

Land Policy BULLETIN



Produced by LEGEND's Core Land Support Team

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IN THIS ISSUE

The ever-rising demand for food and natural resources has caused a dramatic increase in land based investments in recent years. This increase has raised a number of issues and challenges for governments, international agencies and civil society to explore and address — the most burning of which being: 'how do we ensure that land investments are transparent, sustainable and responsible?'

In this issue, LEGEND's Land Policy Bulletin focuses on the question of responsible land investments and takes stock of relevant recent initiatives, news and developments.



DFID: stepping up work on responsible land investments

Iris Krebber, Head of DFID's Agriculture Team and its Senior Land Policy Lead, explores recent developments in ensuring accountability in land investments.

When the UK government placed land on the **G8 agenda for the first time in 2013**, little was known about companies investing in land. And while the global picture remains blurry, some aspects have become clearer over the past two years.

Donor, government and private sector funded programmes are helping to clarify and regulate land rights. Approaches such as innovative technology are ensuring men, women, communities and responsible businesses have secure property rights to invest. A number of large companies have made **laudable commitments** about "zero

land grabs" and **compliance** with the globally agreed Voluntary Guidelines on Land (VGGT). In addition, some of them are now **assessing their supply chains**. DFID has committed to scale up its work on land, seeking to improve data and evidence, boost tenure security, and drive responsible investment.

In addition to our bilateral programmes, we are working with partners such as the **FAO, the World Bank, the Donor Platform, RRI, TMP Systems, Landesa, the Land Portal, CCSI, Namati, Cadasta Foundation, GRI, a consortium** of cutting edge UK and global experts and others.

We are pleased to see the first tools emerge from these partnerships, for example the **IAN Risk and Due Diligence tools**, to help investors assessing and managing land related risk, the **OpenLandContracts.org database**, initial **RIPL products**, a range of **country level LGAF** and **VGGT events and tools**, new workstreams around **land-related corporate sustainability reporting**, a new **due diligence framework** for **New Alliance** land investments, a **private sector tool** to respect land and forest rights compiled by a **multistakeholder group**, and a **new G7 commitment** to align overseas development assistance with the VGGT and progressively do the same with private sector investments.

These are exciting times, and proof that joint action can be transformative! We hope that others will join us, to help shape a narrative of good land governance and land investments that offer shared value for all.

Contact **Iris Krebber** (click on contact names for email)

IN FOCUS

Responsible land investment guidelines: time for practical action

As global demand for food and natural resources grows, land-based investments in developing countries have increased dramatically. To create economic opportunities these investments face challenges of engaging responsibly with local communities and creating links with regional economies without undermining the livelihoods, access to resources and established rights of those who have lived off the land for generations.

As governments, development agencies and civil society focus on how to best address these challenges, a growing range of principles, guidelines and initiatives for more responsible, transparent and sustainable land-based investments has emerged. At the forefront are the **Voluntary Guidelines for the Governance of Tenure (VGGT)** adopted by the Committee on World Food Security (CFS) in 2012.

This key piece of international 'soft' law has also generated other tools, including the **Principles for Responsible Investment in Agriculture and Food Systems (RAI)** and **Guiding Principles on Large Scale Land Based Investments in Africa** (see 'Key guidelines and principles', right).

There is growing recognition that the free prior and informed consent of existing land rights holders makes good business sense

The last two years have seen active engagement by international agencies to promote these principles and commitments by the private sector to adhere to them. In 2015, the G7 committed to align all Official Development Assistance projects with the VGGT and strive to do the same for private investments originating in G7 countries. There is growing recognition that the **free prior and informed consent** of existing land

rights holders makes good business sense in planning all land based investments, irrespective of specific legal obligations, so as to minimise governance and reputational risks, prevent land conflict and secure a social licence to operate. Further tools and guidance are now available for the private sector to assess land tenure risks and conduct due diligence for large-scale agricultural projects and other investments and (see article on ESG risk management in this issue).

However, proper implementation, follow-up and monitoring remain far from clear. The various guidelines, tools and principles are complementary but have different specific

purposes. More targeted efforts at dissemination and coordination by sponsoring governments, multilateral agencies, engaged NGOs, business champions and international agencies will be needed.

