

Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources

Synoptic Version

A discussion note prepared by FAO, IFAD, the UNCTAD Secretariat and
the World Bank Group to contribute to an ongoing global dialogue.

February 22, 2010



Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources

1. Background

Many studies show that investment to increase productivity of owner-operated smallholder agriculture has a very large impact on growth and poverty reduction. The fact that investment to bring about such productivity increases in Africa has historically been only a fraction of what has been spent in Asia-Pacific and LAC countries is often seen as one of the reasons for Africa's lacklustre record in terms of rural growth since the Green Revolution began. Thus any investment—public or private, domestic or foreign—in lower income countries and rural areas that can close this gap is desirable in principle. Nevertheless, while such investments seem to hold the promise of raising productivity and welfare and are consistent with existing strategies for economic development and poverty reduction, it is important to also ensure that they respect the rights of existing users of land, water and other resources, that they protect and improve livelihoods at the household and community level, and that they do no harm to the environment.

A host of factors has recently prompted a sharp increase in investment involving significant use of agricultural land, water, grassland, and forested areas in developing and transition economies. These include the 2008 price spike in food and fuel prices, a desire by countries dependent on food imports to secure food supplies in the face of uncertainty and market volatility, speculation on land and commodity price increases, search for alternative energy sources, and possibly anticipation of payments for carbon sequestration. The range of actors includes agro-enterprises in agri-food, biofuels, and extractive industries, private equity and other financial institutions, government-linked companies including sovereign wealth funds, and individual entrepreneurs.

Private investment in the agricultural sector, including from foreign sources, offers significant potential to complement public resources. Many countries with reasonably functioning markets have derived significant benefits from it in terms of better access to capital, technology and skills, generation of employment, and productivity increases. In addition to establishing farms and plantations themselves, some large investors have managed to achieve broad-based benefits via contract farming, other outgrower arrangements, and joint ventures with local communities. This often involves formulating innovative schemes for sharing both risks and rewards.

On the other hand, where rights are not well defined, governance is weak, or those affected lack voice, there is evidence that such investment can carry considerable risks of different types. Risks include displacement of local populations, undermining or negating of existing rights, increased corruption, reduced food security, environmental damage in the project area and beyond, loss of livelihoods or opportunity for land access by the vulnerable, nutritional deprivation, social polarization and political instability. Moreover, many large farming investments in the past have proven unsuccessful.

To better spread the benefits and balance opportunities with risks in major investment programs, industry initiatives, such as the Extractive Industry Transparency Initiative (EITI), the Equator Principles, and the Santiago Principles, have formulated standards for specific subsectors or investor categories, and many institutions and large enterprises have made efforts at formulating internal codes of their own. Arguably, the magnitude of the present phenomenon and the hazards involved warrant a broader effort to build on ongoing initiatives that involve some mix of guidelines, codes of good or best practice, and perhaps even independently verifiable performance standards coupled with benchmarking. However, the actual application of such systems remains limited and, for land/water-intensive agro-investing, no agreement has been reached yet even by private industry as to whether and how to adopt voluntary self-regulation.

FAO, IFAD, the UNCTAD Secretariat and the World Bank Group have joined together to propose the principles presented below. The document concludes with anticipated next steps, which point toward a toolkit of best practices, guidelines, governance frameworks, and possibly codes of practice by the major sets of private actors.

2. Key principles

RESPECTING LAND AND RESOURCE RIGHTS

Principle 1: *Existing rights to land and associated natural resources are recognized and respected.*

Existing use or ownership rights to land, whether statutory or customary, primary or secondary, formal or informal, group or individual, should be respected. This requires: (i) the identification of all rights holders; (ii) legal recognition of all rights and uses, together with options for their demarcation and registration or recording; (iii) negotiation with land holders/users, based on informed and free choice, in order to identify the types of rights to be transferred and modalities for doing so; (iv) fair and prompt payment for all acquired rights; and (iv) independent avenues for resolving disputes or grievances.

