



ENABLING LEGAL ENVIRONMENT FOR RESPONSIBLE INVESTMENT IN AGRICULTURE AND FOOD SYSTEMS

'Through the 'Hand-in-Hand Initiative', FAO will work with countries and diverse partners to identify and target areas where the gap between agricultural potential and actual development is so large that investment can help lift people out of both poverty and hunger.'

Qu Dongyu
FAO Director-General

BACKGROUND

Making investments in agriculture and food systems responsible is widely recognized today as vital for securing adequate food and nutrition, poverty reduction and sustainable development. Achieving the Sustainable Development Goals (SDGs), particularly SDG1 to end poverty in all its forms everywhere and SDG2, to end hunger, achieve food security and improved nutrition, and promote sustainable agriculture by 2030 will not be possible without greater, more accountable, ethical, informed and sustainable investment in the areas of most need.

While increasing investments in agriculture and food systems are important for the realization of food security and nutrition, doing so irresponsibly can result in devastation to the environment and communities by threatening local production and the livelihoods of rural people, causing environmental destruction and land and water scarcity, and in some cases damaging the reputation and image of governments and corporations. Governments and all stakeholders have an important role to play in ensuring that investments meet criteria that will strengthen sustainable development.

States have the obligation to respect, protect, promote and fulfil all human rights, regardless of political, cultural or economic systems. Business enterprises have a corporate social responsibility which includes respecting human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved. In case of abuses, States have the obligation to ensure a remedy ([UN Guiding Principles for Business and Human Rights](#)). Responsible Investment in agriculture and food systems should apply a human rights approach, based on the principles of human dignity, nondiscrimination, equity and justice, gender equality, holistic and sustainable approach, consultation and participation, the rule of law, transparency, accountability, and continuous improvement.



THE CFS-RAI PRINCIPLES

In 2014, the Committee on World Food Security (CFS) endorsed its [Principles for Responsible Investment in Agriculture and Food Systems](#), known as the **CFS-RAI**. Bringing together the knowledge, experience and expertise of a wide range of stakeholders, the CFS-RAI establish a set of fundamental principles for Governments, inter-governmental organizations, financing institutions and donors, research organizations and academia, smallholders, businesses, civil society organizations, workers and their organizations, communities, and consumer organizations, among others, in relation to investments that aim to ensure food security and nutrition.

The CFS-RAI Principles are based on international human rights instruments adopted by States. Among these, there are international human rights treaties, as well as soft law instruments such as the UN Guiding Principles on Business and Human Rights, and the [Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security](#) (VGGT). Although not legally binding, the CFS-RAI benefit from strong legitimacy given the extensive and inclusive consultations which led to their adoption (CFS, 2020).

In Latin America and the Caribbean, the CFS-RAI Principles complement a number of relevant regional human rights instruments, such as the [American Declaration of the Rights and Duties of Man](#), the [American Convention on Human Rights](#) (also known as “Pact of San Jose”), the [Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights](#) (also known as the “Protocol of San Salvador”), the [CELAC’s Plan for Food and Nutrition Security and the Eradication of Hunger 2025](#).

The 10 CFS-RAI principles aim to cover all elements of investment in agriculture and food systems, and set out a clear path for action. All stakeholders are considered to have a role in the application of the CFS-RAI Principles and governments in particular are called upon to implement policies and legislation to support their realization.

SUMMARY OF THE CFS-RAI PRINCIPLES

1. Contribute to food security and nutrition: agricultural investment should lead to enhanced and increased sustainable production and productivity of safe, nutritious and culturally acceptable food. It should reduce food loss and waste. Incomes should be improved and poverty reduced. Markets should be made more fair, transparent and efficient. The interests of small producers are paramount. Infrastructure should be improved and the resilience of food systems strengthened. Enhance access to clean water, sanitation and energy to improve the safe access to nutritious and safe food.

- 2. Contribute to sustainable and inclusive economic development and the eradication of poverty:** this includes respecting workers’ rights, implementing international labour standards and eliminating the worst forms of child labour, creating new jobs and fostering decent work, improving work conditions, adequate living wages and health and safety, training and career advancement, fostering entrepreneurship, equal access to market opportunities, rural development and social protection coverage, empowering small producers, women and men, and promoting their access to resources, improving livelihoods and sustainable consumption.
- 3. Foster gender equality and women’s empowerment:** treat all peoples fairly, eliminating all forms of discrimination or violation of rights based on gender. Advance the equality of women’s tenure rights, access and control over productive land, promoting access to extension, advisory and financial services, education, training, markets and information. Promote the meaningful participation of women in leadership roles and in decision making, partnerships and equitable sharing of benefits.
- 4. Engage and empower youth:** advance access of youth to productive land and natural resources, provide appropriate training, education and mentorship programmes as well as access to decent work and entrepreneurship opportunities. Promote access to innovation and technology, combined with traditional knowledge.
- 5. Respect tenure of land, fisheries and forests and access to water:** investments should respect legitimate tenure rights and water uses and be in line with the [Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security](#) (VGGT) and the [Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication](#) (GSSF).
- 6. Conserve and sustainably manage natural resources, increase resilience and reduce disaster risks:** prevent, minimize and remedy negative impacts on air, land, soil, water, forests and biodiversity. Support and conserve biodiversity and genetic resources and contribute to restoring ecosystem functions and service. Recognize the vital role played by indigenous peoples and local communities, reduce food waste and losses, increase the resilience of agriculture and food systems, habitats and livelihoods of small producers to the effects of climate change. Reduce and remove greenhouse gas emissions and integrate traditional and scientific knowledge with best practices and technologies through different approaches.
- 7. Respect cultural heritage and traditional knowledge and support diversity and innovation:** respect cultural heritage sites and systems, including