In practice there is a need to break away from the predominant corporate social responsibility (CSR) approaches, often viewed as optional extras or palliative activities to smooth relations with host communities. Instead, efforts must be made to mainstream the consideration of tenure risk and respect for land rights and broader human rights part of core operational business processes. **(continued on page 3)**

Forthcoming DFID rapid evidence assessment (REA) on responsible investments

A soon-to-be-released DFID-funded REA found that:

- Foreign investors are usually aware of local tenure rights, however most large land investments fail to take these, and consequently the livelihoods impacts that projects will have, into account.
- Many investors who market themselves as "responsible" may actually not operate "responsible investment practices" at all.
- Where public donors fund or promote investment projects, and promote the VGGT and RAI, private sector investments can be designed to produce real benefits for legitimate local rights holder, or at least, include effective measures to mitigate negative impacts.
- Inclusive investment approaches and business models exist which can bring local people into the project process as counterparties and create real opportunities for social and economic development.
- Donors cannot assume that governments or private sector partners will adhere to agreed approaches: they need to be fully informed about legitimate local rights at project design and appraisal, and to monitor compliance using agreed and appropriate tools.

For more information contact **Iris Krebber**

IN FOCUS



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Only then can harm be minimised, benefits generated and can investments secure a social licence to operate.

While the development of appropriate inclusive business models is desirable, research and practical experience suggests that it is the specific context, combined with legal instruments and contractual arrangements regulating investors' engagement, which ultimately influences how inclusive an investment is. Guidelines need to be complemented by more bottom-up action to strengthen local communities' legal awareness and capacity to engage and practical interventions will need to discriminate between types of investor and land investment in order to identify how existing tools can be used to promote good practice.



Julian Quan,
Team Leader,
LEGEND Core Land
Support Team

KEY GUIDELINES AND PRINCIPLES

- **Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (VGGT)**, the leading global reference for best practices in land tenure governance, backed by an international consensus of governments, international agencies, civil society and the private sector.
- **Principles for Responsible Investment in Agriculture and Food Systems (RAI)**, globally negotiated between governments, private sector and civil society and endorsed by CFS and UN agencies in 2014, following 2 years of global consultation.
- The **Guiding Principles on Large Scale Land Based Investments in Africa** developed by the AU Land Policy Initiative, endorsed by the AUC and applicable to all African Union member states.
- The **IFC performance standards**, which define red lines necessary for private investments to do no harm and responsibilities for managing their environmental and social risks.
- **Respecting Land and Forest Rights: A Guide for Companies** published by RRI and the Interlaken Group in August 2015.
- The **Analytical Framework for investors under the New Alliance - Due Diligence and Risk Management for Land based investments** (New Alliance for food security and nutrition and Grow Africa, June 2015).
- Upcoming **FAO-OECD guidance** for responsible agricultural supply chains (due for formal approval by OECD in November).

Responsible land investments WHAT'S NEW?



ESG land risk and diligence tools released

Beta versions of two LEGEND-funded open-source toolkits — 'IAN: Risk' and 'IAN: Diligence' — have been released by TMP Systems.

These **toolkits** draw on geospatial data to help investors identify and manage tenure risk, enhance environmental, social and governance (ESG) diligence and engage local people in land and natural resource deals.

IAN: Risk is a quantitative assessment tool designed to give investors a quick, easy means of identifying and approximating tenure risk. IAN: Diligence then provides sector-specific and step-by-step guidance on how to negotiate tenure risk throughout the project lifecycle.

The tools are informed, in part, by TMP Systems' analysis of 262 cases of disputes between locals and project operators in agriculture, mining and hydropower. The analysis found that:

- Tenure risk is materially significant, widespread and growing — but improvements in data management and technology are enhancing our ability to identify and manage the issue.
- Money is rarely at the heart of the issue: compensation is a primary driver of dispute in just 4 per cent of cases.
- To avoid disputes, investors must engage with the heterogeneous interests of local people, which often mirror key ESG concerns. IAN: Risk brings together 25 publicly available ESG datasets into an open-source database, which has also been rendered as an **interactive map** that anyone will be able to download, explore and improve.

For more information see www.tmpsystems.net/ian or contact **Ben Bowie**

Land contracts library goes live

OpenLandContracts.org, an online collection of contracts for large-scale land, agriculture and forestry projects, was launched on 7 October 2015 at Columbia Law School in New York City. The site currently features over 70 land contracts from African and Asian countries and aims to host over 100 by 2016.

The repository provides a summary of each contract's key terms and guides for understanding forestry and agriculture contracts; there are various search options.

The launch featured a panel discussion with the Honorable Joseph Sam Sesay, Minister of Agriculture, Forestry and Food Security in Sierra Leone; George Wisner, the Executive Director of Liberia's National Investment Commission; Samuel Nguiffo of the Center for Environment and Development; and Lorenzo Cotula of the Institute for Environment and Development (IIED).

For more information see [here](#) or contact **Kaitlin Cordes**

Rabobank paves the way for land rights compliance

In September 2015, a statement by a Netherlands-based bank recognised the rights of local communities and individuals regarding access to and use of land, and took responsibility to promote sound and fair land governance practices.