Many investments requiring access to land on a large-scale focus on areas which outsiders consider ‘empty’ or ‘marginal’. Yet it is important to recognize that there are few areas truly ‘unoccupied’ or “unclaimed”, and that frequently land classified as such is, in fact, subject to long-standing rights of use, access and management based on custom. Failure to recognize such rights, including secondary ones, will deprive locals of key resources on which their wealth and livelihoods depend. Lands that have been abandoned by internally displaced persons, or which could be used by them, pose particular challenges: efforts to make land available to investors should not undermine current or future livelihood opportunities for those displaced involuntarily.

Recognition of rights to land and associated natural resources, together with the power to determine their uses, can greatly empower local communities and such recognition should be viewed as a precondition for direct negotiation with investors. Specific attention to the salient rights of herders, women, and indigenous groups that have often been neglected in the past is critical to achieving a fair, inclusive outcome.

ENSURING FOOD SECURITY

Principle 2: *Investments do not jeopardize food security but rather strengthen it.*

Whenever there are potential adverse effects on any aspect of food security (availability, access, utilization or stability), policy-makers should make provisions for the local or directly affected populations such that: (i) continuing access to food is assured; (ii) opportunities for outgrower involvement and off-farm employment are expanded to protect livelihoods and raise incomes; (iii) dietary preferences are taken into account if the mix of products grown may change; and (iv) strategies to reduce potential instability of supply are adopted. Moreover, whenever the proposed project is large enough to affect food security at the national level, project design and approval should also consider these four kinds of aggregate impact.

ENSURING TRANSPARENCY, GOOD GOVERNANCE, AND A PROPER ENABLING ENVIRONMENT

Principle 3: *Processes relating to investment in agriculture are transparent, monitored, and ensure accountability by all stakeholders, within a proper business, legal, and regulatory environment.*

Lack of transparency creates distrust and deprives relevant actors of the possibility of resolving minor problems before they escalate into large conflicts. On the other hand, greater transparency will also reduce transaction costs for all involved, thus benefiting host countries and investors alike through more effective competition. Clarity in the regulations governing investment incentives, and the way in which they are applied, also makes it more likely that host countries can attract investors who make tangible contributions to long-term development.

To create a proper enabling environment, policies, laws, and regulations affecting the investment climate should be benchmarked against, and brought into line with, globally accepted best practices, even as institutions

responsible for implementing them are strengthened. Specific elements in this regard include: (i) ensuring public availability of relevant information, such as land potential and availability, core aspects of prospective investments, and resource flows or tax revenues; (ii) developing the capacity of institutions that handle investment selection, land transfers and incentives to follow principles of good governance, operate efficiently and transparently; and (iii) ensuring that an independent system to monitor progress towards a better investment climate is in place.

CONSULTATION AND PARTICIPATION

Principle 4: *All those materially affected are consulted, and agreements from consultations are recorded and enforced.*

Sustainability of investments in agriculture requires that such investments be designed in a participatory manner, consistent with local people's vision of development. Even in countries that already require local consultations as a precondition for project approval, the impact of such requirements is often limited by a lack of clarity on process, the nature and recording of outcomes, and ways to enforce agreements reached in the course of consultations. To make consultative processes more effective: (i) definitional and procedural requirements in terms of who represents local stakeholders and what is a quorum for local attendance need to be clarified; (ii) the content of agreements reached in such consultations should be documented and signed off by all parties; and (iii) methods for enforcement and sanctions for non-compliance should be specified.

RESPONSIBLE AGRO-ENTERPRISE INVESTING

Principle 5: *Investors ensure that projects respect the rule of law, reflect industry best practice, are viable economically, and result in durable shared value.*

As key players in this sensitive arena, investors have a special responsibility to apply high standards in the design and execution of their projects. Economic viability, which in turn rests on technical feasibility, is a precondition for the generation of benefits that can then be distributed among stakeholders. Fairly assessing likely viability, and then taking steps to make sure it is achieved, are in the interest of all involved, not just the private investor. Where the resources in question are publicly owned, or if other public assets such as tax breaks and complementary infrastructure are being offered as incentives, government agencies have an obligation to carefully check the feasibility analysis to ensure that host countries, affected communities, and local stakeholders are all likely to benefit. National or regional bodies may have to assist states, provinces or municipalities that are technically unable to review major projects proposed within their jurisdiction. There is also a need to integrate the proposed enterprise into broader food and development strategies.

