Operational Guidelines for Responsible Land-Based Investment
A Practical Guide for the Private Sector

12 November 2014
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Background – The Problem

• Private sector is increasingly looking to invest in agriculture in Africa, said to hold the world’s largest reserves of empty arable land.

• But as we know, land is almost never truly empty – it is often being occupied or used, even if informally or seasonally.

• However, since much of the land in Africa is not formally recorded, it is difficult to know whether land identified for projects is truly empty.

• This means that most commercial agricultural investments will interact with local communities and have implications on local ownership, occupation and use of land.
Background – The Problem

Private sector companies increasingly want to be positive actors in the community. They understand that good community relations, and inclusive projects, are a key to sustainable investment.

Private sector companies also increasingly understand that unclear, undocumented or contested land rights create significant financial and operational risks for their projects.

Private sector companies are increasingly committing to respect local land rights throughout their supply chains, to comply with VGGT and eliminate land grabs. They understand that violations of these commitments result in significant reputational risks.
The private sector wants to invest in agriculture in Africa, and understands that in order to successfully invest, it must address land tenure considerations.

But, it often does not know how.
Purpose of Guidelines / Audience

In response to private sector inquiries, USAID has developed **Operational Guidelines** to provide **practical advice**, at every stage of the investment lifecycle, on how to structure responsible land-based projects.

Not an **endorsement** of large-scale land acquisition in exclusion of smallholder farming, but a recognition that it is happening and should be done responsibly. Guidelines are voluntary. Align with relevant elements of VGGT and the RAI.

**Audience**

- **Primary:** New Alliance partners; **Secondary:** Any private sector company
- **Primary:** Companies acquiring land for agriculture; **Secondary:** Companies monitoring supply chains, and to some extent lenders/ institutional investors; companies in other sectors (mining, infrastructure).
Contents: Land-Based Due Diligence

• **Identify:** Who will be affected by land acquisition, and how

• **Understand:** The legal, institutional and bureaucratic framework

• **How:** Desk research; community engagement; project site visits; conduct ESIA; use experts

• **Re-Evaluate:** Does acquisition make sense, or are the externalities too great? Would it be better to try an alternative to acquisition?
Contents: Pre-Implementation Community Engagement

• **Raise Awareness:** within the local community and with other stakeholders about the proposed project

• **Consult:** with the local community and other stakeholders about their interests in the land that will be used in the proposed project, as well as several other factors

• **Map:** the project area to identify current land ownership, land uses, active land disputes and other issues
Contents: Contract Negotiations

- **Alternatives to Acquisition:** Contract farming, outgrower schemes

- **Who to Negotiate With?** Who has rights to the land in question (legal vs. legitimate rights)? Government? Community?

- **Type of Acquisition:** Sale; Lease; Land for Equity/Benefit Sharing

- **Fair and Adequate Compensation:** Land valuation; types of compensation; delivery of compensation
Contents: Project Operations

• **Continuing Engagement**
  Meet regularly and as needed with stakeholder groups; form oversight committee.

• **Monitoring and Evaluation**
  Ensure project (i) complies with the terms of the land acquisition contract; (ii) complies with any regulatory obligations relating to the land acquisition not captured in the contract; and (iii) is not causing adverse social and environmental land-related impacts.

• **Grievance Mechanisms / Dispute Resolution**
  Mechanism should be proportional; culturally appropriate; accessible; transparent; and offer appropriate protection from reprisal.
What have we done so far? Where do we go from here?

• Currently in Third Round of Review
  We have already received comments from:
  – **Donors:** Global Donor Working Group on Land (23 donors); World Bank
  – **Private Sector:** Coke, Nestle, Unilever, Rabobank
  – **CSOs:** Oxfam, RRI, ActionAid, Landesa, Vale Center, IIED

• **Ongoing E-Consultation** (http://usaidlandtenure.net)

• Next Steps
  – **Continuing Review/Finalization:** We will aim to finalize in next 3-6 months
  – **Potential starting point for broader guidance:** New Alliance has committed to developing harmonized guidance on this topic.
Implications / Next Steps

• **Bringing guidance down to national level**
  Broader operational guidance paves the way for developing country-level playbooks to guide investments based on local context

• **Potential for driving national-level policy changes**
  Room for governments to adopt policies towards more transparent transactions with investors, and also harmonize disparity between “legal” and “legitimate” landowners

• **More responsible investment by private sector**

• **Greater standardization of what is considered best practice in this emerging area**

• **More research on the financial impacts of land conflict in agricultural investment**
THANK YOU!