traditional knowledge. Conserve and improve the availability of genetic resources including seeds and respect the rights to save, use, exchange and sell resources, recognizing the interests of breeders. Promote fair sharing of benefits arising from use of genetic resources for agriculture and food. Promote the application and use of locally adapted and innovative technologies and practices research and development and transfer of technology.

- 8. Promote safe and healthy agriculture and food systems:** promote safety, quality and nutritional value of food and agri-products, supporting animal health and plant health to sustainably increase productivity, product quality and safety. Improve the management of agricultural inputs and outputs to enhance efficiency of production and minimize threats to the environment and to public health. Enhance awareness and communication of information regarding food quality, safety and nutrition and public health issues to strengthen capacity for agriculture and food systems. Enable consumer choice by promoting availability and access to safe, nutritious, diverse and culturally acceptable foods.
- 9. Incorporate inclusive and transparent governance structures, processes and grievance mechanisms:** responsible investments must respect the rule of law, free of corruption. Information relevant to the investment, consistent with legislation, shall be shared in an inclusive, accessible and transparent manner at all stages of the investment cycle. Engage with all those who may be affected by the investment decisions, prior to decisions being taken and respond to those contributions, taking into account power imbalances in order to achieve active, free, effective, meaningful and informed participation of individuals and groups in associated decision-making processes in line with the VGGT. Engage in effective and meaningful consultation with indigenous peoples to obtain free, prior and informed consent with due regard to the [UN Declaration of rights of indigenous peoples](#). Ensure access to transparent and effecting mediation and grievance and dispute resolution mechanisms and respect human rights and legitimate tenure rights.
- 10. Access and address impacts and promote accountability:** mechanisms to assess and address economic, social, environmental and cultural impacts considering small holders, gender and age and respecting human rights. Applying mechanisms for independent and transparent assessments of potential impacts, including participation of all relevant stakeholder groups. Define baseline data and indicators for monitoring and measurement of impacts. Identify measures to prevent and address potential negative impacts, including the decision not to proceed with the investment. Regularly assess

changes that may arise and communicate results to the interested parties. Implement appropriate corrective or compensatory measures or remedial actions where negative impacts or non-compliance with national law or contractual obligations.

In order to back responsible investment and the application of the CFS-RAI Principles, FAO has developed the umbrella programme “[Supporting responsible investments in agriculture and food systems](#)”. The programme is based on existing guideline instruments, including the VGGT and the OECD-FAO Guidance to Responsible Agricultural Supply Chains, and aims to improve responsible investments in agriculture and food systems, as set out in the SDGs.

AN ENABLING LEGAL ENVIRONMENT FOR RESPONSIBLE INVESTMENTS

Each of the CFS-RAI principles evokes affirmative legislative, policy, budgetary or institutional measures that States can take to foster an enabling environment for responsible investment in agriculture and food systems. Many of the legal measures will be generally applicable within a country, rather than specifically to investments, whether domestic or foreign.

States should consider taking **action** to:

- Give legal effect to the right to adequate food;
- Reduce gender inequalities and increase women’s participation in decision-making, education, access to credit, land tenure and markets;
- Strengthen legal protection of rights at work, including living wages, health and safety and eradication of child labour, ensuring alignment with international labour standards such as the core conventions of the International Labour Organization;
- Enact food safety standards and establish institutional mechanisms to ensure safety of food for domestic consumption and export;
- Enhance security of tenure for all legitimate tenure rights;
- Protect soil and water from erosion, depletion and pollution;
- Promote food systems approaches that foster productive, sustainable and climate smart and-resilient agriculture at all levels;
- Improve regulatory structures and strengthen conflict resolution mechanisms to support responsible investment facilitating respect for the rule of law and creating strong, independent institutions that guarantee transparency and justice, prevent abuses of power and conflict escalation;

- Improve institutional coordination mechanisms and increase equitable stakeholder participation in decision-making;
- Apply investment project criteria that contains appropriate safeguards, incentives, screening and model contracts, e.g., by developing standard mechanisms and criteria by which all potential investors can be screened;
- Ensure that the mandate of investment promotion agencies emphasizes responsible investment, consistent with the CFS-RAI.

Legislation on **family farming** is directly related to CFS-RAI Principle 2 “Contribute to sustainable and inclusive economic development and the eradication of poverty”. This type of legislation highlights the importance of family farming in solving problems related to hunger, malnutrition and overweight.