In addition to conducting due diligence and project analysis, investors should be expected to: (i) comply with laws, regulations, and policies applicable in the host country (and ideally with all relevant international treaties and conventions); (ii) adhere to global best practices for transparency, accountability and corporate responsibility in all sensitive areas; and (iii) strive not only to increase shareholder value but also to generate significant and tangible benefits for the project area, affected communities, and the host country.

SOCIAL SUSTAINABILITY

Principle 6: *Investments generate desirable social and distributional impacts and do not increase vulnerability*

Economically viable and overall sustainable projects may have undesirable social consequences, including through uncompensated displacement or benefits bypassing vulnerable groups (e.g. in favour of local elites). A thorough understanding of cultural context, sources of vulnerability, potential for conflict, and livelihood and food security strategies, can help identify design options to reduce risks and maximize positive impacts at the project level.

Among others, social sustainability can be enhanced if: (i) relevant social issues and risks are identified during project preparation, and strategies devised to adequately address them; (ii) the interests of vulnerable groups and

women are considered explicitly; and (iii) the generation of local employment, transfer of technology, and direct or indirect (e.g. via taxes) provision of public goods and services is part of the investment design.

ENVIRONMENTAL SUSTAINABILITY

Principle 7: *Environmental impacts of a project are quantified and measures taken to encourage sustainable resource use, while minimizing the risk/magnitude of negative impacts and mitigating them.*

Despite the potential scale of negative impacts on key natural and environmental resources outside the immediate scope of the investment - or beyond its lifespan - investors may have little incentive to take such impacts into account. Thus, regulation at the relevant level (local, national, or global) where externalities arise is desirable. Such regulation needs to include effects far from the project site, such as river basin impacts or social dislocation resulting from the project causing deforestation elsewhere. Capacity to monitor is important owing to the fact investors may renege on agreements; or that such effects may materialize at a later stage.

Investors and government need to cooperate so that: (i) independent environmental impact analysis to identify potential loss of public goods, such as biodiversity or forests, is conducted prior to approval; (ii) preference be given to reclaiming or increasing productivity on resources already in use; (iii) the most appropriate production system is selected to enhance the efficiency of resource utilization, while preserving the future availability of these resources; (iv) environmental good practices in agriculture, processing and manufacture are adhered to; (v) provision of desirable ecosystem services is encouraged; and (vi) negative impacts are addressed through regularly monitored environmental management plans and compensated where appropriate.

3. Conclusions and Next Steps

Agreement was reached in late 2009 among the main international agencies (FAO, IFAD, the UNCTAD Secretariat and the World Bank Group) that a set of principles for responsible agricultural investment involving significant acquisition of resource rights is warranted, and that the seven principles contained herein are essentially the right ones (subject to consultation and refinement).

Agreement has also been reached among the same entities that a consultative process begun separately by the various agencies on this theme should now be expanded and carried out jointly. Commentary, suggestions, research and analytical input should be elicited from all relevant stakeholders. Moreover, to the extent possible, the process should generate support from all major countries from which investment initiatives are emanating and towards which such investments are directed. Making such a process as inclusive as possible is critical to incorporate existing experience, generating buy-in, and ensure convergence on principles that are acceptable to the relevant stakeholders and can thus be implemented on the ground. Following this, the principles will then need to be translated into actions for investors, governments, donors and international agencies, at different levels.

While the scale and scope of the phenomenon may be new, and the economic context uniquely challenging, a large body of evidence and best practice can be drawn upon to assist in areas where action is required. Three areas that are likely to be of particular importance include: (i) identifying ways in which agricultural investment can best contribute to national strategies for development and poverty reduction, and how incentives for different actors can be structured to achieve this; (ii) legal, regulatory, and institutional changes required from governments, and ways in which they can most effectively strengthen their capacity to enforce rules pertaining to land, water and other agriculture-related resources, and empower local stakeholders; and (iii) establishing ways for investors to incorporate social and environmental concerns specific to this type of investment in project identification and implementation.

Publicizing good practice on how to address specific principles is important in order to demonstrate that compliance is not only possible, but serves stakeholders' long-term interests. Civil society can have a major role in helping to improve transparency, build stakeholders' capacity at the local level, and help those affected to make their concerns heard. Provision of assistance for identifying priority areas for improvement and fostering synergies, as well as options for making incremental progress towards meeting them, is indispensable.