Rabobank is the first bank to publicly endorse the guidance of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (VGGT) and acknowledge the importance of the right to free and prior informed consent of affected stakeholders.

The bank also encouraged its clients to apply best practices and guidelines on good land governance, to respect rights of indigenous peoples, vulnerable groups and affected stakeholders and to ensure that their concerns are fairly addressed.

Full statement available at www.rabobank.com/en/images/rabobank-land-governance-statement.pdf

Responsible land investments WHAT'S NEW?

Resource politics: who is responsible for what?

The term 'responsibility' is now attached to lots of things: responsible development, responsible business and of course responsible land investment. But who is responsible for what, to whom, and how does responsibility relate to on-going debates about resources and social justice? This theme was taken up at the recent STEPS Centre's Resource Politics conference.

On 7–9 September, 180 researchers, activists, policy makers and others assembled at the University of Sussex's Institute of Development Studies to discuss new dimensions of resource politics in the context of the SDGs, and with the backdrop of 'resource grabs' taking place around the world.

Land and resource governance was a recurring theme, but the new consensus about 'responsible'

regulation, its meanings and political implications were questioned widely.

Jenny Franco from the Transnational Institute highlighted current efforts for 'regulating to mitigate' the impacts of resource grabs. While the paraphernalia of codes and guidelines can create 'a human face to the land rush', these mechanisms can also facilitate land dispossession - legitimated through regulated forms of planning, consent,

resettlement and compensation - without necessarily addressing the social justice questions involved.

There is a need to address procedural, distributive and restorative justice, including the rights of people to resist, seek redress and develop alternatives within specific settings. In practice, these involve complex webs of interests and highly contested 'responsibilities' of different actors such as investors, government agencies, international bodies, and local leaders.

As the conference observed, the term 'responsibility', as a technocratic recasting of concepts of justice, is not sufficient to address the fundamental politics around access to and control over natural resources, and practical action to strengthen voice, engagement and capacity of affected communities, and improve accountability around agreed global principles is needed.

For more information see www.resourcepolitics2015.com or contact **Nathan Oxley**

ESG risk management: recommendations for AIIB

A new TMP Systems paper argues that the Asian Infrastructure Investment Bank (AIIB) is uniquely positioned and motivated to pioneer a new approach to ESG risk management.

The paper, published on 5 October, outlines that:

- Local people provide an efficient means of identifying ESG risk because they are more attentive to these issues than regulators or officials
- An approach based on engaging local people as counterparties can improve siting decisions and speed up project implementation by reducing delay and disruption
- Capacity to engage local people has improved considerably, primarily thanks to advances in communications technology.

Full report available at www.tmpsystems.net/aiib

RIPL team wraps up first case study

The Responsible Investments in Property and Land (RIPL) project, funded by DFID and run by rural development institute Landesa, has taken a key first step in developing resources for fair and sustainable land deals.

RIPL is developing how-to-guides to support implementation of the VGGT. These 'playbooks' will support participation by smallholders/communities, governments, and investors in equitable, socially responsible, and sustainable land-related agricultural investments.

The RIPL team recently completed the first in a series of case studies, intended to:

1. Inform the methodology for development of the playbooks
2. Increase understanding of the key issues and challenges facing different stakeholders when dealing with land-based investments
3. Gather information about the three RIPL stakeholder groups (smallholders/communities, governments, and investors).

The case study — large-scale sugar supply chains in Malawi — was conducted in cooperation with Illovo

Sugar Ltd. It focused on Illovo's operations in Malawi, on several land disputes faced by Illovo and others, and on the company's impacts on and relations with government, smallholders, communities, and civil society.

Several findings stand out:

- Communication and community engagement are critical, but difficult, for all stakeholders
- Investors must earn a social license to operate effectively within a community
- Addressing intra-household issues within supply chains is difficult but critically important.

Full report available at www.landesa.org/wp-content/uploads/Malawi-Case-Study-FINAL-10.6.15.pdf or contact **David Bledsoe**

A land indicator for the SDGs

Over the past year, the land community has been mobilised to ensure that the importance of secure land rights is effectively represented in the Sustainable Development Goals (SDGs). Now, post-endorsement, the SDG process turns to identifying and adopting relevant indicators to assess progress.

Building on three years of extensive research and consultation, the Land Indicators Initiative (GLII) has devised a headline indicator which seeks to quantify the 'percentage of women, men, indigenous peoples, and local communities with secure rights to land, property, and natural resources, measured by (a) percentage with legally documented or recognised evidence of tenure, and (b) percentage who perceive their rights are recognised and protected.' This

Goal 1: Ending poverty in all its forms everywhere

Target 1.4: 'ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to, ownership and control over land and other forms of property, inheritance, [and] natural resources.'

indicator would track both individual and communal rights.