Examples: [Latin American and Caribbean Parliament \(PARLATINO\)’s Model Law on Family Farming](#) and the Peruvian Law No. 30.355 of 2015, on the Promotion and Development of Family Farming promoted by the Parliamentary Front against Hunger in Peru.

States, investors and other stakeholders can use the CFS-RAI principles as a checklist to apply in the development or amendment of national policy, legal and regulatory frameworks related to investments in agriculture and food systems. Technical teams responsible for reviewing policy and legislation and developing a national strategy for responsible investment in a participatory and inclusive manner could be established.

Some countries in Latin America and the Caribbean, such as Brazil, Bolivia, Colombia, Costa Rica, Ecuador and Peru, recognize in their constitutions the right of indigenous people to land. Likewise, many countries in the region are parties to the International Labour Organization (ILO) No. 169 Convention on indigenous and tribal peoples in independent countries, as well as other international treaties that identify the importance of consultation processes, and free, prior and informed consent. States have the responsibility to ensure that these processes are followed.

Besides, if investors plan and make their investments in a way that is consistent with international standards, they can reduce the risk of their investments and increase the likelihood of achieving a reasonable risk-adjusted return. Such investments are more likely to be successful if they benefit everyone: investors, the local community, and the government. The [Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the context of national](#) (VGGT) provide a framework for achieving a win-win situation (FAO, 2020a).

States should be mindful that agricultural investments are not just large-scale financial/asset driven contributions.

They should also respects the vital role played by small producers and family farmers, women and men in agricultural production, food systems and the domestic economy. Their resources and capacities must be strengthened and secured. Responsible investment also includes treating smallholders and small-scale producers as priority investors, paying particular attention to women producers, local communities, indigenous peoples, and agricultural workers. All farmers should be recognized as key contributors to food security and nutrition and as major investors in the agricultural sector, in particular considering those family farms that invest their own capital and labour and yet are subject to frequent economic, social and political marginalization.

PARLIAMENTARY ACTION CHECKLIST

The [Parliamentary Front against Hunger in Latin America and the Caribbean \(PFH LAC\)](#) is a permanent and plural parliamentary network, composed of 21 national parliaments¹ and four regional or sub-regional parliaments that promote legislative processes aimed at eradicating hunger and malnutrition for the achievement of SDG2. The PFH LAC provides a space to foster participation, connect interested parties, enhance transparency, and promote technical assistance and awareness-raising. Its alliance with FAO, the Spanish Cooperation and the Mexican Agency for International Development Cooperation (AMEXCID) opens the possibility for parliamentarians and their advisors to participate in trainings, exchange of experiences and public information, and media campaigns to generate greater impact. The PFH LAC pays special attention to the right to adequate food and nutrition, especially in the context of the COVID-19 pandemic (FAO, 2020b) and the new challenges countries will face in the post-pandemic period.

Parliamentarians can use international and regional standards to promote responsible investment in agriculture and food systems, both in their respective countries and at the regional level. For this, they may consider the following actions:

- Consider joining one of the national chapters of the Parliamentary Front against Hunger and Malnutrition in your country or forming one of these fronts if it does not exist in your country to promote responsible investment in agriculture and food systems;
- Promote and support the incorporation of the 10 CFS-RAI Principles into the domestic legal framework and follow up on their implementation;

¹ *The following 21 countries have parliamentary fronts: Argentina, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Granada, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, the Dominican Republic, Saint Vincent and the Grenadines and Uruguay.*

- Promote and support legal and regulatory initiatives to foster sustainable agriculture and food systems, including through regulations regarding larger-scale investments;
- Participate where possible in national reviews of the enabling environment to ensure that policies and laws of their country are in line with the CFS-RAI Principles;
- As part of parliamentary oversight, seek to hold governments to account for the negotiation and conclusion of agriculture and food system investment contracts, push for transparency and access to information;
- Support measures that promote gender equality and special protection or promotion of investments for small producers, women, youth and people in the most vulnerable situations, including through inclusive multi-sector coordination and consultation;
- Approve budget allocation to elements of responsible investment in agriculture and food systems;
- Seek action to improve gender disaggregated data collection, including on different types of investment (FDI, credit, public expenditure);
- Support efforts to disseminate and understand the CFS-RAI Principles as widely as possible, considering regional and linguistic differences, and public information campaigns on specific topics regarding implementation;
- Exercise parliamentary oversight powers over investors to ensure they respect human rights throughout their operations, and over government to ensure the application of CFS-RAI Principles, both in its own domestic and foreign investments and in the regulation of the conduct of investors in the country;
- Seek capacity building activities about the CFS-RAI Principles, enhance knowledge about relevant regional and international human rights instruments, and seek to raise awareness among other parliamentarians and their constituencies;
- Collaborate at the regional level to develop tools, including regional model contracts and other tools, to facilitate national implementation and awareness of the CFS-RAI Principles;
- Build alliances with other actors that may influence the fulfilment of the right to food, such as other parliamentarians, other State authorities, international cooperation partners, civil society, media, academia, lawyers' associations and human rights institutions;
- Consider opportunities for South-South Cooperation: could your country's experience benefit other countries or could your country benefit from the support by other countries?

REFERENCES/RESOURCES FOR FURTHER INFORMATION

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