contract on Outgrower Schemes for an example of a contract developed for use in Ethiopia.

and review investments throughout their lifecycle (FAO 2015; FAO 2016; Landesa 2021). See Box 18 for a partial list of what should be monitored, depending on the particular circumstances[10].

Box 18: What Should Be Monitored?

- Compliance with the contractual obligations of all parties, such as:
  - Payments made to the community, individuals or the government pursuant to a land lease.
  - Infrastructure, jobs and other benefits provided to the community based on a CDA.
  - Compliance with a stakeholder consultation plan.
- Environmental, social and other impacts on the community, both positive and negative.
- Operational safety and health of the project.
- The extent to which the project leads to disputes and grievances.
- The investor's adherence to investment incentive performance requirements.

Communities play an important role in monitoring. Monitoring should be carried out in a participatory manner and monitoring methods and indicators should be meaningful to the community. (See Box 19 for an example of indicators that could be used to measure impact on tenure rights.) This means, for example, that representatives of the community should work directly with those who gather information for the monitoring program so that they can provide useful information. It also means that the community and the investor should form and utilize a monitoring committee to provide data and keep the community informed of the impacts of the investment. During the preparation phase the community can decide who will serve on this committee and how they should keep the community informed of the results of monitoring (Deng 2012; Landesa 2021a).

The monitoring plan should describe what will be monitored, and the methods that will be used to collect data, how often data will be collected and by whom. It should set forth mechanisms for community participation, as well as the agreed-upon institutional and funding arrangements. The plan should incorporate obligations set forth in the various contracts that govern the investment, such as leases, CDAs and ESMPs (Deng 2012).

Box 19: Indicators for Measuring Impact on Tenure Rights

- Perceived level of tenure security and threats-improved, unchanged or worsened.
- Increase of land disputes in the project area-number of disputes per year.
- Increase of evictions in the project area-number of evictions per year.
- Access to water-improved, unchanged or worsened.
- Access to other natural resources- improved, unchanged or worsened.
- Degree of landlessness-change in percentage of landless people in the project area.

Source: FAO 2015

10 See, also, BVVG "Monitoring Scheme for Monitoring Large Scale Agricultural Investments in Ethiopia."

F. Closing out the project

It is important not to ignore what happens at the end of the project. Investments may last 5 years or 50 years or more, especially if the contracts are renewed or extended. They might start small and expand over time. Moreover, as land-based investments in agriculture and forestry are risky and do not always succeed the project may terminate before the time specified in the agreement.

For these and other reasons, the community and its advisors should check to see that the investment agreement contains several important terms applicable to the end of the project. As noted in the Overview, these include:

1. Who has ownership or use rights to the land at the end of the project? Does it revert back to the original tenure rights holder, which could be an individual, family, community or the government?
2. Is the investor required to repair or otherwise restore the land to its original condition so that the community can resume use of it? and
3. Who becomes the owner of buildings and other infrastructure established by the investor? Is it the community or the government? These and other questions should be addressed in the investment agreement and addressed when the project ends (UNIDROIT/IFAD 2021; CSI/Namati 2).

VI. Conclusion

Land-based investments in agriculture and forestry can have a significant impact on the communities where investments are made. It is possible or even likely that demand for land may increase based on world events such as climate change or the war in Ukraine which has resulted in another spike in world prices for grains and other staple foods. This will make it even more important for communities to play their key role in ensuring that such investments are implemented responsibly and are beneficial rather than causing harm. They can do so by adopting and implementing the guidance contained in this manual (see the Key Points in Box 20). The ultimate result can be a "win-win" outcome where investments are both socially sustainable and financially successful.

Box 20: SUMMARY OF KEY POINTS

- Deciding whether to support an investment on their land is one of the most important decisions a community can make.
- Communities are more likely to benefit from investments if they have adopted governance and decision-making structures to help them make informed decisions that are supported by the entire community.
- Preparing for investment consists of three tasks: (1) developing relationships with non-governmental organizations (NGOs) and others that can provide legal and technical support; (2) establishing structures and processes for how the community will make decisions related to investment; and (3) mapping land rights and land uses.
- The investment phase involves 6 steps:

    1. **Screening and due diligence.** Once the community becomes aware that an investor is interested in its land, the community should seek to learn as much as possible about the investor and the proposed project.
    2. **Community engagement.** The investment should not proceed without the free, prior and informed consent (FPIC) of the community.
    3. **Impact assessments.** Responsible investors should conduct ESIAs as a way to avoid negative impacts on human rights, legitimate tenure rights, food security, livelihoods, the local culture and the environment, all on a gender-disaggregated basis. Communities should participate in gathering information for the ESIA and in reviewing its results.
    4. **Negotiating an agreement.** If the investor, the community and other stakeholders (in many cases, the government) reach general agreement through the consultations process that a project may be acceptable, the parties can enter into negotiations that, if successful, will lead to a final written agreement.
    5. **Project implementation and monitoring.** Consultations should continue during project implementation. And, to avoid costly conflicts and otherwise facilitate smooth operation of the project, the community and the investor should also abide by a monitoring plan in which each plays a role.
    6. **Project closeout.** The community and its advisors should check to see that the investment agreement contains several important terms applicable to the end of the project, such as whether the land must be restored and to whom the land rights revert.

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The project aims to ensure that investments in land are productive, contribute to sustainable land management, and respect the rights and needs of local populations in particular vulnerable groups and women.
GIZ is responsible for the content of this publication

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