GLII's proposed indicator has achieved a broad consensus, having been endorsed by the Global Donor Working Group on Land — which includes DFID — and over 30 civil society organisations. Its supporters believe it to be well

suited to the goals and targets of the SDGs and that it should be adopted by the UN. While the World Bank works to develop globally comparable data sources on land, GLII is now developing harmonised measurement and reporting systems drawing on multiple datasets to track this indicator.

A GLII and Donor Working Group-supported land-rights indicator would directly measure the land rights of women and men, as well as indigenous peoples and local communities. It would promote measurement of secure rights globally, while also emphasising the position of those groups with particularly precarious rights and facing frequent threats and land conflicts.

For more information see [here](#)

Corporate reporting reaches land

Recognising the importance of land tenure, the Global Reporting Initiative (GRI) — provider of the world's most widely-used standards on sustainability reporting and disclosure — is exploring how reporting can support accountability and transparency in this area.

GRI is an international independent organisation that helps businesses, governments and other organisations understand and communicate the impact of business on critical sustainability issues such as climate change, human rights, corruption and many others through reporting on their sustainability. With thousands of reporters in over 90 countries, GRI is the global market leader on standards for corporate sustainability reporting.

Recognising the importance of the topic of land tenure, GRI has begun to explore how sustainability reporting can support accountability and transparency related to this area. It is currently developing a publication providing stakeholders

with insights on sustainability of land tenure and offering guidance to companies on how to address this in their sustainability reporting.

A key part of the publication looks at the stakeholder/report reader perspective, assessing what information companies should be transparent about, why, and how this information should be used.

GRI is seeking an expert/writer to support the development of its **first publication on land tenure.**

For more information see www.globalreporting.org or contact **Katja Kriege**



NEWS AND UPDATES

USAID launches online land tenure course

USAID has launched its first Massive Open Online Course (MOOC) on Land Tenure and Property Rights, with registration open until 16 October.

The course is free and designed to be accessible to people whose main interest or field of work is not land tenure, but who may find it helpful to deepen their understanding of land issues as part of their work on economic growth and poverty reduction, governance or other. The MOOC features thematic modules and country case studies taught by leading researchers and practitioners.

Register [here](#) or contact mooc@usaidlandtenure.net

UK Land Policy Forum to hold first meeting

This LEGEND-funded initiative will have its inaugural meeting on 4 November 2015 at ODI's London office.

The forum aims to bring together UK-based stakeholders involved in land — whether through support to civil society activity, private investment, programme development/ implementation or research — to help shape a better narrative on good land governance and land investments.

It will provide a platform for building a UK land policy community, meeting on a regular basis to flag and discuss progress and share experience and evidence.

If you are interested in joining, contact **Helen Hynes**

LANDac conference resources now available

The report and presentations of the three-day LANDac Conference on Land Governance for Equitable and Sustainable Development are now available online.

Hosted by LANDac, the conference took place in the Netherlands from 8-10 July 2015 and attracted over 250 researchers, policy makers, development practitioners, financiers and business representatives.

More than 30 thematic sessions with presentations and key note debates focused on the roles of different stakeholders in the land governance debate, the causes and diversity of increasing pressures on land, and tools and instruments for addressing land issues.

The conference featured a private sector stream, including sessions on the viability of alternative agriculture business models in various sub-saharan African countries.

In another session, the role of finance in farmland acquisitions was addressed through topics such as the EU regulations for financing of agribusiness in developing countries, and by looking at the complexities of making farmland into a financial asset.

Report available at www.landgovernance.org/landac-international-conference/



Photo credits. Front: Organic rice harvest, China. Flickr/par / Page 3: Sugarcane trucks, Cambodia. Nicolas Axelrod / Ruom / Page 4: Tea plantations, India. Maud Salber / Page 6: Geita Gold Mine, Tanzania. Brian Sokol/Panos Pictures / Above: Land mapping workshop, Afghanistan. TetraTech, Gary Hunter and Anna Soave

About us

Land: Enhancing Governance for Economic Development (LEGEND) is a DFID programme that aims to improve land rights protection, knowledge and information, and the quality of private sector investment in DFID priority countries. It includes the development and start-up of new DFID country land programmes, alongside knowledge management activities, a challenge fund to support land governance innovations, and management of complementary DFID grants, MoUs and contracts, and supported by a Core Land Support Team.

Future issues of this bulletin will feature updates on our most interesting findings and results, keeping you posted and enriching the debate.

You can send suggestions and comments on this bulletin to legend@odi.org.uk

